

545th Transportation Technical Committee
Fargo-Moorhead Metropolitan Council of Governments
THURSDAY, September 14, 2023 – 10:00 a.m.
Metro COG Conference Room
AGENDA

1. Call to Order and Introductions
2. Approve the Agenda Action Item
3. Consider Minutes of the August 10, 2023 TTC Meeting Action Item
4. Public Input Opportunity Public Input
5. 2023-2026 Transportation Improvement Program Amendment #8 Action Item
6. 2024-2027 Transportation Improvement Program Amendment #1 Action Item
7. 2023 Unified Planning Work Program (UPWP) Amendment #3 Action Item
8. I-94 & 20th Street Interchange Analysis – Contract Amendment #1 Action Item
9. Title VI & Non-Discrimination Plan / LEP Plan Update Action Item
10. Clay County Heartland Trail Routing Analysis Request for Proposals (RFP) Action Item
11. Fargo-Moorhead Regional Housing Needs Analysis and Strategies Action Item
12. Agency Updates Discussion Item
 - a. City of Fargo
 - b. City of Moorhead
 - c. City of West Fargo
 - d. City of Dilworth
 - e. City of Horace
 - f. Cass County
 - g. Clay County
 - h. Other Member Jurisdictions
13. Additional Business Information Item
14. Adjourn

REMINDER: The next TTC meeting will be held **Thursday, October 12, 2023** at 10:00 a.m.

Metro COG is encouraging citizens to provide their comments on agenda items via email to leach@fmmetrocog.org. To ensure your comments are received prior to the meeting, please submit them by 8:00 a.m. on the day of the meeting and reference which agenda item your comments address. If you would like to appear via video or audio link for comments or questions on a regular agenda or public hearing item, please provide your e-mail address and contact information to the above e-mail at least one business day before the meeting.

For Public Participation, please REGISTER with the following link:

https://us02web.zoom.us/webinar/register/WN_R7d0IBkuSqWQ9pMNU6UBIQ

Red Action Items require roll call votes.

NOTE: Full Agenda packets can be found on the Metro COG Web Site at <http://www.fmmetrocog.org> – Committees

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**544th Meeting of the
FM Metro COG Transportation Technical Committee
Thursday, August 10, 2023 – 10:00 am
Metro COG Conference Room**

Members Present:

Jonathan	Atkins	City of Moorhead Traffic Engineering
Julie	Bommelman	City of Fargo, MATBUS
Maegin	Elshaug	City of Fargo Planning
Jeremy	Gorden	City of Fargo Transportation Engineering
Ben	Griffith	Metro COG
Jace	Hellman	City of Horace – Community Development Director
Robin	Huston	City of Moorhead Planning
Matthew	Jacobson	Clay County Planning
Kelly	Krapu	Freight Representative - TrueNorth Compliance Service
Don	Lorsung	City of Dilworth Community Development
Joe	Raso	GFMEDC
Mary	Safgren	MnDOT – District 4
Justin	Sorum	Clay County Engineering
Tom	Soucy	Cass County Highway Engineering
Brit	Stevens	NDSU – Transportation Manager
Lori	Van Beek	City of Moorhead, MATBUS
Andrew	Wrucke	City of West Fargo Engineering
Wayne	Zacher	NDDOT – Local Government Division

Members Absent:

Jason	Benson	Cass County Highway Engineering
Nicole	Crutchfield	City of Fargo Planning (alternate present)
Aaron	Nelson	West Fargo City Planning

Others Present:

Adam	Altenburg	Metro COG
Calvin	Berube	Stantec
Paul	Bervik	Metro COG
Jaron	Capps	Metro COG
Cody	Christianson	Bolton & Menk
Dylan	Dunn	Moore Engineering
Dan	Farnsworth	Metro COG
Patrick	Hollister	Partnership4Health
Brian	King	HDR
Tom	Knakmuhs	City of Fargo Engineering
Michael	Maddox	Metro COG
Brent	Musca	Apex
Ayden	Schaffler	Metro COG
Erika	Shepard	MnDOT – MPO Coordinator
Kristen	Sperry	FHWA
Steven	Strack	Houston Engineering
Curtis	Sullivan	FMWF Chamber
Daniel	Triller	SEH
Kent	Wolf	Ameresco

1. CALL TO ORDER AND INTRODUCTIONS

The meeting was called to order at 10:00 am, on August 8, 2023 by Chair Griffith. A quorum was present.

2. Approve the 544 TTC Meeting Agenda

Chair Griffith asked if there were any questions or changes to the 544 TTC Meeting Agenda.

Motion: Approve the 544 TTC Meeting Agenda.

Mr. Atkins moved, seconded by Mr. Lorsung.

MOTION, PASSED.

Motion carried unanimously.

3. APPROVE July 13, 2023 TTC MEETING MINUTES

Chair Griffith asked if there were any questions or changes to the July 13, 2023 TTC Meeting Minutes.

Motion: Approve the July 13, 2023 TTC Minutes.

Mr. Hellman moved, seconded by Mr. Zacher.

MOTION, PASSED

Motion carried unanimously.

4. Public Comment Opportunity

No public comments were made or received.

5. 2024-2027 Transportation Improvement Program Adoption

Mr. Bervik presented the final 2024-2027 Transportation Improvement Program document for adoption. Metro COG held a public input meeting at the June Policy Board meeting on June 15, 2023 to release the draft TIP and kick off the TIP update process. Metro COG then held a public open house introducing the elements of the Final Draft 2024-2027 TIP to the public on July 25, 2023. The Final Draft TIP was also made available for review on Metro COG's website.

Metro COG posted a legal notice in the June 14, 2023 edition of The Forum of Fargo-Moorhead which commenced the official mandatory 30-day TIP comment period as well as the public open house where the Final Draft 2024-2027 TIP would be presented. The public open house was held on July 25, 2023 from 4:00 – 6:00 pm at the Downtown Fargo Public Library Conference Room.

A public meeting will be held on August 17, 2023 at the regularly scheduled Metro COG Policy Board meeting for final public input. This public input meeting was advertised in the June 14, 2023 edition of the Forum. Approval of the Final Draft 2024-2027 TIP will occur at the final public meeting on August 17, 2023 at 4:00 pm in conjunction with the regularly scheduled Policy Board meeting. The public comments will be taken until 12:00 p.m. (noon) on August 17, 2023.

Since the initial draft was released in June, Metro COG updated language throughout the document as well as updating projects through its coordination

with state and local governments. These changes were reflected in the Final Draft 2024-2027 TIP that was presented at the Public Open House.

Mr. Atkins asked that the Bluestem Bridge process be added to the Moorhead side for 2024. While funding has not yet been secured, Mr. Atkins anticipates it will be and would like to be listed as illustrative for the TIP cycle.

Mr. Atkins also asked that the 2027 STBG solicitation funding was listed in the TIP, as Moorhead should have funding allocated for the Moorhead underpass.

Mr. Gorden said that an interstate project listed for the City of Fargo should be listed under NDDOT. There is also a 2026 project for 32nd Ave that will need to be labeled as an AC project. He also noted that a shared-use path project listed in both 2024 and 2025 are the same project with two years of funding. He asked if the funds for River Drive should be labeled as AC funds or not. Mr. Bervik said he would coordinate with Mr. Gorden after the meeting.

Mr. Zacher reminded Mr. Bervik that the Metro COG self-certification is due with the TIP submittal.

Motion: Pending public comment, recommend approval of the Final Draft Metro COG 2024-2027 Transportation Improvement Program (TIP) to the Policy Board.

Mr. Atkins moved, seconded by Mr. Gorden

MOTION, PASSED

Motion carried unanimously.

6. Transit Routing, Street Design, and Transit Scheduling Software Vendor Selection

Mr. Maddox presented the vendor selection for the Transit Routing, Street Design, and Transit Scheduling Software RFP that was released in July 2023. Via (formally Remix) was the only vendor who responded. Metro COG petitioned NDDOT to waive the three-bidder requirement and held an interview with Ride with Via before today's TTC meeting. Via introduced new software modules that may be of interest to both Metro COG and MATBUS.

Motion: Recommend Policy Board approval of Via as the preferred vendor to provide transit routing, street design, and transit scheduling software and authorize the Executive Director to enter into a contract with Via for services.

Ms. Bommelman moved, seconded by Ms. Van Beek

MOTION, PASSED

Motion carried unanimously.

7. Proposed Adjusted Urbanized Boundary – Final Submission

Mr. Capps presented the final draft of the Proposed Adjusted Urbanized Boundary (PUZA). The consideration of the proposed 2020 UZA expansion followed the guidance provided by FHWA and NDDOT. As directed by the guidance, the proposed boundary ensures the inclusion of the entirety of the

right of way of significant roadways within the UZA. City boundaries were used when either significant roadways, the Fargo – Moorhead Area Diversion Project alignment, or other physical boundaries did not present themselves as a logical choice for boundary cutoff. Mr. Capps explained how the boundary was formalized through the quantification of jobs and households from studies, and collaboration with Cass County concerning the FM Area Diversion Project and CMC roadways.

Ms. Elshaug shared some comments that were discussed with Mr. Capps just prior to the meeting, that the City of Fargo would like to waiting several years (potentially five or more) to include the City of Harwood, as many studies and data releases do not include Harwood. Fargo is also in the middle of their growth plan, and waiting would be beneficial. She said she was just commenting, and not asking for any revisions.

Mr. Zacher asked for clarification as to whether all of the City of Horace's incorporated area was included in the proposed adjusted UZA. Mr. Capps responded that all of the City of Horace that will be protected by the future FM Diversion and southern embankment were included in the adjusted UZA. Undeveloped areas of the city that will be on the opposite side of the future FM Diversion and southern embankment were not included.

Motion: Recommend Policy Board approval of the Proposed Adjusted Urbanized Boundary for NDDOT Final Submittal.

Mr. Lorsung moved, seconded by Ms. Krapu

MOTION, PASSED

Motion carried unanimously.

8. Dilworth-Glyndon-Felton Safe Routes to School Plan

Mr. Farnsworth presented the final Dilworth-Glyndon-Felton (DGF) Safe Routes to School Plan. This study was conducted in cooperation with the DGF School District, the City of Dilworth, the City of Glyndon, and PartnerSHIP 4 Health. This plan also involved public and parent engagement as well as student surveys to help inform and guide the study.

The purpose of this study is to layout a framework to make walking and biking to school safe and more inviting for students. This study identifies existing challenges, safety concerns, and policies and recommends improvements which can improve the walkability and bikeability to/from the DGF schools.

This draft plan was presented to, and approved by, the DGF School Board, the Glyndon City Council, the Dilworth Planning Commission, and the Dilworth City Council.

Motion: Recommend Policy Board approval of the DGF Safe Routes to School Plan.

Mr. Lorsung moved, seconded by Mr. Atkins

MOTION, PASSED

Motion carried unanimously.

9. Agency Updates

Chair Griffith asked if there were any agency updates.

Ms. Bommelman stated that KLJ is continuing work on a study looking at the recommendations of the transit authority study. She also mentioned that colleges and universities would be starting again and that more routes would soon be coming out.

Mr. Gorden noted that 32nd Avenue is in the last phase of reconstruction and that the route should be open by mid-September. He also noted that several area bike trail projects are moving forward.

Mr. Lorsung explained that the City of Dilworth is wrapping up a zoning overlay district that was a recommendation of the TH 10 study.

Mr. Soucy stated that the county is making good progress on the roundabout at CR 17 and 64th Avenue. He also noted work on several concrete box culverts.

Mr. Zacher noted that an MPO directors meeting has been scheduled for mid-September. He also stated that NDDOT is continuing to work through its CRP planning documentation and contract processes.

Ms. Shepard asked that Metro COG provide MnDOT with its adjusted UZA files when completed.

Ms. Sperry stated that ND Parks and Recreation has been asked to coordinate with MPOs on funding projects they may be pursuing.

Mr. Atkins said to expected traffic delays in downtown Moorhead due to utility line replacements and other redevelopment projects.

10. Additional Business

No additional business.

11. Adjourn

The 544 Regular Meeting of the TTC was adjourned on August 10 at 11:00 a.m.

THE NEXT FM METRO COG TRANSPORTATION TECHNICAL COMMITTEE MEETING WILL BE HELD September 14, 2023, 10:00 A.M.

Respectfully Submitted,

Savanna Leach
Executive Assistant

To: Transportation Technical Committee
From: Paul Bervik, Assistant Transportation Planner
Date: September 8, 2023
Re: **2023-2026 Transportation Improvement Program (TIP) Amendment 8**

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) will hold a public meeting both in person and via Zoom Video Communications on Thursday, September 14, 2023 at 10:00 am to consider public comments regarding a proposed amendment to the 2023-2026 Transportation Improvement Program (TIP) for the FM Metropolitan Area. The proposed amendment to the 2023-2026 TIP reflects modified federally funded projects within the Metropolitan Planning Area (MPA).

A public notice was published in The Forum of Fargo-Moorhead on Wednesday, August 30, 2023, which will advertise the public meeting, detail how to request more information, and provided information on how to make public comment regarding the proposed amendment. The public notice advertised that public comments will be accepted until 8:00 am on Thursday, September 14, 2023. As of the writing of this memo, no written comments have been received.

The proposed amendment to the 2023-2026 TIP is as follows:

1. **Modification of Project 4210002:** City of Fargo reconstruction of 32nd Avenue South. (2024). Rephrasing the project and splitting construction costs.
2. **Modification of Project 4240010:** City of Fargo reconstruction of 32nd Avenue South. (2026). Rephrasing the project and splitting construction costs.
3. **Modification of Project 1240005:** City of Casselton construction of a pedestrian bridge over Swan Creek Diversion along Governors Drive (2024). Updating project phasing and project description.
4. **Modification of Project 4230003:** City of Fargo construction of a pedestrian bridge at 40th Avenue South in the vicinity of Bluestem (2027). Updating project description.
5. **Modification of Project 9240007:** NDDOT fiber network, utilities, camera sites, ess, and roadside improvements (2024). Change in lead agency. Updating Metro COG ID number.
6. **New Project 9241054:** NDDOT preventative maintenance concrete pavement repair of I-94 from Veterans Boulevard to Red River (2025).
7. **New Project 5241055:** City of Moorhead funding for the 11th Street grade separation using STBG funding (2027).
8. **New Project 4241056:** City of Fargo construction of a crushed gravel surface which continues the existing trail system in Orchard Glen Park (2023).
9. **New Project 1241057:** City of Casselton construction of a shared use path along Governors Drive (2024). Splitting off the south shared use path for 1240005 listed above.
10. **New Project 4241058:** City of Fargo removal of negative left turn offsets at various intersections throughout the city (2026).

11. **New Project ILLUSTRATIVE:** City of Moorhead construction of a pedestrian bridge over the Red River at 50th Avenue South (2027). Project is currently illustrative.

See **Attachment 1** for more detailed project information.

Requested Action: Recommend approval of Amendment 8 of the Metro COG 2023-2026 Transportation Improvement Program (TIP) to the Policy Board.

Lead Agency	Metro COG ID State Number	Project Year	Project Location	Length	Project Limits From To	Project Description	Improvement Type	Total Project Cost	Federal Revenue Source	Other Revenue Source	Revenue
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Amendment 8 - 2023-2026 Metro COG TIP

Existing projects with a change in cost

City of Fargo	4210002 22925	2024	32nd Ave S		22nd Street 25th St S 15th Street University Dr	Reconstruction of 32nd Ave S in Fargo	Reconstruction	\$20,594,505 \$17,700,000	STBG		\$9,880,000 Local \$10,714,505 \$7,820,000
City of Fargo	4240010 22925	2026	32nd Ave S		15th Street 25th St S Red River University Dr	Reconstruction of 32nd Ave S in Fargo ***AC***Reconstruction of 32nd Ave S in Fargo (AC Project, Payback 2024, AC Total = ? For Project Total of ?) See Project 4210002	Reconstruction	\$8,864,749 \$6,097,580	STBG		\$4,878,064 Local \$3,986,685 \$1,219,516

Amendment 8 - 2023-2026 Metro COG TIP

Existing projects with a non-cost change

City of Casselton	1240005 24113	2024	Governor's Drive	0.1	8th Street South 36th Street Southeast 37th Street Southeast	Construction of a new shared use path along Governor's Drive and a pedestrian bridge crossing the Swan Creek Diversion between 8th Street South and 37th Street Southeast 36th Street Southeast. Connected to 1241057.	Bike/Ped	\$850,000	CRP		\$680,000 Local \$170,000
City of Fargo	4230003	2027	40th Ave S		ND/MN Border Bridge @ Red River	Construction of 40th Ave S Bike Ped Bridge at Bluestem. Connected to 5241055. Construction of 40th Ave S Bike Ped Bridge at Bluestem.	Bike/Ped	\$10,020,000.0	STBG		\$4,160,000 Local Moorhead \$1,040,000 \$4,820,000
NDDOT City of Fargo	9240007 4240007 23990	2024	I-29 and I-94			Fargo fiber network, utilities, camera sites, ess, roadside improvements	Safety	\$1,250,000.0	ITS		\$1,125,000 Local \$125,000

Amendment 8 - 2023-2026 Metro COG TIP

The following are new projects

NDDOT	9241054 24112	2025	I-94	4.9	Veterans Boulevard 9th Street E	Red River	Concrete Pavement Repair Preventive Maintenance	Rehabilitation	\$4,000,000	IM		\$3,600,000 State \$400,000
City of Moorhead	5241055 1401-177	2027	US 10 & 11th St		8th St	14th St	**B2020**: On US 10, From 8th Street to 14th Street, Preliminary Engineering New Underpass Under BNSF RR in Moorhead (Associated to 144-010-020)	Reconstruction	\$1,071,608	STBG		\$1,071,608 Local \$0
City of Fargo	4241056	2023	Orchard Glen Park	2.0			Crushed gravel surfacing continuing the existing trail system in Orchard Glen Park.	Bike/Ped	\$297,344	RTP		\$237,875 Local \$59,469
City of Casselton	1241057 24114	2024	Governor's Drive	1	36th Street Southeast	37th Street Southeast	Construction of a new shared use path along Governor's Drive between 36th Street Southeast and 37th Street Southeast Connected to 1240005.	Bike/Ped	\$881,600			Local \$881,600
City of Fargo	4241058 24053	2026	Various Locations				Remove Negative Left Turn Offsets at various locations. (19th Ave N & University Dr, 45th St & 23rd Ave S)	Safety	\$351,000	HEU		\$316,000 Local \$35,000
City of Moorhead	Illustrative	2027	50th Ave S		ND/MN Border Bridge @ Red River		Construction of 40th Ave S Bike Ped Bridge at Bluestem. Illustrative Connected to 4230003.	Bike/Ped	\$4,820,000			Illustrative \$4,820,000

To: Transportation Technical Committee
From: Paul Bervik, Assistant Transportation Planner
Date: September 8, 2023
Re: **2024-2027 Transportation Improvement Program (TIP) Amendment 1**

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) will hold a public meeting both in person and via Zoom Video Communications on Thursday, September 14, 2023 at 10:00 am to consider public comments regarding a proposed amendment to the 2024-2027 Transportation Improvement Program (TIP) for the FM Metropolitan Area. The proposed amendment to the 2024-2027 TIP reflects modified federally funded projects within the Metropolitan Planning Area (MPA).

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11. **New Project ILLUSTRATIVE:** City of Moorhead construction of a pedestrian bridge over the Red River at 50th Avenue South (2027). Project is currently illustrative.

See **Attachment 1** for more detailed project information.

Requested Action: Recommend approval of Amendment 1 of the Metro COG 2024-2027 Transportation Improvement Program (TIP) to the Policy Board.

Lead Agency	Metro COG ID State Number	Project Year	Project Location	Length	Project Limits From To	Project Description	Improvement Type	Total Project Cost	Federal Revenue Source	Other Revenue Source	Revenue
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Amendment 1 - 2024-2027 Metro COG TIP

Existing projects with a change in cost

City of Fargo	4210002 22925	2024	32nd Ave S		22nd Street 25th St S 15th Street University Dr	Reconstruction of 32nd Ave S in Fargo	Reconstruction	\$20,594,505 \$17,700,000	STBG	Local	\$9,880,000 \$10,714,505 \$7,820,000
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Amendment 1 - 2024-2027 Metro COG TIP

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NDDOT City of Fargo	9240007 4240007 23990	2024	I-29 and I-94			Fargo fiber network, utilities, camera sites, ess, roadside improvements	Safety	\$1,250,000.0	ITS	Local	\$1,125,000 \$125,000

Amendment 1 - 2024-2027 Metro COG TIP

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City of Moorhead	Illustrative	2027	50th Ave S		ND/MN Border Bridge @ Red River		Construction of 40th Ave S Bike Ped Bridge at Bluestem. Illustrative Connected to 4230003.	Bike/Ped	\$4,820,000		Illustrative	\$4,820,000

To: Transportation Technical Committee members
From: Ben Griffith, AICP, Executive Director
Date: September 8, 2023
Re: **2023 Unified Planning Work Program (UPWP) Amendment #3**

As the Moorhead I-94/20th Street Interchange Study has gotten underway, it has been determined that a traffic analysis is needed to allow detailed review of traffic impacts. This would require a contract amendment (Agenda Item 8 on the TTC agenda) with the consultant (Stantec) and additional budget in the amount of \$19,182.87, which would include a local match by the City of Moorhead in the amount of \$3,836,57. This budget increase would in turn, require a third amendment to the 2023 Unified Planning Work Program.

The attached spreadsheet shows the contract amendment for the project highlighted in yellow listed under "2023 Projects" as well as its fiscal impacts to Metro COG's 2023 budget. The traffic analysis work is expected to be completed within the 2023 calendar year. City of Moorhead staff have indicated funding for the required local match has been authorized, pending approval of the UPWP amendment and project contract amendment. Metro COG staff is seeking a recommendation of approval from the TTC for the proposed UPWP amendment to the Policy Board to keep the project on time and moving forward.

Requested Action: Recommend approval of Amendment #3 to the 2023 UPWP to the Policy Board.

Agenda Item 7 - Attachment 1

Fargo-Moorhead Metropolitan Council of Governments 2023-2024 Adjusted Budget					
Internal Operations & Overhead	2023			2024	
	Federal CPG	Local/State***	Overmatch	Federal CPG	Local/State***
Personnel (total loaded wages)	\$740,292.07	\$185,073.00		\$784,737.83	\$196,184.46
Overhead Costs	\$259,333.00	\$64,833.00		\$261,394.40	\$65,349.00
Subtotal	\$999,625.07	\$249,906.00		\$1,046,132.23	\$261,533.46
Federal + Local/State	\$1,249,531.07			\$1,307,665.69	
2023 Projects	Federal CPG	Local/State*	Overmatch		
NDSU ATAC Annual Participation	\$8,000.00	\$2,000.00			
MTP (Year 1 of 2)	\$144,000.00	\$36,000.00			
MTP Workshop to coalesce the MTP with the Housing Analysis	\$20,000.00	\$5,000.00			
Metro RR Needs Study (Uses BNSF \$ for local match & overmatch)	\$250,000.00	\$62,500.00	\$87,500.00		
Travel Demand Model Update Yr. 2	\$32,000.00	\$8,000.00			
Interstate Ops Analysis (Yr. 3 of 3) (also includes \$28K DOT overmatch)	\$83,555.00	\$25,780.00	\$15,110.00		
Electric Vehicle Readiness Study (CRP)	\$120,000.00	\$30,000.00			
Moorhead Intersection Data Collection (Yr. 2 of 3)	\$9,896.00	\$2,474.00			
Signalized Intersections Traffic Data	\$80,000.00	\$20,000.00			
Moorhead I-94/20th St Interchange Analysis	\$120,000.00	\$30,000.00			
Moorhead I-94/20th St Interchange Analysis Contract Amendment - addition of Traffic Analysis to scope of work	\$19,182.87	\$3,836.57			
Uni10 Corridor Study (Yr. 3 of 3)	\$20,000.00	\$5,000.00			
Uni10 Scope Amendment	\$100,000.00	\$25,000.00			
West Perimeter Highway Corridor Study	\$200,000.00	\$50,000.00			
Horace Downtown Neighborhood Plan	\$42,000.00	\$10,500.00			
Horace Downtown Neighb Plan - Addl. Budget	\$50,000.00	\$12,500.00			
SS4A - Safety Action Plan (separate SS4A grant)	\$200,000.00	\$50,000.00			
2024 Projects				Federal CPG	Local/State
NDSU ATAC Annual Participation				\$8,000.00	\$2,000.00
MTP (Year 2 of 2)				\$176,000.00	\$44,000.00
Heartland Trail Alignment Analysis (Yr. 1 of 2)				\$100,000.00	\$25,000.00
Heartland Trail Alignment Analysis (Yr. 2 of 2)**				\$125,000.00	\$0.00
Vehicular Bridge Xing Study at 76th Ave S & 100th Ave S				\$160,000.00	\$40,000.00
Budget Amendment for the study above				\$50,000.00	\$12,500.00
15th Ave N Corridor Study (Moorhead, Dilworth, Clay Co)				\$120,000.00	\$30,000.00
Budget increase for the study above				\$24,000.00	\$6,000.00
13th Ave S (or 15th St. W) overpass at I-94 & Sheyenne Diversion)				\$160,000.00	\$40,000.00
Addition to the above: 26th St/Main/I-94 Connectivity				\$80,000.00	\$20,000.00
Intersection Data Collection and Reporting - Expansion Project				\$80,000.00	\$20,000.00
Moorhead Intersection Traffic Data Collection (Yr. 3 of 3)				\$9,896.00	\$2,474.00
Subtotal	\$1,498,633.87	\$378,590.57	\$102,610.00	\$1,092,896.00	\$241,974.00
Total	\$2,498,258.94	\$628,496.57	\$102,610.00	\$2,139,028.23	\$503,507.46
Minus Federal funds from other sources (CRP & SS4A grant)	-\$320,000.00				
Adjusted Total	\$2,178,258.94	\$628,496.57	\$102,610.00	\$2,139,028.23	\$503,507.46
Federal + Local and Overmatch	\$2,909,365.51			\$2,642,535.69	

Projects highlighted in orange are proposed to be added to the UPWP.

Projects shaded in dark blue are funded with non-CPG Federal sources.

Project highlighted in yellow is is proposed to be added to the UPWP.

*Local funds for Metro Railroad Needs Study includes BNSF funds for both local match, and additional overmatch.

Total of BNSF funds - \$150,000 with \$62,500 used as local match and \$87,500 as overmatch

**Moves the Year 2 of the Heartland Trail Alignment Analysis into the first year, and uses all CPG (waiving the local match).

***Does not include \$6,705 local match for MnDOT State Planning Funds

To: Transportation Technical Committee
From: Dan Farnsworth, Transportation Planner
Date: September 8, 2023
Re: **I-94 & 20th St Interchange Analysis – Contract Amendment #1**

In June of 2023, Metro COG contracted with Stantec to conduct a study of the I-94 & 20th St interchange in Moorhead. The purpose of this study is to analyze the need and feasibility for a full interchange at this location. This includes reviewing traffic and travel time impacts of a full interchange, and identifying potential alternatives which would look at impacts to the surrounding area and planning-level cost estimates.

After all data was requested toward the beginning of this study, it became clear that sufficient travel demand model (TDM) outputs were not available as initially anticipated when the RFP and scope of work were developed. It was Metro COG's understanding that the recently-completed Interstate Operations Analysis had current TDM outputs for all functionally-classified roads that could be directly used for the I-94 & 20th St Interchange Analysis. Rather, the Interstate Operations Analysis ran the most current model at the time (2015 - 2045 TDM) and assigned a growth rate to the interstate system and ramps based on 2021 count data.

