

INVITATION FOR BID

408.22.02.002

2022 Morton County Phase 3 AML Project

ND000100

**Morton County
North Dakota**

Abandoned Mine Lands Division

North Dakota Public Service Commission

Bismarck, North Dakota

February 2022

INVITATION FOR BID
2022 Morton County Phase 3 AML Project

ND00100

Morton County
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Bid Number 408.22.02.002

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INTRODUCTION

STATE OF NORTH DAKOTA INVITATION FOR BID (IFB) (July 2021)

DATE ISSUED	February 28, 2022	BID NUMBER	408.22.02.002
BID TITLE	2022 Morton County Phase 3 AML Project	COMMODITY CODE(S)	962 – Miscellaneous Services #2 Sub Class 73 912 – Construction Services Gen Sub Class 23
BID QUESTION DEADLINE	March 17, 2022, 5:00 P.M. CT	PERFORMANCE PERIOD	June 8, 2022 to August 22, 2022 (75 days)
BID RESPONSE DEADLINE	March 24, 2022, 11:00 A.M. CT	CONTRACT PERIOD	June 1, 2022 to December 31, 2022

PROJECT OVERVIEW

This is an Invitation for Bid (IFB) to reclaim an Abandoned Mine Lands (AML) site in Morton County. The AML site contains an abandoned lignite coal mine and is located 7 miles northwest of New Salem, North Dakota, as shown on the map on page 38 and as further described:

- SE ¼ Section 19, T140N, R85W, East Youngtown Mine Tract.
- SW ¼ Section 19, T140N, R85W, West Youngtown Mine Tract.
- Other areas as directed by the Commission's Project Manager.

PROCUREMENT OFFICER

The Procurement Officer is the point of contact for this IFB. Bidders shall direct all communications regarding this IFB to the Procurement Officer. Please do not add the Procurement Officer to any marketing distribution lists.

PURCHASING AGENCY (STATE): Public Service Commission, Abandoned Mine Lands Division

PROCUREMENT OFFICER: Michael Howe

EMAIL: mhowe@nd.gov

PHONE: 701-328-4188

TTY Users call: 7-1-1

Engaging in unauthorized communication or seeking to obtain information about an open solicitation with any state employee or official other than the responsible Procurement Officer or designee is sufficient grounds for suspension or debarment. [[N.D.A.C. § 4-12-05-04\(7\)](#)]

PRE-BID MEETING

A mandatory pre-bid, on-site conference is scheduled for **March 15, 2022**, to afford an opportunity to prospective Bidders to receive clarification related to this solicitation.

This conference will be held at:

- 10:30 A.M., Central Time (CT): Beginning at 4780 34th ST New Salem, ND 58563, the Youngtown Mine Site, (See Figure 2; Page 38). Approximately 7 miles northwest of New Salem, ND.

All prospective Bidders are required to attend the conference in order to bid. Failure to attend the on-site conference will result in Bidder disqualification.

BID QUESTION DEADLINE

Bidders should carefully review the IFB including all attachments. Bidders may ask questions to obtain clarification and request additional information, or object to material in the IFB. Questions and objections must be submitted to the procurement officer listed above in writing or by email no later than **5:00 P.M., CT, March 17, 2022.**

The Procurement Officer may elect to respond to questions received after the deadline.

Email is the preferred method of submission with the IFB number and title cited in the email subject line. Responses to questions will be distributed as a solicitation amendment unless the question can be answered by referring the bidder to a specific section of the IFB.

BID RESPONSE DEADLINE AND BID OPENING

Submit the required materials to the Public Service Commission no later than 11:00 A.M., CT, March 24, 2022. The public bid opening will be held at 11:00 A.M., CT, March 24, 2022, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. The public may view the bid opening through the Public Service Commission website at <https://www.psc.nd.gov/index.php> and follow the instructions under Watch/Listen to the Commission Live.

STATE PROCUREMENT WEBSITE (SPO ONLINE)

This IFB and any related amendments and notices will be posted on the North Dakota OMB website using the State Procurement Online system (SPO Online). Bidders are responsible for checking this website to obtain all information and documents related to this IFB: <https://apps.nd.gov/csd/spo/services/bidder/main.htm>

Select Recent Solicitations and find this solicitation. Recent solicitations are listed by close date.

Bidders not having completed the Bidders List registration may request to receive notices related to this IFB by contacting the Procurement Officer in writing with the following information: IFB title, business name, contact person, mailing address, telephone number, and email address.

SECTION 1 BIDDERS INSTRUCTIONS

1. **Bidder Checklist.** Have you remembered to?
 - A. Ensure your Bid Response complies with all instructions, terms and conditions, delivery requirements, and specifications.
 - B. Prepare your bid price as required by the attached Bid Response Form.
 - C. Sign all Bid Response Forms in Section 7 and initial any changes or corrections.
 - D. Mail certified check, cashier's check, or bid bond to ensure receipt by the Bid Response deadline. **Photocopies and faxes will not be accepted in place of the original.**
 - E. Ensure your Bid Response is received by the Procurement Officer by the Bid Response deadline. Call to confirm receipt.
 - F. If using a delivery service, check tracking to ensure the Bid Response will be delivered on time. Contact the Procurement Officer as soon as possible in the event of delays due to weather, etc.

2. **Definitions.**
 - A. Bidder/Offeror: any person or firm submitting a competitive bid in response to a solicitation.
 - B. Bid Response: the executed document submitted by a Bidder in response to a solicitation.
 - C. Commission's Project Manager: the person authorized by STATE who is responsible for the supervision of the construction
 - D. Commodities: all property, including equipment, supplies, materials, printing, insurance, and the lease of equipment.
 - E. Contractor: any person or firm having a contract with a governmental body.
 - F. Procurement Officer: an individual duly authorized to enter into and administer purchasing contracts and make written determinations with respect thereto; also includes an authorized representative acting with the limits of designated purchasing authority.
 - G. Purchasing Agency (STATE): the entity on which the purchase is being made on behalf of.
 - H. Services: the furnishing of labor, time, or effort by a Contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance.
 - I. Solicitation: a document to notify prospective Bidders of a bidding opportunity.
 - J. N.D.A.C.: North Dakota Administrative Code; rules with the force and effect of law.
 - K. N.D.C.C.: North Dakota Century Code; state laws.
 - L. OMB: Office of Management and Budget (OMB); a North Dakota state agency.
 - M. SPO: State Procurement Office, a division of the Office of Management and Budget.
 - N. SPO Online: a procurement information website maintained by the State Procurement Office pursuant to [N.D.C.C. § 54-44.4-14](#).

3. **Bidders List and Secretary of State Registration Requirements.** Bidders must comply with requirements related for OMB Bidders List application and Secretary of State registration [N.D.C.C. § 54-44.4-09]. Bidders Lists are used to notify vendors when solicitations are issued on the State Procurement Office Online system (SPO Online).

Bids will be accepted from bidders that are not on the Bidders List. The successful bidder must complete the Bidders List application process and comply with Secretary of State registration requirements within 60 calendar days from the date a notice of intent to award is issued. If the successful bidder does not register within this time, its bid may be rejected.

Bidders List and Secretary of State Information

1. Secretary of State Registration and Online Bidder Registration instructions are available online at [How to Bid | Office of Management and Budget, North Dakota](#).
2. Offeror should check the [Bidders List](#) to determine if Offeror is already registered.
3. An Offeror that needs to complete the registration process shall:
 - a. Register with the Secretary of State (fees apply) and obtain a "System ID" number.
 - b. Complete the [On-line Bidder Registration](#) including selecting [commodity codes](#). Notices related to this IFB will be sent to the Bidders List for the needed commodity or service and other known potential Offerors. The commodity codes used for this solicitation are: 91223 and 96273.
4. The successful Offeror may be required to register as a new supplier to receive payment from the STATE. New vendors (suppliers and individuals) looking to receive payment from the STATE should use the online [Supplier Registration](#).

4. **Submission Instructions.** Please follow these instructions to submit your Bid Response. Bid Responses must be received by the Procurement Officer by the Bid Response deadline. Bidders assume the risk of the delivery method selected. Late Bid Responses will be rejected.

Email

Sealed bids are required; therefore, bids cannot be submitted by email to the Procurement Officer.

Submit in Person, by Mail or Delivery Service

Bidders may submit Bid Response in a sealed envelope or package to the following address. Bidders may email Bid Responses to a third party to place in a sealed envelope and deliver by the Bid Response deadline. Contact the Procurement Officer to confirm receipt. Bidder shall submit one (1) copy of the Bid Response on a USB Flash Drive or other storage device. If an Excel file is provided, do not convert the Excel spreadsheet into a PDF file.

IFB #: 408.22.02.002
IFB Title: 2022 Morton County Phase 3 AML Project
ATTN: Michael Howe
Public Service Commission
Abandoned Mine Lands Division
600 E Boulevard Ave., Dept 408
Bismarck, ND 58505-480

The STATE assumes no responsibility for delays caused by any delivery service. Postmarking by the Bid Response deadline shall not substitute for actual Bid Response receipt by the STATE. The STATE's time of receipt will be used to determine timely receipt.

Upload Response Through the State Procurement Online System (SPO Online):

Bidders **may** electronically submit Bid Responses through the State Procurement Office Online system (SPO Online) by the Bid Response deadline.

DO NOT WAIT UNTIL THE "LAST MINUTE" TO SUBMIT A RESPONSE. Recommend uploading response 24 hours prior to the Bid Response deadline.

Bidder must begin the electronic submission process well in advance of the Bid Response deadline to allow for transmission and resolution of any technical difficulties. Be advised that the STATE is not responsible for a Bidder's failure to timely submit a Bid Response due to any technical difficulties. If you experience any technical difficulties contact the Procurement Officer or the State Procurement Office at infospo@nd.gov or 701.328.2740.

If documents are in the process of being uploaded when the Bid Response deadline occurs, the upload process will stop. The attempted submission will not be uploaded successfully and is ineligible for consideration. The STATE takes no responsibility for electronic submissions that are captured, blocked, filtered, quarantined, or otherwise prevented from uploading by any anti-virus or other security software.

1. This solicitation is posted on SPO Online at: <https://apps.nd.gov/csd/spo/services/bidder/main.htm>.
2. Select "Recent Solicitations" and find this solicitation. Solicitations are listed by close date.
3. Use "Upload Response" to upload a maximum of five (5), clearly labeled documents before the Bid Response deadline.
4. Offerors must upload their Bid Response as requested in the Bid Response section of this IFB.
5. Offerors must upload their Technical Proposal and Cost Proposal in separate files.
6. The maximum file size allowed is 50mb per file.
7. There is a 50-character file name limitation for the document being uploaded.
8. There is 75-character limit in the TITLE field within SPO Online.
9. All SPO Online field entries must be alphanumeric. Dashes and underscores are allowed; however, the system does not accept other special characters such as apostrophe, & symbol, quotation marks, etc.

10. DO NOT submit documents that are embedded (zip files), movies, wmp, encrypted, or mp3 files.
11. Bidder will receive an email confirmation from infospo@nd.gov that the upload response was received including the "File Description" for the uploaded files. Review this email to ensure all files were successfully uploaded. If Bidder do not receive an email confirmation, the upload was not successful, and you will need to upload the files again. If Bidder does not receive an email confirmation after the reattempt, contact the Procurement Officer or the State Procurement Office at infospo@nd.gov or 701.328.2740.

Visit <https://www.omb.nd.gov/sites/www/files/documents/doing-business-with-the-state/procurement/spo-electronic-response-external-job-aid.pdf> for the SPO Electronic Response Job Aid which describes how to submit an electronic response.

Bid Bond (must use form provided in Section 7), certified check, or cashier's check must be received by the Bid Response deadline. Photocopies and faxes will not be accepted in place of the original.

5. **Additional Terms and Conditions.** Additional terms and conditions submitted with a Bid Response are of no effect unless accepted in writing by the Procurement Officer. Bid Responses with additional terms and conditions may be rejected as non-responsive. ([N.D.A.C. § 4-12-11-06](#)).
6. **Assistance to Bidders with a Disability.** Bidders with a disability that need an accommodation must contact the Procurement Officer prior to Bid Response deadline so reasonable accommodation can be made.
7. **Bid Response Held Firm.** Bid Responses are not awarded at the bid opening. Bidders must hold their Bid Responses firm for 30 days, unless otherwise specified by the Procurement Officer in writing.
8. **Bid Response Opening.** A public Bid Response opening will be held. The Procurement Officer will hold the Bid Response opening:

Onsite

- Date: March 24, 2022
- Time: 11:00 A.M., C.T.
- Location: State Capitol
12th Floor, Commission Hearing Room
600 E Boulevard Ave.
Bismarck, ND 58505-0480

Webinar or Conference Call

The public may view the bid opening through the Public Service Commission website at <https://www.psc.nd.gov/index.php> and follow the instructions under Watch/Listen to the Commission Live.

9. **Bid Response Results.** Interested parties may contact the Procurement Officer to obtain a summary of all Bid Responses received and the award. Bid Response results are posted on the Commission website at <https://www.psc.nd.gov/jurisdiction/aml/bidtabulation.php>.
10. **Bidders List - Suspension and Debarment.** Placement on the Bidders List does not guarantee a vendor will receive notice of every solicitation. A vendor may be removed from the Bidders List if a solicitation notice is undeliverable. Vendors may be suspended or debarred from the Bidders List for cause. ([N.D.A.C. ch. 4-12-05](#))
11. **Changes/Corrections.** Bidders must initial any changes or corrections to the Bid Response, such as erasures and crossed out/rewritten prices. The Procurement Officer may confirm the Bid Response when changes are not initialed.
12. **Open Records Requests.** Bid Responses are exempt records until the date and time of the Bid Response opening. After the Bid Response opening, all Bid Responses are subject to North Dakota open records laws. Interested parties may contact the Procurement Officer to request information related to this solicitation.
13. **Protests.** Protests of the solicitation must be received by the Procurement Officer within seven days before the Bid Response deadline. Protests of the award or Notice of Intent to Award must be received by the Procurement Officer within seven days after receiving notice of award. Seven calendar days after award or issuance of the Notice of Intent to Award it will be assumed that all interested parties knew or should have known all the facts surrounding the award.

Protests must be made in writing to the Procurement Officer and include the basis for the protest. ([N.D.C.C. § 54-44.4-12](#); [N.D.A.C. ch. 4-12-14](#).)

14. **Signature.** The Bidder's authorized representative must provide their printed name, title, and sign the Bid Response. The lack of a signature may be waived as a minor informality, provided a signed Bid Response is submitted by the deadline established by the Procurement Officer. ([N.D.A.C. ch. 4-12-10](#))
15. **Specifications, Compliance.** All Bid Responses must comply with the stated specifications, and the successful Bidder will be held responsible. Bidders who desire to submit commodities or services that deviate from these specifications or have any objections to the stated specifications must contact the Procurement Officer by the deadline for questions or at least seven days before the Bid Response deadline, so the Procurement Officer can determine whether the specifications need to be amended.
16. **Withdrawal or changes to a Bid Response prior to the Bid Response deadline.** Before the Bid Response deadline, the Bidder's authorized representative may withdraw or change a Bid Response by making a written request to the Procurement Officer.
17. **Withdrawals or changes to a Bid Response after the Bid Response deadline.** After the Bid Response deadline, no changes may be made to Bid Response, except as provided in [N.D.A.C. ch. 4-12-10](#). The Bidder's authorized representative may make a written request to withdraw the Bid Response.

