

**SERVICES AGREEMENT**  
**City of Minot and First District Health Unit**

This Agreement is entered into on this 5th day of April, 2021, by and between the City of Minot (hereinafter "City") and First District Health Unit (hereinafter "FDHU").

WHEREAS, the City has agreed to acquire the services described in the "Scope of Services"; and

WHEREAS, FDHU has agreed to provide the services described in the "Scope of Services", in addition to its statutory duties described in N.D.C.C. ch. 23-35, or in any other applicable section of the N.D.C.C.

NOW, THEREFORE, it is hereby agreed by and between the Parties as follows:

1. Term. The term of this Agreement shall be from January 1, 2021 through December 31, 2021. The Agreement may be renewed by written agreement of the Parties.
2. Statutory Obligations. FDHU agrees to perform any and all statutory duties as described in N.D.C.C. ch. 23-35, or any other applicable section of the N.D.C.C., within the corporate limits and extraterritorial zone of the City of Minot, North Dakota.
3. Scope of Services. FDHU agrees to provide the following additional services to the City in accordance with this Agreement:
  - a. Provide the following programs and services, exclusively in the FDHU Minot office: Environmental Health Lab services; tobacco cessation services; Optimal Pregnancy Outcome Program; High Priority Infant Program; HIV testing and treatment including the Ryan White Program; Tuberculous testing; Syringe Exchange Service that includes harm reduction counseling; and an Advanced Nurse Practitioner will provide STD and family planning services;
  - b. Provide any materials and personnel necessary to conduct up to 700 water tests for the City Public Works Department;
  - c. Administer up to 700 water tests for the City Public Works Department;
  - d. Provide any materials and personnel necessary to conduct up to 300 waste water tests for the City Public Works Department;
  - e. Administer up to 300 waste water tests for the City Public Works Department;

- f. Provide any materials and personnel necessary to administer up to 5 Hepatitis B vaccines (in two doses); up to 5 TDAP vaccines; and up to 5 boostrix TDAP vaccines to City Public Works Department employees;
- g. Administer up to 5 Hepatitis B vaccines (in two doses); up to 5 TDAP vaccines; and up to 5 boostrix TDAP vaccines to City Public Works Department employees;
- h. Provide up to 125 two-dose boxes of Narcan to the City, for administration by the City's Police and Fire Departments.

FDHU shall ensure the provision of such services by maintaining an appropriate number of qualified and competent staff to carry out such services, and shall monitor and evaluate the quality, appropriateness, and safety of such services provided to the City.

4. **Biannual Reports.** On July 30, 2021 and February 28, 2022 FDHU shall submit a written Biannual Report to the City. The July report shall include a summary of operations for the prior year as well as a financial report outlining the sources and uses of funds and the financial position of FDHU. The February report shall identify any services provided to the City or to Minot residents, per paragraphs 2 or 3 of this Agreement. The report shall include, but not be limited to, the number of tests or vaccinations provided; the number of lodging establishments licensed and monitored; the number of food establishments licensed and monitored; the number of nuisances investigated and addressed; and the types of healthcare services provided to the City or to Minot residents. This report shall also include a comparative analysis of the services provided to the City and Minot residents versus services provided to other communities and/or residents within the District.
5. **Compensation.** The City agrees to compensate FDHU for public health and the services described in Paragraph 3 in the amount of \$300,000.00. Payment by the City to FDHU shall be made in equal monthly installments, on the first day of each calendar month. All costs and expenses incurred by FDHU in providing the services herein, including but not limited to the costs for any necessary materials and personnel, shall be the sole responsibility of FDHU, as the compensation described in this section shall be the total cost to the City for the services. In the event of termination of this Agreement, the City's

obligation to make payment to FDHU as set forth herein shall immediately cease, with payment for the most recent month's services prorated to the date of termination.

6. Authority to Contract. No part of this Agreement shall be construed to grant to FDHU any authority to contract for, on behalf of, or incur obligations on behalf of the City.
7. Independent Entity. FDHU shall perform all duties and services required under N.D.C.C. and this Agreement as an independent entity. FDHU, its employees, agents, or representatives are not employees of the City for any purposes, including but not limited to, the application of the Social Security Act, Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workers' Compensation Act. No part of this Agreement shall be construed to represent the creation of an employer/employee, agency, partnership, or joint venture relationship. FDHU will retain sole and absolute discretion in the judgment of the manner and means of carrying out FDHU's activities and responsibilities under this Agreement.
8. Financial Responsibility. FDHU agrees to keep financial records as are necessary to fully disclose the complete financial status of the Agreement. These records shall be made available to the City upon request at any time during normal business hours.
9. Retention of Records. FDHU agrees to retain financial and program records in accordance with the State of North Dakota's Retention of Records Policy.
10. Confidentiality. FDHU shall not use or disclose any information it receives from City under this Agreement that City has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by City. City shall not disclose any information it receives from FDHU that FDHU has previously identified as confidential that City determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, N.D.C.C. ch. 44-04. The duty of City and FDHU to maintain confidentiality of information under this section continues beyond the Term of this Agreement.
11. Compliance with Public Records Laws. FDHU understands that, in accordance with this Agreement's Confidentiality Paragraph, City must disclose to the public upon request any records it receives from FDHU. FDHU further understands that any records obtained or generated by FDHU under this Agreement may, under certain circumstances, be open to