Since one of the purposes of the I-94 & 20th St Interchange Analysis is to look at traffic impacts of a full and half interchange on the nearby functionally-classified roads, and because interchanges should be analyzed in more detail than a metro-wide interstate network, running the most current TDM for the study area will provide the most accurate and acceptable traffic analysis. Also, it is important that this study utilize the most current TDM (2021 – 2050), which was not available during the Interstate Operations Analysis, but is now available for use in this study.

Attached is the proposed scope of work and fee proposed under Amendment #1. The total proposed fee is \$19,182.87. The City of Moorhead has agreed fund the required local match of 20%, which amounts to \$3,836.57.

Requested Action:

Recommend Policy Board approval of the Amendment #1 to I-94 & 20th St Interchange Analysis contract with Stantec.

Moorhead I-94 & 20th St Interchange Analysis

Amendment #1 – Scope of Work

Task 1 – Project Management and Coordination

Additional project management and coordination related to the supplementary traffic analysis described below.

Task 2 – Data Collection and Existing Conditions

Additional work related to data collection and review of the draft 2050 Travel Demand Model in preparation for the supplementary traffic analysis described below.

Task 5 – Travel Impact Analysis

Stantec will run the Fargo-Moorhead MPO's Metro 2050 regional travel demand models to assess potential impacts of implementing new ramps to and from the east for the I-94/20th Street interchange. The primary products of this work will be the 2021 base year travel demand forecasts (AM & PM), 2050 future year no build travel demand forecasts (AM & PM) and 2050 future year build travel demand forecasts (AM & PM). These forecasts will be used to develop 2050 annual growth rates for future no-build and build conditions. The differences between the no-build and build conditions will only include the I-94/20th Street ramps to and from the east plus any other freeway or arterial street improvements required to construct the new 20th Street ramps. These growth rates will be used to factor recent peak hour intersection traffic counts at twenty-seven (27) intersections along the four (4) study corridors (8th Street, 20th Street, Main Street and 34th Street) provided to Stantec by the MPO.

Stantec will develop future 2050 No Build AM and PM peak period intersection traffic volumes by factoring recent intersection traffic count volumes by the growth factors developed from the travel demand models. These traffic volumes will be used in the subsequent traffic operations analyses.

Amendment 1 Cost - Moorhead I-94/20th Street Interchange Analysis
 Total Estimated Project Costs

1	Direct Labor	Hours	x	Rate	=	Project Cost	Total
	Wade Frank	10	x	\$66.94	=	\$669.40	\$669.40
	David Schellinger	2	x	\$131.21	=	\$262.42	\$262.42
	Keith Strickland	18	x	\$86.61	=	\$1,558.98	\$1,558.98
	Adam Capets	32	x	\$39.93	=	\$1,277.76	\$1,277.76
	Kiarash Fariborzi	40	x	\$68.67	=	\$2,746.80	\$2,746.80
	Subtotal	102				\$6,515.36	\$6,515.36
2	Overhead/Indirect Cost					1.6525	\$10,766.50
3	Subcontractor Costs						\$0.00
4	Material and Supplies Costs						\$0.00
5	Travel Costs						\$0.00
6	Fixed Fee					11.00%	\$1,901.00
7	Miscellaneous Costs						\$0.00
						Total Cost	\$19,182.87

To: Transportation Technical Committee
From: Savanna Leach, Executive Assistant
Adam Altenburg, Community & Transportation Analyst
Date: September 8, 2023
Re: **Limited English Proficiency Plan &
Title VI and Non-Discrimination Plan Update**

Metro COG staff have completed an update of the Title VI and Nondiscrimination and Limited English Proficiency Plan (LEP) to address the recommended corrective actions. The Title VI Plan was previously adopted in 2020 and is required to be updated every three (3) years. Metro COG needs to adopt an updated Title VI Plan in 2023.

Background Information regarding Title VI and Non-Discrimination Plans

The U.S Department of Transportation’s (USDOT) Title VI regulations require that all programs which receive funding from the Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA) must be compliant with Section 601 of Title VI of the Civil Rights Act of 1964, which states:

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 subjected to discrimination under any program or activity receiving Federal financial assistance.

Recipients of USDOT financial assistance are required to prepare a Title VI Program in accordance with the guidance contained in FTA Circular 4702.1B, with the objectives to:

- Ensure that the level and quality of transportation facilities and services are planned for and provided in a nondiscriminatory manner;
- Promote full and fair participation in transportation decision-making without regard to race, color, or nation origin;
- Ensure meaningful access to transportation planning-related programs and activities by person with limited English proficiency.

As a subrecipient of USDOT funding, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is required to prepare a Title VI Program containing:

- Metro COG’s Title VI notice to the public;
- Procedures for filing a discrimination complaint;
- Listing of any public transportation-related Title VI investigations, complaints, or lawsuits filed against Metro COG;
- Public participation plan;
- Limited English proficiency (LEP) plan; and
- Overview of minority representation on Metro COG’s planning and advisory bodies.

Limited English Proficiency (LEP) Plan (Attachment 1)

The LEP Plan is a separate document that requires a separate action to approve. The document, once approved, will become an appendix to the 2023 Title VI and Non-Discrimination Plan. Actions taken include:

- Changes were made to update the LEP Plan to include up-to-date resources regarding translation services and LEP resources,

Title VI and Non-Discrimination Plan (Attachment 2)

The Title VI and Non-Discrimination Plan has been updated. The item described above, the LEP, will be an appendix to this Plan. Actions taken to update the include:

- Education of staff regarding Title VI and Non-Discrimination, through both videos and through internal discussion.
- Up-to-date forms and instructions for complaint process

Requested Action – Recommend approval of the Limited English Proficiency Plan and Title VI and Non-Discrimination Plan to the Policy Board

FARGO-MOORHEAD
METROPOLITAN COUNCIL OF GOVERNMENTS

LIMITED ENGLISH PROFICIENCY PLAN

PREPARED BY:
FARGO-MOORHEAD METROPOLITAN
COUNCIL OF GOVERNMENTS
ADOPTON: **XXX, 2023**
1 - 2nd Street N, Suite 232
 Fargo, ND 58102
www.fmmetrocog.org

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Fargo-Moorhead Metropolitan Council of Governments

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U.S. Department
of Transportation
**Federal Transit
Administration**



U.S. Department
of Transportation
**Federal Highway
Administration**

The preparation of this report has been financed in part through grants from the Federal Highway Administration and Federal Transit Administration, U.S. Department of Transportation, under the Metropolitan Planning Program, Section 104(f) of Title 23, U.S. Code, and by the North Dakota Department of Transportation (NDDOT).

The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation or NDDOT.

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Resolution No. 2023-R00X
Approving the Limited English Proficiency Plan

WHEREAS Title VI of the Civil Rights Act of 1964 and U.S. Department of Transportation (USDOT) regulations to implement the law (49 CFR, Part 21) require all recipients and sub-recipients of Federal transportation funds such as the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) to establish and maintain a Title VI Program that carries out the regulations and integrates the activities and considerations outlined in the USDOT's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005) ; and

WHEREAS the Federal Transit Administration (FTA) issued Circular FTA 4702.1B, Title VI Requirements and Guidelines for FTA Recipients, on October 12, 2012 providing further guidance and instructions necessary to carry the USDOT Title VI regulations and policy guidance related to LEP persons; and

WHEREAS a Title VI Non-Discrimination Program has been developed for the Metro COG as its administrative and fiscal agent, which aims to meet these requirements; and

WHEREAS the Title VI Program includes an updated Limited English Proficiency (LEP) Plan contained in Appendix F; and

WHEREAS Metro COG intends that no person shall, on the grounds of race, color, and/or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Metro COG program or activity, regardless of funding source; and

WHEREAS Metro COG as its agent intends that any agencies or firms with whom the MPO contracts will comply with the Title VI Program as appropriate and the Metro COG will take reasonable steps to ensure such compliance:

NOW, THEREFORE, BE IT RESOLVED that the Fargo-Moorhead Metropolitan Council of Governments as the designated Metropolitan Planning Organization (MPO) for the Fargo-Moorhead Metropolitan Area, approves the Limited English Proficiency Plan dated XXX, 2023 which reflects the draft document dated September 2023 without change; and

BE IT FURTHER RESOLVED, in accordance with 23 CFR 450.334(a) the Madison Area Transportation Board hereby certifies that the metropolitan transportation planning process is addressing major issues facing the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

1. 23 U.S.C. 134 and 49 U.S.C. 5303, and this subpart;
2. Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000d-1) and 49 CFR part 21;
3. 49 USC 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
4. Sections 1101(b) of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-357) and 49 CFR Part 26 regarding the involvement of disadvantaged business enterprises in the US DOT funded projects;
5. 23 CFR part 230, regarding the implementation of an equal employment opportunity

program on Federal and Federal-aid highway construction contracts;

6. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR Parts 27, 37, and 38;
7. The Older Americans Act, as amended (42 U.S.C 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
8. Section 324 of title 23, U.S.C regarding the prohibition of discrimination based on gender; and
9. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR 27 regarding discrimination against individuals with disabilities.

Chuck Hendrickson
Chair, Metro COG Policy Board

Date

Table of Contents

- Introduction..... 1
 - Purpose..... 1
 - Statutory Authorities 1
 - Definitions 2
- About Metro COG..... 3
 - Governance and Organizational Structure 2
- Plan Summary 3
- Meaningful Access: Four-Factor Analysis 4
 - Factor 1: Demography..... 4
 - Table A: LEP Populations by Community for the Fargo-Moorhead MSA 5
 - Factor 2: Frequency 6
 - Factor 3: Importance 7
 - Factor 4: Resources 8
- Language Assistance 9
 - Language Assistance Measures..... 10
 - Staff Training..... 10
 - Contractors / Consultants..... 11
 - Translation of Documents 11
 - Monitoring, Evaluating, and Updating the Plan 11
 - Dissemination of Metro COG's LEP Plan 12
- Appendices..... 13
 - Appendix A: Interpretive Services
 - Appendix B: Language Index Cards
 - Appendix C: LEP Training and Certificate of Completion
 - Appendix D: LEP Training Log
 - Appendix E: Language Assistance Requests
 - Appendix F: LEP Annual Assessment

Introduction

Purpose

Fargo-Moorhead Council of Governments (Metro COG) is the designated Metropolitan Planning Organization (MPO) responsible for continuing, cooperative, comprehensive transportation planning and decision making in the Fargo-Moorhead metropolitan area. As a recipient of federal financial assistance, Metro COG is obligated under Title VI of the Civil Rights Act of 1964 and Executive Order 13166 to develop and implement a plan to ensure accessibility to its programs and services for persons who are not proficient in the English language.

The *Limited English Proficiency Plan* outlines the policies and procedures Metro COG uses to address the needs of individuals with limited English proficiency (LEP) that wish to access or participate in Metro COG's programs and planning activities. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin. This plan updates the previous one adopted in January 2020.

Statutory Authorities

Executive Order 13166: *Improving Access to Services for Persons with Limited English Proficiency*, issued in 2000 clarified Title VI of the Civil Rights Act of 1964. It stated that individuals who do not speak English well and who have a limited ability to read, write, speak, or understand English are entitled to language assistance under Title VI in order to access public services or benefits for which they are eligible. It directed federal agencies to prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons consistent with LEP guidelines. Recipients of federal financial assistance are also required to implement LEP plans in accordance with guidelines of the federal agency from which the funds are provided.

The U.S. Department of Transportation published guidance in December 2005 concerning recipients' responsibilities to LEP persons. The guidance specifically identifies MPOs as organizations that must follow the guidance. In October 2012, the Federal Transit Administration (FTA) published Title VI Requirements and Guidance for FTA Recipients in FTA Circular 4702.1B, which provides guidance and instructions for carrying out U.S. DOT Title VI regulations and integrating into FTA recipients' programs and activities (the considerations expressed in the U.S. DOT's 2005 policy guidance).

The Executive Order 13166 applies to all state and local agencies, which receive federal funds, including Metro COG and its jurisdictions receiving federal grant funds.

The following Limited English Proficiency (LEP) Plan was approved by the Metro COG on **XXX, 2023**.

Definitions

The following are a selection of definitions applicable to the Title VI Program, which can be found in Chapter 1 of FTA Circular 4702.1B:

Discrimination: Refers to any action, or inaction, whether intentional or unintentional, in any program or activity of a Federal aid recipient, sub-recipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.

Limited English Proficiency (LEP) Person: Refers to person for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.

Low-Income Person: a person whose median household income is at or below the [U.S. Department of Health and Human Service poverty guidelines](#) per FTA's Title VI circular

Low-Income Population: USDOT, FHWA, and FTA define a low-income population as, 1) any readily identifiable group of low-income persons who live in geographic proximity, or 2) geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed program, policy or activity.

Metropolitan Planning Organization (MPO): The transportation policy-making organization created and designated to carry out the federally required metropolitan transportation planning process.
Minority Person: Includes the following:

1. American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
2. Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
3. Black, or African American, which refers to peoples having origins in any of the Black racial groups of Africa.
4. Hispanic, or Latino, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
5. Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

About Metro COG

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is both the designated Council of Governments (COG) and Metropolitan Planning Organization (MPO) for the greater Fargo-Moorhead Metropolitan Area.

The Federal Surface Transportation Assistance Act of 1973 requires the formation of an MPO for any urbanized area with a population greater than 50,000. The Act also requires, as a condition for federal transportation financial assistance, that transportation projects be based upon a continuous, comprehensive, and cooperative (3-C) planning process for the Fargo-Moorhead Metropolitan Planning Area (MPA). MPOs help facilitate implementing agencies (including municipal public works departments, county highway departments, and state departments of transportation) to prioritize their transportation investments in a coordinated way consistent with regional needs, as outlined in a metropolitan transportation plan (MTP).

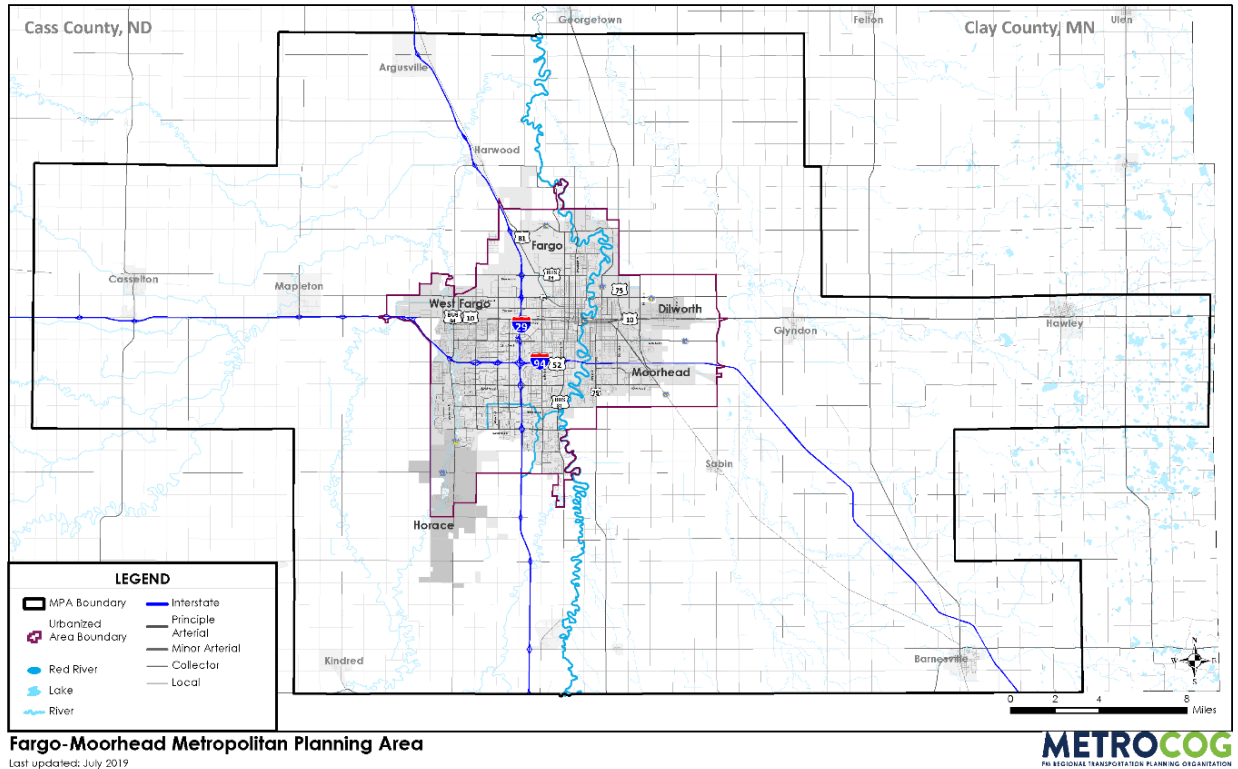
The core of an MPO is the urbanized area (UZA), which is initially identified and defined by the U.S. Census Bureau as part of the Decennial Census update. This boundary is adjusted by local officials and approved by the overseeing state Department of Transportation (DOT). The result of this is the official Adjusted Urban Area Boundary (known as the AUAB). In Metro COG's case, the overseeing DOT is the North Dakota Department of Transportation (NDDOT). The UZA is used to determine the type of transportation funding programs potential projects may be eligible to receive.

In addition to the UZA, the MPO boundary includes any contiguous areas, which may become urbanized within a twenty-year forecast period. Collectively, this area is known as the Metropolitan Planning Area (MPA). Metro COG's MPA boundary was most recently expanded in 2013 and is currently comprised of approximately 1,073 square miles (687,000 acres), across two states, two counties, 14 cities, and 31 townships. The MPA boundary is effectively Metro COG's "study area" or area of influence respective to the metropolitan transportation planning program. These areas are significant not only as potential future population centers but also due to their proximity to existing and future transportation assets of regional significance.

For UZAs with populations greater than 200,000 people, the FHWA and FTA designate Transportation Management Areas (TMAs) to address increased planning and regulatory needs faced by larger UZAs. In the 2020 U.S. Census, Metro COG's UZA surpassed this population threshold and, as of 2023, Metro COG is in the process of transitioning to a TMA.

Map 1 provides an overview of these boundaries for the Fargo-Moorhead area, specifically depicting:

- a) The Metropolitan Planning Area Boundary;
- b) The Adjusted Urbanized Area boundary; and
- c) Cities within the MPA.



Map 1: Fargo-Moorhead Planning Boundaries

Metro COG serves a bi-state area. This area is unique that it covers 14 townships in Cass County, ND, and 16 townships in Clay County, MN.

Within the MPA there are seven (7) member jurisdictions, which pay dues and have voting rights on the policy board and transportation technical committee. The following are the member jurisdictions:

- Cass County, ND
- Clay County, MN
- City of Fargo, ND
- City of Moorhead, MN
- City of West Fargo, ND
- City of Dilworth, MN
- City of Horace, ND

Additionally, there are Associate Jurisdictions located within the MPA. These towns have populations over 700, do not pay dues, and do not have voting rights on the policy board and transportation technical committee. In Minnesota, these include Barnesville, Glyndon, and Hawley; and in North Dakota include Casselton, Harwood, and Mapleton. Kindred has recently expressed interest in becoming an Associate Jurisdiction.

Additionally, there is a third designation of jurisdiction, which are non-member jurisdictions. These jurisdictions have populations under 700 and/or have chosen not to

participate in Metro COG. These include in Minnesota: Comstock and Sabin; and in North Dakota: Argusville, Briarwood, Frontier, North River, Oxbow, Prairie Rose, and Reiles Acres.

The (14) Townships within the MPA in North Dakota include: Barnes, Berlin, Casselton, Durbin, Everest, Harmony, Harwood, Mapleton, Normanna, Pleasant, Raymond, Reed, Stanley, Warren.

The (16) Townships within the MPA in Minnesota include: Alliance, Barnesville, Eglon, Elkton, Elmwood, Glyndon, Hawley, Holy Cross, Humboldt, Kragnes, Kurtz, Moland, Moorhead, Morken, Oakport, Riverton.

Metro COG provides regional coordination and approves the use of federal transportation funds within the MPA, responsibility for the implementation of specific transportation projects lies with NDDOT, MnDOT, and the local units of government as transportation providers.

Governance and Organizational Structure

Metro COG is governed by a 24-member Policy Board appointed by local units of government within the Metropolitan Planning Area, Minnesota Department of Transportation, and North Dakota Department of Transportation. Federal law requires that the Policy Board shall consist of:

- Elected officials;
- Officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and
- Appropriate State officials

Figure 1 provides an overview of Metro COG's organizational structure. The light blue branch are staff positions. The green branch are technical committees and subcommittees. The technical committees, executive committee, and staff provide recommendations to the Policy Board.

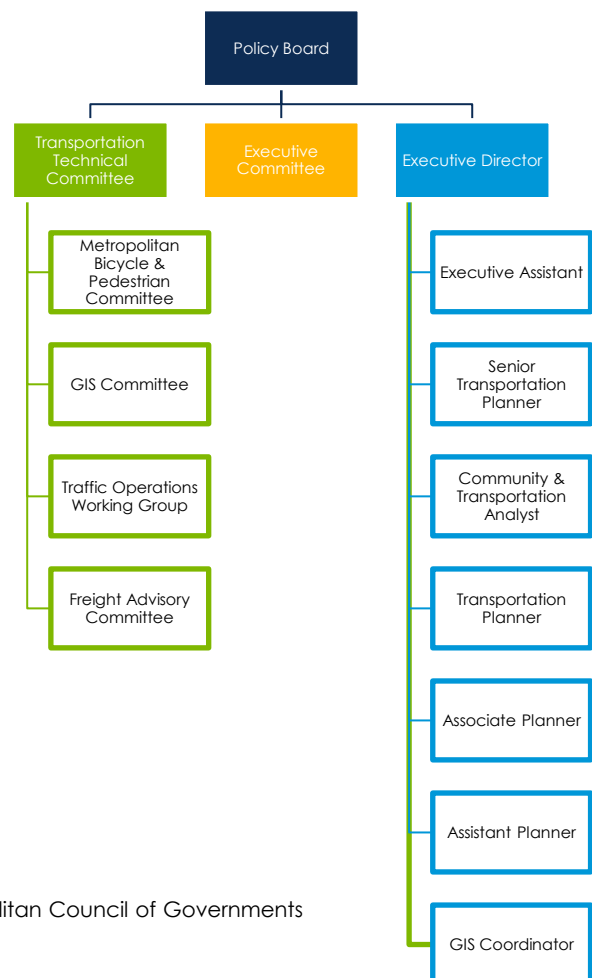


Figure 1: Fargo-Moorhead Metropolitan Council of Governments Organizational Chart

Plan Summary

Metro COG seeks to ensure access to the regional transportation planning process, information published by Metro COG, and Metro COG's programs to area residents who do not speak or read English proficiently. It is Metro COG's policy to inform residents with LEP of the right to free language assistance and interpreter services at no cost to them. This plan outlines the procedures and practices Metro COG uses to provide meaningful access to its programs and activities for LEP populations within the Fargo-Moorhead Metropolitan Planning Area.

The plan outlines the following elements:

- Meaningful Access: Four Factor Analysis
 - a. LEP Assessment, which includes the results of the Four Factor Analysis
 - b. LEP populations in the Fargo-Moorhead Metropolitan Statistical Area

- Language Assistance
 - a. Language Assistance Services Provided
 - b. Translation of Documents
 - c. Public Outreach
 - d. Monitoring, Evaluating, and Updating the Language Assistance program
 - e. Staff Training

Meaningful Access: Four-Factor Analysis

In order to prepare this plan, Metro COG used the four-factor LEP analysis, which considers the following factors:

Factor 1: Demography

The number or proportion of LEP persons in the service area who may be served by Metro COG.

Metro COG staff have reviewed the 2021 American Community 5-year estimates from the Census Bureau and determined that 6,020 individuals have limited English proficiency; that is that they speak English less than “very well.” This is 2.43% of the overall population over the age of 5 in the Fargo-Moorhead Metropolitan Statistical Area (MSA).

Table A presents the above data and compares it to the counties, states, and country jurisdictional population breakdowns that Metro COG’s MSA is located within.

Among persons speaking English less than “very well,” the most common languages in the MSA are Indo-European languages, which includes:

- Spanish
- French, Haitian, or Cajun
- German or other West Germanic languages
- Russian, Polish, or other Slavic languages
- Other Indo-European Languages
- Korean
- Chinese (including Mandarin, Cantonese)
- Vietnamese
- Tagalog (including Filipino)
- Other Asian and Pacific Island languages
- Arabic
- Other and unspecified languages

See Appendix F for annual updates to the information presented here.

Table A: LEP Populations by Community for the Fargo-Moorhead MSA

Geographic Area	2021 Total Population Est.	# Who Speak English Less Than "Very Well"	% of Total Population	% of total population speaking			
				Spanish	Indo-European Languages	Asian-Pacific Island Languages	Other Languages
United States	310,302,360	25,535,259	8.2%	5.2%	1.1%	1.6%	0.3%
Minnesota	719,927	239,624	1.9%	0.5%	0.6%	0.3%	0.5%
North Dakota	5,322,004	13,809	4.5%	1.4%	0.5%	1.5%	1.0%
Clay County, MN	170,558	1,026	2.9%	0.2%	1.0%	0.7%	0.9%
Cass County, ND	60,376	4,994	1.7%	0.2%	0.7%	0.3%	0.4%
Fargo-Moorhead MSA	230,934	6,020	2.6%	0.2%	0.9%	0.6%	0.8%
Fargo-Moorhead UZA	201,288	5,899	2.9%	0.2%	1.1%	0.7%	0.9%

See Appendix F for annual updates to the information presented here.

USDOT has adopted the Safe Harbor Provision, which outlines circumstances that can provide a "safe harbor" for recipients regarding translation of written materials for LEP populations. The Safe Harbor Provision applies to eligible LEP language groups that constitute five percent (5%) or 1,000 persons, whichever is less of the total population of persons eligible to be served or likely to be affected or encountered.

Based on the 1,000 person or 5% threshold, there is no individual language group that falls under the Safe Harbor Provision in the Fargo-Moorhead MSA.

Discussions with the Language Services at Family Health Care Center in Fargo, ND led Metro COG staff to have a more complete understanding of the current (as of August 2023) Metropolitan Area LEP community. Family Health Care Center noted that there has been a consistent trend in illiteracy amongst individuals in the region that use their services, so translation services seem to be ineffective. Conversely, interpreter services are in high demand. The top three languages that are most requested and used at Family Health Care Center (which has a pulse on the LEP population in the Fargo-Moorhead region) from highest demand to less demand are Nepali, Somalian, and Arabic. Two languages that Family Healthcare offers have been growing in popularity: Swahili and Haitian. Family Health Care attributes this rise in popularity to new Americans entering the USA from these countries due to political conditions and planned migration.

Metro COG also spoke with the English Learners programs at the area public K-12 school districts, finding that Nepali, Somali, Spanish, Creoles/Pigin (English-based), Swahili, and Arabic are among the top languages spoken at home for those students.

This information is helpful to understand that if Metro COG is considering translating documents, that Nepali, Somalian, Arabic, Swahili, and Haitian may be the most needed, but also understanding that translation services may not be as valuable as interpretive services.

Factor 2: Frequency

The frequency with which LEP persons come in contact with Metro COG services.

Metro COG staff reviewed the frequency with which its Policy Board, staff, and contractors have, or could have, contact with LEP persons. This includes documenting phone inquiries or office visits. To date, Metro COG has had no requests for interpreters and no requests for translated program documents. Metro COG staff, contractors, and the Policy Board have had very little contact with LEP persons.

Agendas for all Metro COG Policy Board meetings include the following notice:

Metro COG is committed to ensuring all individuals, regardless of race, color, sex, age, national origin, disability/handicap, sexual orientation, and/or income status have access to Metro COG's

programs and services. Meeting facilities will be accessible to mobility-impaired individuals. Metro COG will make a good faith effort to accommodate requests for translation services for meeting proceedings and related materials. Please contact Savanna Leach, Metro COG Office Manager, at 701-532-5100 at least five days in advance of the meeting if any special accommodations are required for any member of the public to be able to participate in the meeting.