SECTION 2 EVALUATION AND AWARD

1. **Award.** Award will be made to the responsible Bidder with the lowest priced Bid Response that is responsive to the specifications and all other requirements stated herein. Award will be made as follows:
 - All or none.
2. **Award – Preference Laws.** If Bid Responses are received from nonresident (out-of-state) Bidders, the Procurement Officer will apply reciprocal preference, if applicable, in accordance with [N.D.C.C. §44-08-01](#). See [Guidelines to North Dakota Purchasing Preference Laws](#).
3. **Award – Tie Bid Response Preference.** After applying any reciprocal preference, if a tie occurs between two or more Bidders with equal Bid Response prices or offerors with identical evaluation scores:
 - A. Preference must first be given to Bid Responses submitted by resident North Dakota vendors. ([N.D.C.C. § 44-08-01.1](#))
 - B. If a tie remains, preference is given to approved vendors on the Bidders List. ([N.D.C.C. § 54-44.4-09\(4\)](#))
 - C. If a tie still remains, award shall be made in accordance with [N.D.A.C. § 4-12-11-05](#).
4. **Late Bid Responses.** Bid Response responses must be received by the Procurement Officer by the Bid Response deadline. Late Bid Responses will be rejected, regardless of the degree of lateness, unless the delay is due to the error of the Procurement Officer and discovered before the selection of the successful Bidder. ([N.D.A.C. § 4-12-08-13](#))
5. **Responsiveness of the Bid Response.** Any Bid Response that does not meet the requirements of the solicitation, other than mistakes determined to be minor informalities, will be rejected. ([N.D.A.C. § 4-12-11-03](#))
6. **Minor Informalities.** The STATE reserves the right to waive minor informalities in Bid Responses. Minor informalities are insignificant omissions or nonjudgmental mistakes that are matters of form rather than substance, evident from the Bid Response document, with a negligible effect on price, quantity, quality, delivery, or contractual conditions that can be waived or corrected without prejudice to other Bidders. ([N.D.A.C. ch. 4-12-10](#))
7. **Mistakes.** The Procurement Officer may confirm the Bid Response in the event of apparent errors, such as an unreasonably priced Bid Response. Mistakes will be handled in accordance with [N.D.A.C. ch. 4-12-10](#).
8. **Responsibility of the Bidder.** The Procurement Officer, at any time, may make a supplementary investigation as to the responsibility of any Bidder, even though the Bidder may be on the Bidders List. If a Bidder is determined to be not responsible, that Bid Response will be rejected even if it is the lowest Bid Response, and the Bidder may be debarred or suspended from the Bidders List. ([N.D.A.C. § 4-12-11-04](#))
9. **Rejection.** The STATE reserves the right to reject any and all Bid Responses in whole or in part. The Procurement Officer will send a rejection notice, including the reason for rejection. Bid Responses will be rejected if:
 - A. the Bid Response is determined to be not responsive to the instructions, specifications, and other requirements of the solicitation, other than mistakes or omissions determined to be minor informalities;
 - B. the Bid Response is determined to be late;
 - C. the Bidder fails to comply with Bidders List Application requirements by the stated deadline;
 - D. the Bidder is determined to be not responsible, in accordance with [N.D.A.C. § 4-12-11-04](#);
 - E. the Bid Response is not legible.

If all Bid Responses are rejected, the Procurement Officer will send written notice to Bidders, including the reason all Bid Responses were rejected. ([N.D.A.C. § 4-12-11-09](#))

SECTION 3 SPECIAL TERMS AND CONDITIONS

1. **Term of the Contract.** The term of the contract issued as a result of this solicitation will be as follows:
 - A. **Contract Period.** This Contract term (Term) begins on June 1, 2022, or its Effective Date, and ends on December 31, 2022.
 - B. **No Automatic Renewal.** This Contract will not automatically renew.
 - C. **Extension Option.** STATE reserves the right to extend this Contract for an additional period of time, not to exceed six (6) months, beyond the current termination date of this contract.
 - D. **Renewal Option.** STATE may renew this Contract upon satisfactory completion of the initial Contract Term. STATE reserves the right to execute up to one (1) option to renew this Contract under the same terms and conditions for a period of six (6) months.

Please see the sample contract in Section 5 for additional contract information.

2. **Billing Address.** After delivery of commodities or services under contract, the CONTRACTOR must submit a correct invoice. Payment will be made after inspection and acceptance. Invoices must be addressed to the Purchasing Agency. All invoice and payment inquiries must be directed to:

**Michael Howe, Project Manager
Public Service Commission
AML Division
600 E. Blvd. Ave, Dept. 408
Bismarck, ND 58505-0480**

3. **Contract Amendment – Unanticipated Amendment.** After a binding contract has been entered into, no changes may be made, unless prior written approval has been obtained from the Purchasing Agency through execution of a contract amendment. The Contractor may request changes, such as substitutions of a product, by submitting a written request to the Procurement Officer. Unanticipated amendments must be within the scope of the original contract, authorized by the terms of the contract and due to legitimate, unforeseen circumstances. ([N.D.A.C. ch. 4-12-13](#))
4. **Contract Estimated Quantities.** The quantities of this contract are estimated. Estimates are not to be considered as either a minimum or maximum, but rather an estimate based upon past and anticipated usage. The Commission's Project Manager reserves the right to increase or decrease the actual quantities as site conditions warrant. The final contract pay will be determined using final quantities computed by the Commission's Project Manager and the unit prices submitted by CONTRACTOR. No allowance will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by CONTRACTOR resulting either from field conditions or unbalanced bid prices or any other cause. In Section 105.6 of the Standard Specification for AML Reclamation Project, each numbered item on the Bid Response Form is considered one major item regardless of the number of subdivisions under that item. The Commission's Project Manager and CONTRACTOR shall compare records of quantities daily. The CONTRACTOR or CONTRACTORS will be required to furnish actual requirements upon receipt of an order. This contract will not include items of a similar nature, which must be bought for emergency use.
5. **Inspection and Acceptance or Rejection.** The STATE reserves the right to conduct inspections and investigations related to the Bidder and the offered commodities or services, including but not limited to the firm, personnel, qualifications, and the commodities and services offered to make determinations regarding compliance with the Bid Response requirements and responsibility of the Bidder. All material and workmanship are subject to inspection and testing by the STATE at the point of manufacturer, place of storage, or upon receipt. The STATE reserves the right to reject any commodities or services and terminate the contract if the CONTRACTOR fails to comply with the specifications, terms and conditions, or the seller's express or implied warranties. Rejected commodities will be removed at the CONTRACTOR's expense. Failure to satisfactorily perform may result in suspension or debarment from the Bidders List.

If commodities or services are rejected as being not compliant with the requirements of this solicitation, the STATE will inform the CONTRACTOR in writing. The Purchasing Agency may provide the CONTRACTOR with a reasonable opportunity to cure, whenever practicable, as set forth in writing by the Purchasing Agency.

- 6. Payment and Performance Bonds.** The bidder whose bid is accepted is required to enter into a written contract with Commission and to furnish a performance bond, executed by a surety company authorized to do business in North Dakota, in an amount at least equal to one hundred percent (100%) of the total contract amount as security for the faithful performance of the contract and also a payment bond, executed by a surety company authorized to do business in North Dakota, in an amount at least equal to one hundred percent (100%) of the total contract amount as security for the payment of all persons performing labor on the project under the contract and furnishing materials in connection with the contract, including interest under N.D.C.C. § 13-01-14, for bills which are not paid within ninety (90) days. The bond must also provide, under N.D.C.C. § 65-04-10, that CONTRACTOR has made, or will make, prior to the commencement of any work by CONTRACTOR or any subcontractor under the contract, full and true report to Workforce Safety and Insurance of the payroll expenditures for the employees to be engaged in the work, and that CONTRACTOR has paid, or will pay, the premium there on prior to the commencement of work. Both bonds must be executed on forms approved by Commission. Bonds must be secured from a company which has complied with the law and regulations of the U.S. Treasury Department and is acceptable as a surety or reinsurer of federal bonds under Sections 9304 to 9308 of Title 31 U.S.C. and appropriate statutes of the State of North Dakota. A list of qualified companies is published under Treasury Circular 570.
- 7. Payment Terms.** Payment will normally be made within thirty (30) days after delivery and acceptance of commodities or services under this Contract and receipt of an approved invoice. All invoices and payment inquiries must be directed to the Commission's Project Manager. CONTRACTOR may request payment any time during the contract period; however, it is expected that payment schedules will coincide with accounts payable processing on the 10th and 25th of each month. Invoices must be submitted five (5) days prior to processing for review and to ensure timely payment. Invoices will not be considered without the signature of CONTRACTOR. The Commission's Project Manager will maintain records of unit quantities and volumes for this project.
- 8. Pre-bid, On-site Conference.** A **mandatory** pre-bid, on-site conference is scheduled for **March 15, 2022**, to afford an opportunity to prospective Bidders to receive clarification related to this solicitation. This conference will be held at:

 - 10:30 A.M., CT: Beginning at 4780 34th ST New Salem, ND 58563, the Youngtown Mine Site, (See Figure 2; Page 38). Approximately 7 miles northwest of New Salem, ND.

All prospective Bidders are required to attend the conference in order to bid. Failure to attend the on-site conference will result in Bidder disqualification. Bid at your own risk.
- 9. Preservation of Markers.** CONTRACTOR shall carefully preserve survey and control stakes and any other markers. In the event of their destruction or loss, CONTRACTOR shall be responsible for their replacement and any resulting damage including, but not limited to, any damages arising from mistakes that may be caused by the loss or disturbance of these stakes/markers.
- 10. Safety Requirements.** CONTRACTOR shall keep informed of and comply with all federal, state, and local laws, regulations, and other legal requirements governing the safety, health, sanitation, and performance of the contract in general. Bidders shall review the attached sample contract for safety requirements.
- 11. Schedule of Construction.** The successful Bidder shall submit a written estimated Schedule of Construction to the Commission's Project Manager for written approval before Commission's Project Manager issues the Notice to Proceed. The Schedule of Construction must indicate the estimated starting and completion dates of mobilization, silt fencing, temporary fencing, site preparation, water management, low water crossing, topsoil removal, earthwork, topsoil respreading, seeding, manure hauling, permanent fencing, and cleanup. In addition, the schedule must indicate the major items of equipment to be utilized to complete the project, including but not limited to loaders, scrapers, motor graders, backhoes, pumps, and seeding equipment and an hourly rate for each piece of equipment listed. The purpose of this schedule is to assure completion of the work in a timely manner. The Commission's Project Manager will not issue a Notice to Proceed without an approved Schedule of Construction.

- 12. Standard Specifications.** Standard Specifications for AML Reclamation Projects outlines requirements and provisions for AML reclamation projects and is available upon request or can be viewed on the Commission's website at: <http://www.psc.nd.gov/docs/guidelines/aml/aml-specifications.pdf>.
- 13. Time of Performance.** The project performance period is from **June 8, 2022 to August 22, 2022 (75 days)**. STATE will issue a Notice to Proceed to begin the performance period. CONTRACTOR shall return an acknowledged copy of the Notice to Proceed to STATE. If work cannot begin on the date specified in the Notice to Proceed, CONTRACTOR shall provide a written explanation of the reasons for the delay with a written request for an alternate firm start date. The performance period will not be extended without a written request by CONTRACTOR and approval by the Commission's Project Manager. Failure to provide services required by this contract within the time specified may result in contract termination or liquidated damages as specified in Section 109.7 of the Standard Specification for AML Reclamation Projects <http://www.psc.nd.gov/docs/guidelines/aml/aml-specifications.pdf>.
- 14. Work Week.** CONTRACTOR shall work a standard 5-day work week (Monday-Friday) restricted to daylight hours. A request for a variance to the work schedule must be made in writing to the Commission's Project Manager at least 2 days in advance of the start of the variance. This notice requirement does not apply to work stoppage caused by adverse weather or equipment breakdowns. State and Federal holidays will be observed. No work will be allowed on July 4, 2022.
- 15. Invoicing.** All invoices must be **signed** by an authorized representative and include the contract number and dates of service being paid. All invoices and payment inquiries must be directed to the Purchasing Agency.
- Michael Howe, Project Manager
Public Service Commission
AML Division
600 E. Blvd. Ave, Dept. 408
Bismarck, ND 58505-0480**
- 16. Pricing – Tax Exempt.** All prices must be in United States currency. Bid Response prices must include all discounts and deductions, and to be less federal and state taxes. Bidders may contact the Procurement Officer to obtain the Purchasing Agency's tax exemption number and tax-exempt certificate.
- 17. Price Adjustment.** Pricing during the term of the contract will be as follows:
- **Firm-Fixed.** Pricing shall be firm for the period of the contract.
- 18. Pricing, Unit of Measure.** The unit price is to be according to the unit of measurement specified in the solicitation. In the event of mathematical differences between the unit price and extended total, the unit price will prevail. ([N.D.A.C. § 4-12-10-02](#))
- 19. Service – Local Requirement.** Services within 10 days after receipt of Notice to Proceed is required. CONTRACTOR must have facilities or service providers within a commuting distance to meet this requirement.
- 20. Specifications, Brand Name or Equivalent.** Unless otherwise indicated in the solicitation specifications, the use of a specific brand name or make/model is for illustrative purposes only, and the STATE will consider equivalent products. If an alternate brand offered by a Bidder is rejected as not being equivalent, the Procurement Officer send a rejection notice, including the reason for rejection.
- 21. Travel.** CONTRACTOR acknowledges travel costs are covered by the Contractual Amount and shall not invoice STATE for travel costs.
- 22. Time is of the Essence.** CONTRACTOR hereby acknowledges that time is of the essence for performance under this Contract unless otherwise agreed to in writing by the parties.

SECTION 4 RISK MANAGEMENT REQUIREMENTS

Bidders are instructed to review the following provisions. Objections to these provisions must be made in writing to the Procurement Officer by the deadline for questions.

