



Bis-Man Transit Board Meeting

November 29, 2021, 11:30AM

<https://us02web.zoom.us/j/85736023758>

Call in: +1 312 626 6799; Meeting ID: 857 3602 3758

Welcome & Introductions

Approval of Agenda

Consent Agenda

1. Previous Month's Minutes
 - a. Attachment A – October Regular Meeting
 - b. Attachment B – November Finance Committee Meeting
 - c. Attachment C – November CTIC Meeting
2. Financial Report
 - a. Attachment D
3. Ride Stats
 - a. Attachment E
4. FY23 5310 Grant Application
 - a. Attachment F

Public Comment

Unfinished Business

New Business

1. 2022 Holiday Hours
 - a. Attachment G
2. COVID Cleaning – National Express Amendment
 - a. Attachment H
3. DBE Program Update – *Pending City of Bismarck Attorney Review*
 - a. Attachment I

4. FY22 Budget Discussion
 - a. Attachment J
5. Administrative Committee – Executive Director Review

Executive Director Report

1. State Capital Paratransit Drop-offs
2. Community Charity Event Update
3. Ridership Update
4. Advertising Update

Operations Report

Other Business

Adjourn

- The next Board Meeting will be held December 16, 2021 at 11:30am.**



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Bismarck, ND 58501



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A

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

Bis-Man Transit Regular Board Meeting Minutes

October 28, 2021, 11:30 A.M.

Via Zoom

Attending:	President/Shauga Laber	Sec. /Tres. DeNae Kautzmann
	Lacey Long	Royce Schultze
	Glenn Lauinger	Steve Heydt
	Helen Baumgartner	Commissioner Guy

Not Attending:	Vice President/Lynn Wolf	Karel Sovak
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Staff:	Deidre Hughes	Taylor Kitzan
	Craig Thomas	Mike Mundahl
	Tom Reisenauer	

Guests	Rachel Drewlow	Trevor Vannett
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Meeting was called to order at 11:30 A.M.

Approval of Agenda: Lacey moved to approve the revised agenda. Steve seconded the motion. Motion carried unanimously.

Consent Agenda: DeNae moved to approve the consent agenda. Steve seconded the motion. Motion carried unanimously.

Public Comment: N/A

Unfinished Business:

- 1. Strategic Plan Topics and Meeting Date:** Deidre discussed that based on the survey results, December 11th is the best time to hold the Roundtable Meeting. This meeting will be from 8 AM to 11 AM and will be held at the Transit Facility, but will also be provided online through Zoom. Deidre explained the different topics that will be discussed from the attachment sent to the Board.
- 2. Coordinated Public Transit – Human Services Transportation Plan Acceptance:** Deidre discussed that she sent out the Plan last week and that there was a revision to Taxi 9000's operating hours. The Public Hearing was held this morning at 10 AM. Staff recommends the Board to approve the plan as presented. Steve approved to accept the plan as presented. Glenn seconded the motion. Motion carried unanimously.
- 3. City of Bismarck Public Transit Agreement - *Pending COB Contract Review process:*** Deidre explained that this is the amendment to the original agreement and it will extend to December 31, 2026, with another 5-year extension option. Federal clauses were also added recommended by the FTA during our Triennial Review. Glenn moved to approve the amendment as presented with the City of Bismarck. Steve seconded the motion. Motion carried unanimously.

Commissioner Guy asked if this amendment has gone through the City Attorney for approval. Deidre asked Rachel Drewlow if this had been completed. Rachel answered that yes, the amendment has gone through all staff review.





New Business:

- 1. Financial Statement Preparation 2021:** Deidre discussed that staff wishes to have quarterly and annual financial statements prepared by an accounting firm. Request for Quote was sent to Schmitz-Holstrom, Krumm & Associates, Point CPA, and Haga Kommer. Schmitz-Holstrom declined to submit a quote at this time. Haga Kommer was the only firm to submit a quote. The quote is a total of \$3,400 for all Financial Statement Preparation 2021. Glenn moved to approve the Haga Kommer quote for Financial Statement Preparation for 2021. Lacey seconded the motion. Motion carried unanimously.
- 2. Fargo V-MAC Expense Write-off:** Deidre explained that due to non-responsiveness, lack of resources, and staff time spent that staff recommends to write off the expense from Fargo VMAC. Steve moved to approve the Fargo VMAC Expense Write-off. Royce seconded the motion. Motion carried unanimously.
- 3. Community Charity Event:** Deidre discussed that staff is planning a Blood Drive as well as a small "Stuff the Bus" event for Toys for Tots. Depending on Vitalant's schedule, this event will be scheduled on December 10th or 11th at the Transit facility.

Executive Director Report:

- 1. American Rescue Plan Grant Application:** Deidre discussed that the ARP Grant Application was submitted last Friday by the MPO. Transit will hear back from the FTA in early 2022 to know if this funding is awarded.
- 2. City of Lincoln Update:** Deidre explained that all signatures have been obtained on the City of Lincoln contract and it is now in effect.

Operations Report: Danae discussed that last October, we were 92% staffed for drivers. This October, we are 78% staffed. To be fully staffed, we would need 36 drivers. Currently we have 28 for both para and fixed route. Not only has our staffing decreased, but our ridership has increased. On para, we have taken almost 800 more trips than last October. With the shortage of drivers, we are still operating at 95% for on-time performance on para. National Express is



actively seeking new hires and will continue to put their best effort forward towards performance goals.

Tomorrow National Express is hosting a Spooktacular Friday for employees. This includes dressing up for Halloween and enjoying breakfast together. This is a fun and festive way for management to show our appreciation for employee's hard work and dedication. Buses will also have pumpkin buckets with pre-packaged candy for passengers to take as a fun way to be involved in trick or treating.

Other Business: Commissioner Guy discussed that she had a coffee meeting with Kristen Dvorak, from The Arc, and that Kristen is impressed with the leadership at Transit.

DeNae moved to adjourn the meeting. Helen seconded the motion. Motion carried unanimously.

Meeting adjourned at 11:57 A.M.



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B

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

Bis-Man Transit Finance Committee Meeting Minutes

November 24, 2021, 2:00 P.M.

Via Zoom

Attending:

Glenn Lauinger

Chair DeNae Kautzmann

Shauna Laber

Staff:

Deidre Hughes

Taylor Kitzan



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Meeting was called to order at 2 pm.

The FY23 5310 grant application is for funding the mobility manager position at 80/20 and for after hours and Sunday demand response service at 50/50. Glenn pointed out that this is advantageous because if the grant application is funded it would cover half the cost of the demand response service. The committee recommends the Board approve submitting this grant application.

CTIC met regarding 2022 holiday hours for paratransit. Christmas next year falls on a Sunday. The question was whether normal Sunday hours apply or longer hours. CTIC is recommending hours on Christmas run from 7:30 am to 7:30 pm. The committee discussed the motion made years ago regarding 45 hours of holiday service per year. The question was whether it was set at 45 or up to 45 hours. The committee has a staffing concern due to Covid. We are not fully staffed to run all day on Christmas. The committee recommends to the Board that it adopt paratransit service provided on holidays may be provided up to 45 hours per year spread out over the holidays identified and if the holiday falls on a Sunday the hours default to the normal Sunday hours of operation.

