

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at [www.FargoND.gov/streaming](http://www.FargoND.gov/streaming). They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at [www.FargoND.gov/citycommission](http://www.FargoND.gov/citycommission).

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, November 19, 2018).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. 1st reading of the following Ordinances:
  - a. Amending Section 10-0318 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to Public Safety, Morals and Welfare.
  - b. Amending Section 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 2. 2nd reading and final adoption of the following Ordinances; 1st reading 11/19/18:
  - a. Amending Sections 25-3301 through 25-3307 of Article 25-33 of Chapter 25 and enacting Sections 25-3301.1 and 25-3301.2 of Article 25-33 of Chapter 25 of the Fargo Municipal Code Relating to Tattoos, Body Art and Body Piercing.
  - b. Amending Section 1-0305.A of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Classifications of Ordinance Violations – Tattoos, Body Art and Body Piercing Violations as Class B Misdemeanors.
- 3. Applications for property tax exemptions for improvements made to buildings:
  - a. Adam L. Peterson and Rachel M. Andersen-Peterson, 1415 West Gateway Circle South, Unit 12 (3 year).
  - b. Paul D. and Linda S. Kegel, 910 12th Street North (5 year).
  - c. Steven V. and Janice M. Harter, 515 21st Avenue South (5 year).
  - d. Melissa A. and Heath A. Lynnes, 3686 Evergreen Road North (5 year).
  - e. Lowell P. Degnan, 1514 4th Avenue North (5 year).
  - f. Timothy B. Somes, 1309 14th Street South (5 year).
  - g. Eric W. and Jennifer L. Momsen, 1220 4th Street North (5 year).
- 4. Applications for Games of Chance:
  - a. El Zagal Holding Company for a raffle on 2/9/19.
  - b. Muskies Inc. F-M Chapter for a raffle on 2/7/19.
- 5. Lease Agreement with City of Fargo and Downtown Community Partnership.
- 6. Proposal from JLG Architects for a Fargo Performance Center Feasibility Analysis Update.

- Findings of Fact and Order, and Notice of Entry of Order for the property at 826 10th Street North.
8. Findings of Fact and Order, and Notice of Entry of Order for the property at 1101 7th Street North.
9. Award of the 2019 Liability and Property Insurance Coverage for the FARGODOME.
10. Agreement for Services with Whitney Oxendahl.
11. Agreement for Services with Fargo-Moorhead Metro COG.
12. Agreement between Richland County Health Department and Fargo Cass Public Health to provide nurse practitioner services.
13. Sole Source Procurement with Interstate Power System, New Flyer Industries and Cummins NP for the purchase of parts and service in 2019 for vendor specific parts and service (SSP18025, 18026 and 18041).
14. Change Order No. 4 for a 7-day time extension for Project No. FM-15-F2.
15. Negative Final Balancing Change Order No. 3 in the amount of -\$23,091.45 for Project No. FP-17-A1.
16. Amendment No. 1 with Houston Engineering in the amount of \$9,140.00 for Project No. SN-18-C0.
17. Purchase of Wetland Credits from Ducks Unlimited, Inc. in the amount of \$50,000.00 for Project No. FM-15-K1.
18. Purchase Agreement with Ivan Lima Jr. for property located at 771 Royal Oaks Drive North (Project No. FM-19-B).
19. Purchase Agreement with Tracy Lynn Lind for property located at 701 Royal Oaks Drive North (Project No. FM-19-B).
20. Authorize the Engineering Department to advertise for proposals for a three-year Master Services Agreement.
21. Task Order No. 2 for an increase of \$267,000.00 for Project No. WA1862.
22. Bid award for chemicals at the Water Treatment Plant for 2019.
23. Bid award for chemicals at the Waste Water Treatment Plant for 2019.
24. Project submittal to Metro COG for inclusion in the City's applications to the NDDOT for funding in 2021 and 2023.
25. Project submittal to Metro COG for inclusion in the City's applications to the NDDOT for funding in 2020 and 2021.
26. Accept the Plan of Action and authorize the Planning Department to begin implementation, including property acquisition under the federal HUD program.

Bills.

28. Change Order No. 2 for an increase of \$7,621.07 and time extension to 12/14/18 for Improvement District No. BR-18-G2.
29. Negative Final Balance Change Order No. 3 in the amount of -\$3,675.77 for Improvement District No. AN-17-G1.
30. Contract Amendment No. 3 in the amount of \$353,520.36 for Improvement District No. MS-17-A0.
31. Reject bids received for Improvement District No. BN-19-A1 and request the NDDOT to rebid the project in early 2019.
32. Memorandum of Offer to Landowner for a Temporary and Permanent Easement from Plecity Kowalski Construction, Inc. for Improvement District No. BN-19-A1.
33. Memorandum of Offer to Landowner for a Temporary Easement (construction) from Jale Holdings, LLC for Improvement District No. BN-19-A1.
34. Memorandum of Offer to Landowner for 2 Temporary Easements (construction) from Amerco Real Estate Company for Improvement District No. BN-19-A1.

**REGULAR AGENDA:**

35. State Water Commission requests for Cost Reimbursement for FM Diversion Flood Project Costs:
  - a. Costs totaling \$244,521.99.
  - b. Costs totaling \$11,892.35.
36. Resolution Authorizing the Issuance of \$15,000,000.00 Refunding Improvement Bond, Series 2018F and Resolution Creating the Funds of Improvement Districts, Providing for and Appropriating Special Assessments for the Support and Maintenance of Said Funds, and Authorizing the Issuance of Improvement Warrants Thereon.
37. Public Hearings - 5:15 pm:
  - a. Application requesting the establishment of the Jefferson Neighborhood Historic Overlay Zoning District on all of Eddy Place Addition; Blocks 10-16 and 24-43, Eddy & Fullers Auditors Lots; Blocks 1, 6 and 7, Case, Peake and Hall Addition; and Blocks 1, 6 and 7, Fullers Addition (South of 1st Avenue South, West of 14th Street South and University Drive South, North of 6th Avenue South and East of 15th Street South); approval recommended by the Planning Commission on 11/6/18.
    1. 1st reading of rezoning Ordinance.
  - b. Zoning Change from MR-3, Multi-Dwelling Residential to GC, General Commercial on Lots 1 and 2, Block 3, West Acres 4th Addition (1702 40th Street South and 3926 17th Avenue South); approval recommended by the Planning Commission on 11/6/18.
    1. 1st reading of rezoning Ordinance.
  - c. Application filed by Golf Addiction ND LLC d/b/a Golf Addiction for a Class "FA-Entertainment" Alcoholic Beverage License at 4474 23rd Avenue South.

d. Hearing on a dangerous building located at 703 10th Avenue North.

38. Appointment to the Board of Health.

39. Recommendation to retain a lobbyist for the 2019 Legislative Session.

40. Recommendation for Agreement – Purchase, Lease Back and Easement with Preference Employment Solutions, Inc. for the possibility of future expansion of 26th Avenue west of 42nd Street.

41. Updated 2019 Capital Improvement Plan.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo website at [www.FargoND.gov/citycommission](http://www.FargoND.gov/citycommission).

35a

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: KENT COSTIN, DIRECTOR OF FINANCE** *KAC*

**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**

**DATE: November 20, 2018**

The existing legislation in place for State Water Commission funding related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project requires that the Fargo City Commission, Cass County Commission, and the Cass Water Resource Board approve all payment reimbursement requests prior to their submission and ultimate payment.

The attached reimbursement request has been prepared by Finance staff and is ready for processing. Your approval of the request for funds is hereby requested as required.

As requested previously by the City Commission, the costs related to the Oxbow Hickson Bakke levee are being presented separately from the rest of the Metro Flood Diversion expenses. This request includes only the OHB levee related costs for October 2018.

**Suggested Motion:**

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$244,521.99.

November 20, 2018

Garland Erbele, P.E.  
 North Dakota State Water Commission  
 900 East Boulevard Avenue, Dept 770  
 Bismarck, ND 58505-0850

Dear Garland,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #78 pursuant to the terms and conditions of House Bill 1020 for costs incurred on the OHB Levee project from October 1, 2018 to October 31, 2018. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$244,521.99.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$244,000,000	\$187,610,851.76	\$489,043.98	50%	\$244,521.99	\$56,144,626.25

**Project Narrative, this request:**

Project Number	Project Description
V04201	Traffic control signage on the OHB Levee
V04401	Pay Application #8 for WP43CD – OHB Ring Levee Phases C and D

We certify that \$79,166,117 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of HB 1020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

The City of Fargo, Cass County Commission, and the Cass County Joint Water Resource Board have approved our request for funds as required in HB 1020. Copies of their approval letters are included.

If you have any questions relating to our request, please contact me directly.

Sincerely,



Kent Costin  
 Director of Finance, City of Fargo  
 Metro Flood Diversion Authority

**Required Local Approvals:**

\_\_\_\_\_  
City of Fargo

\_\_\_\_\_  
Cass County Commission

\_\_\_\_\_  
Cass County Joint Water Resource Dist.

**FM Metropolitan Area Flood Risk Management Project  
 Summary of Cash Disbursements Eligible for SWC Funding  
 October 2018 - OHB Levee Related Costs**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-0000-206.10-00	10/11/2018	291328	MEYER CONTRACTING INC	0.88	Retainage PO 194201	V04401	OHB RING LEVEE PHASES C&D
			<b>Total Retainage</b>	<b>0.88</b>			
790-7950-429.38-99	10/17/2018	291457	CASS COUNTY TREASURER	394.50	NO MOTORIZED VEHICLE SIGN	V04201	DUST/TRAFFIC CONTRL-INLET
			<b>Total ND Construction - Other Services</b>	<b>394.50</b>			
790-7952-429.73-52	10/11/2018	291328	MEYER CONTRACTING INC	488,648.60	OHB RING LEVEE	V04401	OHB RING LEVEE PHASES C&D
			<b>Total O/H/B Construction - Flood Control</b>	<b>488,648.60</b>			
			<b>Total Expense for Period</b>	<b>489,043.98</b>			



356

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: KENT COSTIN, DIRECTOR OF FINANCE** *KAC*

**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**

**DATE: November 20, 2018**

The existing legislation in place for State Water Commission funding related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project requires that the Fargo City Commission, Cass County Commission, and the Cass Water Resource Board approve all payment reimbursement requests prior to their submission and ultimate payment.

The attached reimbursement request has been prepared by Finance staff and is ready for processing. Your approval of the request for funds is hereby requested as required.

**Suggested Motion:**

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$11,892.35.

November 20, 2018

Garland Erbele, P.E.  
 North Dakota State Water Commission  
 900 East Boulevard Avenue, Dept 770  
 Bismarck, ND 58505-0850

Dear Garland,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #77 pursuant to the terms and conditions of House Bill 1020 for costs incurred from October 1, 2018 to October 31, 2018 on the Fargo-Moorhead Metropolitan Area Flood Risk Management Project. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$11,892.35.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$244,000,000	\$187,598,959.41	\$23,784.69	50%	\$11,892.35	\$56,389,148.24

**Project Narrative, this request:**

Project Number	Project Description
V01701	Residential relocation assistance for homeowners living in the upstream mitigation and channel phase 3 areas
V04201	Dust control and gravel for Diversion bypass road

We certify that \$79,166,117 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of HB 1020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

The City of Fargo, Cass County Commission, and the Cass County Joint Water Resource Board have approved our request for funds as required in HB 1020. Copies of their approval letters are included.

If you have any questions relating to our request, please contact me directly.

Sincerely,



Kent Costin  
 Director of Finance, City of Fargo  
 Metro Flood Diversion Authority

**Required Local Approvals:**

\_\_\_\_\_  
City of Fargo

\_\_\_\_\_  
Cass County Commission

\_\_\_\_\_  
Cass County Joint Water Resource Dist.

**FM Metropolitan Area Flood Risk Management Project  
Summary of Cash Disbursements Eligible for SWC Funding  
October 2018**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-7930-429.67-11	10/4/2018	291086	CASS COUNTY JOINT WATER RESOURCE DI	5,482.81	GEORGE AND NIURIS LEHER	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-11	10/4/2018	291086	CASS COUNTY JOINT WATER RESOURCE DI	3,175.00	PETER BEIGLER JR	V01701	ND LAND PURCH-OUT OF TOWN
			<b>Total LERRDS - North Dakota - Residential Buildings</b>	<b>8,657.81</b>			
790-7950-429.38-99	9/13/2018	290486	CASS COUNTY TREASURER	5,380.24	DUST CONTROL	V04201	DUST/TRAFFIC CONTRL-INLET
790-7950-429.38-99	10/4/2018	291098	CASS COUNTY TREASURER	4,682.24	DUST CONTROL APPLIED	V04201	DUST/TRAFFIC CONTRL-INLET
790-7950-429.38-99	10/11/2018	291246	CASS COUNTY TREASURER	5,054.40	GRAVEL ON COUNTY RD 17	V04201	DUST/TRAFFIC CONTRL-INLET
			<b>Total ND Construction -, Other Services</b>	<b>15,126.88</b>			
			<b>Total Expense for Period</b>	<b>23,784.69</b>			

(36)

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: KENT COSTIN, DIRECTOR OF FINANCE** *KAC*

**RE: RESOLUTION AUTHORIZING THE ISSUANCE OF \$15M REFUNDING IMPROVEMENT BOND, SERIES 2018(F) AND RESOLUTION CREATING FUNDS OF IMPROVEMENT DISTRICTS, PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR THE SUPPORT AND MAINTENANCE OF SAID FUNDS, AND AUTHORIZING THE ISSUANCE OF IMPROVEMENTS WARRANTS THEREON**

**DATE: NOVEMBER 26, 2018**

The City of Fargo applied for a loan through the Bank of North Dakota to fund special assessment projects. This new loan program was created during past legislative action and offers the ability to utilize a low interest loan program that is targeted at infrastructure financing.

The Finance Committee has reviewed and approved the individual project listing and the overall loan features and is recommending approval of the loan. The loan has been approved by the Bank of North Dakota.

This loan program offers features that are advantageous to the deployment of our infrastructure projects to include a more streamlined bonding process, removal of current IRS tax-exempt bond compliance and most of all a below market fixed rate loan of two percent.

Jennifer Hanson of the Dorsey Law firm reviewed the loan documents and is recommending your approval as presented by the Bank of North Dakota.

**Suggested Motion:**

Approve a resolution authorizing the issuance of a Bank of North Dakota loan in the amount of \$15 million and the resolution creating and appropriating special assessment warrants for repayment of this obligation and authorizing the Mayor and City Auditor to execute closing documents.

**RESOLUTION AUTHORIZING THE ISSUANCE OF  
\$15,000,000 REFUNDING IMPROVEMENT BOND, SERIES 2018F**

**BE IT RESOLVED** by the City Commission of the City of Fargo, North Dakota (the "City"), as follows:

1. **WARRANTS.** In and by a resolution heretofore adopted this date (the "**Warrant Resolution**"), the City has authorized the issuance of definitive improvement warrants in the aggregate principal amount of not to exceed \$15,000,000 (the "**Warrants**") payable from the BND Loan Improvement District Funds of the respective Improvement Districts as defined and described in the Warrant Resolution, and subject to the terms, provisions and covenants set forth in the Warrant Resolution, which is hereby incorporated herein and made a part hereof.

2. **AUTHORIZATION OF REFUNDING IMPROVEMENT BOND.** It is hereby found, determined and declared that the improvement Warrants were duly and legally authorized under authority of and in accordance with the provisions of Title 40 of the North Dakota Century Code ("**N.D.C.C.**"); that there is not at the present time in the BND Loan Improvement District Funds sufficient money to pay the Warrants drawn thereon with interest, and by the exchange of the Warrants for refunding improvement bonds the City can consolidate two or more outstanding issues of warrants; that the Warrants are subject to exchange at the option of the City for the purpose of issuing refunding improvement bonds of the City in accordance with the provisions of Chapter 40-27, N.D.C.C.; that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen and to be performed precedent to the issuance of the refunding improvement bonds hereinafter described have been done, do exist, have happened and have been performed in due form, time and manner as so required; and that the issuance of the refunding improvement bonds is necessary and expedient and for the best interest of the City and its inhabitants, taxpayers and the owners of property liable to be assessed for the improvements.

Pursuant to the authority of Chapter 40-27 of the N.D.C.C. and the provisions of this Resolution, a bond of the City of Fargo, North Dakota entitled to the benefits, protection and security of such provisions is hereby authorized in the aggregate principal amount of not to exceed \$15,000,000. The bond shall be designated "\$15,000,000 City of Fargo, North Dakota, Refunding Improvement Bond, Series 2018F" (the "**Bond**"), for the purpose of refunding the Warrants and paying related costs of issuance.

3. **SALE.** The City has received a proposed Loan Agreement (the "**Loan Agreement**"), from the Bank of North Dakota ("**BND**"), to purchase the Bond upon the terms and conditions set forth therein and in the BND Commitment Letter dated October 11, 2017 and the amendment thereto dated October 24, 2018 (together, the "**Commitment Letter**"). The City hereby finds and determines the Loan Agreement to be in the best interest of the City and hereby accepts the Loan Agreement and instructs the Mayor and City Auditor to execute the Loan Agreement on behalf of the City. The Loan Agreement is hereby incorporated by reference and the sale of the Bond is hereby awarded to BND.

4. **TERMS.** The Bond shall be dated the date of issuance. The Bond shall be issued in fully registered form as a single term bond numbered R-1. The Bond shall bear interest from the date of first loan advance until the principal amount of the Bond is paid, at the rate of 2.00%. Such interest (computed upon the basis of a 360-day year consisting of twelve months of 30 days each) is payable annually on the first day of May commencing May 1, 2019. Principal shall be paid annually on the first day of May commencing May 1, 2019, with the final principal payment due at maturity, May 1, 2044. Interest on the Bond shall cease at maturity or on a date prior thereto on which the principal installments have been duly called for redemption unless the holder thereof shall present the same for payment and payment is refused. The Bond shall be payable from the Bond Fund established herein.

Principal of and interest on the Bond shall be paid in lawful money of the United States by the City Auditor (the "**Registrar**") by check, wire or other electronic transfer to the name and address of the registered owners as they appear on the Bond Register as of the fifteenth day (whether or not a business day) of the immediately preceding month.

5. **REDEMPTION.** The City may prepay the Bond in whole or in part, without incurring any penalty, on any date at a price equal to 100% of the principal amount to be repaid, together with accrued interest thereon to the redemption date.

6. **FORM OF BOND.** The Bond shall be in substantially the form on file with the City Auditor.

7. **PREPARATION, EXECUTION AND DELIVERY OF BOND.** The Bond shall be printed under the supervision and at the direction of the City Auditor, executed by the manual or facsimile signature of the Mayor, sealed with a manual or facsimile of the City's official seal, if any, and attested to by the manual or facsimile signature of the City Auditor and delivered to BND at closing upon receipt of the purchase price plus any accrued interest. The Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under this Resolution until the Bond is signed by the Mayor and attested to by the City Auditor.

8. **REGISTRATION AND TRANSFER.** The Bond is transferable upon the books of and at the principal office of the Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange. No transfer of Bonds shall be required to be made during the fifteen days next preceding an interest payment date, nor during the forty-five days next preceding the date fixed for redemption of such Bonds.

The Bond shall be registered as to both principal and interest and the Registrar shall establish and maintain a register for the purposes of recording the names and addresses of the registered owners or assigns, the dates of such registration and the due dates and amounts for payment of principal and interest on the Bond; and the City and the Registrar may deem and treat the person in whose name any Bond is registered as the absolute owner thereof, whether the Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

9. **2018 REFUNDING IMPROVEMENT BOND FUND, SERIES F.** There shall be and is hereby created a special fund to be maintained by the City Auditor separate and apart from all other funds of the City, to be designated as the 2018 Refunding Improvement Bond Fund, Series F (the "**Bond Fund**"). To the BND Loan Improvement District Funds shall be credited the Warrants referred to in paragraph 1 hereof when received by the City Auditor, which Warrants shall thereupon become and shall thereafter be held as assets of the Bond Fund, and the proceeds of all collections on the Warrants so acquired shall be held by the City in trust for the use and benefit of the holders from time to time of the Bonds herein authorized. The BND Loan Improvement District Funds of the Improvement Districts described in the Warrant Resolution referred to in paragraph 1 hereof shall be continued and payments shall be made therefrom on the Warrants drawn thereon in the same manner as though the Warrants had not been exchanged. All payments of principal and interest made on the Warrant shall be credited to the Bond Fund and shall be used and applied in payment of the principal of and interest on the Bond as such principal and interest becomes due.

10. **COVENANTS AND AGREEMENTS OF THE CITY.** The City covenants and agrees with the holders from time to time of the Bond, (a) that it will use due diligence to collect the Warrants and special assessments; (b) that it will preserve and enforce for the benefit of the holders of the Bond all of the rights, powers, and privileges reserved to holders of the Bond, and all of the covenants of the City provided in the Warrant Resolution; (c) that in the event of a deficiency in the BND Loan Improvement District Funds for the payment of principal and interest on Warrants drawn thereon, the City Commission will, at the time and in the manner prescribed by Section 40-26-08, N.D.C.C., levy a tax upon all of the taxable property in the City for the payment of such deficiency; and (d) that if the balance in the Bond Fund should at any time be insufficient to pay all principal and interest then due on the Bond issued under this Resolution, such balance shall be used first to pay the interest due, and the remainder shall be applied in payment of the principal due on the Bond. The City reserves the privilege of refunding a matured Bond for the payment of which moneys are not at the time available by issuing new bonds payable from the Bond Fund, on a parity with those theretofore issued as to interest charges therein, but the maturity of any such new bonds shall be subsequent to the maturity of the Bond payable from the Bond Fund which then remain outstanding.

11. **DISCHARGE.** When the Bond has been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution shall cease. The City may discharge the Bond or principal installments thereon due on any date by depositing with the Paying Agent on or before that date a sum sufficient for the payment thereof in full; or if any principal installments should not be paid when due, the same may nevertheless be discharged by depositing



with the Paying Agent a sum sufficient for the payment thereof in full with interest accrued from the due date to the date of such deposit. The City may also discharge the Bond at any time by irrevocably depositing in escrow with a suitable bank, for the purpose of paying all principal and interest when due on such Bond, a sum of cash and securities of the types described in Section 40-27-13, N.D.C.C., in such aggregate amount, bearing interest at such rates and maturing or callable at the holder's option on such dates as shall be required to provide funds sufficient for this purpose.

**12. OTHER PROCEEDINGS.** The officers of the City are hereby authorized and directed to execute and carry out or cause to be carried out the obligations which are necessary or advisable in connection with this Resolution and the issuance, sale and delivery of the Bond. The officers of the City are authorized and directed to prepare and furnish to the purchasers of the Bond, and to the attorneys approving the legality thereof, records of the City, and certificates and affidavits as to other matters shown by their official records and otherwise known to them, which may reasonably be required to evidence the legality and marketability of the Bond, and all certified copies, certificates, affidavits and other instruments so furnished, including any heretofore furnished, shall constitute representations of the City as to the correctness of all facts stated or recited therein.

The Mayor and City Auditor, in consultation with the City Attorney, are hereby authorized to deliver a Certificate which cures ambiguities, defects or omissions herein, corrects, amends or supplements any provision herein, all in furtherance of the financing contemplated by the Commitment Letter. Such authorization shall include adjustment of the amortization schedule and issuance of revised bonds and warrants in the event assessments are not certified for collection as provided for in the Warrant Resolution.

*(Remainder of this page intentionally left blank.)*

Dated: December 3, 2018.

**CITY OF FARGO, NORTH DAKOTA**

**Attest:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Auditor

The governing body of the City acted on the foregoing resolution at a properly noticed meeting held in Fargo, North Dakota, on December 3, 2018, with the motion for adoption made by \_\_\_\_\_ and seconded by \_\_\_\_\_, and the roll call vote on the motion was as follows:

"Aye" \_\_\_\_\_

"Nay" \_\_\_\_\_

Absent \_\_\_\_\_

Abstain \_\_\_\_\_

CITY OF FARGO, NORTH DAKOTA

**RESOLUTION CREATING THE FUNDS OF IMPROVEMENT DISTRICTS,  
PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR THE  
SUPPORT AND MAINTENANCE OF SAID FUNDS, AND AUTHORIZING THE  
ISSUANCE OF IMPROVEMENT WARRANTS THEREON**

**BE IT RESOLVED** by the City Commission (the "Commission") of the City of Fargo, North Dakota (the "City"), as follows:

**SECTION 1. IMPROVEMENT DISTRICTS.**

**1.01.** It is hereby found, determined and declared that the City has heretofore duly created the following improvement districts within the City:

Water Main Replacement, Street Reconstruction & Incidentals Improvement District No. BR-16-F  
Water Main Replacement, Storm Sewer Replacement, Street Reconstruction Impr. District No. BR-18-E  
Water Main Replacement, Street Reconstruction & Incidentals Improvement District No. BR-18-H  
Seal Coat and Incidentals Improvement District No. PR-18-E  
Asphalt Mill and Overlay and Incidentals Improvement District No. PR-18-F  
P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-17-F  
P.C. Concrete Alley Paving and Incidentals Improvement District No. AN-17-G  
Water Main Replacement, Force Main Construction, Street Reconstruction Impr. District No. BR-16-A  
Water Main Replacement, Force Main Construction, Street Reconstruction Impr. District No. BR-16-B  
Street Construction, Railroad Crossing Surface Replacement & Incidentals Impr. District No. BR-17-E  
Street Lighting and Incidentals Improvement District No. SL-16-B  
Water Main Replacement, Force Main Construction, Street Reconstruction Impr. District No. BR-16-E  
Force Main Construction, Sanitary Sewer Rehabilitation, Street Reconstruction Impr. Dist. No. BR-17-A  
Water Main Replacement, Force Main Construction, Street Reconstruction Impr. District No. BR-17-C  
Water Main Replacement, Street Reconstruction & Incidentals Improvement District No. BR-17-F  
Water Main Replacement, Street Reconstruction & Incidentals Improvement District No. BR-17-G  
Water Main Replacement, Street Reconstruction & Incidentals Improvement District No. BR-17-H  
Water Main Replacement, Street Reconstruction & Incidentals Improvement District No. BR-17-J  
Water Main Replacement, Street Reconstruction & Incidentals Improvement District No. BR-17-L  
Sidewalk Improvement District No. SN-18-B  
Sidewalk Improvement District No. SR-18-A  
Traffic Signal Improvement District No. TN-16-B  
Traffic Signal Improvement District No. TN-16-E  
Water Main Improvement District No. UR-16-A

(collectively, the "Improvement Districts") and has ordered, received and approved plans and specifications, and estimates of the cost, for the construction of the improvements in the Improvement Districts; that the Commission determined the necessity of constructing the improvements, and, where applicable, after giving the owners of property liable to be specially assessed therefor the opportunity provided by law to protest against the construction of the

improvements, it was determined that protests sufficient to divest the City and the Commission with reference to the making of the improvements had not been filed; that contracts for construction of the improvements have been duly awarded and executed; that the contracts and contractors bonds have been and are hereby approved; that the City possesses and has power to exercise through this Commission full and exclusive jurisdiction over all utilities, streets and places wherein the improvements are located; that the total cost of the improvements in excess of any other funds on hand and appropriated for the payment of such cost, including reimbursing other funds of the City for any amounts temporarily advanced to meet immediate expenses of the improvements is now estimated to be approximately \$15,000,000; that the total benefits to all lots, tracts and parcels of land liable to be specially assessed for benefits resulting from the improvements in the Improvement Districts will be equal to or in excess of the cost of the improvements to be assessed against the properties as herein provided; and that all acts, conditions, and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen and to be performed preliminary to the issuance and sale of the improvement warrants to provide moneys to pay for the improvements have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required.

**1.02.** There are hereby created special funds of the City for the Improvement Districts, designated as BND Loan Improvement District Fund for each Improvement District listed in Section 1.01 herein (collectively, the "Funds"). The Funds shall be held and administered by the City Auditor separate and apart from all other funds of the City and shall be continued and maintained as herein directed until all warrants issued thereon shall have been fully paid with interest. In each Fund there shall be maintained two separate accounts to be designated as the "Construction Account" and "Principal and Interest Account," respectively.

**1.03.** There shall be credited to the Construction Account in each Fund the proceeds of the sale of the Warrants issued against such Fund except the accrued interest and any other amounts required to be deposited into the Principal and Interest Account. All costs and expenses of making the improvements, including interest coming due during construction, costs of issuance and payment of temporary warrants, shall be paid from time to time as incurred and allowed from the Construction Accounts, upon construction account warrants signed by the Mayor and City Auditor, and moneys in the Construction Account shall be used for no other purpose, provided, that if upon completion of the improvements and approval thereof by the Engineer for the City, and payment of all claims and expenses in respect to the improvement, there shall remain any unexpended balance in the Construction Account, such balances shall be transferred to the Principal and Interest Accounts of the respective Fund and handled and accounted for in the same manner as other moneys in that account.

As Warrant proceeds are needed for Improvement District costs, the City shall submit requests in accordance with Section 1.06 of the Loan Agreement. Loan advances shall be recorded on the grid on the back of the respective Warrant and shall not, in the aggregate, exceed \$15,000,000. Monies in the Construction Account from such proceeds and earnings shall be used for payment of the cost of the Improvement Districts and costs of issuance of the Warrants to include reimbursement to the City for advances made for such costs or to refund amounts borrowed for the Improvement Districts, and for no other purpose.

**1.04.** There shall be credited to the Principal and Interest Account in the Funds the accrued interest on the Warrants drawn on the Funds from the date of the Warrant to the date of delivery thereof to the purchaser, any reoffering premium, the entire amount of special assessments, any utility revenues or tax revenues to be levied with respect to that improvement as herein agreed, and any balance remaining in the Construction Account after completion of the improvement. Moneys in the Principal and Interest Account shall be used only for payment of the principal of and interest on Warrant drawn against the respective Fund as such payments become due.