Metro COG has not had a request for interpreter services at any of its meetings, but has flexibility in its budget each year for such services.

Factor 3: Importance

The nature and importance of services provided by Metro COG to the LEP population.

Metro COG plans and programs the use of federal funds for future transportation projects. However, Metro COG does not provide a direct service or program that requires vital, immediate, or emergency assistance. Metro COG also does not conduct required activities, such as permit applications. Involvement by citizens with Metro COG or its committees is voluntary.

There is no large geographic concentration of any type of LEP individuals in the Fargo-Moorhead MSA. The majority of the population in the MSA, 91.5%, speak only English. Overall, 96.9% of the MSA population speaks either only English or speaks another language and English "very well". As a result, few social, service, or professional and leadership organizations within the MSA focus on outreach to LEP individuals. The Policy Board, Metro COG staff, and Metro COG contractors or sub recipients are most likely to contact LEP individuals through public meetings and other general public involvement opportunities, which is voluntary.

While Metro COG does not provide an essential service, it is committed to ensuring that all segments of the population, including LEP persons, are involved or at the very least have the opportunity to be involved in the transportation planning process and benefit from programs. Special efforts are made to involve LEP persons and other traditionally under-represented populations in the planning process through a three-phase approach. The [Public Participation Plan \(PPP\)](#) further details Metro COG's public involvement approach.

Metro COG has determined the importance of its services by reviewing and considering the identification of vital documents: [Unified Planning Work Program \(UPWP\)](#), [Transportation Improvement Program \(TIP\)](#), [Public Participation Plan \(PPP\)](#), Title VI / Nondiscrimination and ADA Policy Statement, and the Non-Discrimination Complaint Form.

Metro COG also evaluates the impact of proposed transportation investments on underserved and under-represented population groups as part of the planning

and programming process consistent with Title VI, Executive Order 12898, and other federal guidance.

The impacts of federally funded transportation investments in the Fargo-Moorhead area are monitored and assessed annually in its [Transportation Improvement Program](#). As noted in Part 3: Demographic Profile, the upcoming four-year program of projects will have no significant or disproportionate negative impacts and are expected, instead, to provide positive transportation improvements for community members in proximity to those projects. See Title VI Non-Discrimination Plan, Part 3: Demographic Profile for further information.

Factor 4: Resources

The resources available to Metro COG and overall costs to provide LEP assistance.

As noted in Factor 1 and Factor 3, there is no large geographic concentration of any type of LEP individuals in Metro COG's planning area. The majority (96.9%) of the population speaks English only or another language and English "very well".

Given the small size of the LEP population (3.1%) and our financial constraints, full multi-language translations of our planning and meeting documents are not warranted at this time, but can be made available on a case-by-case basis and upon request.

Metro COG has reviewed its available resources that can be used for providing LEP assistance. Currently, there are no less than seven resources within the Fargo-Moorhead region to assist Metro COG with interpretive services should the need arise. Metro COG keeps a list of these services updated and on file. The list can also be viewed in Appendix A: Interpretive Services.

Language Assistance

A person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to Metro COG programs and services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

After applying the four-factor analysis, Metro COG has examined the following language assistance options and identified which methods will provide Metro COG with an effective LEP Plan.

The following are measures Metro COG staff may use to notify and identify a LEP person:

1. Post a notice in a conspicuous and accessible place in the Metro COG office of the LEP Plan and of the availability of interpretation or translation services free of charge in languages LEP persons would understand.
2. Post the LEP on Metro COG's website
3. Greet participants as they arrive at Metro COG - sponsored informational meetings or events. By informally engaging participants in conversation or by using language identification flashcards (next bullet point), it is possible to gauge each attendee's ability to speak and understand English. Although translation may not be able to be provided at the event, it will help identify the need for future events.
4. Make language identification flashcards (see Appendix B) available at public meetings and other community input events.
5. Survey Metro COG staff periodically on their experience concerning any contacts with LEP persons during the previous year.

Language Assistance Measures

Although there is a very low percentage of LEP individuals in the Metro COG planning area, that is, persons who speak English less than “very well” or “not at all”, Metro COG will strive to offer the following measures:

1. Metro COG staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating in English.
2. The following resources will be available to accommodate LEP persons:
 - a. Interpretative services, within reason, will be provided for public meetings, if advance notice is provided to Metro COG and such services are readily available;
 - b. Metro COG will make translated versions (or provide for the interpretation of relevant sections) of all documents/publications available upon request, within a reasonable time period and as resources permit.

Additionally, Metro COG includes the following disclaimer on all public meeting notifications:

“Metro COG will make a good faith effort to accommodate requests for translation services for meeting proceedings and related materials. Please contact the Metro COG Office Manager at 701.532.5100 at least five days in advance of the meeting if any special accommodations are required for any member of the public to be able to participate in this meeting.”

Staff Training

Metro COG will take steps to ensure staff has appropriate training and resources available to assist LEP individuals. These steps are completed annually and in coordination with employee orientation:

1. Provide staff with information on the Title VI Policy and LEP responsibilities
2. Provide staff with information on the use of language identification cards
3. Provide staff with information on language assistance services available and offered to the public
4. Train staff on how to document language assistance requests
5. Train staff on how to handle potential Title VI / LEP complaints

Appendix C identifies the LEP Training and Certificate of Completion and is amended annually in February. Appendix D identifies the LEP Training Log, which is amended annually in February.

Contractors / Consultants

All contractors or subcontractors performing work for Metro COG will be required to follow Title VI / LEP guidelines. Such assurance is made at the time the contract is established.

Translation of Documents

Metro COG staff weighed the cost and benefits of translating documents for potential LEP groups. Considering the expense of translating the documents, the likelihood of frequent changes in documents and other relevant factors, Metro COG will consider the translation of documents (or portions thereof) on a case-by-case basis, as requested.

Translation resources have been identified (see Appendix A) and are kept on file by Metro COG.

As an interim tool, Metro COG can use Google's Translate program, located at <http://translate.google.com>, to provide users with HTML content in other languages. This resource is an imperfect system, but has a potential to provide enough information for a LEP individual or group to gain an initial understanding of Metro COG documents in response to an initial contact. Outside of that service, because Metro COG staff level is small and does not possess in-house translation capabilities or expertise, Metro COG staff can only assist LEP persons, but cannot accurately assess or guarantee the accuracy of translation services provided by others.

Monitoring, Evaluating, and Updating the Plan

Metro COG will update the LEP Plan annually with its self-certification procedure per 23 CFR 450.334. An annual review and update will include the following:

1. Completion of Appendix E: Language Assistance Requests
 - a. Document the number of LEP person contacts encountered in the previous calendar year, if any
 - b. Document how the needs of LEP persons that were encountered were addressed, if any
2. Completion of Appendix F: LEP Annual Assessment
 - a. Current LEP population in the service area; subject to available Census data
 - b. Assessment and determination whether:
 - i. The need for translation services has changed
 - ii. Local language assistance programs have been effective and sufficient to meet the need
 - iii. Staff training is sufficient
 - iv. Metro COG's financial resources are sufficient to fund language assistance resources needed
 - v. Metro COG fully complies with the goals of this LEP Plan

- c. Document the complaints that have been received concerning the agency's failure to meet the needs of LEP individuals. These are recorded and maintained in the Title VI complaint log, which includes LEP to determine issues and basis of complaints (see Title VI Non-Discrimination Plan Appendix D and E for Complaint Forms and Logs).

Dissemination of Metro COG's LEP Plan

Metro COG will make good faith efforts to notify the public that a LEP Plan and language assistance is available through the following means:

1. Post a notice in a conspicuous and accessible place in the Metro COG office of the LEP Plan and of the availability of interpretation or translation services free of charge in languages LEP persons would understand
2. Post the LEP on the Metro COG website
3. Include as part of public notices and related materials that LEP person needing interpretative service need to contact Metro COG. The following disclaimer is on all public meeting notifications:

"Metro COG will make a good faith effort to accommodate requests for translation services for meeting proceedings and related materials. Please contact the Metro COG Office Manager at 701.532.5100 at least five days in advance of the meeting if any special accommodations are required for any member of the public to be able to participate in this meeting."

Appendices

Appendix A: Interpretive Services

FARGO-MOORHEAD METROPOLITAN COUNCIL OF GOVERNMENTS

INTERPRETIVE SERVICES AVAILABLE FOR PUBLICATIONS AND MATERIALS

Services Available

- Local Translation
- Document Translation
- Website Translation

Resources

Cultural Diversity Resources

112 N University Drive #305
Fargo, ND 58102
701-526-3000
www.culturaldiversityresources.org

Minnesota Translations

19 8th Street South #103
Fargo, ND 58103
701-566-8870
www.minnesotatranslations.com

Luther Immigration and Refugee Service

3310 Fiechtner Drive, Suite 100
Fargo, ND, 58103
701-409-3750
<https://www.lirs.org/north-dakota>

Language Services

Family Health Care Center

301 NP Avenue
Fargo, ND 58102
701-271-6369
www.famhealthcare.org

North Dakota State Contracted Services Telephone Based Interpreter Services

Contract Administrator: 701-328-2740
<https://apps.nd.gov/csd/spo/services/bi/der/listCurrentContracts.do>

- Cyracom 866-742-9080
- Language Link 203-889-5477,
ext. 1708

North Dakota Assistive

3240 15th Street South, Suite B
Fargo, ND 58104
701-365-4728
<https://ndassistive.org/>

Appendix B: Language Index Cards

To be able to communicate with LEP persons, Metro COG staff will make the following language identification flashcards available at public meetings and other community input events.

Developed by the U.S. Census Bureau, these cards have the phrase, "Mark this box if you read or speak 'name of language'", translated into 38 languages. They were designed for use by government and nongovernment agencies to identify the primary language of LEP individuals during face-to-face contacts.

Once a language is identified, a relevant point of contact will be notified to assess feasible translation or oral interpretation assistance.

Language Index Cards are on the following pages.

- | | | |
|--------------------------|---|------------------------|
| <input type="checkbox"/> | ضع علامة في هذا المربع إذا كنت تقرأ أو تتحدث العربية. | 1. Arabic |
| <input type="checkbox"/> | Խոսողո՞ւմ ե՞սք նշո՞ւմ կատարե՞ք այս քանակությունը, եթե խոսո՞ւմ կա՞մ կարո՞ւմ ե՞ք հայերեն: | 2. Armenian |
| <input type="checkbox"/> | যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন। | 3. Bengali |
| <input type="checkbox"/> | ល្អបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ ។ | 4. Cambodian |
| <input type="checkbox"/> | Motka i kahhon ya yangin ûntûngnu' manaitai pat ûntûngnu' kumentos Chamorro. | 5. Chamorro |
| <input type="checkbox"/> | 如果你能读中文或讲中文，请选择此框。 | 6. Simplified Chinese |
| <input type="checkbox"/> | 如果你能讀中文或講中文，請選擇此框。 | 7. Traditional Chinese |
| <input type="checkbox"/> | Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik. | 8. Croatian |
| <input type="checkbox"/> | Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky. | 9. Czech |
| <input type="checkbox"/> | Kruis dit vakje aan als u Nederlands kunt lezen of spreken. | 10. Dutch |
| <input type="checkbox"/> | Mark this box if you read or speak English. | 11. English |
| <input type="checkbox"/> | اگر خواندن و نوشتن فارسی بلد هستید، این مربع را علامت بنید. | 12. Farsi |

<input type="checkbox"/>	Cocher ici si vous lisez ou parlez le français.	13. French
<input type="checkbox"/>	Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen.	14. German
<input type="checkbox"/>	Σημειώστε αυτό το πλαίσιο αν διαβάζετε ή μιλάτε Ελληνικά.	15. Greek
<input type="checkbox"/>	Make kazye sa a si ou li oswa ou pale kreyòl ayisyen.	16. Haitian Creole
<input type="checkbox"/>	अगर आप हिन्दी बोलते या पढ़ सकते हैं तो इस बक्स पर चिह्न लगाएँ।	17. Hindi
<input type="checkbox"/>	Kos lub voj no yog koj paub twm thiab hais lus Hmoob.	18. Hmong
<input type="checkbox"/>	Jelölje meg ezt a kockát, ha megérta vagy beszéli a magyar nyelvet.	19. Hungarian
<input type="checkbox"/>	Markaam daytoy nga kahon no makabasa wenno makasaoka iti Ilocano.	20. Ilocano
<input type="checkbox"/>	Marchi questa casella se legge o parla italiano.	21. Italian
<input type="checkbox"/>	日本語を読んだり、話せる場合はここに印を付けてください。	22. Japanese
<input type="checkbox"/>	한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오.	23. Korean
<input type="checkbox"/>	ໃຫ້ໝາຍໃສ່ຊ່ອງນີ້ ຖ້າທ່ານອ່ານຫຼືປາກພາສາລາວ.	24. Laotian
<input type="checkbox"/>	Prosimy o zaznaczenie tego kwadratu, jeżeli posługuje się Pan/Pani językiem polskim.	25. Polish

<input type="checkbox"/>	Assinale este quadrado se você lê ou fala português.	26. Portuguese
<input type="checkbox"/>	Însemnați această căsuță dacă citiți sau vorbiți românește.	27. Romanian
<input type="checkbox"/>	Пометьте этот квадратик, если вы читаете или говорите по-русски.	28. Russian
<input type="checkbox"/>	Обележите овај квадратик уколико читате или говорите српски језик.	29. Serbian
<input type="checkbox"/>	Označte tento štvorček, ak viete čítať alebo hovoriť po slovensky.	30. Slovak
<input type="checkbox"/>	Marque esta casilla si lee o habla español.	31. Spanish
<input type="checkbox"/>	Markahan itong kuwadrado kung kayo ay marunong magbasa o magsalita ng Tagalog.	32. Tagalog
<input type="checkbox"/>	ให้กาเครื่องหมายลงในช่องถ้าท่านอ่านหรือพูดภาษาไทย.	33. Thai
<input type="checkbox"/>	Maaka 'i he puha ni kapau 'oku ke lau pe lea fakatonga.	34. Tongan
<input type="checkbox"/>	Відмітьте цю клітинку, якщо ви читаете або говорите українською мовою.	35. Ukrainian
<input type="checkbox"/>	اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانے میں نشان لگائیں۔	36. Urdu
<input type="checkbox"/>	Xin đánh dấu vào ô này nếu quý vị biết đọc và nói được Việt Ngữ.	37. Vietnamese
<input type="checkbox"/>	באצייכנט דעם קעסטל אויב איר לייענט אדער רעדט אידיש.	38. Yiddish

Appendix C: LEP Training and Certificate of Completion

Form is on the following page.

2023 LIMITED ENGLISH PROFICIENCY (LEP) TRAINING AND CERTIFICATE OF COMPLETION

As a direct recipient of federal assistance, the North Dakota Department of Transportation (NDDOT) is required to comply with Title VI laws, related statutes, and regulations. It is necessary that any agency receiving federal and/or state financial assistance from NDDOT receive training on U.S. Department of Transportation (DOT) and Federal Highway Administration (FHWA) Limited English Proficiency laws and regulations on an annual basis.

As a sub-recipient of NDDOT's federal funds, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is required to comply with Title VI and related nondiscrimination laws and regulations, which includes Limited English Proficiency assistance. Employees of Metro COG are required to complete one hour of Title VI training each year.

Metro COG employees shall review the following module in order to fulfill their LEP training requirements for 2023:

- **MODULE I – Communicating Effectively with Limited English Proficient Members of the Public** (50 minutes):

<https://www.youtube.com/watch?v=vv3IBZkUgwg&feature=youtu.be>

This video training series, in production since 2013, is part of a training toolkit designed to educate federal personnel on interacting with limited English proficient individuals. It was developed in response to the Attorney General's February 2011 memorandum to all federal agencies, calling upon them to ensure that limited English proficient individuals can access federal government programs and services under Executive Order 13166. The training series is intended to help establish consistent and legally sound practices across the government when engaging in communications with limited English proficient individuals.

More information can be found at www.LEP.gov

Declaration of Employee: I have completed annual LEP training on _____ (date) as required by the Fargo-Moorhead Metropolitan Council of Governments and the North Dakota Department of Transportation. I have also received information on:

- Title VI Policy and LEP responsibilities;
- The use and location of language identification cards;
- Language assistance services available and where the resources can be found;
- How to document language assistance requests; and
- How to handle potential Title VI / LEP complaints.

Printed Name and Title: _____

Signature: _____ Date: _____

Appendix D: LEP Training Log

Position	Last Date Completed	Year						
		2023	2024	2025	2026	2027	2028	2029
<i>Executive Director</i>	3/15/2023	X						
<i>Senior Transportation Planner</i>	3/15/2023	X						
<i>Transportation Planner</i>	3/15/2023	X						
<i>Community & Transportation Analyst</i>	3/15/2023	X						
<i>Associate Planner</i>	3/15/2023	X						
<i>Assistant Planner</i>	3/15/2023	X						
<i>GIS Coordinator</i>	3/15/2023	X						
<i>Office Manager</i>	3/15/2023	X						
<i>Planning Intern</i>	3/15/2023	X						

Appendix E: Language Assistance Requests

A blank form is on the following page.

For each calendar year, a new form is amended into this plan and added subsequently to this Appendix. This amendment shall occur no later than February of the year following the calendar year that is assessed.

Language Assistance Requests

The first line of the table, shaded in yellow, is an example of how to fill in the table when / if a request is received.

EXAMPLE	Name of Requester	Date Requested		Language Requested	Type of Service Requested	Comments about Request	Metro COG Response		Date Request Completed
	First Name, Last Name Address Phone Email	Year	Month/ Day				Action	Service Used	
	John Doe 1234 This Town Rd Small Town, XX ##### xxx-xxx-xxxx xxxxxx@blahblah.com	YYYY	MM/DD	Nepali	Document Translation	Requested the entire 2045 MTP be translated from English to Nepali.	Translated document in entirety	NDDOT Linguistica	MM/DD/YYYY

*As of December 2022, no language assistance requests have been received.

Appendix F: LEP Annual Assessment

A blank form is on the following page.

For each calendar year, a new form is amended into this plan and added subsequently to this Appendix. This amendment shall occur no later than February of the year following the calendar year that is assessed.

LEP Annual Assessment

Per the Limited English Proficiency (LEP) Plan, Metro COG needs review annually the following:

1. Current LEP population in the service area, which is subject to available Census data
2. Assess and determination whether:
 - a. The need for translation services has changed
 - b. Local language assistance programs have been effective and sufficient to meet the need
 - c. Staff training is sufficient
 - d. Metro COG's financial resources are sufficient to fund language assistance resources needed
 - e. Metro COG fully complies with the goals of this LEP Plan

Every January, Metro COG staff will review the previous calendar year's Unified Plan Work Program activities and the interactions staff, consultants, and contractors had with LEP individuals. The information noted above in items 1 and 2 are reviewed and noted in the following form. Once the form is completed in January, it will be brought to the Transportation Technical Committee and Policy Board for adoption and amendment into the current LEP Plan.

LEP Annual Assessment Form

1. CURRENT LEP POPULATION IN SERVICE AREA (METROPOLITAN STATISTICAL AREA)

DATE RETRIEVED _____ SOURCE: _____

COMMENTS REGARDING DATA: Note changes that have occurred since previous calendar year; note any data limitations

Table A: LEP Populations by Community for the Fargo-Moorhead MSA

Geographic Area	20XX Total Population	# Who Speak English Less Than "Very Well"	% of Total Population	% of total population speaking			
				Spanish	Indo-European Languages	Asian-Pacific Island Languages	Other Languages
United States	301,150,892	25,654,421	8.5%	5.4%	1.2%	1.6%	0.3%
Minnesota	5,140,764	236,363	4.6%	1.6%	0.5%	1.6%	0.9%
North Dakota	693,709	11,266	1.6%	0.4%	0.6%	0.3%	0.3%
Clay County, MN	57,645	1,084	1.9%	0.3%	0.6%	0.4%	0.6%
Cass County, ND	158,535	4,402	2.8%	0.3%	1.2%	0.6%	0.7%
Fargo-Moorhead MSA	216,180	5,486	2.6%	0.3%	1.0%	0.6%	0.7%
Fargo-Moorhead UZA	181,567	3,194	1.7%	0.1%	0.7%	0.3%	0.6%

Replace data in the table as it becomes available. This is the same information listed in Factor 1: Demography of the LEP Plan.

2. ASSESSMENT & DETERMINATION

DATE OF ASSESSMENT: _____

A. HAS THE NEED FOR TRANSLATION SERVICES CHANGED: _____ YES _____ NO

RATIONAL: _____

B. WERE LOCAL LANGUAGE ASSISTANCE PROGRAMS USED IN THE PREVIOUS CALENDAR YEAR: _____ YES _____ NO

If yes, which programs and type of assistance were used: _____

If yes, which languages were requested for translation or interpretation: _____

BASED ON THE ABOVE ASSESSMENT, WERE THE LOCAL LANGUAGE ASSISTANCE PROGRAMS EFFECTIVE AND SUFFICIENT TO MEET THE NEEDS? _____ YES _____ NO

If no, what changes need to be made in the next year: _____

If no, the changes listed above shall be amended into the LEP Plan with the amendment of this assessment.



C. IS STAFF TRAINING SUFFICIENT: _____ YES _____ NO

RATIONAL: _____

D. ARE METRO COG'S FINANCIAL RESOURCES SUFFICIENT TO FUND THE NEEDED LANGUAGE ASSISTANCE: _____ YES _____ NO

RATIONAL: _____

E. DOES METRO COG FULLY COMPLY WITH THE GOALS OF THE CURRENT ADOPTED LEP: _____ YES _____ NO

If no, what amendments need to occur, to bring Metro COG into compliance: _____

When will these amendments occur: _____

CERTIFICATE

I, _____, represent Metro COG as the Title VI, limited English proficiency, and Americans with Disabilities Act Coordinator, and warrant the answers that have been made to each and all of the foregoing questions are full and true to the best of my knowledge and belief.

Signature of Metro COG Executive Director,
whom is the Title VI - limited English proficiency – Americans with Disabilities Act Coordinator

Date: _____

FARGO-MOORHEAD
METROPOLITAN COUNCIL OF GOVERNMENTS

TITLE VI
NON-DISCRIMINATION
PLAN

PREPARED BY:
FARGO-MOORHEAD METROPOLITAN
COUNCIL OF GOVERNMENTS
ADOPTON: XXX, 2023
1 – 2nd Street N, Suite 232
 Fargo, ND 58102
www.fmmetrocog.org

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Fargo-Moorhead Metropolitan Council of Governments

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Ayden Schaffler
Planning Intern



U.S. Department
of Transportation
Federal Transit
Administration



U.S. Department
of Transportation
Federal Highway
Administration

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Resolution No. 2023-R00X
Approving the Title VI Non-Discrimination Plan

WHEREAS Title VI of the Civil Rights Act of 1964 and U.S. Department of Transportation (USDOT) regulations to implement the law (49 CFR, Part 21) require all recipients and sub-recipients of Federal transportation funds such as the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) to establish and maintain a Title VI Program that carries out the regulations and integrates the activities and considerations outlined in the USDOT's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005) ; and

WHEREAS the Federal Transit Administration (FTA) issued Circular FTA 4702.1B, Title VI Requirements and Guidelines for FTA Recipients, on October 12, 2012 providing further guidance and instructions necessary to carry the USDOT Title VI regulations and policy guidance related to LEP persons; and

WHEREAS a Title VI Non-Discrimination Plan has been developed for Metro COG as its administrative and fiscal agent, which aims to meet these requirements; and

WHEREAS the Title VI Program includes an updated Limited English Proficiency (LEP) Plan contained in Appendix F; and

WHEREAS Metro COG intends that no person shall, on the grounds of race, color, and/or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Metro COG program or activity, regardless of funding source; and

WHEREAS Metro COG as its agent intends that, any agencies or firms with whom the MPO contracts will comply with the Title VI Program as appropriate and Metro COG will take reasonable steps to ensure such compliance:

NOW, THEREFORE, BE IT RESOLVED that the Fargo-Moorhead Metropolitan Council of Governments as the designated Metropolitan Planning Organization (MPO) for the Fargo-Moorhead Metropolitan Area, approves the Title VI Non-Discrimination Plan dated XXX, 2023, which reflects the draft document dated September 2023 without change; and

BE IT FURTHER RESOLVED, in accordance with 23 CFR 450.334(a) the Fargo-Moorhead Metropolitan Council of Governments hereby certifies that the metropolitan transportation planning process is addressing major issues facing the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

1. 23 U.S.C. 134 and 49 U.S.C. 5303, and this subpart;
2. Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000d-1) and 49 CFR part 21;
3. 49 USC 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
4. Sections 1101(b) of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-357) and 49 CFR Part 26 regarding the involvement of disadvantaged business enterprises in the US DOT funded projects;
5. 23 CFR part 230, regarding the implementation of an equal employment opportunity

program on Federal and Federal-aid highway construction contracts;

6. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR Parts 27, 37, and 38;
7. The Older Americans Act, as amended (42 U.S.C 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
8. Section 324 of title 23, U.S.C regarding the prohibition of discrimination based on gender; and
9. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR 27 regarding discrimination against individuals with disabilities.

Chuck Hendrickson
Chair, Metro COG Policy Board

Date

Contents

Introduction.....	1
Purpose.....	1
Statutory Authorities	2
Definitions	4
Relationship between Title VI and Environmental Justice.....	5
About Metro COG.....	6
Governance and Organizational Structure	8
Staff and Committee Composition.....	12
Table 1: Demographic Composition of Metro COG Committees	13
Part 1: Title VI/Non-Discrimination Plan	15
Title VI/Non-Discrimination and ADA Policy Statement.....	16
Title VI Notice to the Public	17
Non-Discrimination Complaint Procedure	18
Scope of Non-Discrimination Complaints.....	18
How to File a Formal Non-Discrimination Complaint	18
Title VI Investigations.....	19
Organizational Responsibilities	20
Promote Inclusive Public Participation.....	20
Provide Access to Limited-English Proficient (LEP) Persons.....	20
Encourage Minority Representation on Planning and Advisory Committees	20
Training	20
Metro COG Title VI Coordinator	21
Title VI Coordinator Responsibilities	21
Part 2: Title VI and Environmental Justice Considerations in the Planning and Programming Process.....	22
Procedures by which mobility needs of minority populations are identified and considered.....	22
Promoting Inclusive Public Participation and Providing Meaningful Access to Limited English Proficient Persons	22
Public Participation Plan (PPP)	22
Limited English Proficiency Plan.....	22
Procedure for Conducting an Environmental Justice Analysis.....	23

Title VI and Environmental Justice in Metro COG's Planning Documents	24
Title VI and Environmental Justice in Metro COG's Programming	26
Part 3: Demographic Profile.....	27
Introduction.....	27
Data Analysis, Demographic Profile of the Region and Identification of Environmental Justice Areas.....	27
Environmental Justice Areas in the Fargo-Moorhead Urbanized Area	28
Low-income Populations.....	28
2020 Minority Populations.....	30
Figure 4: Environmental Justice Areas within the Metro COG Urbanized Area.....	31
Analysis of State/Federal Funding Distribution on Environmental Justice Areas	32
Figure 5: Programmed Transportation Projects and Environmental Justice Areas.....	33
Part 4: Appendices.....	34
Appendix A: Employment Application & Equal Employment Opportunity Survey.....	35
Appendix B: Title VI Assurances	36
Appendix A of the Title VI Assurances	39
Appendix E of the Title VI Assurances	41
Appendix C: Non-Discrimination Complaint Investigation Procedures	43
Appendix D: Non-Discrimination Complaint Form.....	46
Appendix E: Non-Discrimination Complaint Log.....	47
Appendix F: Non-Discrimination Training and Certificate of Completion	48
Appendix G: Title VI Training Log for Employees.....	49
Appendix H: Public Participation Sign-in Sheet.....	50
Appendix I: Public Participation Survey	51
Appendix J: Limited English Proficiency Plan	52
Appendix K: Federal Clauses.....	53

Introduction

Purpose

The U.S Department of Transportation's (USDOT) Title VI regulations require that all programs which receive funding from the Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA) must be compliant with Section 601 of Title VI of the Civil Rights Act of 1964, which states:

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 subjected to discrimination under any program or activity receiving Federal financial assistance.