The amendment regarding Covid cleaning was amended to provide that effective April 1, 2021 it is paid for out of federal transit funding. The CARES funding ran out and rather than identify a particular source of funding in the agreement with National it would generally refer to the funding source. The committee recommends approval of the amendment.

The 2022 budget was discussed. Anticipated dollars such as STIC funding was not included. ARP funding could be used for the last 3 months of this year but staff and Glenn recommend that it be used in the first 3 months of 2022. Committee recommends ARP be used in 2022.

A 3% cost of living and a 4% set aside for salary adjustment/bonus was included in the salary line item. The committee discussed one position being below market rate. Merit increases were also discussed. The committee recommends for the 2022 budget a 3% cost of living raise and a 5% pool for merit increases and equity adjustments.

The committee discussed no longer having a bonus scheme for employees going forward in 2022. This includes the Executive Director, it was felt it is better to give a merit increase which boosts the salary than a bonus which does not. The matter will be referred to the Administrative Committee.

Projected income for 2022 was discussed. Staff is confident we will hit \$80,000 in ad revenue as we still have window, benches and shelters for ad sales. Fares have been increasing because ridership is up. It is anticipated that ridership numbers will continue to increase. Operating costs are higher due to more revenue hours, price of fuel. The projected cost of fixed route operations should be spot on but demand response could be higher. 2022 budget shows a surplus of \$75,548.49. This is a comfortable margin for error on any estimates.

Meeting adjourned.





C

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

Community Transportation Input Committee Meeting Minutes

November 23, 2021, 10:00 A.M.
Via Zoom Conference Call
3750 E Rosser Avenue, Bismarck

Attending:

Chair/Helen Baumgartner

Glenn Lauinger

Lynn Wolf

Randee Sailer

Jeannie Pedersen

Trevor Vannett

Susan Dingle

Staff:

Deidre Hughes

Mike Mundahl



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Meeting called to order at 11:02 A.M.

2022 Holiday Hours: Deidre discussed the presented 2022 Holiday Hours, highlighting concerns with Christmas Day landing on a Sunday. Trevor made a motion, with a second by Lynn, to accept the holiday hours as proposed, with Memorial Day and Labor Day hours of 12pm – 4pm, and Christmas Day hours 7:30am – 7:30pm.

State Capital Paratransit Drop-offs: Deidre told the committee that all paratransit drop-offs must be completed at the south entrance. Pick-ups can be done at other locations at the capitol building as long as that information is relayed to the scheduler.

Meeting adjourned at 11:42 A.M.



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October 2021

MONTHLY REPORT

	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD	
RIDERSHIP							
FIXED ROUTE	6,147	46,082	5,225	47,251	17.65%	-2.47%	
PARATRANSIT	7,825	71,429	6,229	60,435	25.62%	18.19%	
Total	13,972	117,511	11,454	107,686	21.98%	9.12%	
FR AVG. DAILY BOARDINGS	236.42						
DR AVG. DAILY BOARDINGS	252.42						
			Pass./Hour	Pass./Hour	Pass./Hour		
REVENUE HOURS							
	Month	YTD	Month	YTD	PY YTD	PY YTD	% INC/DEC OVR PYTD
FIXED ROUTE	1,842.00	18,212.50	3.34	2.53	3.17	14,921.3	22.06%
PARATRANSIT	2,539.32	23,706.34	3.08	3.01	2.48	24,328.6	-2.56%
Total	4,381.32	41,918.84	3.19	2.80	2.7	39,249.9	
			Pass./Mile	Pass./Mile			
REVENUE MILES							
	Month	YTD	Month	YTD	PY YTD		% INC/DEC OVR PYTD
FIXED ROUTE	29,461	295,001	0.21	0.16	248,730		18.60%
PARATRANSIT	35,291.91	324,361.27	0.22	0.22	320,021		1.36%
Total	64,753.11	619,362.67	0.43	0.38	568,751		8.90%
ON TIME PERFORMANCE							
	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD	
FIXED ROUTE	90.00%						
PARATRANSIT	95.00%	94.00%	94.00%	98.00%	1.06%	-4.08%	
RIDERSHIP PER ROUTE							
ROUTE	Month	YTD		PY Month		% INC/DEC OVR PYM	
BLACK	1365	9651		881		54.9%	
BLUE	760	6779		1020		-25.5%	
GREEN	1276	7779		818		56.0%	
RED	728	4674		865		-15.8%	
ORANGE	938	6044					
PURPLE	1080	10478		831		30.0%	
U-Mary	165	913		161		2.5%	
ACCIDENTS							
	Month	Month at Fault	YTD	YTD at Fault			
FIXED ROUTE	0	0	3	3			
PARATRANSIT	0	0	10	8			
SERVICE VEHICLE	0	0	0	0			
COMPLAINTS							
	Month	YTD					
FIXED ROUTE	1	18					
PARATRANSIT	2	32					
Office Staff	0	2					
COMPLIMENTS							
	Month	YTD					
FIXED ROUTE	0	0					
PARATRANSIT	0	7					
Office Staff	0	3					



F

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

November 29, 2021

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: FY2023 - 5310 Grant Approval

RECOMENDATION: Staff recommends approval of the grant application for submittal to the City of Bismarck and the State of North Dakota.

BACKGROUND: Section 5310, Enhanced Mobility of Seniors and Individuals with Disabilities Program goal is to improve mobility for older adults and persons with disabilities throughout the country. Under 49 U.S.C. 5310 funding provides financial assistance for capital purchases and operating assistance for transportation services planned, designed and carried out to meet the special transportation needs of older adults and persons with disabilities in all small urban and rural areas.

DISCUSSION: If awarded, the grant funds will cover expenses from July 1, 2022 to June 30, 2023, which is the state fiscal year.

FINANCIAL IMPACT: If the application is approved by the North Dakota Department of Transportation, Bis-Man Transit would be required to provide 20% local match for the mobility manager salary and 50% local match for the after hours and Sunday demand response service.

Project	Federal	Local
Mobility Manger Salary	\$24,240	\$6,060
After Hours Demand Response Service	\$71,250	\$71,250
Sunday Demand Response Service	\$49,500	\$49,500



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FY2023 - Section 5310 – Enhanced Mobility of Seniors & Individuals with Disabilities

Agency Name	Bis-Man Transit	
Agency Contact	Deidre Hughes	Phone: 701.258.6817
DUNS #	83-441-0987	

Section 5310, Enhanced Mobility of Seniors and Individuals with Disabilities Program goal is to *improve mobility for older adults and persons with disabilities throughout the country*. Under 49 U.S.C. 5310 funding provides financial assistance for capital purchases and operating assistance for transportation services planned, designed and carried out to meet the special transportation needs of older adults and persons with disabilities in all small urban and rural areas. The program requires coordination of federally assisted programs and community services in order to make the most efficient use of federal resources.