**1.05.** With respect to the Improvement Districts, the City covenants and agrees with all holders of the Warrants on the Funds of the Improvement Districts that it will perform, in accordance with law, all acts and things necessary for the final and valid levy of special assessments against properties within the Improvement Districts benefitted by the improvement, in an aggregate amount equal to the total cost of the improvements to the City, except any portion, not exceeding one-fifth (1/5) of the cost of the improvements and not exceeding any applicable constitutional or statutory debt limit, as the City may determine to pay by the levy of ad valorem taxes upon all taxable property within its corporate limits, and except any portion defrayed by other revenues. Prior to November 1 of each year the City shall determine the amount of sales tax or other revenues, if any, to be appropriated to the Principal and Interest Account to pay the principal and interest on the Bonds coming due in the following year. The City shall direct the Cass County Auditor to reduce, by a proportionate amount, the total amount of special assessments that would otherwise be placed on the tax lists of the City to the extent sales tax or other revenues are appropriated to pay the Warrants. In the event that the assessment should at any time be held invalid with respect to any lot or tract of land, due to any error, defect or irregularity in any action or proceeding taken or to be taken by the City or by the Commission or by any City officers or employees, whether in the making of the assessment or in the performance of any condition precedent thereto, the City and this Commission covenant and agree that they will forthwith do all such further acts and take all further proceedings as may be required by law to make such assessment a valid and binding lien upon such lot or tract. The City will continue to cause annual certification of balances of special assessments unpaid for the Improvement Districts to be certified for repayment over a period of years, subject to a reduction or extension of such period of time as may be deemed necessary by the City due to collection of assessments, with the first certification and for first collection in the years, as follows, and annually thereafter:

<u>Improvement Districts</u>	<u>Payment Period (Years)</u>	<u>Year Of First Levy</u>	<u>Year Of First Collection</u>
Water Main Replacement...District No. BR-16-F	25	2019	2020
Water Main Replacement...District No. BR-18-E	25	2019	2020
Water Main Replacement...District No. BR-18-H	25	2019	2020
Seal Coat ... Improvement District No. PR-18-E	25	2019	2020
Asphalt Mill ... Impr. District No. PR-18-F	25	2019	2020
P.C. Concrete Alley Pav. Impr. Dist. No. AN-17-F	25	2019	2020
P.C. Concrete Alley Pav. Impr. Dist. No. AN-17-G	25	2019	2020

Water Main Replacement ... Impr. Dist. No. BR-16-A	25	2018	2019
Water Main Replacement ... Impr. Dist. No. BR-16-B	25	2018	2019
Street Construction ... Impr. District No. BR-17-E	25	2018	2019
Traffic Signal Improvement District No. TN-16-B	15	2017	2018
Street Lighting ... Improvement District No. SL-16-B	20	2018	2019
Traffic Signal Improvement District No. TN-16-E	15	2017	2018
Water Main Improvement District No. UR-16-A	25	2017	2018
Water Main Replacement ... Impr. Dist. No. BR-16-E	25	2019	2020
Force Main Construction ... Impr. Dist. No. BR-17-A	25	2019	2020
Water Main Replacement ... Impr. Dist. No. BR-17-C	25	2019	2020
Water Main Replacement ... Impr. Dist. No. BR-17-F	25	2019	2020
Water Main Replacement ... Impr. Dist. No. BR-17-G	25	2019	2020
Water Main Replacement ... Impr. Dist. No. BR-17-H	25	2019	2020
Water Main Replacement ... Impr. Dist. No. BR-17-J	25	2019	2020
Water Main Replacement ... Impr. Dist. No. BR-17-L	25	2019	2020
Sidewalk Improvement District No. SN-18-B	20	2019	2020
Sidewalk Improvement District No. SR-18-A	20	2019	2020

Installments of the special assessments (and taxes, if any) from time to time remaining unpaid shall bear interest at the rate not exceeding one and one-half percentage points above the interest rate on the Warrants.

**1.06.** The total cost of the improvements for the Improvement Districts, including construction, engineering, administrative, any land or easement acquisition required, and other fees and all other expenses incidental to the completion of the improvements, are estimated to be not less than as follows:

<u>BND Loan Improvement District Fund</u>	<u>Principal Amount</u>
Water Main Replacement... Improvement District No. BR-16-F	\$715,170
Water Main Replacement... Improvement District No. BR-18-E	\$664,636
Water Main Replacement... Improvement District No. BR-18-H	\$294,544
Seal Coat and Incidentals Improvement District No. PR-18-E	\$252,244
Asphalt Mill and Overlay and Incidentals Impr. District No. PR-18-F	\$1,380,406
P.C. Concrete Alley Paving and Incidentals Impr. District No. AN-17-F	\$77,000
P.C. Concrete Alley Paving and Incidentals Impr. District No. AN-17-G	\$368,000
Water Main Replacement ... Improvement District No. BR-16-A	\$1,388,990
Water Main Replacement ... Improvement District No. BR-16-B	\$1,711,896
Street Construction ... Improvement District No. BR-17-E	\$777,775
Water Main Improvement District No. UR-16-A	\$392,312
Street Lighting and Incidentals Improvement District No. SL-16-B	\$776,402
Traffic Signal Improvement District No. TN-16-B	\$405,333
Traffic Signal Improvement District No. TN-16-E	\$440,465
Water Main Replacement ... Improvement District No. BR-16-E	\$817,244
Force Main Construction ... Improvement Dist. No. BR-17-A	\$911,297
Water Main Replacement ... Improvement District No. BR-17-C	\$794,995

Water Main Replacement ... Improvement District No. BR-17-F	\$794,401
Water Main Replacement ... Improvement District No. BR-17-G	\$612,767
Water Main Replacement ... Improvement District No. BR-17-H	\$227,730
Water Main Replacement ... Improvement District No. BR-17-J	\$484,222
Water Main Replacement ... Improvement District No. BR-17-L	\$563,482
Sidewalk Improvement District No. SN-18-B	\$218,000
Sidewalk Improvement District No. SR-18-A	\$240,000
<b>TOTAL</b>	<b>\$15,309,310</b>

Provided, however, that the aggregate amount drawn on the Warrants shall not exceed \$15,000,000.

1.07. With respect to the Funds, the City hereby recognizes its obligation with respect to the Warrants drawn against the Funds, as set forth in Section 40-26-08, North Dakota Century Code ("N.D.C.C."), that whenever all special assessments, utility revenues and taxes, if any, theretofore collected for the improvements are insufficient to pay principal of or interest then due on the Warrant, this Commission shall thereupon levy a tax upon all taxable property in the City for the payment of such deficiency; provided, that if the Warrants have been exchanged for refunding improvement bonds pursuant to the provisions of Chapter 40-27, N.D.C.C., such deficiency tax may be made payable in the years and amounts required to pay the principal of and interest on the refunding improvement bonds as the same become due. Nothing herein contained shall be deemed to limit the power of the City and this Commission under the provisions of the Section 40-26-08, N.D.C.C., to levy a general tax in anticipation of a deficiency considered likely to occur in the Funds within one year, and it is hereby declared to be the policy of the City that the Commission will annually review the current requirements and resources of the Funds, at the time of the preparation of and hearing on the budget, in accordance with the provisions of Chapter 40-40, N.D.C.C., to the end that provision may be made in each annual budget for any deficiency in the Funds which is deemed likely to occur within one year. Such taxes levied in accordance with the provisions of this paragraph in payment of a deficiency, or in anticipation of a deficiency, shall be paid upon collection into the Principal and Interest Account of the respective Fund and applied as provided in paragraph 1.04 hereof.

1.08. In anticipation of the collection of special assessments, utility revenues and taxes, if any, and for the purpose of borrowing money to pay the cost of the improvements, the City shall issue its improvement Warrants on the Funds pursuant to North Dakota Century Code ("N.D.C.C.") Chapter 40-24. The Warrants shall be dated the date of closing. The Warrants shall be in registered form and shall bear interest from date of the first loan advanced until paid at the rate of 2.00%, payable annually on each May 1, commencing May 1, 2019. The Warrants shall not be subject to redemption or exchange except through the issuance of refunding improvement bonds in accordance with the provisions of Chapter 40-27, N.D.C.C. for which purpose the Warrants may be redeemed or exchanged on any date at par and accrued interest. The principal of and interest on the Warrants shall be payable at the office of the City Auditor, in Fargo, North Dakota. The Warrants drawn on the Funds shall be in the principal amounts set out herein.

1.09. The Commission has received a proposed Loan Agreement (the "Loan Agreement"), from the Bank of North Dakota ("BND"), to purchase the Warrant upon the terms and conditions set forth therein and in the BND Commitment Letter dated October 11, 2017 and the amendment thereto dated October 24, 2018 (together, the "Commitment Letter"). The Commission hereby finds and determines the Loan Agreement to be in the best interest of the City and hereby accepts the Loan Agreement and instructs the Mayor and City Auditor to execute the Loan Agreement on behalf of the City. The Loan Agreement is hereby incorporated by reference.

**SECTION 2. AUTHORIZATION AND SALE OF WARRANTS.**

2.01. Pursuant to Chapters 40-22 through 40-27 of the N.D.C.C., the City hereby authorizes the issuance of its Definitive Improvement Warrants, Series 2018F in the aggregate principal amount of not to exceed FIFTEEN MILLION DOLLARS (\$15,000,000) (the "Warrants") for the purpose of financing the construction of necessary infrastructure in the Improvement Districts.

2.02. Sale of the Warrants is awarded to BND upon the terms set forth herein and in the Loan Agreement.

**SECTION 3. WARRANT TERMS, EXECUTION, AND DELIVERY.**

3.01. The Warrants shall each be designated Definitive Improvement Warrant, Series 2018F, dated the date of closing, shall be issued in fully registered form, shall be payable through annual installments of interest during the construction period and thereafter shall be payable through annual installments of principal and interest on the dates, and in the respective years and amounts set forth on the final amortization schedule prepared by BND ("Mandatory Payment Dates"), as the same may be revised from time to time by BND to reflect the final principal amount of the respective Warrants, and shall bear interest on the outstanding principal amount of the Warrant from the date advanced until paid at a fixed rate of 2.00%.

The City may prepay the Warrants in whole or in part, without incurring any penalty, on any date at a price equal to 100% of the principal amount to be repaid, together with accrued interest thereon to the redemption date.

The principal amount of a partial prepayment may, in the sole option and discretion of the City, (i) be applied to a future principal payment of the Warrants in a manner determined by BND, or (ii) be applied to reduce each unpaid principal installment required with respect to the Warrant in the proportion that such installment bears to the total of all unpaid principal installments (i.e., the remaining principal payment schedule shall be re-amortized to provide proportionately reduced principal payments in each year).

The Warrants shall initially be issued as a single fully registered warrant registered in the name of BND or its assigns.



**3.02.** The Warrants shall be printed under the direction of the City Auditor, and shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and the Auditor. When the Warrant has been so prepared and executed, the City Auditor shall deliver the same to the Bank of North Dakota in accordance with the Loan Agreement. As proceeds are needed for Improvement District costs, the City shall submit requests in accordance with Section 1.06 of the Loan Agreement. Loan advances shall be recorded on the grid on the back of the Warrant.

**3.03.** Books for the registration and for the transfer of the Warrants as provided in this Resolution shall be kept by the City Auditor, who is hereby appointed the Registrar and Paying Agent of the City for the Warrants. Upon surrender for transfer of any Warrant at the principal office of the Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the City shall execute and the Registrar shall authenticate and deliver in the name of the transferee or transferees a new Warrant for a like aggregate principal amount.

The Registrar shall not be required to (i) transfer or exchange the Warrants during the period of 15 days next preceding any Mandatory Payment Date or, (ii) transfer or exchange a Warrant selected, called, or being called for redemption in whole or in part.

**SECTION 4. FORM OF WARRANTS.**

**4.01.** The Warrants shall be printed in substantially the form on file with the City Auditor and/or City Attorney.

**SECTION 5. SINKING FUND AND PLEDGE.**

**5.01.** So long as the Warrants are outstanding and unpaid, the City Auditor shall maintain the Principal and Interest Account as a sinking fund, which may be a separate and special bookkeeping account on the official books and records of the City, to be used for no purpose other than the payment of the principal of and interest on the Warrants and such other obligations of the City as have been or may be directed to be paid from the Principal and Interest Account. The Principal and Interest Account shall be applied as to interest commencing May 1, 2019, and annually thereafter to and including May 1, 2044, and as to principal commencing May 1, 2019, and annually thereafter to and including May 1, 2044, as such principal and interest becomes due.

**5.02.** Moneys on deposit in the Fund may be invested as permitted by the N.D.C.C. and the City of Fargo's investment policy, provided, however, such investments shall mature at such times and in such amounts as will permit payments on the Warrants when due.

**SECTION 6. CERTIFICATIONS OF PROCEEDINGS.**

**6.01.** The City Auditor and the Cass County Auditor are authorized and directed to prepare and furnish to BND certified copies of all proceedings and records relating to the establishment and construction of the improvements and the operation and maintenance thereof,

and the levy of special assessments and taxes therefor and for the issuance of the improvement Warrant, which may be necessary or proper to show the validity and marketability of the Warrant, and all instruments and transcripts so furnished, constitute representations of the City as to the correctness of the facts as stated or recited therein. The City agrees to furnish additional certifications of its officers as are necessary to establish the validity of the Warrant, the absence of litigation materially affecting the issuance of the Warrants and any other certifications or information reasonably necessary to insure marketability and compliance with the conditions of underwriting.

**6.02.** The Loan Agreement is hereby approved in substantially the form heretofore presented to the City, and in the form executed is hereby incorporated by reference and made a part of this Resolution. Each and all of the provisions of this Resolution relating to the Warrants are intended to be consistent with the provisions of the Loan Agreement, and to the extent that any provision in the Loan Agreement is in conflict with this Resolution as it relates to the Warrants, that provision in the Loan Agreement shall control and this Resolution shall be deemed accordingly modified. The Mayor and City Auditor, in consultation with the City Attorney, are hereby authorized and directed to execute the Loan Agreement. The execution of the Loan Agreement by the appropriate officers shall be conclusive evidence of the approval of the Loan Agreement in accordance with the terms hereof. The Loan Agreement may be attached to the Warrants, and shall be attached to the Warrants if the holder of the Warrants is any person other than BND.

**6.03.** The Mayor and City Auditor, in consultation with the City Attorney, are hereby authorized to deliver a Certificate which cures ambiguities, defects or omissions herein, corrects, amends or supplements any provision herein, all in furtherance of the financing contemplated by the Commitment Letter. Such authorization shall include adjustment of the amortization schedule and issuance of revised warrants in the event assessments are not certified for collection as provided for in Section 1.05 herein.

**SECTION 7. COVENANTS OF CITY; DEFEASANCE.**

**7.01.** If the balance in the Principal and Interest Account should at any time be insufficient to pay all principal and interest then due on the Warrants, such balance shall be used first to pay the interest due, and the remainder shall be applied in payment of the principal due on the Warrants in direct order of maturity years and pro rata as to Warrants installments maturing in the same year.

The City reserves the privilege of refunding any maturity of the Warrants, the payment of which moneys are not at the time available, by issuing new warrants, bonds or notes payable from the Principal and Interest Account, on a parity with those theretofore issued as to interest charges therein, but the maturity of any such new warrants, bonds or notes shall be subsequent to the maturities of the Warrants payable from the Principal and Interest Account which then remain outstanding.

**7.02.** When the Warrants have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution shall cease. The City may discharge the Warrants due on any date by depositing with BND on or before that date a sum sufficient for the payment thereof in full; or if the Warrants should not be paid when due, the same may nevertheless be discharged by depositing with BND a sum sufficient for the payment thereof in full with interest accrued from the due date to the date of such deposit. The City may also discharge the Warrants called for redemption on any date when it is prepayable according to its terms, by depositing with BND on or before said date the principal, premium, if any, and interest then coming due.

*(Remainder of page intentionally left blank.)*

Dated: December 3, 2018.

**CITY OF FARGO, NORTH DAKOTA**

**Attest:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Auditor

The governing body of the City acted on the foregoing resolution at a properly noticed meeting held in Fargo, North Dakota, on December 3, 2018, with the motion for adoption made by \_\_\_\_\_ and seconded by \_\_\_\_\_, and the roll call vote on the motion was as follows:

"Aye" \_\_\_\_\_

"Nay" \_\_\_\_\_

Absent \_\_\_\_\_

37a

City of Fargo Staff Report			
<b>Title:</b>	Jefferson Neighborhood Historic Overlay District	<b>Date:</b>	10-31-2018
		<b>Update:</b>	11-27-2018
<b>Location:</b>	Approximately located north of 6 <sup>th</sup> Avenue South, south of 1 <sup>st</sup> Avenue South, west of University Drive, and east of 15 <sup>th</sup> Street South	<b>Staff Contact:</b>	Kylie Bagley, Asst. Planner Tim Magnusson, SRF Consultant
<b>Owner(s)/Applicant:</b>	City of Fargo	<b>Engineer:</b>	N/A
<b>Reason for Request:</b>	Zoning Change to Apply Historic Overlay to Existing Base Zoning		
<b>Status:</b>	City Commission Public Hearing: 12-03-2018		

Existing	Proposed
<b>Land Uses:</b> Residential, Religious Institution, Retail Sales and Service, Office, Schools.	<b>Land Use:</b> Unchanged
<b>Zoning:</b> SR-3, SR-4, MR-2, MR-3, LC	<b>Zoning:</b> Unchanged, (with Historic Overlay)
<b>Uses Allowed:</b> <b>SR-3:</b> Single-Dwelling Residential, allows detached houses, daycare centers up to 7 children, parks and open space, religious institutions, safety services, schools, and basic utilities. <b>SR-4:</b> Single-Dwelling Residential, allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities. <b>MR-2:</b> Multi-Dwelling Residential, allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities. <b>MR-3:</b> Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities. <b>LC:</b> Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, basic utilities, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.	<b>Uses Allowed:</b> Unchanged
<b>Maximum Density Allowed:</b> SR-3 = 8.7 units per acre    SR-4 = 12.1 units per acre MR-2 = 20 units per acre    MR-3 = 24 units per acre LC = 55% lot coverage	<b>Maximum Density Allowed:</b> Unchanged

**Proposal**

A request to establish the Jefferson Neighborhood Historic Overlay District on properties situated in Fargo and approximately located north of 6<sup>th</sup> Avenue South, south of 1<sup>st</sup> Avenue South, west of University Drive South, and east of 15<sup>th</sup> Street South (See Figure 1). The subject property consists of approximately 49.37 acres, more or less, of land and 232 different parcels. The parcels are primarily zoned residential: with 159 SR-3 zoned lots; 1 - SR-4 zoned lot; 43 MR-2 zoned lots; 22 MR-3 zoned lots; 6 LC zoned lots; and 1 un-zoned lot within the proposed overlay.

The Jefferson Neighborhood Historic Overlay was brought to the Historic Preservation Commission in early 2017 by members of the Jefferson Neighborhood Association. After meeting with the Historic Preservation Commission,

neighborhood volunteers cataloged the homes by architectural style, year built and took photos of each home in their current state. On September 6, 2018, SRF Consulting Group held a neighborhood meeting regarding the Jefferson Historic Overlay for residents. Planning Commissioner Dawn Morgan, Historic Preservation Member Matthew Boreen and City of Fargo staff were in attendance as well to clarify any concerns or questions residents may have had. Major concerns included cost of renovations, if this overlay would trigger code enforcement and if homeowners could use cheaper materials that weren't historic to their homes. After listening to SRF Consultants presentation and having questions answered by the commissioners the residents in attendance were supportive of the historic overlay district.

This report has been prepared by the staff of SRF Consulting Group, but it also includes the actions of Fargo Planning staff and the Historic Preservation Commission in their review and recommendation for approval to the Planning Commission and City Commission for the creation of an Historic Overlay District in the Jefferson Neighborhood. In accordance with Section 20-0804 the Historic Preservation Commission is charged with the preservation, protection, and regulation of historic properties within the City of Fargo for the educational, cultural, economic, and general welfare of the public; to safeguard the heritage of the City by preserving and regulating historic properties that reflect elements of its cultural, social, economic, political and architectural history; to preserve the City's economic base by the stimulation of the tourist industry; to establish and improve property values; to foster economic development; to manage growth; to foster civic pride in the beauty and noble accomplishments of the past; and to promote the use of historic properties for the education, pleasure and welfare of the residents of the City of Fargo. To that end, the Historic Preservation Commission has reviewed and concurred with the Jefferson Neighborhood Historic Overlay District Development Standards, which are attached to this report.

The H-O, Historic Overlay district regulations are intended to:

1. Protect and conserve the heritage of the City;
2. Safeguard the character and heritage of historic districts or landmarks that embody important elements of the City's social, economic, political or architectural history;
3. Promote conservation of historic resources for the education, pleasure and cultural enrichment of residents of the City; and
4. Stabilize and enhance property values throughout historic areas, thus contributing to the improvement of the health and welfare of residents and visitors.

**Area Plans:**

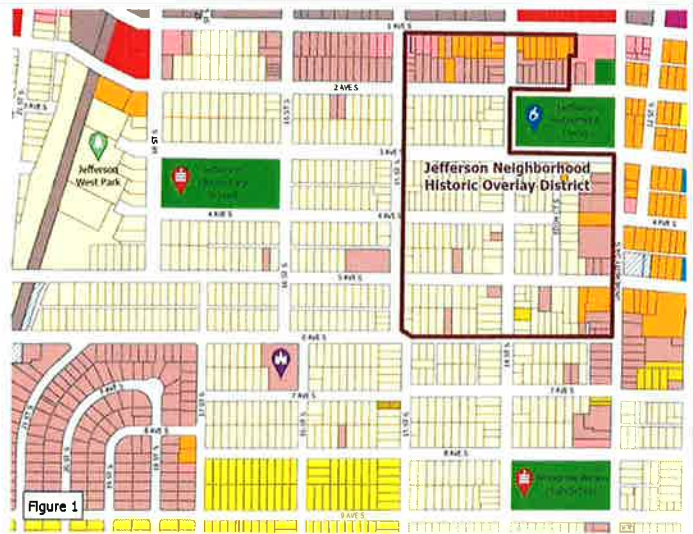
The subject property is located within the Jefferson Neighborhood. The Jefferson Neighborhood Plan was adopted in June of 2005. This plan outlines several goals and objectives which are designed to help the neighborhood reach its vision of a "safe, attractive neighborhood with excellent educational, recreational, and social opportunities that foster this strong and diverse community in the heart of the City". One of the main goals is to "Encourage the maintenance, rehabilitation and preservation of housing in the Jefferson-Carl Ben neighborhood." A strategy listed to help achieve this objective is to "Continue to provide funding incentives to encourage investment and housing rehabilitation of single-family homes."

**Schools and Parks:**

**Schools:** The subject property is located within the Fargo Public School District and is within walking distance of Jefferson Elementary School and Woodrow Wilson High School (Agassiz Learning Center).

**Parks:** Jefferson West Park, located directly west of Jefferson Elementary School and within a quarter-mile of the Jefferson Neighborhood Historic Overlay District, provides uses such as playground equipment, a basketball court, and soccer fields.

**Trails:** Located along the north edge of the subject properties is an on-road bike facility on 1<sup>st</sup> Ave S extending from 4<sup>th</sup> St S to Jefferson West Park then SW to 25<sup>th</sup> St S and beyond. The trail also connects the neighborhood to Island Park to the east. This connection links to the metro area bikeway system.



**Staff Analysis:**

**Section 20-0305.E Procedure for Designation of H-O District**

**1. Areas eligible for inclusion in an H-O District**

*Each area for which an H-O district is established must contain at least one site, building, or structure which is an historic resource, as defined in this ordinance.*

The proposal includes nearly 10 blocks and 232 lots of primarily residential properties and homes constructed largely during the late 19<sup>th</sup> century and first half of the 20<sup>th</sup> century, of which the Historic Preservation Commission has concluded are of historic significance and thus are an historic resource. **(Criteria Satisfied)**

**2. Report and evidence to be provided prior to enactment of H-O Districts.**

*Prior to a hearing by the Planning Commission on an application for creation or amendment of an H-O District, the Planning Department staff and the Historic Preservation Commission and staff shall provide in a report, the information and evaluation which will serve as the basis for any proposal to establish an H-O district. The following information shall be included in the required report: (Criteria Satisfied – see below)*

**a. Explanation of the reasons that an H-O district should be established for the subject area (with supporting documentation).**

This report in its entirety provides evidence to support the creation of the Jefferson Neighborhood Historic Overlay District. However, in summary, it is suggested that the district should be established for the following reasons: to protect the area's character-defining features which include its residential nature, period architecture, the pedestrian quality of the streetscape, the relationship of primary to secondary structures, and the relationship of the built environment to public open space. **(Criteria Satisfied)**

**b. A description of the area to be included within the boundaries of the H-O district. Such description must include a narrative description, maps, property addresses and parcel numbers. The narrative description must describe existing land uses, the condition of structures, architectural styles, historic status, environmental features in the area, and other relevant information.**

The proposed Jefferson Neighborhood Historic Overlay District (see Figure 1) includes the area bounded on the north by 1<sup>st</sup> Avenue South; on the east by University Drive South; on the south by 6<sup>th</sup> Avenue South; and on the west by 15<sup>th</sup> Street South. The table in Appendix A of the attached Jefferson Neighborhood Historic Overlay District Special Development Standards identifies all of the individual properties included in the Jefferson Neighborhood Historic Overlay District. Each property is described

by parcel number, address, original style, block letter, year built and type of building. **(Criteria Satisfied)**

- c. ***An analysis of the character-defining features within the proposed H-O district. This section will identify the elements within the proposed district that give the district its historic character.***  
The most important character-defining elements identified in the Jefferson Neighborhood H-O District are:

**1) Historic significance: Age of Construction, Neighborhood Development, Demolition, Design, Historic Persons, and Interesting Features:**

**Age of Construction:** A total of 79 properties were built in the era from 1880 through 1900. Of those, four were built in 1880, 9 built in 1885, 1 built in 1886, 1 built in 1888, 2 built in 1889 and 62 were built from 1890 through 1900. From 1901 to 1920, a total of 86 properties were built. From 1921 to 1940, a total of 37 properties were built. From 1941 to the present time, there were 23 properties constructed.

**Neighborhood Development:** The eastern part of Jefferson Neighborhood is the oldest, with newer construction radiating towards the south and west. Most of the residences were built between the 1880's to 1940 (198 total properties). Since the area is established, most new properties (post 1941) are infill.

**Design:** Prevalent architectural styles include, but are not limited to, Gable Front, Craftsman, Stick, Queen Anne, Foursquare, Victorian, National, Prairie, and Classical Revival.

The Jefferson Neighborhood features tree-lined streets, front porches on most houses, and sidewalks, all of which contribute to a pedestrian-friendly environment. Though there are exceptions, for the most part garages are detached and located to the rear of homes.

**Neighborhood History:**

The Jefferson Neighborhood lies west of University Drive to 25<sup>th</sup> Street South and from Main Avenue to 13<sup>th</sup> Avenue South. Commercial development historically existed along Main Avenue, along with houses and apartment buildings. House styles in the Jefferson Neighborhood range from stately, three-story homes dating from the late 1800's, primarily along 13<sup>th</sup> Street South (now University Drive South). 13<sup>th</sup> Street was changed to University Drive in 1961 when ND Agricultural College became ND State University. Extending west and south, large homes are interspersed with houses categorized as Prairie Style or American Four Square. Also, west and south are Craftsman Style bungalows.

Following WWII, houses in the Cape Cod Style were built in the southwest corner of the neighborhood as soldiers returned and started families using the GI Bill for housing loans. Carl Ben Eielson Elementary School was built in this new neighborhood to accommodate the children who came to be known as the Baby Boomers. The elementary school was demolished at the time when Carl Ben Eielson Middle School was built on 13<sup>th</sup> Avenue South in 2006.

The original Jefferson School was built as a one-room school noted to be so far west on the prairie that it seemed like a country school. Since that time, two new Jefferson Schools have been built, one in 1922 and the latest in 2007. Agassiz School, built on 13<sup>th</sup> Street South, was built in 1911 as an elementary school and later became a junior high school. Today it exists as a Fargo Public School alternative school, Woodrow Wilson High School. Agassiz also houses educational programs for immigrants and offices for Fargo-West Fargo Indian Education.

The Florence Crittenton House, a three-story brick building at 711 University Drive South, was built in 1911 to reform prostitutes and house unwed, pregnant girls who were, at the time, sent away from home to hide their condition. Today it is used for housing homeless young adults ages 18-26.

Small grocery stores were common in the older neighborhoods since few people had cars and kids were free to roam the neighborhoods. The stores were favorite attractions for penny candy and as gathering places for kids. Luke's Grocery Store and off-sale was located at the corner of University



Drive and Front Street (changed to Main Avenue in 1957) where Tailgator's is today. Brown's Grocery was located at 110 15<sup>th</sup> St South. The building remains. Stickelmeier's, at 317 15<sup>th</sup> Street, was a favorite for children after Jefferson School let out for the day. It has since been converted into a single-family dwelling.

Haeffner's Grocery at 1412 2<sup>nd</sup> Ave South was a larger-than-average store. Currently, The Framer occupies the first floor and the second floor is the residence for Mike and Lois Ellingson, owners of The Framer. An even larger neighborhood grocery was the Sunnyside, which occupied the entire first floor of the building, now called the Sunnyside Apartments at 1423 6<sup>th</sup> Ave S. Two groceries existed on the north and south sides of Agassiz School, the Star to the South on University and the Agassiz to the north.

Fargo's Mayor, John A. Johnson, lived at 421 14<sup>th</sup> Street South. He was first elected mayor in 1885 and again in 1886, 1898, 1900 and 1906. The street car system conveniently stopped in front of his house before heading back downtown toward City Hall, located at 637 NP Avenue, the current location of the downtown fire hall.