Recipients of USDOT financial assistance are required to prepare a Title VI Program in accordance with the guidance contained in FTA Circular 4702.1B, with the objectives to:

- Ensure that the level and quality of transportation facilities and services are planned for and provided in a nondiscriminatory manner;
- Promote full and fair participation in transportation decision-making without regard to race, color, or nation origin;
- Ensure meaningful access to transportation planning-related programs and activities by person with limited English proficiency.

As a subrecipient of USDOT funding, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is required to prepare a Title VI Program containing:

- Metro COG's Title VI notice to the public;
- Procedures for filing a discrimination complaint;
- Listing of any public transportation-related Title VI investigations, complaints, or lawsuits filed against Metro COG;
- Public participation plan;
- Limited English proficiency (LEP) plan; and
- Overview of minority representation on Metro COG's planning and advisory bodies.

Additionally, as Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is both the designated Council of Governments (COG) and Metropolitan Planning Organization (MPO) for the Fargo-Moorhead Metropolitan Area. As an MPO, Metro COG is required to include a demographic profile of the metropolitan area that includes identification of the locations of minority populations in the aggregate, a description of the procedures by which the mobility needs of minority populations are identified and considered within the planning process, demographic maps that overlay the percent minority and non-minority populations and charts that analyze the impacts of the distribution of State and Federal funds in the aggregate for public transportation

purposes, and an analysis of any actions that could result in a disparate impacts on the basis of race, color, or national origin.

The Title VI program must be approved by the MPO Policy Board and submitted to the North Dakota Department of Transportation (NDDOT) every three years. Metro COG will ensure that members of the public within the Metro COG planning area be aware of Title VI provisions and the responsibilities associated with Title VI of the Civil Rights Act of 1964.

This document serves as the Title VI Non-Discrimination Plan and the Limited English Proficiency (LEP) Plan for Metro COG.

The following Title VI program was approved by the Metro COG on **XXX, 2023**.

Statutory Authorities

Section 601 of Title VI of the Civil Rights Act of 1964 states the following:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The Civil Rights Restoration Act of 1987 clarified the broad, institution-wide application of Title VI. Title VI covers all of the operations of covered entities without regard to whether specific portions of the covered program or activity are Federally funded. The term "program or activity" means all of the operations of a department, agency, special purpose district, or government; or the entity of such State or local government that distributes such assistance and each such department or agency to which the assistance is extended, in the case of assistance to a State or local government.

The U.S. Department of Justice ("DOJ") Title VI regulations can be found at 28 CFR § 42.401 et seq., and 28 CFR § 50.3. The U.S. Department of Transportation ("DOT") Title VI implementing regulations can be found at 49 CFR part 21.

Since the Civil Rights Act of 1964, other nondiscrimination laws have been enacted that expand the range and scope of Title VI coverage and applicability. These include the follow:

- **THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970** prohibits unfair and inequitable treatment of persons displaced or whose property will be acquired as a result of federal and federal-aid programs and projects.
- **THE FEDERAL AID HIGHWAY ACT OF 1973** states that no person shall, on the grounds of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.
- **SECTION 504 OF THE REHABILITATION ACT OF 1973** states that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination

under any program or activity that receives or benefits from federal financial assistance. This Act protects qualified individuals from discrimination based on their disability.

- **THE AGE DISCRIMINATION ACT OF 1975** states that no person shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. This act prohibits age discrimination in Federally Assisted Programs.
- **THE CIVIL RIGHTS RESTORATION ACT OF 1987, P.L.100-209** amends Title VI of the 1964 Civil Rights Act to make it clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal assistance.
- **THE AMERICAN DISABILITIES ACT (ADA) OF 1990** prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities.

Definitions

The following are a selection of definitions applicable to the Title VI Program, which can be found in Chapter 1 of FTA Circular 4702.1B:

Discrimination: Refers to any action, or inaction, whether intentional or unintentional, in any program or activity of a Federal aid recipient, sub-recipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.

Limited English Proficiency (LEP) Person: Refers to person for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.

Low-Income Person: a person whose median household income is at or below the [U.S. Department of Health and Human Service poverty guidelines](#) per FTA's Title VI circular

Low-Income Population: USDOT, FHWA, and FTA define a low-income population as 1) any readily identifiable group of low-income persons who live in geographic proximity, or 2) geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed program, policy or activity.

Metropolitan Planning Organization (MPO): The transportation policy-making organization created and designated to carry out the federally required metropolitan transportation planning process.

Minority Person: Includes the following:

1. American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
2. Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
3. Black, or African American, which refers to peoples having origins in any of the Black racial groups of Africa.
4. Hispanic, or Latino, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
5. Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Relationship between Title VI and Environmental Justice

President Clinton issued Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" in 1994, which builds upon Title VI principles by including the consideration of low-income populations in addition to minority populations into the transportation planning and decision-making process. The principles of environmental justice (EJ) are to:

1. Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations.
2. Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
3. Prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Although Title VI and EJ intersect and are closely related, they each have their own distinct authorities and requirements. Title VI prohibits intentional discrimination or disparate treatment on the basis of race, color, and national origin and is enforceable in court, whereas environmental justice policies require that in addition to intentional discrimination disproportionately high and adverse effects of proposed decisions on low-income and minority populations must be considered, but it provides no legal rights or remedies. A series of orders have been issued by Federal agencies, including USDOT, requiring the incorporation of Environmental Justice principles into Federal programs and policies. FTA issued Circular 4703.1 in 2012 containing the EJ requirements and guidelines for MPOs.

Metro COG is committed to achieving the broader goal of environmental justice as part of its mission. While this program primarily focuses on meeting the statutory requirements for Title VI and its prohibition of discrimination on the basis of race, color, and national origin, EJ considerations are also integrated in this program in order to promote equity and inclusion within the Fargo-Moorhead area.

About Metro COG

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is both the designated Council of Governments (COG) and Metropolitan Planning Organization (MPO) for the greater Fargo-Moorhead Metropolitan Area.

The Federal Surface Transportation Assistance Act of 1973 requires the formation of an MPO for any urbanized area with a population greater than 50,000. The Act also requires, as a condition for federal transportation financial assistance, that transportation projects be based upon a continuous, comprehensive, and cooperative (3-C) planning process for the Fargo-Moorhead Metropolitan Planning Area (MPA). MPOs help facilitate implementing agencies (including municipal public works departments, county highway departments, and state departments of transportation) to prioritize their transportation investments in a coordinated way consistent with regional needs, as outlined in a metropolitan transportation plan (MTP).

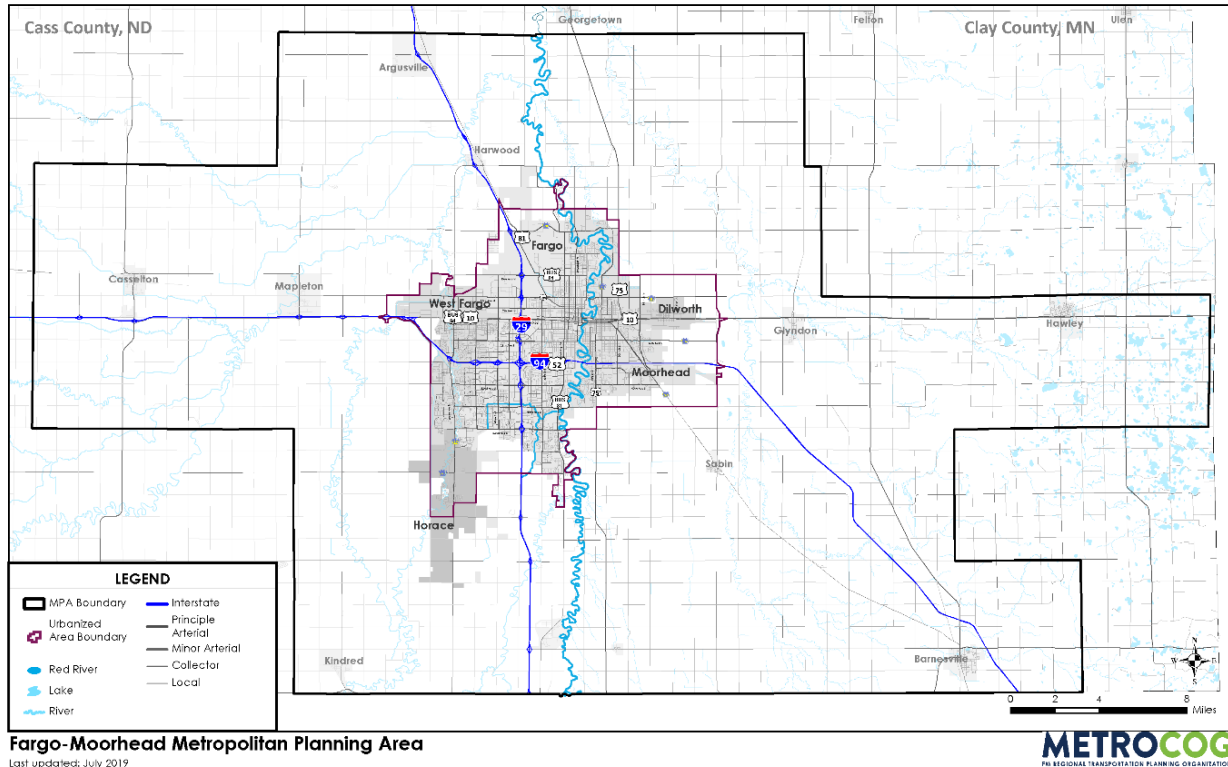
The core of an MPO is the urbanized area (UZA), which is initially identified and defined by the U.S. Census Bureau as part of the Decennial Census update. This boundary is adjusted by local officials and approved by the overseeing state Department of Transportation (DOT). The result of this is the official Adjusted Urban Area Boundary (known as the AUAB). In Metro COG's case, the overseeing DOT is the North Dakota Department of Transportation (NDDOT). The UZA is used to determine the type of transportation funding programs potential projects may be eligible to receive.

In addition to the UZA, the MPO boundary includes any contiguous areas, which may become urbanized within a twenty-year forecast period. Collectively, this area is known as the Metropolitan Planning Area (MPA). Metro COG's MPA boundary was most recently expanded in 2013 and is currently comprised of approximately 1,073 square miles (687,000 acres), across two states, two counties, 14 cities, and 31 townships. The MPA boundary is effectively Metro COG's "study area" or area of influence respective to the metropolitan transportation planning program. These areas are significant not only as potential future population centers but also due to their proximity to existing and future transportation assets of regional significance.

For UZAs with populations greater than 200,000 people, the FHWA and FTA designate Transportation Management Areas (TMAs) to address increased planning and regulatory needs faced by larger UZAs. In the 2020 U.S. Census, Metro COG's UZA surpassed this population threshold and, as of 2023, Metro COG is in the process of transitioning to a TMA.

Map 1 provides an overview of these boundaries for the Fargo-Moorhead area, specifically depicting:

- a) The Metropolitan Planning Area Boundary;
- b) The Adjusted Urbanized Area boundary; and
- c) Cities within the MPA.



Map 1: Fargo-Moorhead Planning Boundaries

Metro COG serves a bi-state area. This area is unique that it covers 14 townships in Cass County, ND, and 16 townships in Clay County, MN.

Within the MPA there are seven (7) member jurisdictions, which pay dues and have voting rights on the policy board and transportation technical committee. The following are the member jurisdictions:

- Cass County, ND
- Clay County, MN
- City of Fargo, ND
- City of Moorhead, MN
- City of West Fargo, ND
- City of Dilworth, MN
- City of Horace, ND

Additionally, there are Associate Jurisdictions located within the MPA. These towns have populations over 700, do not pay dues, and do not have voting rights on the policy board and transportation technical committee. In Minnesota, these include Barnesville, Glyndon, and Hawley; and in North Dakota include Casselton, Harwood, and Mapleton. Kindred has recently expressed interest in becoming an Associate Jurisdiction.

Additionally, there is a third designation of jurisdiction, which are non-member jurisdictions. These jurisdictions have populations under 700 and/or have chosen not to participate in Metro COG. These include in Minnesota: Comstock and Sabin; and in

North Dakota: Argusville, Briarwood, Frontier, Kindred, North River, Oxbow, Prairie Rose, and Reiles Acres.

The (14) Townships within the MPA in North Dakota include: Barnes, Berlin, Casselton, Durbin, Everest, Harmony, Harwood, Mapleton, Normanna, Pleasant, Raymond, Reed, Stanley, Warren.

The (16) Townships within the MPA in Minnesota include: Alliance, Barnesville, Eglon, Elkton, Elmwood, Glyndon, Hawley, Holy Cross, Humboldt, Kragnes, Kurtz, Moland, Moorhead, Morken, Oakport, Riverton.

Metro COG provides regional coordination and approves the use of federal transportation funds within the MPA, responsibility for the implementation of specific transportation projects lies with NDDOT, MnDOT, and the local units of government as transportation providers.

Governance and Organizational Structure

Metro COG is governed by a 24-member Policy Board appointed by local units of government within the Metropolitan Planning Area, Minnesota Department of Transportation, and North Dakota Department of Transportation. Federal law requires that the Policy Board shall consist of:

- Elected officials;
- Officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and
- Appropriate State officials

Figure 1 provides an overview of Metro COG's organizational structure. The light blue branch are staff positions. The green branch are technical committees and subcommittees. The technical committees, executive committee, and staff provide recommendations to the Policy Board.

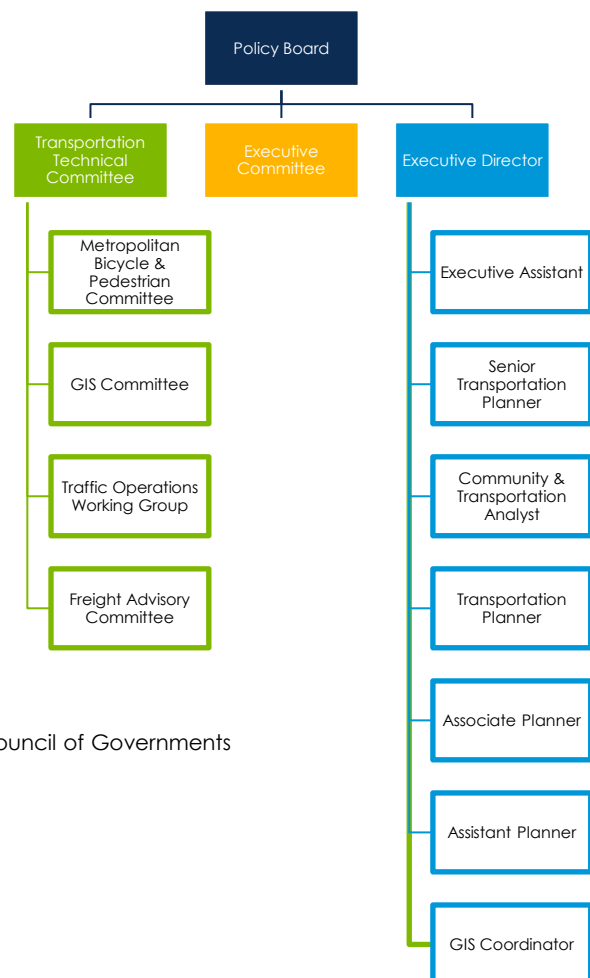


Figure 1: Fargo-Moorhead Metropolitan Council of Governments Organizational Chart

The appointments to Metro COG's Policy Board are made as follows:

- The Mayor of Fargo appoints seven members. Four of the seven appointees must be elected officials.
- The Mayor of Moorhead appoints three members. Two of the three appointees must be elected officials.
- The Mayor of West Fargo appoints two members, of which one must be an elected official.
- The Mayor of Dilworth appoints one member, of which must be an elected official of the Dilworth City Council.
- The Mayor of Horace appoints one member, of which must be an elected official of the Horace City Council.
- The Clay County Administrator appoints one member, of which must be an elected official of the Clay County Commission.
- The Cass County Administrator appoints one member, of which must be an elected official of the Cass County Commission.
- Associate member jurisdictions, which include the City of Casselton, City of Harwood, City of Mapleton, City of Barnesville, City of Glyndon, and City of Hawley, are entitled to one non-voting member.
- There are two ex-officio members, one from NDDOT- Fargo District and one from MnDOT- District 4.

The Policy Board is advised by a 22-member Transportation Technical Committee (TTC) made up of representatives from MnDOT, NDDOT, FHWA, Fargo, Moorhead, West Fargo, Dilworth, Horace, Cass County, Clay County, North Dakota Universities, Minnesota Universities, Freight, Bicycle and Pedestrian, and Economic Development. The Metro COG Executive Director, who also has a vote, chairs the TTC. There are three additional ex-officio members and all associate member jurisdictions may choose to participate, but do not have voting privileges.

The appointments to Metro COG's Transportation Technical Committee are made as follows:

- The Metro COG Executive Director represents staff and is the Chair of the committee
- City of Fargo has three representatives, one from each of the following: Engineering Department, Planning Department, and Fargo Transit
- City of Moorhead has three representatives, one from each of the following: Engineering Department, Planning Department, and Moorhead Transit
- City of West Fargo has two representatives, one from each of the following: Public Works Department and Planning Department
- City of Dilworth has one representative
- City of Horace has one representative
- Cass County has two representatives, one from each of the following: County Engineer's Office, County Planning Department

- Clay County has two representatives, one from each of the following: County Engineer's Office, County Planning Department
- Minnesota Department of Transportation has one representative
- North Dakota Department of Transportation has one representative
- Economic Development community has one representative
- Freight community has one representative
- Bicycle and Pedestrian community have one representative
- North Dakota University/Colleges have one representative
- Minnesota University/Colleges have one representative

The Metropolitan Bicycle and Pedestrian Committee is tasked with the oversight of the development and maintenance of the Metropolitan Bicycle and Pedestrian Plan. The Committee is made up of twenty-two (22) representatives. The Committee is a subcommittee of Metro COG's Transportation Technical Committee. Each member is appointed as prescribed within the Metro COG TTC By-Laws.

Agencies or entities participating as voting members of the Committee as follows:

- Metro COG Transportation Planner represents staff and is the Chair of the committee
- City of West Fargo has three representatives, two voting, one proxy*, from each of the following: Planning Department, Engineering Department, and Parks Department
- City of Fargo has three representatives, one from each of the following: Planning Department, Engineering Department, and Parks Department
- City of Moorhead has three representatives, two voting, one proxy*, one from each of the following: Planning Department, Engineering Department, and Parks Department
- City of Dilworth has one representative
- City of Horace has one representative
- Cass County has one representative
- Clay County has one representative
- MATBUS has one transit representative
- Minnesota Department of Transportation (District 4) has one representative
- North Dakota Department of Transportation (Fargo District) has one representative
- There are three Safety/Health representatives, one from each of the following: City of Fargo Police, Cass County Public Health, and Clay County Public Health
- River Keepers has one representative
- There is one representative for the local Colleges/Universities community
- Great Rides (or similar ride share organization) has one representative
- There is one Citizen Representative (two-year term)

It is important to note that Metro COG does not have any control over the racial and ethnic composition of the TTC.

Metro COG encourages participation of all citizens in the regional transportation planning and programming process. All Policy Board, TTC, and subcommittee meetings are public meetings.

The MPO continues to make efforts to encourage and promote diversity. To encourage participation in its committees, Metro COG continues to reach out to community, ethnic and faith-based organizations to connect with all populations. Specifically, Metro COG has reached out to minority group representatives in the region to find out how we can better serve and reach minority populations.

Additionally, Metro COG strives to find ways to make participating on its committees convenient. This includes scheduling meetings in locations with good transit service and in or near neighborhoods with a high concentration of minority and low-income populations. Some further goals and strategies to actively engage minority populations are included in the Public Participation Plan.

Staff and Committee Composition

Metro COG understands that diverse representation on the Policy Board and its committees helps result in sound policy reflective of the needs of the entire population. The Policy Board is comprised of elected officials from the communities within the Metropolitan Planning Area. These officials are chosen by the corresponding jurisdiction (see the Governance and Organizational Structure section for more information), and, per agreement, the Chair and Vice Chair rotate on an annual basis.

In addition to the Policy Board, Metro COG has one permanent advisory committee, the Transportation Technical Committee. Similar to the Policy Board, members from this committee are chosen by local jurisdictions, with the intent that they represent a broad range of technical knowledge and experience (see the Governance and Organizational Structure section for more information). The committee includes both staff from local jurisdictions, as well as representatives from MnDOT, NDDOT, and persons with expertise on particular relevant subject matter (e.g., freight, economic development, and bicycle and pedestrian issues). Metro COG makes every effort to encourage a diverse collection of individuals on the Transportation Technical Committee, but the members are ultimately chosen by each participating jurisdiction.

FTA Title VI Circular 4702.1B requires that for any recipients, which have transportation-related, non-elected planning boards, advisory council or committees, or similar bodies, membership of these committees must be broken down by race and accompanied by a description of efforts made to encourage the participation of minorities on these committees.

Metro COG has established two advisory committees – an intergovernmental Transportation Technical Committee (TTC) and an Executive Committee. Additionally, four supportive technical committees have been established – Metropolitan Bicycle and Pedestrian Committee, GIS Committee, Traffic Operations Working Group, and the Freight Advisory Committee.

Table 1 provides the racial and sexual composition of the Metropolitan Statistical Area (MSA), Metro COG's staff and committees.

Table 1: Demographic Composition of Metro COG Committees

Committee [Number of Members]	Race							Sex			Gender			
	White (not Hispanic or Latino)	Hispanic or Latino	Black / African American	Native Hawaiian or Other Pacific Islander	Asian / Asian American	American Indian or Alaska Native	Two or More Races	No Response	Male	Female	Preferred Not To Say	Male	Female	Preferred Not to Say
Metropolitan Statistical Area (MSA) [249,843]	206,758	9,193	16,153	121	6,849	3,761	13,338	0	126,756	125,380	0	116,897	115,763	0
Policy Board [24]	5	-	-	-	-	-	-	19	2	3	-	2	3	-
Transportation Technical Committee [22]	13	-	-	-	1	-	1	-	6	7	-	6	7	-
Metropolitan Bicycle and Pedestrian Committee [22]	8	-	-	-	-	-	-	14	4	4	-	4	4	-
GIS Committee [9]	6	-	-	-	-	1	-	2	5	2	-	5	2	-
Traffic Operations Working Group [#]	-	-	-	-	-	-	-	*	-	-	*	-	-	*
Southwest Metro Working Group [#]	2	-	-	-	-	-	-	**	2	-	**	2	-	**
Metro COG Staff [9]	4	-	-	-	1	-	-	4	3	2	-	3	2	-

Demographic information on the Fargo-Moorhead MSA taken from the 2020 U.S. Census Bureau's American Community Survey. Committee members are surveyed annually and as committee member turnover occurs; this table is updated subsequently.

*The Traffic Operations Working Group meets on an as-needed basis, so positions may be left vacant between meetings. For this reason, the Traffic Operations Working Group does not have a complete demographic composition represented in this table.

**Formation of a Southwest Metro Working Group was identified as a follow-up action in the 2016 Southwest Metro Transportation Plan. At this time, neither membership nor bylaws denoting voting members, appointments, or terms have been determined. For these reasons, committee demographics are not represented in this table.

Surveys are completed annually and as new hires occur.

Overall, staff received 5 responses from the 24 members of the Policy Board and 13 responses from the 22 members of the Transportation Technical Committee responded. The figures included in Table 1 represent the committees as of February 2023, and will fluctuate annually based upon rotation of appointees from individual jurisdictions and other factors.

Staff demographics are collected upon employment. See Appendix A for Metro COG's employment application and detachable Equal Employment Opportunity Survey.

Part 1: Title VI/Non-Discrimination Plan

Metro COG is committed to preventing discrimination and to fostering a just and equitable society, and recognizes the key role that transportation facilities and services provide to the community. Metro COG assures that no person shall on the grounds of race, color, or national origin, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. Metro COG further assures that every effort will be made to ensure nondiscrimination in all of its federally funded program activities.

Metro COG adopted its first Title VI Non-Discrimination Program in 2012. MPOs are required to update their Title VI program every three years.

To view a copy of Metro COG's Title VI Assurances, please see Appendix B.

On the following page is Metro COG's official Title VI / Nondiscrimination and ADA Policy Statement.

Fargo-Moorhead Metropolitan Council of Governments

Title VI/Non-Discrimination and ADA Policy Statement

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin. Specifically, 42 USC 2000d states that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

In addition to Title VI, there are other Nondiscrimination statutes, which include:

- Section 162(a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex);
- Age Discrimination Act of 1975 (age), and
- Section 504 of the Rehabilitation Act of 1973/ADA of 1990 (disability).

Taken together, these requirements define an over-arching Title VI / Nondiscrimination and ADA Program. Title VI and the additional Nondiscrimination requirements are applicable to programs receiving federal financial assistance due to the Civil Rights Restoration Act of 1987.

Two Presidential Executive Orders place further emphasis upon the Title VI protections of race and national origin. Executive Order 12898 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 directs recipients of Federal financial assistance that to ensure compliance with Title VI, they must take reasonable steps to ensure that limited English proficiency persons have meaningful access to their programs.

I, as Chair of the Policy Board of the Fargo-Moorhead Metropolitan Council of Governments (Metro COG), am personally committed to and support taking all steps to ensure that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability, limited English proficiency, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by Metro COG, its recipients, sub recipients, and contractors.

The Executive Director, Cindy Gray, of Metro COG is the appointed Title VI Coordinator and ADA Coordinator. Thus, he/she/they is granted the authority to develop, administer, and monitor the Title VI / Nondiscrimination and ADA Program as is adopted.

Anyone who believes that he/she/they has been discriminated against should contact the Executive Director, Title VI Coordinator and ADA Coordinator via mail, phone, or email.

Metro COG's address is 1 – 2nd Street North, Suite 232, Fargo, ND 58102

Metro COG's phone number is 701-532-5100. TTY users may call Relay North Dakota at 711 or 1-800-366-6888 (toll free).

Chuck Hendrickson
Chair, Metro COG Policy Board

Date

Fargo-Moorhead Metropolitan Council of Governments

Title VI Notice to the Public

Information must be provided to the public regarding the recipient's obligations under U.S. DOT Title VI regulations and members of the public must be apprised of the protections against discrimination afforded to them by Title VI.

Metro COG's Title VI notice to the public is posted under the [Resources/ Title VI Plan](#) link on the agency's website. The notice is also posted at the front desk in the agency office, in the staff break room, and in the hallway near the elevator on the second floor of the Case Plaza building. To view a copy of Metro COG's Title VI notice to the public, please see Figure 2.

Fargo-Moorhead Metropolitan Council of Governments

Case Plaza Suite 232 | 1 - 2nd Street North
 Fargo, North Dakota 58102-4807
 p: 701.532.5100 | f: 701.232.5043
 e: metrocoq@fmmetrocoq.org
 www.fmmetrocoq.org

Notifying the Public of Rights under Title VI
Fargo-Moorhead Metropolitan Council of Governments

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes he/she/they has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with Metro COG.