The entire Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program is further explained in FTA Circular 9070.1G, located on the FTA website at:

https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/C9070_1G_FINAL_circular_4-20-15%281%29.pdf

Please Note:

- This application for funding will use FTA annual apportionment Section 5310 funds, Coronavirus Response and Relief Supplemental Apportionments Act (CRRSAA) for 2021 and American Rescue Plan (ARP) Act of 2021 funds.
- CRRSAA and ARP for operating and mobility manager projects is 100% federal funds with no match required. Funding these operating and mobility manager projects is the top priority for these funds. ADA vehicles may not be funded at 100%.
- Capital project requests for ADA vehicles will require a minimum of **15% Local Match**. All other capital project requests will require a minimum of **20% Local Match**.
- Mobility Manager salary is a capital project expense and requires a minimum of **20% Local Match for Section 5310 annual apportionment funds**.
- Assets purchased with Federal Funds must be maintained and inventoried through a Transit Asset Management (TAM) Plan.
- As with most Federal Assistance Programs, Section 5310 is designed as a reimbursement program. Your agency should be prepared to pay for expenses upon delivery/acceptance and then request reimbursement from NDDOT.
- If you are awarded a Section 5310 project, your agency will be required to report a number of

performance measures, at least annually, to NDDOT. Information required to report may include, but not limited to the following:

- The number of 5310 one-way trips;
 - The number of 5310 vehicles you have in service; and
 - 5310 ridership demographics.
- If requesting a replacement vehicle, the vehicle listed must have met FTA/NDDOT Useful Life. However, regardless of useful life having been met, federal interest remains until the value of the vehicle or equipment falls below \$5,000.
 - If you receive \$750,000 from any federal source, you are required to have a Single Audit per 2 CFR 200 Subpart F.
 - Vehicles may be used to provide meal delivery service for homebound persons on a regular basis in conjunction with passenger transportation. Delivery service **must not** conflict with the provision of transit services or result in reduced service to transit passengers.
 - Federal Funds awarded for vehicles will only be awarded for ADA vehicles requests.
 - Prior to contracting, your agency must have a completed FY 2022 FTA Certifications and Assurances uploaded in BlackCat.
 - Prior to contracting, your agency must be active in the System of Award Management (SAM.gov).
 - All applications are due **December 31, 2021, 12:00pm CDT**. Late and/or incomplete applications may be subject to a penalty percentage reduction of requested amount or may be eliminated from funding consideration.
 - The NDDOT Transit Staff is available to provide guidance and answer any questions on the application process. E-mail: bhanson@nd.gov, dkarel@nd.gov, or jsmall@nd.gov.

General Information

1. Provide a detailed description of the transportation services your agency currently provides **for seniors and disabled individuals**, and any plans for increasing services, expanding service area and increasing ridership. (include days and hours of service, fare structure, total vehicles in service, type of service being provided, transportation provided to what counties and communities in your service area, etc.).

Bis-Man Transit currently provides fixed route service for the cities of Bismarck and Mandan and complementary paratransit services, with demand response available for senior and disabled passengers including those in the City of Lincoln. We remain focused on transitioning current demand response riders to our fixed route service, as well as gaining new fixed route ridership with a fixed route redesign. A complete route restructure will help bolster fixed route ridership and make for a more usable system for Bismarck and Mandan by shifting routes to low-income residential locations. The most recent route redesign went into effect February 1, 2021.

Fixed route service is provided on six routes from 6:30 a.m. - 7:00 p.m. Monday through Friday and 7:30 a.m. – 7:00 p.m. on Saturday. All 9 vehicles in the fixed route fleet are ADA accessible with service being provided for Bismarck and Mandan. Regular fares are: \$1.50 for a one-way trip, \$6.00 for a 1-day pass, and \$36 for a 30-day pass. Fares for those who are certified to utilize our demand response services or those

over the age of 65 are able to ride free. Reduced fares for students K-College, veterans, and those on Medicare is \$.75 for a one-way trip, \$3.00 for a one-day trip, and \$24.00 for a 30-day pass. In 2019, 102,538 unlinked passenger trips were provided on fixed route. In 2020, 55,445 unlinked passenger trips were provided on fixed route. The significant decline can be attributed to the COVID-19 pandemic.

Paratransit/demand response service is provided to individuals with disabilities and seniors over the age of 70 with a fleet of 19 cutaway buses and two rear lift vans. The service area covers the city limits of Bismarck and Mandan, the city of Lincoln and within ¾ mile of any fixed route. A one-way fare is \$3.00/ Services are provided from 5:30am – 12:00am, Monday through Saturday and 7:30am - 2:30pm on Sunday. In 2019, 108,609 unlinked passenger trips were provided on paratransit. In 2020, 71,635 unlinked passenger trips were provided on paratransit. The significant decline can be attributed to the COVID-19 pandemic.

Services are provided in both Burleigh and Morton Counties

2. Explain where in your current 3-5 Year Plan this project(s) is specifically stated (list section and page number(s)). Your current plan must be uploaded into BlackCat Resources.

- Yes List section and page number(s):
 No (Applicant must provide an explanation)

Page 57 of the current Transit Development Plan also describes the possibility of eliminating this evening service if enough funds are not able to be obtained to keep the system running under its current design.

The mobility manager duties are required for the processing of paratransit eligibility as well as rider training for both paratransit and fixed route passengers. This item was not indicated as a project within the Transit Development Plan; however, is necessary to continue providing service

3. What percentage of change in ridership has your agency experienced in the SFY2022 reporting period? Provide a brief explanation of the reason for the change in ridership.

- Increase
 Decrease *Due to COVID-19, Bis-Man Transit experienced a significant decrease in ridership for 2020. Ridership has been on the rise in 2021 for both paratransit and fixed route, but remains lower than pre-pandemic ridership.*

4. List all existing public transportation providers operating in your service area.

N/A

5. Are you the lead transit provider in your area? If not, what is the relationship of your program(s) to other transportation providers?

- Yes
 No

6. Please describe the need for transit service in your area **for seniors and disabled individuals**? Why does this need exist? How have you determined this need? How will the proposed project address this need for

service?

In Bismarck/Mandan, we have a large elderly and disabled population that requires public transportation to take them to medical appointments, employment, recreation and other destinations. The need for these trips extends into the evening hours. From 7:00 PM to 12:00 AM Monday thru Saturday, we transport approximately 6,500 on an annual basis which demonstrates that evening hour rides are needed in the community. From 7:30 AM to 2:30 PM on Sundays, we transport approximately 4,100 passengers on an annual basis.

7. Provide a description of how you market the transportation program and to whom in the box below.

Public transportation is promoted within the community through the use of social media, company website, participation in public school and college orientation days and community fairs, as well as various business partnerships. Fixed route bus maps have been placed throughout Bismarck and Mandan to encourage potential riders to try CAT Bus service. With the decrease in public parking available in the downtown Bismarck area, public transportation will play a major role in providing access to this area for individuals within the community.

Ridership and Fleet Information

***Report actual ridership numbers, miles and hours for SFY2021 & 2020.**

***Enter current fleet information below.**

***Current fleet and mile information MUST be also be updated in BlackCat Inventory.**

	SFY2021 - Ridership and Fleet Information	SFY2020 - Ridership and Fleet Information
Number of Annual Ridership (Trips) Provided	129,516	166,716
Number of Annual Revenue Hours	49,158.35	51,701.90
Number of Annual Revenue Miles	729,583.35	754,324.68
Number of Vehicles in Fleet	30	30

8. What is the purpose of the three most requested trips that your clients require? (e.g. medical, shopping, employment, education, social, etc.)

