

## Notice to Proceed

Date: February 8, 2013

Project: *North Minot San. Sewer System – Airport, 13<sup>th</sup> Street, Walders, & Roosevelt LS Imp.*

Owner: <i>City of Minot, ND</i>	Owner's Contract No.: <i>3580</i>
Contract: <i>Airport, 13<sup>th</sup> Street, Walders &amp; Roosevelt LS Imp</i>	Engineer's Project No.: <i>11.106.0092</i>
Contractor: <i>Veit &amp; Company, Inc.</i>	
Contractor's Address: <i>14000 Veit Place</i>	
<i>Rogers, MN 55374</i>	

You are notified that the Contract Times under the above Contract will commence to run on February 8, 2013. On or before that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement, the dates of Substantial Completion are June 28, 2013 (Airport & Roosevelt) and August 2, 2013 (13<sup>th</sup> Street & Walders), and the date of readiness for final payment is September 6, 2013.

Before you may start any Work at the Site, Paragraph 2.01.B of the General Conditions provides that you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds and loss payees) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

*City of Minot, ND*

Owner



Authorized Signature

*Mayor*

Title

*3-15-13*

Date

Copy to Engineer

# Notice of Award

Date: January 14, 2013

Project: **North Minot Sanitary Sewer Improvements – Airport, 13<sup>th</sup> Street, Walders, & Roosevelt Lift Stations**

Owner: <b>City of Minot, ND</b>	Owner's Contract No.: <b>3580</b>
Contract: <b>North Minot Sanitary Sewer Improvements</b>	Engineer's Project No.: <b>11.106.0092</b>
Bidder: <b>Veit &amp; Company, Inc.</b>	
Bidder's Address: <b>14000 Veit Place</b>	
	<b>Rogers, MN 55374</b>

You are notified that your Bid dated December 19, 2012 for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for Base Bid work plus Alternate B.

The Contract Price of your Contract is Two Million Four Hundred Seventy-two Thousand Dollars (\$2,472,000.00).

Four (4) copies of the proposed 'Suggested Form of Agreement Between Owner and Contractor for Construction Contract (Stipulated Price)' accompany this Notice of Award.

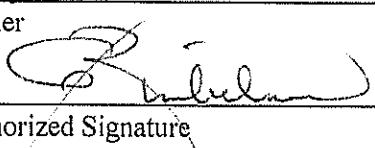
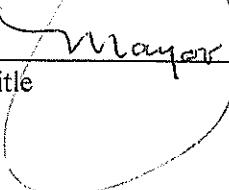
Three (3) sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within [15] days of the date you receive this Notice of Award.

1. Deliver to the Owner Four (4) fully executed counterparts of the Agreement.
2. Deliver with the executed Agreement the Contract security [Bonds] as specified in the Instructions to Bidders (Article 20), General Conditions (Paragraph 5.01), and Supplementary Conditions (Paragraph SC-5.01).

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement.

City of Minot, ND  
Owner  
By:   
Authorized Signature  
Title: 

Copy to Engineer

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

#3580

**SUGGESTED FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR FOR  
CONSTRUCTION CONTRACT (STIPULATED PRICE)**

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE

*A Practice Division of the*  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

Endorsed by



CONSTRUCTION SPECIFICATIONS INSTITUTE

This Suggested Form of Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other. The language contained in the Suggested Instructions to Bidders (EJCDC C-200, 2007 Edition) is also carefully interrelated with the language of this Agreement. Their usage is discussed in the Narrative Guide to the 2007 EJCDC Construction Documents (EJCDC C-001, 2007 Edition).

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1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2882  
[www.nspe.org](http://www.nspe.org)

American Council of Engineering Companies  
1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4400  
(800) 548-2723  
[www.asce.org](http://www.asce.org)

Associated General Contractors of America  
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308  
(703) 548-3118  
[www.agc.org](http://www.agc.org)

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**SUGGESTED FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Minot, North Dakota ("Owner") and  
Veit & Company, Inc. ("Contractor").

Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

North Minot Sanitary Sewer System  
Airport, 13th Street, Walders and Roosevelt Lift Station Improvements  
City of Minot, North Dakota  
Apex Project # 11.106.0092 - Phase II  
City of Minot Project # 3580

**ARTICLE 2 – THE PROJECT**

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

North Minot Sanitary Sewer System  
Airport, 13th Street, Walders and Roosevelt Lift Station Improvements  
City of Minot, North Dakota  
Apex Project # 11.106.0092 - Phase II  
City of Minot Project # 3580

**ARTICLE 3 – ENGINEER**

3.01 The Project has been designed by Apex Engineering Group, Inc. (Engineer), which is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 4 – CONTRACT TIMES**

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

#### 4.02 *Dates for Substantial Completion and Final Payment*

A. The Work will be substantially completed on or before June 28, 2013 for Airport and Roosevelt Lift Stations and August 2, 2013 for 13th Street and Walders Lift Stations. The Work will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before September 6, 2013.