1. **Indemnification.** Indemnification provisions are incorporated and made part of this solicitation and resultant contract.
 - CONTRACTOR agrees to defend, indemnify, and hold harmless the State of North Dakota, its agencies, officers and employees (STATE), from claims resulting from the performance of CONTRACTOR or its agent, including all costs, expenses and attorneys' fees, which may in any manner result from or arise out of this agreement except claims based upon STATE'S sole negligence or intentional misconduct. The legal defense provided by CONTRACTOR to STATE under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for STATE is necessary. Any attorney appointed to represent STATE shall first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. CONTRACTOR also agrees to reimburse STATE for all costs, expenses and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

2. **Insurance.** Insurance provisions are incorporated and made part of this solicitation and resultant contract. Bidders are instructed to review the Insurance Requirements. The Successful Bidder will be required to provide the required proof of insurance prior to contract award, and failure to provide evidence of insurance coverage is a material breach and grounds for award rescission. Failure of the CONTRACTOR to keep the required insurance in effect during the term of the contract is grounds for termination of the contract.
 - **Required Coverages.** CONTRACTOR shall secure and keep in force during the term of this agreement and CONTRACTOR shall require all subcontractors, prior to commencement of an agreement between CONTRACTOR and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:
 - A. Commercial general liability, including premises or operations, contractual and products or completed operations coverage (if applicable), with minimum liability limits of \$1,625,000 per occurrence.
 - B. Automobile liability, including Owned (if any), Hired and Non-Owned automobiles, with minimum liability limits of \$406,250 per person and \$1,625,000 per occurrence.
 - C. Workers' compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this Contract.
 - D. Employer's liability or "stop-gap" insurance of not less than \$2,000,000 as an endorsement the workers compensation or commercial general liability insurance.
 - **General Insurance Requirements.** The insurance coverages listed above must meet the following additional requirements:
 - A. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of CONTRACTOR. The amount of any deductible or self-retention is subject to approval by STATE.
 - B. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by STATE. The policies shall be in form and terms approved by STATE.
 - C. STATE will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by CONTRACTOR in excess of the minimum requirements set forth above. The duty to indemnify STATE under this agreement shall not be limited by the insurance required in this Contract.
 - D. The State of North Dakota and its agencies, officers, and employees (STATE) shall be endorsed on the commercial general liability policy on a primary and noncontributory basis, including any excess policies (to the extent applicable), as additional insured. STATE shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required

by this Contract or by the contractual indemnity obligations of CONTRACTOR.

- E. The insurance required in this agreement, through a policy or endorsement, shall include:
 - i. A "Waiver of Subrogation" waiving any right to recovery the insurance company may have against STATE;
 - ii. A provision that CONTRACTOR's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by STATE, and that any insurance, self-insurance or self-retention maintained by STATE shall be in excess of CONTRACTOR's insurance and shall not contribute with it;
 - iii. Cross liability/severability of interest for all policies and endorsements;
 - iv. The legal defense provided to STATE under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for STATE is necessary;
 - v. The insolvency or bankruptcy of the insured CONTRACTOR shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured CONTRACTOR from meeting the retention limit under the policy.
- F. CONTRACTOR shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
- G. Failure to provide insurance as required in this agreement is a material breach of Contract entitling STATE to terminate this agreement immediately.
- H. CONTRACTOR shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. CONTRACTOR shall provide on an ongoing basis, current certificates of insurance during the term of the contract. A renewal certificate will be provided 10 days prior to coverage expiration.

Pollution Liability. CONTRACTOR shall provide CONTRACTOR's Pollution Liability coverage for Personal Injury, Property Damage and Cleanup Cost arising from pollution conditions caused by the operations of CONTRACTOR for limits of \$1,000,000. Occurrence coverage is preferred but coverage may be provided on a claims-made form that includes a three-year tail coverage endorsement. Coverage shall include Contractual liability coverage for claims arising out of liability of subcontractors, loading and unloading, unlimited complete operation and non-owned disposal site coverage (if applicable).

- 3. **Bid Surety Requirement.** No Bid Responses will be considered unless accompanied by a bidder's bond, certified check or cashier's check in a sum equal to five percent (5%) of the full amount of the Bid Response. The bidder's bond, certified check or cashier's check must be received by the Bid Response deadline. A bidder's bond must be executed by the Bidder as principal and by a surety company authorized to do business in North Dakota as surety. A certified check or a cashier's check must be drawn on the Bank of North Dakota or a federally insured, solvent bank. If, within ten days after notice of an award, the successful Bidder should fail to execute a contract with the owner, then the surety will pay unto the owner for the use and benefit of the owner five percent (5%) of the Bid Response on the contract on which there is a default, or the certified check or cashier's check of the bidder will be forfeited to the owner.

Commission will retain the bid bond, cashier's check or certified check of the three (3) lowest Bidders until an award is made. In the event that the lowest bidder submits a check, the check may be negotiated, and the money retained by the owner until the contract has been awarded and properly executed. All other unsuccessful Bidders will have their bid bonds, cashier's checks or certified checks returned immediately. The successful bidder and other low bidders whose bonds or checks are retained will have their bid bonds, certified checks or cashier's checks returned after Commission has successfully contracted the work.

BID SURETY REQUIREMENT
Each Bid Response must include a bid surety. See N.D.A.C. ch. 4-12-07 . Bid sureties of unsuccessful Bidders will be returned upon award determination. The bid surety of the successful Bidder will be returned upon receipt of a completed contract bond and its approval by the STATE.
Bid surety may be as follows: <ul style="list-style-type: none">• a certified check, in the amount of five percent (5%) of the full amount of the Bid Response; or• a bank cashier's check in the amount of five percent (5%) of the full amount of the Bid Response; or• a corporate surety bond from a surety company authorized to do business in the State of North Dakota in the amount of five percent (5%) of the full amount of the Bid Response.

4. **Payment and Performance Bonds.** The bidder whose bid is accepted is required to enter into a written contract with Commission and to furnish a performance bond, executed by a surety company authorized to do business in North Dakota, in an amount at least equal to one hundred percent (100%) of the total contract amount as security for the faithful performance of the contract and also a payment bond, executed by a surety company authorized to do business in North Dakota, in an amount at least equal to one hundred percent (100%) of the total contract amount as security for the payment of all persons performing labor on the project under the contract and furnishing materials in connection with the contract, including interest under N.D.C.C. § 13-01-14, for bills which are not paid within ninety (90) days. The bond must also provide, under N.D.C.C. § 65-04-10, that CONTRACTOR has made, or will make, prior to the commencement of any work by CONTRACTOR or any subcontractor under the contract, full and true report to Workforce Safety and Insurance of the payroll expenditures for the employees to be engaged in the work, and that CONTRACTOR has paid, or will pay, the premium thereon prior to the commencement of work. Both bonds must be executed on forms approved by Commission. Bonds must be secured from a company which has complied with the law and regulations of the U.S. Treasury Department and is acceptable as a surety or reinsurer of federal bonds under Sections 9304 to 9308 of Title 31 U.S.C. and appropriate statutes of the State of North Dakota. A list of qualified companies is published under Treasury Circular 570.

GENERAL PROVISIONS

The parties to this Contract (Contract) are the State of North Dakota, acting through its Public Service Commission (STATE) and _____ having its principal place of business at _____ (CONTRACTOR);

1. SCOPE OF WORK

CONTRACTOR, in exchange for the compensation paid by STATE under this Contract, shall provide the work as described in Section 6: SPECIFIC PROVISIONS AND ATTACHMENTS beginning on **page 25** of the **2022 Morton County Phase 3 AML Project** Invitation for Bid.

2. COMPENSATION

Contractual Amount

STATE shall pay for the accepted services provided by CONTRACTOR under this Contract an amount not to exceed _____ Dollars (\$_____) (Contractual Amount).

The Contractual Amount is firm for the duration of this Contract and constitutes the entire compensation due CONTRACTOR for performance of its obligations under this Contract regardless of the difficulty, materials or equipment required, including fees, licenses, overhead, profit and all other direct and indirect costs incurred by CONTRACTOR, except as provided by an amendment to this Contract.

Payment

- A. Payment made in accordance with this Compensation section will constitute payment in full for the services and work performed and the deliverables and work(s) provided under this Contract and CONTRACTOR shall not receive any additional compensation hereunder.
- B. STATE shall make payment under this Contract within thirty (30) calendar days after receipt of an approved invoice.
- C. Payment of an invoice by STATE will not prejudice STATE's right to object to or question that or any other invoice or matter in relation thereto. CONTRACTOR's invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by STATE, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute allowable costs. At STATE's sole discretion, all payments must be subject to reduction for amounts equal to prior overpayments to CONTRACTOR.

For any amount that is or will become due and payable to STATE by CONTRACTOR, STATE reserves the right to deduct the amount owed from payments that are or will become due and payable to CONTRACTOR under this Contract.

Travel

CONTRACTOR acknowledges travel costs are covered by the Contractual Amount and shall not invoice STATE for travel costs.

Prepayment

STATE will not make any advance payments before performance by CONTRACTOR under this Contract.

Payment of Taxes by STATE

STATE is not responsible for and will not pay local, state, or federal taxes. STATE sales tax exemption number is E-2001. STATE will furnish certificates of exemption upon request by CONTRACTOR.

Taxpayer ID

CONTRACTOR shall provide STATE with its federal employer ID number and North Dakota tax ID number upon executing this Contract.

Purchasing Card

STATE may make a payment using a government credit card. CONTRACTOR will accept a government credit card without passing the processing fees for the government credit card back to STATE.

3. TERM OF CONTRACT

This Contract **begins upon complete execution of the contract by all parties and ends on December 31, 2022.**

No Automatic Renewal

This Contract will not automatically renew. If STATE intends to renew this Contract, STATE shall provide written notice to CONTRACTOR of STATE's intent to renew this Contract before the scheduled termination date.

Extension Option

STATE reserves the right to extend this Contract for an additional period of time, not to exceed six (6) months, beyond the current termination date of this Contract.

Renewal Option

STATE may renew this Contract upon satisfactory completion of the initial Contract term. STATE reserves the right to execute up to one (1) option to renew this Contract under the same terms and conditions for a period of six (6) months.

4. TIME OF PERFORMANCE

The project performance period is from **June 8, 2022, to August 22, 2022.** STATE will issue a Notice to Proceed to begin the performance period. CONTRACTOR shall return an acknowledged copy of the Notice to Proceed to STATE. If work cannot begin on the date specified in the Notice to Proceed, CONTRACTOR shall provide a written explanation of the reasons for the delay with a written request for an alternate firm start date. The performance period will not be extended without a written request by CONTRACTOR and approval by the Commission's Project Manager. Failure to provide services required by this contract within the time specified may result in contract termination or liquidated damages as specified in Section 109.7 of the Standard specification for AML Reclamation Projects <https://psc.nd.gov/docs/guidelines/aml/aml-specifications.pdf>.

5. TIME IS OF THE ESSENCE

CONTRACTOR hereby acknowledges that time is of the essence for performance under this Contract unless otherwise agreed to in writing by the parties.

6. TERMINATION OF CONTRACT

Termination by Mutual Agreement

This Contract may be terminated in whole or in part without cause by mutual consent of both parties executed in writing. The parties shall agree upon the termination conditions including the effective date and, in the case of partial terminations, that portion to be terminated.

Early Termination in the Public Interest

STATE is entering into this Contract for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly and Courts. If this Contract ceases to further the public policy of the State of North Dakota, STATE, in its sole discretion, by written notice of CONTRACTOR, may terminate this Contract in whole or in part.

Termination for Lack of Funding or Authority

STATE may terminate the whole or any part of this Contract effective upon delivery of written notice to CONTRACTOR, or any later date stated in the notice:

- A. If funding from federal, state or other sources is not obtained and continued at levels sufficient to allow for work performed or purchases of the services or supplies in the indicated quantities or term.
- B. If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
- C. If any license, permit or certificate required by law or rule, or by the terms of this Contract, is for any reason denied, revoked, suspended or not renewed.

Termination of this Contract under this subsection is without prejudice to any obligations or liabilities of either party accrued prior to termination.

Termination for Cause

STATE may terminate this Contract effective upon delivery of written notice to CONTRACTOR, or any later date stated in the notice:

- A. If CONTRACTOR fails to provide services required by this Contract within the time specified or any extension agreed to by STATE; **or**
- B. If CONTRACTOR fails to perform any of the other conditions or provisions of this Contract or fails to pursue the work so as to endanger performance of this Contract in accordance with its terms.

STATE will be liable only for payment provisions of this Contract for services satisfactorily rendered prior to the effective date of termination. Significant deviation from performance standards in this Contract may result in reduced or terminated financial participation of CONTRACTOR, subsequent to negotiations with STATE.

The rights and remedies of STATE provided in the termination provisions related to defaults by CONTRACTOR are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

7. FORCE MAJEURE

Neither party shall be held responsible for delay or default caused by fire, riot, terrorism, acts of God or war if the event is beyond the party's reasonable control and the affected party gives notice to the other party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

8. INDEMNITY

CONTRACTOR agrees to defend, indemnify, and hold harmless the State of North Dakota, its agencies, officers and employees (STATE), from claims resulting from the performance of CONTRACTOR or its agent, including all costs, expenses and attorneys' fees, which may in any manner result from or arise out of this agreement, except claims based upon STATE's sole negligence or intentional misconduct. The legal defense provided by CONTRACTOR to STATE under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for STATE is necessary. Any attorney appointed to represent STATE shall first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. CONTRACTOR also agrees to reimburse STATE for all costs, expenses and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

9. INSURANCE

Required Coverages. CONTRACTOR shall secure and keep in force during the term of this agreement and CONTRACTOR shall require all subcontractors, prior to commencement of an agreement between CONTRACTOR and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

- A. Commercial general liability, including premises or operations, contractual and products or completed operations coverage (if applicable), with minimum liability limits of \$1,625,000 per occurrence.
- B. Automobile liability, including Owned (if any), Hired and Non-Owned automobiles, with minimum liability limits of \$406,250 per person and \$2,000,000 per occurrence.
- C. Workers' compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this Contract.
- D. Employer's liability or "stop-gap" insurance of not less than \$1,625,000 as an endorsement on the workers compensation or commercial general liability insurance.

General Insurance Requirements. The insurance coverages listed above must meet the following additional requirements:

- A. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of CONTRACTOR. The amount of any deductible or self-retention is subject to approval by STATE.
- B. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by STATE.

The policies shall be in form and terms approved by STATE.

- C. STATE will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by CONTRACTOR in excess of the minimum requirements set forth above. The duty to indemnify STATE under this agreement shall not be limited by the insurance required in this Contract.
- D. The State of North Dakota and its agencies, officers, and employees (STATE) shall be endorsed on the commercial general liability policy on a primary and noncontributory basis, including any excess policies (to the extent applicable), as additional insured. STATE shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this Contract or by the contractual indemnity obligations of CONTRACTOR.
- E. The insurance required in this agreement, through a policy or endorsement, shall include:
 - i. A "Waiver of Subrogation" waiving any right to recovery the insurance company may have against STATE;
 - ii. A provision that CONTRACTOR's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by STATE, and that any insurance, self-insurance or self-retention maintained by STATE shall be in excess of CONTRACTOR's insurance and shall not contribute with it;
 - iii. Cross liability/severability of interest for all policies and endorsements;
 - iv. The legal defense provided to STATE under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for STATE is necessary;
 - v. The insolvency or bankruptcy of the insured CONTRACTOR shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured CONTRACTOR from meeting the retention limit under the policy.
- F. CONTRACTOR shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
- G. Failure to provide insurance as required in this agreement is a material breach of Contract entitling STATE to terminate this agreement immediately.
- H. CONTRACTOR shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. CONTRACTOR shall provide on an ongoing basis, current certificates of insurance during the term of the contract. A renewal certificate will be provided 10 days prior to coverage expiration.

Pollution Liability. CONTRACTOR shall provide CONTRACTOR's Pollution Liability coverage for Personal Injury, Property Damage and Cleanup Cost arising from pollution conditions caused by the operations of CONTRACTOR for limits of \$1,000,000. Occurrence coverage is preferred but coverage may be provided on a claims-made form that includes a three-year tail coverage endorsement. Coverage shall include Contractual liability coverage for claims arising out of liability of subcontractors, loading and unloading, unlimited complete operations, and non-owned disposal site coverage.