1. Employment

2. Medical

3. Social Services

Coordinated Public Transit Human Services Transportation Plan

Applicants must be part of a locally derived Coordinated Public Transit Human Services Transportation Plan approved by North Dakota Department of Transportation (NDDOT) and uploaded to BlackCat Resources prior to submission of this application.



9. When was your Coordinated Public Transit Human Services Transportation Plan approved by the NDDOT Transit Section? Has it been uploaded into BlackCat Resources? Since submitting your plan describe any additional efforts made to coordinate service.

The Coordinated Public Human Services Transportation Plan was approved on October 28, 2021 and has been uploaded into BlackCat. Several items from the previous plan were retained in the new plan. This includes continue to transition paratransit riders to fixed route, improving partnerships, and increase marketing efforts. Additional items in the new plan include increase public signage for better fixed route visibility and exploring after hour service for fixed route riders with 2022 timelines.

10. Describe any potential opportunities for additional coordination. (include social service agencies, county social services, community actions, educational institutions, youth groups, veteran services, religious organizations, other transportation services, etc.) that may address unmet transit needs in your service area.

Bis-Man Transit continues to focus on coordination with education institutions, local hospitals, social service agencies, group homes, and retirement communities. Through the recent route changes, many of these agencies were contacted for input. The current routes provide better access and coverage than in the past. Large flat fixed route flat maps have been distributed throughout the community to encourage ridership.

11. Is the requested project(s) part of a Coordinated Public Transit Human Services Transportation Plan?

Yes

No

12. If you marked Yes above, indicate the page number where this project is listed.

If you marked No above, explain why this project is not part of your current plan.

Page 13 indicates limited transportation alternatives within the community. Page 14 indicates current service hours. Page 28 and 29 detail strategies to increase community partnerships and involvement for the mobility manager.

Non-Vehicle Project Request

There is space provided below to request a project. NOTE: This request MUST first be created as a project in the Black Cat System. If applying for more than project, please attach additional sheets and create a separate project for each request.

13. Please describe in detail your proposed project. Be specific and include a description of what you would like to purchase and how it benefits your transportation program.

The project will help cover the expense of employing a marketing professional to focus communication efforts on the transportation options available to the community, training potential riders and agencies on the various

services available, and process the eligibility paperwork that is required for paratransit services.

14. If this is a request for Mobility Manager funding, a current job description, including goals and achievements from the previous year, must be attached. Have you attached these documents to this application?

Yes

No

15. Total cost of this project.

Total Cost (include federal and local amounts): \$30,300

Federal Funds Requested: \$24,240

Local Match Amount: \$6,060

Source(s) of Local Match: Mill levy funds

Vehicle Project Request

There is space provided below to request a project. NOTE: This request MUST first be created as a project in the Black Cat System. If applying for more than vehicle, please attach additional sheets and create a separate project for each vehicle request.

16. Provide a description of the vehicle you are requesting. (include: Year, Make, ADA qualified, and seating capacity)

Year:

Make/Model:

Seating Capacity:

Lift/Ramp: Yes No

Gas/Diesel/Other:

17. Describe in detail which programs and services the requested vehicle will be utilized in and how it will enhance or maintain your service?

18. What type of vehicle are you requesting?

Replacement Vehicle

Expansion Vehicle

19. If requesting a replacement, which vehicle in your fleet are you replacing?

a. Vehicle Information Number (VIN):

b. Vehicle Year:

c. Make/Model:

d. Current Mileage:

e. Vehicle In Service Date:
f. Has this vehicle information been updated in BlackCat Inventory? <input type="checkbox"/> Yes <input type="checkbox"/> No
20. If requesting an expansion vehicle, list the agency/community/county to be served (include hours and days of service and estimated ridership).
21. If operating a fixed route, what are the paratransit eligibility criteria for people to ride your service?
22. Provide an estimated timeline for the purchase of this vehicle. Provide a separate timeline if you are applying for different types of vehicles. <u>See sample timeline below, add or remove lines as needed.</u>
Request For Proposal (RFP)/Invitation For Bid (IFB) Issue Date:
Contract Award Date:
Initial Vehicle Delivery Date:
Final Vehicle Deliver Date:
Contract Completion:
Final Payment Submitted to DOT:
23. Amount requested for vehicle (include the base price plus all options with this request):
Total Vehicle Cost (include federal and local amounts):
Federal Funds Requested:
Local Match Amount:
Source(s) of Local Match:

Non-Vehicle Project Request
There is space provided below to request a project. NOTE: This request MUST first be created as a project in the Black Cat System. If applying for more than project, please attach additional sheets and create a separate project for each request.
13. Please describe in detail your proposed project. Be specific and include a description of what you would like to purchase and how it benefits your transportation program.
The project will help cover the expense of maintaining night time services for those passengers who are elderly and disabled. After hours complementary demand response service takes place from 7:00 PM to 12:00 AM, Monday through Saturday. Presently, there are very few transportation alternatives for the elderly and disabled population within the service area. This leaves Bis-Man Transit as the only option for many

during the nighttime hours currently offered. With funding on the decline, it is increasingly difficult to maintain demand response services for the special need's community outside of the required ADA times.

14. If this is a request for Mobility Manager funding, a current job description, including goals and achievements from the previous year, must be attached. Have you attached these documents to this application?

Yes

No

15. Total cost of this project.

Total Cost (include federal and local amounts): \$142,500

Federal Funds Requested: \$71,350

Local Match Amount: \$71,350

Source(s) of Local Match: Mill levy funds

Non-Vehicle Project Request

There is space provided below to request a project. NOTE: This request MUST first be created as a project in the Black Cat System. If applying for more than project, please attach additional sheets and create a separate project for each request.

13. Please describe in detail your proposed project. Be specific and include a description of what you would like to purchase and how it benefits your transportation program.

The project will help cover the expense of Sunday services for those passengers who are elderly and disabled. Sunday complementary demand response service takes place from 7:30 AM to 2:30 PM, Monday through Saturday. Presently, there are very few transportation alternatives for the elderly and disabled population within the service area. This leaves Bis-Man Transit as the only option for individuals seeking transportation on Sundays. With funding on the decline, it is increasingly difficult to maintain demand response services for the special need's community outside of the required ADA times.

14. If this is a request for Mobility Manager funding, a current job description, including goals and achievements from the previous year, must be attached. Have you attached these documents to this application?