Actress Virginia Bruce also lived at 421 14<sup>th</sup> Street South during her early teens. She graduated from Fargo Central High School in 1928 and moved to Los Angeles. She acted in several movies including "Downstairs", "Born to Dance" and "Strangers When We Meet". Ms. Bruce performed in over 50 movies throughout her career.

#### **Interesting Features of the Jefferson Neighborhood:**

In 1880, the southern edge of Fargo was 7<sup>th</sup> Avenue and the western edge was 14<sup>th</sup> Street. Before 1887, south of Front Street (Main Avenue) the avenues were named for US Presidents. First Avenue was then Washington Avenue; Second Ave was Adams; Jefferson became Third Avenue; Madison is now Fourth Avenue; Monroe became Fifth Avenue; Sixth Avenue was Tyler and Roberts Ave is currently Seventh Avenue South.

West of Jefferson School, Long Lake existed as a place to swim in the summer and for travelling circuses to bring their elephants for fun and frolic. There was at one time a Lake Hotel on Front Street (Main Avenue) and 15<sup>th</sup> Street. Long Lake ran from 1<sup>st</sup> Avenue to 5<sup>th</sup> Ave South as a substantially deep basin. It is now referred to as Jefferson West Park with amenities such as walkways/bikeways, playgrounds for children, a basketball court and soccer fields. An engineered drainage ditch running through the park eventually drains into the Red River north of Fargo.

#### **2) Residential Neighborhood**

The Jefferson Neighborhood is a residential neighborhood of primarily detached homes in mixed style and scale.

#### **3) Pedestrian quality of the streetscape**

The character of this neighborhood is defined by the pedestrian quality of the streetscape. Sidewalks are present throughout the district and building facades are articulated in a way that engages the street and does not overwhelm the pedestrian.

- a. **Scale.** Structures built in this district are characterized by both roof shape and the general pattern of building footprints. As is typical of this architectural period, pitched roofs are the norm, with the vast majority of roofs having greater than a 6:12 slope. Most homes are 1½ to 2½ stories and are separated from neighboring structures by open areas that range from 10 to 20 feet.
- b. **Porches.** A residential porch, open or enclosed, is a design element that consciously transitions a person from public to semi-public to private space. It matches the home and often articulates details of the styling of the home and is an element that engages the pedestrian.
- c. **Front yards.** Front yard spaces are traditional, with the standard being represented by the pattern: curb, boulevard, sidewalk, lawn, foundation planting, house.

**4) Relationship of primary and secondary structures**

Garages and accessory structures do not dominate the streetscape of the primary structure on a property. Garages for most of the properties in the Jefferson Neighborhood are set back from the main house, detached, and located toward the rear half of the yard.

**5) Relationship of the Built environment to Trees and Public Open Space:**

Jefferson Neighborhood streets are lined by shade trees that contribute to a canopy over the street. As in many older neighborhoods, the tree canopy has seen some decline in recent years. Jefferson West Park is located about three blocks west of the proposed Jefferson Neighborhood Historic Overlay District and Jefferson Elementary School is located immediately east of the park.

- d. Recommended guidelines, standards and policies to be included in the regulations for the proposed H-O district pertaining to preservation or future development. Examples include signage, architectural character, building height, setbacks, and vehicular and pedestrian circulation patterns.**

See attached "Jefferson Neighborhood Historic Overlay District Special Development Standards".  
**(Criteria Satisfied)**

- e. The recommendation of the Historic Preservation Commission regarding the application shall be reported to the Planning Commission and the Board of City Commissioners.**

On October 16, 2018, the Historic Preservation Commission unanimously recommended approval of the Jefferson Neighborhood Historic Overlay District to the Planning Commission and City Commission. **(Criteria Satisfied)**

- f. A recommendation from the staff of the Planning Department regarding the establishment of the proposed H-O district, and the specific recommended wording for the proposed ordinance to facilitate implementation of the ordinance and to ensure clarity and consistency with other historic districts and other provisions of the Land Development Code. The report may also include any other recommended implementation measures deemed necessary to further the goals and objectives of the proposed H-O district.**

The Planning Department is recommending approval of the proposed Jefferson Neighborhood Historic Overlay District. **(Criteria Satisfied)**

**Zoning Criteria 20-0906.F (1-4)**

In addition to the regulations cited above, the LDC stipulates that the Planning Commission and Board of City Commissioners shall also consider the following criteria in their review of an overlay zoning designation request. Proposed zoning map amendments that satisfy all of the following criteria may be approved:

- 1. The requested zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;**

Staff is unaware of any zone map error. Staff suggests that the proposed zone change to establish a historic overlay zoning district is justified by a change in the following conditions: 1) community interest to preserve the historic character and period architecture of the homes within the neighborhood; 2) strong support by the Historic Preservation Commission to establish an overlay zoning district to protect and preserve the historical nature of the neighborhood and structures; and 3) the support of the community as a whole to protect and support core residential neighborhoods as is garnered via the GO2030 Fargo Comprehensive Plan update. Staff therefore finds that the zoning changes are justified by a change in conditions. **(Criteria Satisfied)**

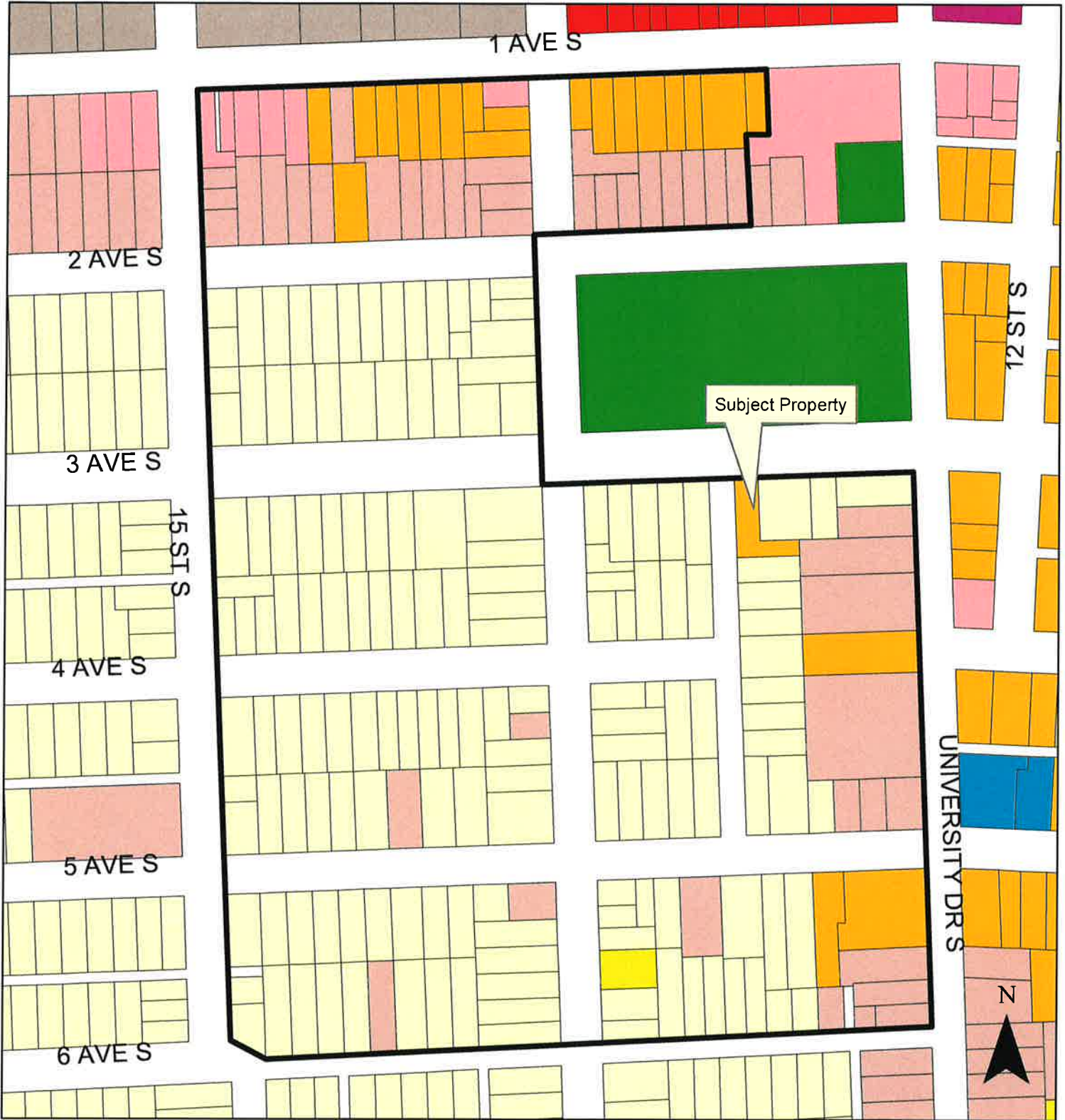
- 2. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development allowed by the new zoning classification at the time the property is developed;**

The proposed overlay zoning district will have little impact on the city's ability to provide the necessary public services, facilities, and programs to serve the development. The change will require additional planning staff review for exterior changes that require building permits and, at times, review and action by the Historic Preservation Commission if a substantial change to an existing structure is proposed or if a

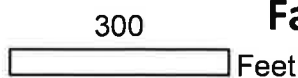
<p>new structure or demolition of a structure is proposed. The city and other agencies are able to provide these services. <b>(Criteria Satisfied)</b></p> <p><b>3. The approval will not adversely affect the condition or value of property in the vicinity;</b>          Staff has no documentation or evidence that the approval of this overlay zoning district would adversely affect the condition or value of the property in the vicinity. Research provided by the Historic Preservation Commission suggests that the application of a historic overlay to properties actually enhances the value of affected property over time. In most cases the overlay bolsters the local economy from tourism and new families moving into the neighborhood or community from other towns, because of the overlay. As with all zone change petitions, the City has notified the affected property owners within the proposed overlay district as well as all property owners within 300 feet of the perimeter of the overlay district. At the Historic Preservation Commission meetings, there was significant support for the proposed Historic Overlay. In addition to the support shown during the drafting and recommendation from the Historic Preservation Commission, staff has received no protest petitions from the owners of the 232 properties. As stated earlier, the proposed overlay is intended to protect the condition and value of properties within the Jefferson Neighborhood Historic Overlay district by providing guidelines for any construction or expansion project that requires a permit. <b>(Criteria Satisfied)</b></p> <p><b>4. The proposed amendment is consistent with the purpose of this LDC, the applicable Growth Plan and other adopted policies of the City.</b>          The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff suggests that the proposed historic overlay zoning district is supported by the existing city plans and policies, including the Jefferson-Carl Ben Eielson Neighborhood Plan, and GO2030 Therefore, staff finds that this proposal is consistent with the purpose of the LDC, the applicable Growth Plan and other adopted policies of the City. <b>(Criteria Satisfied)</b></p>
<p><b>Historic Preservation Commission (10-16-2018) recommendation:</b>          The Historic Preservation Commission unanimously recommended approval of the Jefferson Neighborhood Historic Overlay District to the Planning Commission and City Commission.</p>
<p><b>Planning Commission Recommendation:</b>          On November 6, 2018, with a 11-0 vote, the Planning Commission accepted the findings and recommendations of the Historic Preservation Commission and staff and hereby recommended approval of the Jefferson Neighborhood Historic Overlay District to the City Commission on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Section 20-0305.E.1 &amp; 2 (a-f), Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code."</p>
<p><b>Staff Recommendation:</b>  <b>Suggested Motion</b> "To accept the findings and recommendations of the Planning Commission, Historic Preservation Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on the first reading, and move to approve the Jefferson Neighborhood Historic Overlay District on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Section 20-0305.E.1 &amp; 2 (a-f), Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code."</p>
<p><b>Attachments</b></p> <ol style="list-style-type: none"> <li>1. Zoning Map</li> <li>2. Location Map</li> <li>3. Historic Overlay</li> </ol>

# Zone Change (Add Historical Overlay District)

## Eddy Place Addition; Eddy & Fullers Auditors Lots; Case, Peak & Hall Addition and Fullers Audition



Legend



# Zone Change (Add Historical Overlay District)

## Eddy Place Addition; Eddy & Fullers Auditors Lots; Case, Peake & Hall Addition and Fullers Audition



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37a1

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN EDDY PLACE ADDITION, EDDY & FULLERS AUDITORS LOTS,  
CASE, PEAKE & HALL ADDITION AND FULLERS ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in Eddy Place Addition, Eddy & Fullers Auditors Lots, Case, Peake & Hall Addition and Fullers Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on November 6, 2018; and,

WHEREAS, the rezoning changes were approved by the City Commission on December 3, 2018,

WHEREAS, pursuant to Section 20-0804 of the Fargo Land Development Code (LDC) the Historic Preservation Commission has the power, among other powers and duties enumerated therein, to perform functions which may be assigned or delegated to it by the Board of City Commissioners; and,

WHEREAS, the Board of City Commissioners has found and deemed said certain parcels to be an area that has historic or cultural significance and, in accordance with LDC §20-0305, has determined that establishment of an H-O, Historic Overlay District, is appropriate;

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. The following described property:

All of Eddy Place Addition; Blocks Ten (10) through Sixteen (16), and Twenty-four (24) through Forty-three (43) of Eddy & Fullers Auditors Lots; Block One (1), Six (6) and Seven (7) of Case, Peake & Hall Addition and Blocks One (1), Six (6) and Seven (7) of Fullers Addition to the City of Fargo, Cass County, North Dakota;

a map of which is as follows:

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ORDINANCE NO. \_\_\_\_\_



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FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

is hereby rezoned to apply a "H-O", Historic Overlay, District".

Said property shall be referred to as the Jefferson Neighborhood Historic Overlay District.

Pursuant to LDC §20-0305.C, the following special development standards which shall apply to all properties, new and existing, within the Jefferson Neighborhood Historic Overlay District:

**Jefferson Neighborhood Historic Overlay District Special Development Standards**

**A. Authority**

In accordance with Section 20-0305.C of the Fargo Land Development Code, the following special development standards or regulations shall apply to all properties (new and existing) within the Jefferson Neighborhood Historic Overlay District.

**B. Properties**

The individual existing properties included in the Jefferson Neighborhood Historic Overlay District, described by address, block number, type of building, style of architecture, and year built are listed as follows:

The map of the Overlay District, above, indicates overlay boundaries with blocks identified by letters A through J. The block letters correspond to the list of properties that follows, which includes 232 parcels.

PARCEL NUMBER	PROPERTY ADDRESS	HOUSE STYLE	BLOCK	YEAR BUILT	TYPE
01-0700-00540-000	1444 1 AVE S	Craftsman	A	1921	Single Family
01-0700-00550-000	1448 1 AVE S	Craftsman	A	1921	Single Family
01-0700-00560-000	1442 1 AVE S	Craftsman	A	1917	Single Family
01-0700-00570-000	1438 1 AVE S	Craftsman	A	1925	Single Family
01-0700-00580-000	1445 2 AVE S	Craftsman	A	1901	Single Family
01-0700-00590-000	1441 2 AVE S	National	A	1899	Duplex
01-0700-00600-000	1437 2 AVE S	National	A	1901	Single Family
01-0700-00610-000	1433 2 AVE S	National	A	1922	Single Family



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

	01-0700-00620-000	1418 1 AVE S	Craftsman	A	1890	Single Family
1	01-0700-00630-000	1429-1431 2 AVE S	Prairie	A	1929	Duplex
2	01-0700-00640-000	1422 1 AVE S	National	A	1900	Duplex
3	01-0700-00650-000	1419 2 AVE S	Prairie	A	1939	Conversion
4	01-0700-00660-000	1428 1 AVE S	National	A	1932	Single Family
5	01-0700-00670-000	1412 1 AVE S	Undefined	A	1880	Single Family
6	01-0700-00680-000	1416 1 AVE S	National	A	1880	Duplex
7	01-0700-00690-000	1414 1 AVE S	National	A	1880	3 Plex
8	01-0700-00710-000	1415 2 AVE S	National	A	1890	Single Family
9	01-0700-00720-000	1413 2 AVE S	Turn of the Century Cottage	A	1890	Single Family
10	01-0700-00730-000	1411 2 AVE S	National	A	1914	Single Family
11	01-0700-00740-000	1402 1 AVE S	Commercial	A	1988	Retail
12	01-0700-00750-000	1410 1 AVE S	Prairie	A	1890	Single Family
13	01-0700-00760-000	109 1 4 ST S	Craftsman	A	1885	Duplex
14	01-0700-00770-000	107 14 ST S	Gable Front	A	1890	Single Family
15	01-0700-00780-000	115 14 ST S	Undefined	A	1885	Single Family
16	01-0700-00790-000	1409 2 AVE S	Prairie	A	1895	Single Family
17	01-0700-00800-000	121 14 ST S	Craftsman Bungalow	A	1914	Single Family
18	01-0700-00810-000	119 14 ST S	Gable Front	A	2012	Single Family
19	01-0980-01010-000	110 15 ST S	Commercial	A		Other
20	01-0980-01020-000	1450 1 AVE S	National	A	1920	Single Family
21	01-0980-01021-000	1450 1 AVE S	NA	A	0	Vacant Land
22	01-0980-01030-000	112 15 ST S	Undefined	A	1904	Single Family
23	01-0980-01040-000	1449-1449 1/2 2 AVE S	Ranch	A	1956	Single Family
	01-0980-01050-000	114 15 ST S	Classical Revival	A	1904	Other
	01-0980-01060-000	1452 1 AVE S	National	A	1922	Duplex
	01-0700-01390-000	203 14 ST S	Gable Front	B	1910	Single Family

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FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

1	01-0700-01400-000	205 14 ST S	Gable Front	B	1911	Single Family
2	01-0700-01410-000	1404 2 AVE S	Gable Front	B	1880	Single Family
3	01-0700-01420-000	209 14 ST S	Gable Front	B	1901	Duplex
4	01-0700-01430-000	215 14 ST S	National	B	1910	Single Family
5	01-0700-01440-000	1411 3 AVE S	Gable Front	B	1918	Single Family
6	01-0700-01460-000	1401 3 AVE S	Gable Front	B	1929	Single Family
7	01-0700-01470-000	1410 2 AVE S	Gable Front	B	1900	Single Family
8	01-0700-01480-000	213 14 ST S	NA	B	0	Vacant Land
9	01-0700-01490-000	1412 2 AVE S	Prairie	B	1921	Retail & Apart.
10	01-0700-01500-000	1414 2 AVE S	Prairie	B	1916	Single Family
11	01-0700-01510-000	1415 3 AVE S	Prairie	B	1894	Single Family
12	01-0700-01520-000	1413 3 AVE S	Prairie	B	1928	Single Family
13	01-0700-01530-000	1418 2 AVE S	Tudor	B	1930	Single Family
14	01-0700-01540-000	1420 2 AVE S	Stick	B	1911	Single Family
15	01-0700-01540-000	1420 1/2 2 AVE S	Stick	B	1911	Single Family
16	01-0700-01550-000	1416 2 AVE S	Stick	B	1890	Duplex
17	01-0700-01560-000	1425 3 AVE S	Stick	B	1900	Duplex
18	01-0700-01570-000	1421 3 AVE S	Stick	B	1895	Duplex
19	01-0700-01580-000	1440 2 AVE S	National	B	1900	Single Family
20	01-0700-01590-000	1444 2 AVE S	Stick	B	1900	Single Family
21	01-0700-01600-000	1428 2 AVE S	Stick	B	1900	Single Family
22	01-0700-01610-000	1424 2 AVE S	Stick	B	1905	Single Family
23	01-0700-01620-000	1445 3 AVE S	Prairie	B	1917	Single Family
	01-0700-01630-000	1439 3 AVE S	Stick	B	1906	Single Family
	01-0700-01640-000	1429 3 AVE S	Craftsman	B	1900	Single Family
	01-0700-01650-000	1431 3 AVE S	Stick	B	1900	Single Family
	01-0980-01080-000	1446 2 AVE S	Craftsman Cottage	B	1919	Single Family
	01-0980-01090-000	208 15 ST S	Craftsman	B	1921	Single Family
	01-0980-01110-000	1447 3 AVE S	Foursquare	B	1921	Single Family
	01-0980-01120-000	212 15 ST S	Foursquare	B	1923	Single Family

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

1	01-0340-00010-000	1448 3 AVE S	Craftsman	C	1917	Single Family
2	01-0340-00020-000	310 15 ST S	Craftsman	C	1961	Single Family
3	01-0340-00030-000	1449 4 AVE S	Craftsman	C	1919	Single Family
4	01-0340-00040-000	1447 4 AVE S	Craftsman	C	1919	Single Family
5	01-0700-01660-000	1438 3 AVE S	Stick	C	1907	Single Family
6	01-0700-01670-000	1442 3 AVE S	Craftsman	C	1916	Single Family
7	01-0700-01680-000	1432 3 AVE S	Minitraditional	C	1948	Single Family
8	01-0700-01690-000	1434 3 AVE S	Stick	C	1900	Single Family
9	01-0700-01700-000	1430 3 AVE S	Stick	C	1914	Single Family
10	01-0700-01720-000	1443 4 AVE S	Craftsman	C	1919	Single Family
11	01-0700-01740-000	1433 4 AVE S	Stick	C	1902	Single Family
12	01-0700-01750-000	1431 4 AVE S	Stick	C	1899	Single Family
13	01-0700-01760-000	1429 4 AVES	Stick	C	1899	Single Family
14	01-0700-01770-000	1426 3 AVES	Craftsman	C	1914	Single Family
15	01-0700-01781-000	1420 3 AVES	Stick	C	1900	Single Family
16	01-0700-01790-000	1427 4 AVES	Stick	C	1890	Single Family
17	01-0700-01800-000	1425 4 AVES	Stick	C	1895	Single Family
18	01-0700-01810-000	1423 4 AVE S	Stick	C	1895	Single Family
19	01-0700-01820-000	1418 3 AVE S	Craftsman	C	1911	Single Family
20	01-0700-01850-000	1419 4 AVE S	Foursquare	C	1907	Single Family
21	01-0700-01860-000	1415 4 AVE S	Dutch Colonial	C	1909	Duplex
22	01-0700-01870-000	313 14 ST S	Apartment	C	1900	Conversion
23	01-0700-01880-000	315 14 ST S	Classical Revival	C	1900	Single Family
	01-0700-01890-000	317 14 ST S	Classical Revival	C	1905	Single Family
	01-0700-01900-000	307 14 ST S	Foursquare	C	1905	Single Family
	01-0700-01910-000	303 14 ST S	Victorian	C	1885	Single Family
	01-0340-00730-000	1442 4 AVE S	Craftsman	D	1904	Single Family
	01-0340-00740-000	1435 5 AVE S	Prairie	D	1901	Single Family
	01-0340-00750-000	414 15 ST S	National	D	1901	Single Family
	01-0700-02090-000	403 14 ST S	Undefined	D	1907	Single Family

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

1	01-0700-02100-000	407 14 ST S	Undefined	D	1908	Single Family
2	01-0700-02110-000	1410 4 AVE S	Undefined	D	1908	Single Family
3	01-0700-02130-000	415 14 ST S	Undefined	D	2016	Single Family
4	01-0700-02140-000	417 14 ST S	Undefined	D	2016	Single Family
5	01-0700-02150-000	421 14 ST S	Classical Revival	D	1898	Single Family
6	01-0700-02160-000	1418 4 AVE S	Classical Revival	D	1914	Single Family
7	01-0700-02170-000	1414 4 AVE S	Classical Revival	D	1914	Single Family
8	01-0700-02180-000	1412 4 AVE S	Classical Revival	D	1904	Single Family
9	01-0700-02190-000	1419 5 AVE S	Foursquare	D	1890	Single Family
10	01-0700-02200-000	1409 5 AVE S	Turn of the Century Cottage	D	1890	Single Family
11	01-0700-02210-000	1430 4 AVE S	Undefined	D	1900	Single Family
12	01-0700-02220-000	1424 4 AVE S	Gable Front	D	1905	Single Family
13	01-0700-02230-000	1422 4 AVE S	Gable Front	D	1900	Single Family
14	01-0700-02240-000	1423 5 AVE S	Gable Front	D	1900	Duplex
15	01-0700-02250-000	1421 5 AVE S	Ranch	D	1975	Apartment
16	01-0700-02260-000	1440 4 AVE S	Gable Front	D	1900	Single Family
17	01-0700-02270-000	1438 4 AVE S	Gable Front	D	1900	Single Family
18	01-0700-02280-000	1436 4 AVE S	Gable Front	D	1926	Single Family
19	01-0700-02290-000	1432 4 AVE S	Gable Front	D	1895	Single Family
20	01-0700-02300-000	1429 5 AVE S	Gable Front	D	1917	Single Family
21	01-0700-02310-000	1431 5 AVE S	Craftsman	D	1917	Single Family
22	01-0700-02320-000	1425 5 AVE S	Gable Front	D	1898	Single Family
23	01-0700-02330-000	1427 5 AVE S	Craftsman	D	1916	Single Family
	01-0340-00760-000	1444 5 AVE S	National	E	1903	Duplex
	01-0340-00770-000	520 15 ST S	National	E	1890	Single Family
	01-0340-00780-000	524 15 ST S	Craftsman	E	1940	Single Family
	01-0700-02340-000	1436 5 AVE S	Ranch	E	1953	Single Family

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

1	01-0700-02350-000	1440 5 AVE S	Ranch	E	1955	Single Family
2	01-0700-02360-000	1432 5 AVE S	Gable Front	E	1910	Single Family
3	01-0700-02370-000	1430 5 AVE S	Gable Front	E	1890	Single Family
4	01-0700-02380-000	1441 6 AVE S	Gable Front	E	1926	Single Family
5	01-0700-02390-000	1437 6 AVE S	Prairie	E	1946	3 Plex
6	01-0700-02400-000	1433 6 AVE S	Gable Front	E	1923	Duplex
7	01-0700-02410-000	1431 6 AVE S	Gable Front	E	1921	Single Family
8	01-0700-02420-000	1427 6 AVE S	Ranch	E	1959	Apartment
9	01-0700-02430-000	1428 5 AVE S	Craftsman	E	1907	Single Family
10	01-0700-02440-000	1422 5 AVE S	Gable Front	E	1907	Single Family
11	01-0700-02450-000	1420 5 AVE S	Bungalow	E	1915	Single Family
12	01-0700-02460-000	1414 5 AVE S	Gable Front	E	1889	3 Plex
13	01-0700-02470-000	1423 6 AVE S	Foursquare	E	1924	Apartment
14	01-0700-02480-000	1417 6 AVE S	Ranch	E	1955	Single Family
15	01-0700-02490-000	1411 6 AVE S	Mission	E	1925	Single Family
16	01-0700-02500-000	1410 5 AVE S	Ranch	E	1949	3 Plex
17	01-0700-02510-000	501 14 ST S	Gable Front	E	1885	Single Family
18	01-0700-02520-000	507 14 ST S	Gable Front	E	1897	Duplex
19	01-0700-02530-000	511 14 ST S	Mission	E	1890	Single Family
20	01-0700-02540-000	515 14 ST S	Stick	E	1908	Single Family
21	01-0700-02550-000	519 14 ST S	Southwest	E	1929	Single Family
22	01-0700-02560-000	523 14 ST S	Stick	E	1928	Single Family
23	01-0700-00820-000	102 14 ST S	Gable Front	F	1916	Duplex
	01-0700-00840-000	1346 1 AVE S	Gable Front	F	1907	Single Family
	01-0700-00850-000	1344 1 AVE S	Gable Front	F	1907	Single Family
	01-0700-00861-000	114 14 ST S	Gable Front	F	1900	Duplex
	01-0700-00880-000	1345 2 AVE S	Gable Front	F	1885	Duplex
	01-0700-00890-000	1339 2 AVE S	Gable Front	F	1885	Single Family
	01-0700-00900-000	1343 2 AVE S	Gable Front	F	1885	3 Plex
	01-0700-00910-000	1336 1 AVE S	Gable Front	F	1900	Single Family
	01-0700-00920-000	1334 1 AVE S	Gable Front	F	1900	Single Family
	01-0700-00930-000	1330 1 AVE S	Gable Front	F	1890	Single Family

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

1	01-0700-00940-000	1333 2 AVE S	National	F	1890	Single Family
	01-0700-00950-000	1337 2 AVE S	National	F	1885	Single Family
2	01-0700-00960-000	1331 2 AVE S	Gable Front	F	1922	Single Family
	01-0700-00975-000	1324 1 AVE S	Commercial	F	1938	Apartment
3	01-0700-00990-000	1320 1 AVE S	Undefined	F	1900	Single Family
	01-0700-01000-000	1329 2 AVE S	Gable Front	F	1890	Duplex
4	01-0700-01020-000	1325 2 AVE S	Pyramidal	F	1890	Single Family
5	01-0710-00140-000	1336 3 AVE S	Stick	G	1897	Conversion
	01-0710-00150-000	1338 3 AVE S	National	G	1898	Single Family
6	01-0710-00160-000	1342 3 AVE S	National	G	1904	Single Family
	01-0710-00170-000	1346 3 AVE S	National	G	1898	Single Family
7	01-0710-00180-000	1350 3 AVE S	National	G	1899	Single Family
8	01-0710-00190-000	310 14 ST S	National	G	1899	Single Family
9	01-0710-00200-000	314 14 ST S	National	G	1899	Single Family
	01-0710-00210-000	1345 4 AVE S	Prairie	G	1901	Single Family
10	01-0710-00220-000	1349 4 AVE S	National	G	1900	Single Family
	01-0710-00230-000	1341 4 AVE S	National	G	1911	3 Plex
12	01-0710-00240-000	1337 4 AVES	Classical Revival	G	1915	Single Family
13	01-0710-00250-000	1333 4 AVE S	Craftsman	G	1915	Single Family
	01-0710-00260-000	1334 4 AVE S	Stick	H	1927	Single Family
14	01-0710-00280-000	1338 4 AVES	Craftsman	H	1888	Single Family
	01-0710-00290-000	410 14 ST S	Stick	H	1923	Single Family
15	01-0710-00300-000	406 14 ST S	National	H	1916	Single Family
16	01-0710-00310-000	1342 4 AVE S	NA	H	0	Vacant Land
17	01-0710-00320-000	402 14 ST S	Craftsman	H	1951	Single Family
18	01-0710-00330-000	1345 5 AVE S	Classical Revival	H	1904	Duplex
	01-0710-00340-000	1343 5 AVE S	National	H	1906	Single Family
19	01-0710-00350-000	1341 5 AVE S	National	H	1919	Single Family
20	01-0710-00360-000	1339 5 AVE S	National	H	1910	Single Family
21	01-0710-00370-000	1335 5 AVE S	National	H	1899	Single Family