For more information on Metro COG's civil rights program, and the procedures to file a complaint contact the Title VI Coordinator via

- o Phone: 701.532.5100
- o Email: metrocoq@fmmetrocoq.org
- o Website: www.fmmetrocoq.org/resources/title-vi-plan

A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the

Office of Civil Rights
 Attention: Title VI Program Coordinator
 East Building, 5th Floor-TCR
 1200 New Jersey Avenue SE
 Washington, DC 20590

Complaint forms are provided below.	English
Los formularios de queja se proporcionan a continuación.	Spanish
Formên gilî li jêr têne peyda kirin.	Kurdish
U nastavku su navedeni formulari za žalbe.	Bosnia
Foomamka cabashada ayaa hoosta laga bixiyay.	Somali
उजुरी फारमहरू तल प्रदान गरिएको छ।	Nepali
Формы жалоб представлены ниже.	Russian
投诉表格如下。	Chinese
Mẫu đơn khiếu nại được cung cấp dưới đây.	Vietnamese
يتم تقديم نماذج الشكاوى أدناه.	Arabic

- 701.532.5100
- Case Plaza
1 - 2nd Street N, Suite 232
Fargo, ND 58102

Figure 2: Fargo-Moorhead Metropolitan Council of Governments Title VI Notice to the Public

Non-Discrimination Complaint Procedure

Scope of Non-Discrimination Complaints

Discrimination complaints can be based on race, sex, color, age, national origin, disability, limited English proficiency, and income status. The scope of Title VI covers all internal and external Metro COG activities. Adverse impacts resulting in Title VI complaints can arise from many sources, including advertising, bidding, and contracts.

Discrimination complaints can originate from individuals or firms alleging inability to bid upon or obtain a contract with Metro COG for the furnishing of goods and/or services. Examples include:

- Advertising for bid proposals;
- Prequalification or qualification;
- Bid proposals and awards; or
- Selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.

Discrimination complaints can originate as a result of project impacts on individuals or groups. Examples may include:

- Social and economic hardships
- Traffic
- Noise
- Air quality
- Access
- Accidents
- Failure to maintain facilities

How to File a Formal Non-Discrimination Complaint

The Metro COG Title VI Policy assures that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, income status, sexual orientation, and disability or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by Metro COG, its recipients, subrecipients, and contractors. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on income status.

Any person(s) or organization(s) believing they have been discriminated against on the basis of race, color, or national origin by Metro COG may file a Title VI complaint by completing and submitting Metro COG's Non-Discrimination Complaint Form or by sending an email or letter with the necessary information to Metro COG:

Fargo-Moorhead Metro COG
Attn: Title VI Complaint
1 – 2nd Street N, Suite 232
Fargo, ND 58102

PH: 701-532-5100

Email: metrococg@fmmetrococg.org

A person may also file a complaint directly with the Federal Transit Administration (FTA), at FTA Office of Civil Rights, 1200 New Jersey Avenue SE, Washington, DC 20590.

Discrimination complaints addressed to Metro COG must be received no more than 180 days after the alleged incident. Filing times may be extended if deemed necessary. Once the complaint is received, Metro COG's Title VI Coordinator will review it to determine which agency has jurisdiction. The complainant will receive an acknowledgement letter informing her/him whether the complaint will be investigated by our agency within ten (10) business days. The complainant has ten (10) business days from the date of the acknowledgement letter to send requested information to the investigator assigned to the case.

Discrimination complaints will be investigated within thirty (30) calendar days from the date the original complaint was received. If more information is needed to resolve the case, the city may contact the complainant.

Once the complaint is investigated, the investigator will issue either a letter of finding if a case of discrimination is found, or a closure letter if no discrimination is found. A copy of the letter will be sent to the U.S. Department of Transportation and North Dakota Department of Transportation. Every effort will be made to complete the investigation process and issue a letter within sixty (60) days of the complaint.

If the complainant wishes to appeal the decision, she/he/they has thirty (30) days after the date of the letter to do so.

Metro COG's complaint form and detailed procedures for investigating a complaint are posted under the [Resources/ Title VI Plan](#) link on the agency's website. The complaint form is also posted in the second floor of Case Plaza Lobby: 1 -2nd Street N, Fargo, ND 58102 and at the front desk in the agency office.

To view a copy of Metro COG's detailed complaint investigation procedures please see Appendix C. To view a copy of Metro COG's Complaint Form please see Appendix D.

Title VI Investigations

All recipients of federal financial assistance are required to maintain a list of any complaints alleging discrimination on the basis of race, color, or national origin.

As of January 2023, there have been no Title VI investigations, complaints, or lawsuits filed with Metro COG.

In order to comply with federal requirements Metro COG maintains Appendix E, in case a complaint arises. To view a copy of Metro COG's Complaint Log please see Appendix E.

Organizational Responsibilities

The general responsibility for overseeing compliance with applicable nondiscrimination authorities in each transportation planning and programming area Metro COG is involved in resides with the Title VI Coordinator. The Title VI Coordinator ensures compliance with provisions of the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21, administering the Title VI complaint procedures, and insuring compliance with Title VI by recipients, sub-grantees, contractors and sub-contractors of Metro COG.

Promote Inclusive Public Participation

Additionally, Metro COG promotes inclusive public participation through:

1. Implementing Policy (i.e. Public Participation Plan)
2. Developing and amending plans and programs (i.e. Metropolitan Transportation Plan and Transportation Improvement Programs)
3. Conducting general transportation plans and studies (i.e. neighborhood or corridor studies; transit studies; and bicycle/pedestrian studies)

In order to comply with Federal Policy 23 CFR Section 450.316 and MAP-21 requirements, as well as to provide structure, consistency and accountability in its public involvement processes, Metro COG maintains and conducts its planning activities in accordance with the Public Participation Plan (PPP). The PPP is available at Metro COG's office and on the website at [Resources/Public-Participation-Plan](#).

Provide Access to Limited-English Proficient (LEP) Persons

See Appendix J: Limited English Proficiency (LEP) Plan for details.

Encourage Minority Representation on Planning and Advisory Committees

See Staff and Committee Composition within this document for further details on how Metro COG strives to achieve this.

Training

As an organization, staff will complete one hour of training per calendar year. The Title VI Coordinator will determine the required training annually. Each year, the Title VI Training and Certificate of Completion will be amended into the appendices, along with the Title VI Training Log for Employees.

To view the 2023 Title VI Training and Certificate of Completion view Appendix F. The Title VI Training Log for Employees can be viewed in Appendix G.

Metro COG Title VI Coordinator

Metro COG's Executive Director is responsible for ensuring the implementation of the MPO's overall Title VI Program. This includes responsibility for ensuring compliance, program monitoring, reporting, and education on Title VI issues within the MPO.

Fargo-Moorhead Metro COG
Attn: Executive Director
1 – 2nd Street N, Suite 232
Fargo, ND 58102

PH: 701-532-5100
Email: metrocoq@fmmetrocoq.org

Title VI Coordinator Responsibilities

The Title VI Coordinator is charged with the responsibility for implementing, monitoring, and ensuring Metro COG's compliance with Title VI regulations. Title VI responsibilities are as follows:

1. Process the disposition of Title VI complaints received by Metro COG.
2. Collect Statistical data (race, color, sex, age, disability, or national origin) of participants in and beneficiaries of state highway programs, e.g. affected citizens and impacted communities. (See Appendix F)
3. Conduct annual Title VI reviews to determine the effectiveness of program activities at all levels.
4. Conduct Title VI reviews of consultant contractors and other recipients of federal-aid highway fund contracts administered through Metro COG.
5. Review Metro COG program directives. Where applicable, include Title VI language and related requirements.
6. Conduct training programs on Title VI and other related statutes for Metro COG employees and recipients of federal highway funds. Post a copy of the Title VI Plan on Metro COG web-site. Post the Title VI Plan on bulletin boards near the front desk at the Metro COG worksite. Inform all employees that a copy of the Title VI Plan is available upon request. Instruct all new employees about the Title VI Plan during orientation.
7. Prepare a yearly report of Title VI accomplishments and goals, as required.
8. Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English. Post the Title VI Plan on Metro COG web-site and on bulletin boards near the front desk.
9. Conduct post-grant reviews of Metro COG programs and applicants for compliance with Title VI requirements.
10. Identify and take corrective action to help eliminate discrimination.
11. Establish procedures to promptly resolve identified Title VI deficiencies. Document remedial actions agreed to be necessary. Provide remedial actions within 90 days of identification of a deficiency.

Part 2: Title VI and Environmental Justice Considerations in the Planning and Programming Process

Procedures by which mobility needs of minority populations are identified and considered

Metro COG seeks to identify the mobility needs of minority populations during the transportation planning and programming process through early and continuing public outreach to minority populations to obtain their input, and through data and GIS analysis of the location of minority population concentrations relative to existing and planned jobs and services and their travel patterns. The following sections outline in more detail how Title VI and environmental justice considerations are incorporated into Metro COG's planning and programming process.

Promoting Inclusive Public Participation and Providing Meaningful Access to Limited English Proficient Persons

Public Participation Plan (PPP)

Metro COG's Public Participation Plan, approved in January 2023, provides a framework for engaging the public in the regional transportation planning and programming process. Metro COG recognizes that effective public involvement is inclusive of the needs of all transportation system users with an emphasis on traditionally underserved populations. The goals of the PPP include:

1. Inform the Public and Engage Citizens in the Transportation Planning Process
2. Facilitate two-way communication between the public and key decision makers.
3. Evaluate effectiveness of public participation strategies

The PPP identifies multiple stakeholders that are important participants in the transportation planning process. Further information regarding the PPP can be found on Metro COG's website at: <http://www.fmmetrocog.org/resources/public-participation-plan>

The Public Participation Sign-in Sheet is available in Appendix H.
The Public Participation Survey is available in Appendix I.

Limited English Proficiency Plan

Under Title VI of the Civil Rights Act of 1964, individuals who do not speak English well and who have a limited ability to read, write, speak, or understand English are entitled to language assistance under Title VI in order to access public services or benefits for which they are eligible.

Metro COG seeks to ensure access to the regional transportation planning process, information published by Metro COG, and Metro COG's programs to area residents who do not speak or read English proficiently. It is Metro COG's policy to inform residents with LEP of the right to free language assistance and interpreter services at no cost to them. This plan outlines the procedures and practices Metro COG uses to provide meaningful access to its programs and activities for LEP populations within the Fargo-Moorhead Metropolitan Planning Area.

The plan outlines the following elements:

- Meaningful Access: Four Factor Analysis
 - a. LEP Assessment, which includes the results of the Four Factor Analysis
 - b. LEP populations in the Fargo-Moorhead Metropolitan Statistical Area
- Language Assistance
 - a. Language Assistance Services Provided
 - b. Translation of Documents
 - c. Public Outreach
 - d. Monitoring, Evaluating, and Updating the Language Assistance program
 - e. Staff Training

For more detailed information regarding Metro COG's LEP Plan, please refer to Appendix J or refer to Metro COG's website at: <http://fmmetrocog.org/resources/LEP>

Procedure for Conducting an Environmental Justice Analysis

Metro COG is committed to continuing efforts to enhance the analytical capability for assessing impact distributions of transportation programs, policies, and projects in its transportation plans and the TIP. The object of Executive Order 12898 on Environmental Justice is to ensure that Federal agencies and programs that receive Federal funding promote and enforce nondiscrimination as one way of achieving the overarching objective of environmental justice. FTA issued FTA Circular 4703.1 in 2012 to provide guidance on how recipients of Federal funding can integrate environmental justice principles into the transportation planning and programming process. This section provides a brief overview of the process that Metro COG follows to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.

An equity or environmental justice (EJ) analysis is conducted for the Metropolitan Transportation Plan (MTP) and the Transportation Improvement Program (TIP). This includes a qualitative analysis in which planned or programmed roadway, transit, and bicycle projects are overlaid or superimposed on a map highlighting the areas with concentrations of minority populations and low-income populations to determine the extent to which these areas are negatively or positively impacted by projects. The EJ analyses of the MTP and TIP are conducted at the draft stage well before they are finalized in order to inform the MTP and TIP development process and address any disproportionate impacts if discovered.

These analyses for the 2045 MTP and annual TIP updates have concluded that the planned and programmed projects do not impose disproportionately high and adverse impacts on minority and other EJ population groups. Additionally, the analyses identified the benefits of the recommended and programmed transportation projects and services are reasonably distributed to meet the needs of all populations in the metropolitan planning area. See Figure 3 for how the 2020-2023 programmed Transportation Improvement Program projects overlap EJ population areas.

Title VI and Environmental Justice in Metro COG's Planning Documents

Federal regulations require the formation of an MPO for each urbanized area with a population over 50,000 people to facilitate a 3-C (comprehensive, coordinated, and continuing) transportation planning process. Listed in this section are some of the major Metro COG planning efforts that reflect Title VI and EJ issues most closely.

Metropolitan Transportation Plan (MTP)

The purpose of the metropolitan transportation plan is to set a policy direction and identify how the region intends to invest in the transportation system across all modes. The MTP ensures that transportation projects are coordinated between the various levels of government (municipal, county, state, and federal). The Fargo-Moorhead 2045 MTP: *Metro Grow* contains the coordinated vision for our region. MTPs must:

- Have at least a 20-year planning horizon that supports the ten Federal metropolitan transportation planning factors
- Be updated every 5 years

The goals of the 2045 MTP are:

- *Safety System & Security*: Provide a transportation system that is safer for all users and resilient to incidents
- *Travel Efficiency & Reliability*: Improve regional mobility
- *Walking & Biking*: Increase walking and biking as a mode of transportation
- *Transit Access*: Support enhanced access to the existing and future MATBUS system
- *Maintain Transportation Infrastructure*: Provides a financial plan that supports maintaining transportation infrastructure in a state of good repair
- *Environmental Sustainability*: Provide a transportation system that provides access equitably and limits impacts to the natural and built environment
- *Economic Development & Transportation Decisions*: Promote transportation projects that support regional economic goals, support freight movement, and promote projects that can be financially sustained for the long-term
- *Emerging Transportation Trends*: Incorporate transportation trends and new technologies in regional transportation plans

Each of these goals look to improve equity for all users of the transportation system.

Transportation Improvement Program (TIP)

The Transportation Improvement Program (TIP), which Metro COG updates annually, is a coordinated listing of short-range transportation improvement projects anticipated to be undertaken in the next four-year period. The TIP is the mechanism by which the MTP is implemented, and represents the transportation improvement priorities of the region.

Projects within Metro COG's metropolitan planning area must be included in the TIP in order to be eligible to receive federal funding assistance. To be included, projects must be included in the MTP or determined to be consistent with the MTP

The TIP project list is multi-modal. In addition to streets/ roadways, it includes transit, pedestrian, and bicycle projects. The coordinated listing of projects in the TIP is a cooperative effort by state and local implementing agencies and the staff of Metro COG, and is primarily based upon state and local capital improvement programs and budgets. Implementing agencies submit their lists of proposed projects to Metro COG staff to coordinate into a comprehensive list of proposed transportation improvements, with information about project scope, cost timing, etc. The listing is subject to review by local units of government, Metro COG's Technical Transportation Committee (TTC), and Policy Board. A public comment period is opened fourteen (14) days directly prior to Policy Board meetings.

Unified Planning Work Program (UPWP)

The Metro COG work program is an bi-annual publication that outlines major transportation planning issues, describes the planning activities Metro COG will undertake and be involved in during the following two years, summarizes Metro COG's recent planning activities and accomplishments, and identifies how federal, state, and local transportation funding will be spent on the different planning activities.

The publication of an MPO work program is required by federal law as a condition of receiving federal transportation funding.

Metro COG includes a Statement of Non-discrimination as part of the UPWP. The UPWP also includes a self-certification summary that details how Metro COG complies with the applicable federal laws, including Title VI.

Transit Development Plan (TDP)

The Transit Development Plan (TDP) for the Fargo-Moorhead Urbanized Area is a short- to medium range strategic plan intended to identify transit needs and proposed improvements and studies over a five-year planning horizon. Metro COG is responsible for developing and maintaining the TDP. Metro COG works in close cooperation with MATBUS, funding partners, and jurisdictions in the region to develop the plan. An Environmental Justice (EJ) analysis is typically conducted for the TDP and will be done as part of the next update, which will be initiated in early 2020.

Coordinated Public Transit – Human Services Transportation Plan

Federal transit law requires that projects selected for funding under the Enhanced Mobility for Seniors and Individuals with Disabilities (Section 5310) Program be "included

in a locally developed, coordinated public transit-human services transportation plan," and that the plan be "developed and approved through a process that includes participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers and other members of the public" utilizing transportation services. These coordinated plans identify the transportation needs of individuals with disabilities, older adults, and people with low incomes, provide strategies for meeting these needs, and prioritize transportation services for funding and implementation. Plans include:

- An assessment of available services;
- An assessment of transportation needs, strategies, activities, and/or projects to address identified gaps between current services and needs and to improve efficiencies in service delivery; and
- Priorities for implementation based upon available resources, time, and feasibility.

This plan is included within the TDP and will be updated as a part of that effort starting in early 2020.

Bicycle and Pedestrian Plan

Metro COG is responsible for maintaining a comprehensive, coordinated, and continuous transportation planning process for all modes of transportation in the region. This update of the Bicycle and Pedestrian Plan is a sub-element of Metro COG's MTP and is updated every five years. The Bicycle and Pedestrian Plan has a twenty-year planning horizon in which it looks at all types of bicycle and pedestrian facilities that have a transportation element. Facilities that are strictly recreational are not considered in this Plan. The purpose of the Plan is listed below:

"The purpose of the Plan is to identify current issues and needs as they relate to bicycling and pedestrian movements in the area; develop goals, objectives, and recommendations to enhance bicycle and pedestrian accommodations and safety for all types of users regardless of age, gender, race, social status, or mobility needs."

One of the goals of the Bicycle and Pedestrian Plan is to 'Ensure equal bicycle and pedestrian opportunities for all.' The objective of this goal is to 'Ensure a network where equal bicycle and pedestrian accommodations are provided to all regardless of age, gender, race, social status, or mobility needs per Metro COG's Title VI policies.'

Title VI and Environmental Justice in Metro COG's Programming

NDDOT and MnDOT select the projects for the federal program funds that they control. For NDDOT and MnDOT this includes programs that fund state highway projects (e.g., National Highway Performance Program) and programs that fund local projects which NDDOT and MnDOT administers (e.g., Local Bridge, Highway Safety Improvement Program). These projects are submitted to Metro COG for inclusion in the TIP.

Part 3: Demographic Profile

Introduction

Title VI and related federal regulations regarding non-discrimination establish that the mobility needs of communities of concern, such as minorities, low income or the disabled, should be considered in the MPO planning process at the plan development, program and project level. Metro COG, as the metropolitan planning organization for the Fargo-Moorhead region, is responsible for developing long and short-range transportation plans and programs and coordinates its planning and programming activities with the North Dakota and Minnesota Departments of the Transportation, local governments, FHWA, and FTA.

Metro COG facilitates consideration of communities of concern in its planning and programming activities primarily through the following activities:

- Collection, analysis and distribution of demographic data,
- Public involvement activities, and
- Performing program and project analyses.

As part of Metro COG's public involvement efforts, the agency seeks out locations and methods of engagement that facilitates and encourages participation by potentially affected minority groups, people with disabilities, and low-income individuals and households. Some of these methods are described in Metro COG's Public Participation Plan; however, and each project is approached differently, depending upon the location and type of project.

Data Analysis, Demographic Profile of the Region and Identification of Environmental Justice Areas

As part of the Title VI program, Metro COG closely monitors and tracks statistical demographic data on race, national origin, age, languages spoken, income level, persons with disabilities, and sex of the population of the Fargo-Moorhead metropolitan area. This data is incorporated into the annual *Metropolitan Profile*, which is a document designed for use by both professional staff within Metro COG's jurisdictions as well as the public at large. Figure 3 depicts the racial composition of the Fargo-Moorhead MSA according to the U.S. Census Bureau's 2020 Decennial Census Survey.

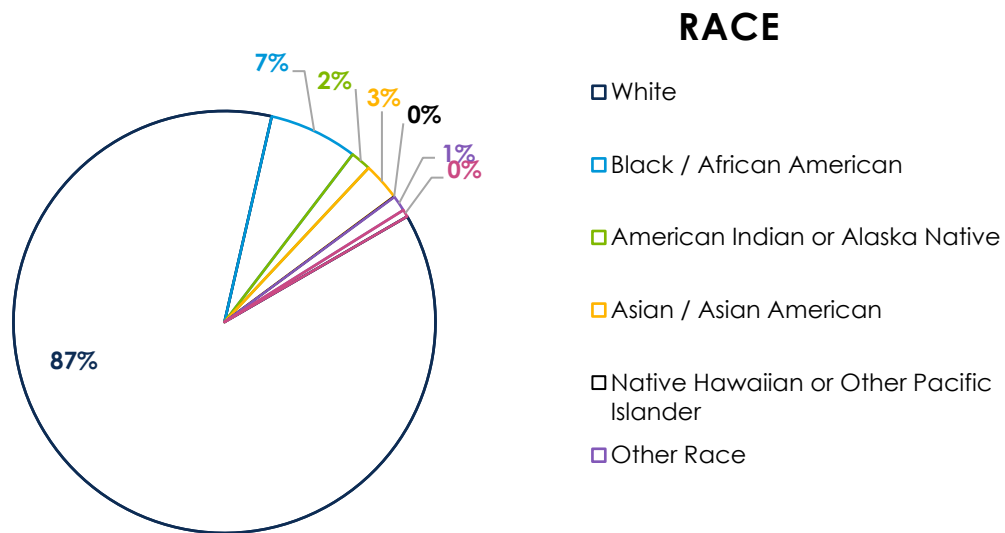


Figure 3: Fargo-Moorhead Metropolitan Council of Governments Organizational Chart

Based on 2020 American Census Survey Decennial Census

Environmental Justice Areas in the Fargo-Moorhead Urbanized Area

Pending the availability of data, Metro COG annually updates the Environmental Justice database to most accurately identify and map these areas. Environmental Justice areas are identified, considered, and addressed in all aspects of the transportation planning and programming process. The map depicted in Figure 5 shows the spatial distribution of minority and low-income populations in the urbanized area.

The maps and data pertaining to Environmental Justice areas are published in the annual *Metropolitan Profile*, Transportation Improvement Program (TIP), and available on Metro COG's website.

Low-income Populations

The currently approved definition of low-income persons is defined by the FTA Title VI circular, which states that a person whose median household income is at or below the [U.S. Department of Health and Human Service \(HHS\) poverty guidelines](#) is considered a low-income person.

USDOT, FHWA, and FTA define a low-income population as 1) any readily identifiable group of low-income persons who live in geographic proximity, or 2) geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed program, policy, or activity. State and local/regional agencies, including Metro COG, are encouraged to use a locally developed threshold in determining low-income populations in their areas, provided that the threshold is at

least as inclusive as HHS poverty guidelines for low-income individuals. Setting the low-income threshold above the official HHS poverty guideline allows Metro COG to detect larger populations that may still experience economic hardships.

Metro COG has established a process to determine where low-income populations are located. Metro COG staff calculate the MSA median household low-income threshold using the HHS poverty guidelines and the 2020 Decennial Census American Census Survey (ACS) MSA median household size. Then staff use the MSA low-income threshold to determine which block groups' median household income is lower than the MSA low-income threshold. These block groups are then considered to be areas of low-income populations and can be depicted visually on maps, such as in Figure 4.

Metro COG uses the following steps and formulas to calculate and determine the median household low-income value.

Step 1: Calculate Average Household Size for Fargo-Moorhead Metropolitan Statistical Area (MSA)

This is done by using the most recent ACS data set available, which for this Plan is the 2017-2021 ACS data set.

$$\text{[5-year Population estimate]} \div \text{[5-year Occupied Housing Units estimate]} =$$

Average Household Size

Step 2: Calculate Poverty Guideline for the Average Household Size for Fargo-Moorhead Metropolitan Statistical Area (MSA)

This is done using the most current year's [U.S. Department of Health and Human Services \(HHS\) Poverty Guideline](#) data and the Average Household Size calculated in Step 1.

$$\text{[Average Household Size]} - \text{[Lowest whole number of Persons in Family/Household]} =$$

Portion of Additional Persons

$$\text{[Current Year HHS Poverty Guideline for Additional Persons]} \times \text{[Portion of Additional Persons]} =$$

Portion of Additional Persons Poverty Guideline

$$\text{[Portion of Additional Persons Poverty Guideline rounded to the nearest \$1]} + \text{[Current Year HHS Poverty Guideline for Lowest whole number of Persons in Family/Household]} =$$

Poverty Guideline per Average Household Size in the Fargo-Moorhead MSA

Step 3: Calculate Low-Income Threshold for Fargo-Moorhead Metropolitan Statistical Area (MSA)

This is done using the Poverty Guideline per Average Household Size in the Fargo-Moorhead MSA and the 125% factor that was noted at the beginning of this section.

[Poverty Guideline per Average Household Size in the Fargo-Moorhead MSA] X 1.25 =
Fargo-Moorhead MSA Low-income Threshold (Rounded to the nearest \$1.)

The following are the previous steps used to calculate the 2021 Fargo-Moorhead MSA Low-income Threshold that Metro COG uses.

Step 1:

$247,967 \div 102,975 = 2.34$ as the **Average Household Size**

Step 2:

$2.34 - 2 = 0.34$ as the Portion of Additional Persons

$\$5,140 \times 0.34 = \$1,747.60$

$\$1,747.60 + \$19,720 = \$21,467.60$, round to the nearest \$1

\$21,468 as the Poverty Guideline per Average Household Size in the Fargo-Moorhead MSA

Step 3:

$\$21,468 \times 1.25 = \$26,835$, round to the nearest \$1

\$26,835 Fargo-Moorhead MSA Low-income Threshold

As of 2021, block groups with an annual median household income less than \$26,835 are considered “Low-income” block groups.

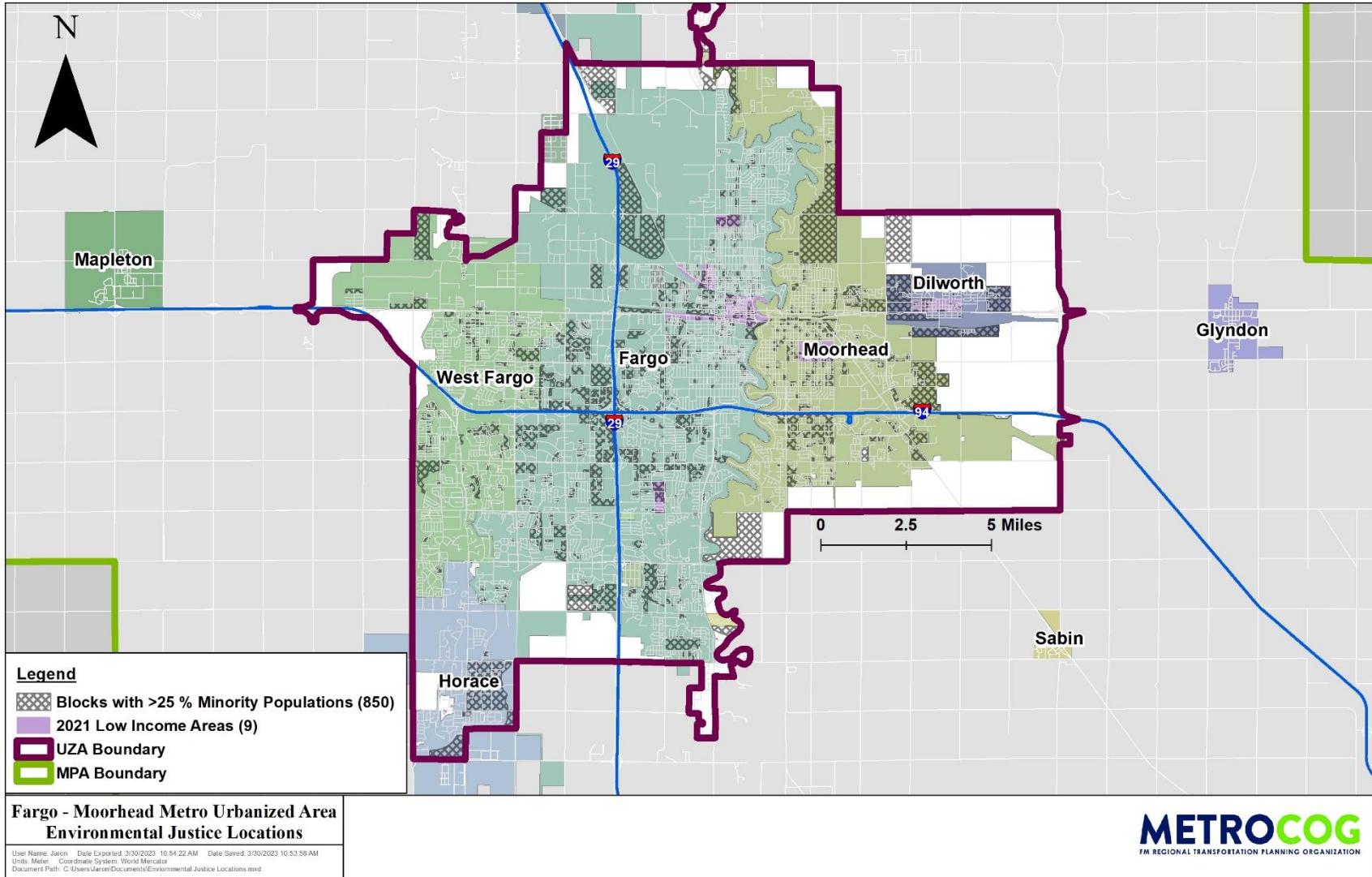
2020 Minority Populations

A minority person is an individual that identifies as having a race other than “white-alone” on their census questionnaire. In order to determine areas of minority populations within the Fargo-Moorhead MSA, Metro COG has set the following methodology.