Yes

No

15. Total cost of this project.

Total Cost (include federal and local amounts): \$99,000

Federal Funds Requested: \$49,500

Local Match Amount: \$49,500

Source(s) of Local Match: Mill levy funds

Following are suggested price requests for vehicles based on current state bid quotes. Keep in mind if you intend to order vehicles with additional options, prices will vary accordingly. See the State Bid website at https://apps.nd.gov/csd/spo/services/bidder/listCurrentContracts.htm		Estimated Delivery time (in months)
15 Passenger or 12 + 2 Passenger Cutaway/Bus NDDOT Term Contract No. 300	Base Price - \$69,000- \$91,000	9 - 12
Rear Lift ADA Transit Vehicle NDDOT Term Contract No. 301	Base price - \$55,000 – \$72,000	6 - 9
Frontrunner – Low Floor Vehicle – New England Wheels NDDOT Term Contract No. 381	Base Price - \$119,000 – \$121,000	9 - 12
ADA Low Floor Mini Van NDDOT Term Contract No. 382	NO CURRENT CONTRACT – CONTACT NDDOT WITH QUESTIONS	
Low-Floor Paratransit Ramp Buses NDDOT Term Contract No. 383	Base Price - \$96,720 - \$110,000	9 - 12
FTA Useful Life Standards		
Mini-Vans/Modified Vans – 3-14 passenger	4 years or 100,000 miles	
Med-Size Light Duty Cutaway – 8-16 passenger	5 years or 150,000 miles	
Med-Size Med Duty Cutaway/Bus – 16-30 passenger	7 years or 200,000 miles	
Med-Size Heavy Duty Bus – 24-25 passenger	10 years or 350,000 miles	
Large Heavy-Duty Bus – 35-40+ passenger	12 years or 500,000 miles	

Equipment & Miscellaneous Capital Projects

Fill in the requested information below regarding your Equipment and Miscellaneous Capital Project(s). These projects must directly relate to your transportation program. Any equipment purchased with these funds must be required for, and used for, public transportation.

NOTE: This request MUST first be created as a project in the Black Cat System. If applying for more than project, please attach additional sheets and create a separate project for each.

24. Describe your proposed project(s) in detail (detail MUST include: type, quantity, cost, purpose of equipment being requested).

Type: Quantity: Purpose:
25. How does this project enhance your transportation program?
26. Have you completed an Independent Cost Estimate document to show that the price is fair and reasonable? Provide this documentation.
<input type="checkbox"/> Yes <input type="checkbox"/> No (Applicant must provide an explanation)
27. Is an ITS Project/Architecture Checklist required for this project? Review (23 CFR 940.13), see SFN 60212 located in the BlackCat Resources.
<input type="checkbox"/> Yes <input type="checkbox"/> No (Applicant must provide an explanation)
28. Has the NDDOT ITS Project/Architecture Checklist been completed and submitted with this application for review?
<input type="checkbox"/> Yes <input type="checkbox"/> No (Applicant must provide an explanation)
29. Provide an estimated timeline for the purchase of this equipment. Provide a separate timeline if you are applying for different types of equipment. <u>See sample timeline below, add or remove lines as needed.</u>
Request For Proposal (RFP)/Invitation For Bid (IFB) Issue Date:
Contract Award Date:
Deliver/Installation Date:
Contract Completion:
Final Payment Submitted to DOT:
30. Total cost for the project?
Total Cost (include federal and local amounts): Federal Funds Requested: Local Match Amount: Source(s) of Local Match:

Travel & Training

31. List the training the Director attended in the past year. Included dates and conference/training name, including the DOT meetings.

Total amount reimbursed for travel in FY2022:

32. Provide the conferences and meetings you will be requesting to attend this year and include an estimated RTAP Travel Budget to be requested.

Total estimated travel budget for FY2023:

Local Match & Total Funding Request

In the table below, list requested projects by priority, and specify in detail the sources and dollar amounts of Local Match funding (State Aid, Mill Levy, Other Directly Generated Funds etc.) that are available to be used towards each project (Vehicle, Facility Rehabilitation & Construction, and/or Equipment/Miscellaneous Capital). In-kind funds cannot be used as local match to 5310 contracts.

Local match listed here cannot be already targeted as match for a FY2023 5339 or 5311 applications.

Farebox revenue cannot be used as Local Match.

Documentation of sources of Local Match (including State Aid) MUST be attached or it will not be considered.

This project ranking should match your prioritization in BlackCat.

Ranking	Project	Federal Dollars Requested	Local Match Needed	Sources of Local Match*
1	Mobility Manager	\$24,240	\$6,060	Mill Levy
2	After Hours Demand Response Service	\$71,250	\$71,250	Mill Levy
3	Sunday Demand Response Service	\$49,500	\$49,500	Mill Levy
4				
5				

APPLICATION CHECKLIST AND SIGNATURE PAGE

This checklist is included for your review and completion prior to submittal of your application to ensure your submission includes all required documents. Please upload the required documents in your agency’s account in the BlackCat Transit Data Management System (BlackCat).

Section 5310 Applicants must submit the following (check box when complete):	
<input type="checkbox"/>	Completed 5310 Application;
<input type="checkbox"/>	Document(s) identifying sources of local match funds – Signed letters from source(s) of local match, State Aid Contract, mill levy, city funds, etc.;
<input type="checkbox"/>	Update vehicle information, mileage and condition in BlackCat Inventory;
<input type="checkbox"/>	Update Transit Board Members information in BlackCat;
<input type="checkbox"/>	Certify and upload a current Authorizing Resolution form;
<input type="checkbox"/>	Upload your annual registration from the System for Award Management (SAM.gov)
<input type="checkbox"/>	Complete and include the NDDOT ITS Project Architecture Checklist Systems Engineering Compliance (SFN 60212), (if applicable);
<input type="checkbox"/>	The following documents MUST be current and uploaded into BlackCat Resources: Coordinated Human Services Plan, 3-5 Year Plan, Title VI Plan, Drug & Alcohol Plan, and TAM Plan.
<input type="checkbox"/>	

I hereby certify that as a person authorized to sign for

Transit Agency Name

That I have reviewed the application submitted and to the best of my knowledge all statements and representations made are true and correct. I also hereby certify:

1. Adequate funds will be available to provide the required local match and to operate the project; and
2. Sufficient managerial and fiscal resources exist to implement and manage the grant as outlined in this application; and
3. The project items purchased under this grant shall be maintained in accordance with the detailed maintenance schedules as stipulated by the manufacturer; and
4. The transit agency agrees to meet the applicable federal and state requirements.

Signature of Authorized Representative

Date



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Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

November 29, 2021

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: 2022 Holiday Hours - Paratransit

CTIC RECOMMENDATION: Bis-Man Transit has historically provided 45 hours of service spanning the six major holidays. These hours are evaluated annually and changes made, if needed. Due to Christmas Day landing on a Sunday in 2022, the topic was brought before CTIC for discussion on November 23rd. CTIC members made the following recommendation for 2022 Holiday Hours.

- New Year's Day (Saturday): 8am - 1pm
- Memorial Day (Monday): 12pm – 4pm
- 4th of July (Monday): 10:30am – 10:30 pm
- Labor Day (Monday): 12pm – 4pm
- Thanksgiving (Thursday): 11am – 7pm
- Christmas Day (Sunday): 7:30am – 7:30pm

FINANCE COMMITTEE RECOMMENDATION: The Finance Committee recommended the Board approve **up to 45 holiday hours** each calendar year with holidays landing on Sundays defaulting to normal hours of operation for paratransit services (7:30am to 2:30pm). Based on this, the finance committee recommends the follow 2022 Holiday Hours.

- New Year's Day (Saturday): 8am - 1pm
- Memorial Day (Monday): 12pm – 4pm
- 4th of July (Monday): 10:30am – 10:30 pm
- Labor Day (Monday): 12pm – 4pm
- Thanksgiving (Thursday): 11am – 7pm
- Christmas Day (Sunday): 7:30am – 2:30pm



3750 E Rosser Avenue,
Bismarck, ND 58501



701.258.6817



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www.bisantransit.com



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Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

**Transit Agreement Bis-Man Transit and National Express Transit Corporation
COVID Cleaning Second Amendment**

This amendment is made to the Transit Agreement COVID Cleaning Amendment between Bis-Man Transit and National Express Transit Corporation (Contractor).