10. SAFETY REQUIREMENTS

CONTRACTOR shall keep informed of and comply with all federal, state, and local laws, regulations, and other legal requirements governing the safety, health, sanitation, and performance of the Contract in general. In addition, CONTRACTOR shall provide, inspect and maintain all safeguards, safety devices, protective equipment, safety programs and other needed actions CONTRACTOR determines necessary to reasonably protect the life, health and property of CONTRACTOR, subcontractors, STATE, the public and each of the employees, officers, assigns and agents of CONTRACTOR, subcontractors and STATE, in connection with the performance of work resulting from or arising out of the Contract.

CONTRACTOR shall have a written safety program to be used as guidelines and direction for CONTRACTOR's and subcontractor's activities. This program must meet all federal, state and local laws, regulations and other legal requirements and include the following minimum provisions.

- A. A worksite safety policy and mission statement.
- B. Assigned responsibilities among management, supervisors and employees.

- C. System for periodic self-inspections, including inspections of job sites, materials, work performance and equipment.
- D. A thorough accident and injury reporting and investigation process.
- E. Safety orientation program including first aid, medical attention, emergency facilities, fire protection and prevention, housekeeping, illumination, sanitation, personal protective equipment, and occupational noise exposure.
- F. Safety training program including safety "toolbox" meetings and other systems for ongoing training and also including training for employees on the recognition, avoidance and prevention of unsafe conditions.

A copy of the written safety program must be provided to STATE.

It is a condition of this Contract and must be made a condition of each subcontract entered into pursuant to this Contract that STATE assumes no liability relating to its receipt and review of CONTRACTOR's safety plan or activities. Safety remains the responsibility of CONTRACTOR. Furthermore, the right of STATE to receive and review the safety plan or activities does not give rise to a duty on the part of STATE to exercise this right for the benefit of CONTRACTOR or any other person or entity.

11. WORKS FOR HIRE

CONTRACTOR acknowledges that all work(s) under this Contract is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to STATE all rights and interests CONTRACTOR may have in the work(s) it prepares under this Contract, including any right to derivative use of the work(s). All materials developed by CONTRACTOR in performance of this Contract for STATE must be the sole property of STATE, and CONTRACTOR hereby assigns and transfers all its right, title, and interest therein to STATE. CONTRACTOR shall execute all necessary documents to enable STATE to protect STATE's rights under this section. CONTRACTOR shall include provisions appropriate to effectuate the purposes of this condition in all subcontracts entered into relating to this project.

12. WORK PRODUCT

All work product, equipment or materials created for STATE or purchased for STATE under this Contract belong to STATE and must be immediately delivered to STATE at STATE's request upon termination of this Contract.

13. NOTICE

All notices or other communications required under this Contract must be given by registered or certified mail and are complete on the date postmarked when addressed to the parties at the following addresses:

STATE:	CONTRACTOR:
Steven Kahl, Executive Director	
Public Service Commission	
600 E. Boulevard Avenue	
Department 408	
Bismarck, ND 58505-0480	

Notice provided under this provision does not meet the notice requirements for monetary claims against STATE found at N.D.C.C. § 32-12.2-04.

14. CONFIDENTIALITY

CONTRACTOR shall not use or disclose any information it receives from STATE under this Contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by STATE. STATE agrees not to disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. ch. 44-04. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Contract, or any extensions or renewals of it.

15. COMPLIANCE WITH PUBLIC RECORDS LAWS

CONTRACTOR understands that, in accordance with this Contract's confidentiality clause, STATE shall disclose to the public upon request any records STATE receives from CONTRACTOR. CONTRACTOR further understands that any records obtained or generated by CONTRACTOR under this Contract, except for records that are confidential under this Contract, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. CONTRACTOR agrees to contact STATE promptly upon receiving a request for information under the public records law and to comply with STATE's instructions on how to respond to the request.

16. INDEPENDENT ENTITY

CONTRACTOR is an independent entity under this Contract and is not a state employee for any purpose, including but not limited to the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out CONTRACTOR's activities and responsibilities under this Contract, except to the extent specified in the Contract.

17. ASSIGNMENT AND SUBCONTRACTS

CONTRACTOR may not assign this Contract, or otherwise transfer or delegate any right or duty, without STATE's express written consent, or assign any of the monies to be paid hereunder, nor may any part of the work done, or material furnished under this Contract be sublet without STATE's express written consent.

CONTRACTOR may enter into subcontracts for any of the work contemplated under this Contract unless included in the specific provisions of this Contract. Any such subcontract must acknowledge the binding nature of the Contract and must incorporate this Contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor. CONTRACTOR does not have the authority to contract for or incur obligations on behalf of STATE.

18. SPOILIATION – PRESERVATION OF EVIDENCE

CONTRACTOR shall promptly notify STATE of all potential claims that arise or result from this Contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim while maintaining public safety, and grants to STATE the opportunity to review and inspect the evidence, including the scene of an accident.

19. MERGER AND MODIFICATION, CONFLICT IN DOCUMENTS

This Contract, including the following documents, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this Contract, the documents must control in this order of precedence:

- A. The terms of this Contract as may be amended.
- B. STATE's Solicitation: Invitation for Bid 408.22.02.002, Morton County Phase 3 AML Project.
- C. CONTRACTOR's Bid Response.
- D. Standard Specifications for AML Reclamation Projects.

20. SEVERABILITY

If any term of this Contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Contract did not contain that term.

21. APPLICABLE LAW AND VENUE

This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

22. DISPUTES

CONTRACTOR agrees to attempt to resolve disputes arising from this Contract by informal administrative process and negotiations in lieu of litigation. Continued performance by CONTRACTOR during disputes is assured.

Any dispute concerning a question of fact arising under this Contract which is not settled by the informal means must be decided by the authorized representative of STATE who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to CONTRACTOR.

CONTRACTOR will be afforded an opportunity to be heard and to offer evidence in support of an appeal. Pending final decision of a dispute, CONTRACTOR shall proceed diligently with the performance of the Contract and in accordance with the decision of STATE.

STATE does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolutions. The parties have the right to enforce their rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

23. ATTORNEY FEES AND COSTS

In the event a lawsuit is instituted by STATE to obtain performance due under this Contract, and STATE is the prevailing party, CONTRACTOR shall, except when prohibited by N.D.C.C. § 28-26-04, pay STATE's reasonable attorney fees and costs in connection with the lawsuit.

24. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

This Contract, and any subcontract hereunder, is subject to the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act, Title VI of the Civil Rights of 1964 and the Americans with Disabilities Act of 1990.

CONTRACTOR agrees to comply with all laws, rules, and policies, including those relating to non-discrimination, accessibility and civil rights. (See N.D.C.C. Title 34—Labor and Employment, specifically N.D.C.C. § 34-06.1 Equal Pay for Men and Women). CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums. CONTRACTOR shall have and keep current at all times during the term of this Contract all licenses, registrations and permits required by law and shall be authorized to do business in the State of North Dakota.

CONTRACTOR agrees to comply with sections 2 through 4 of the Act of March 3, 1933 (41U.S.C. 10a-10c, popularly known as the "Buy American Act".) This applies to all subcontractors and suppliers of CONTRACTOR. CONTRACTOR will include this clause in all agreements and Contracts. CONTRACTOR's failure to comply with this section may be deemed a material breach by CONTRACTOR entitling STATE to terminate in accordance with the Termination for Cause section of this Contract.

25. MONITORING, EVALUATION AND AUDIT

All records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this Contract are subject to examination by the North Dakota State Auditor, the Auditor's designee or Federal auditors if required. CONTRACTOR shall maintain all of these records for at least four (4) years following completion of this Contract and be able to provide them at any reasonable time. STATE, State Auditor, or Auditor's designee shall provide reasonable notice to CONTRACTOR prior to conducting examination. Records must be retained beyond four years if audit findings have not been resolved.

CONTRACTOR agrees to cooperate with any monitoring, evaluating and/or audit conducted by STATE, or their designees who shall have full access to and the right to examine all books, records and other relevant documents.

CONTRACTOR agrees to take immediate corrective action on deficiencies disclosed through program monitoring of costs disallowed in the course of an audit, review, or monitoring.

26. NO CLAIM FOR ADDITIONAL WORK

No claim for additional services not specifically herein provided, done, or furnished by CONTRACTOR will be allowed, nor shall CONTRACTOR do any work or furnish any material not covered by the Contract, unless such work is ordered in writing by STATE.

27. TIME KEEPING PROCEDURES

CONTRACTOR shall require employees and subcontractors, if applicable, whose positions are funded under this Contract or included as match, to maintain adequate documentation for services provided. For positions that are funded from more than one source, an analysis of duties performed by program must also be prepared.

28. EQUAL OPPORTUNITY

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of race, color, disability, or political affiliation or belief.

CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, national origin, disability, age, sex, political affiliation or belief or citizenship.

29. WORK WEEK

CONTRACTOR shall work a standard 5-day work week (Monday-Friday) restricted to daylight hours. A request for a variance to the work schedule must be made in writing to STATE at least 2 days in advance of the start of the variance. This notice requirement does not apply to work stoppage caused by adverse weather or equipment breakdowns. State and Federal holidays will be observed. No work will be allowed on July 4, 2022.

30. EFFECTIVENESS OF CONTRACT

This Contract is not effective until fully executed by both parties. If no start date is specified in the Term of Contract, the most recent date of the signatures of the parties shall be deemed the Effective Date.

31. LEGAL AUTHORITY

CONTRACTOR assures that it possesses legal authority to participate in this Contract.

SECTION 6 SPECIFIC PROVISIONS & ATTACHMENTS

Sec. 100 Project Objective

Sec. 200 Scope of Work

Sec. 300 Provisions

Sec. 400 Owner Responsibilities

Sec. 500 Utilization of Disadvantaged Business Enterprises

Sec. 600 Suspension of Work

100. PROJECT OBJECTIVE

The objective of this project is to reclaim selected portions of abandoned surface lignite mines and associated work items as described in this Invitation for Bid (IFB). The Youngtown Mine Site is located in the S ½ of Section 19, T140N, R85W and includes two tracts. The East Youngtown Tract is located in the SE ¼ of Section 19, T140N, R85W and the West Youngtown Tract is located in the SW ¼ of Section 19, T140N, R85W. Interested bidders shall fulfill all aspects of the IFB as presented.

200. SCOPE OF WORK

The proposed scope of work for the 2022 Morton County Phase 3 AML Project involves the excavation of about 47,000 cubic yards of material from on-site spoil piles, backfilling of pits and the performance of associated work items. Best Management Practices (BMP) must be used on site at all times, including silt fence, straw wattles, and erosion blankets.

CONTRACTOR shall provide all material, equipment and personnel necessary to perform the work. CONTRACTOR shall be capable of completing this project within seventy-five (75) consecutive calendar days between June 8, 2022, and August 22, 2022. No work will be allowed on holidays or weekends unless specifically approved by the Commission's Project Manager in writing.

A. Estimated Quantities - The quantities in this Contract are estimated. Estimates are not to be considered as either a minimum or maximum, but rather an estimate based upon past and anticipated usage. The Commission's Project Manager reserves the right to increase or decrease the actual quantities as site conditions warrant. The final contract payment will be determined using final quantities computed by the Commission's Project Manager and the unit prices submitted by CONTRACTOR. No allowance will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by CONTRACTOR resulting either from field conditions or unbalanced bid prices or any other cause. For Section 105.6 of the Standard Specification for AML Reclamation Projects, each numbered item on the Bid Response Form is considered one major item regardless of the number of subdivisions under that item. The Commission's Project Manager and CONTRACTOR shall compare records of quantities daily.

B. Site Conditions - CONTRACTOR is advised that portions of the sites contain abandoned underground mine workings. The excavation, backsloping, backfilling, and construction work specified in this IFB is inherently dangerous due to the presence of unstable spoil piles, water filled pits, highwalls, end walls, and abandoned mine workings. Surface subsidence caused by upward void migration of abandoned mine workings has been documented in the area. CONTRACTOR shall take necessary precautions to adequately protect their workforce, equipment and the general public at all times during project performance.

There are several power poles near the highwall which will remain energized and are not to be disturbed. CONTRACTOR shall take necessary precautions to adequately protect the existing power poles and lines, their workforce, equipment and the general public at all times during project performance. In the event of their damage, destruction or loss, CONTRACTOR shall be responsible for their replacement and any resulting damage or loss.

CONTRACTOR shall provide all materials, equipment, and personnel necessary to perform the specified work. CONTRACTOR shall be capable of fulfilling this project within the performance period. Failure to complete the project within the performance period may result in contract termination or liquidated damages as specified in Section 109.7 of the Standard Specification for AML Projects <http://www.psc.nd.gov/docs/guidelines/aml/aml-specifications.pdf>.

300. PROVISIONS

The following special provisions must apply:

A. MOBILIZATION

- 1. Scope of Work** – Mobilization consists of all preparatory work and operations, which will enable CONTRACTOR to start and finish the project. The location of the project site is the S ½ of Section 19, T140N, R85W. Mobilization includes movement of necessary items such as personnel, equipment, supplies, facilities, and incidentals to and from the project site.
- 2. Construction Requirements** – CONTRACTOR shall:

- a. **Construction Permit** - Obtain a Construction General Permit from the North Dakota Department of Environmental Quality prior to beginning work. The Construction General Permit consists of a Notice of Intent, a Storm Water Pollution Prevention Plan (SWPPP), and Site Investigation Form. In addition, CONTRACTOR shall adhere to the Construction, Operation, and Maintenance Requirements published by the North Dakota Department of Environmental Quality. All permits and requirements can be found at https://deq.nd.gov/WQ/2_NDPDES_Permits/7_Stormwater/stw.aspx.
 - b. **Equipment List** – Prior to beginning any work, CONTRACTOR shall provide the Commission’s Project Manager with a list of major equipment to be used for the work. For each piece of equipment, the list must include the name and description, the serial number, date of manufacture, condition, hours, specification sheet and the hourly rate.
 - c. **Sanitary Facilities** - CONTRACTOR shall furnish, install, and maintain ample sanitary facilities for all workers at the project sites. Costs of furnishing, installing, and maintaining the sanitary facilities must be included in the lump sum price for mobilization and no additional compensation will be allowed.
 - d. **Utility Locates** - Prior to beginning any work, CONTRACTOR must determine and mark the presence of **ALL public and private** utility facilities including water lines, septic tanks and drain fields within the project areas. The North Dakota “One Call” utility locating Hot Line phone number is **811** or **1-800-795-0555**, and the website is www.ndonecall.com. One Call does NOT locate privately owned and operated facilities. Excavation may be necessary. No additional compensation will be allowed.
 - e. **Operations Space** - Space required for equipment or material storage or the like must be provided by CONTRACTOR. Neither public nor private property must be used for these purposes without express written consent of the property owner or lessee; and, if requested, copies of consent must be furnished to Commission. All sites must be restored to their original condition by and at CONTRACTOR’s expense unless exceptions are specifically outlined in the written consent.
 - f. **Fugitive Dust Control** – Unpaved roads, trails or parking areas must be maintained so as to control road dust as well as dust occurring on other exposed surfaces by measures such as watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices as directed by the Commission’s Project Manager.
 - g. **Site Access** - Any work needed to access the site will be the responsibility of CONTRACTOR and must be included in the bid price for mobilization. Accessibility includes, but is not limited to, fence removal and subsequent replacement or repair, surface grading, protection from overhead utility lines, snow removal and bridging or planking. Reasonable compensation must be paid by CONTRACTOR to the landowner for any damage to crops or structures.
3. **Method of Measurement** – Mobilization will be measured on a lump sum basis. The total mobilization must not exceed 10% of the total contract bid. This item will be allocated between mobilization (50%) and demobilization (50%).
 4. **Basis of Payment** – Payment will be made at the lump sum unit price. Payment is full compensation for furnishing all equipment, labor, materials, and incidentals to complete the work as specified.