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

	01-0700-02570-000	500 14 ST S	NA	I	1917	Duplex
1	01-0700-02580-000	1342 5 AVE S	Gable Front	I	1901	Single Family
	01-0700-02590-000	1340 5 AVE S	Gable Front	I	1920	Single Family
2	01-0700-02600-000	1339 6 AVE S	Craftsman	I	1918	Duplex
3	01-0700-02620-000	504 14 ST S	Classical Revival	I	1907	Single Family
4	01-0700-02630-000	508 14 ST S	Classical Revival	I	1906	Single Family
5	01-0700-02640-000	512-514 14 ST S	Undefined	I	1979	Duplex
6	01-0700-02650-000	524 14 ST S	Stick	I	1907	3 Plex
7	01-0700-02660-000	526 14 ST S	Craftsman Bungalow	I	1930	Single Family
8	01-0700-02670-000	1332 5 AVE S	Tudor	I	1897	Single Family
9	01-0700-02680-000	1325 6 AVE S	Craftsman	I	1922	Single Family
	01-0700-02690-000	1329 6 AVE S	Craftsman	I	1922	Single Family
10	01-0700-02700-000	1334 5 AVE S	Modern	I	1991	Apartment
	01-0700-02710-000	1337 6 AVE S	Craftsman	I	1916	Single Family
11	01-0700-02720-000	1333 6 AVE S	Craftsman	I	1916	Single Family
12	01-0700-02730-000	1314-1316 5 AVE S	Gable Front	I	1936	Duplex
13	01-0700-02740-000	1306 5 AVE S	Foursquare	I	1886	Duplex
14	01-0700-02750-000	517 UNIVERSITY DR	Craftsman	I	1900	Single Family
15	01-0700-02770-000	519 UNIVERSITY DR	Stick	I	1900	Single Family
16	01-0700-02780-000	523 UNIVERSITY DR	Stick	I	1925	Single Family
17	01-0700-02790-000	1305 6 AVE S	Stick	I	1900	Single Family
18	01-0700-02800-000	1307 6 AVE S	Cape Cod	I	1901	Single Family
19	01-0700-02810-000	1309 6 AVE S	Stick	I	1904	Single Family
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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

1	01-0700-02820-000	1311 6 AVE S	Craftsman Bungalow	I	1920	Single Family
2	01-0700-02870-000	1324 5 AVE S	Craftsman	I	1920	Single Family
3	01-0700-02880-000	1320 5 AVE S	Gable Front	I	1919	Single Family
4	01-0700-01920-000	1324 3 AVE S	Bungalow	J	1915	Single Family
5	01-0700-01930-000	1314 3 AVE S	Bungalow	J	1929	Single Family
6	01-0700-01940-000	1306 3 AVE S	Apartment	J	1885	Conversion
7	01-0700-01950-000	305 UNIVERSITY DR	Foursquare	J	1918	Duplex
8	01-0700-01960-000	315 UNIVERSITY DR	Foursquare	J	1910	Office & Apart.
9	01-0700-01970-000	317 UNIVERSITY DR	Queen Ann	J	1928	Office
10	01-0700-02000-000	405 UNIVERSITY DR	Undefined	J	1968	Apartment
11	01-0700-02000-000	411 UNIVERSITY DR	Undefined	J	1968	Apartment
12	01-0700-02040-000	1323 5 AVE S	Queen Ann	J	1891	Duplex
13	01-0700-02050-000	1309 5 AVE S	Undefined	J	1953	Single Family
14	01-0700-02060-000	1315 5 AVE S	Undefined	J	1941	Single Family
15	01-0700-02070-000	415 UNIVERSITY DR	Undefined	J	1951	Single Family
16	01-0700-02080-000	1305 5 AVE S	Undefined	J	1951	Single Family
17	01-0710-00010-000	1325 5 AVE S	Stick	J	1904	Single Family
18	01-0710-00020-000	406 EDDY CT S	Cape Cod	J	1931	Single Family
19	01-0710-00030-000	402 EDDY CT S	Stick	J	1890	Single Family
20	01-0710-00040-000	410 EDDY CT S	Craftsman	J	1936	Single Family
21	01-0710-00051-000	330 EDDY CT S	Modern	J	2004	Single Family



OFFICE OF THE CITY ATTORNEY  
 FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

01-0710-00070-000	401 UNIVERSITY DR	Classical Revival	J	1904	Single Family
01-0710-00100-000	316 EDDY CT S	Gable Front	J	1926	Single Family
01-0710-00110-000	314 EDDY CT S	Italianate	J	1912	Single Family
01-0710-00120-000	312 EDDY CT S	Italianate	J	1915	Single Family
01-0710-00130-000	1326 3 AVE S	Queen Anne	J	1889	Conversion

**C. Definitions**

1. **Historic Neighborhood Structure (HNS)** is any residential structure built within the Jefferson Neighborhood Historic Overlay District prior to 1940.
2. **Open Space** is defined in Section 20-1202(43) of the Fargo Land Development Code as “an outdoor, unenclosed area, located on the ground or on a roof, balcony, deck, porch or terrace designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but not including roads, parking areas, driveways or other areas intended for vehicular travel”.
3. **Principal Building** refers to the primary structure on a property, i.e. a house or commercial structure.
4. **Accessory Building or Structure** refers to a structure that is subordinate to the principal building, i.e. a garage, shed, or guest house.
5. **Style** is the vocabulary used to classify structures according to their appearance, structure, materials, and historic period. The styles of the Historic Neighborhood Structures within the Jefferson Neighborhood District are characterized by:
  - overall scale and relationship of height to width
  - façade proportions and relationship of solids to voids
  - window/door size, design, and operation
  - size, shape and proportions of entrances and porches
  - materials, texture, and pattern

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

- roof forms
- orientation, spacing, and site coverage of structures
- landscaping, walls, and fences

Style Reference: A Field Guide to American Houses, Virginia and Lee McAlester, Alfred A. Knopf, Inc., 1984.

**D. Certificate of Appropriateness**

In accordance with Section 20-0912 of the Fargo Land Development Code, no building permit shall be issued for the following until a Certificate of Appropriateness has been reviewed and approved in accordance with said Section 20-0912: *(Note: A Certificate of Appropriateness is required **only if** a building permit is required)*

1. Any change to the **exterior** appearance of any principal building, accessory building or structure. *(Note: A Certificate of Appropriateness is not applicable for **interior** changes)*
2. Any **new construction** of a principal building, accessory building or structure.
3. The **demolition** of any principal building, accessory building or structure.
4. The **moving** of any principal building, accessory building or structure.
5. Placement or construction of a **sign**.

**E. Post-1939 Structures--exemption**

With respect to residential structures built after 1939 and before the effective date of this ordinance, said structures shall be exempt from the requirement of obtaining a Certificate of Appropriateness prior to obtaining a building permit for any change to the **exterior** appearance of any principal building, accessory building or structure. Owners or permittees of such structures are encouraged to conform with the style elements of this ordinance.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

**F. Special Development Standards – General**

**1. Open Space**

2. At least 70% of a parcel's front yard shall be maintained as open space.

**3. Front Yard Parking**

Except for parking on driveways that run through the front yard to a garage, no parking is allowed in the front yard.

**4. Side Yard Fencing**

Stand-alone side yard fencing shall terminate a minimum of 2-feet behind the front façade of the principal structure.

**G. Special Development Standards – Exterior Renovation**

In conjunction with Section 20-0912.C(1) of the Fargo Land Development Code, the City Planner shall consider the following criteria in review of a request for a Certificate of Appropriateness regarding the exterior renovation of a Historic Neighborhood Structure's principal building, accessory building or structure. A request that satisfies all of the following criteria shall be approved. Substitute materials are permissible if matching the existing material is not technically or economically feasible.

**1. Principal Building**

a. Exterior Cladding

1. Exterior cladding shall match the original principal building in design, dimension, detail, texture, and pattern.

2. If the principal building is void of its original exterior cladding, full replacement cladding shall be of a design compatible with the historic style of structures located within the district. Repair or

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

partial replacement of non-original exterior cladding shall be exempt from this regulation.

b. Windows and Doors

1. Windows and doors shall match the original principal building in design and operation.
2. If the principal building is void of its original windows or doors, replacement windows and doors shall be of a design compatible with the historic style of structures located within the district.
3. Window or door openings shall not be increased or decreased by more than 10% in dimension or total area. Any changes in dimension or area will require review by the Fargo Historic Preservation Commission.

c. Roofs

1. Roof functional and decorative features, such as roofing materials, cresting, dormers, chimneys, cupolas, vents, and gutters shall match the original in design, dimension, detail, texture, and pattern.
2. Skylights are prohibited on all roof planes parallel to and facing the street.

d. Entrances, Porches, and Decks

1. A renovated front entrance addition to the principal building shall have no fewer than four steps, or an equivalent ramp distance, from the ground level to the bottom of the front entrance door, or shall have the first-floor plane in a style compatible with the style characteristics of a Historic Neighborhood Structure as described in the definitions above.

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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

**2. Accessory Buildings or Structures**

- a. Alterations to accessory buildings and structures shall be compatible with the style of the principal building and shall be subordinate to the principal building.

**H. Special Development Standards - Additions**

In conjunction with Section 20-0912.C(2) of the Fargo Land Development Code, the Historic Preservation Commission shall consider the following criteria in review of a request for a Certificate of Appropriateness regarding an addition to a Historic Neighborhood Structure's principal building, accessory building or structure. A request that satisfies all the following criteria shall be approved. Substitute materials are permissible if matching the existing material is not technically or economically feasible.

**1. Principal Building**

- a. Exterior Cladding
  - 1. Exterior cladding of the addition shall match the original principal building in design, dimension, detail, texture, and pattern.
  - 2. If the principal building is void of its original exterior cladding, the cladding of the addition shall match the existing cladding of the principal structure.
- b. Windows and Doors
  - 1. Windows and doors of the addition shall match the original principal building in style, design and operation.
  - 2. If the principal building is void of its original windows or doors, the window and doors of the addition shall match the existing principal building.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

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3. A garage door of an attached, front-yard entered garage addition shall not exceed 10 feet in width or 8 feet in height. A double-stall garage will require 2 doors.

c. Roofs and Dormers

1. The roof form of an addition to the principal building shall be consistent with the roof style and pitch of the principal building.
2. Flat roofs and shed roofs are prohibited, except on porches and where consistent with the roof form of the original principal building.
3. All gable roofs shall have a minimum pitch of 6:12. All hip roofs must have a minimum pitch of 3:12.
4. The reconstruction or addition of dormers to an existing principal building, or the addition of dormers to an addition to a principal building shall be consistent with the style of a Historic Neighborhood Structure.
5. Roof functional and decorative features, such as roofing materials, cresting, dormers, chimneys, cupolas, vents, and gutters shall match the original principal building in design, dimension, detail, texture, and pattern.
6. If the roof of the principal building is void of its original functional and decorative features, the roof of the addition shall match the existing roof of the principal structure.
7. Skylights are prohibited on all roofs parallel to and facing the street.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

d. Entrances, Porches, and Decks

1. A new front entrance addition to the principal building shall face the street.
2. A new front entrance addition to the principal building shall have no fewer than four steps, or an equivalent ramp distance, from the ground level to the bottom of the front entrance door or shall have the first-floor plane in a style compatible with Historic Neighborhood Structure.
3. Reconstruction of an open or screened porch (not an enclosed porch which provides year-round living space) which was historically a part of the original principal building shall be allowed to be rebuilt, and as may be necessary to accurately reconstruct, shall be allowed to vary by right from any existing zone district setback standards of the Fargo Land Development Code. The burden of establishing that a porch was part of the original structure is the owner's burden, not the City's.
4. Decks are prohibited in front yards.
5. On corner lots, decks are allowed on street side yards with screening, either by fence or landscaping.

e. Height and Elevation

1. The height of a new addition to a principal building shall not exceed the overall scale of an HNS with a maximum eave height of 25 feet.
2. The height of a new addition to the principal building shall not be greater than the height of the principal building, except in the case of a second story addition to a single-story principal building, the

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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

result of which is the creation of a two-story principal building consistent with an HNS.

**2. Accessory Buildings or Structures**

- a. Additions to existing accessory buildings or structures shall be subordinate in scale and compatible with the design and style of the principal structure.
- b. An addition to an existing accessory building that does not meet the dimensional setback standards of the LDC and does not increase in total floor area of the existing accessory building by more than 40%, is permissible by right, provided that: 1) the existing non-conforming setback is not increased; 2) the property line from which the non-conforming setback is determined is verified by a registered land surveyor; and 3) the new accessory building addition is limited in height to no more than one-story with 10-foot maximum sidewalls.

**I. Special Development Standards - New Construction**

In conjunction with Section 20-0912.C(2) of the Fargo Land Development Code, the Historic Preservation Commission shall consider the following criteria in review of a request for a Certificate of Appropriateness regarding the new construction of a Historic Neighborhood Structure's principal building, accessory building or structure. A request that satisfies all of the following criteria shall be approved.

**1. Principal Building**

- a. Proportion
  - 1. The size and mass of the principal building in relation to open spaces, windows, door openings, porches, and balconies, must be visually compatible with the structures and places to which it is visually related.

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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

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2. The relationship of the width of the principal building to the height of the front elevation must be visually compatible with historic structures within the Jefferson Neighborhood Historic Overlay District.

3. The relationship of solids to voids in the front facade of a principal building must be visually compatible with historic structures within the Jefferson Neighborhood Historic Overlay District.

4. The relationship of the principal building to the open space between it and adjoining structures must be visually compatible with historic structures within the Jefferson Neighborhood Historic Overlay District.

b. Exterior Cladding

1. The relationship of the materials, detail, and pattern of the facade of a principal structure must be visually compatible with structures and places to which it is visually related.

c. Windows and Doors

1. The relationship of the width of the windows and doors to the height of windows and doors in the principal structure must be visually compatible with historic structures within the Jefferson Neighborhood Historic Overlay District.

2. Any garage door visible from the street shall not exceed 10 feet in width and 8 feet in height.

d. Roofs and Dormers

1. The roof shape of the principal building must be visually compatible with structures, to which it is visually related.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

- 2. Flat roofs and shed roofs are prohibited, except on porches and where consistent with the roof form of an HNS.
- 3. All gable roofs shall have a minimum pitch of 6:12. All hip roofs must have a minimum pitch of 3:12.
- 4. Dormers of the principal building shall be consistent with the style of the structure.
- 5. Skylights are prohibited on all roofs parallel to and facing the street.

e. Entrances, Porches, and Decks

- 1. The front entrance of the principal building shall face the street.
- 2. The front entrance to the principal building shall have no fewer than four steps, or an equivalent ramp distance, from the ground level to the bottom of the front entrance door or shall have the first-floor plane in a style compatible with Historic Neighborhood Structure.
- 3. Decks are prohibited in front yards.
- 4. On corner lots, decks are allowed on street side yards with screening, either by fence or landscaping.

f. Height and Elevation

- 1. The height of the principal building must be visually compatible with historic structures within the Jefferson Neighborhood Historic Overlay District.
- 2. The height of the principal building shall not exceed the overall scale of HNS with a maximum eave height of 25 feet.

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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

3. The principal building shall be constructed to have the first-floor plane in a style compatible with Historic Neighborhood Structure.

**2. Accessory Buildings or Structures**

- a. New accessory building or structures shall be subordinate in scale and compatible with the design and style of the principal building.
- b. Except Historic Neighborhood Structures designed with an attached garage, all garage structures shall be in the rear yard. Any garage door visible from the street shall not exceed 10 feet in width or 8 feet in height.
- c. Reconstruction (including its enlargement by up to 40% in total floor area) of an existing accessory building, which does not meet the dimensional setback standards of the Fargo Land Development Code, is permissible by right, provided that: 1) the existing non-conforming setback is not increased; 2) the property line from which the setback is determined is verified by a registered land surveyor; and 3) the new accessory building is limited in height to no more than one-story with 10-foot maximum sidewalls.

**J. Special Development Standards - Demolition**

In conjunction with Section 20-0912.C(2) of the Fargo Land Development Code, the Historic Preservation Commission shall consider the following criteria in review of a request for a Certificate of Appropriateness regarding the demolition of a principal building, accessory building or structure. A request that satisfies the following criteria shall be approved.

1. The requested demolition is justified by the state of deterioration, disrepair and structural stability of the structure, or the building has been condemned.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

2. The requested demolition is not detrimental to the overall style of the historic district.

3. The requested demolition is consistent with the purpose of the Comprehensive Plan and other adopted policies of the City.

**K. Variance of Special Development Standards**

To allow for a variance of hardships that may arise from the strict application of any of the foregoing Special Development Standards, the Historic Preservation Commission may consider requests to deviate from any applicable standard(s) and allow for an exception(s). A two-thirds vote of the Historic Preservation Commission is required for approval of any exception to the Special Development Standards.

Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

Section 3. This ordinance shall be in full force and effect from and after its passage and approval.

\_\_\_\_\_  
Timothy J. Mahoney, M.D. Mayor

(SEAL)

Attest:

First Reading:  
Second Reading:  
Final Passage:

\_\_\_\_\_  
Steven Sprague, City Auditor

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<b>City of Fargo Staff Report</b>			
<b>Title:</b>	West Acres 4 <sup>th</sup> Addition	<b>Date:</b>	10/23/2018
		<b>Update:</b>	11/27/2018
<b>Location:</b>	1702 40 <sup>th</sup> Street South and 3926 17 <sup>th</sup> Avenue South	<b>Staff Contact:</b>	Kylie Bagley
<b>Legal Description:</b>	Lots 1 & 2, Block 3, West Acres 4 <sup>th</sup> Addition		
<b>Owner(s)/Applicant:</b>	T Sloan Property/PACES Lodging	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from MR-3, Multi-Dwelling Residential, to GC, General Commercial)		
<b>Status:</b>	City Commission Public Hearing: December 3, 2018		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Vacant	<b>Land Use:</b> Vacant
<b>Zoning:</b> MR-3, Multi-Dwelling Residential	<b>Zoning:</b> GC, General Commercial
<b>Uses Allowed:</b> detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<b>Uses Allowed:</b> colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.
<b>Maximum Density Allowed (Residential):</b> maximum of 24 units per acre	<b>Maximum Building Coverage:</b> 85% building coverage

<b>Proposal:</b>
<p>The applicant is proposing a zone change from MR-3, Multi-Dwelling Residential, to GC, General Commercial, for the properties located at 1702 40<sup>th</sup> Street South and 3926 17<sup>th</sup> Avenue South. The zone change is to accommodate for future commercial growth. The subject property encompasses approximately 2.07 acres.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: Across 17<sup>th</sup> Avenue South properties are zoned GC, General Commercial, with retail sales and service uses.</li> <li>• East: MR-3, Multi-Dwelling Residential, with multi-dwelling structures</li> <li>• South: MR-3, Multi-Dwelling Residential, with multi-dwelling structures</li> <li>• West: Across 40<sup>th</sup> Street South properties are zoned GC, General Commercial, with retail sales and service uses.</li> </ul>
<b>Area Plans:</b>
No area plans apply
<b>Schools and Parks:</b>
<p><b>Schools:</b> The subject property is located within the West Fargo School District and is served by Westside Elementary, Cheney Middle and West Fargo High School.</p> <p><b>Parks:</b> Rabanus Park is located within a quarter mile of the subject property. This park has playground equipment, tennis, sand volleyball and basketball courts and the shelter has restrooms, electricity and water. It is the site of the</p>

<p>Fargo Project.</p> <p><b>Pedestrian / Bicycle:</b> The subject property has off road bike facilities to the north and east, which is a component of the metro area trail system</p> <p><b>Neighborhood:</b> The subject property is located within the West Acres Neighborhood.</p>
<p><b>Staff Analysis:</b></p>
<p><b>Zoning</b></p> <p>Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:</p> <ol style="list-style-type: none"> <li> <p><b>1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?</b></p> <p>Staff is unaware of any zoning map error in regard to the subject property. The requested zoning change is justified by a change in conditions since the previous zoning classification was established. The requested zone change is a result of future commercial development which matches the surrounding properties. <b>(Criteria Satisfied)</b></p> </li> <li> <p><b>2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?</b></p> <p>The development is served with city services (water, sewer, streets, police/fire protection, etc.) as well as other needed utility services as needed. The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. <b>(Criteria Satisfied)</b></p> </li> <li> <p><b>3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?</b></p> <p>Staff has no documentation or evidence that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. The proposed zone change is in keeping with adopted plans approved via public process. In addition, written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any verbal concerns or written comments regarding the proposed overlay zoning change. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity. <b>(Criteria Satisfied)</b></p> </li> <li> <p><b>4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?</b></p> <p>The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is consistent with the purposes of the LDC,, and other adopted policies of the City <b>(Criteria Satisfied)</b></p> </li> </ol>
<p><b>Planning Commission Recommendation:</b> November 6, 2018</p>
<p>On November 6, 2018, with a 11-0 vote, the Planning Commission accepted the findings and recommendations of staff and recommended approval to the City Commission of the proposed zoning change from MR-3, Multi-Dwelling Residential, to GC, General Commercial, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."</p>
<p><b>Staff Recommendation:</b></p>
<p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on the first reading, and move to approve the proposed zoning change from MR-3, Multi-Dwelling</p>

Residential, to GC, General Commercial, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.”

**Attachments:**

1. Zoning Map
2. Location Map

# Zone Change (MR-3 to GC)

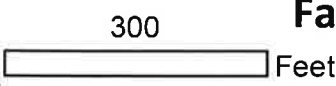
## West Acres 4th Addition

1702 40th Street South &  
3926 17th Avenue South



### Legend

AG	LC	MHP	SS-1
DM	MR-1	NO	SS-2
GC	MR-2	NC	SS-3
GO	MR-3	UMI	SS-4
			SS-5
			SS-6
			City Limits



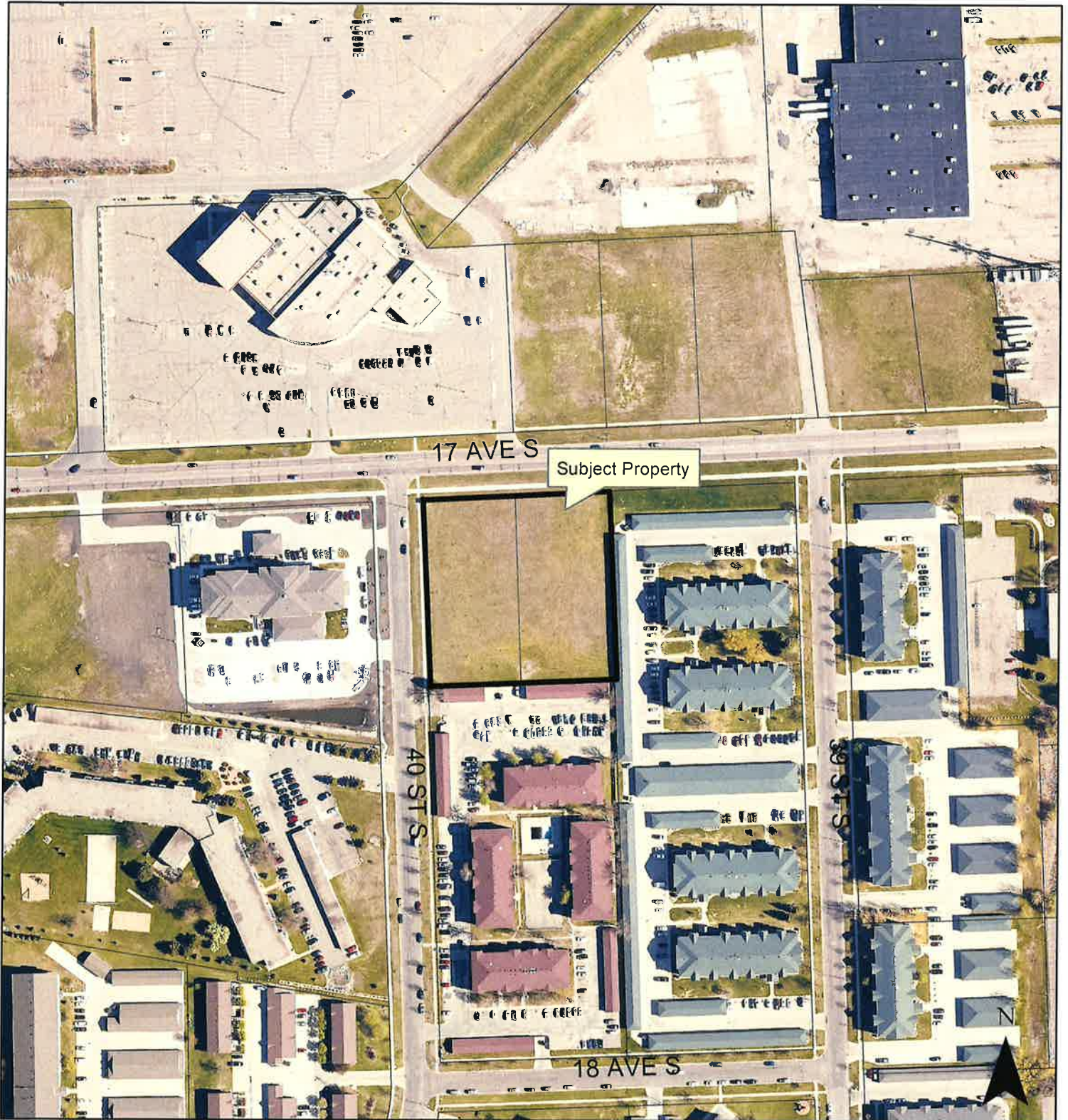
Fargo Planning Commission  
November 6, 2018



# Zone Change (MR-3 to GC)

## West Acres 4th Addition

1702 40th Street South &  
3926 17th Avenue South



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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN WEST ACRES FOURTH ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

1  
2 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the  
3 City of Fargo have held hearings pursuant to published notice to consider rezoning of certain  
4 parcels of land lying in West Acres Fourth Addition to the City of Fargo, Cass County, North  
5 Dakota; and,

6 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning  
7 request on November 6, 2018; and,

8 WHEREAS, the rezoning changes were approved by the City Commission on December 3,  
9 2018,

10 NOW, THEREFORE,

11 Be It Ordained by the Board of City Commissioners of the City of Fargo:

12 Section 1. The following described property:

13 Lots One (1) and Two (2), Block Three (3), West Acres Fourth Addition to the City  
14 of Fargo, Cass County, North Dakota;

15 is hereby rezoned from "MR-3", Multi-Dwelling Residential, District to "GC", General  
16 Commercial, District.;

17 Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his  
18 office so as to conform with and carry out the provisions of this ordinance.  
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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

Section 3. This ordinance shall be in full force and effect from and after its passage and approval.

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Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:

370

## MEMORANDUM

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TO: Board of City Commissioners  
FROM: Steven Sprague, City Auditor  
SUBJECT: Liquor License Application – Golf Addiction  
DATE: November 21, 2018

The following application for a liquor license was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: FA-Entertainment - allows full bar, full alcohol, 50% food & admission  
Business Name: Golf Addiction  
Location: 4474 23<sup>rd</sup> Avenue South  
Applicants: John Miller  
Adam Scott

Being no significant concerns, the Liquor Control Board voted to approve the issuance of the license. The complete application is available for review in the Auditor's Office.

**Recommended Motion:**

**Move to approve the issuance of a Class FA-Entertainment alcoholic beverage license to Golf Addiction.**

## MEMORANDUM

**TO:** Chief David Todd

**FROM:** Sergeant Matt Christensen

**DATE:** November 5<sup>th</sup>, 2018

**SUBJECT: Application for a Class "FA-Entertainment" Alcoholic Beverage License for Golf Addiction ND LLC d/b/a: Golf Addiction to be located at 4474 23<sup>rd</sup> Avenue South, Fargo, ND.**

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation I questioned the applicant's criminal background, credit history, past residence history as well as any interaction they have had with law enforcement in any state.

The following information was discovered through this investigation:

### John Carl Miller – Owner/Manager

Criminal History- No areas of concern

Credit History- No areas of concern

### Adam Lynn Scott – Owner/Manager

Criminal History- No areas of concern

Credit History- No areas of concern

### Investigation Notes

This application is for a "FA-Entertainment" license which would upgrade the business from their current "I-Entertainment" license so they can offer a larger variety of "on-sale" alcoholic beverages. Golf Addiction has been operating at their current location under their current license with no issues over the last five years up to this point. The applicants also operate a Golf Addiction in Sioux Falls, SD which has also not had any problems. I do not believe the larger encompassing license would create any new issues.

**Business Location**

Golf Addiction is located at 4474 23<sup>rd</sup> Avenue South, Fargo, ND. Other businesses in the area with an alcoholic beverage license include; Prairie Brothers Brewing, Off the Hook Seafood, Pizza Ranch, Fargo-Moorhead Curling Club, Applebees, La Quinta Inn & Suites, Old Chicago, Famous Dave's, and Reese Riley Bistro.

**Conclusion**

I believe I have discovered all information related to the listed applicant(s) and all information related to the issuance of the requested liquor license. I have provided this completed background investigation to Fargo Police Chief David Todd for his review and recommendation.