The parties agree to amend the amendment to the Agreement to address the Covid-19 response as follows: As of April 1, 2021

1) All cleaning supplies and protective equipment costs incurred by the Contractor will be reimbursed by Bis-Man Transit if said costs are deemed eligible costs, reimbursable from the Federal Transit Administration funding.

2) Effective April 1, 2021 all additional cleaning labor costs will be reimbursed if they are deemed eligible costs, reimbursable with Federal Transit Administration funding.

All other terms of the first amendment remain in effect. This amendment will be referred to as the "COVID Cleaning Second Amendment".

This amendment is effective April 1, 2021.

National Express Transit Corporation, Contractor

Name Date

Title

Bis-Man Transit

Shauna Laber, Bis-Man Transit Board President Date

Disadvantage Business Enterprise Program for Transit
49 CFR Part 26

Bismarck, North Dakota

The City of Bismarck (City), as a Federal Transit Administration grantee, has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26 for Transit services. The City receives federal financial City from Department of Transportation. As a condition of receiving this assistance, the Department has signed an assurance that it complies with 49 CFR Part 26.

It is the policy of the City to ensure that DBE's, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the City Policy:

1. Ensure nondiscrimination in the award and administration of DOT- assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. Promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. Assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. Make appropriate use of the flexibility afforded to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Rachel Drewlow has been delegated as the DBE Liaison Officer for the City's DBE Program regarding transit. In that capacity, she is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with DOT.

The City has disseminated this policy statement to the Bismarck Board of City Commissioners and all of the components of our organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on DOT-assisted contracts. The distribution was accomplished through public notice and public hearings held during regular City Commission meetings and in published newspapers of regional circulation.

Keith Hunke, Bismarck City Administrator

Date

GENERAL REQUIREMENTS

Section 26.1 Objectives

This program seeks to achieve several objectives:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the transit financial assistance programs;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the City's DBE program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients;
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs

Section 26.3 Applicability

The City of Bismarck is the recipient of Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405; and Title III of the Fixing America's Surface Transportation (FAST) Act, Pub. L. 114-94, 129 Stat.1312.

Section 26.5 Definitions

The City will use terms in this program that have their meanings defined in 49 CFR §26.5.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Section 26.7 Non-discrimination Requirements

The City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, The City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of

defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Reporting to DOT

The City will provide data about its DBE Program to the DOT as directed by DOT Operating administrations.

DBE participation will be reported to FTA as follows:

The City will transmit to FTA the information required for the “Uniform Report of DBE Awards or Commitments and Payments,” pursuant to the instructions found in Appendix B to Part 26. The City will similarly report the required information about participating DBE firms. All reporting will be done through the official Transit Award Management System (TrAMS) reporting system, or another format acceptable to FTA as instructed thereby.

Records retention and reporting:

The City will maintain records documenting a firm’s compliance with the requirements of 49 CFR Part 26. At a minimum, the City will keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records will be retained in accordance with all applicable record retention requirements of the City’s financial assistance agreement. Other certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer.

Section 26.13 Federal Financial Assistance Agreement

The City has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: - Each financial assistance agreement the City signs with a DOT operating administration (or a primary recipient) will include the following assurance:

The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The City DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement.

Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Contract Assurance: The City will ensure that the following clause is included in each DOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

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

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The City is required to have a DBE program meeting the requirements of 49 CFR Part 26 as it will award prime contracts, the cumulative total value of which exceeds \$250,000 in FTA funds in a federal fiscal year. The City is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and the City is in compliance with it and Part 26. The City will continue to carry out this program until all funds from DOT financial assistance have been expended. The City does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this DBE Program.

Section 26.25 DBE Liaison Officer (DBELO)

The following individual has been designated as the DBE Liaison Officer for the City:

Rachel Drewlow
Executive Director, Bismarck-Mandan Metropolitan Planning Organization
PO Box 5503
Bismarck, ND 58506-5503
Office: 701.355.1852
Fax: 701.222.6450
rdrewlow@bismarcknd.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the President of the Bismarck Board of City Commissioners concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is included in Attachment A to this program.

The City has a staff of legal, financial, human resources, and MPO departments that assist in the administration of the program. The City also has a contract with Bis-Man Transit and Bis-Man Transit staff perform some program elements. The DBELO is housed within the Bismarck-Mandan MPO and is responsible for developing, implementing and monitoring the City's DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

DBELO duties for DBE goal Compliance

1. Report on statistical data, which is provided by Bis-Man Transit, as required by DOT/ FTA (DBE semi-annual reports)
2. Final Reviews of third-party contracts and purchase requisitions for compliance with this program, at the quarterly review.
3. Assist Bis-Man Transit in development of three-year DBE goal by providing review and recommendations for improvement.
4. Advises the governing body, via email to City Administrator, on DBE matters and achievement, specifically the establishment/update of the DBE Goal.
5. Review DBE's Outreach Excel sheet during the annual Civil Rights Review. (DBE outreach, Inclusion of DBE goal in applicable solicitations, DBE response)
6. Reviews Shortfall Analysis and submits document to FTA.
7. Participates in procurement-planning meetings for the Operations Contract.
8. Review the tracking of contractor compliance and good faith efforts, specifically regarding the Operations Contract, during the annual Civil Rights Review.
9. Reviews contracting records which note the active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to which the work was committed. (see section 26.37)

Additional Activities Carried out by Bis-Man Transit to ensure DBE Plan Compliance

1. Gathers statistical data and other information as required by DOT/ FTA and provides to DBELO for reporting (DBE Semi-Annual Report).
2. Reviews third party contracts (i.e. operations contract) and purchase requisitions for compliance with this program.
3. Works to establish City's Transit three-year DBE goal for presentation and or acceptance by Bismarck City Commission.
4. Ensures that bid notices and requests for proposals are available to applicable DBEs in a timely manner. Reviews the NDDOT DBE Directory for eligible DBE vendors, and contacts them directly.

5. Identifies contracts and procurements exceeding the micro-purchase threshold (\$10,000), and include the DBE goals in the solicitations (both race-neutral methods and contract specific goals).
6. Monitor results of DBE outreach and inclusion of goal in applicable procurements. Note DBE's contacted, procurement, and DBE response in an excel spreadsheet.
7. Analyzes progress toward attainment of the DBE Goal and identifies ways to improve progress, by preparing a Shortfall Analyses.
8. Coordinates the procurement-planning meetings for the Operations contract.
9. Track contractor compliance and good faith efforts, specifically with the Operations Contract.
10. Refer DBEs and community organizations to NDDOT's DBE certification program on an annual basis.

Section 26.27 DBE Financial Institutions

It is the intent of the City, regarding Bis-Man Transit related contracts, to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions for Bis-Man Transit related contracts, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions on Bis-Man Transit related contracts.