#### 4.02 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$1,000 for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$1,000 for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

### **ARTICLE 5 – CONTRACT PRICE**

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to the below:

Section	Price
<b>TOTAL (SECTIONS 1, 2, 3, &amp; 4)</b>	
<u>Total Lump Sum Bid Price for General Construction</u>	\$ <u>N/A</u>
<u>Dollars</u>	
<u>Total Lump Sum Bid Price for Electrical Construction</u>	\$ <u>N/A</u>
<u>Dollars</u>	
<u>Total Lump Sum Bid Price for combined General and Electrical Construction</u>	\$ <u>2,442,000.00</u>
<i>Two Million Four Hundred Forty-two Thousand</i>	
<b>ALTERNATE B - ROOSEVELT LIFT STATION GRINDER</b>	
<u>Total Lump Sum Bid Price for General Construction</u>	\$ <u>30,000.00</u>

All specific cash allowances are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

## ARTICLE 6 – PAYMENT PROCEDURES

### 6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

### 6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 15th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions or, in the event there is no schedule of values, as provided in the General Requirements.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.

- a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
    - b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

### 6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

## **ARTICLE 7 – INTEREST**

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 18 percent per annum.

## **ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data."
- E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## ARTICLE 9 – CONTRACT DOCUMENTS

### 9.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 8, inclusive).
2. Performance bond (pages 1 to 2, inclusive).
3. Payment bond (pages 1 to 2, inclusive).
4. General Conditions (pages 1 to 62, inclusive).
5. Supplementary Conditions (pages 1 to 10, inclusive).
6. Specifications as listed in the table of contents of the Project Manual.
7. Drawings consisting of 34 sheets with each sheet bearing the following general title: North Minot Sanitary Sewer Improvements – Airport, 13<sup>th</sup> Street, Walders, and Roosevelt Lift Station Improvements.
8. Addenda (numbers 1 to 3, inclusive).
9. Exhibits to this Agreement incorporated by reference:(enumerated as follows):
  - a. Contractor's Bid
  - b. Documentation submitted by Contractor prior to Notice of Award: Bidder's List of Major Equipment Suppliers, Bidder's Subcontractor/Supplier List, Bidder's Qualification Statement
  - c. Certification of Bidder under Equal Employment Opportunity and Minority and Women's Business Enterprise Utilization Worksheets
10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
  - a. Notice to Proceed
  - b. Work Change Directives.
  - c. Change Orders.

B. The documents listed in Paragraph 9.01.A are incorporated into this Agreement by reference.

- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

## ARTICLE 10 – MISCELLANEOUS

### 10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### 10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### 10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

### 10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

### 10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
  1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to

establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

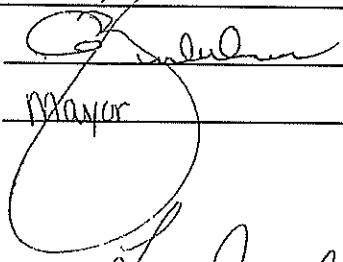
3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

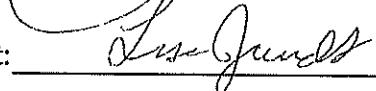
This Agreement will be effective on January 14, 2013 (which is the Effective Date of the Agreement).

OWNER:

City of Minot, North Dakota

By: 

Title: Mayor

Attest: 

Title: City Clerk

Address for giving notices:

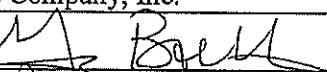
515 2<sup>nd</sup> Avenue SW

Minot, ND 58702

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

CONTRACTOR

Veit & Company, Inc.