## Fargo Inspections

City of Fargo  
225 Fourth Street North  
701-241-1561  
fax 701-241-1526

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### Memorandum

DATE: November 29, 2018  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Bruce Taralson, Inspections Administrator  
SUBJECT: Dangerous Building Hearing for 703 10 Avenue N., Fargo, ND

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The property owner of 703 10 Avenue N., Fargo, ND, the property that is subject of the attached packet, has failed to comply with my order to remove the heavily damaged structure at that location within the time allowed for that removal. A Dangerous Building Hearing is scheduled for Monday, December 3, 2018.

The recommendation is to **make a motion determining this to be a dangerous building, approve the attached Findings of Fact and Order, and direct staff and City Attorney to take action, order its removal before December 17, 2018 and direct appropriate staff to secure the removal of this building at that time, should the owner fail to do so.**



## **DANGEROUS BUILDING ORDER TO COMMISSION- Detail and Timeline for 703 10 Avenue North, Fargo, ND 58102.**

The DANGEROUS BUILDING hearing is required under Article 21-0405 for the purpose of allowing any interested parties the opportunity to comment, and to allow the Owner of the property the opportunity to appear and show cause why the City of Fargo should not cause the removal of this building.

The Inspections Department has taken this action due to the amount of damage to the building. This building meets 8 of the 10 criteria which only one might be required. Our report on ordinance requirements-

1. Inspections Department received complaint on property.
2. Inspections Department inspected the property.
3. Inspections placed notice on the building and notified Owner.
4. Inspections secured assessors report.
5. Inspections provided notice to Owner giving 30 days.
6. Inspections report of noncompliance to City Commission.
7. Inspections will appear at the hearing on December 3, 2018 to testify as to the condition of the Dangerous Building.
8. Inspections notice contained specific wording as required in Article 21-0404, Section H.

In your packets, you will find my dangerous building notice. Article 21-0404 requires the Inspections Department give a 30-day notice to the Owner of the property prior to any action by the City Commission or staff. Our time line will show a notice went out on August 16, 2018 and there was no action taken by the Owner within 30 day deadline. An extension was given to October 1, 2018, in which no action was taken by the owner.

Also, in your packets you will find copies of the photos we have taken of the property as well as a copy of the letter of determination of value from Assessors office. Article 21-0401 stipulates that if this building meets the definition of a dangerous building, it must be demolished or repaired. The assessor's letter states that repairs will exceed or are in excess of 50% of the current value. Article 21-0402 stipulates that if costs to repair the building exceed 50% or more of the current value, the building can be ordered demolished or repaired. We have taken the path of demolition due to the amount of repair required.

**PROPERTY INFORMATION-** Building is currently vacant and is uninhabitable due to condition and current Inspections order. Deterioration is extensive. Building constructed in 1897.



**Description:** Multi-story, Wood-framed structure.

**Description of damage:** Large hole in roof leading to extensive water damage of kitchen and bathroom on main floor, signs of extensive water damage on second floor leading to the wood floor buckling and multiple areas with sagging plaster. Wall on Southeast corner wall has deteriorated to the point where the outside is visible. Unpermitted work with floor removed in Northwest corner by rear entry leading to unsupported floor joists. Multiple broken windows. Foundation has been compromised on West side with noticeable buckling and large cracks. Broken water pipe in basement. Signs of squirrel infestation.

#### **Timeline of events-**

**9/3/2002** – As per City of Fargo Utility Department on 11/27/2018, water has been shut off since 9/3/2002.

**3/2008** – As per Xcel Energy on 11/27/2018, gas has been shut off since March of 2008.

**4/2008** – As per Xcel Energy on 11/27/2018, electricity has been shut off since April of 2008.

**10/3/2017** – Inspections Department received complaint via the FargoOne online complaint portal. Complaint stated that house appears vacant and unsecured, appears that birds are living in attic, missing window, and two large holes in chimney. Pictures enclosed.

**10/11/2017** – Violation letter sent to Mr. Grotenhuis regarding exterior inspection on 10/3/2017 and order for corrections. See enclosed.

**11/24/2017** – Inspector verified that house was secured and backhoe was removed.

**3/20/2018** – Inspections received complaint of vacant, abandoned building. No improvement since last complaint. Three trailers in rear yard. Exterior in poor condition. Several windows boarded shut, one broken. Large hole in roof has temporary cover. Rear storm door is stuck open. Pictures enclosed.

**4/23/2018** – Inspector placed placard on front and rear door. Rear entry door is unsecure and has broken window. Substandard building letter mailed certified mail to Mr. Grotenhuis. See enclosed. Letter returned to Inspections Department as “unclaimed – unable to forward”. Pictures enclosed.

**4/24/2018** – Inspector noted front entry placard was removed without prior approval from the Building Official.

**4/25/2018** – Inspector re-posted placard on front entry door along with “Re-inspection of Substandard Building Notice – Placard Tampering Fee”. See Enclosed. Notice was also mailed certified mail to Mr. Grotenhuis and Mr. Tegtmeier. Both letters were returned as “unclaimed – unable to forward”.

**5/22/2018** – Inspector verified placards were still in place.

**6/28/2018** – Inspector had phone conversation with Mr. Tegtmeier and requested access for interior structural evaluation. Mr. Tegtmeier declined and stated his attorney must handle this matter.

**7/25/2018** – Inspector notified Mr. Tegtmeier that search warrant would be executed on 7/25/2018. See enclosed warrant.

**7/25/2018** – Interior inspection. Extensive damage as listed above under “description of damage”. Pictures enclosed.

**7/26/2018** – Inspections Department received letter from Assessor's office stating repair would exceed 50% of building value. See enclosed.

**7/30/2018** – Inspections Department received letter from Terry Tegtmeier. See enclosed.

**8/16/2018** – Dangerous Building Notice posted on building and mailed certified mail. New graffiti noted on North side of building. Inspections Department received receipt that Mr. Grotenhuis received notice via certified mail. Mr. Tegtmeier's letter was returned as “unclaimed – unable to forward”.

**8/28/2018** – Inspections Department received letter from attorney, David Garaas. See enclosed.

**9/4/2018** – City Attorney's office responded to letter from Mr. Garaas on behalf of the Inspections Department. See enclosed.

**9/11/2018** – Mr. Grotenhuis and Mr. Tegtmeier entered the Inspections Department to obtain a permit to make a few minor repairs to 703 10 AVE N. – Fargo, ND. The permit was denied due to the Dangerous Building order and requirements listed on that order not met.

**9/14/2018** – A meeting with Mr. Grotenhuis and Mr. Tegtmeier was held in the Inspections Department. See enclosed minutes.

**9/17/2018** – Letter sent certified mail to Mr. Grotenhuis and Mr. Tegtmeier regarding the meeting on 9/14/2018. Inspections administrator, Bruce Taralson, gave two-week extension on deadline to 10/1/2018 to obtain a permit to repair. Both letters were returned to Inspections Department as “unclaimed – unable to forward”. See enclosed.

**10/18/2018** – Inspections Department requested Commission set a Dangerous Building Hearing date for 12/3/2018.

**10/24/2018** – Inspections Department received letter from Mr. Grotenhuis stating that the Inspections Department can inspect any of his rental properties as long as a court order is obtained stating the probable cause and detailing what the search entails. See enclosed.

**10/25/2018** – Notice of Dangerous Building Hearing was posted on building and mailed certified mail to Mr. Grotenhuis and Mr. Tegtmeier. Inspections received receipt that Mr.

Grotenhuis received the notice via certified mail. Mr. Tegtmeier's letter was returned as "unclaimed – unable to forward".

**12/03/2018** – Dangerous Building Hearing.

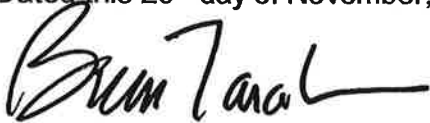
Upon your finding for Owner to comply with this demolition order, you are required by Article 21-04, to notify Owner of your determination, and that if an Owner fails to comply with that order for demolition within 10 days, The City Commission can order city staff to take action on demolition and assess costs back to the property.

I suggest you agree with my notice and find this to be a dangerous building, and approve the enclosed findings of fact and order. I also ask that you direct staff to proceed with all necessary measures to secure removal of this building should the Owner fail to do so. Commission action requires a 10 day allowance for action per Article 21-0405.E. Article 21-0406 also allows court action if that is the course the commission chooses to take. Article 21-0412 is allowance for Owner appeal to City Commission action.

Thank you,

Respectfully submitted,

Dated this 29<sup>th</sup> day of November, 2018.

A handwritten signature in black ink, appearing to read "Bruce Taralson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bruce Taralson  
Inspections Administrator

**FINDINGS OF FACT AND ORDER**  
**of the**  
**BOARD OF CITY COMMISSIONERS**  
**OF THE CITY OF FARGO**

Property Address: 703 10<sup>th</sup> Avenue North, Fargo, North Dakota  
Owner: Philip H. and Martha A. Grotenhuis, trustees of the Philip H. Grotenhuis Revocable Living Trust, Terry L. Tegtmeyer and Linda S. Tegtemeyer as contract for deed vendees

A hearing was held before the Board of City Commissioners of the City of Fargo on the 3<sup>rd</sup> day of December, 2018 regarding property located at 703 10<sup>th</sup> Avenue North, Fargo, North Dakota. Bruce Taralson, Building Official, appeared on behalf of the city of Fargo Inspections Department and provided testimony as to the condition of the property. \_\_\_\_\_, \_\_\_\_\_, appeared and provided testimony.

The Board heard the testimony offered by the inspections department, \_\_\_\_\_, \_\_\_\_\_, considered the reports, evidence and other information presented, and hereby makes the following Findings of Fact:

**FINDINGS OF FACT**

1. That Philip H. and Martha A. Grotenhuis, trustees of the Philip H. Grotenhuis Revocable Living Trust, and Terry L. Tegtmeyer and Linda S. Tegtmeyer as contract for deed vendees, are the owners of the following described real property located in the City of Fargo, County of Cass and State of North Dakota:

Lot 12, Block 16, Wilson Subdivision in Chapins Addition to the city of Fargo

The street address for which is: 703 10<sup>th</sup> Avenue North, Fargo, North Dakota, 58102.

2. That the subject property is vacant.
3. That on July 25, 2018, Bill Thompson, Building and Rental Housing Inspector to

the city of Fargo, inspected the property and found the building, consisting of a multistory, wood-framed structure to be a dangerous building within the standards set forth in Article 21-04 of the Fargo Municipal Code and Section 108 of the International Property Maintenance Code concerning dangerous structures. Additionally, Bill Thompson observed and reported that numerous code violations exist and the deterioration of the property is extensive.

4. That on July 25, 2018, Robert E. Harshberger, Deputy Assessor of the city of Fargo, performed an inspection on the property and determined that the estimated cost to repair the property would exceed fifty percent (50%) of the building value as established by the Fargo Assessment Department.

5. That the building is unsafe and is a dangerous building in the following respects: the building is structurally unsound, there are many and various code violations, that work has been completed without necessary permits, and that there is substandard workmanship.

6. Further, the City Commission finds that the following conditions exist with respect to the subject property:

- a. The structure has been damaged or deteriorated for more than fifty percent (50%) of its original value;
- b. The building is unsafe, fails to provide the amenities essential to decent living, and is unfit for human habitation; and
- c. The building it is unsafe or dangerous to the health, moral safety or general welfare of the people of the City of Fargo.

7. That the information in the files of the Inspection Department and the City Assessor's Office stemming from various inspections of the property on or before July 25, 2018, with respect to the subject property is hereby accepted as true and correct.

8. That the building located at 703 10<sup>th</sup> Avenue North, Fargo, North Dakota 58102, is hereby found to be a "dangerous building."

9. Notice of Dangerous Building was posted on the property on or about August 16, 2018, in accordance with Municipal Code § 21-0404. The Notice of Dangerous Building informed the owner and all occupants, if any, that the "dangerous building" must be vacated and

the building demolished within 30 days from the date of the notice.

10. The owner was properly served by certified mail with the Notice of Dangerous Building, dated Thursday, August 16, 2018.

11. The owner has not sufficiently presented cause why the “dangerous building” should not be demolished.

12. Despite being ordered that the building on the subject property should be demolished or necessary permits be obtained within 30 days of the notice, the owner has failed to do so, notwithstanding the numerous extensions granted by the Inspections Department.

13. Any cost of demolition shall be assessed against the subject property in accordance with Fargo Municipal Code §21-0405(E).

**ORDER**

Based on the foregoing Findings of Fact, it is hereby ORDERED that Philip H. and Martha A. Grotenhuis, trustees of the Philip H. Grotenhuis Revocable Living Trust, Terry L. and Linda S. Tegtmeier as contract for deed vendees, or anyone else claiming an ownership interest shall demolish the “dangerous building” located at 703 10<sup>th</sup> Avenue North, Fargo, North Dakota.

It is further ordered that Philip H. and Martha A. Grotenhuis, trustees of the Philip H. Grotenhuis Revocable Living Trust, Terry L. and Linda S. Tegtmeier as contract for deed vendees, or anyone else claiming an ownership interest in the building shall have 30 days from the date of service of this Order within which to demolish the “dangerous building” located at 703 10<sup>th</sup> Avenue North, Fargo, North Dakota.

It is further ordered that if the owner fails to demolish said “dangerous building,” the City Auditor, Building Inspector and City Attorney are directed to act on behalf of the city of Fargo to cause the “dangerous building” to be demolished, and the cost of said demolition to be assessed against the subject property as provided in Section 21-0405 of the Fargo Municipal Code.

DATED this \_\_\_\_\_ day of December, 2018.

BOARD of CITY COMMISSIONERS of the CITY  
OF FARGO,  
a North Dakota Municipal Corporation

By \_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

ATTEST:

\_\_\_\_\_  
Steven Sprague, City Auditor

**NOTICE OF ENTRY OF ORDER**

TO: PHILIP H. AND MARTHA A. GROTENHUIS, TRUSTEES OF THE PHILIP H. GROTENHUIS REVOCABLE LIVING TRUST, TERRY L. TEGTMEIER AND LINDA S. TEGTMEIER, AS CONTRACT FOR DEED VENDEES AND ALL OTHER PERSONS HAVING AN INTEREST IN THIS PROPERTY

RE: PROPERTY AT 703 10<sup>TH</sup> AVENUE NORTH, FARGO, NORTH DAKOTA 58102

YOU ARE HEREBY GIVEN NOTICE that you shall have 30 days from the date of service of Findings of Fact and Order of the Board of City Commissioners of the City of Fargo (“Order”) upon you in which to appeal the Order to the District Court of Cass County, North Dakota, or to take such other legal action to enjoin the enforcement of this Order as you deem proper, all in accordance with the appeal procedure set forth in Fargo Municipal Code § 21-0412. You are further given notice that the “dangerous building” on the subject property may be demolished by the city of Fargo at any time on or after 30 days from the date of service hereof.

DATED this \_\_\_\_\_ day of December, 2018.

BOARD OF CITY COMMISSIONERS  
CITY OF FARGO, a North Dakota Municipal  
Corporation

By \_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

ATTEST:

\_\_\_\_\_  
Steven Sprague, City Auditor



**Fargo Inspections**  
City of Fargo  
225 Fourth Street North  
Fargo, North Dakota 58102  
Phone: 701-241-1561  
Fax: 701-476-6779



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## **Notice of Dangerous Building Hearing – Order to Show Cause**

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**Date:** October 25, 2018

**Location:** 703 10 Avenue North, Fargo, ND 58102

**Property Owner:** Philip H and Martha Grotenhuis

**Address of Property Owner:** 1502 16 Street S., Fargo, ND 58103

C/D Terry L and Linda S Tegtmeier  
16756 53 Street SE  
Kindred, ND 58051-9605

**Inspector:** Bill Thompson

**Date of Posting:** October 25, 2018

### **Ordinance 21-0405 of the Fargo Municipal Code states:**

The board of city commissioners shall:

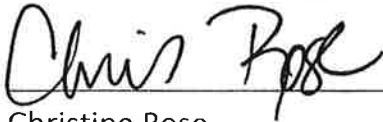
A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).

B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building."

A hearing regarding the dangerous building located at 703 10 Avenue N., Fargo, ND 58102, has been scheduled for Monday, December 3, 2018 at 5:15PM. The hearing will take place in the City Commission Chambers, located at 200 3<sup>RD</sup> Street N., Fargo, ND 58102.

Any interested person or party is encouraged to attend.

Dated on this 25th day of October, 2018.

A handwritten signature in cursive script, appearing to read "Christine Rose", is written over a horizontal line.

Christine Rose

Deputy Inspections Administrator

10-24-2019

To: Bill Thompson, Targe Inspections,

Regarding our phone conversation of Oct 21,  
2018, you <sup>again</sup> respect any of my rental prop-  
erties as long as you have a court order  
stating probable cause + detailing what  
you want to search for.

Sincerely,  
Phil Grotenhuis  
Phil Grotenhuis



## Fargo Inspections

City of Fargo  
224 Fourth Street North  
701-241-1561  
fax 701-241-1526

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### Memorandum

DATE: October 18, 2018  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Bruce Taralson, Inspections Administrator  
SUBJECT: Dangerous Building Notice and Order at 703 10 Avenue N., Fargo, ND 58102

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This is to notify you that the property owner of 703 10 Avenue N., Fargo, ND 58102, the property that is subject of the attached Notice, has failed to comply with my order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, it will now be necessary for you to set a date for a hearing of this order at which time the property owner will be able to appear and show cause why the building should not be removed and the costs of that removal assessed against this property.

The recommendation is **to make a motion, in accordance with FMC Article 21-0405, to set December 3, 2018 as the time and date for the hearing regarding the dangerous building order for the structure at 703 10 Avenue N., Fargo, ND 58102.**



September 17, 2018

RE: Dangerous Building Meeting - 703 10 Avenue N., Fargo, ND 58102

Dear Mr. Grotenhuis and Mr. Tegtmeier,

I regret that our meeting on September 14, 2018 regarding 703 10 Avenue N., Fargo, ND, ending the way that it did. For that reason, I want you to know that I still want you to get a permit. To show good faith and to facilitate that, I am willing to offer the following-

1. I will extend the deadline another two weeks. That makes the deadline October 1, 2018.
2. In lieu of required engineering for the mechanical, plumbing and electrical trades, you can use licensed contractors. The licensed contractors must provide statements that they will do two things: 1. That they have reviewed the house and what they will do to bring it up to current codes; 2. They will take out a permit by the deadline to do the work.

Remember that you are dealing with an existing house. Even if an engineer or licensed contractor gives us information, the building is still required to comply with all codes. If something is missed during the investigation, it will still be required to comply due to unknowns or unforeseen. The City of Fargo will work with you and hopes this will help you acquire the permit you want.

Sincerely,

A handwritten signature in black ink that reads "Bruce Taralson".

Bruce Taralson

Inspections Administrator

September 14, 2018

RE: Meeting regarding 703 10 Avenue N., Fargo, ND

Individuals Present: Philip Grotenhuis, Terry Tegtmeier, Bruce Taralson, Bill Thompson, and Gretchen Morlan

The meeting regarding the placarded, Dangerous Building, located at 703 10 Avenue North, Fargo, ND, began at approximately 9:00AM on Friday, September 14, 2018.

Mr. Taralson inquired if everyone understood what needs to be done to obtain a permit at 703 10 Ave N., Fargo, ND. Mr. Tegtmeier stated that he understood what needs to be done, but what is being required is not possible to obtain within 30 days. Mr. Taralson stated that the 30-day deadline is approaching and inquired as to the reason for not working toward a permit from the start of the notice. Mr. Tegtmeier asked what degrees are required of the Inspectors at the City of Fargo. Mr. Taralson stated some inspectors are working toward certification, some are certified, and some have degrees. Mr. Tegtmeier stated that he was an engineer and could tell Mr. Taralson what needs to be done. He furthered that he has a degree and then had to work under engineers for years. Mr. Tegtmeier stated that it didn't sound like the City of Fargo would be reasonable and opted to obtain legal advice. Mr. Taralson stated that the Inspections Department would accept engineering plans that are stamped by a third-party engineer. Mr. Tegtmeier stated that he is very familiar with the process and inquired if Mr. Bill Thompson had informed Mr. Taralson of what has been going on with his property. Mr. Taralson stated that Mr. Thompson has kept him informed of everything including that the building has sat vacant for years. Mr. Tegtmeier stated that he felt that Mr. Taralson just wanted to reiterate the contents of the Dangerous Building notice. Mr. Taralson stated that he wanted to stay on track and discuss what is required to obtain a permit. Mr. Taralson asked Mr. Grotenhuis and Mr. Tegtmeier if they wanted to obtain a permit. Mr. Tegtmeier stated that they did want to obtain a permit. Mr. Taralson asked why they aren't doing what they need to do to obtain a permit. Mr. Tegtmeier stated that they would do what needs to be done stated that this meeting was over before it started and that Mr. Taralson had not heard the last of him. Mr. Grotenhuis and Mr. Tegtmeier ended the meeting at 9:06AM and exited the department.

Sincerely,



Gretchen Morlan  
Office Associate III



Office of the City Attorney

City Attorney  
Erik R. Johnson

Assistant City Attorney  
Nancy J. Morris

September 4, 2018

Mr. David Garaas  
Garaas Law Firm  
Demores Office Park  
1314 23<sup>rd</sup> Street South  
Fargo, North Dakota 58103

**RE: Dangerous Building - 703 10<sup>th</sup> Avenue North, Fargo, North Dakota 58102**

Dear Mr. Garaas:

Thank you for your letter concerning the above-referenced property. Per your request, I have enclosed various documents detailing the history and deterioration of the property.

While I can appreciate your clients' position as contract for deed vendors, the Grotenhuis Trust is, by law, the legal owner responsible for the condition of the property. And as such, the City of Fargo has rightfully pursued the proper entity in its dangerous building procedures.

Your clients still have time to obtain a permit to repair the property as the deadline for compliance is thirty (30) days from August 16, 2018, *viz.* September 15, 2018. Given the deadline falls on a Saturday, the City of Fargo Inspections Department is agreeable to extend the deadline to Monday, September 17, 2018. At this time, the city intends to proceed with the dangerous building process outlined in Article 21-04 of Fargo Municipal Code.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alissa R. Farol".

Alissa R. Farol  
Assistant City Attorney

Enc:

Inspection Field Reporting as of 08/30/2018  
Notice of Dangerous Building, dated 08/16/2018  
Letter from Robert E. Harshberger, Deputy Assessor, dated 07/26/2018  
Administrative Search Warrant, dated 07/25/2018  
Re-Inspection of Substandard Building Letter, dated 04/25/2018  
Finding and Determination of Substandard Building Order and Notice, dated 04/23/2018  
Referral to City Attorney for Code Violation, dated 11/04/2009



Referral to City Attorney for Code Violation, dated 07/12/2000  
Finding and Determination of Substandard Building Order and Notice, dated 05/18/2000  
Finding and Determination of Substandard Building Order and Notice, dated 02/10/2000

cc: Bruce Taralson, City of Fargo Inspections Department



**GARAAS LAW FIRM**

ATTORNEYS AT LAW

DeMores Office Park

1314 23rd Street South

Fargo, North Dakota 58103

Jonathan T. Garaas  
David Garaas

August 27, 2018

Telephone  
Area Code 701  
293-7211

Mr. Bruce Taralson  
Inspections Administrator  
City of Fargo  
200 Third Street North  
Fargo, North Dakota 58102

*recd 8/28/18-BT*

**RE: 703 10<sup>th</sup> Avenue North  
Lot 12, Wilson's Subdivision  
Of Block 16 of Chapin's Addition**

Dear Mr. Taralson:

I am writing this as the attorney for Mr. And Mrs. Philip H. Grotenhuis who are contract for deed vendors of property located at 703 10<sup>th</sup> Avenue North in Fargo, North Dakota, and briefly described above. As contract for deed vendors, my clients do not have the right to the physical possession of the real property. My clients, have not had such right to physical possession of the property since June 30, 1999 – the date of the contract for deed.

You have recently sent my clients a Notice of Dangerous Building in which you conclude it is a dangerous building because “the building has been damaged or deteriorated to the extent of more than (50) percent of its original value prior to the damage or deterioration.” It appears to me, and my clients, you are misinterpreting your municipal ordinances and state law. To be considered a dangerous building under Fargo’s municipal ordinances, the structure must have one of the defects listed in Fargo Municipal Code section 21-0401. The damage, decay deterioration of 50% of its original value is not a listed “defect” within section 21-0401 to make a building or structure a “dangerous building.” Damage, decay, or deterioration of building of 50% from its original value is only a factor, under Fargo Municipal Ordinances, as to whether the building should be repaired or demolished.

Under N.D.C.C. § 40-05-02(23), cities authority over substandard buildings extends to three (3) circumstances and none of the circumstances are mentioned in your Notice of Dangerous Building of August 16, 2018. Said authorizing statute only allows for the demolition, repair, or removal of buildings or structures which (1) “creates a fire hazard”, (2) “is dangerous to the safety of the occupants or persons frequenting such premises”, or (3) “is permitted by the owner to remain in a dilapidated condition.”

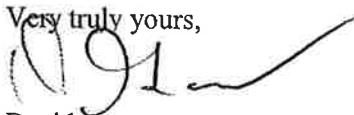
It is my clients’ understanding that one of the contract for deed vendees is a North Dakota

contractor who intended, after securing financing, to make certain repairs upon the property that would satisfy all of the City of Fargo's present objections to the condition of the building. My clients do not know why the City of Fargo is not working with the contract for deed vendees to adequately identify the City of Fargo's objection(s) to the buildings structure so that an appropriate plan of repair can be undertaken by them.

My clients would like a list of all of the city of Fargo's objections to the building, including the appropriate information as to what makes it a dangerous building under municipal ordinance and state law. After being provided such information, if my client's vendees do not undertake to make necessary repairs to the building, my clients would desire the City of Fargo work with them to see if repairs are economically feasible. At this time my clients believe that the buildings has not diminished in value by 50% of its original value, is repairable, and it would make more economic sense to repair the building rather than demolish it.

May we hear from you please as to what the City of Fargo believes is necessary to repair the building and whether the City of Fargo is willing to work with my clients in reference to repairing the building.

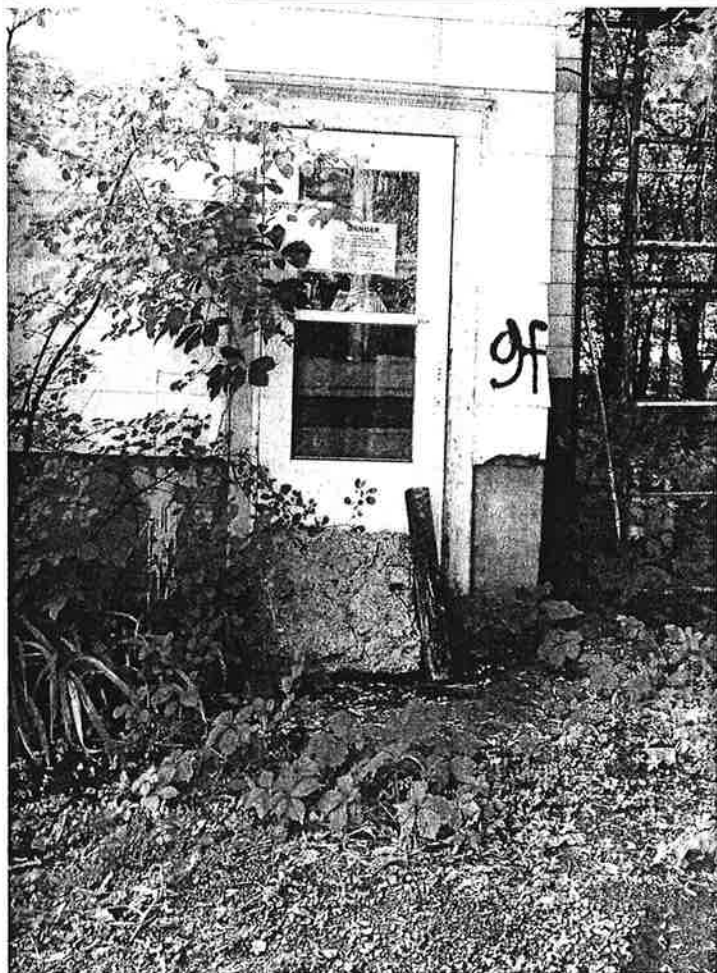
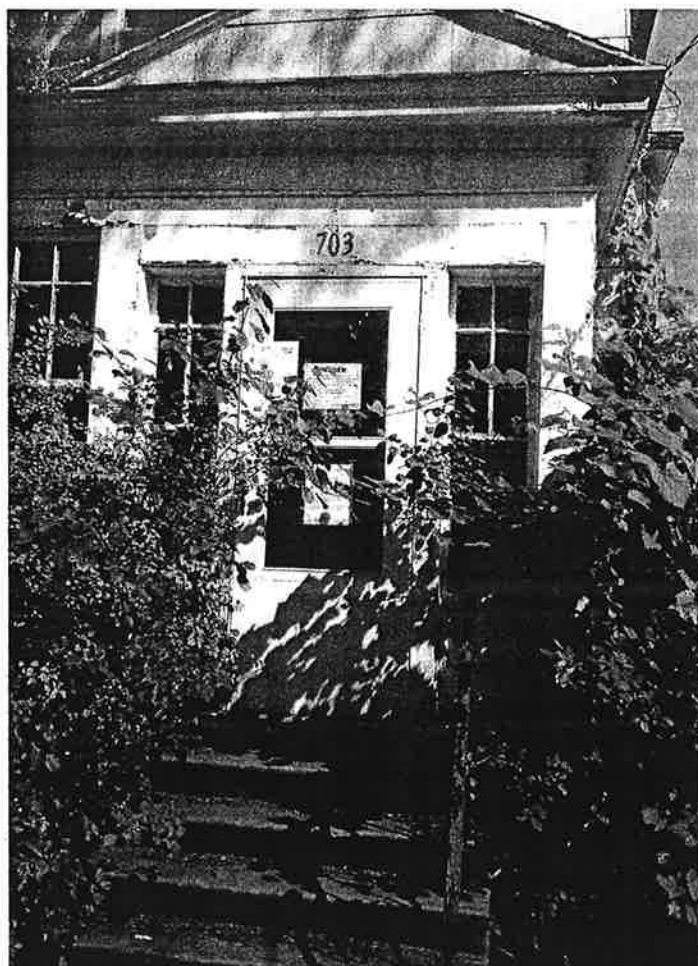
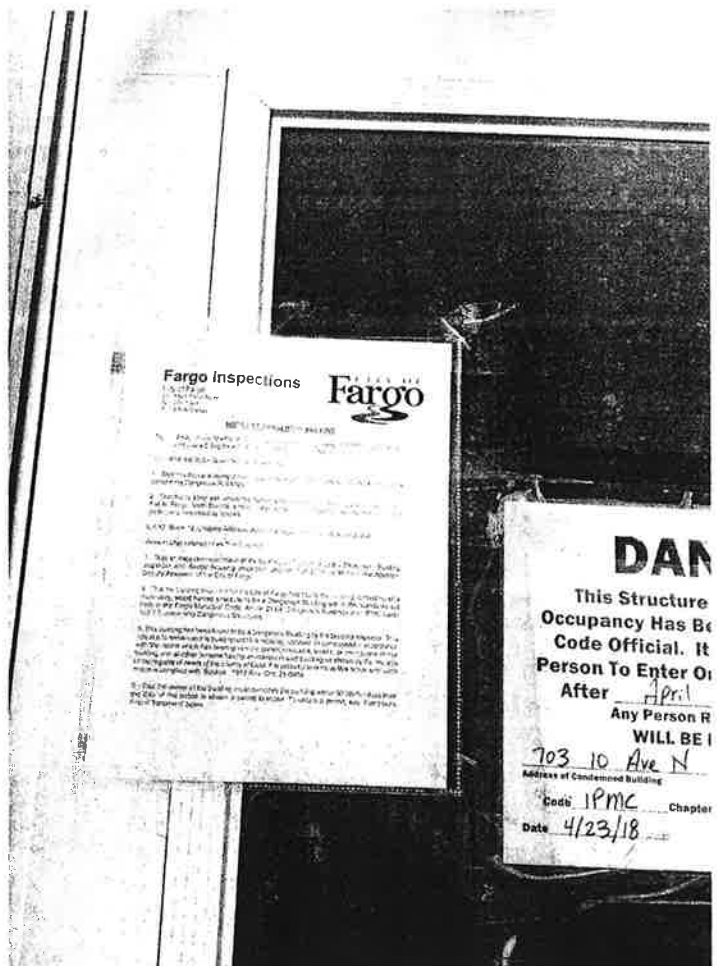
Very truly yours,

A handwritten signature in black ink, appearing to read 'DG' followed by a long, sweeping horizontal line that extends to the right.