B. SITE PREPARATION

1. **Scope of Work** – This work item consists of the clearing about 25 tree stumps and inert refuse material.
2. **Construction Requirements** – Prior to removing topsoil, the site must be cleared of all inert waste, trees, brush, and nuisance material. The material must be disposed in accordance with all applicable laws and guidelines. Material may be buried on site according to the North Dakota Department of Environmental Quality Guideline 38 – Beneficial Use of Inert Wastes and must have a minimum cover of 10 feet of spoil material.
3. **Method of Measurement** – Site Preparation will be measured on a lump sum basis.

4. **Basis of Payment** – Payment will be made at the lump sum unit price. Payment is full compensation for furnishing all labor, materials, equipment and incidentals required to complete the work as specified.

C. **WATER MANAGMENT**

1. **Scope of Work** – This item of work pertains to the movement and control of water held in one of the Youngtown Mine pits. The location of the pit is shown in the West Youngtown Mine Tract Post-Reclamation Topography Sheet 3.
2. **Construction Requirements** – The Youngtown Site contains several small water bodies connected by a narrow channel. The water contained in the southwest pit as shown on the West Youngtown Mine Tract Post-Reclamation Topography Sheet 3 must be moved to another pond east of the pit. Approximately 3,000 cubic feet (22,500 gallons) of water will be moved. Appropriate measures should be taken to ensure pumping creates no significant erosion. No water may be discharged off the project site.
3. **Method of Measurement** – Water Management will be measured as a lump sum (L.S.) basis.
4. **Basis of Payment** – Payment will be made at the lump sum unit price. Payment is full compensation for furnishing all labor, materials, equipment, and incidentals required to complete the work as specified.

D. **SILT FENCING**

1. **Scope of Work** – This item of work pertains to the establishment of approximately 3,750 linear feet of silt fence. The East Youngtown Tract will require approximately 2,550 linear feet of regular silt fence and the West Youngtown Tract will require approximately 700 linear feet of floating silt fence and 500 feet of regular silt fence. Approximate fence lengths and locations are shown on the Post-Reclamation Topography Sheets. If topsoil stockpiles are located in an uncontrolled area silt fences will be installed to control sedimentation and their location approved by the Commission’s Project Manager.
2. **Construction Requirements** – The silt fence must be placed on the established perimeter of the work site prior to construction at the location shown on the Post-Reclamation Plan Sheets.
 - a. **The regular silt fencing must be:**
 - i. A standard three (3) foot fence.
 - ii. Installed by creating a narrow trench that is six inches (6”) deep, inserting the silt fence, and compacting the soil on either side.
 - iii. Staked with stakes inserted deeper than one (1) foot and at an interval of four (4) feet.
 - iv. Regularly monitored. Sediment must be cleared when it reaches half the height of the fence. If the fence sustains any damages, repairs must be made within 24 hours.
 - v. Removed on completion of the project or as otherwise directed by the Commission’s Project Manager.
 - b. **The floating silt fencing must be:**
 - i. A standard five (5) foot floating silt fence or turbidity curtain barrier.
 - ii. Installed and anchored in accordance with the manufacturer’s guidelines and recommendations and NDDOT Specifications.
 - iii. Anchors at the ends shall be steel or wood posts inserted deeper than three (3) feet.
 - iv. Regularly monitored. If the fence sustains any damages, repairs must be made within 24 hours.
 - v. Removed on completion of the project.
3. **Method of Measurement** – Silt fence will be measured on a per linear foot basis.
4. **Basis of Payment** – Payment will be made at the unit price. Payment is full compensation for furnishing all labor, materials, equipment, and incidentals required to complete the work as specified.

E. **TEMPORARY FENCING**

1. **Scope of Work** – This item consists of the installation of 2,700 feet of temporary fence within portions of the site.

2. **Construction Requirements** – The fence must be constructed in accordance with Section 402 of the AML Standard Specifications and as described herein. The fence must be 3-strand barbed wire with 5.5 feet post lengths spaced every 16.5 feet. The barbed wire must be red brand 12-1/2 gauge 2 point wire. The steel post must be 1.33 lbs./ft. A horizontal angle in the fence having a deflection of more than 15 degrees must be braced accordingly. Approximately 2,700 feet of temporary fence must be installed as shown on the East Youngtown Mine Tract Post-Reclamation Topography Sheet 7. Double brace assemblies and depression fence must be included in the price for the fencing. Two 16-foot wire gates will be installed on each end of the fence where it connects to the existing permanent fence. Any disturbance created by the installation of the fence will be addressed and remediated as directed by the Commission's Project Manager. The fence will be removed by the landowner after the project completion.
3. **Method of Measurement** – Measurement will be made of linear feet of fence installed. Fence removal will be the responsibility of the landowner.
4. **Basis of Payment** – Payment will be made at the unit price. Such payment will constitute full payment for all labor, materials, equipment, and any other incidentals required to complete the work.

F. **TOPSOIL HANDLING**

1. **Scope of Work** – All available topsoil must be removed, stockpiled and re-spread as directed by the Commission's Project Manager. An estimated 4,000 cubic yards of topsoil will be stockpiled and re-spread.

Topsoil is generally defined as approximately the top four inches (4") of spoil; however, topsoil material thickness may vary in depth throughout the site. Topsoil will be segregated by landowner, stockpiled separately, and respread only on original owners' ground. Any topsoil encountered during removal of the spoil material may be segregated from the spoil material and stockpiled at the discretion of the Commission's Project Manager.

2. **Construction Requirements** – Topsoil material must be removed and stockpiled into piles adjacent to working areas as directed by the Commission's Project Manager. Stockpile locations must not interfere with any other earthwork. Adjacent portions of the project area will also have topsoil material removed to facilitate the final grading of the site.

a. **Topsoil must be:**

- i. Removed in a uniform and neat manner, as completely as possible, without mixing with poor quality material.
- ii. Stockpiled in an area approved by the Commission's Project Manager.
- iii. Approved by the Commission's Project Manager prior to beginning earthmoving operations (**See H. Earthwork**).

b. **Re-spread to a uniform depth.**

- i. Topsoil must be respread using a scraper
- ii. Topsoil must be tilled to a depth of at least four (4) inches

3. **Method of Measurement** – Topsoil handling will be measured on a per cubic yard basis. Topsoil stockpile volumes will be determined by surveys conducted by the Commission's Project Manager. Measurement will be made without regard to any actual or perceived swell that the material may experience.
4. **Basis of Payment** – Payment will be made at the unit price for stockpiled volume as measured by the Commission's Project Manager. Payment is full compensation for furnishing all labor, materials, equipment, and incidentals required to complete the work as specified. Commission's Project Manager may allow progressive partial payment of this item.

G. **CONSTRUCTED LOW WATER CROSSING CONSTRUCTION**

1. **Scope of Work** – This item consists of constructing a 16-foot-wide road approximately 500 feet long low water crossing as delineated on the Haul Road Crossing Details Sheet 4.
2. **Construction Requirements** – Requirements for construction of the crossing are as follows:

- a. **Channel Crossing A** – The construction of approximately 15 feet of road supported with a rock base across the existing drainage channel.
 - i. Remove and stockpile topsoil or other suitable plant growth material from around/within the road construction areas.
 - ii. Excavate any additional material required to meet the design profile. If the additional excavated material is determined to be good quality, it will be considered topsoil.
 - iii. Place Grade I Rip Rap rock in the bottom of the excavated drainage channel to support traffic and allow water to pass. A rock pile north of the spoil piles delineated on the West Youngtown Mine Tract Pre-Construction Topography Sheet 2 may be salvaged and used for this roadbed. Cover the surface of the placed rock with a geosynthetic fabric separation material approved by the Commission’s Project Manager which is capable of preventing gravel from silting into rock.
 - iv. Place 10 inches of NDDOT class 5 road gravel on the excavated roadbed as shown on the Road Design Plan Sheet 4.
 - v. Place 16-foot-wide geotextile weave fabric (Tensar Triax (TX) Geogrid or equivalent) and secure it in place.
 - vi. Place 10 inches of NDDOT class 5 road gravel on top of the geotextile with adequate care to ensure the textile is not damaged.
 - vii. Grade to blend in with the existing ground surface
 - viii. Seed disturbed areas with the required mixture as listed in section J. Fertilizing, Mulching, and Seeding.

- b. **Road Detail B** – The construction of approximately 485 feet of road.
 - i. Remove and stockpile approximately 150 yards of topsoil or other suitable plant growth material from around/within the road construction areas.
 - ii. Excavate any additional material (approximately 300 cubic yards) required to meet the design profile. If the additional excavated material is determined to be good quality, it will be considered topsoil.
 - iii. Place 10 inches of NDDOT class 5 road gravel on the excavated roadbed as shown on the Road Design Plan Sheet 4.
 - iv. Place 16-foot-wide geotextile weave fabric (Tensar Triax (TX) Geogrid or equivalent) and secure it in place.
 - v. Place 10 inches of NDDOT class 5 road gravel on top of the geotextile with adequate care to ensure the textile is not damaged.
 - vi. Grade to blend in with the existing ground surface
 - vii. Seed disturbed areas with the required mixture as listed in section J. Fertilizing, Mulching, and Seeding.

- 3. **Method of Measurement** – Measurement will be made of linear feet of roadway installed.
- 4. **Basis of Payment** – Payment will be made at the unit price. Payment is full compensation for furnishing all labor, materials, equipment, and incidentals required to complete the work as specified.

H. EARTHWORK

- 1. **Scope of Work** – This item consists of the excavation of earthen material from spoil piles and backfilling and backsloping the highwalls and pits as shown on Plan Sheets 3 through 8 and as described herein.

An estimated 47,000 cubic yards of earthen material must be excavated from the existing spoil pile areas shown on the Pre-Reclamation Topography Sheets.

- 2. **Construction Requirements** – The spoil piles, borrow areas, pits and highwalls shown on the Pre-Reclamation Plan Sheets must be backsloped, backfilled and graded to the topography shown on the Post-Reclamation Plan Sheets 3 and 7. The cut and fill depths are shown on the Cut / Fill Plan Sheets 5 and 8.

The estimated volume of soil to be excavated at each location is:

East Youngtown Tract	35,500 Yd ³
West Youngtown Tract	11,500 Yd ³

Haul distances will vary. CONTRACTOR shall be familiar with the volume of material to be placed in the pits. The spoil pile material to be excavated is classified as common excavation. The material to be moved has varying amounts of rock, gravel, sand, silt and clay with differing moisture contents. The spoil material is inherently unstable with the potential for large rocks and foreign material. No extra payment will be made for rock that is moved into the pit and highwall fill areas.

Sites contain natural springs that may affect equipment movement and material placement. No extra payment will be made for any muddy or wet conditions encountered in the cut or fill areas.

3. **Method of Measurement** – Earthwork will be measured on a cubic yard basis. The spoil pile cut areas will be surveyed by the Commission’s Project Manager to verify they are at planned post-reclamation grade.

4. **Basis of Payment** – Payment will be made at the unit price for volume of earth moved as measured by the Commission’s Project Manager. Payment is full compensation for furnishing all labor, materials, equipment, and incidentals required to complete the work as specified. Commission’s Project Manager may allow progressive partial payment of this item.

I. MANURE HANDLING

1. **Scope of Work** – Approximately 4,000 cubic yards of composted manure from a site located in the NW 1/4 of Section 2, T139N, R86W, will be transported, spread, and tilled after topsoil has been respread. The CONTRACTOR will load, haul, spread, and till the manure into the respread topsoil as directed by the Commission’s Project Manager.

2. **Construction Requirements** – The manure must be removed from the farmstead and hauled to the project site and spread uniformly across the respread topsoil. This will be done in coordination with the landowner and approved by the Commission’s Project Manager. Approximately 1,500 yards of material will be hauled four (4) miles to the Youngtown Site. The manure will be spread evenly across the disturbed area and incorporated into the topsoil with three tillage passes to a depth of four (4) inches. The CONTRACTOR will be responsible to repair any damage to facilities at the farmstead.

Manure must be:

- a. Removed in a uniform and neat manner, as completely as possible, without mixing with poor quality material or damaging the existing structures.
- b. Hauled to the project sites following all applicable laws and regulations and will be covered during transport.
- c. Respread on approved topsoil to a uniform depth across the site and approved by the Commission’s Project Manager prior to beginning of tillage.
- d. Tilled to a depth of at least four (4) inches in three separate passes.
- e. All roads, haulage ways, access points and any other areas which experience surface damage due to equipment or personnel movement or activity must be restored to a pre-construction state as directed by the Commission’s Project Manager.

3. **Method of Measurement** – Manure handling will be measured on a per cubic yard basis. Manure stockpile volumes will be determined by surveys if possible or by load counts if agreed to by both the contractor and the Commission’s Project Manager. Measurement will be made without regard to any actual or perceived swell that the material may experience.

4. **Basis of Payment** – Payment will be made at the unit price for volume as measured by the Commission’s Project Manager. Payment is full compensation for furnishing all labor, materials, equipment, and incidentals required to complete the work as specified. Commission’s Project Manager may allow progressive partial payment of this item.

J. FERTILIZING, MULCHING AND SEEDING

1. **Scope of Work** – This item of work includes the fertilizing, mulching and seeding of approximately 10.7 acres of disturbed areas of the site as directed by the Commission’s Project Manager, including the final graded spoil piles, pits and highwall areas.

Site	Acres
East Youngtown Tract	8.1
West Youngtown Tract	2.6

2. **Construction Requirements** – A firm seedbed must be prepared immediately following any earthwork, soil amendment, or topsoil handling operations as follows:
- Blading with motorgrader (both north/south and east/west directions).
 - Deep ripping (18 to 24 inches) any areas compacted by vehicle traffic as directed by the Commissions Project Manager.
 - Chisel-plowing or disking to initially break up clods and work the soil
 - Rock-picking, if required by Commission’s Project Manager
 - Removal and disposal of any inert or construction wastes in the area.
 - Final light disking or harrowing

All disturbed areas must be:

- Mulched with straw mulch at a minimum application rate of two tons per acre. Mulch must be anchored to the surface by crimping. The mulch must be workable in texture.
- Fertilized with a fertilizer blend of 20% nitrogen, 10% Phosphate, 10% potash, 2% iron, and 8% sulfur or equivalent at a minimum application rate of 200 pounds per acre.
- Seeded as required by “AML Standard Specifications”, Sec. 205 and according to the seed mixtures listed below. Seed shall be treated with a mycorrhizal inoculum or equivalent at the manufacturer’s recommended rate. Seeding must be performed along the contour utilizing a grass seed drill and drilled to a depth of one-half inch. The seed mixture may be varied or changed at the discretion of the Commission’s Project Manager. All areas must be seeded.