By: 

Title: President

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: 

Title: witness

Address for giving notices:

14000 Veit Place

Rogers, MN 55374

License No.: \_\_\_\_\_

(Where applicable)

*NOTE TO USER: Use in those states or other jurisdictions where applicable or required.*

Agent for service of process: \_\_\_\_\_

## PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

**CONTRACTOR (Name and Address):**

Veit & Company, Inc.  
14000 Veit Place  
Rogers, MN 55374

**SURETY (Name, and Address of Principal Place of Business):**

Western Surety Company  
333 S. Wabash Ave.  
Chicago, IL 60604

**OWNER (Name and Address):**

City of Minot, North Dakota  
515 2nd Avenue SW  
Minot, ND 58702

**CONTRACT**

Effective Date of Agreement: January 14, 2013

Amount: (\$2,472,000.00) Two Million Four Hundred Seventy-Two Thousand and No/100 Dollars

Description (Name and Location): North Minot Sanitary Sewer System - Airport, 13th Street, Walders and Roosevelt Lift Station Improvements, City of Minot, ND

**BOND**

Bond Number: 929563573

Date (Not earlier than Effective Date of  
Agreement): January 21, 2013

Amount: (\$2,472,000.00) Two Million Four Hundred Seventy-Two Thousand and No/100 Dollars

Modifications to this Bond Form: None

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

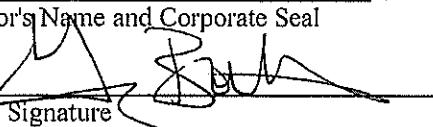
**CONTRACTOR AS PRINCIPAL**

Veit & Company, Inc.

(Seal)

Contractor's Name and Corporate Seal

By:



Greg Boenke

Print Name

President

Title

Attest:



Signature

W. Hess

Title

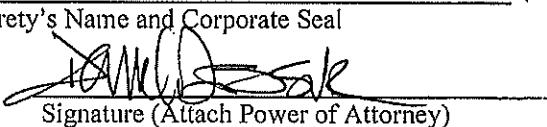
**SURETY**

Western Surety Company

(Seal)

Surety's Name and Corporate Seal

By:



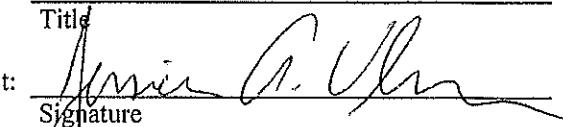
Dennis G. Diessner

Print Name

Attorney-In-Fact

Title

Attest:



Signature

Witness

Title

*Note: Provide execution by additional parties, such as joint venturers, if necessary.*

Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.
2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
  - 2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
  - 2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and
  - 2.3 Owner has agreed to pay the Balance of the Contract Price to:
    1. Surety in accordance with the terms of the Contract; or
    2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.
3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:
  - 3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
  - 3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
  - 3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
  - 3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
    1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
    2. Deny liability in whole or in part and notify Owner citing reasons therefor.
4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

- 5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
- 5.2 Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 3; and
- 5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.
7. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.
8. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located, and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.
10. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### 11. Definitions.

- 11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
- 11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- 11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

**FOR INFORMATION ONLY – (Name, Address and Telephone)**

Surety Agency or Broker: Osborne & Associates, 420 Gateway Blvd., Burnsville, MN 55337, (952) 707-8200  
Owner's Representative (Engineer or other party): Apex Engineering Group, Inc

## LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_) ss  
COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me personally appeared \_\_\_\_\_ to me known, who, being by me duly sworn, did depose and said that he/she resides in \_\_\_\_\_ that he/she is a member, manager, or officer of the limited liability company of \_\_\_\_\_ and that he/she is duly authorized to execute the foregoing agreement in the name of and for the limited liability company.

(Notarial Seal)

Notary Public, \_\_\_\_\_  
County, \_\_\_\_\_  
My commission expires \_\_\_\_\_

## CORPORATE ACKNOWLEDGEMENT

STATE OF Minnesota) ss  
COUNTY OF Hennepin)

On the 21 day of July, 20 13, before me personally appeared Greg Buelle to me known, who being by me duly sworn, did depose and say: that he resides in Princeton, that he is the President of the company,

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that he signed his name thereto by like order.

(Notarial Seal)

KAREN MARIE KEMMETMUELLER  
NOTARY PUBLIC - MINNESOTA  
My Commission Expires Jan. 31, 2015

Notary Public, Karen Marie Kembel,  
County, Hennepin  
My commission expires 1/31/15

## ACKNOWLEDGEMENT OF CORPORATE SURETY

STATE OF Minnesota) ss  
COUNTY OF Dakota)

On the 21st day of January, 20 13, before me appeared Dennis G. Diessner to be personally known, who is being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the Western Surety Company, a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its board of directors, and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

AMBER RAE WEEKS  
NOTARY PUBLIC - MINNESOTA  
MY COMMISSION EXPIRES 01/31/2015

Notary Public, Amber Rae Weeks,  
County, Scott  
My commission expires January 31, 2015