the public upon request under the North Dakota public records law. HIPPA record release requirements will be followed by FDHU. FDHU agrees to contact City promptly upon receiving a request for information under the public records law and to comply with City's instructions on how to respond to the request.

12. General Liability Insurance. FDHU shall maintain in force, through the term of this Agreement, general and professional liability insurance with a reliable insurance company or government self-insurance pool authorized to do business in this state; and have minimum coverage limits of \$1,000,000 per incident and \$3,000,000 aggregate covering FDHU's performance of the services herein, with the City named as an additional insured. FDHU shall, upon request, provide a copy of any such insurance policy or self-insurance coverage to the City.

13. Indemnification and Hold Harmless.

- a. To the extent permitted by law, the City hereby agrees to indemnify and hold FDHU, its officer, agents, employees, and members harmless from any and all damage, loss, claim, expense, liability, and/or cause of action which may be asserted against FDHU as a result of any breach by the City of any of the provisions of this Agreement or any negligence, gross negligence, or misconduct on the part of the City.
- b. FDHU agrees to indemnify and hold the City, its officers, agents, employees, and elected officials harmless from any and all damage, loss, claim, expense, liability, and/or cause of action which may be asserted against the City as a result of any breach of the terms of this Agreement by FDHU or any negligence, gross negligence, or misconduct on the part of FDHU in providing any of the services contemplated by this Agreement.

14. Termination.

- a. Early Termination in the Public Interest  
City is entering into this Agreement for the purpose of carrying out the public policy of the City of Minot. If this Agreement ceases to further the public policy of the City of Minot, City, in its sole discretion, by written notice to the FDHU, may terminate this Agreement in whole or in part.
- b. Breach and Termination

In the event a Party hereto shall breach any of the terms of this Agreement, and such breach shall continue for a period of ten days after receipt of written notice of such breach, the non-breaching Party may terminate this Agreement and shall be entitled to any and all remedies as a result thereof as provided for by law.

15. Notice. Notices required pursuant to this Agreement may be delivered in person to the City or in person to FDHU. Notice may also be delivered via email, or by delivery of the same into the custody of the United States Postal Service, postage prepaid. Any such notice if by email or by United States Postal Service, shall be addressed as follows:

- a. CITY:                                City of Minot  
    c/o Kelly Matalaka  
    P.O. Box 5006  
    Minot, ND 58702-5006  
    kelly.matalaka@minotnd.org
  
- b. FDHU:                                First District Health Unit  
    c/o Lisa Clute  
    P.O. Box 1268  
    Minot, ND 58702  
    lclute@nd.gov

Service of notice by personal service shall be deemed to have been given as of the date of such personal service. Notice given by deposit with the United States Postal Service shall be deemed to have been given two (2) consecutive business days following the deposit of the same into the custody of said Postal Service. The City and FDHU may, from time to time, by written notice to the other, designate a different address or person which shall be substituted for that specified above.

15. Successors in Interest. The provisions of this Agreement shall be binding upon and shall insure to the benefit of the Parties hereto, and their respective successors and assignees.

16. Assignment and Subcontracting. FDHU may not assign or otherwise transfer or delegate any right or duty without City's express written consent. However, FDHU may enter into subcontracts provided that any subcontract acknowledges the binding nature of this Agreement and incorporates this Agreement, including any attachments. FDHU is solely

responsible for the performance of any subcontractor with whom FDHU contracts.

FDHU does not have authority to contract for or incur obligations on behalf of City.

17. Compliance with Laws. FDHU shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.
18. Severability. If any term of this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Agreement did not contain that term.
19. Governing Law and Venue. This Agreement shall be construed and interpreted both as to the validity and performance of the Parties in accordance with the laws of the State of North Dakota. In the event of any dispute hereunder the forum shall be in District Court, Ward County, North Dakota. Each Party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or forum non convenient.
20. Entire Agreement and Modification. This Agreement, including the Attachments, constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by both Parties.
21. Effectiveness of Agreement. This Agreement is not effective until fully executed by both Parties.

**CITY OF MINOT, NORTH DAKOTA**

Shaun Sipma, Mayor

David Lakefield, Finance Director

**FIRST DISTRICT HEALTH UNIT**