Seed Mixture: (Certified tickets are required)

Species	Variety	Pure Live Seed (lbs / Acre)
Oats	Any certified seed variety	30
Western wheatgrass	Rodan or Rosanna	4
Green needlegrass	Lodorm	3
Sideoats gramma	Killdeer or Pierre	2
Little bluestem	Campen	2
Switchgrass	NDG-965-98	3
Slender wheatgrass	Primar or Revenue	4
TOTAL		48

- Method of Measurement** – Fertilizing, Mulching and Seeding will be measured on a per acre basis.
- Basis of Payment** – Payment will be made at the unit price. Payment is full compensation for furnishing all labor, materials, equipment and incidentals required to complete the work as specified.

K. EROSION CONTROL BLANKET

- Scope of Work** – This item of work pertains to the establishment of approximately 900 linear feet of erosion control blankets within constructed drainages at the East Youngtown Site.
- Construction Requirements** – A drainage channel, 12 feet in width, must be constructed as shown on the East Youngtown Mine Tract Post-Reclamation Topography Sheet 7. Erosion control blankets with a minimum of 16 feet in width must be installed along the full length of the channel after the channel has been seeded. The erosion control blanket will be installed and anchored in accordance with the manufacturer’s guidelines, recommendations, and to NDDOT Specification. CONTRACTOR shall furnish all materials necessary to complete

the installation of the erosion control blankets and submit product information sheets to the Commission's Project Manager for approval prior to ordering materials.

3. **Method of Measurement** – Erosion control blankets will be measured as a per foot basis.
4. **Basis of Payment** – Payment will be made at the unit price. Payment is full compensation for furnishing all labor, materials, equipment, and incidentals required to complete the work as specified.

L. **STRAW WATTLES**

1. **Scope of Work** – This item of work pertains to the establishment of approximately 2,650 linear feet of straw wattles within the disturbed areas of the site, or as instructed by the Commission's Project Manager.
2. **Construction Requirements** – The straw wattles must be placed on the newly established, final graded slopes after seeding operations are completed. Approximately 650 feet of wattles will be used as shown on the West Youngtown Mine Tract Post-Reclamation Topography Sheet 3. Approximately 2,650 feet of wattles will be used as shown on the East Youngtown Mine Tract Post-Reclamation Topography Sheet 7. The straw wattles must be installed and anchored according to the manufacturer's instructions and NDDOT Standard Specifications Section 261 <https://www.dot.nd.gov/dotnet/supplspecs/standardspecs.aspx>. The straw wattles must be manufactured from straw wrapped in biodegradable tubular netting, and approximately 12 inches in diameter. A trench must be constructed so that runoff does not run under or around the roll. Wattles must be staked with 24-inch wooden stakes at four-foot on center. The rolls must be installed perpendicular to water movement at an increment as directed by Commission's Project Manager.
3. **Method of Measurement** – Straw wattles will be measured as a per foot basis.
4. **Basis of Payment** – Payment will be made at the unit price. Payment is full compensation for furnishing all labor, materials, equipment, and incidentals required to complete the work as specified.

M. **PERMANENT FENCING**

1. **Scope of Work** – This item consists of 1.) The removal of approximately 1,700 feet of existing wire fence along the road ditch and 2.) Re-installation of the fence after completion of the reclamation within portions of the site.
2. **Construction Requirements** – The installation of item **E. Temporary Fence** as described in East Youngtown Mine Tract Post-Reclamation Topography Sheet 7 must be approved before the fence next to road ditch, as shown on Sheet 7, is removed. The fencing materials shall be disposed of in accordance with all laws and guidelines. Once reclamation has been completed and approved, a permanent fence must be re-installed along the road ditch as shown on East Youngtown Mine Tract – Post Reclamation Topography Sheet 7. The fence must be constructed with new materials in accordance with Section 402 of the AML Standard Specifications and as described herein. The fence must be 4-strand barbed wire with 5.5 feet post lengths spaced every 16.5 feet. The barbed wire must be red brand 12-1/2 gauge 2 point wire. The steel post must be 1.33 lbs./ft. A horizontal angle in the fence having a deflection of more than 15 degrees must be braced accordingly. Approximately 1,700 feet of fence must be installed as shown on the East Youngtown Mine Tract Post-Reclamation Topography Sheet 7. Double brace assemblies and depression fence must be included in the price for the fencing. A 20-foot wire gate will be installed on the west end of the permanent fence. The gate will be constructed in accordance with AML and NDDOT Standard Specifications.
3. **Method of Measurement** – Measurement will be made of linear feet of fence installed.
4. **Basis of Payment** – Payment will be made at the contract unit price. Such payment will constitute full payment for all labor, materials, equipment, and any other incidentals required to complete the work.

N. **CLEAN-UP**

1. **Scope of Work** – This item consists of the clean-up of the project sites and any off-site areas used for the project such as parking or equipment storage areas and the restoration of all damaged or destroyed real property including, but not limited to, utilities, wells, structures, septic systems, yards, fences, roads, approaches, haulage ways, driveways, access points, crops, and ditches.

2. **Construction Requirements** – Any replaced or repaired items must be of like quality and workmanship, subject to approval of the Commission’s Project Manager. All cut and fill survey stakes, silt fencing, and utility flags must be removed from the site within three (3) days of verbal notice from the Commission’s Project Manager.

Restoration must include recontouring or shaping, reseeding, regravelling, resurfacing and repair of roads as needed to achieve pre-construction condition.

All roads, haulage ways, access points and any other areas which experience surface damage due to equipment or personnel movement or activity must be restored to a pre-construction state as directed by the Commission’s Project Manager.

3. **Method of Measurement** – Clean-up will be measured on a lump sum basis.
4. **Basis of Payment** – Payment will be made at the lump sum unit price. Clean-up and restoration must be approved by the Commission’s Project Manager prior to any payment. Payment will be made only at the completion of the project and upon fulfillment of this item. Payment is full compensation for furnishing all labor, materials, equipment, and incidentals required to complete the work as specified.

O. FORCE ACCOUNT

1. **Scope of Work** – The scope of work performed under this item consists of the provision of labor, equipment, and material to undertake additional work that is not covered by specific bid items. For any force account work performed by a Subcontractor, CONTRACTOR will receive an additional allowance for administrative and overhead expenses. The additional allowance will be a percentage of the total force account invoice equal to ten percent of the first \$5,000 plus three percent of the balance in excess of \$5,000. The Commission’s Project Manager reserves the right to procure force account services by the Subcontractor of COMMISSION’s choice.
2. **Method of Measurement** – Measurement will be based on material quantities, equipment hours or other methods, as determined by the Commission’s Project Manager and agreed to by CONTRACTOR. For subcontractor force account work, measurement will be based on material quantities, equipment hours or other methods, as determined by the Commission’s Project Manager and agreed to by the Subcontractor.
3. **Basis of Payment** – Payment will be made based on the method of measurement described above. All bidders are required to submit a bid amount of \$50,000 under the force account line item.

P. POINTS OF APPROVAL

1. **Scope of Work** – The contractor is advised that a number of work items will require expressed approval by the Project Manager prior to the contractor continuing with or beginning other work items. Such items include, but may not be limited to:
 - a. A detailed construction schedule must be submitted and approved by the Commission’s Project Manager prior to beginning any other work items.
 - b. D. Silt Fencing approval must be given prior to F. Topsoil Salvage.
 - c. F. Topsoil Salvage and G. Low Water Crossing approval must be given prior to H. Earthwork.
 - d. H. Earthwork shall be given priority over other work items and approval must be given before J. Fertilizing, Mulching and Seeding and installation of the K. Erosion Control Blanket, and L. Straw Wattles.
 - e. M. Existing Fence shall not be removed until E. Temporary Fence has been installed.
 - f. Any variance in fertilizer or seed mixture must be submitted and approved by the Commission’s Project Manager prior to beginning of seeding.
 - g. The Commission’s Project Manager must approve the geotextile weave fabric, silt fencing, straw wattles and vegetative erosion control blanket prior to ordering by CONTACTOR.

400. OWNER RESPONSIBILITIES

STATE is responsible for providing all necessary Right-of-Entry documentation to CONTRACTOR upon request. If requested, the Commission's Project Manager will inform CONTRACTOR of the Right-of-Entry status to allow completion of detailed work schedules.

500. UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES

CONTRACTOR shall complete and submit attached forms for Utilization of Minority or Women-Owned Business Enterprises and Labor Surplus Area Concerns (see pages 43-45). The current Disadvantaged Business Enterprise (DBE) information can be accessed on the NDDOT website at the following link: <https://www.dot.nd.gov/divisions/civilrights/dbeprogram.htm>.

600. SUSPENSION OF WORK

If any problems arise or persist, the Commission's Project Manager has the authority to suspend any ongoing item of work until appropriate remedial action is taken in accordance with Section 105.3 of Standard Specifications for AML Reclamation Projects.

Attachments

**Figures 1 – 2
Plans and Maps (Separate Document)**

Figure 1 – Index Map

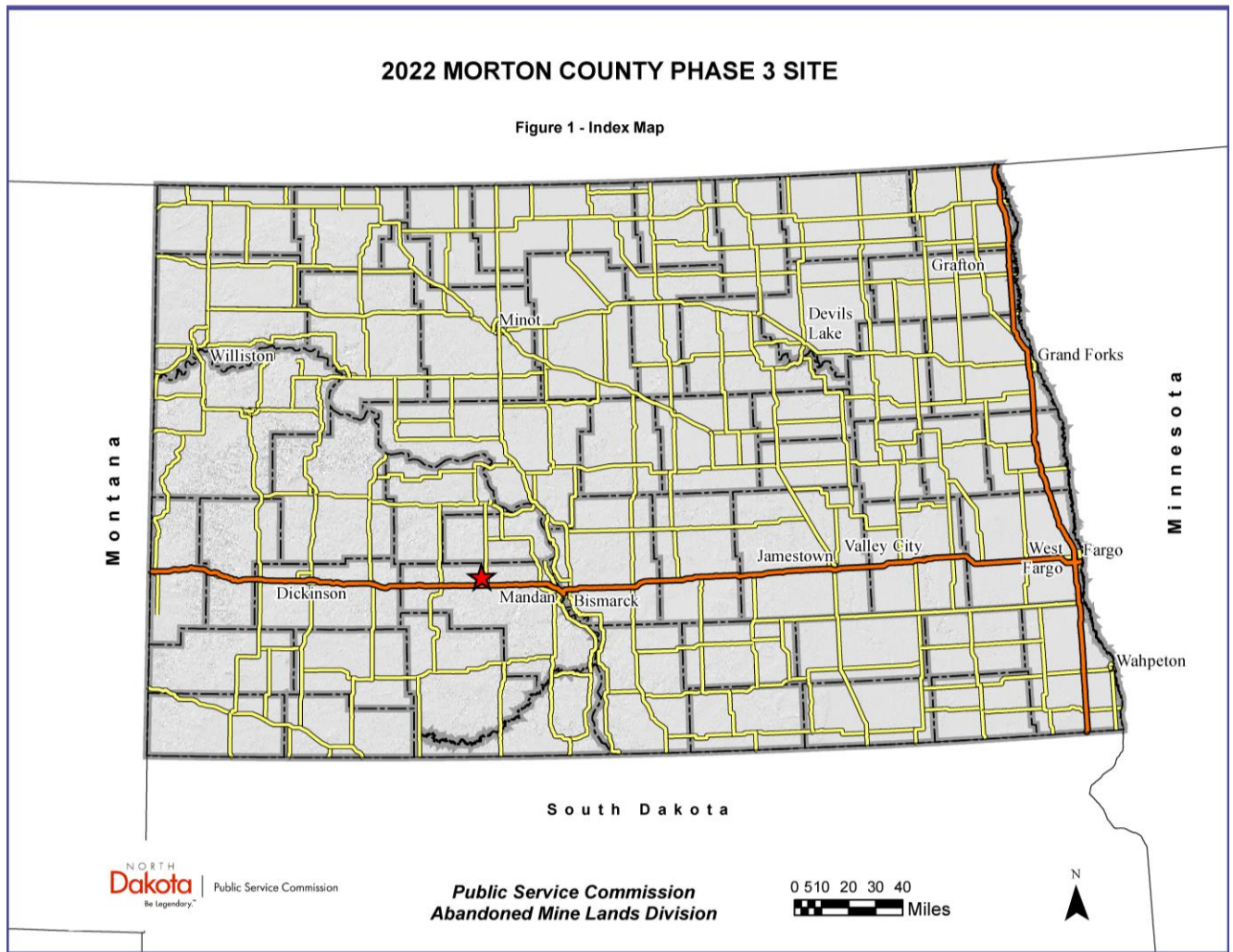
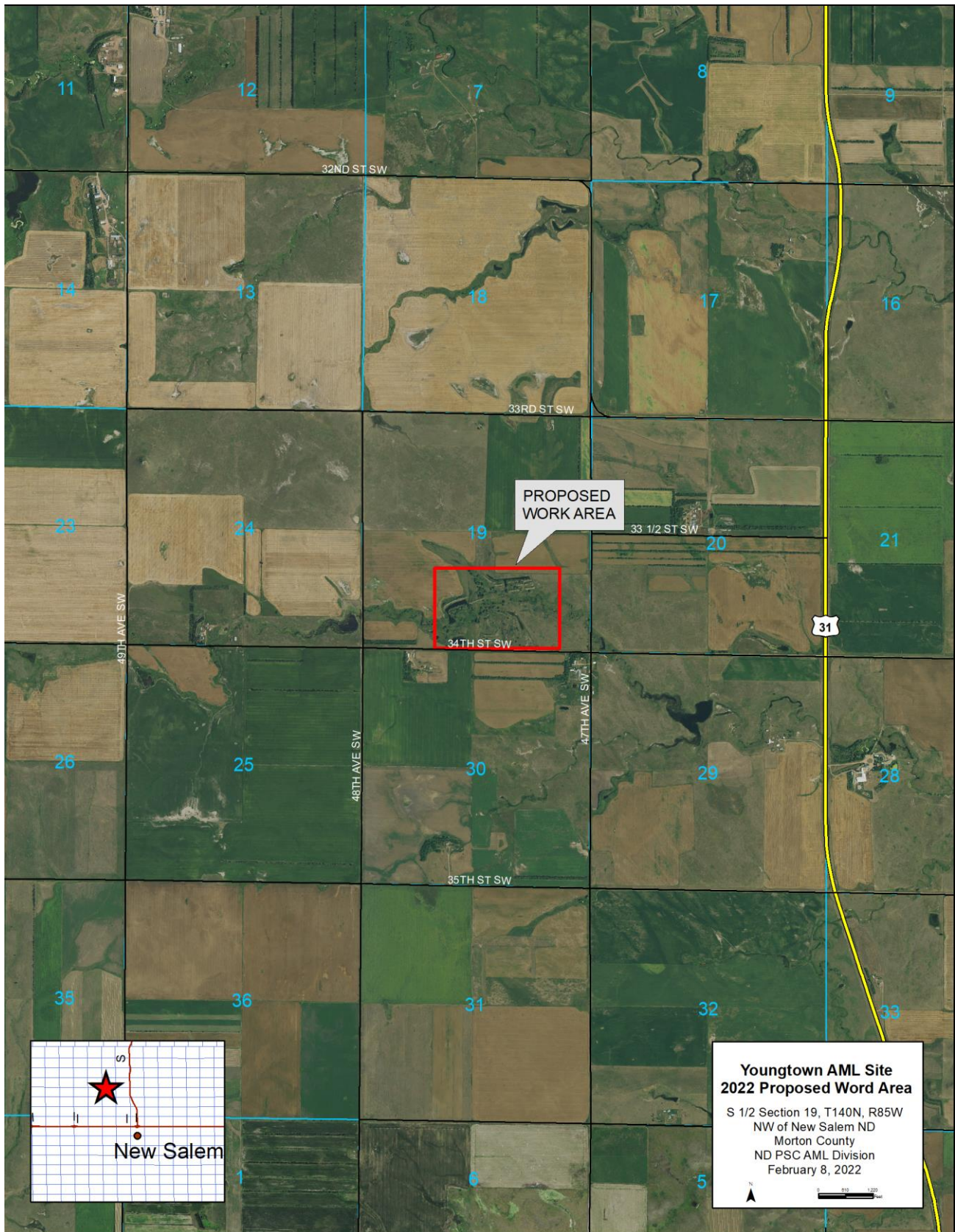


Figure 2 – Youngtown Mine Site



SECTION 7 BID FORMS

- 1. Bid Bond**
- 2. Minority and Women-Owned Business Enterprise and Labor Surplus Area
Concern Certifications**
- 3. Bid Response Form**



BID BOND
PUBLIC SERVICE COMMISSION
ABANDONED MINE LANDS DIVISION
SFN 13657 (Rev. 12-99)

Principal
Surety
Penal Sum

KNOW ALL MEN BY THESE PRESENTS, that the above named Principal and Surety, are hereby held and firmly bound unto the North Dakota Public Service Commission on behalf of the State of North Dakota as OWNER in the penal sum stated above for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed, this _____ day of _____ 20 ____.