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Kathryn A Dircz, Dennis G Diessner, Mark N Kampf, Kathleen L Lundquist, Thomas M Reuder, Julia C Ertz, Erica J Boldt, Jessica A Olson, Individually**

of Burnsville, MN, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

### - In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 6th day of November, 2012.

WESTERN SURETY COMPANY



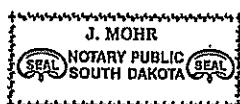
Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 6th day of November, 2012, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say; that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2015



CERTIFICATE

J. Mohr, Notary Public

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 21st day of January, 2013.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

## PAYMENT BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

### CONTRACTOR (*Name and Address*):

Veit & Company, Inc.  
14000 Veit Place  
Rogers, MN 55374

### OWNER (*Name and Address*):

City of Minot, North Dakota  
515 2nd Avenue SW, Minot, ND 58702

### CONTRACT

Effective Date of Agreement: January 14, 2013

Amount: (\$2,472,000.00) Two Million Four Hundred Seventy-Two Thousand and No/100 Dollars

Description (*Name and Location*): North Minot Sanitary Sewer System - Airport, 13th Street, Walders and Roosevelt  
Lift Station Improvements, City of Minot, ND

### BOND

Bond Number: 929563573

Date (*Not earlier than Effective Date of  
Agreement*): January 21, 2013

Amount: (\$2,472,000.00) Two Million Four Hundred Seventy-Two Thousand and No/100 Dollars

Modifications to this Bond Form: None

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

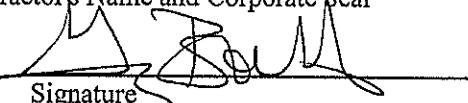
### CONTRACTOR AS PRINCIPAL

Veit & Company, Inc.

(Seal)

Contractor's Name and Corporate Seal

By:



Signature

Greg Borko

Print Name

President

Title

Attest:



Signature

Veit & Company

Title

### SURETY

Western Surety Company

(Seal)

Surety's Name and Corporate Seal

By:



Signature (Attach Power of Attorney)

Dennis G. Diessner

Print Name

Attorney-In-Fact

Title



Signature

Witness

Title

*Note: Provide execution by additional parties, such as joint venturers, if necessary.*

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
  - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
  - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
  - 4.2 Claimants who do not have a direct contract with Contractor:
    1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
    2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
    3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. Reserved.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### 15. Definitions

15.1 **Claimant:** An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 **Contract:** The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 **Owner Default:** Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

**FOR INFORMATION ONLY – (Name, Address, and Telephone)**

Surety Agency or Broker: Osborne & Associates, 420 Gateway Blvd., Burnsville, MN 55337, (952) 707-8200

Owner's Representative (*Engineer or other*): Apex Engineering Group, Inc

## LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_) ss  
COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me personally appeared \_\_\_\_\_ to me known, who, being by me duly sworn, did depose and said that he/she resides in \_\_\_\_\_ that he/she is a member, manager, or officer of the limited liability company of \_\_\_\_\_ and that he/she is duly authorized to execute the foregoing agreement in the name of and for the limited liability company.

(Notarial Seal)

Notary Public, \_\_\_\_\_  
County, \_\_\_\_\_  
My commission expires \_\_\_\_\_

## CORPORATE ACKNOWLEDGEMENT

STATE OF Minnesota) ss  
COUNTY OF Hennepin)

On the 21 day of July, 20 13, before me personally appeared Shay Bachelder to me known, who being by me duly sworn, did depose and say: that he resides in Prescott that he is the President of the Corporation

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that he signed his name thereto by like order.



KAREN MARIE KEMMETMUELLER  
NOTARY PUBLIC-MINNESOTA  
My Commission Expires Jan. 31, 2015

(Notarial Seal)

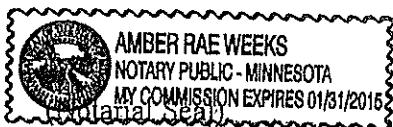
Notary Public, Karen Marie Kemmetmueller  
County, Hennepin  
My commission expires 1/31/15

## ACKNOWLEDGEMENT OF CORPORATE SURETY

STATE OF Minnesota) ss  
COUNTY OF Dakota)

On the 21st day of January, 20 13, before me appeared Dennis G. Diessner

to be personally known, who is being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the Western Surety Company, a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its board of directors, and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.