David Garaas

DG:pd  
Mr. and Mrs. Grotenhuis  
Mr. and Mrs. Tegtmeier





703 10 Ave. N., Fargo, ND 58102—Dangerous Building Notice and Graffiti 8/16/18

# Fargo Inspections

City of Fargo  
200 Third Street North  
701-241-1561  
701-476-6779 fax



## NOTICE OF DANGEROUS BUILDING

TO: Philip H and Martha A Grotenhuis, 1502 16<sup>th</sup> St S, Fargo ND 58103 C/D Terry L and Linda S Tegtmeier, 16756 53<sup>rd</sup> St SE, Kindred ND 58051-9605

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.

2. That the building with which this Notice is concerned is commonly known as 703 10<sup>th</sup> Ave N, Fargo, North Dakota, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Lot 12, Block 16, Chapins Addition, Additional legal description Wilsons SubD

(here in after referred to as "the building")

3. That an inspection was made of the building on 7/25/2018 by Bill Thompson, Building Inspector and Rental Housing Inspector, and on 7/25/2018 by Robert Harshberger, Deputy Assessor, of the City of Fargo.

4. That the building inspector for the City of Fargo has found the building, consisting of a multi-story, wood framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 108.1.5 concerning Dangerous Structures.

5. This building has been found to be a Dangerous Building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.

6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.

7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

A. Robert Harshberger Deputy Assessor, of the City of Fargo has deemed that the building has been damaged or deteriorated to the extent of more than fifty (50) percent of its original value prior to the damage or deterioration. Source: Fargo Municipal Code, Article 21-0402 concerning Dangerous Buildings.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and Section 116 of the International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Building Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 108.2 of the International Property Maintenance Code, 2015 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 16<sup>th</sup> day of August 2018.

11. Order to secure building. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. This Dangerous Building Notice takes precedence over previous notices regarding this building.

Dated this 16<sup>th</sup> day of August 2018.



Bruce Taralson  
Inspections Administrator

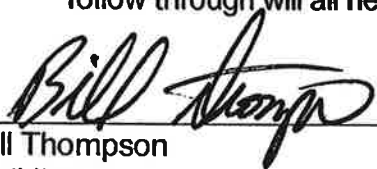
## Conditions Found Statement

On 7/25/2018, Inspector, Bill Thompson, was present at 703 10<sup>th</sup> Ave N for a complaint inspection. The following violations were found:

- Building is structurally unsound.
- Many and various code violations.
- Work completed without necessary permits.
- Substandard workmanship.

To obtain a permit to repair, the following actions must be taken:

- Provide engineering on entire structure, mechanical, plumbing and electrical systems.
- Provide structural plans.
- Provide list of licensed trades with plans.
- Obtain a permit by the deadline given: 30 days from the date of this notice, and follow through will all necessary inspections.

  
\_\_\_\_\_  
Bill Thompson  
Building Inspector  
City of Fargo, ND

8-16-18  
\_\_\_\_\_  
Date Signed

rec'd FT  
8/7/18

July 30, 2018

City of Fargo Building Inspections Dept  
200 3<sup>rd</sup> St. N.  
Fargo, ND. 58102

Gentlemen,

It has been brought to my attention that my property located at 703 10<sup>th</sup> Ave. N. in Fargo was unlawfully searched this past Wednesday, July 25<sup>th</sup> 2018. According to attorney Jonathon Garaas; I, as the owner of this property under a contract for deed sale since 1999, am the person in possession of the property and as such was legally required to have been served with a notice at least 24 hours prior to any search of my property. No such notice was served or attempted. Instead of following the legal requirements for such a search, Bill Thompson of the City of Fargo Building Inspections Dept. took it upon himself to only serve notice to the person with whom I had purchased the property under contract for deed and thus bypass my right of being served a notice of this impending search. According to Mr. Thompson there was a complaint filed against the property, a complaint of which I have not been able to review, thus violating my rights to know what the complaint was about or even who the accuser was. Mr. Thompson went on to state that I was not the true owner of the property since it was a contract for deed sale and therefore had no right to this information.

Before this unlawful search occurred, Mr. Thompson decided to have the building placarded this past June 23<sup>rd</sup> with a bright orange sign stating that it unlawful to enter the building. These placards serve as an invitation to every vagrant in town that nobody is residing in the building and they can vandalize the property and take anything and do anything they want. This same event happened to the building next door at 705 10<sup>th</sup> Ave N. Shortly after the orange placard was placed, that building was vandalized and my property also suffered from these same vandals causing damage to my building.

The placarding of my building happened even though we had complied with his earlier notice this past April 23<sup>rd</sup> to make the repairs he required to be done to the exterior of my building as stated in his "Finding and Determination of Substandard Building Order to Make Repairs and Notice of Right to Appeal". (see enclosure) Many of the



repairs that were called for were a direct result of vandals that had ravaged the house next door at 705 10<sup>th</sup> Ave. N.

Once again, I had not been given this particular notice of the "Finding and Determination of Substandard Building Order to Make Repairs and Notice of Right to Appeal", (see enclosure) instead the notice had been sent to the person who had sold me the property. I ended up having to call the City of Fargo Building Inspections Dept and request that they send me a copy of this notice so that I would be able to make the requested repairs.

Since the Fargo Building Inspections Dept does not send out any type of notice that the repairs they required had been completed to their satisfaction, I spoke with Mr. Thompson who informed me that he had re-inspected the building and that all the required repairs had been completed. It was at this time that I explained to Mr. Thompson my plans for the building, that I was in the process of seeking a City of Fargo Home Improvement Loan, in part sponsored by the Roosevelt Neighborhood Assoc. and a local bank. The Roosevelt Neighborhood Assoc. aids in helping to convert older building that will be converted from an apartment back to single family residence, which was my intention. I informed Mr. Thompson that the building would be brought up to current electrical and plumbing standards; furthermore, I intended to set the building on a new poured basement, reside it, re-insulate and re-roof the structure; however, all of my plans apparently fell on deaf ears as Mr. Thompson's went ahead with his plan to gain entrance to the property in an effort to accomplish some hidden agenda that he has.

None of these actions make any sense and are a waste of taxpayer money, of which I pay nearly two thousand dollars per year in taxes to the city for this property. This leads me to believe that some other forces are at work here. Since prior to Mr. Thompson's campaign against this property, I received a call from local realtor Brandon Raboin, he told me that he was interested in buying the property. He went on to explain that he had spoken to Bill Thompson of the City of Fargo Building Inspections Dept. and that Mr. Thompson had told him that all he needed was someone to sign a complaint against the property and that he could go ahead and begin the process of having the property condemned and put up for sale. It was not long after Mr. Thompson had put up one of his

orange placards warning against entrance into the building (the next day in fact) that I received another call from another realtor also inquiring about buying the building.

I am not sure of what is going on here, but the old saying of "Where there is smoke there is usually fire" might be applied here and it would seem to me that some of Mr. Thompson's actions should be, at the very least, looked into by supervisory city officials for possible corruption of a city building inspection official.

In the mean time I will continue to try to advance the rehabilitation of this 100-year-old home so that it doesn't become yet another casualty in the war against historic homes in this city.

Thank-you for your time and consideration in this matter.

Yours truly,

A handwritten signature in black ink, appearing to read "Terry L. Tegtmeier". The signature is fluid and cursive, with a large initial "T" and "E".

Terry L. Tegtmeier

701-280-0081

cc: Mr. Tony Gehrig

Mr. Dave Piepkorn

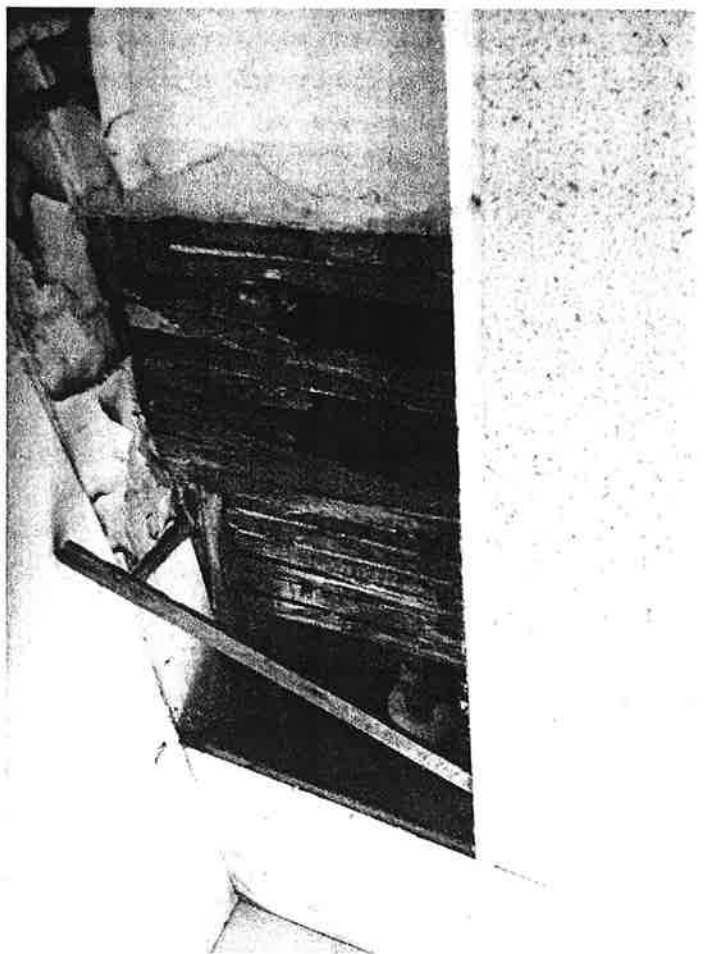
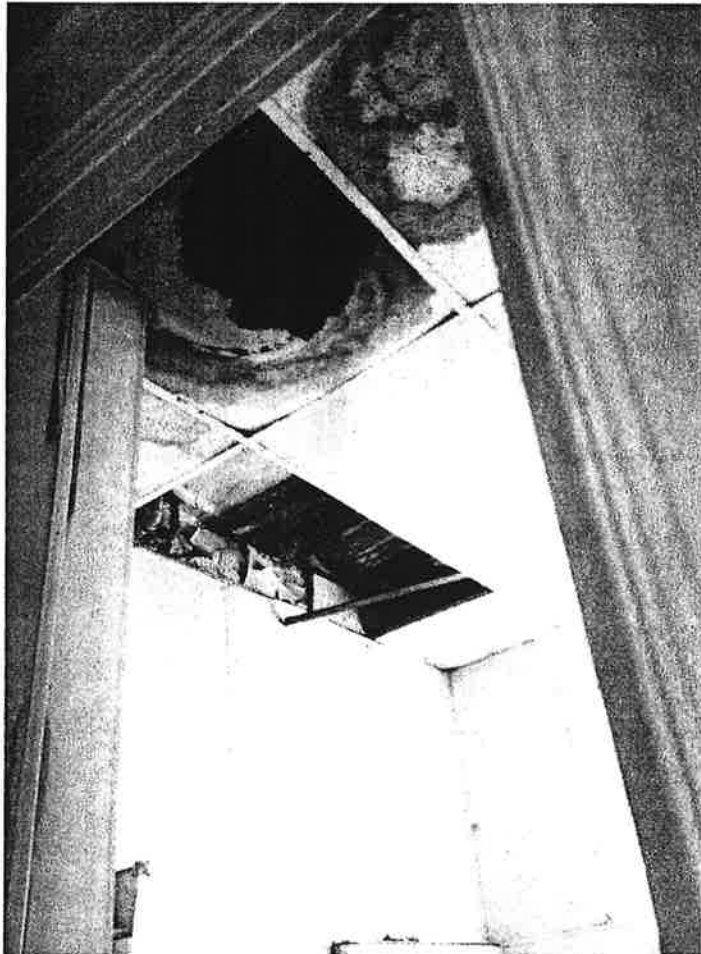
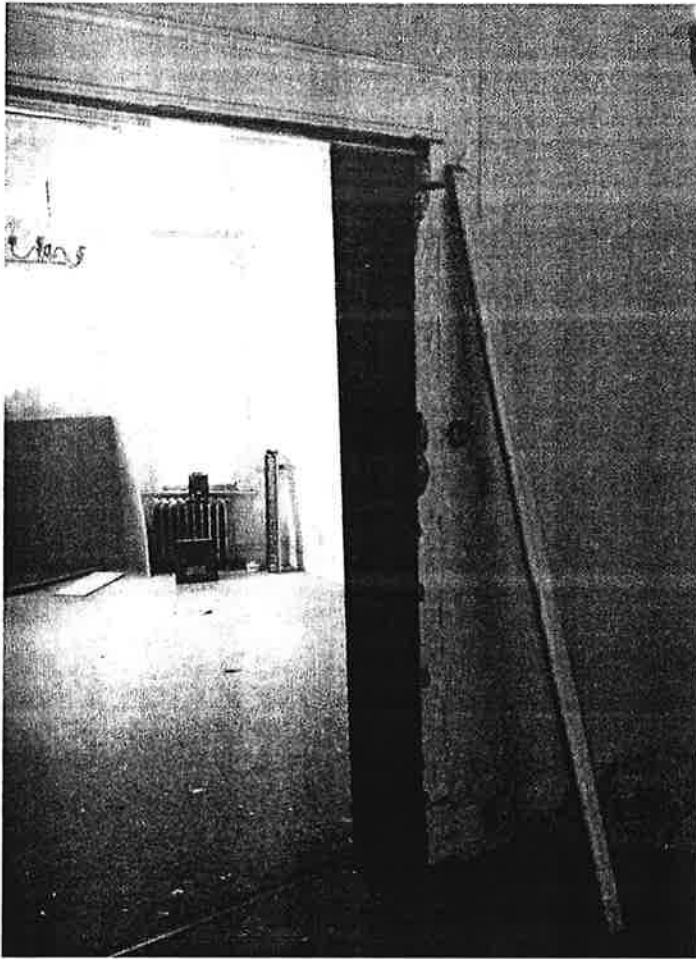
Mr. Jonathon Gaaras

Enc.

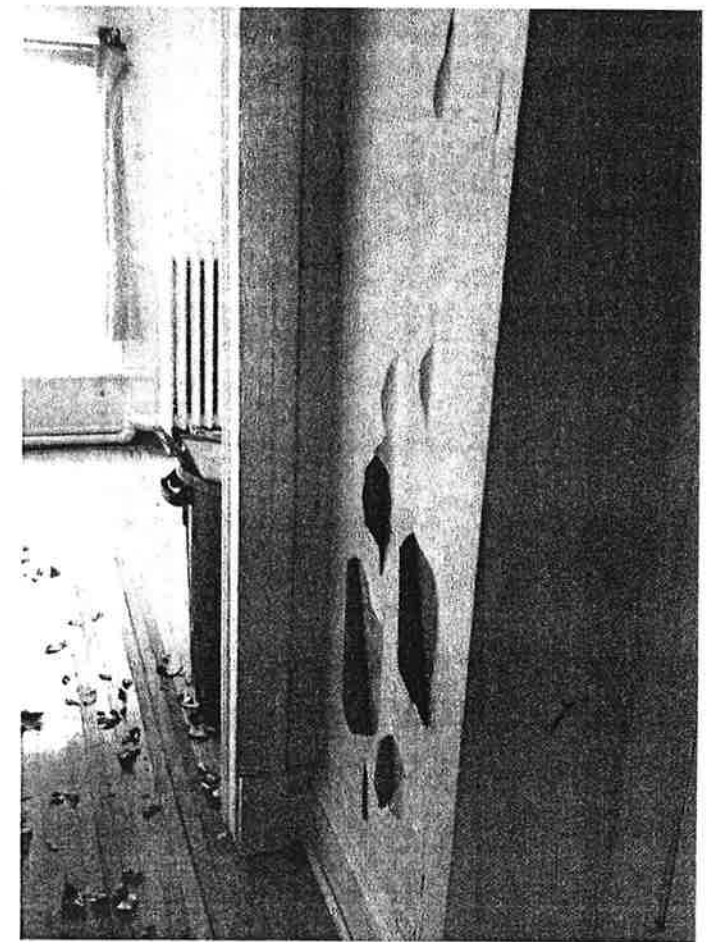
DATE: July 26, 2018  
TO: Bill Thompson, Inspections  
FROM: Robert E Harshberger, Deputy Assessor  
SUBJECT: 01-0440-03210-000  
703 10 Ave N  
C/D Tegtmeier, Terry L & Linda S  
W/D Philip H & Martha A Grotenhuis RLT

On July 25, 2018 I inspected the subject residential building to determine if the deterioration of the above structure would qualify it as a dangerous building as defined in city ordinance. One requirement of that classification is that the cost to repair would exceed fifty percent (50%) of the building value as established by the Fargo Assessment Department.

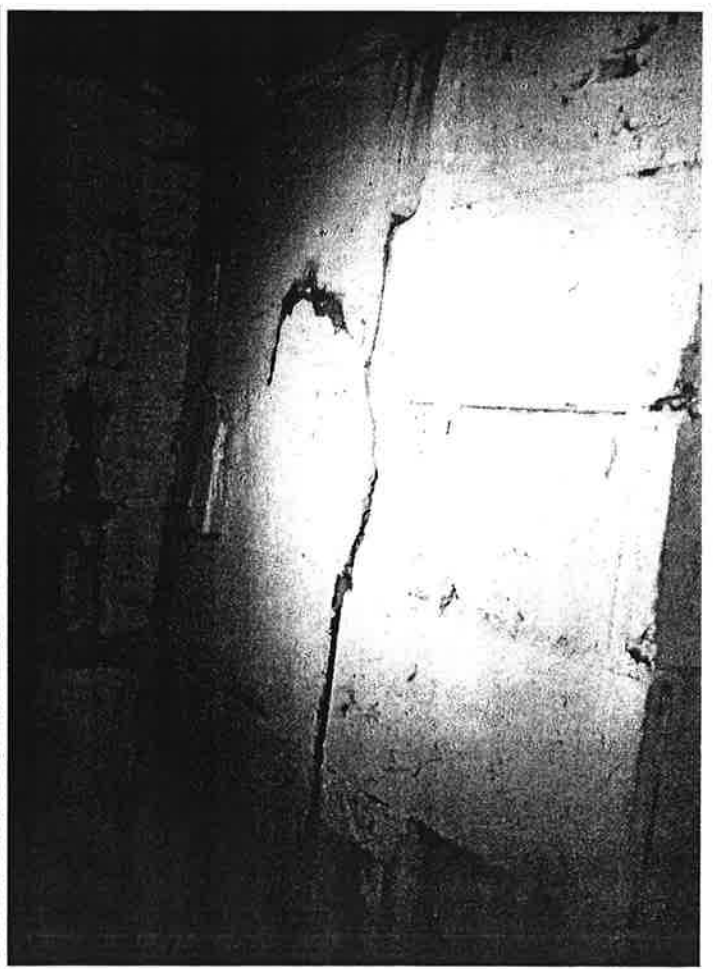
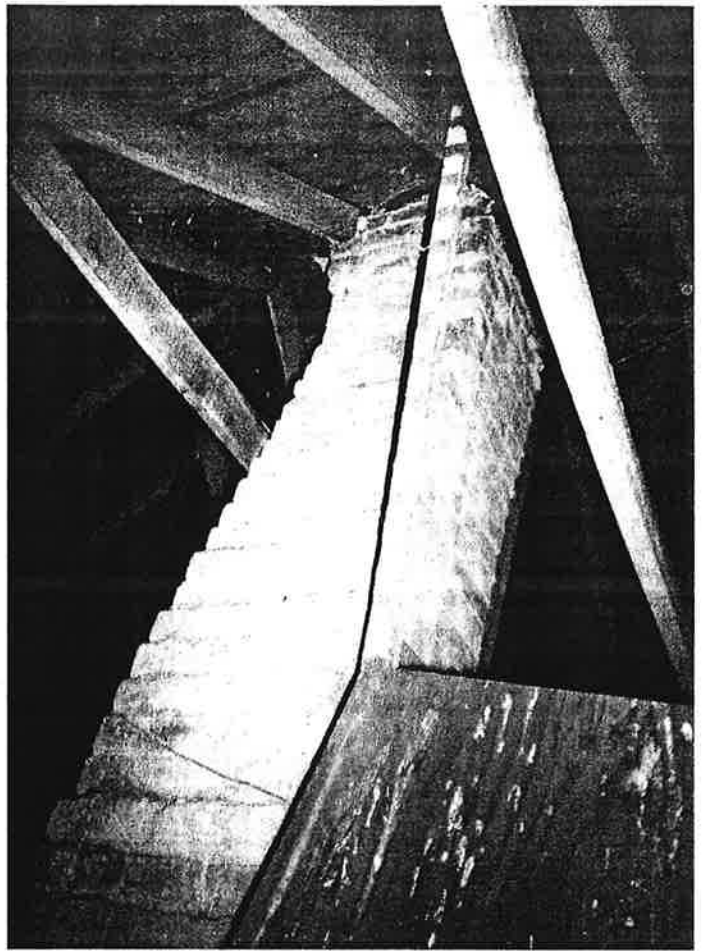
Based on observed component damage and assumptions relative to the condition of other building elements, I have estimated a cost to repair that exceeds the minimum fifty-percent.



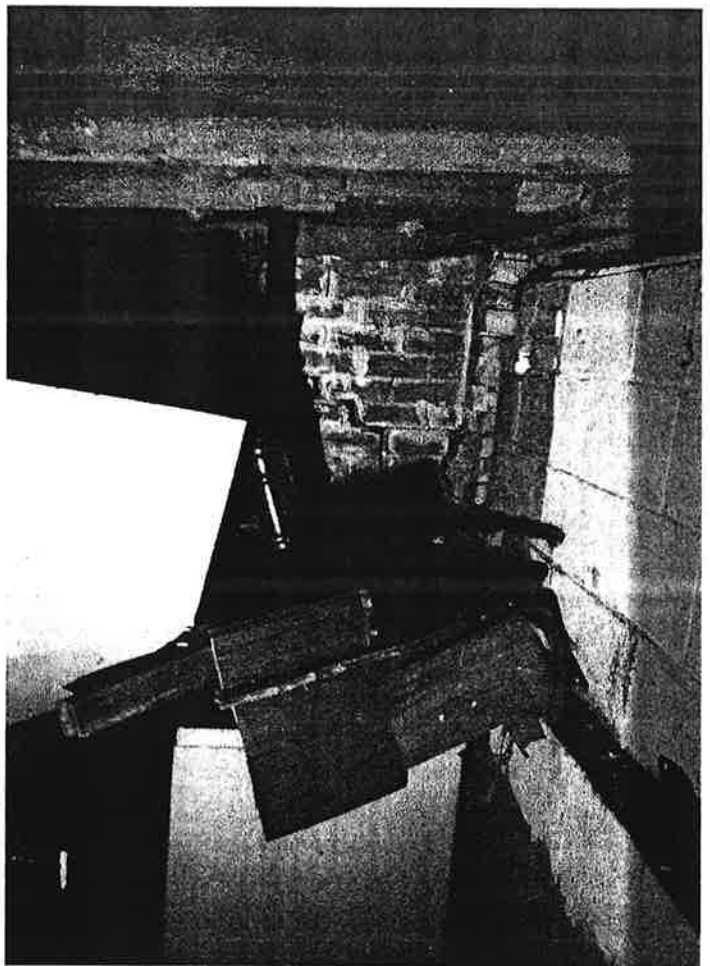
703 10 Ave. N., Fargo, ND 58102—Interior Pictures 7/25/18



703 10 Ave. N., Fargo, ND 58102—Interior Pictures 7/25/18



703 10 Ave. N., Fargo, ND 58102—Interior Pictures 7/25/18



703 10 Ave. N., Fargo, ND 58102—Interior & Exterior Pictures 7/25/18

IN DISTRICT COURT, COUNTY OF CASS,  
STATE OF NORTH DAKOTA

**APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT**

**IN THE MATTER OF APPLICATION** of Bill Thompson, Inspections Division of the Planning Department of the City of Fargo, for an administrative search warrant, authorized under Chapter 29-29.1 of the North Dakota Century Code, to search the premises located at 703 10th Avenue North, Fargo, County of Cass, and State of North Dakota (hereinafter the "Subject Property"),

STATE OF NORTH DAKOTA     )  
  ) ss.  
COUNTY OF CASS             )

**AFFIDAVIT**

**COMES NOW** Bill Thompson, and being first duly sworn under oath, deposes and says:

1. Your affiant is a housing and residential inspector with the Building Inspections Division of the city of Fargo. Fargo housing inspectors regularly inspect rental housing for violations of Fargo Municipal Code, including building code violations, dangerous building violations, housing code violations, et cetera. On occasion, based upon either complaint from area residents, or upon personal observation of the inspector, the housing inspector also conducts inspections of non-rental housing.
2. Based upon information and belief, the Subject Property is owned by Philip H. Grotenhuis and Martha A. Grotenhuis, trustees of the Philip H. Grotenhuis and Martha A. Grotenhuis Revocable Living Trust, subject to contract for deed in favor of Terry L. Tegtmeier and Linda S. Tegtmeier, and, therefore, your affiant's inspection duties relative to the Subject Property are part of a legally authorized program of inspection, as contemplated by N.D.C.C. § 29-29.1-02(1).
3. On the 3<sup>rd</sup> day of October, 2017, your affiant received a complaint through Fargo One for a house appearing abandoned, with broken out windows, and an overgrown front and rear yard. I was able to inspect the Subject Property on October 3, 2017 and took photographs of multiple violations. Based on my inspection, I found the following: (1) a back hoe in the rear yard; (2) a collapsing chimney, loosing bricks; (3) a large hole on the east side of the roof; (4) an unsecured home; and (5) a large amount of overgrowth in the yards. I sent an Order to correct the violations with a November 2, 2017 re-inspection deadline.
4. According to City of Fargo water billing account records, water was disconnected September 3, 2002. Natural gas was turned off in March of 2008, and the electricity was



turned off in April of 2008, therefore, it is presumed that this building has been vacant since at least that time.

5. On November 24, 2017, I re-inspected the Subject Property and found that the back hoe was gone, the windows were boarded up, and the roof had a temporary repair.
6. On March 20, 2018, your affiant responded to another complaint regarding the Subject Property. I found that there were 3 trailers in the rear yard, with no improvement to the exterior, a broken window on the north side of the Subject Property, and a storm window was stuck open.
7. Article 21-04 addresses dangerous buildings. Specifically, Fargo Municipal Code § 21-0401 provides the types of defects that, if found to exist, shall deem a structure a "dangerous building." Based upon the foregoing investigation of the Subject Property, I have reasonable grounds to believe that one or more of the defects identified in Section 21-0401 exists.
8. On April 23, 2018, your affiant posted a dangerous building placard on the front and rear door of the Subject Property. The rear entry was unsecured. I took photographs of the Subject Property.
9. On April 25, 2018, I noticed that someone had removed the dangerous building placard. I reposted the placard on the Subject Property.
10. Despite multiple requests to gain entry to the interior of the structure, I have not been granted access to inspect the Subject Property.
11. The following are individuals and/or departments which will participate in the search, along with the scope of their search:
  - (A.) Bill Thompson and Joseph Girdner, will inspect and photograph the structure.
  - (B.) An Assessor from the City of Fargo Assessor's office, to establish an estimate of the value of the structure and value of the existing damage (also as referenced in FMC § 21-0402C).
  - (C.) Fargo Police Department members will run a safety sweep of the inside of the structure before members of the inspections and assessors department enter the building, and for the purpose of making a written report as required by FMC § 21-0410.
  - (D.) A Locksmith to provide access to interior of the Subject Property.