The Condition of the above obligation is such that whereas the Principal has submitted to the North Dakota Public Service Commission a certain BID, attached hereto and hereby made a part hereof to enter into a contract in writing, for the _____

NOW, THEREFORE,

- a. If said BID shall be rejected, or
- b. If said BID shall be accepted and the Principal shall execute and deliver a contract (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and Surety have subscribed their name and affix their seals, the day and year first set forth above.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in North Dakota.

SFN 13657 (Rev. 12-99)

Witness as to Principal:	
	(Principal: Individual, Partnership, or Corporation) (SEAL)
BY	(Partner or President)
BY	(Partner or Secretary)
	(Surety) (SEAL)
BY	

Countersigned by:

North Dakota Resident Agent	P.O./Address
-----------------------------	--------------

SFN 13657 (Rev. 12-99)

ACKNOWLEDGMENT OF PRINCIPAL (Individual)

STATE OF _____)
County of _____)
)ss

On this _____ day of _____ 20 ____, before me personally comes _____, known to me to be the person who is described in and who executed the foregoing instrument and acknowledges to me that he/she executed the same.

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL (Partnership)

STATE OF _____)
County of _____)
)ss

On this _____ day of _____ 20 ____, before me personally comes _____, a member of the co-partnership of _____ known to me to be the person who is described in and who executed the foregoing instrument and acknowledges to me that he/she executed the same as and for the act and deed of the said co-partnership.

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL (Corporation)

STATE OF _____)
County of _____)
)ss

On this _____ day of _____ 20 ____, before me personally comes _____, to me known, who, being by me duly sworn, deposes and says that he/she resides in the City of _____ that he/she is the _____ of the _____, the corporation described in and which executed the foregoing instrument; that he/she knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

Notary Public

ACKNOWLEDGMENT OF SURETY

STATE OF _____)
County of _____)
)ss

On this _____ day of _____ 20 ____, before me personally comes _____, Attorney-in-Fact of _____ with whom I am personally acquainted, and who, being by me duly sworn, says that he/she resides in _____ that he/she is the Attorney-in-Fact of _____, the Company described in and which executed the foregoing instrument; that he/she know(s) the corporate seal of such Company; and that the seal affixed to the foregoing instrument is such corporate seal and that it was affixed by the order of the Board of Directors of said Company, and that he/she signed said instrument as Attorney-in-Fact of the said Company by like order.

Notary Public



**UTILIZATION OF MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISES AND
LABOR SURPLUS AREA CONCERNS**
PUBLIC SERVICE COMMISSION
ABANDONED MINE LANDS DIVISION
SFN 16755 (Rev. 12-99)

The requirements of this Special Provision will govern over any other contract provisions which may be in conflict or contrary thereto:

1. The Contractor agrees to use its best efforts to utilize minority or women-owned business enterprises (M/WBE) in the award of its subcontracts and in procuring supplies and materials to the fullest extent consistent with the efficient performance of its contract. As used in this contract, the term "minority or women-owned business enterprise" means a business, at least 51 percent of which is beneficially-owned and controlled by minority groups or women or, in the case of publicly-owned businesses, at least 51 percent of the voting interest and 51 percent of the beneficial ownership interests are held by minority groups or women. For the purpose of this definition, minority means a person who is Black, Hispanic, Asian American, American Indian, or Alaskan Native. Attached to this IFB is a list of M/WBE Contractors and Suppliers certified in North Dakota as a reference source for bidders. Bidders are in no way limited to this M/WBE list for subcontracting opportunities to M/WBE Contractors.
2. The Contractor agrees to establish and conduct an affirmative action program to ensure that minority or women-owned business enterprises will have an equitable opportunity to compete for subcontracts and furnishing of supplies. In this regard, the contracts shall:
 - a. Designate a liaison officer who will administer the Contractor's M/WBE Program.
 - b. Give adequate and timely consideration to the capabilities of known minority or women-owned business enterprises.
 - c. Ensure that known minority or women-owned business enterprises will have equal opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules.
 - d. Maintain records showing (1) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority or women-owned business enterprises, (2) awards to minority or women-owned business enterprises on the source list, and (3) specific efforts to identify and award subcontracts to minority or women-owned business enterprises.
 - e. Include this special provision "UTILIZATION OF MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISES" with certifications in all subcontracts.
 - f. Cooperate with the State in any studies and surveys of the Contractors' minority or women-owned business enterprises procedures and practices that the State may conduct from time to time.
 - g. Submit periodic reports with respect to the records referred to in subparagraph (d) above, in such form and manner and at such times (not more often than quarterly) as the State may prescribe.
3. The Contractor agrees to use its best efforts to utilize labor surplus area firms in the award of subcontracts. The term "labor surplus area" means a geographical area identified by the Department of Labor as an area of concentrated unemployment or underemployment or an area of labor surplus. The term "labor surplus area" means a concern that, together with its first-tier subcontractor, will perform substantially in labor surplus areas. The term "perform substantially in labor surplus area" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50 percent of the contract price. Attached to this IFB is a list of labor surplus area counties in North Dakota as a reference source for bidders.

The Contractor agrees to establish and conduct a program which will encourage labor surplus area firms to compete for subcontracts within their capabilities. In this connection, the Contractor shall:

- a. Designate a liaison officer who will (1) maintain liaison with duly authorized representatives of the government on labor surplus area matters, (2) supervise compliance with the "Utilization of Labor Surplus Area Concerns" clause, and (3) administer the contractor's Labor Surplus Area Subcontracting Program;
- b. Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;
- c. Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of labor surplus area concern;
- d. Maintain records showing procedures which have been adopted to comply with the policies set forth in this clause; and
- e. Include the "Utilization of Labor Surplus Area Concerns" clause in subcontracts which offer substantial labor surplus area subcontracting opportunities.

Included in Parts 4, 5, and 6 - "BID FORMS" of this IFB are one M/WBE Subcontractor Certification, one M/WBE Supplier Certification, and one Labor Surplus Area Certification which must be completed by the bidder and returned with the bid package.

FAILURE TO COMPLETE AND RETURN THESE FORMS SHALL RESULT IN BIDDER DISQUALIFICATION.

4. M/WBE SUBCONTRACTOR CERTIFICATION (See Section 600 of Part III - Special Provisions)

TO BE ELIGIBLE FOR AWARD OF THIS CONTRACT, THE BIDDERS MUST EXECUTE ONE OF THE FOLLOWING CERTIFICATIONS:

Name of Company

NEGATIVE CERTIFICATION

The bidder does not intend to sublet any portion of the work. If later circumstances dictate subletting a part of the work, the requirement under the Affirmative Certification will be satisfied.

Signed By	Title	Date
-----------	-------	------

AFFIRMATIVE CERTIFICATION

The bidder intends to sublet a portion of the contract work and hereby certifies that it has an affirmative action program to seek out and consider minority business enterprises as potential subcontractors and to document the results of such contacts.

- a. If work is to be subcontracted, provide a general description of items to be subcontracted.

--

- b. The contacts made with potential Minority or Women-owned Business Enterprise subcontractors and the results thereof are listed below: (Use additional sheets if necessary)

Signed By	Title	Date
-----------	-------	------

5. M/WBE SUPPLIER CERTIFICATION (See Section 600 of Part III - Special Provisions)

TO BE ELIGIBLE FOR AWARD OF THIS CONTRACT, THE BIDDER MUST EXECUTE THE FOLLOWING CERTIFICATION:

Name of Company

The bidder hereby certifies that it has an affirmative action program to seek out and consider Minority or Women-owned Business Enterprises as potential suppliers and to document the results of such contacts. The contacts made with potential Minority or Women-owned Business Enterprise suppliers and the results thereof are listed below: (Use additional sheets if necessary)

--

Signed By	Title	Date
-----------	-------	------

6. LABOR SURPLUS AREA CERTIFICATION

TO BE ELIGIBLE FOR AWARD OF THIS CONTRACT, THE BIDDER MUST EXECUTE ONE OF THE FOLLOWING CERTIFICATIONS:

NEGATIVE CERTIFICATION

The bidder does not intend to sublet any portion of the work. If later circumstances dictate subletting a part of the work, the requirements under the Affirmative Certification will be satisfied.

Signed By	Title	Date
-----------	-------	------

AFFIRMATIVE CERTIFICATION

The bidder intends to sublet a portion of the contract work and hereby certifies that it has a labor surplus area concern program to seek out and consider potential subcontractors from labor surplus areas and to document the results of such contacts.

a. If work is to be subcontracted, provide a general description of items to be subcontracted.

b. The contacts made with potential Labor Surplus Area subcontractors and the results thereof are listed below: (Use additional sheets if necessary)

Signed By	Title	Date
-----------	-------	------

BID RESPONSE FORM

SPECIFICATIONS

Morton County Phase 3 AML Project. See Section 6 – Specific Provisions and Attachments for full specifications

ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	1	L.S.	Mobilization – Not to exceed 10% of total contract bid	\$	\$
2	1	L.S.	Site Preparation	\$	\$
3	1	L.S.	Water Management	\$	\$
4	3,750	L.F.	Silt Fencing	\$	\$
5	2,700	L.F.	Temporary Fencing	\$	\$
6	4,000	Yd ³	Topsoil Handling	\$	\$
7	47,000	Yd ³	Earthwork	\$	\$
8	500	L.F.	Constructed Low Water Crossing	\$	\$
9	1,500	Yd ³	Manure Hauling	\$	\$
10	10.7	Acre	Fertilizing, Seeding, and Mulching	\$	\$
11	900	L.F.	Erosion Control Blanket	\$	\$
12	2,650	L.F.	Straw Wattles	\$	\$
13	1,700	L.F.	Permanent Fencing	\$	\$
14	1	L.S.	Clean Up	\$	\$
15	1	L.S.	Force Account	\$50,000	\$50,000
			TOTAL (IN NUMBERS)		

Written Total:

Affirm your ability to meet the period of performance	YES	NO
--	-----	----

Also enclosed in this package is a bind bond, certified check or cashier's check in the amount of:

PROJECT MANAGER: The CONTRACTOR must provide a dedicated project manager to support this contract. During the contract term, the CONTRACTOR shall notify the Procurement Officer if CONTRACTOR's project manager changes.	
Project Manager Name:	
Address:	
City & State & ZIP:	
Phone Number:	
Cell Phone Number:	
Toll Free Number:	
E-Mail Address:	
Fax Number:	

BIDDER INFORMATION AND SIGNATURE	
<p>By submitting a Bid Response, the Bidder agrees to sell, furnish, and deliver to the STATE all commodities and services contained in this Invitation for Bid for which a contract is awarded by the STATE. The Bidder shall fully perform the contract in accordance with all the specifications, requirements, terms, and conditions, and shall comply with all applicable provisions of the North Dakota Century Code, including chapters 54-44.4, 46-02, and 44-08, and North Dakota Administrative Code Chapter 4-12, made part of the Invitation for Bid and resultant contract by reference.</p> <p>Written acceptance of the Bid Response by the STATE constitutes a binding contract made and entered into by and between the State of North Dakota, acting through the Purchasing Agency, and the Bidder named below. Written acceptance may be made by execution of a contract, purchase order, or order using a state purchasing card.</p> <p>NOTICE. All notices or other communications required under this Contract must be given by registered or certified mail and are complete on the date postmarked when addressed to the parties identified herein. Notice provided under this provision does not meet the notice requirements for monetary claims against the STATE found at N.D.C.C. § 32-12.2-04.</p> <p>By signing below, I acknowledge that I have reviewed all documents associated with this IFB.</p>	

Bidder/Contractor Name:	
Contractor Federal Employer Identification Number (FEIN)	
Bidder Street Address/ P.O. Box:	
City, State ZIP:	
Contact Name:	
Contact Title:	
Telephone Number:	
Email:	
Authorized Representative Signature:	
Date:	

2022 MORTON COUNTY PHASE 3 AML PROJECT

MORTON COUNTY, NORTH DAKOTA

PROJECT SITE

THE EAST YOUNGTOWN MINE TRACT IS LOCATED WITHIN THE
SE $\frac{1}{4}$ SECTION 19, T140N, R85W.

THE WEST YOUNGTOWN MINE TRACT IS LOCATED WITHIN THE
SW $\frac{1}{4}$ SECTION 19, T140N, R85W.