Minority populations are identified geographically at the Census block level. Census blocks with minority populations equaling or exceeding 25% of the total block population are determined to be areas of minority populations.

The ACS does not provide Census block-level race estimates, so the minority population areas can only be updated with the decennial Census. Therefore, 2010 census data was used to establish the minority population areas in the 2012, 2016, and 2020 Title VI Plans. Figure 2: Environmental Justice Areas within the Metro COG urbanized Area identifies the minority population areas and the low-income areas.

Figure 4: Environmental Justice Areas within the Metro COG Urbanized Area



Analysis of State/Federal Funding Distribution on Environmental Justice Areas

FTA Circular 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients, discusses the need for MPO Title VI Plans to analyze the distribution of state and federal funds in aggregate for transportation purposes and to identify any disparate impact on the basis of race, color or natural origin. Further, the Federal Highway Administration identifies three fundamental Environmental Justice principles, which need to be addressed in the planning and programming of transportation projects:

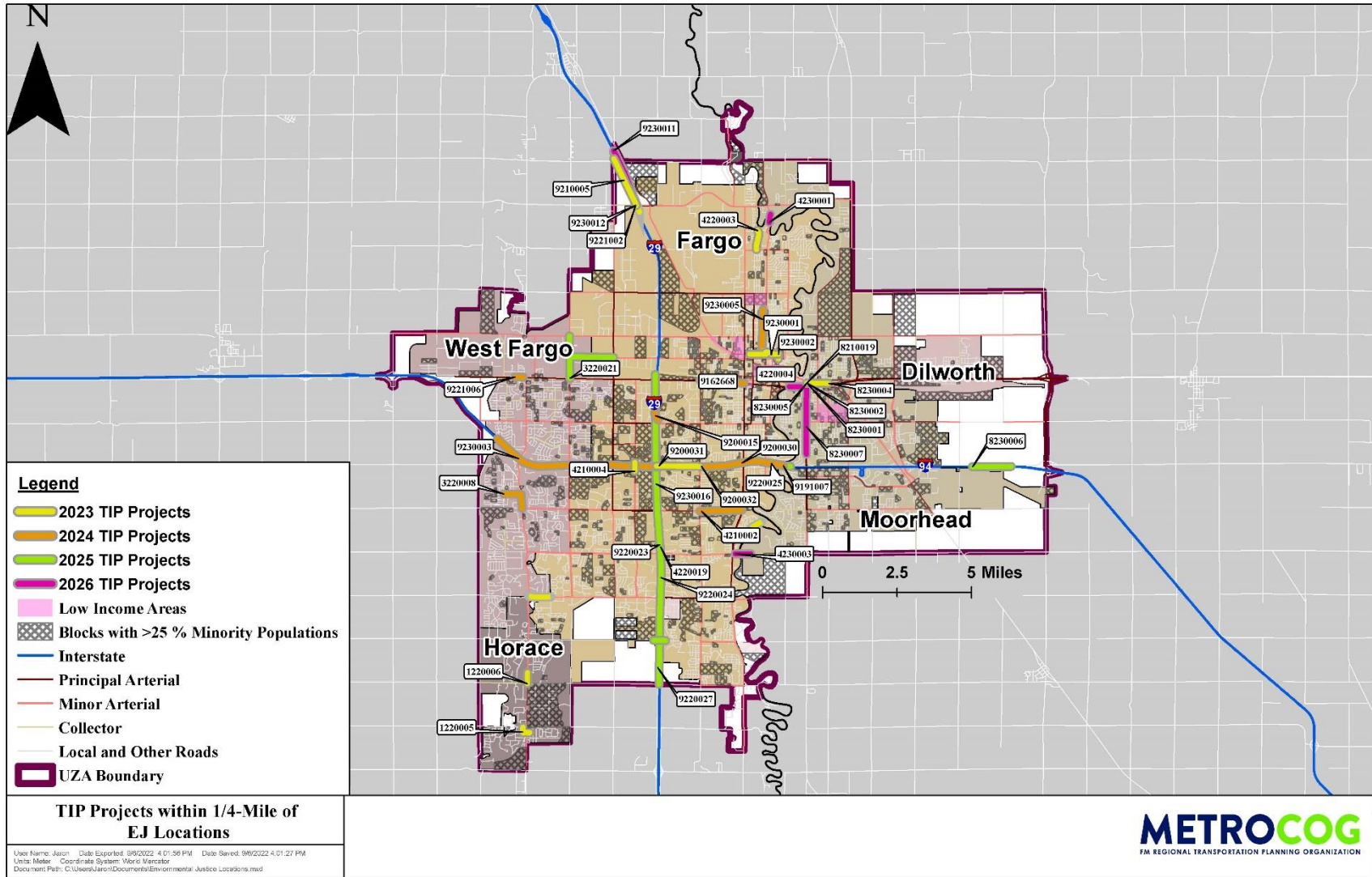
- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations;
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process; and
- To prevent denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

The information shown in Figure 3 depicts the Environmental Justice areas within Metro COG's UZA and their proximity to projects programmed in the 2023-2026 Transportation Improvement Program (TIP).

As identified in Figure 5, a number of projects programmed within the 2023-2026 TIP come within close proximity to current Environmental Justice areas. The dispersion of projects throughout the Metro COG urbanized areas will have equal benefit to both Environmental Justice populations and the public as a whole by improving safety and traffic operations for all roadway users.

Metro COG's analysis shows that no projects will have a disproportionately negative impact on Environmental Justice populations.

Figure 5: Programmed Transportation Projects and Environmental Justice Areas



Part 4: Appendices

**Appendix A: Employment Application & Equal Employment
Opportunity Survey**

Forms are on the following pages

EMPLOYMENT APPLICATION

EMAIL: metrocog@fmmetrocog.org

Read the certificate at the end of this questionnaire before filling in your answers. Print or type all answers. All questions and statements must be complete. If the appropriate answer is no or none, please state that as an answer. Fill out, print, and sign this form. If more space is required, provide an additional attachment.

Position Applying For: _____ Available Start Date: _____

1. PERSONAL INFORMATION

Last Name: _____ First: _____ Middle: _____

Legal Name Change / Maiden Name _____

Address: _____ City: _____ State: _____ Zip: _____

Home/Cell Phone: _____ Work Phone: _____ Email Address: _____

2. EDUCATION LIST

School, Address	Did you Graduate?	Certificate / Diploma / Degree Earned	Major / Minor
High School	Yes No GED		N/A
College/University/Technical School	Yes No		
College/University/Technical School	Yes No		
College/University/Technical School	Yes No		

3. SPECIALIZED EDUCATION/SKILLS/CERTIFICATIONS

4. WORK EXPERIENCE (Past 5 years; all employment including part time, self-employment, and unemployment)

Current/Most Recent Employer: _____ **Position/Title:** _____

Employed From: _____ To: _____ Total Years: _____ Total Months: _____

Last Salary: _____ Reason for Leaving: _____

Address: _____ City: _____ State: _____ Zip: _____

Supervisor's Name: _____ May we contact this person? _____

Supervisor's Title: _____ Supervisor's Phone: _____

Primary Responsibilities: _____

Prior Employer: _____ **Position/Title:** _____

Employed From: _____ To: _____ Total Years: _____ Total Months: _____

Last Salary: _____ Reason for Leaving: _____

Address: _____ City: _____ State: _____ Zip: _____

Supervisor's Name: _____ May we contact this person? _____

Supervisor's Title: _____ Supervisor's Phone: _____

Primary Responsibilities: _____

Prior Employer: _____ **Position/Title:** _____

Employed From: _____ To: _____ Total Years: _____ Total Months: _____

Last Salary: _____ Reason for Leaving: _____

Address: _____ City: _____ State: _____ Zip: _____

Supervisor's Name: _____ May we contact this person? _____

Supervisor's Title: _____ Supervisor's Phone: _____

Primary Responsibilities: _____

Number of additional employer sheets attached: _____
For additional employer information sheets, see last page of application.

5. CURRENT LICENSES

Do you have a Driver's License? Yes No Do you have a CDL? Yes No

Driver's License Number: _____ State: _____

6. CURRENT PROFESSIONAL LICENSES / EXPERIENCE

License: _____ License Number: _____

Type of License/Skill: _____

License: _____ License Number: _____

Type of License/Skill: _____

License: _____ License Number: _____

Type of License/Skill: _____

7. REFERENCES

Name: _____ Relationship/Type of Reference: _____

Total Years Known: _____ Phone: _____ Email: _____

Name: _____ Relationship/Type of Reference: _____

Total Years Known: _____ Phone: _____ Email: _____

Name: _____ Relationship/Type of Reference: _____

Total Years Known: _____ Phone: _____ Email: _____

8. ARREST RECORD

Include traffic violations, but not parking tickets – list dates, places, charges, disposition, and details of the crime

Have you every pled guilty or been found guilty of a felony, including a felony that was later dismissed?

9. ADDITIONAL INFORMATION

How were you referred to the position? _____

Are you related to a current employee? Yes No Name: _____

If hired, can you provide proof that you are eligible to work in the United States? Yes No

Are you a veteran? Yes No Please attach a copy of your DD-214 form.

12. ATTACHMENTS TO APPLICATION

Cover Letter	Yes	No	Additional Attachment #1	Yes	No
Resume	Yes	No	Additional Attachment #2	Yes	No

CERTIFICATE

I represent and warrant the answers I have made to each and all of the foregoing questions are full and true to the best of my knowledge and belief, AND FURTHER, in order that the AGENCY be fully informed as to my personal character and qualifications for employment, I refer to each of my former employers and to any other person who may have information concerning me, agreeing, as this information is furnished at my express request and for my benefit, I do hereby release them from any and all liability for damage of what so ever nature on account of furnishing such information. I acknowledge that **any false statement** knowingly made in answering the above questions is **good cause for removal from eligible register or discharge during or after probation.**

Applicant's Signature: _____

Date: _____

EEO STATEMENT

It is the continuing policy of the FM Metro COG to afford equal opportunity to qualified individuals regardless of their sex, race, creed, disability, or national origin, and to conform to applicable laws and regulations. Equal opportunity encompasses all aspects of employment practices to include, but not limited to, recruiting, hiring, training, compensation, benefits, promotions, transfers, layoffs, recall from layoffs, discipline, and agency-sponsored educational, social, recreational programs. Additionally, it is the policy of this agency to provide its members a viable means for communicating and resolving grievances and complaints regarding unlawful discriminatory employment practices. Any employee of the FM Metro COG who fails to comply with this policy is subject to appropriate disciplinary action.

EMAIL FORM

ADDITIONAL WORK EXPERIENCE

Prior Employer: _____ **Position/Title:** _____

Employed From: _____ To: _____ Total Years: _____ Total Months: _____

Last Salary: _____ Reason for Leaving: _____

Address: _____ City: _____ State: _____ Zip: _____

Supervisor's Name: _____ May we contact this person? _____

Supervisor's Title: _____ Supervisor's Phone: _____

Primary Responsibilities: _____

Prior Employer: _____ **Position/Title:** _____

Employed From: _____ To: _____ Total Years: _____ Total Months: _____

Last Salary: _____ Reason for Leaving: _____

Address: _____ City: _____ State: _____ Zip: _____

Supervisor's Name: _____ May we contact this person? _____

Supervisor's Title: _____ Supervisor's Phone: _____

Primary Responsibilities: _____

Prior Employer: _____ **Position/Title:** _____

Employed From: _____ To: _____ Total Years: _____ Total Months: _____

Last Salary: _____ Reason for Leaving: _____

Address: _____ City: _____ State: _____ Zip: _____

Supervisor's Name: _____ May we contact this person? _____

Supervisor's Title: _____ Supervisor's Phone: _____

Primary Responsibilities: _____

Equal Employment Opportunity Survey

To All Applicants:

The information request on this sheet regarding race, sex, and gender is needed to analyze and assure compliance with State and Federal Equal Employment Opportunity Laws and to meet the reporting requirements of those laws. Your cooperation in voluntarily giving this information is important to the success of our Equal Employment Opportunity Programs.

This Application Identification Sheet will be detached and kept separate from your application. It is not to be used in hiring or interviewing. It will be available only to authorized personnel for research and evaluation purposes. Refusing to provide this information will not subject you to adverse treatment.

This information is sought not for employment decisions, but for record keeping in compliance with Federal Law.

NAME: _____

JOB POSITION: _____

DATE COMPLETED: _____

SEX:

Please check one of the options below.

Male

Female

PREFER NOT TO SAY

GENDER:

Which of the following do you identify as (Please check one of the options below.)

Male

Female

Gender neutral

PREFER NOT TO SAY

RACE/ETHNICITY:

Please check one of the descriptions below corresponding to the ethnic group with which you identify.

Hispanic or Latino: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

White (Not Hispanic or Latino): A person having origins in any of the original peoples of Europe, the Middle East or North Africa.

Black or African American (Not Hispanic or Latino): A person having origins in any of the black racial groups of Africa.

Native Hawaiian or Pacific Islander (Not Hispanic or Latino): A person having origins in any of the peoples of Hawaii, Guam, Samoa or other Pacific Islands.

Asian or Asian American (Not Hispanic or Latino): A person having origins in any of the original peoples of the Far East, Southeast Asia or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.

American Indian or Alaska Native (Not Hispanic or Latino): A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Two or more races (Not Hispanic or Latino): All persons who identify with more than one of the above five races.

I do not wish to disclose.

Appendix B: Title VI Assurances

The **Fargo-Moorhead Metropolitan Council of Governments** (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration is subject to and will comply with the following:

Statutory/Regulatory 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);
- 49 C.F.R. 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 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

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 the Federal Highway Administration."

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI 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 non-discrimination 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 Federal-Aid Highway Program.

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 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 Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Fargo-Moorhead Metropolitan Council of Governments in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will 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 in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, 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, 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 Assurance, 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:
 - f. 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
 - g. 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 Fargo-Moorhead Metropolitan Council of Governments also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Federal Highway Administration'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 the Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, 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 Fargo-Moorhead Metropolitan Council of Governments) 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 Federal-Aid Highway Program. This ASSURANCE is binding on Fargo-Moorhead Metropolitan Council of Governments, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Chuck Hendrickson
Chair, Metro COG Policy Board

Date

Attachments: Appendices A and E of the Title VI Assurances

Fargo-Moorhead Metropolitan Council of Governments

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 Nondiscrimination 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.

Fargo-Moorhead Metropolitan Council of Governments

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 non-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 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).

Appendix C: Non-Discrimination Complaint Investigation Procedures

Metro COG uses the following detailed, internal procedures for prompt processing of all Title VI complaints received directly by it. These procedures include, but are not limited to:

1. Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with Metro COG. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of Metro COGs programs for it to be considered and processed as an allegation of a discriminatory practice.
2. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. Metro COG's Title VI Complaint Form must be used. (See Appendix C).
3. The complaint may also be filed with the U. S. Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE (S-33), Washington, D.C. 20590. The complaint must be filed, in writing, no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary, U. S. Department of Transportation.
4. Immediately, upon receipt of a Title VI complaint, Metro COG determines a course of action. Possible courses of action include:
 - a. Title VI complaints filed against Metro COG are referred to the North Dakota Department of Transportation (NDDOT) for processing. NDDOT notifies the Federal Highway Administration (FHWA) Division Office of the complaint.
 - b. Title VI complaints filed against Metro COG recipients and subrecipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed by Metro COG in accordance with FHWA approved complaint procedures, as required under 23 Code of Federal Regulations Part 200. NDDOT is available to provide assistance.
 - i. A copy of the complaint, together with a copy of Metro COG's report of the investigation and recommendations, are forwarded to the FHWA Division Office within sixty (60) days of the date the complaint was received by Metro COG.
 - ii. A copy of the complaint, together with a copy of Metro COG's report of the investigation and recommendations, are provided to NDDOT, Local Government Division, 608 East Boulevard, Bismarck, ND 58505-0700, for informational purposes only.
 - iii. The FHWA Headquarters Office of Civil Rights makes the final agency decision.

5. Metro COG reviews and determines the appropriate action regarding every complaint. Metro COG will recommend to the FHWA Division Office, with a copy to NDDOT, not to proceed with or continue a complaint investigation if:
 - a. The complaint is, on its face, without merit.
 - b. The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions.
 - c. The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.
6. If an investigation is to be initiated, Metro COG determines the method of investigation and who will conduct the investigation.
7. The entire investigation process, including the submission of the final report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT, is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by Metro COG.
8. Metro COG acknowledges receipt of the allegation(s) within ten (10) working days. The complainant is notified of the proposed action to be taken to process the allegation(s). The notification letter contains:
 - a. The basis for the complaint.
 - b. A brief statement of the allegation(s) over which Metro COG has jurisdiction.
 - c. A brief statement of Metro COG jurisdiction over the recipient to investigate the complaint; and
 - d. An indication of when the parties will be contacted.

Depending on the nature of the complaint, the complaint will be referred to the following for final decision:

- i. Federal Highway Administration (FHWA)
 - ii. U.S. Department of Justice
9. Metro COG also notifies the FHWA Division Office and/or FTA Region 8 Office, with a copy to NDDOT, within ten (10) calendar days of receipt of the allegations. The following information is included in the notification to FHWA:
 - a. Name, address, and phone number of the complainant.
 - b. Name(s) and address(es) of persons alleged to have been involved in the act.
 - c. Basis of alleged discrimination (i.e., race, color, sex, age, national origin, disability/handicap, or income status).
 - d. Date of alleged discriminatory act(s).
 - e. Date complaint was received by Metro COG.
 - f. Brief statement concerning the nature of the complaint.
 - g. Other agencies (federal, state, or local) with which the complaint has been filed.

- h. An explanation of the actions Metro COG proposes to take to resolve the issues raised in the complaint.
10. The investigation consists of an in-depth, personal interview with the complainant(s). Information gathered in this interview includes, but is not limited to:
- a. Identification of each complainant by race, color, sex, age, national origin, disability/handicap, or income status;
 - b. Name of the complainant;
 - c. A complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint;
 - d. The date the complaint was filed; and
 - e. Any other pertinent information the investigator(s) feels is relevant to the complaint.

The interview(s) is recorded, either on audio tape or by an investigator taking notes. The investigator(s) arranges for the complainant to read, make necessary changes to, and sign the interview transcript or interview notes.

11. Following the interviews, the investigator(s) develops a report of the investigation and recommendations based on the facts. The report contains the investigator's(s'):
- a. Findings;
 - b. Conclusions concerning each issue raised in the complaint; and
 - c. Recommendations for corrective action.

The report is the last document prepared by the investigator(s). Any other actions taken as a result of the investigator's(s') findings and conclusions are the responsibility of Metro COG management.

12. The complainant receives a letter from Metro COG detailing the findings and any recommendations for corrective action to be taken based on the facts. All issues in the complaint are addressed. The complainant is informed that the FHWA Headquarters Office of Civil Rights makes the final determination.

13. Metro COG forwards the report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT. Included with the report is
- a. A copy of the complaint;
 - b. Copies of all documentation pertaining to the complaint;
 - c. The date the complaint was filed;
 - d. The date the investigation was completed; and
 - e. Any other pertinent information.

14. The FHWA Office of Civil Rights makes the final agency decision.

Appendix D: Non-Discrimination Complaint Form

Form is on the following page

EXTERNAL COMPLAINTS OF DISCRIMINATION

COMPLAINANT INFORMATION (Complete all items below.)

Name		Telephone Number	
Address	City	State	ZIP Code
Email Address			

CAUSE OF DISCRIMINATION (Check all that apply.)

Title VI of the Civil Rights Act of 1964	Other Nondiscrimination Statutes/Executive Orders
<input type="checkbox"/> Race <input type="checkbox"/> National Origin	<input type="checkbox"/> Sex <input type="checkbox"/> Disability
<input type="checkbox"/> Color	<input type="checkbox"/> Age <input type="checkbox"/> Limited English Proficiency

Name of public entity complaint is against.
Provide an explanation of what happened and date(s) of the alleged discriminatory act and location.

WE CANNOT ACCEPT YOUR COMPLAINT WITHOUT A SIGNATURE AND DATE.

Complainant's Signature	Date
-------------------------	------

Any person or specific class of persons, who believes they were subjected to discrimination on the basis of race, color, national origin; or sex, age, disability, or limited English proficiency in the programs and activities of Sub-Recipient or its sub-recipients (e.g., a city, county, Metropolitan Planning Organization, Transit Agency, etc.) may by himself/herself or through his/her legally authorized representative, make, sign and date a written complaint and file such complaint with the Sub-Recipient within 180 calendar days following the date of the last instance of the alleged discriminatory action. Complainants must complete in its entirety, sign, and date Sub-Recipient's External Complaints of Discrimination form and file by mail, fax, in person, or e-mail. However, the complainant may call Sub-Recipient and provide the allegations by telephone. Sub-Recipient will transcribe the complainant's allegations into the complaint form and send the written complaint to the complainant for corrections, signature, and date.

To request accommodations, complainants may contact Sub-Recipient at:

TTY users may use Relay North Dakota at 711 or 1-800-366-6888.

The Sub-Recipient will review the complaint, gather additional information from the complainant if necessary, and refer the complaint to NDDOT. It is also within your rights to file directly with the appropriate Federal agency that oversees the transportation activities, services or facilities.

FHWA JURISDICTION (Roads and Bridges)

Title VI Complaints will be forwarded to the NDDOT. See NDDOT's External Complaints of Discrimination (SFN 51795) for processing information at: <https://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

FTA JURISDICTION (Public Transit)

Complaints filed under Title VI, related statutes, and Section 504/ADA in which Sub-Recipient is named as the respondent will be forwarded by Sub-Recipient to NDDOT Civil Rights Division.

Title VI, related statutes, and Section 504/ADA complaints filed directly with Sub-Recipient against its sub recipients or contractors will be processed by Sub-Recipient in accordance with the FTA approved complaint procedures under FTA C 4710.1, FTA C 4702.1B, 49 CFR 27.13(b).

Sub-Recipient may investigate complaints against its sub recipients as follows:

1. The complaint will be reviewed within 10 business days to determine whether it contains all the necessary information required for acceptance.
2. If the complaint is complete and no additional information is needed, the complainant will be sent a letter of acceptance along with the Complainant Consent/Release form (SFN 60741) and the Notice About Investigatory Uses of Personal Information fact sheet.

For Title VI or related statutes Complaints, Sub-Recipient is required to follow the FTA C 4702.1B to comply with reporting requirements of 49 CFR 21.9(b). The investigation information is recorded on the Transit Title VI - List of Investigations, Lawsuits, and Complaints (SFN 60805) and included in the Title VI/Nondiscrimination and ADA Program submitted to NDDOT every year. Although, FTA regulations do not specify a time frame for the investigation of Title VI complaints, the Sub-Recipient attempts to complete investigations within 90 days of receipt of the complaint from NDDOT.

For a Section 504/ADA complaint, Sub-Recipient shall forward a copy of the complaint, together with a copy of the report of investigation within 90 days of receipt of the complaint to the NDDOT and the FTA Office of Civil Rights.

The FTA has delegated authority for issuing LOFs for Title VI, related statutes, and Section 504/ADA complaints processed by FTA. LOFs issued by the FTA are administratively final.

Sub-Recipient has delegated authority for issuing LOFs for Title VI, related statutes, and Section 504/ADA complaints processed by Sub-Recipient against FTA funded sub recipients or contractors. Closure letters or LOFs issued by Sub-Recipients under FTA jurisdiction on Title VI, related statutes, and Section 504/ADA complaints are administratively final. Individuals or a specific class of individuals, personally or through a representative, may submit a complaint to FTA within 180 days from the date of the alleged discrimination.

Agencies Authorized to Receive and Process Complaints

North Dakota Department of Transportation

Civil Rights Division
608 E Boulevard Ave.
Bismarck, ND 58507-0700
Phone: (701) 328-2576
Fax: (701) 328-0343
TTY: 711 or (800) 366-6888
E-mail: civilrights@nd.gov

FHWA

North Dakota Division Office
4503 Coleman St. N., Suite 205
Bismarck, ND 58503
Phone: (701) 250-4204
Fax: (701) 250-4395
E-mail: NorthDakota.fhwa@dot.gov

Federal Transit Administration (FTA)

Office of Civil Rights
Attention: Complaint Team
East Building, 5th Floor - TCR
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone: (888) 446-4511

USDOJ - ADA Complaints

U.S. Department of Justice (USDOJ)
950 Pennsylvania Avenue, N.W.
Civil Rights Division
Disability Rights Section - 1425 NYAV
Washington, DC 20530
Fax: (202) 307-1197
ADA Information Line:
(800) 514-0301 (voice) or (800)514-0383 (TTY)
Main Section Telephone Number:
(202) 307-0663 (voice and TTY)

United States Department of Transportation (USDOT)

Departmental Office of Civil Rights
U.S. Department of Transportation
Office of Civil Rights
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone: (202) 366-4648
Fax: (202) 366-5575
TTY/Assistive Device: (202) 366-9696

USDOJ - Race, Color, National Origin Complaints

Federal Coordination and Compliance Section - NWB
Civil Rights Division
U.S. Department of Justice (USDOJ)
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
Phone: (888) 848-5306 (English and Spanish)
(202) 307-2222 (voice)
(202) 307-2678 (TDD)

United States Department of Transportation (FHWA)

Federal Highway Administration
U.S. Department of Transportation
Office of Civil Rights
1200 New Jersey Ave., S.E.
8th Floor E81-105
Washington, DC 20590
Phone: (202) 366-0693
Fax: (202) 366-1599
TTY: (202) 366-5132
E-mail: CivilRights.FHWA@dot.gov

**COMPLAINANT CONSENT/RELEASE
(EXTERNAL COMPLAINTS OF DISCRIMINATION)**

Name			
Mailing Address	City	State	ZIP Code
Complaint Number(s) if known:			

Please read the information below, check the appropriate box, and sign this form.