Notary Public, Amber Rae Weeks  
County, Scott  
My commission expires January 31, 2015

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Kathryn A Dircz, Dennis G Diessner, Mark N Kampf, Kathleen L Lundquist, Thomas M Reuder, Julia C Ertz, Erica J Boldt, Jessica A Olson, Individually**

of Burnsville, MN, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

### - In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereeto affixed on this 6th day of November, 2012.

WESTERN SURETY COMPANY



Paul T. Bruflat, Vice President

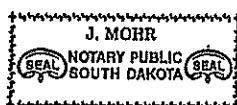
State of South Dakota  
County of Minnehaha

} ss

On this 6th day of November, 2012, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2015



CERTIFICATE

J. Mohr, Notary Public

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 21st day of January, 2013.

WESTERN SURETY COMPANY



L. Nelson, Assistant Secretary



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
1/18/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERs NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT Certificates Department	
	PHONE (A/C No. Ex): (952) 707-8290	FAX (A/C No): (952) 890-0535
Osborne & Associates 420 Gateway Boulevard  Burnsville MN 55337-2790		E-MAIL ADDRESS: Certificates@kainsurance.com
		INSURER(S) AFFORDING COVERAGE NAIC #
INSURER A:Travelers Indemnity Co of Amer 25666		
INSURER B:Travelers Prop Cas Co of Ameri 25674		
INSURER C:Starr Ind. & Liab. Co. (MWG) 38318		
INSURER D:Chartis Specialty Insurance Co 26883		
INSURER E:		
INSURER F:		

COVERAGES	CERTIFICATE NUMBER: 13-14 Certificate	REVISION NUMBER:
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L SUBR INSR LWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY					
	X COMMERCIAL GENERAL LIABILITY					EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					DAMAGE TO RENTED PREMISES (Ex occurrence) \$ 100,000
	X Contractual Liability					MED EXP (Any one person) \$ 10,000
	X XCU Coverage					PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE \$ 2,000,000
	POLICY <input checked="" type="checkbox"/> PRO- JECT <input checked="" type="checkbox"/> LOC					PRODUCTS - COMP/OP AGG \$ 2,000,000
						\$
B	AUTOMOBILE LIABILITY					
	X ANY AUTO ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				COMBINED SINGLE LIMIT (Ex accident) \$ 1,000,000
	HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per person) \$
	X MCS-90					BODILY INJURY (Per accident) \$
						PROPERTY DAMAGE (Per accident) \$
						\$
C	UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR				EACH OCCURRENCE \$ 5,000,000
	X EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$ 5,000,000
	DED <input checked="" type="checkbox"/> RETENTION \$ 0					\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	<input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N	SISCCCL01694713	1/1/2013	1/1/2014	X WC STATUTORY LIMITS OTH- ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below	N/A				E.L. EACH ACCIDENT \$ 500,000
						E.L. DISEASE - EA EMPLOYEE \$ 500,000
						E.L. DISEASE - POLICY LIMIT \$ 500,000
D	Contractors Pollution Liab. - Claims Made Form		CPL 8198891 Deductible: \$50,000	1/1/2013	1/1/2014	Each Loss: \$4,000,000 Aggregate \$8,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
RE: 130019-kk, North Minot Sanitary Sewer System

The Certificate Holder and Apex Engineering Group, Inc\* are Additional Insureds under the Commercial General Liability when required by written contract.

\*The Additional Insured Endorsement and the Commercial General Liability Policy do not afford coverage for Professional Liability exposure or any professional services of architects, engineers or surveyors.

## CERTIFICATE HOLDER

## CANCELLATION

City of Minot 515 2nd Avenue SW Minot, ND 58702	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  Mark N. Kampf/MATRK 

**MINUTES OF ACTION BY  
SOLE MEMBER OF THE BOARD OF DIRECTORS OF  
VEIT & COMPANY, INC.  
TAKEN WITHOUT A MEETING**

The undersigned, being the sole member of the Board of Directors of Veit & Company, Inc., a Minnesota corporation, acting pursuant to Minnesota Statutes Section 302A.239, hereby adopts the following resolution by consent in writing:

The following resolution is hereby adopted:

**RESOLVED**, that the following persons are hereby elected to make up the Board of Directors of the corporation to be the sole members of the Board of Directors and to serve until the next regular meeting of the shareholders, or until their successor or successors are otherwise duly elected and qualified:

Chief Executive Officer & Secretary	Vaughn A. Veit
President	Greg Boelke
Vice President - Field Operations	Kevin Barthel
Chief Financial Officer/Treasurer	Kevin Brenny

The above action is taken without a meeting by authorization in writing signed by the sole member of the Board of Directors of the corporation, which action is to be effective on May 5, 2008.

**SOLE DIRECTOR:**

  
Vaughn A. Veit