**WHEREFORE, YOUR AFFIANT REQUESTS** that the Court issue a search warrant directing a search and seizure as herein described.

  
\_\_\_\_\_  
Bill Thompson

Subscribed and sworn to before me this 25<sup>th</sup> day of July, 2018.

  
\_\_\_\_\_  
Judge of District Court  
Cass County, North Dakota

## ADMINISTRATIVE SEARCH WARRANT


Upon application and affidavit of the Inspections Division of the Planning Department of the City of Fargo dated the 25 day of July, 2018, for search and inspection of certain property being owned by Philip H. Grotenhuis and Martha A. Grotenhuis, trustees of the Philip H. Grotenhuis and Martha A. Grotenhuis Revocable Living Trust, subject to contract for deed in favor of Terry L. Tegtmeier and Linda S. Tegtmeier, at the address of 703 10<sup>th</sup> Avenue North, Fargo, North Dakota, and said affidavit sufficiently establishes that the Building Official, or members of the Inspections Division of the City of Fargo and other City of Fargo personnel as identified in the above application, are authorized to search, inspect and photograph the above-described property and that there is probable cause for believing there is a condition, object, activity, or circumstance which legally justifies such a search or inspection of said properties, the City of Fargo Building Inspections Division has probable cause to believe that the building at 703 10<sup>th</sup> Avenue North, Fargo, North Dakota is a dangerous building.

**NOW, THEREFORE**, pursuant to the authority vested in the undersigned Magistrate, the Municipal Court Judge for the City of Fargo, pursuant to the provisions of the North Dakota Century Code Chapter 29-29.1, the Fargo Building Official and/or his designated representatives, officers, or agents, along with those city officials identified in the application are hereby **authorized to conduct a search or inspection of the interior and exterior of the premises located at 703 10<sup>th</sup> Avenue North, Fargo, North Dakota, owned by Philip H. and Martha A. Grotenhuis, trustees of the Philip H. Grotenhuis and Martha A. Grotenhuis Revocable Living Trust, (1502 16<sup>th</sup> St. S., Fargo, North Dakota 58103), subject to contract for deed in favor of Terry L. Tegtmeier and Linda S. Tegtmeier (16756 53<sup>rd</sup> St. SE Kindred ND 58051-9605); and that said inspection and/or search may occur either with or without the consent of said owner, which search or inspection authority is granted for purposes of inspection of the premises to determine the existence of a dangerous building and the extent of the damage and deterioration of the building for the purposes of repair or demolition.**

This warrant is valid for 24 hours after its issuance, and must be personally served upon an owner or possessor of the above-described properties, or upon any person present on the premises if an owner or possessor cannot reasonably be found within the hours of 8:00 a.m. and 8:00 p.m., and this warrant must be returned within 48 hours of its issuance.

This Administrative Search Warrant is hereby issued this 25<sup>th</sup> day of July, 2018, at 8:16 AM o'clock AM/PM.

BY THE COURT:

  
\_\_\_\_\_  
Judge of District Court  
Cass County, North Dakota

RECEIPT, INVENTORY AND RETURN

The Undersigned received the attached search warrant issued by the Municipal Court on July 25, 2018, and have executed the warrant as follows:

Pursuant to the warrant, the Undersigned entered the premises described by the warrant at 1 pm o'clock on July 25, 2018. A true and correct copy of the warrant was left with Philip Grotenhuis

The Undersigned took custody of property named in the warrant and listed below:

- 1. Photographic images of 703 10<sup>th</sup> Ave N
- 2. \_\_\_\_\_

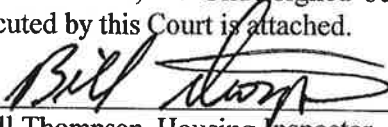
**OR**

**NONE OF THE SPECIFIC ITEMS NOTED IN THE SEARCH WARRANT WERE**

**FOUND.**

I will retain or deliver custody of said property as directed by this Court's Order.

The Undersigned, being first duly sworn, upon oath, deposes and says that the Undersigned has read this Return and the matters stated are true and correct, except as to such matters stated herein on information and belief, and as to those, the Undersigned believes them to be true. Further, the original search warrant executed by this Court is attached.



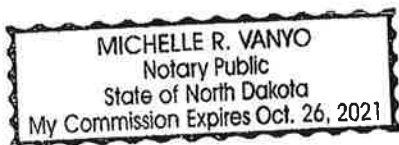
Bill Thompson, Housing Inspector,  
Building Inspections Division, City of Fargo.

Subscribed and sworn to me this 26 day of July, 2018.



Notary Public  
Cass County, North Dakota  
My Commission Expires:

(SEAL)





Building Inspections Department  
 Housing Inspections  
 200 2<sup>nd</sup> Street North  
 Fargo, ND 58102  
 701-766-6779

Page 1 of 1

**Re-Inspection of Substandard Building**

DATE: 4/25/2018

LOCATION: 703 10 Ave N  
 PROPERTY OWNER: Philip H and Martha A. Grindhus  
 ADDRESS OF PROPERTY OWNER: 1502 16<sup>th</sup> St S, Fargo ND 58103

INSPECTOR: Bill Haskins  
 DATE OF INSPECTIONS: 4/23/18 and 4/25/2018

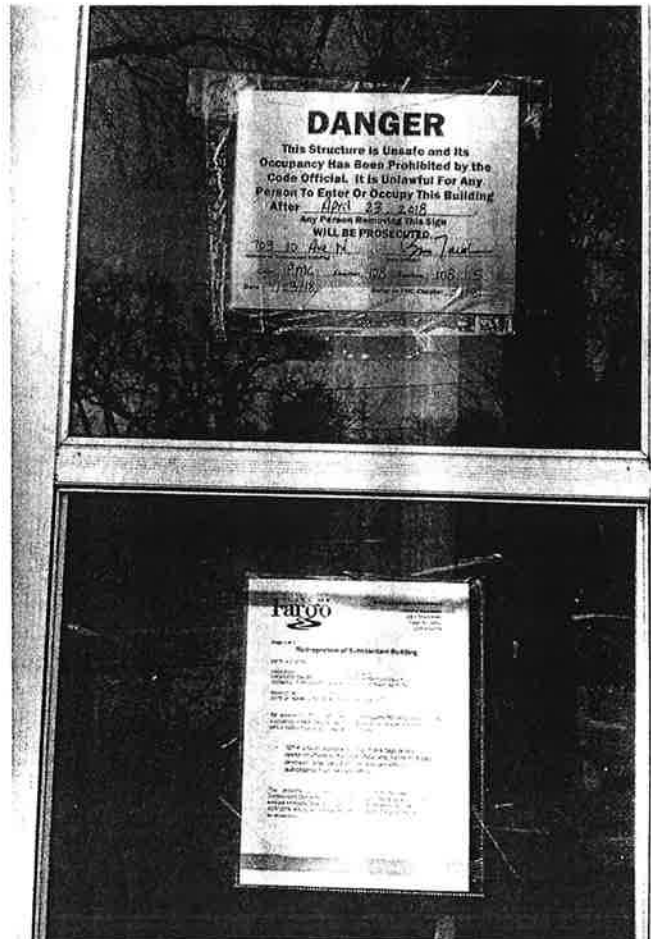
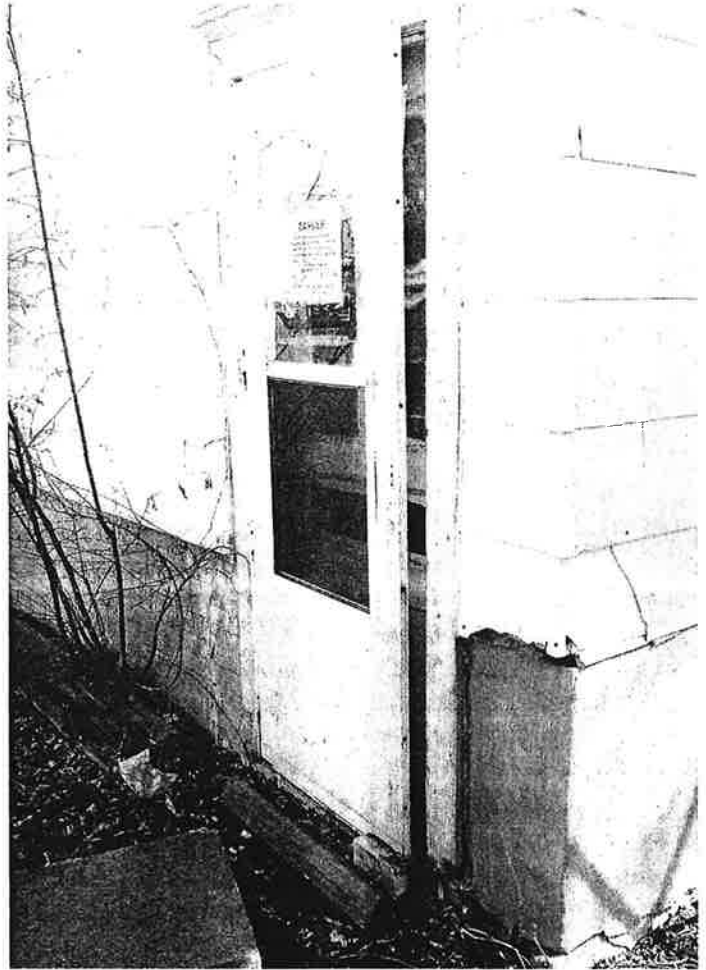
We enforce the 2015 IFBC (International Property Maintenance Code). As a courtesy, I have included below 107.4 below. Any person that tampers with a code official's sign may be prosecuted.

107.4. Unauthorized tampering. Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.

The property you own at 703 10 Ave N was posted as Substandard/Dangerous on 4/23/2018. I was driving by on 4/24/2018 and noticed someone took the signs down. The property will be reposted on 4/25/2018. An inspection fee will be charged to the property owner for this re-inspection.

**THE  
 OCCUPANCY  
 CODE  
 PROHIBITS  
 ANY PERSON  
 FROM ENTERING  
 AFTER**

703  
 Address of Condition  
 Code 1P  
 Date 4/23



703 10 Ave. N., Fargo, ND 58102—Reposting of Placard Pictures 4/25/18 & Substandard Building Notice



Building Inspections Department

Housing Inspections

200 3<sup>rd</sup> Street North

Fargo, ND 58102

(701) 476-6708

Page 1 of 1

## Re-Inspection of Substandard Building

DATE: 4/25/2018

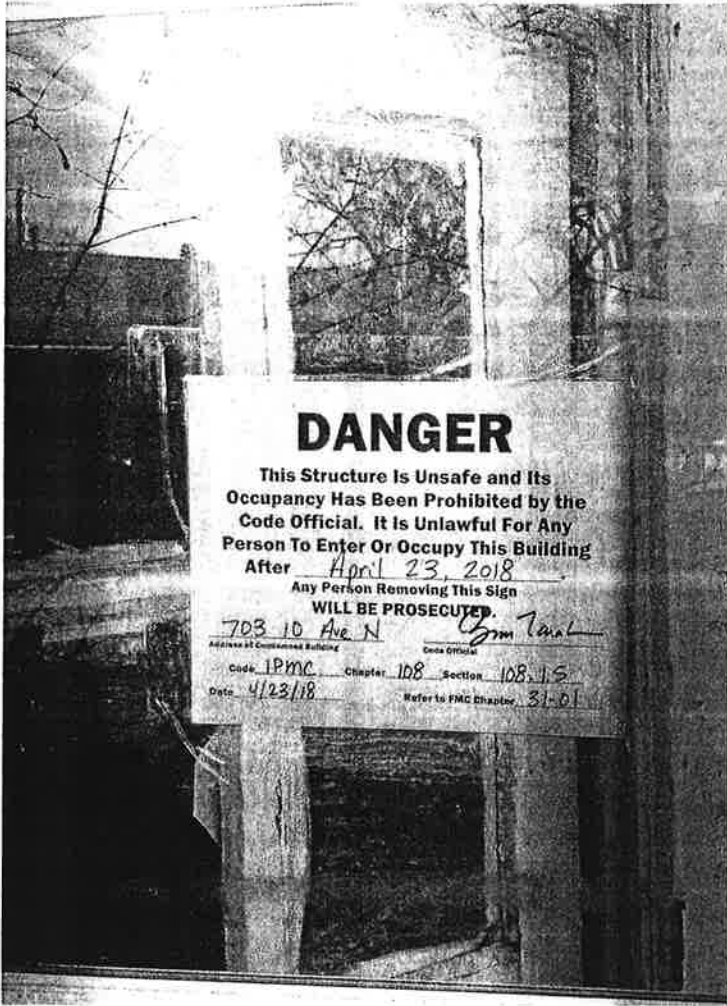
LOCATION: 703 10 Ave N  
PROPERTY OWNER: Philip H and Martha A Grotenhuis  
ADDRESS OF PROPERTY OWNER: 1502 16<sup>th</sup> St S, Fargo ND 58103

INSPECTOR: Bill Thompson  
DATE OF INSPECTIONS: 4/24/2018 and 4/25/2018

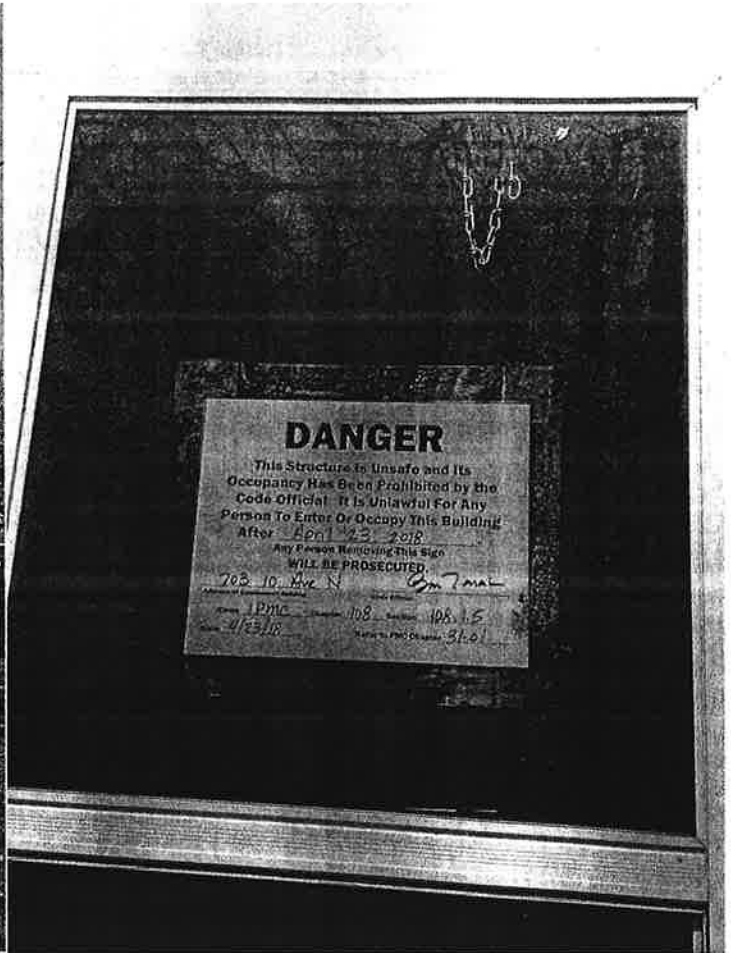
We enforce the 2015 IPMC (International Property Maintenance Code). As a courtesy, I have included section 107.4 below. Any person that tampers with a code official's sign may be prosecuted.

- **107.4. Unauthorized tampering. Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.**

The property you own at 703 10 Ave N was posted as Substandard/Dangerous on 4/23/2018. I was driving by on 4/24/2018 and noticed someone took the signs down. The property will be reposted on 4/25/2018. An Inspection Fee will be charged to the property owner for this re-inspection.



703 10 Ave. N., Fargo, ND 58102—Placard Pictures 4/23/18



703 10 Ave. N., Fargo, ND 58102—Placard Pictures 4/23/18





**INSPECTIONS**

200 3RD STREET NORTH  
FARGO, NORTH DAKOTA 58102  
PHONE: 701-241-1561  
FAX: 701-241-1561

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**FINDING AND DETERMINATION OF SUBSTANDARD BUILDING  
ORDER TO MAKE REPAIRS AND  
NOTICE OF RIGHT TO APPEAL**

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**DATE: 4-23-18**

**ADDRESS AND/OR LEGAL  
DESCRIPTION OF SUBJECT**

**PROPERTY: 703 10 Ave N**

**NAME OF PROPERTY OWNER: Philip H and Martha A Grotenhuis**

**ADDRESS OF PROPERTY OWNER: 1502 16 St S, Fargo ND 58103**

**NAMES AND ADDRESSES OF  
MORTGAGE HOLDERS, LIENHOLDERS  
ET CETERA AND LESSEES OF RECORD:**

**NAME OF INSPECTOR: Bill Thompson**

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**Finding of substandard building.** The undersigned building official has determined the above-described subject property to be a substandard building, as is defined by the International Property Maintenance Code 2015 edition, as adopted by reference in the Fargo Municipal Code at section 31-0101. Specifically, the violations of said housing code have been identified and are described more fully in the conditions found statement of the Inspection Division, a copy of which is attached hereto and incorporated herein as if fully set forth.

**Order for repair.** The undersigned building official has determined that the building must be repaired. Therefore, it is hereby ordered that all required permits be secured for the appropriate repair of the building or structure and the work physically commenced within 14 days of the date of this order and such work completed within 30 days; which is a period of time for completion determined by the undersigned building official to be reasonable under all of the circumstances.

## NOTICE OF RIGHT TO APPEAL

**PLEASE BE ADVISED** that any person having any record, title, or legal interest in the building, described above, may appeal from this Notice and Order or any action of the undersigned building official to the Housing Advisory and Appeals Board, provided the appeal is made in writing as provided in the International Property Maintenance Code 2015 edition, and filed with the undersigned building official within 30 days from the date of service of this Notice and Order. Please be further advised that failure to appeal this Notice and Order will constitute a waiver of all right to an administrative hearing and determination of the matter.

The foregoing constitutes the order of the undersigned building official under the authority set forth by the provisions of the Fargo Municipal Code and the International Property Maintenance Code 2015 edition, and the required notice of right to appeal.

Dated this 23<sup>rd</sup> day of April 2018

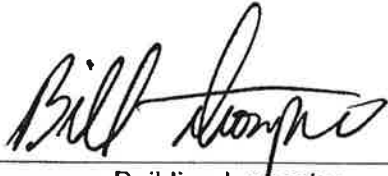


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Bruce Taralson  
Head of Inspections  
City of Fargo  
200 Third Street North  
Fargo, ND 58102

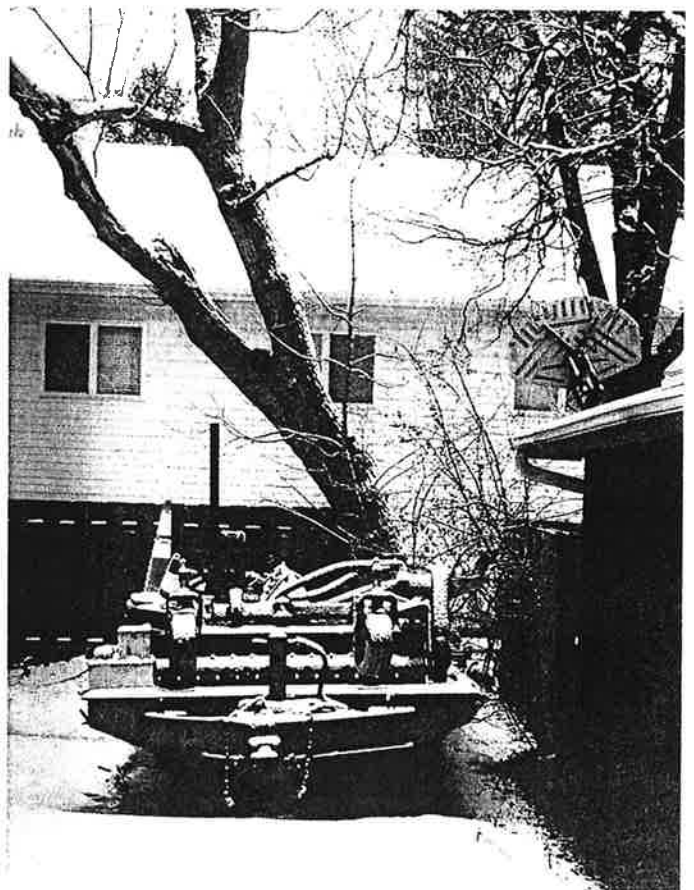
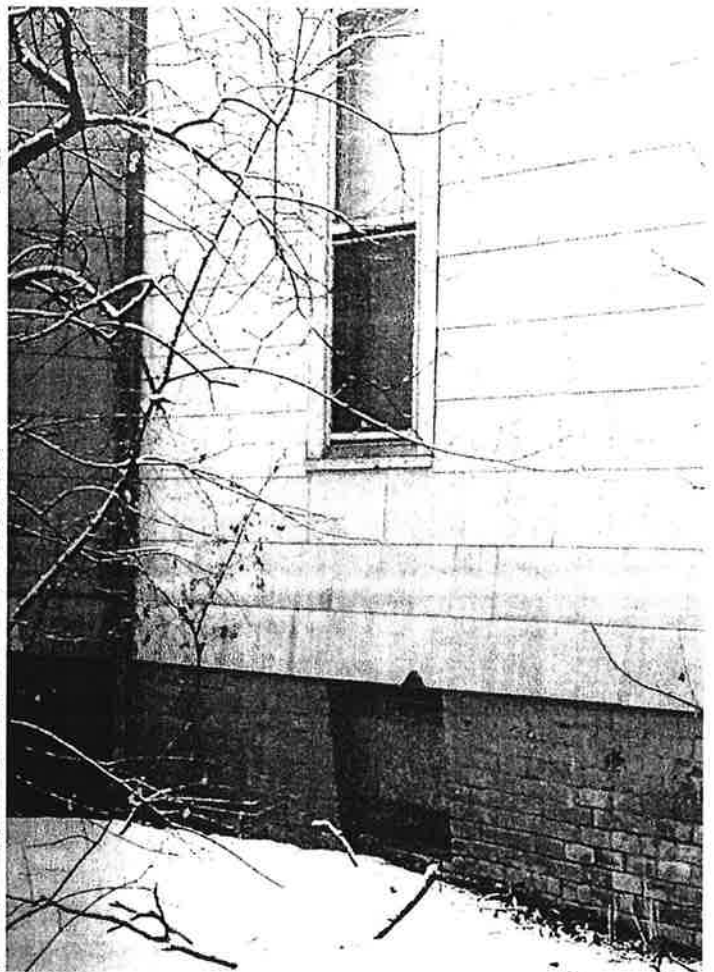
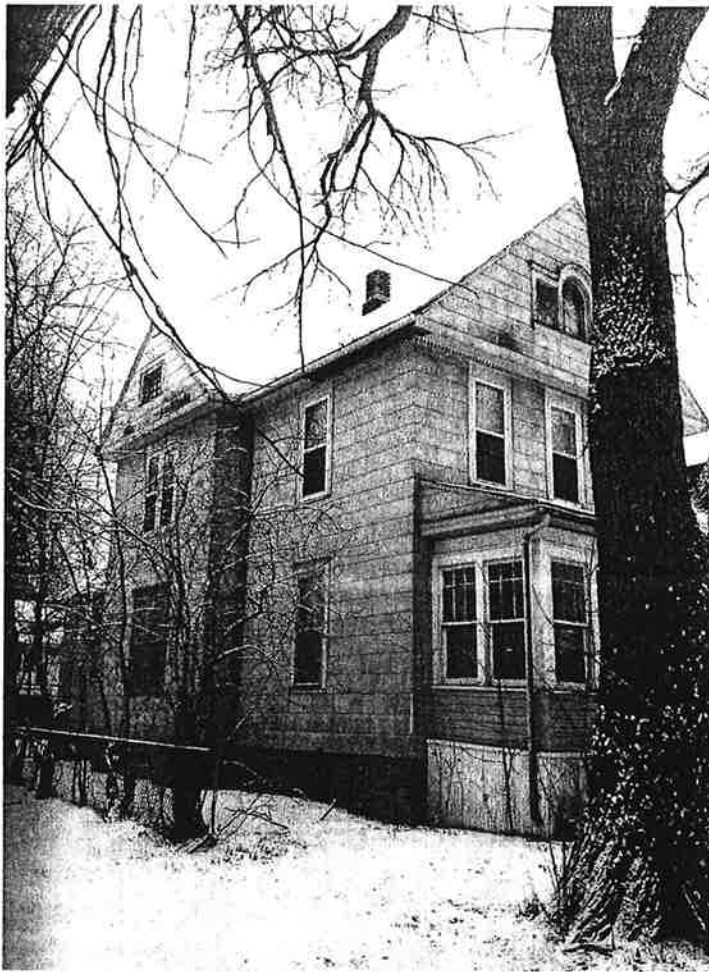
STATEMENT OF CONDITIONS FOUND

Large hole in roof on east side and broken window on north side. Shingles in need of repair and chimney is losing bricks. Siding has holes and exterior paint is peeling. Basement window is unsecure and soffit is missing in areas, other misc dilapidated exterior items. No water or electricity are currently provided. Exterior inspection only

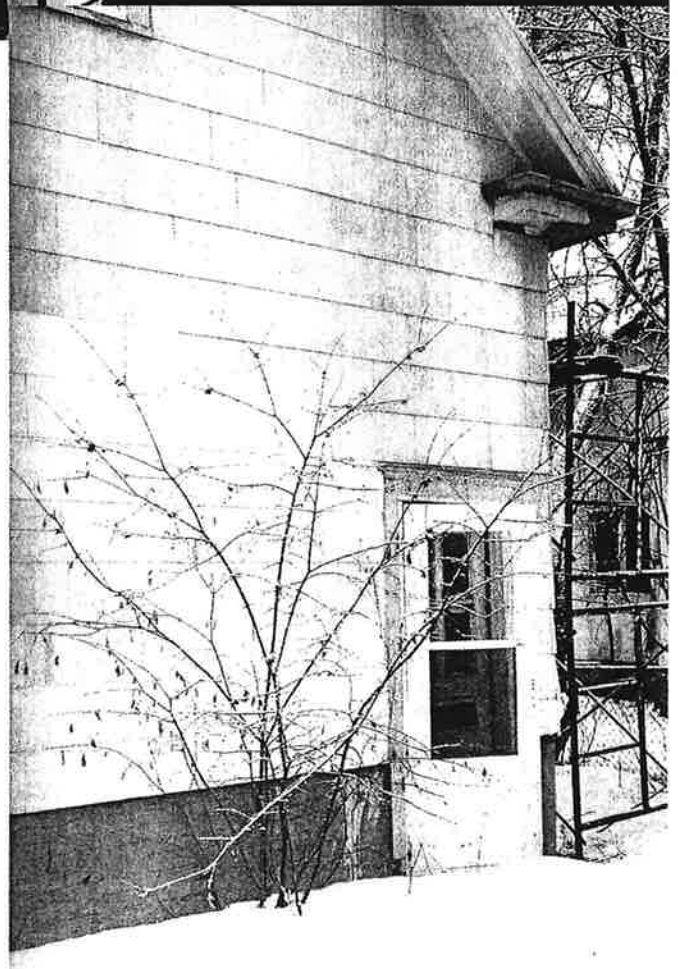
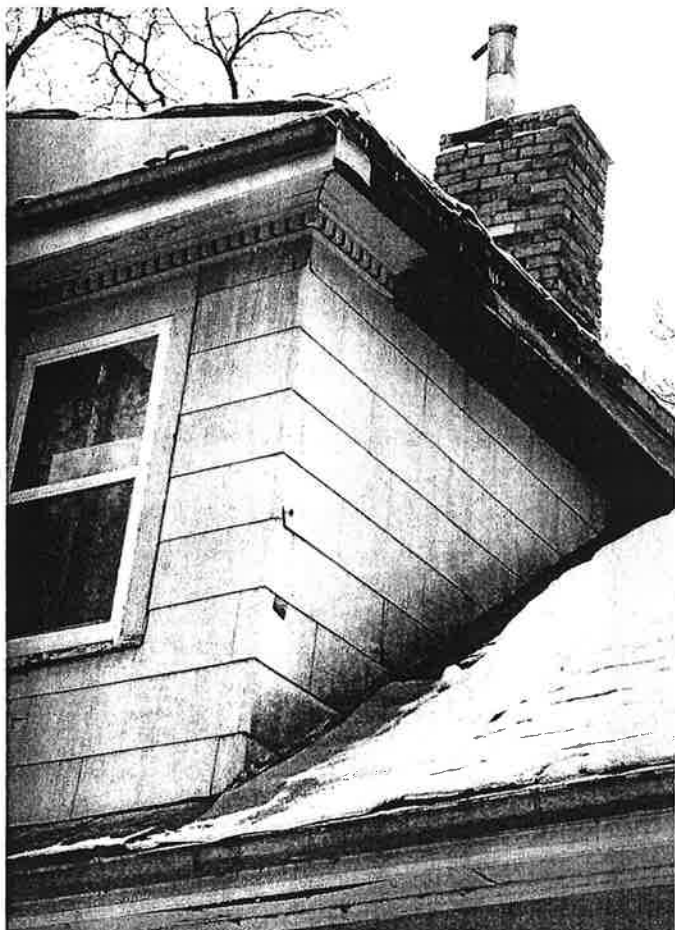
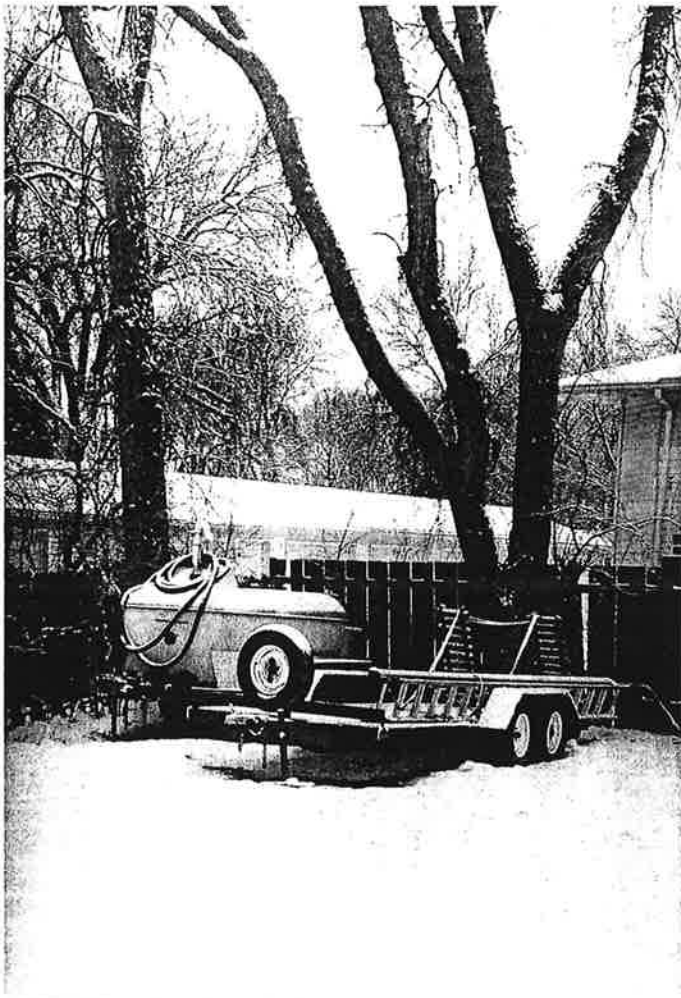
A handwritten signature in black ink, appearing to read "Bill Thompson". The signature is written in a cursive style with a horizontal line crossing through the middle of the letters.