I have read the Notice About Investigatory Uses of Personal Information by the Sub Recipient. As a complainant, I understand that in the course of an investigation it may become necessary for Sub Recipient to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of Sub Recipient to honor requests under the Freedom of Information Act and North Dakota Century Code 44-04-18. I understand that it may be necessary for Sub Recipient to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by Sub Recipient's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by Sub Recipient.

CONSENT/RELEASE

<p><input type="checkbox"/> CONSENT - I have read and understand the above information and authorize Sub Recipient to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the Sub Recipient to receive material and information about me pertinent to the investigation of my complaint. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.</p> <p><input type="checkbox"/> CONSENT- The respondent named in this complaint may receive a copy of my complaint upon request.</p> <p><input type="checkbox"/> CONSENT DENIED - I have read and understand the above information and do not want Sub Recipient to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.</p>	Signature	Date
---	-----------	------

**NOTICE ABOUT INVESTIGATORY
USES OF PERSONAL INFORMATION
(External Complaints of Discrimination)**

**Sub Recipient
NOTICE OF COMPLAINANT/INTERVIEWEE RIGHTS AND PRIVILEGES**

Complainants and individuals who cooperate in an investigation, proceeding or hearing conducted by Sub Recipient are afforded certain rights and protections. This brief description will provide you with an overview of these rights and protections.

- A respondent may not force its employees to be represented by the respondent's counsel nor may it intimidate, threaten, coerce or discriminate against any employee who refuses to reveal to the respondent the content of an interview. An employee does, however, have the right to representation during an interview with Sub Recipient. The representative may be the respondent's counsel, the employee's private counsel, or anyone else the interviewee authorizes to be present.

- The laws and regulations which govern Sub Recipient's compliance and enforcement authority provide that no respondent or other person shall intimidate, threaten, coerce or discriminate against any individual because he/she has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing conducted under Sub Recipient's jurisdiction, or has asserted rights protected by statutes Sub Recipient enforces.

- Information obtained from the complainant or other individuals which is maintained in Sub Recipient's investigative files may be exempt from disclosure under the Privacy Act, the Freedom of Information Act (FOIA), or North Dakota Century Code (NDCC) 44-04-18 if release of such information would constitute an unwarranted invasion of personal privacy.

The law governing personal information submitted to any public entity, including the Sub Recipient is NDCC 44-04-18.

NDCC 44-04-18 protects individuals from misuse of personal information held by the Sub Recipient. The law applies to records that are kept and that can be located by the individual's name or social security number or other personal identification system. Persons who submit information to the public entity should know that:

- Sub Recipient is required to investigate complaints of discrimination on the basis of race, color, national origin, sex, disability, age, and, in some instances, religion against respondents of Federal financial assistance. Sub Recipient also is authorized to conduct reviews of federally funded respondents to assess their compliance with civil rights laws.

- Information that Sub Recipient collects is analyzed by authorized personnel within the agency. This information may include personnel records or other personal information. Sub Recipient staff may need to reveal certain information to persons outside the agency in the course of verifying facts or gathering new facts to develop a basis for making a civil rights compliance determination. Such details could include the physical condition or age of a complainant. Sub Recipient also may be required to reveal certain information to any individual who requests it under the provisions of NDCC 44-04-18. (See below)

- Personal information will be used only for the specific purpose for which it was submitted, that is, for authorized civil rights compliance and enforcement activities. Except in the instances defined by NDCC Chapter 44-04, Sub Recipient will not release the information to any other agency or individual unless the person who supplied the information submits a written consent. One of these exceptions is when release is required under NDCC 44-04-18. (See below)

- No law requires a complainant to give personal information to Sub Recipient, and no sanctions will be imposed on complainants or other individuals who deny Sub Recipient's request. However, if Sub Recipient fails to obtain information needed to investigate allegations of discrimination, it may be necessary to close the investigation.

- NDCC 44-04-18 permits certain types of systems of records to be exempt from some of its requirements, including the access provisions. It is the policy of Sub Recipient to exercise authority to exempt systems of records only in compelling cases. Sub Recipient may deny a complainant access to the files compiled during the agency investigation of his or her civil rights complaint against a respondent of Federal financial assistance. Complaint files are exempt in order to aid negotiations between respondents and Sub Recipient in resolving civil rights issues and to encourage respondents to furnish information essential to the investigation.

- Sub Recipient does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against a respondent that violates the laws, or unless such information is required to be disclosed under NDCC 44-04-18. Sub Recipient will keep the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under NDCC 44-04-18 or otherwise required by law.

NDCC 44-04-18 gives the public access to certain files and records of the public entity. Individuals can obtain items from many categories of records of the public entity--not just materials that apply to them personally. Sub Recipient must honor requests under NDCC 44-04-18, with some exceptions. Sub Recipient generally is not required to release documents during an investigation or enforcement proceedings if the release could have an adverse effect on the ability of the agency to do its job.

Also, a public entity may refuse a request for records compiled for law enforcement purposes if their release could be an "unwarranted invasion of privacy" of an individual. Requests for other records, such as personnel and medical files, may be denied where the disclosure would be a "clearly unwarranted invasion of privacy."

Appendix E: Non-Discrimination Complaint Log

Form is on the following page

Title VI Complaint Log

The first line of the table, shaded in yellow, is an example of how to fill in the table when / if a complaint is received.

EXAMPLE	Name of Complainant		Date Requested		Basis of Complaint <small>(race, sex, color, age, national origin, disability, limited English proficiency, income status)</small>	Additional information regarding Complaint	Metro COG Response		Date Complaint Closed
	<small>First Name, Last Name Address Phone Email</small>	Year	Month/ Day	Action			Status <small>(Active, pending comment, closed)</small>		
	John Doe 1234 This Town Rd Small Town, XX ##### xxx-xxx-xxxx xxxxxx@blahblah.com	YYYY	MM/DD	Race		Translated document in entirety	Active	MM/DD/YYYY	

*As of December 2022, no Discrimination Complaints been received.

**Appendix F: Non-Discrimination Training and Certificate of
Completion**

Forms are on the following pages

2023 TITLE VI TRAINING AND CERTIFICATE OF COMPLETION

As a direct recipient of federal assistance, the North Dakota Department of Transportation (NDDOT) is required to comply with Title VI laws, related statutes, and regulations. It is necessary that any agency receiving federal and/or state financial assistance from NDDOT receive training on U.S. Department of Transportation (DOT) and Federal Highway Administration (FHWA) Title VI laws and regulations on an annual basis.

As a sub-recipient of NDDOT's federal funds, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is required to comply with Title VI and related nondiscrimination laws and regulations. Employees of Metro COG are required to complete Title VI training each year.

Metro COG employees shall review the following modules in order to fulfill their Title VI training requirements for 2023:

- **MODULE I** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=92>
Overview of FHWA's Civil Rights Program Requirement for Local Public Agencies - Public transportation agencies must comply with civil rights requirements
- **MODULE II** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=71>
Background and Purpose - The historical context of Title VI of the Civil Rights Act of 1964 is explained to help comply with Federal-aid program requirements
- **MODULE III** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=93>
Nondiscrimination Assurances - A Federal-aid recipient must have 'assurances,' a signed agreement to assure nondiscrimination in all of its programs and activities
- **MODULE IV** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=91>
Implementation Plans - A Federal-aid recipient must have a formal plan to prevent discrimination in all of its programs and activities
- **MODULE V** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=94>
Compliance and Enforcement - A Federal-aid recipient must perform civil rights compliance monitoring and provide enforcement of the Federal regulations
- **MODULE VI** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=23>
Nondiscrimination Requirements on Construction Contracts - Federal nondiscrimination requirements must be enforced on all Federal-aid construction contracts
- **MODULE VII** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=72>
Foundations of the ADA/Section 504 - Protecting the rights of persons with disabilities helps agencies accommodate all users

Declaration of Employee: I completed annual Title VI training on _____ (date) as required by the Fargo-Moorhead Metropolitan Council of Governments and the North Dakota Department of Transportation.

Printed Name and Title: _____

Signature: _____ Date: _____

Appendix G: Title VI Training Log for Employees

Position	Last Date Completed	Year							
		2022	2023	2024	2025	2026	2027	2028	2029
<i>Executive Director</i>	02/28/2023	X	X						
<i>Senior Transportation Planner</i>	02/28/2023	X	X						
<i>Transportation Planner</i>	02/28/2023	X	X						
<i>Community & Transportation Analyst</i>	02/28/2023	X	X						
<i>Assistant Planner</i>	02/28/2023	X	X						
<i>GIS Coordinator</i>	02/28/2023	X	X						
<i>Office Manager</i>	02/28/2023	X	X						
<i>Planning Intern</i>	02/28/2023	X	x						

Appendix H: Public Participation Sign-in Sheet

Form is on the following page

SIGN-IN SHEET

North Dakota Department of Transportation, Civil Rights
SFN 59531 (5-2018)

Page ____ of ____

Meeting Location		Meeting Type		Meeting Date	
Project Number				PCN	
Project Description					
Name (Please print)			Title/Representing		
Address		City		State	ZIP Code
Email Address				Telephone Number	
Name (Please print)			Title/Representing		
Address		City		State	ZIP Code
Email Address				Telephone Number	
Name (Please print)			Title/Representing		
Address		City		State	ZIP Code
Email Address				Telephone Number	
Name (Please print)			Title/Representing		
Address		City		State	ZIP Code
Email Address				Telephone Number	
Name (Please print)			Title/Representing		
Address		City		State	ZIP Code
Email Address				Telephone Number	
Name (Please print)			Title/Representing		
Address		City		State	ZIP Code
Email Address				Telephone Number	
Name (Please print)			Title/Representing		
Address		City		State	ZIP Code
Email Address				Telephone Number	
Name (Please print)			Title/Representing		
Address		City		State	ZIP Code
Email Address				Telephone Number	
Name (Please print)			Title/Representing		
Address		City		State	ZIP Code
Email Address				Telephone Number	

Appendix I: Public Participation Survey

Form is on the following page

TITLE VI PUBLIC PARTICIPATION SURVEY

PLEASE USE DARK INK AND PRINT CLEARLY

The Civil Rights Act of 1964 and related nondiscrimination authorities require the _____ to ensure everyone has the opportunity to comment on the transportation programs and activities that may affect their community.

To help with that, we ask that you respond to the following questions. You are not required to disclose the information requested in order to participate. Any information provided to _____ will be retained solely for the purpose of collecting statistical data to ensure inclusion of all segments of the population affected by transportation programs and activities.

Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> _____	Disability: <input type="checkbox"/> Yes <input type="checkbox"/> No
Age: <input type="checkbox"/> Under 18 <input type="checkbox"/> 18-40 <input type="checkbox"/> 41-65 <input type="checkbox"/> 65+	
Race: <input type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Native Hawaiian/Other Pacific Islander <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> _____ <input type="checkbox"/> Black/African American	
Language Most Frequently Spoken in your Home: <input type="checkbox"/> Spanish <input type="checkbox"/> Vietnamese <input type="checkbox"/> Japanese <input type="checkbox"/> German <input type="checkbox"/> Arabic <input type="checkbox"/> Other Slavic Language <input type="checkbox"/> Other African Language <input type="checkbox"/> Russian <input type="checkbox"/> English <input type="checkbox"/> Chinese <input type="checkbox"/> Other India Language <input type="checkbox"/> _____	
Do you receive public assistance? <input type="checkbox"/> Yes <input type="checkbox"/> No	
How did you hear about this event? <input type="checkbox"/> Internet <input type="checkbox"/> NDDOT Contact <input type="checkbox"/> Television <input type="checkbox"/> Radio <input type="checkbox"/> Newspaper <input type="checkbox"/> Advocacy Group <input type="checkbox"/> Mailing <input type="checkbox"/> Social Service Agency <input type="checkbox"/> _____	

For Office Use Only

Event Date (MM/DD/YYYY)	City	County	Div/Dist Number	PCN																									
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> </tr> </table>												<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> </tr> </table>				<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> </tr> </table>			<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> </tr> </table>					<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> </tr> </table>					

MPO: <input type="checkbox"/> Bismarck-Mandan <input type="checkbox"/> Fargo-Moorhead Metro COG <input type="checkbox"/> Grand Forks-East Grand Forks	ROW: <input type="checkbox"/> Negotiation <input type="checkbox"/> Relocation	Subrecipient: <input type="checkbox"/> Yes <input type="checkbox"/> No
---	--	---

*After you have completed this form, please place it in the designated location.

Appendix J: Limited English Proficiency Plan

Document starts on the following page.

Appendix K: Federal Clauses

Form is on the following page

Federal Clauses

Equal Employment Opportunity Clause – 41 CFR 60-1.4(a) and 2 CFR Part 200 Appendix II (C)

41 CFR 60-1.4(a)

- (a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract): during the performance of this contract, the contractor agrees as follows:
- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.
 - (2) The contract will, in all solicitations or advertisements for employees placed by or no behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the secretary of labor.
 - (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the secretary of labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the secretary of labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the secretary of labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the secretary of labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the secretary of labor as a means of enforcing such provisions including sanctions for noncompliance: *provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

2 CFR Part 200 Appendix II (C)

- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Sanctions and Penalties for Breach of Contract – 2 CFR Part 200 Appendix II (A)

- (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Termination for Cause and Convenience – 2 CFR Part 200 Appendix II (B)

- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

Rights to Inventions Made Under a Contract or Agreement – 2 CFR Part 200 Appendix II (F)

- (F) Right to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "Funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Debarment and Suspension – 2 CFR Part 200 Appendix II (I)

- (I) Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p.235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Byrd Anti-Lobbying Amendment – 2 CFR Part 200 Appendix II (J)

- (J) Byrd Anti-Lobbying Amendment (31 U.S.C 1352) – Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

To: Transportation Technical Committee
From: Dan Farnsworth, Transportation Planner
Date: September 8, 2023
Re: **Clay County Heartland Trail Routing Analysis RFP**

The Heartland State Trail is currently a 49-mile paved shared use path that extends from Park Rapids, MN to Cass Lake, MN. In addition, another five miles of the trail was recently constructed from Detroit Lakes, MN to Frazee, MN. In 2006 the Minnesota Legislature authorized the extension of the Heartland State Trail from Park Rapids, MN to Moorhead. Metro COG formed the Clay County Heartland Trail Task Force in 2014 to pursue planning efforts of the trail through Clay County. As a result, a preliminary alignment was developed, however in-depth analysis was not conducted.

The purpose of this study is to take initial planning efforts and provide detailed analysis which will evaluate routing options as well as detailed analysis within each alternative. Planning-level cost estimates will be developed for each routing alternative and a preferred alternative will be recommended. Public and stakeholder engagement will also be an important aspect of this study.

The Clay County Heartland Trail Routing Analysis will be a consultant-led study and is in Metro COG's Unified Planning Work Program (UPWP) to begin in 2024. The budget for this study is \$250,000 with 80% (\$200,000) coming from Metro COG's CPG funds and the 20% local match coming from a combination of Clay County, the cities of Moorhead, Dilworth, Glyndon, and PartnerSHIP 4 Health.

Attached is the study's draft RFP which is anticipated to be released pending Policy Board approval on September 21st.

Requested Action: Recommend Policy Board approval of the Clay County Heartland Trail Routing Analysis RFP

**FARGO-MOORHEAD
METROPOLITAN COUNCIL OF GOVERNMENTS**

REQUEST FOR PROPOSALS (RFP)

PROJECT NO. 2024-211

Clay County Heartland Trail Routing Analysis

September, 2023

APPROVED:

Ben Griffith
Metro COG, Executive Director

METROCOG
FM REGIONAL TRANSPORTATION PLANNING ORGANIZATION

REQUEST FOR PROPOSALS (RFP)

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) requests proposals from qualified consultants for the following project:

Clay County Heartland Trail Routing Analysis

Qualifications based selection criteria will be used to analyze proposals from responding consultants. The most qualified candidates will be invited to present an in-person, virtual, or hybrid interview. Upon completion of technical ranking and interviews, Metro COG will enter into negotiations with the top ranked firm. **Sealed cost proposals shall be submitted with the RFP.** The cost proposal of the top ranked firm will be opened during contract negotiations. Those firms not selected for direct negotiations will have their unopened cost proposals returned. Metro COG reserves the right to reject any or all submittals. This project will be funded, in part with federal transportation funds and has a not-to-exceed budget of **\$250,000**.

Interested firms can request a full copy of the RFP by telephoning 701.532.5100, or by e-mail: metrocof@fmmetrocog.org. Copies will be posted on the North Dakota Department of Transportation QBS website (<https://www.dot.nd.gov>) and are also available for download in .pdf format at www.fmmetrocog.org.

All applicants must be prequalified with the North Dakota Department of Transportation (NDDOT). If not prequalified with the NDDOT, applicants will be required to submit a completed Standard Form 330 with their submittal of information.

All proposals received by **4:30 p.m. (Central Time) on Wednesday October 18, 2023** will be given equal consideration. Respondents must submit one (1) PDF of the proposal, and one (1) sealed hard copy of the cost proposal. The full length of each proposal shall not exceed thirty-five (35) pages; including any supporting material, charts, or tables.

The sealed cost proposals shall be shipped to ensure timely delivery to the contact defined below:

Dan Farnsworth
Fargo-Moorhead Metropolitan Council of Governments
Case Plaza, Suite 232
One 2nd Street North
Fargo, ND 58102
farnsworth@fmmetrocog.org
701-532-5106

Fax versions will not be accepted as substitutes for the sealed cost proposal. Once submitted, the proposals will become property of Metro COG.

Note: This RFP can be made available in alternative formats for persons with disabilities by contacting Savanna Leach, Office Manager at 701.532.5100 or leach@fmmetrocog.org.

TABLE OF CONTENTS

I AGENCY OVERVIEW 4

II PROJECT BACKGROUND AND OBJECTIVE 4

III SCOPE OF WORK AND PERFORMANCE TASKS 5

IV IMPLEMENTATION SCHEDULE..... 10

V EVALUATION AND SELECTION PROCESS. 10

VI PROPOSAL CONTENT 11

VII SUBMITTAL INFORMATION 13

VIII GENERAL RFP REQUIREMENTS..... 13

IX CONTRACTUAL INFORMATION..... 15

X PAYMENTS 16

XI FEDERAL AND STATE FUNDS 16

XII TITLE VI ASSURANCES 16

XIII TERMINATION PROVISIONS..... 18

XIV LIMITATION ON CONSULTANT 18

XV CONFLICT OF INTEREST 18

XVI INSURANCE 19

XVII RISK MANAGEMENT..... 19

- Exhibit A – Cost Proposal Form
- Exhibit B – Federal Clauses
- Exhibit C – SFN 60232: Proposed Sub

Clay County Heartland Trail Routing Analysis

Note: Throughout this RFP, Metro COG may be referred to as 'Client' and the consulting firm may be referred to as 'Consultant', 'Contractor', or 'Firm'.

I AGENCY OVERVIEW

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) serves as the Council of Governments (COG) and Metropolitan Planning Organization (MPO) for the greater Fargo, North Dakota – Moorhead, Minnesota metropolitan area. As the designated MPO for the Fargo-Moorhead Metropolitan Area, Metro COG is responsible under federal law for maintaining a continuous, comprehensive, and coordinated transportation planning process.

Metro COG is responsible, in cooperation with the North Dakota and Minnesota Departments of Transportation (NDDOT and MnDOT, respectively) and our local planning partners, for carrying out the metropolitan transportation planning process and other planning issues of a regional nature. Metro COG represents eleven cities and two counties that comprise the Metro COG region in these efforts.

II PROJECT BACKGROUND AND OBJECTIVE

The Heartland Trail is a paved state trail located in north-central Minnesota which provides recreation and transportation for walkers, runner, bicycle users, snowmobilers, cross country skier, and other uses throughout the year. The currently-constructed Heartland Trail is a 49-mile paved shared use path that extends from Park Rapids to Cass Lake. The trail was constructed in 1976 from Park Rapids to Walker with the Walker to Cass Lake portion constructed in 2002.

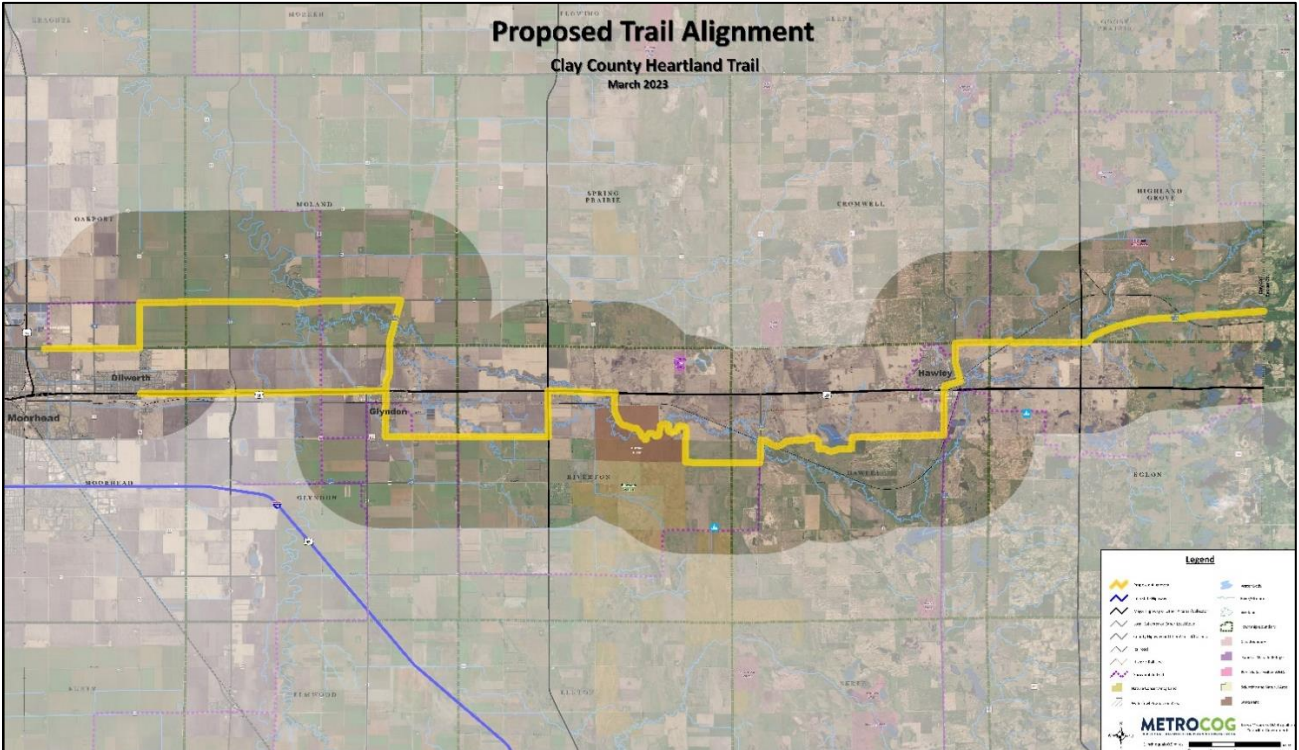
In 2006 the Minnesota Legislature authorized the extension of the Heartland Trail from Park Rapids to Moorhead. Since that time efforts have been made to try and make this a reality. In Becker County a portion of the trail is now substantially complete from Detroit Lakes to Frazee (5 miles).

In Clay County, planning efforts began in 2014 which has resulted in several discussions with jurisdictions, the development of a preliminary alignment, as well as public/landowner meetings held in 2015. In addition to planning efforts in Clay County, a one-mile segment of what might be the future Heartland Trail was constructed in Glyndon in 2019 and a traffic signal with accommodations to include a trail was installed in Hawley, MN at US Hwy 10.

The objective of this study is to build off past planning efforts by proposing alignment alternatives and then detailing precise trail placement as part of each alignment alternative. In addition, public and stakeholder engagement will be a key component of this study, which will be used to help propose a proposed detailed alignment.

A map on the following page shows the location of the study area.

Figure 1 – Proposed Heartland Trail Alignment and Study Area



For more detailed version of map, please go to:
https://www.fmmetrocog.org/application/files/7716/7787/3336/Heartland_Trail_Map_Mar2023.pdf

III SCOPE OF WORK AND PERFORMANCE TASKS

Outlined below is the scope of work that will guide development of the Clay County Heartland Trail Routing Analysis. Metro COG has included the following scope of work to provide interested Consultants with insight into project intent, context, coordination, responsibilities, and other elements to help facilitate proposal development.

This outline is not necessarily all-inclusive. The Consultant may include in the proposal any additional performance tasks or the modification of the tasks listed below that will integrate approaches to successfully complete the project. At a minimum, the Consultant is expected to complete the following tasks as part of this project:

Task 1 - Project Management and Coordination

This task involves activities required to manage the project including staff, equipment and documentation. It also includes the preparation of monthly progress reports, documenting travel and expense receipts, and preparing and submitting invoices for reimbursement. In addition, this task includes progress meetings with Metro COG. It should

Clay County Heartland Trail Routing Analysis

be assumed that progress meetings will occur at least monthly and as needed in between.

The Consultant will assign a single person to serve through the life of the contract as Consultant Project Manager ("PM"). The PM must be the person identified in the selected firm's proposal and may not be changed without prior written approval of Metro COG. The PM is responsible for overall project management necessary to ensure the satisfactory completion of the Clay County Heartland Trail Routing Study, on-time and on-budget, in accordance with the scope of services. The PM will serve as a single point of contact and will be expected to ensure the Consultant team is properly managed, adequate resources are available, submittals are timely, quality control processes are utilized for maximum benefit, and invoices are paid in a timely fashion.

The PM will submit monthly invoices with documentation acceptable to Metro COG throughout the life of the contract. Invoices must include the monthly progress report, a breakout of activities by task, employee hours for those tasks, and any supportive documentation for expenses. All invoice submittals, including progress reports, and any supportive materials shall be submitted to the Metro COG project manager no later than the 2nd Thursday of the month. This is to ensure invoices are processed in a timely fashion.

Task 2 – Existing & Planned Conditions

The Consultant shall conduct desktop analysis in order to gather all existing features along the study area. These features should include, but not be limited to:

- Wetlands
- Rivers, lakes, streams, drains, etc.
- Roadways and associated right-of-way
- Driveways
- Railroads (in-use & abandon) and railroad crossings
- Bridge locations
- Above ground utilities
- Land ownership and parcel lines
- Parks
- Bicycle & pedestrian facilities (shared use paths, sidewalks, bike lanes, etc.)
- Snowmobile trails
- Jurisdictional boundaries (city, township, county)
- Topographic information
- Snow fences

Metro COG and applicable jurisdictions have some of the above information available, and can provide the Consultant with available information upon request. All other non-existing datasets necessary to accomplish the goals of the analysis will need to be developed by the Consultant. Please note that engineering services such as surveying and geotechnical analysis are not eligible for Metro COG reimbursement.

Clay County Heartland Trail Routing Analysis

While field visits are permitted, trespassing on private property is not permitted.

The Consultant is encouraged to review relevant studies related to this project. In particular, the *2011 DNR Heartland Trail Extension Park Rapids to Moorhead Master Plan* is a recommended resource. This plan can be found on Metro COG's website at the following link:
[https://fmmetrocog.org/application/files/7715/8258/6758/Heartland State Trail Extension Master Plan.pdf](https://fmmetrocog.org/application/files/7715/8258/6758/Heartland_State_Trail_Extension_Master_Plan.pdf)

The Consultant should also research jurisdiction ordinances regarding snowmobiles. Since the Heartland Trail is required to accommodate snowmobiles, it will be important to understand where snowmobiles are permitted and prohibited. Where snowmobiles are prohibited, an alternate route will need to be provided which would be separated from the Heartland Trail.

Task 3 – Public Engagement

Public engagement will include the following:

Study Review Committee Meetings

Development of this study will be guided by a Study Review Committee (SRC) who will provide oversight and input into the study process, methodology, alternatives, overall findings, and recommendations. A minimum of five SRC meeting shall be held as part of this study process.