To determine which financial institutions are owned and controlled by socially and economically disadvantaged individuals, the NDDOT recommends contacting the following organizations:

- North Dakota Bankers Association
- North Dakota Department of Banking & Financial Institutions
- Independent Community Banks of North Dakota

Section 26.29 Prompt Payment Mechanisms

The City has established, as part of its DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment made to the prime contractor. The City will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. We will use the following method to comply with this requirement:

The City requires that all subcontractors performing work on DOT-assisted contracts be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

The City ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29, the City has selected the following method to comply with this requirement:

1. The City will hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after the City pays the prime contractor.
2. To enforce these prompt payment mechanisms, the City will include the federally required prompt payment clause, such as the following:

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

Section 26.31 Directory

The City is a non-certifying member of the North Dakota Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31.

The City uses the DBE directory available from the North Dakota Department of Transportation's (NDDOT) Disadvantaged Business Enterprise Program website at: <https://www.dot.nd.gov/divisions/civilrights/dbeprogram.htm> maintained by the State.

The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

NDDOT revises this Directory frequently. Directory is available at the NDDOT webpage: [Civil Rights Certification and Compliance System - North Dakota Department of Transportation \(diversitycompliance.com\)](https://www.nd.gov/divisions/civilrights/dbeprogram.htm)

Section 26.33 Over-concentration

The City has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The City has not established a Business Development Program.

Section 26.37 Monitoring Responsibilities

The City implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and sets forth these mechanisms in this DBE program.

Monitoring Payments to DBEs and Non-DBEs

The City will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City or DOT. This reporting requirement also extends to any certified DBE subcontractor.

The City proactively reviews payments to contractors including DBEs not less than quarterly to ensure compliance. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the City by the prime contractor.

Prompt Payment Complaints

Complaints by subcontractors regarding prompt payment requirements are handled according to the following procedure:

- The subcontractor shall attempt to resolve the discrepancy with the prime contractor
- If the subcontractor is unable to resolve the discrepancy after meeting with the prime contractor, the subcontractor shall present its complaint to the DBELO. In addition to the complaint, subcontractor shall provide documentation stating their efforts to resolve the discrepancy with the prime contractor.
- If the subcontractor is unable to resolve the discrepancy through the DBELO the subcontractor shall contact the City Administrator.

Enforcement Actions for Noncompliance of Participants

The City will provide appropriate means to enforce the requirements of §26.29. These means include:

- Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract
- Issue a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met

Monitoring Contracts and Work Sites

The City reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (*e.g.*, as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by project manager. Contracting records are provided to and reviewed by the DBELO. The City will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

Section 26.39 Fostering Small Business Participation

The NDDOT considers those contractors, subcontractors, consultants and subconsultants bidding under \$500,000 per year to be small business enterprises. For this intended program, the City utilizes the same threshold.

The implementation of a small business program is intended to facilitate compliance with the twin obligations in 49 CFR Part 26.51: (1) to meet the maximum feasible portion of the overall goal by using race/gender neutral means of obtaining DBE participation and (2) to establish DBE contract goals to meet any portion of the overall goal the Department is unable to meet using race/gender neutral means.

The City will continue to facilitate competition by small businesses by taking all reasonable steps to eliminate obstacles such as unnecessary or unjustified bundling or other contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The City will continue to expand its processes that assist small business enterprises to further foster small business participation. These processes include the following:

- All projects are reviewed, in the development stage, to determine if it is feasible to unbundle large projects to such a size that small businesses can reasonably perform.
- All small business enterprises have the ability to access the Bis-Man Transit procurement webpage (<https://bismantransit.com/procurement/>) which posts the pre-bid addendums, notification of projects being let by, and other pertinent notifications regarding Bis-Man Transit's bid opening process.
- All small business enterprises may receive or view the DBE Newsletter, via the NDDOT website

- A means by which primes and subcontractors solicit participation on both race/gender conscious and race/gender neutral projects.
- Training opportunities relative to performing on transportation projects or to aid small businesses enterprises in all facets of their business.
- List of contacts for the Civil Rights Division.
- Small business-related articles and information.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The City does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

Bis-Man Transit will establish an overall DBE goal, on behalf of the City, covering a three-year federal fiscal year period if it anticipates awarding DOT-funded prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), The City will submit this Overall Three-year DBE Goal to FTA by August 1st of the year in which the goal is due, as required by the schedule established by and posted to FTA's website.

<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/dbe-three-year-goal-setting-submission-schedules>]

The DBE goals will be established in accordance with the two-step process as specified in 49 CFR §26.45. If the City does not anticipate awarding transit-related prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any of the years within the three-year reporting period, an overall goal will not be developed. However, this DBE Program will remain in effect and the City will seek to fulfill the objectives outlined in 49 CFR Part 26.

- Step 1.** The first step is to determine a base figure for the relative availability of DBEs in the market area. Bis-Man Transit will use DBE Directory information and Census Bureau Data, or other alternative method that complies with §26.45 as a method to determine the base figure. The City understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR §26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.
- Step 2.** The second step is to adjust, if necessary, the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. Bis-Man Transit, in conjunction with the City, will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment will be made.

Any methodology selected will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the City's market.

In establishing the overall goal, Bis-Man Transit will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, such as the Bismarck Mandan Chamber of Commerce, North Dakota Women's Network, North Dakota Small Business Development Centers, and the North Dakota Women's Business Center. This may include other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts by the City and Bis-Man Transit to establish a level playing field for the participation of DBEs. The consultation will occur before the City is required to submit the goal methodology to the operating administration for review pursuant to §26.45(f). The goal submission will document the consultation process in which Bis-Man Transit engaged. Notwithstanding §26.45(f)(4), the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, the City will publish a notice announcing the proposed overall goal before submission to FTA on August 1st. The notice will be posted on the City's and Bis-Man Transit's official internet web site. If the proposed goal changes following review by FTA, the revised goal will be posted on the official internet web site.

The City will begin using the overall goal, which corresponds to the grant funding from the FTA, on October 1 of the relevant period, unless other instructions from FTA have been received.

Prior Operating Administration Concurrence

The City understands that prior FTA concurrence with the overall goal is not required. However, if FTA's review suggests that the overall goal has not been correctly calculated or that the method employed by Bis-Man Transit for calculating goals is inadequate, FTA may, after consulting with the City, adjust the overall goal or require that the goal be adjusted by Bis-Man Transit. The adjusted overall goal is binding.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment C to this program.

Section 26.47 Failure to Meet Overall Goals

The City cannot be penalized, or treated by DOT as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless the City and Bis-Man Transit fail to administer its DBE program in good faith.

The City understands that to be considered to be in compliance with Part 26, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

The City understands that if the awards and commitments shown on the Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the following actions must be taken in order to be regarded by DOT as implementing this DBE Program in good faith:

1. Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
2. Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;
3. Bis-Man Transit will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of 49 CFR §26.47. The City and Bis-Man Transit will retain copy of analysis and corrective actions in records for a minimum of three years, and will make it available to FTA upon request.

Section 26.49 Awards to Transit Vehicle Manufacturers (TVMs)

Awards to transit vehicle manufacturers (TVMs) will not be included in the City's overall goal calculation.

The City will require TVMs, as a condition of being authorized to bid or propose on any FTA-assisted transit vehicle procurements, to certify that they have complied with the requirements of §26.49.

