

## **CHAPTER 40-54 GRAVEL SURFACING CITY STREETS**

### **40-54-01. Bids - Advertising - Requirements.**

On or before the fifteenth day of March in each year, the city auditor of each city within the state may at the discretion of the governing board advertise in the official newspaper once each week for two consecutive weeks for bids for the furnishing of gravel in place for gravel surfacing of highways within the city, upon a cubic yard [0.76 cubic meter] basis. The bids must be made in accordance with such specifications as to type, grade, and quality of material as specified by the city engineer and approved by the governing board and must provide for the delivery of such gravel along such streets of the city as may thereafter be designated, in such manner as may be designated in the specifications. The notice must specify that payment for such gravel will be in cash or by special assessment warrants issued against the graveling special assessment fund created by this chapter and each bid must specify the lowest rate of interest that the bidder will accept upon such warrants and that payment for such gravel will be accepted by the bidder in the manner herein provided. Each bid must be accompanied by a separate envelope containing a certified or cashier's check in such amount as may be fixed by the governing board and the award of the contract shall be made only to such person who shall furnish good and sufficient bond for the performance thereof, in such amount as shall be fixed by the governing board at the time of calling for bids.

### **40-54-02. Awarding contract - Failure to advertise for bids.**

If bids have been called for at the first regular meeting of the governing body in the month of April in each year, the bids shall be opened and the contract for the furnishing of gravel shall be awarded to the lowest responsible bidder who has complied with the requirements of this chapter. If the city auditor shall have failed to advertise for bids before the fifteenth day of March or if the governing body shall have failed to award the contract at a meeting in April, such advertisement for bids and such award may be made subsequently upon the same basis as if made at the time provided in this chapter.

### **40-54-03. Hearing upon petition - Notice - Decision.**

Upon petition of the owners of not less than fifty percent of the property, measured by front feet, on both sides of any street or portion thereof, not less than one block in length, for gravel surfacing of such street or portion thereof, the governing board may give notice of such petition and of a time and place for hearing thereon, by publication once in each week for two successive weeks prior to such hearing, the first publication to be not less than ten days before such hearing. At the time and place of such hearing, the governing board shall consider and determine the desirability and necessity of the graveling of such street or portion thereof, the ownership and use of the property adjoining said street, the probability or lack of probability of special assessments for such graveling being paid, and the necessity, from the standpoint of the municipality, of such graveling being undertaken, and shall thereupon determine whether or not such project shall be undertaken, and its decision thereon shall be final.

### **40-54-04. Notification of award of contract - Contractor's duty - Project number.**

If the governing board shall determine that such graveling project should be undertaken, it shall direct its street department to prepare the surface of such street or portion thereof for such gravel surfacing, and the city engineer shall notify and direct the holder of the contract for the furnishing of gravel for such year to deliver in place sufficient gravel to accomplish the gravel surfacing of said street, specifying the number of yards [0.76 cubic meter], including intersections if so determined by the governing board, within a reasonable time to be specified in such notice. The holder of such contract shall within such time deliver said gravel in accordance with such instructions and the street department shall spread said gravel and complete the necessary work for the gravel surfacing of said street or portion thereof. Each such project shall be designated as a particular graveling district by number.

**40-54-05. Assessments.**

The entire cost of furnishing gravel, together with the cost of the legal notices and engineering services involved, and including the cost of gravel used at street intersections, shall thereupon be assessed against the property adjoining such street upon a front foot basis by the city engineer. The city engineer shall return the assessments of such cost and file the same in the office of the city auditor, who shall cause such assessment, together with a notice of the time and place when and where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper at least ten days prior to the meeting of the governing body at which the approval of such assessment will be considered. Upon such hearing, the decision of the board shall be final.

**40-54-06. City auditor to deliver duplicate assessment rolls - Collection of assessments.**

On or before the first day of September of each year, the city auditor shall deliver to the county auditor a duplicate of all assessment rolls containing assessments made under the provisions of this chapter, and the county auditor shall extend the assessments in the proper column against the property assessed. Such assessments shall be collected and the payment thereof enforced as county and state taxes are collected and enforced and such assessments shall constitute a lien against the property designated in the same manner and to the same extent as other special assessments. When collected, the assessments shall be paid over by the county treasurer to the city auditor in the same manner as other taxes.

**40-54-07. City auditor to keep gravel assessment book.**

The city auditor shall keep in the city auditor's office a book called "gravel assessment book" and shall enter therein the costs certified by the city engineer and governing body as an assessment against the lots or parcels of land adjoining any such graveling project constructed under the provisions of this chapter and the names of the owners of such lots or parcels of land, if the same are known to the city auditor.

**40-54-08. Payment of assessments - Interest.**

All assessments for gravel projects shall be payable in equal annual amounts extending over such period as may be determined by the governing body, not exceeding three years, and shall bear interest at an annual rate of not more than two percentage points above the average net annual interest rate on any warrants for the total amount of the assessments remaining unpaid. Anyone may pay such assessments in one single payment, and anyone who has paid any one or more installments may pay the balance in one payment. When the assessment against any lot or tract has been paid, the lien against the lot or tract shall be canceled and annulled.

**40-54-09. Separate fund for project - Warrants.**

All moneys received by a municipality from assessments for any graveling project shall be kept in a separate fund designated as "graveling district number \_\_\_\_\_". Warrants shall be drawn on such fund for the payment of the cost of such gravel project.

**40-54-10. Gravel assessment warrants - How paid - Interest - Contents.**

All gravel assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by such special assessments. The warrants shall bear interest at a rate or rates and be sold at a price resulting in average net interest cost not exceeding twelve percent per annum if sold privately. There is no interest rate ceiling on warrants sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. The warrants may have coupons attached representing each interest payment. The warrants shall state on their face the purpose for which they were issued, and from what fund they are payable, and shall be signed by the executive officer and countersigned by the city auditor under the seal of the municipality. The warrants shall be used in making payment on the contract for the furnishing of gravel, or may be sold for cash at not less than

ninety-eight percent of the par value thereof, and proceeds credited to the special fund and used to pay for the gravel project.

**40-54-11. Warrants payable from special graveling fund.**

The city auditor shall pay such special gravel assessment warrants and interest coupons as they mature and are presented for payment out of the graveling special fund, and shall cancel the same when paid, and the provisions of section 40-26-08 shall apply in the case of deficiencies in such fund.

**40-54-12. Optional method of graveling streets.**

It is the intent of this chapter to provide an optional and discretionary method of graveling streets and levying special assessments therefor in addition to those provided by existing statutes, and in all matters not specifically provided for in this chapter, the provisions of chapters 40-23, 40-24, and 40-25 shall govern.