The Consultant will be responsible for the preparation and coordination of all information, documents, and agendas for the SRC. The Consultant will be expected to distribute materials to the SRC in a timely manner, no less than three business days prior to the meetings. Metro COG and the Consultant will work together in coordinating and scheduling SRC meetings. The Consultant is also responsible for the recording of meeting minutes, which should be submitted to Metro COG's project manager and will serve as documentation of the SRC's guidance and decisions.

Public Involvement

The Consultant shall propose an approach for public involvement which shall be in accordance with Metro COG's Public Participation Plan ([https://fmmetrocog.org/application/files/4016/7277/3608/2022 PPP - Final Policy Board Review.pdf](https://fmmetrocog.org/application/files/4016/7277/3608/2022_PPP_-_Final_Policy_Board_Review.pdf)). A minimum of two public involvement windows should be held as part of this study. Each public involvement window should include in-person public open house(s) as well as online public engagement. The Consultant, in cooperation with Metro COG and local agencies, will facilitate all public engagement activities.

Please note that all public notices, mailings, and social media boosts, etc. shall be

Clay County Heartland Trail Routing Analysis

paid for out of the project budget. Metro COG's website will be used to host the project webpage, and Metro COG staff will work with the Consultant to keep the website up-to-date with content provided by the Consultant team.

Stakeholder Outreach

In conjunction with Metro COG and the SRC, the Consultant shall develop a list of stakeholders which are associated with, or impacted by, the Heartland Trail. These stakeholders could include, but not be limited to: Townships, Buffalo River State Park, MSUM Science Center, BNSF, Moorhead Parks, Clay County Heartland Trail Task Force/Heartland Trail Advocates, Trail Blazers Snowmobile Club, local bicycle group(s), The Chamber of Fargo-Moorhead, Fargo-Moorhead Convention & Visitors Bureau, etc.

The Consultant should anticipate a minimum of six stakeholder meetings throughout the study process. The stakeholders will be grouped into two or three different groups.

Task 4 – Alignment Analysis

Macro-scale Alignment Analysis

The study corridor will be broken into four analysis segments: Moorhead to Glyndon, Glyndon to Buffalo River State Park, Buffalo River State Park to Hawley, and Hawley to the Clay/Becker County line. Aside from the preliminary alignment shown in **Figure 1**, the Consultant shall also develop one to two additional macro-scale/high level alignments per segment (depending on segment). Development of these alternatives should be vetted through the study review committee. Development of the macro-scale alignments, including the alignment shown in **Figure 1**, shall be based on: public & stakeholder feedback, available right-of-way, impact to privately-owned land, estimated cost, user experience, and any other important factors.

The Heartland Trail is required to accommodate snowmobiles; however, some jurisdictions prohibit snowmobile use within their limits. Therefore, alternate snowmobile routes will need to be provided bypassing jurisdictions which prohibit snowmobiles. As part of this analysis, the Consultant shall develop at least one snowmobile bypass route per alignment around any jurisdiction which prohibits snowmobile usage. It is encouraged that existing snowmobile routes be considered when developing these snowmobile bypass routes.

In cooperation with the study review committee, the Consultant shall also identify locations for trail accesses, interpretive stops (natural, historical, cultural), scenic stops, rest areas, and more.

Micro-scale Alignment Analysis

Once the macro-scale alignments have been developed, the Consultant shall dive into each macro-scale alignment and show the trail in a detailed granular scale (micro-

Clay County Heartland Trail Routing Analysis

scale). If the alignment is along a roadway corridor, the trail shall be laid-out in detail on both sides of the roadway. As part of the micro-scale alignment development and analysis, the trail should be proposed in an optimum location to account for Minnesota state trail requirements, existing roadway typical sections, clear zones, and drainage needs (if parallel to roadway), privately-owned land, right-of-way, driveways, above ground utilities, water features (wetlands, streams, ponds/lakes), obstructions, and more.

Task 5 – Cost Estimates

The Consultant shall develop planning-level cost estimates to for each of the macro-scale alignments developed. These estimates shall be broken into alignments per segment (Moorhead to Glyndon, Glyndon to Buffalo River State Park, etc.).

Task 6 – Implementation Plan

In cooperation with the study review committee, the Consultant shall develop an implementation plan for the Clay County Heartland Trail. This should identify which sections of the trail should be constructed first and also recommend when various cities along the corridor should consider trail construction and trail connections.

Task 7 – Draft Study Document

Upon completion of the aforementioned tasks, the Consultant shall provide a draft study document for review by the study review committee, stakeholders, and public. The study document shall include but not be limited to: existing conditions information, public involvement information and results, alignment layouts and analysis, cost estimates, implementation plan, and any pertinent maps and graphics.

The study document should include an appendix. Meeting summaries, public involvement results, and technical documentation should be included in the appendix of the study document.

Task 8 – Final Study Document

Once comments on the draft study document have been received and addressed, the Consultant shall assemble the final study document. The final study document shall be in PDF format.

Task 9 – Adoption Process

As part of the study's adoption process, presentations will be made to local boards and committees. The Consultant should budget for up to four presentations of the final study to local boards and committees.

NOTE: While under contract, if the Consultant wishes to modify or include additional tasks deemed necessary to complete the study, this must be agreed to by Metro COG before issuing the notice to proceed.

IV IMPLEMENTATION SCHEDULE

1) Consultant Selection

Advertise for Consultant Proposals	approximately 9/22/2023
Due Date for Proposal Submittals (by 4:30pm)	10/18/2023
Review Proposals/Identify Finalists	10/19/2023 – 10/26/2023
Interview Finalists	between 11/1/2023 – 11/8/2023
Metro COG Board Approval/Consultant Notice	11/16/2023
Contract Negotiations	11/17/2023 – 11/29/2023
Signed Contract	approximately 12/1/2023
QBS Submittal & Approval (between NDDOT & Metro COG)	12/1/23 – 12/15/23
Notice to Proceed*	approximately 1/2/2024

***Notice to Proceed shall not be issued until the Consultant has provided all materials required for contracting, including, but not limited to, the Proposed Sub-Consultant Request form (SFN 60232 (9-2016) and Prime Consultant Request to Sublet form (SFN 60233 (9-2019) form, if applicable, and the Qualifications Based Selection documentation has been fully compiled by Metro COG and submitted to and approved by the North Dakota Department of Transportation.**

2) Project Development (Major Milestones)

Project Kick-off	January 2024
Plan Development	January 2024 – November 2024
Final Draft of Study	December 2024
Final Completion of Study	January 2025
Presentations to committees and boards	February - March 2025
Final Invoices Received	March 2025

V EVALUATION AND SELECTION PROCESS.

Selection Committee. The Client will establish a multijurisdictional selection committee to select a Consultant. The Selection Committee may consist of staff from the following: Metro COG, Clay County, the cities of Moorhead and Dilworth, the MN DNR, and/or

MnDOT.

The Consultant selection process will be administered under the following criteria:

- 20% - Understanding of study objectives and local/regional issues
- 20% - Proposed approach, work plan, and management techniques
- 20% - Experience with similar projects
- 20% - Expertise of the technical and professional staff assigned to the project
- 15% - Current workload and ability to meet deadlines
- 5% - Inclusion of DBE/MBE firm on project team

The Selection Committee, at the discretion of the Client and under the guidance of NDDOT policy, will entertain formal in-person or virtual presentations for the top candidates to provide additional information for the evaluation process. The presentations will be followed by a question-and-answer period during which the committee may question the prospective Consultants about their proposed approaches.

A Consultant will be selected on November 16th, 2023 based on an evaluation of the proposals submitted, the recommendation of the Selection Committee and approval by the Metro COG Policy Board.

The Client reserves the right to reject any or all proposals or to waive minor irregularities in said proposal, and reserves the right to negotiate minor deviations to the proposal with the successful Consultant. The Client reserves the right to award a contract to the firm or individual that presents the proposal, which, in the sole judgement of the Client, best accomplishes the desired results.

The RFP does not commit the Client to award a contract, to pay any costs incurred in the preparation of the contract in response to this request or to procure or contract for services or supplies. The Client reserves the right to withdraw this RFP at any time without prior notice.

All proposals, whether selected or rejected, shall become the property of the Client.

VI PROPOSAL CONTENT

The purpose of the proposal is to demonstrate the qualifications, competence, and capacity of the Consultant seeking to provide comprehensive services specified herein for the Client, in conformity with the requirements of the RFP. The proposal should demonstrate qualifications of the firm and its staff to undertake this project. It should also specify the proposed approach that best meets the RFP requirements. The proposal must address each of the service specifications under the Scope of Work and Performance

Clay County Heartland Trail Routing Analysis

Tasks.

The Client is asking the Consultant to supply the following information. Please include all requested information in the proposal to the fullest extent practical.

- 1) **Contact Information.** Name, telephone number, email address, mailing address and other contact information for the Consultant's Project Manager.
- 2) **Introduction and Executive Summary.** This section shall document the Consultant name, business address (including telephone, email address(es)), year established, type of ownership and parent company (if any), project manager name and qualifications, and any major facts, features, recommendations or conclusions that may differentiate this proposal from others, if any.
- 3) **Work Plan and Project Methodology.** Proposals shall include the following, at minimum:
 - a) A detailed work plan identifying the major tasks to be accomplished relative to the requested study tasks and expected product as outlined in this RFP;
 - b) A timeline for completion of the requested services, including all public participation opportunities and stakeholder meetings, identifying milestones for development of the project and completion of individual tasks.
 - c) List of projects with similar size, scope, type, and complexity that the proposed project team has successfully completed in the past.
 - d) List of the proposed principal(s) who will be responsible for the work, proposed Project Manager and project team members (with resumes).
 - e) A breakout of hours for each member of the team by major task area, and an overall indication of the level of effort (percentage of overall project team hours) allocated to each task. Note that specific budget information is to be submitted in a sealed cost proposal as described below in Section VIII. General Proposal Requirements.
 - f) A list of any subcontracted agencies, the tasks they will be assigned, the percent of work to be performed, and the staff that will be assigned.
 - g) List of client references for similar projects described within the RFP.
 - h) Disadvantaged Business Enterprise (DBE) and/or Minority Business Enterprise (MBE) Firms, if applicable.
 - i) Ability of firm to meet required time schedules based on current and known

Clay County Heartland Trail Routing Analysis

future workload of the staff assigned to the project.

- 4) **Signature.** Proposals shall be signed by an authorized member of the firm/project team.
- 5) **Attachments.** Review, complete, and submit the completed versions of the following RFP Attachments with the proposal:

Exhibit A - Cost Proposal Form (as identified in VIII 1) – Submit as sealed hard copy

Exhibit B – Federal Clauses

Exhibit C – SFN 60232: Proposed Sub-Consultant Request

VII SUBMITTAL INFORMATION

Proposals shall be submitted in PDF format. Sealed cost proposals shall be submitted as a hard copy. Cost proposals should be shipped to ensure timely delivery to the contact as defined below:

Dan Farnsworth
Transportation Planner
Fargo-Moorhead Metropolitan Council of Governments
Case Plaza, Suite 232
One 2nd Street North
Fargo, ND 58102-4807
farnsworth@fmmetrocog.org

All proposals received by 4:30 p.m. on Wednesday, October 18, 2023 at Metro COG's office will be given equal consideration. Minority, women-owned and disadvantaged business enterprises are encouraged to apply. Respondents must submit one (1) PDF copy of the proposal. The full length of each proposal should not exceed thirty-five (35) pages; including any supporting material, charts, or tables.

The Consultant may ask for clarifications of the RFP by submitting written questions to the Metro COG project manager identified above.

VIII GENERAL RFP REQUIREMENTS

- 1) **Sealed Cost Proposal.** All proposals must be clearly identified and marked with the appropriate project name, inclusive of a separately sealed cost proposal per the requirements of this RFP. Cost proposals shall be based on an hourly "not to exceed" amount and shall follow the general format as provided within Exhibit A of this RFP. Metro COG may decide, in its sole discretion, to negotiate a price for

Clay County Heartland Trail Routing Analysis

the project after the selection committee completes its final ranking. Negotiation will begin with the Consultant identified as the most qualified per requirements of this RFP, as determined in the evaluation/selection process. If Metro COG is unable to negotiate a contract for services negotiations will be terminated and negotiations will begin with the next most qualified Consultant. This process will continue until a satisfactory contract has been negotiated. The sealed cost proposal is required to include the following documentation:

- a. **Documentation from the ND Secretary of State detailing the prime consultant is in good standing and is licensed to do business in the State of North Dakota**
 - b. **Documentation that the prime consultant is registered with the ND Board of Registration**
 - c. **Documentation showing registration with the federal System for Award Management (SAM.gov) that the prime consultant has not been suspended, debarred, voluntarily excluded, or deterred ineligible**
- 2) **Consultant Annual Audit Information for Indirect Cost.** Consulting firms proposing to do work for Metro COG must have a current audit rate no older than 15 months from the close of the firms Fiscal Year. Documentation of this audit rate must be provided with the sealed cost proposal. Firms that do not meet this requirement will not qualify to propose or contract for Metro COG projects until the requirement is met. Firms that have submitted all the necessary information to Metro COG and are waiting for the completion of the audit will be qualified to submit proposals for work. Information submitted by a firm that is incomplete will not qualify. Firms that do not have a current cognizant Federal Acquisition Regulations (FARs) audit of indirect cost rates must provide this audit prior to the interview. **This documentation should be attached with the sealed cost proposal. The submitted Indirect Rate MUST match the Indirect Rate on all invoicing.**
- 3) **Debarment of Suspension Certification and Certification of Restriction on Lobbying.** See Exhibit B, Federal Clauses regarding Debarment of Suspension and Restriction on Lobbying.
- 4) **Respondent Qualifications.** Respondents must submit evidence that they have relevant past experience and have previously delivered services similar to the requested services within this RFP. Each respondent may also be required to show that similar work has been performed in a satisfactory manner and that no claims of any kind are pending against such work. No proposal will be accepted from a respondent whom is engaged in any work that would impair his or her ability to perform or finance this work.
- 5) **Disadvantaged Business Enterprise.** Pursuant to Department of Transportation policy and 49 CFR Part 23, Metro COG supports the participation of DBE/MBE

Clay County Heartland Trail Routing Analysis

businesses in the performance of contracts financed with federal funds under this RFP. Consultants shall make an effort to involve DBE/MBE businesses in this project. If the Consultant is a DBE/MBE, a statement indicating that the business is certified DBE/MBE in North Dakota or Minnesota shall be included within the proposal. If the Consultant intends to utilize a DBE/MBE to complete a portion of this work, a statement of the Subconsultant's certification shall be included. The percent of the total proposed cost to be completed by the DBE/MBE shall be shown within the proposal. Respondents should substantiate (within proposal) efforts made to include DBE/MBE businesses.

- 6) **US DOT Policy Statement on Bicycle and Pedestrian Accommodations.** Consultants are advised to review and consider the *US DOT Policy Statement on Bicycle and Pedestrian Accommodation* issued in March of 2010 when developing written proposals.
- 7) **North Dakota Department of Transportation Consultant Administration Services Procedure Manual.** Applicants to this Request for Proposal are **required** to follow procedures contained in the *NDDOT Consultant Administration Services Procedure Manual*, which includes prequalification of consultants. This Manual may be found on the NDDOT website at www.dot.nd.gov/manuals/environmental/proceduremanual.pdf.

IX CONTRACTUAL INFORMATION

- 1) The Client reserves the right to reject any or all proposals or to award the contract to the next most qualified firm if the successful firm does not execute a contract within forty-five (45) days after the award of the proposal. The Client will not pay for any information contained in proposals obtained from participating firms.
- 2) The Client reserves the right to request clarification on any information submitted and additionally reserves the right to request additional information of one (1) or more applicants.
- 3) Any proposal may be withdrawn up until the proposal submission deadline. Any proposals not withdrawn shall constitute an irrevocable offer for services set forth within the RFP for a period of ninety (90) days or until one or more of the proposals have been approved by the Metro COG Policy Board.
- 4) If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner the obligations agreed to, the Client shall have the right to terminate its contract by specifying the date of termination in a written notice to the firm at least ninety (90) working days before the termination date. In this event, the firm shall be entitled to just and equitable compensation for any satisfactory work completed.
- 5) Any agreement or contract resulting from the acceptance of a proposal shall be

Clay County Heartland Trail Routing Analysis

on forms either supplied by or approved by the Client and shall contain, as a minimum, applicable provisions of the Request for Proposals. The Client reserves the right to reject any agreement that does not conform to the Request for Proposal and any Metro COG requirements for agreements and contracts.

- 6) The Consultant shall not assign any interest in the contract and shall not transfer any interest in the same without prior written consent of Metro COG.
- 7) The Consultant agrees to not start any work on the project until the Qualifications Based Selection requirements have been satisfied and approved by the NDDOT, and Metro COG has provided the consultant with a notice to proceed.**

X PAYMENTS

The selected Consultant will submit invoices for work completed to the Client. Payments shall be made to the Consultant by the Client in accordance with the contract after all required services, and items identified in the scope of work and performance tasks, have been completed to the satisfaction of the Client.

XI FEDERAL AND STATE FUNDS

The services requested within this RFP will be partially funded with funds from the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). As such, the services requested by this RFP will be subject to federal and state requirements and regulations.

The services performed under any resulting agreement shall comply with all applicable federal, state, and local laws and regulations. In addition, this contract will be subject to the relevant requirements of 2 CFR 200.

XII TITLE VI ASSURANCES

Prospective Consultants should be aware of the following contractual ("Contractor") requirements regarding compliance with Title VI should they be selected pursuant to this RFP:

- 1) **Compliance with Regulations.** The Consultant shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations).
- 2) **Nondiscrimination.** The Consultant, with regard to the work performed by it, shall not discriminate on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, in the selection and retention of Subconsultants, including procurements of materials and leases of equipment. The Consultant shall not participate, either directly or indirectly, in the discrimination

Clay County Heartland Trail Routing Analysis

prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Subconsultant or supplier shall be notified by the Consultant of the Consultant's obligations to Metro COG and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**.
- 4) **Information and Reports.** The Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Metro COG or the North Dakota Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to Metro COG, or the North Dakota Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.
- 5) **Sanctions for Noncompliance.** In the event of the Consultant's noncompliance with the nondiscrimination provisions as outlined herein, the Client and the North Dakota Department of Transportation shall impose such sanctions as it or the Federal Highway Administration / Federal Transit Administration may determine to be appropriate, including but not limited to:
 - 6) Withholding of payments to the Consultant under the contract until the Consultant complies; or
 - 7) Cancellation, termination, or suspension of the contract, in whole or in part.
- 8) **Incorporation of Title VI Provisions.** The Consultant shall include the provisions of Section XII, paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The Consultant shall take such action with respect to any subcontract or procurement as Metro COG or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation by a Subconsultant or supplier as a result of such direction, the Consultant may request Metro COG enter into such litigation to protect the interests of Metro COG; and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

Clay County Heartland Trail Routing Analysis

** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

XIII TERMINATION PROVISIONS

The Client reserves the right to cancel any contract for cause upon written notice to the Consultant. Cause for cancellation will be documented failure(s) of the Consultant to provide services in the quantity or quality required. Notice of such cancellation will be given with sufficient time to allow for the orderly withdrawal of the Consultant without additional harm to the participants or the Client.

The Client may cancel or reduce the amount of service to be rendered if there is, in the opinion of the Client, a significant increase in local costs; or if there is insufficient state or federal funding available for the service, thereby terminating the contract or reducing the compensation to be paid under the contract. In such event, the Client will notify the Consultant in writing ninety (90) days in advance of the date such actions are to be implemented.

In the event of any termination, the Client shall pay the agreed rate only for services delivered up to the date of termination. The Client has no obligation to the Consultant, of any kind, after the date of termination. Consultant shall deliver all records, equipment and materials to the Client within 24 hours of the date of termination.

XIV LIMITATION ON CONSULTANT

All reports and pertinent data or materials are the sole property of the Client and its state and federal planning partners and may not be used, reproduced or released in any form without the explicit, written permission of the Client.

The Consultant should expect to have access only to the public reports and public files of local governmental agencies and the Client in preparing the proposal or reports. No compilation, tabulation or analysis of data, definition of opinion, etc., should be anticipated by the Consultant from the agencies, unless volunteered by a responsible official in those agencies.

XV CONFLICT OF INTEREST

No Consultant, Subconsultant, or member of any firm proposed to be employed in the preparation of this proposal shall have a past, ongoing, or potential involvement which could be deemed a conflict of interest under North Dakota Century Code or other law. During the term of this Agreement, the Consultant shall not accept any employment or engage in any consulting work that would create a conflict of interest with the Client or in any way compromise the services to be performed under this agreement. The Consultant shall immediately notify the Client of any and all potential violations of this paragraph upon becoming aware of the potential violation.

Clay County Heartland Trail Routing Analysis

XVI INSURANCE

The Consultant shall provide evidence of insurance as stated in the contract prior to execution of the contract.

XVII RISK MANAGEMENT

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

The Consultant 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 coverage:

1. Commercial general liability and automobile liability insurance - minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence.
2. Workforce Safety insurance meeting all statutory limits.
3. The Client and the State of North Dakota, its agencies, officers, and employees (State) shall be endorsed as an additional insured on the commercial general liability and automobile liability policies.
4. Said endorsements shall contain a "Waiver of Subrogation" in favor of the Client and the state of North Dakota.
5. The policies and endorsements may not be canceled or modified without thirty (30) days prior written notice to the undersigned Client and the State Risk Management Department.

The Consultant shall furnish a certificate of insurance evidencing the requirements in 1, 3, and 4, above to the Client prior to commencement of this agreement.

The Client and the State reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time. Any attorney who represents the State under this contract must first qualify as and be appointed by the

Clay County Heartland Trail Routing Analysis

North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08.

When a portion of the work under the Agreement is sublet, the Consultant shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Consultant, the Client and the State as a result of work undertaken by the Subconsultant. In addition, the Consultant shall ensure that any and all parties performing work under the Agreement are covered by public liability insurance as outlined above. All Subconsultants performing work under the Agreement are required to maintain the same scope of insurance required of the Consultant. The Consultant shall be held responsible for ensuring compliance with those requirements by all Subconsultants.

Consultant's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Client or State. Any insurance, self-insurance or self-retention maintained by the Client or the State shall be excess of the Consultant's insurance and shall not contribute with it. The insolvency or bankruptcy of the insured Consultant shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Consultant from meeting the retention limit under the policy. Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the Consultant. This insurance may be in a 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 Client and the State will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Consultant in excess of the minimum requirements set forth above.

Clay County Heartland Trail Routing Analysis**Exhibit A – Cost Proposal Form**

Cost Proposal Form – Include completed cost form (see below) in a separate sealed envelope – labeled “**Sealed Cost Form – Vendor Name**” and submit with concurrently with the technical proposal as part of the overall RFP response. The cost estimate should be based on a not to exceed basis and may be further negotiated by Metro COG upon identification of the most qualified Consultant. Changes in the final contract amount and contract extensions are not anticipated.

REQUIRED BUDGET FORMAT

Summary of Estimated Project Cost

1.	Direct Labor	Hours	x	Rate	=	Project Cost	Total
	Name, Title, Function	0.00	x	0.00	=	0.00	0.00
			x		=	0.00	0.00
			x		=	0.00	0.00
				Subtotal	=	0.00	0.00
2.	Overhead/Indirect Cost (expressed as indirect rate x direct labor)					0.00	0.00
3.	Subconsultant Costs					0.00	0.00
4.	Materials and Supplies Costs					0.00	0.00
5.	Travel Costs					0.00	0.00
6.	Fixed Fee					0.00	0.00
7.	Miscellaneous Costs					0.00	0.00
Total Cost					=	0.00	0.00

Clay County Heartland Trail Routing Analysis

Exhibit B - Federal Clauses

Equal Employment Opportunity Clause – 41 CFR 60-1.4(a) and 2 CFR Part 200 Appendix II (C)

41 CFR 60-1.4(a)

- (a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract): during the performance of this contract, the contractor agrees as follows:
- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.
 - (2) The contract will, in all solicitations or advertisements for employees placed by or no behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the secretary of labor.
 - (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the secretary of labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the secretary of labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

Clay County Heartland Trail Routing Analysis

- (6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the secretary of labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the secretary of labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the secretary of labor as a means of enforcing such provisions including sanctions for noncompliance: *provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.*

2 CFR Part 200 Appendix II (C)

- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Sanctions and Penalties for Breach of Contract – 2 CFR Part 200 Appendix II (A)

- (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Termination for Cause and Convenience – 2 CFR Part 200 Appendix II (B)

- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

Clay County Heartland Trail Routing Analysis

Rights to Inventions Made Under a Contract or Agreement – 2 CFR Part 200 Appendix II (F)

- (F) Right to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "Funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Debarment and Suspension – 2 CFR Part 200 Appendix II (I)

- (I) Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p.235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Byrd Anti-Lobbying Amendment – 2 CFR Part 200 Appendix II (J)

- (J) Byrd Anti-Lobbying Amendment (31 U.S.C 1352) – Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Exhibit C – SFN 60232: Proposed Sub-Consultant Request

DRAFT

PROPOSED SUB-CONSULTANT REQUEST

North Dakota Department of Transportation, Environmental & Transportation Services
SFN 60232 (9-2016)

Sub-Consultant firms that have been contacted and agree to be listed on a Prime Consultants Project Proposal for work with NDDOT must submit original form and one copy to be attached to the Prime Consultants Proposal. This form is used for informational purposes only.

NDDOT Project Number		NDDOT Project Control Number	Prime Consultant Company Name	
Company Name		Owner		
Address		City	State	ZIP Code
Company Telephone Number	Fax Number		Email Address	

Type of Work to be Subcontracted

<input type="checkbox"/> Appraisals	<input type="checkbox"/> Environmental	<input type="checkbox"/> Planning	<input type="checkbox"/> Structural Design
<input type="checkbox"/> Architecture	<input type="checkbox"/> Geotechnical	<input type="checkbox"/> Public Involvement	<input type="checkbox"/> Survey
<input type="checkbox"/> Bridge Inspection	<input type="checkbox"/> Materials Testing	<input type="checkbox"/> Roadway Design	<input type="checkbox"/> Traffic Operations
<input type="checkbox"/> Construction Engineering	<input type="checkbox"/> Partnering Facilitation	<input type="checkbox"/> Soil Contamination	<input type="checkbox"/> Wetlands Delineation
<input type="checkbox"/> Cultural Resources	<input type="checkbox"/> Photogrammetry	<input type="checkbox"/> Steel Fabrication	<input type="checkbox"/> Other

The undersigned declares that all statements listed above are true.

Firm Name	
Print Name	
Title	
Signature	Date

Is Firm Currently NDDOT Certified as a DBE?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Fargo-Moorhead Metropolitan
Council of Governments

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To: Transportation Technical Committee
From: Adam Altenburg, AICP
Date: September 6, 2023
Re: **Regional Housing Needs Analysis and Strategies Report**

In May 2022, Metro COG contracted with HR&A for the completion of the Regional Housing Needs Analysis and Strategies Report, a comprehensive study aimed at identifying housing needs and challenges in the region and providing local leaders with strategies and solutions to meet those needs. This study includes an analysis of the region's existing housing supply, current housing production in the area, and market forecasts for near- and long-term housing needs. It is expected that local leaders, planning departments, and community development officials will use this study to assist with decision-making around housing needs and to improve the overall quality of the regional housing market

The final report, report overview, and executive summary can be found on Metro COG's website:

<http://fmmetrocog.org/projects-rfps/housing-needs-and-market-analysis>

Requested Action: Recommend Policy Board approval of the Regional Housing Needs Analysis and Strategies Report