INDEX OF SHEETS

COVER SHEET	1
WEST YOUNGTOWN MINE TRACT PRE-RECLAMATION TOPOGRAPHY	2
WEST YOUNGTOWN MINE TRACT POST-RECLAMATION TOPOGRAPHY	3
WEST YOUNGTOWN MINE TRACT CUT & FILL	4
LOW WATER CROSSING – ROAD DETAILS	5
EAST YOUNGTOWN MINE TRACT PRE-RECLAMATION TOPOGRAPHY	6
EAST YOUNGTOWN MINE TRACT POST-RECLAMATION TOPOGRAPHY	7
EAST YOUNGTOWN MINE TRACT CUT & FILL	8



NORTH DAKOTA
PUBLIC SERVICE COMMISSION
ABANDONED MINE LANDS DIVISION

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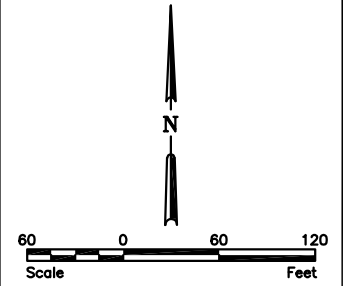


SALVAGE RIP-RAP FOR CROSSING

PET CEMETERY

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E: 1727500.57
ELEV. 2112.04

● CP # 189
N: 458800.80
E: 1727912.92
ELEV. 2119.83



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ABANDONED MINE LANDS
DIVISION

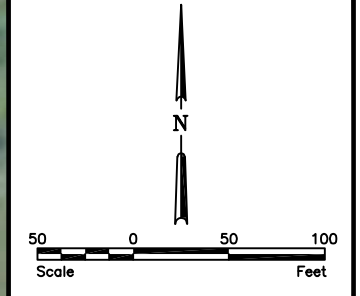
WEST YOUNGTOWN MINE TRACT PRE-RECLAMATION TOPOGRAPHY

MORTON COUNTY PHASE 3
MORTON COUNTY
NORTH DAKOTA

Drawn by MTH	Date 2-08-2022
Checked by	Scale AS SHOWN

LEGEND	
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●	CONTROL POINTS
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ABANDONED MINE LANDS
DIVISION

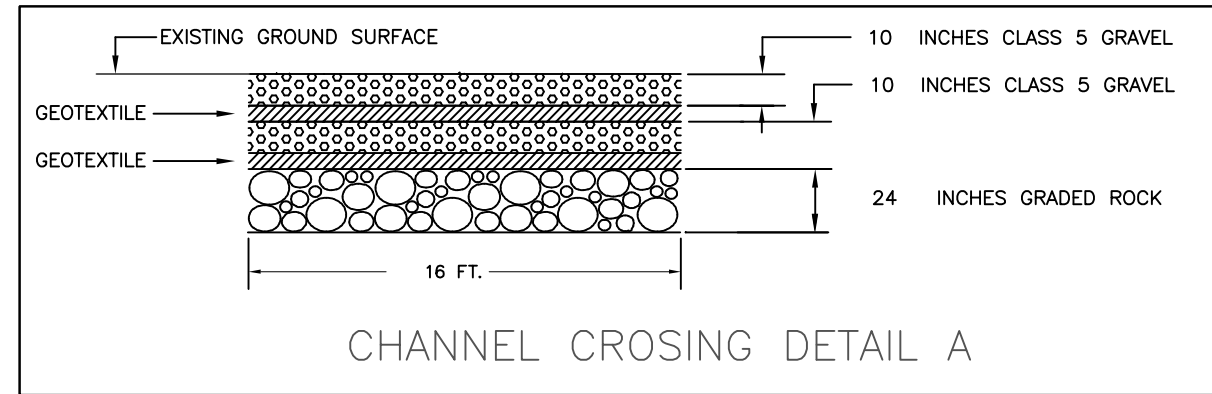
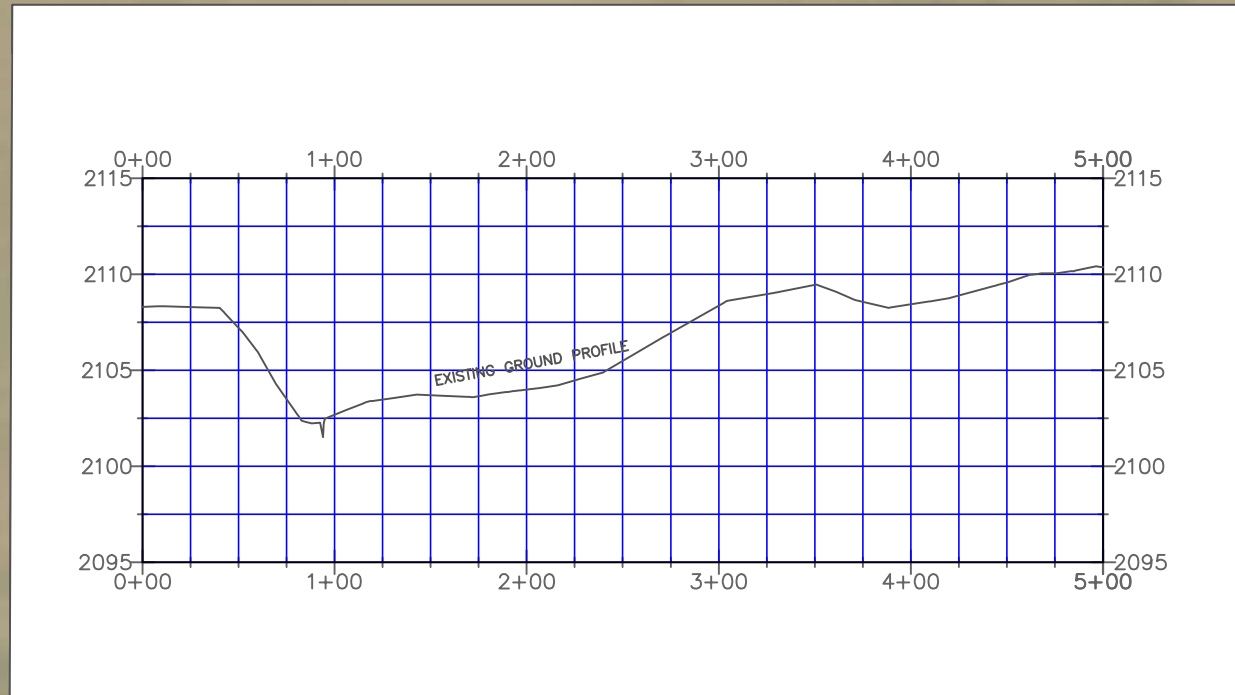
WEST YOUNGTOWN MINE
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POST-RECLAMATION
TOPOGRAPHY

MORTON COUNTY PHASE 3
MORTON COUNTY
NEW SALEM, NORTH DAKOTA

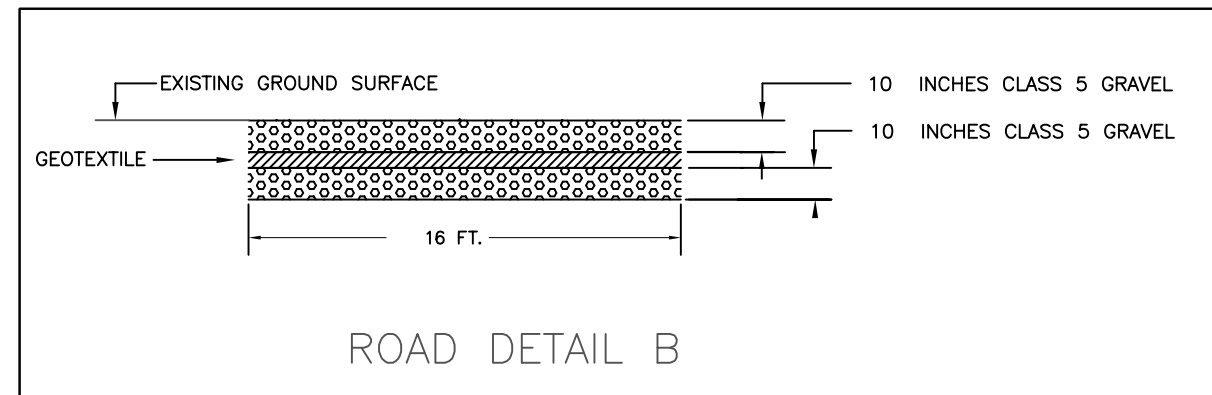
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	SILT FENCE

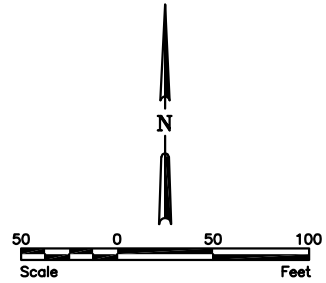
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NOTE: APPROXIMATELY 15 LINEAR FEET OF THE CONFIGURATION SHOWN IN THIS DETAIL WILL BE CONSTRUCTED ACROSS THE EXISTING DRAINAGE CHANNEL. START AND END STATIONS WILL BE STAKED IN THE FIELD BY THE COMMISSION'S PROJECT MANAGER.



NOTE: ROAD DETAIL IS TYPICAL FOR APPROXIMATELY 485 LINEAR FEET OF ROADWAY (EXCEPT THE CHANNEL CROSSING DETAIL A).



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DIVISION

**LOW WATER CROSSING
ROAD DETAILS
SW ¼ SECTION 19
T140N, R85W**

MORTON COUNTY PHASE 3
MORTON COUNTY
NORTH DAKOTA






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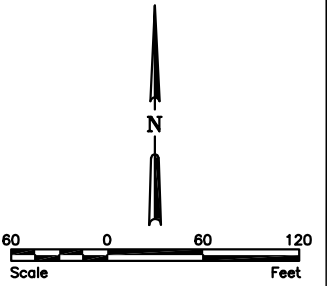
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ELEV. 2112.04

●CP# 199
N: 458800.50
E: 1727912.92
ELEV. 2119.95

LEGEND			
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	PROJECT BOUNDARY		



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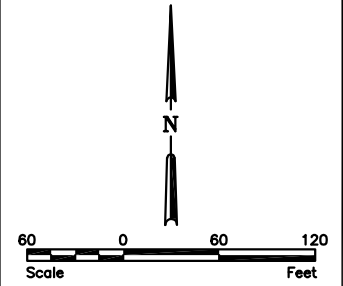
NORTH DAKOTA
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ABANDONED MINE LANDS
DIVISION

WEST YOUNGTOWN MINE TRACT CUT & FILL

MORTON COUNTY PHASE 3
MORTON COUNTY
NORTH DAKOTA

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ABANDONED MINE LANDS
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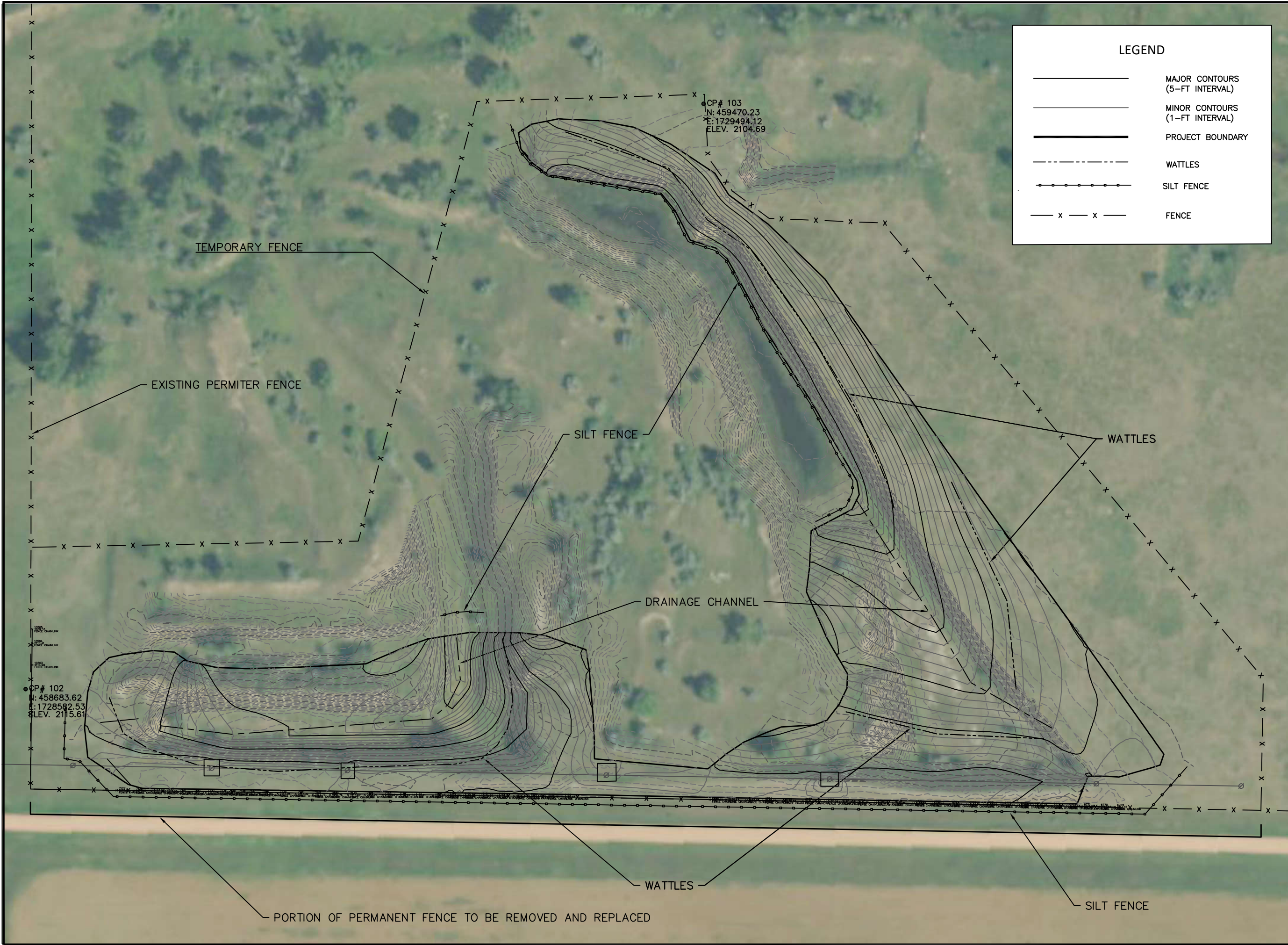
EAST YOUNGTOWN MINE TRACT PRE-RECLAMATION TOPOGRAPHY

MORTON COUNTY PHASE 3
MORTON COUNTY
NORTH DAKOTA







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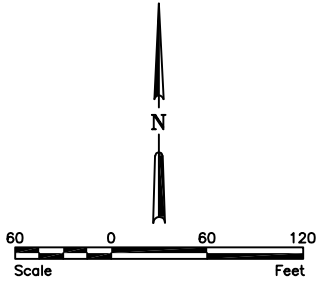
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-  WATTLES
-  SILT FENCE
-  FENCE



NORTH Dakota Public Service Commission
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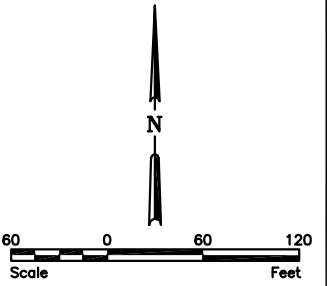
NORTH DAKOTA
PUBLIC SERVICE COMMISSION
ABANDONED MINE LANDS
DIVISION

EAST YOUNGTOWN MINE TRACT POST-CONSTRUCTION TOPOGRAPHY

MORTON COUNTY PHASE 3
MORTON COUNTY
NORTH DAKOTA

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NORTH DAKOTA
PUBLIC SERVICE COMMISSION
ABANDONED MINE LANDS
DIVISION

EAST YOUNGTOWN TRACT CUT & FILL

MORTON COUNTY PHASE 3
MORTON COUNTY
NORTH DAKOTA

Drawn by MTH	Date 2-08-2022
Checked by	Scale AS SHOWN

LEGEND	
	MAJOR CONTOURS (5-FT INTERVAL)
	MINOR CONTOURS (2-FT INTERVAL)
	PROJECT BOUNDARY
	CUT AREA
	FILL AREA
	DAYLIGHT AREA