1. The City affirms that only those TVMs listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid.
2. A TVM's failure to implement the DBE Program in the manner as prescribed in 49 CFR §26.49 and throughout Part 26 will be deemed as noncompliance, which will result in removal from FTA's certified TVMs list, resulting in that TVM becoming ineligible to bid.
3. The City is aware that failure to comply with the requirements set forth in 49 CFR §26.49(a) may result in formal enforcement action or appropriate sanction as determined by FTA (e.g., FTA declining to participate in the vehicle procurement).

4. Bis-Man Transit will submit to NDDOT, within 30 days of making an award, the name of the successful bidder and the total dollar value of the contract in the manner prescribed in the grant agreement.

The City may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying through the procedures of 49 CFR §26.49.

Section 26.51 Means Used to Meet Overall Goals

Breakout of Estimated Race-Neutral & Race-Conscious Participation

Bis-Man Transit on behalf of the City, will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.
2. Providing technical assistance and other services; such as directing certified or potential DBE's to NDDOT for additional assistance and questions
3. Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
4. Ensuring distribution of the DBE directory, via the Bis-Man Transit website, to the widest feasible universe of potential prime contractors; and

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment C to this program.

Contract Goals

Contract goals are currently the only race conscious effort for the City and Bis-Man Transit. Bis-Man Transit will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by

DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.

If the approved projection under §26.51(c) estimates that the entire overall goal for a given annual period can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order to meet the overall goal.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. A contract goal need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

Contract goals, if used, will be expressed as a percentage of the total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals

Demonstration of Good Faith Efforts (Pre-award)

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

Bis-Man Transit is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as Responsive.

Bis-Man Transit will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror.

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

Bis-Man Transit treats bidder/offerors compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. Award of the contract will be conditioned on meeting the requirements of 49 CFR §26.53;

2. All bidders or offerors will be required to submit the following information to Bis-Man Transit, at the time provided in paragraph (3) of this section:

- i. The names and addresses of DBE firms that will participate in the contract;
- ii. A description of the work that each DBE will perform;
- iii. The dollar amount of the participation of each DBE firm participating;
- iv. Written and signed documentation of the commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- v. Written and signed confirmation from each listed DBE firm that it is participating in the contract as provided in the prime contractor's commitment; and
- vi. If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

3. The bidder/offeror will be required to present the information stipulated in paragraph two (2) of this section:

- i. No later than 5 days after bid opening as a matter of **responsibility**.
- ii. Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph two (2) of this section before the final selection for the contract is made by the recipient.

Administrative Reconsideration

Within seven (7) working days of being informed by Bis-Man Transit on behalf of the City that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following Reconsideration Official:

Bis-Man Transit Board President
3750 East Rosser Ave,
Bismarck, ND 58501
Telephone: 701.258.6817

The Reconsideration Official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person or virtually with the Reconsideration Official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

The Board President may choose to bring the reconsideration before the full Bis-Man Transit Board or relevant committee for final approval.

Good Faith Efforts Procedural Requirements (Post-solicitation)

The City will require the awarded contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the Bis-Man Transit Executive Director immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. The Bis-Man Transit Executive Director will notify the DBELO of the contract change as soon as possible. In this situation, we will require the prime contractor to obtain our prior approval by the Bis-Man Transit Board of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

We will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- i. The listed DBE subcontractor fails or refuses to execute a written contract;
- ii. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- iii. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.

- iv. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- v. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- vi. The City determined that the listed DBE subcontractor is not a responsible contractor;
- vii. The listed DBE subcontractor voluntarily withdraws from the project and provides the City written notice of its withdrawal;
- viii. The listed DBE is ineligible to receive DBE credit for the type of work required;
- ix. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- x. Other documented good cause that the City has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to Bis-Man Transit a request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to Bis-Man Transit, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

The prime contractor must allow the DBE five days to respond to the prime contractor's notice and advise the City and the prime contractor of the reasons, if any, why the DBE objects to the proposed termination of its subcontract and why the prime contractor's action should not be approved. If required in a particular case as a matter of public necessity (e.g., safety), a response period shorter than five days may be provided.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

Bis-Man Transit will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts must be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts must be documented by the contractor.

If Bis-Man Transit requests documentation from the contractor under this provision, the contractor must submit the documentation within 7 days, unless the contractor requests an extension, which may be granted for no more than an additional 7 days if necessary. Bis-Man Transit will provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

If the contractor fails or refuses to comply in the time specified, Bis-Man Transit may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification

Each prime contract will include a provision such as the one below:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Bis-Man Transit to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract, will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of percent [as determined in the goal calculation Attachment C] has been established for this contract.

The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract. The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

[Note: The provisions of the foregoing section apply only when a contract goal is established.]

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in §26.55. The participation of a DBE subcontractor will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

In the case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards of Subpart D of Part 26 at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

SUBPART D – CERTIFICATION STANDARDS

Sections 26.61 – 26.73 Certification Process

The City and Bis-Man Transit will utilize the DBE firms listed in the North Dakota Department of Transportation statewide DBE Directory and will not certify DBE firms directly.

Certification Application form is available to view and download through NDDOT at <http://dotnd.diversitycompliance.com>.

For information about the certification process or to apply for certification, firms should contact:

North Dakota Department of Transportation Civil Rights Office
Phone: 701.328.3116
civilrights@nd.gov

The Uniform Certification Application form and documentation requirements are found at <https://www.dot.nd.gov/divisions/civilrights/dbeprogram.htm>.

[The Uniform Certification Form contained in the Final Rule, 49 CFR Part 26, can be found in Attachment D; see §26.83(c)(2).]

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The City is a non-certifying member of the North Dakota Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31. A *copy of the signed agreement between the City and NDDOT* can be found in Attachment B.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to the City and Bis-Man Transit

The City of Bismarck has a path through relationship with Bis-Man Transit. Funds received from the Federal Transit Administration are contracted out to Bis-Man Transit. The City passes on the responsibility of the DBE Goal to Bis-Man Transit and monitors accordingly. The DBE Program Plan is based on the operations performed by Bis-Man Transit and overseen by the City.

Monitoring and oversight activities include quarterly procurement compliance monitoring, annual facility inspection, annual vehicle and warranty review. An annual review of Bis-Man Transit Title VI, ADA, and DBE compliance and an annual review of the City's Title VI, ADA, and DBE compliance will be performed and documented accordingly.

The City understands that if it fails to comply with any requirement of Part 26, The City may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

Section 26.109 Information, Confidentiality, Cooperation, and Intimidation or Retaliation

Information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law will be safeguarded from disclosure to third parties.

Notwithstanding any provision of Federal or state law, information that may reasonably be construed as confidential business information will not be released to any third party without the written consent of the firm that submitted the information, including applications for DBE certification and supporting information. However, this information will be transmitted to DOT in any certification appeal proceeding under §26.89 or to any other state to which the individual's firm has applied for certification under §26.85.

All participants in DOT's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

The City, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by Part 26 or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Part 26. The City understands that it is in noncompliance with Part 26 if it violates this prohibition.

Notwithstanding any contrary provisions of Federal, State or Local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third, other than DOT, without the written consent of the firm that submitted the information.

1) Monitoring Payments to DBEs

The City will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City or DOT. This reporting requirement also extends to any certified DBE subcontractor. We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

ATTACHMENTS
(intentionally blank)