---

Bill Thompson, Building Inspector



703 10 Ave. N., Fargo, ND 58102—Complaint Pictures 3/20/2018



703 10 Ave. N., Fargo, ND 58102—Complaint Pictures 3/20/2018



Building Inspections Department

Housing Inspections

200 3<sup>rd</sup> Street North

Fargo, ND 58102

(701) 476-6708

10/11/2017

## Notice and Order of the Building Official

GROTENHUIS, PHILIP H & MARTHA A  
1502 16 ST S  
FARGO, ND 58102

RE: 703 10 Ave N

**Next Appointment: 3:30 PM, 11/2/2017**

Dear GROTENHUIS, PHILIP H & MARTHA A:

This letter is to inform you that an initial housing inspection was performed on 10/3/2017 at the above property and that the following violations were found:

**Location:** 703 10 Ave N Back Hoe is parked behind house  
**Item Inspected:** Yard, Storage or commercial or industrial equipment  
**Code:** LDC 20-1203.E and table 20-0401 Industrial Service use, including accessory use, not allowed on Residential property.  
**Remedy:** Remove equipment from property

**Location:** 703 10 Ave N Chimney is collapsing  
**Item Inspected:** chimenys, not structurally sound  
**Code:** IPMC 304.1.1 # 13  
**Remedy:** repair or replace

**Location:** 703 10 Ave N House has a lot of overgrowth  
**Item Inspected:** Yard, Hedges and Growth  
**Code:** FMC 11-0701 - Plants must be trimmed or pruned so as to allow drivers clear view of streets, signals, and signs, as well as to avoid obstruction of public right-of-ways.  
**Remedy:** Remove obstructing plants

**Location:** 703 10 Ave N House is unsecure with missing window and holes in roof  
**Item Inspected:** Vacant Structures, blighted structures  
**Code:** IPMC 301.3 Vacant land and Structures. All vacant structures and pemises therof ofr vacant land shall be maintained in a clean, sanitary , safe and secure condition as provided herein (IPMC) so as not to cause a blighting problem or adversely affect the public health or safety.  
**Remedy:** secure and maintain property. Make all repairs to meet housing codes.

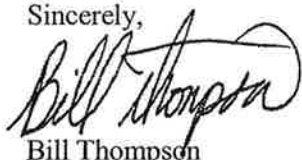
Please make repairs to correct all violations and to bring them into compliance with the applicable codes immediately, as per International Property Maintenance Code and Fargo Municipal Code (FMC) 31-0101.

Remember that all electrical, plumbing, and heating – including air conditioning, gas or fuel operated appliances, water heaters, and other than minor maintenance – must be done by properly licensed contractors obtaining required permits. We will return to this property at 3:30 PM, 11/2/2017 to perform a re-inspection. If there are any areas that require a key to access please have either your manager or building caretaker present at the above time. **There is no charge for this first inspection and no charge for the first re-inspection. However, subsequent inspections (3<sup>rd</sup>, 4<sup>th</sup>, etc.) each carry a fee of \$100.00 and are billed to the property owner.**

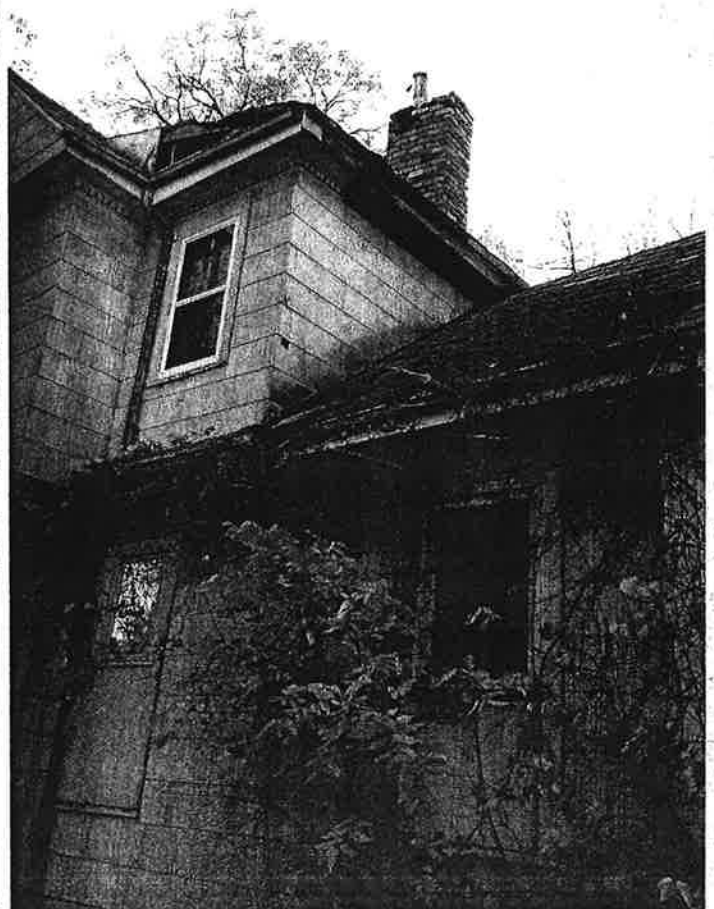
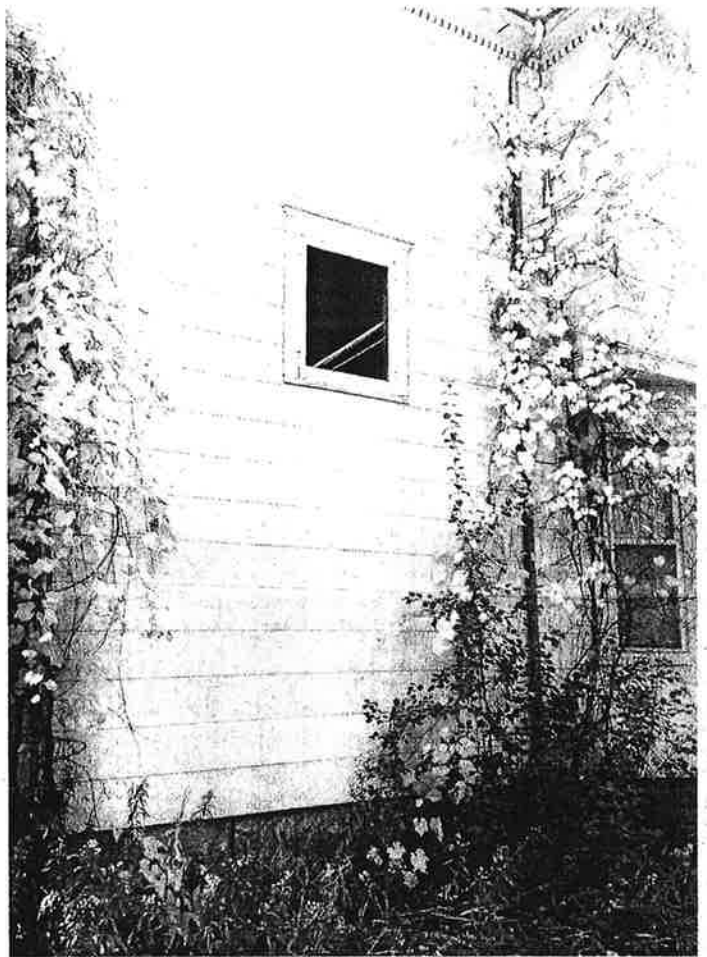
Any person having any record, title, or legal interest in the building described above has the right to appeal this notice and order within 20 days by filing an appeal form with the Housing Inspections office. This letter is a notice and order to the owner or persons responsible for the property. If you have any questions about this letter or the results of the inspection you may contact me at 701-476-6708.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Bill Thompson". The signature is written in a cursive style with a large, looping initial "B".

Bill Thompson  
Fargo Housing Inspections Department



703 10 Ave. N., Fargo, ND 58102—Complaint Pictures 10/3/2017





703 10 Ave. N., Fargo, ND 58102—Complaint Pictures 10/3/2017

38

MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: MAYOR TIMOTHY J. MAHONEY**

**DATE: DECEMBER 3, 2018**

**SUBJECT: BOARD OF HEALTH APPOINTMENT**



The term of Chelsey Linn Matter expires on December 31, 2018. Ms. Matter is willing to continue her service on that Board; therefore, I am recommending her reappointment.

Your favorable consideration of this recommendation is greatly appreciated.

**RECOMMENDED MOTION:** To approve the reappointment of Chelsey Linn Matter to the Board of Health for a three-year term ending December 31, 2021.

mmappt18bohmatter



39

December 3, 2018

**To: Board of City Commissioners**  
**Fr: Michael Redlinger, Assistant City Administrator**  
**Re: Approve 2019 Government Relations & Legislative Advocacy Service Provider**

On October 22, 2018, the City Commission approved a Request for Proposals (RFP) for Government Relations & Legislative Advocacy Services (Attachment #1). Three responsive proposals were received, and telephone interviews were conducted on November 27, 28, & 29, 2018 utilizing a standard set of interview questions (Attachment #2). The proposers included:

- Pearce Durick PLLC
- John M. Olson, P.C.
- Zuger Kirmis & Smith

At the conclusion of the interview process, the unanimous recommendation of the screening committee was to select John M. Olson, P.C. as the City of Fargo's Government Relations & Legislative Advocacy service provider for the 2019 Legislative Session. Mr. Olson's proposed scope of work, cost estimate, and agreement terms are attached (Attachment #3). Funds are contained in the City's 2019 Budget for these professional services.

**Recommended Action:** I move to select John M. Olson, P.C. as the City of Fargo's Government Relations & Legislative Advocacy service provider for the 2019 Legislative Session and authorize the Mayor and City Auditor to execute the Legislative Counsel Agreement with John M. Olson, P.C.

**Attachments:** Government Relations & Legislative Advocacy Request for Proposals (Attachment #1)  
RFP Interview Questions (Attachment #2)  
John M. Olson, P.C. Proposal & Legislative Counsel Agreement (Attachment #3)



## **Request for Proposals (RFP)**

**Professional Consultant Services for:  
Government Relations & Legislative Advocacy**

**Proposals Due: November 16, 2018 by 4:30 p.m.**

To the attention of:

**Michael Redlinger  
Assistant City Administrator  
City Administrator's Office  
225 4<sup>th</sup> St. N.  
Fargo, ND 58102**

**Email: [MRedlinger@FargoND.gov](mailto:MRedlinger@FargoND.gov)**

## **INTRODUCTION & STATEMENT OF PURPOSE:**

The City of Fargo, North Dakota (City) is issuing a Request for Proposals (RFP) from qualified firms or individuals to provide government relations and legislative advocacy services for the City during the 66<sup>th</sup> North Dakota Legislative Assembly at the State Capitol in Bismarck, ND. The selected firm or individuals will be expected to provide a wide range of professional services and will work closely with the City Commission, City Administrator, and appropriate City staff on all state legislative matters.

## **BACKGROUND INFORMATION:**

The Fargo City Administrator coordinates the City's legislative program on behalf of the City Commission and the organization. The Board of City Commissioners identifies, considers, and approves legislative and policy positions that are consistent with advancing the City's legislative agenda. The City's government relations contractor(s) work in collaboration with the City Commission, City Administrator, and staff to prepare legislative advocacy materials (e.g. written testimony and exhibits); coordinate with other cities and the North Dakota League of Cities (NDLC); and communicate regular, timely updates to the City Commission and City staff throughout the Legislative Session.

Interested firms or individuals should prepare and submit a proposal consistent with the instructions provided in this RFP. The City reserves the right to select one, more than one, or none of the proposals submitted to the City for consideration.

## **SCOPE OF SERVICES:**

The scope of work presented below is representative, although not exhaustive, of tasks assigned by the City to the government relations and legislative advocacy contractor(s). These tasks include:

- Initiate, organize, and conduct internal planning/coordination sessions with the City Commissioners and City staff on legislative matters of significance to Fargo. The service provider(s) shall develop a comprehensive understanding of the City's legislative initiatives and history on specific issues.
- Assist the City's elected officials and staff to prioritize current legislative interests. Provide strategy, guidance, and background information to focus the City's legislative interests to ensure success.
- Assess the capacity of the City's elected officials and staff to assist with direct government relations activities. Advise the client when supplementary professional services may add value or assist in properly advancing the City's interests. Include City Commissioners in legislative testimony and written communications when/where appropriate.
- Prepare legislation and testify at the direction of the City Administrator at hearings, meetings, and in informal interactions with legislators. Communications will be consistent with the City's

legislative program, and information gathered from these interactions will be provided to City leadership.

- Draft letters or written communications (e.g. position statements) as recommended by the provider(s) and approved by the City Administrator.
- Identify and recommend affirmative legislative opportunities that may benefit the City that arise during the Legislative Session.
- Annually prepare a written summary of accomplishments to the City Commission; forecasting potential legislative or agency issues the City should monitor in the future.

**THE PROPOSAL:**

- A. Responses must provide complete information as outlined in the RFP. An electronic or mailed copy of the proposal shall be submitted by **4:30 p.m. on November 16, 2018**. The proposal shall be marked: "City of Fargo Government Relations & Legislative Advocacy RFP" and be sent to one of the following addresses:

**U.S. Mail:** Michael Redlinger  
Assistant City Administrator  
City Administrator's Office  
City of Fargo  
225 4<sup>th</sup> St. N.  
Fargo, ND 58102

**Email:** MRedlinger@FargoND.gov

- B. The City will not reimburse any expenses incurred by the firm or individual submitting responses, including but not limited to expenses associated with the preparation and submission of the response and attendance at interviews.
- C. The City reserves the right to accept one, accept more than one, or reject any and all proposals; to request additional information from any or all Proposers; and to suggest modifications to the terms and conditions offered by a Proposer.

## Proposal Content

Proposals must contain the following elements:

- A. **Title Page** which contains the name of the proposing firm/individual, its address, telephone number, name of the contact person, and the date of submittal.
- B. **Firm/Individual Profile** that contains the firm or individual's organizational history and credentials, including:
  - Who will be assigned to the project and a description of their responsibilities.
  - The size of firm and its capacity/availability to perform work on behalf of the City.
  - The experience of the firm or individual in providing previous government relations and legislative advocacy services for a local unit of government or municipality.
- C. **A Comprehensive Response to the City's Requested Scope of Services**, including:
  - A clear understanding of the requested services.
  - An overview of the firm or individual's approach to meeting the goals, performance expectations, and desired policy outcomes of the City.
  - The process utilized to understand proposed legislation; potential impact (or benefit) to the City; and strategies to position the City for success.
  - How the firm or individual will communicate with City leadership at the various stages of the legislative process, including:
    - Urgent matters during the Legislative Session that require immediate attention of the City;
    - Routine matters and coordination during the Legislative Session; and
    - The requested "end of Legislative Session" written report to the City Commission.
- D. **Rates, Fees and Charges**

Proposals must provide a complete description of the rate, fee, and charge structure proposed for the services. Proposers should also indicate whether, and to what extent, they are willing to consider the use of a retainer. Such retainer would be a fixed annual fee covering all services rendered.
- E. **Conflict Check**
  - Indicate whether Proposer (firm or individual) represents or has represented any government relations client whose representation may conflict with the Proposer's ability to provide effective government relations and legislative advocacy services to the City.

- Does the Proposer currently represent any other local units of government having jurisdiction contiguous to the City of Fargo?
- What procedures does your firm utilize to identify and resolve conflicts of interest?

**EVALUATION AND SELECTION PROCESS:**

The City Administrator will review all submitted proposals pursuant to the RFP and may choose to conduct in-person or telephone interviews. After this initial screening process, the City Administrator will make a recommendation (or recommendations) to the Fargo City Commission. At its discretion, the City Commission may or may not conduct additional interviews with respondents.

At the conclusion of the selection process, the City intends to enter into a professional services agreement with the selected firm or individual(s). Based upon a review of the proposals and such other evaluation as may be necessary, the City Administrator will request that the City Commission approve the appointment of the firm/individual(s) determined to be the most responsive and responsible. Approval of the recommendation and authorization of the professional services agreement is at the sole discretion of the City Commission.

**SCHEDULE:**

City Commission Approval of RFP	October 22, 2018
Distribute/Advertise RFP	October 23, October 29, & November 5, 2018
RFP Due Date	<b>DUE November 16, 2018 by 4:30 p.m.*</b>
Interviews <i>(to be scheduled)</i>	November 27-29, 2018
City Commission Appointment & Approval of Professional Service Agreement(s)	December 3, 2018

*\*Proposals received after November 16, 2018 at 4:30 p.m. will be considered non-responsive and rejected.*



## 2019 Government Relations & Legislative Advocacy RFP

### Interview Questions

November 27-29, 2018

#### Introduction

- Thank you for your interest in representing the City of Fargo in Bismarck
  - *Introduce City participants on the phone*
- At the conclusion of the 2016 Legislative Session, the City Commission requested staff to prepare an RFP for Government Relations & Legislative Advocacy services
- As a large, full-service community and organization, the City regularly works in tax policy; economic and community development; public safety; and other issues at the Legislature

#### Interview Goals

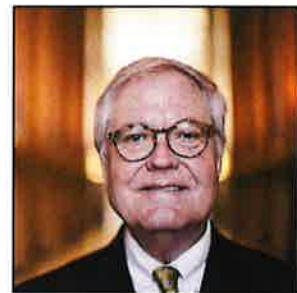
- This interview will be informal, and a standard set of questions will be presented to each of the proposers
- We are most interested in your style/approach to government relations and your experience with public entities (political subdivisions)
- Time will be set aside at the end for your questions and discussion
- City Commission will select a provider on December 3, 2018

#### Question Set

1. **Experience:** Please provide a summary of current government relations services your firm provides to local units of government. Why do you want to represent the City of Fargo?
2. **Coordination:** Fargo operates a complex legislative program that involves tracking bills and regulatory matters in multiple committees, agencies, and venues. How does your firm support the needs of a larger client with multiple interests?
3. **Collaboration:** How will your firm collaborate with City elected officials, staff, and technical experts to advance the City's legislative program, should you be selected?



Scope of Work and  
Engagement Plan Proposal  
&  
Cost Estimate with Contract Terms  
written for:



John M. Olson  
Lawyer  
*Submitted November 2018*



November 9, 2018

Michael Redlinger, Assistant City Administrator  
City Administrator's Office  
225 4<sup>th</sup> St. N.  
Fargo, ND 58102

Dear Mr. Redlinger,

Thank you for the opportunity to provide a proposal to serve as your special assistant city attorney providing services in government relations and legislative advocacy activities for the 2019 Legislative Assembly and the following interim. It has been an honor to have served in previous sessions and I am delighted to provide a proposal that not only includes the existing services that have been provided, but additional expanded services as well.

*Expanded Capacity*

I am confident that I can represent the important interests of local leaders and staff of the City of Fargo. I can bring to the table the legislators, members of the executive branch and other stakeholders to drive Fargo's issues, concerns and initiatives forward. I am also a partner in the Olson Effertz Lobbying & Consulting, LLC firm that I would have assist with communication, research and strategic support which will provide additional expertise and deliverables and resource assistance. All advocacy and direct legislative contact will be solely handled by me.

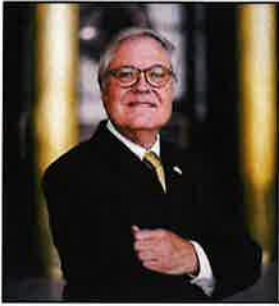
Thank you for your consideration of our proposal. I look forward to assisting the City of Fargo in advocating for its important issues such as flood control, critical water needs, economic development and other municipal priorities. Please do not hesitate to contact me for further clarification or information regarding this proposal.

Sincerely,

A handwritten signature in blue ink that reads "John M. Olson".

John M. Olson  
John M. Olson, P.C.

## I. BACKGROUND



**John M. Olson**, P.C. is a law firm owned and operated by John M. Olson. John provides over 30 years of government relations, legal counsel and lobbying experience in North Dakota for all sizes of business and industry. John has had his own private law practice since 1982 in addition to serving as a Special Attorney General for the ND Board of Medical Examiners and the ND Board of Architecture. He was elected to the ND State Senate for two terms and served as the Republican Leader from 1986-1990. Since 2008 he has been named one of the Best Lawyers in America and time and time again has been a proven leader in advocating for business and industry. For more information about John, learn more at LinkedIn at: <https://www.linkedin.com/in/olsonjohn533>



Olson Effertz Lobbying & Consulting, LLC is a joint venture of John Olson and Kayla Effertz Kleven with principal consultants including Pam Sharp and Lisa Feldner. The experience of these four professionals are standing ready to transfer the established contacts and working knowledge of government, education, and industry into advocating for the best clients in the state of North Dakota.



**Kayla Effertz Kleven**, co-owner of Olson Effertz, is a lifelong North Dakotan and has undergraduate degrees in marketing and communication and later a master's in educational leadership. Her background in agriculture and education served her well as Governors Hoeven and Dalrymple's Senior Policy Advisor with portfolios in education, agriculture and tax. Kayla's background in business development and advocacy for education were key when she worked with the ND Department of Commerce working with business to further on-the-job training for high school and college students. She currently holds an adjunct faculty position at the University of Mary in Bismarck, ND, teaching marketing and communication courses. Kayla also served on the North Dakota Board of Higher Education as a student representative, providing great insight at an early career stage to the inner challenges and successes of higher education.

Kayla spent six years in the North Dakota Governor's Office as a Senior Policy Advisor for Governor Hoeven and Governor Dalrymple with primary portfolios of agriculture, education and tax issues. A few of her duties in this role were tracking legislation, serving as a liaison to cabinet executives and the Governor in addition to providing policy and budget recommendations to the Governor. She has a track record of bringing multiple players together to find consensus and getting the job done. Prior to this, she worked at the North Dakota Department of Commerce

and the University of North Dakota. For more information about Kayla, go to:  
<https://www.linkedin.com/in/kaylaeffertzkleven>



Pam Sharp served as director of the North Dakota Office of Management and Budget (OMB) for fifteen years, serving under three governors. As OMB director, she oversaw the fiscal administration of the executive branch of state government which included accounting, budget, payroll, financial reporting, facility management, human resources, risk management, state procurement, and central services. Prior to becoming director, she served for five years as Deputy OMB Director; six years as budget analyst; and also served in the Tax Commissioner, Auditor, and State Treasurer's offices. As the OMB Director, Pam was a frequent resource and keynote speaker for multiple organizations and political subdivisions. She has the ability to relay complex financial information concisely and accurately.

Sharp has a bachelor's degree in accounting and business administration, a master's degree in Management, and is a Certified Public Accountant. Sharp was awarded the Outstanding CPA in State Government Award by the American Institute of Certified Public Accountants (AICPA) in 2011. Bismarck is currently home for Pam and her family. She has been active in the National Association of State Budget Officers (NASBO) and the National Association of State Auditors, Comptrollers and Treasurers (NASACT), the North Dakota Society of Certified Public Accountants, and Toastmasters International.



**Dr. Lisa Feldner** has over 30 years of experience in technology, K-12 and higher education, and state government. Most recently her rolls included both the Chief of Staff and the Vice Chancellor for Information Technology and Institutional Research for the North Dakota University System. Lisa served as the staff officer for multiple searches for institution presidents as well as a chancellor search. In 2006, Lisa was appointed as the Chief Information Officer (CIO) for the State of North Dakota and served under Governors Hoeven and Dalrymple. As CIO, she oversaw technology for state government and education including the statewide network, customer support, and K-12 education technology services. Key focus areas included health information network and the state's longitudinal data system which included data for PreK-12 and higher education.

Prior to becoming CIO, Dr. Feldner served as the Technology Director for Bismarck Public Schools for 16 years. She was a member of the superintendent's cabinet and in addition to technology, she oversaw assessment, Title II & VI programs, and state reporting. A native North Dakotan, Lisa has undergraduate degrees in computer science and business education, a master's degree in mathematics education, and a Ph. D. in educational leadership.



## II. SCOPE OF WORK & ENGAGEMENT PLAN

### ***Scope of Work***

If the contract is awarded to John M. Olson, P.C., John will directly provide representation for the City of Fargo. Representation and services can be broken down into two major service areas: A) Introductions & Relationship Building B) Legislative Strategy & Monitoring. The following provides further detail of these two areas.

### **A) Introductions & Relationship Building**

John understands that a successful legislative session is dependent upon constant communication amongst an organization's leaders, stakeholders and policy makers. John will be available to establish and build upon the relationships required to represent the City of Fargo's interests in a positive light. He will be an on the ground resource in Bismarck, ND for the City of Fargo prior to and during the legislative session by listening and following up with legislators and other stakeholders continuously. John will be standing ready to assist in educating policy makers or stakeholders by facilitating or arranging individual meetings when requested and/or appropriate.

### **B) Legislative Strategy & Monitoring Key Services**

- Coordination with the City Administrator regarding all actions on bills;
- Making contacts and setting up meetings with legislators, other stakeholders or members of the executive branch;
- Initiating, organizing and conducting any internal planning or coordination sessions with the City Commissioners and City staff on legislative matters of significance to Fargo.
- Legislative strategy planning;
- Preparation of a legislative priority and advocacy document (if requested);
- Political intelligence;
- Reviewing all bills that may have a direct or indirect impact on the City of Fargo which include: pre-filed agency bills, board and commission bills, and legislatively sponsored bills;
- Creating and maintaining a tracking list and summary of bills being followed;
- Attending interim and regular assembly committee hearings;
- Drafting testimony;
- Delivering testimony;
- Preparing members and other designated stakeholders to provide testimony;
- Weekly check-in conference call during legislative session in conjunction with the North Dakota League of Cities meeting(s);
- Creating multi-media presentations (if requested).

### ***Engagement Plan***

An engagement plan is where the strategy becomes alive in establishing timelines, expectations and roles. This is where the great ideas become responsibilities and timelines. If selected, John and members of the Olson Effertz team will meet with the designated representatives from the City of Fargo to evaluate the strengths, capacity and seek to understand the strength of existing relationships of the City's elected officials and staff for government relations activities. From there,



John will prepare and create an engagement plan that includes contract goals and first steps for the 2019 legislative assembly. Initial recommendations may include: 1) elected official advocacy training; 2) regional meet and greets with key legislators across the state; 3) drafting a key legislative issues one-page document to establish and create awareness of the City of Fargo's legislative priorities.

John will coordinate and communicate with the appointed contact from the City of Fargo on all hearing dates, times and designated committees that the bills will be heard in. A recommended course of action will be provided for each bill. Kayla's time in the Governor's Office has given her vast experience in tracking large numbers of bills simultaneously. This task required high levels of organization and constant communication with legislators and other constituent groups. This experience translates into providing a clear and concise process for bill review and summarization of the bills being tracked. If selected, Kayla will send a weekly status and summary update of the bills submitted in addition to the relevant contacts made.

One of the key components to a successful interim and regular legislative session is the art of collaboration with like-minded associations and stakeholders. John will meet and collaborate with the advocacy organizations, community leaders, economic development groups and public officials to promote stable policy that provides a healthy business policies and regulatory environment for healthy and vibrant city climates.

### III. COST ESTIMATE & CONTRACT TERMS

John M. Olson, P.C. requests a flat fee for services plus business expenses and travel from the period of July 1, 2018 through the end of the 2019 Legislative Assembly and wrap up months (June 30, 2019).

<i>Amount by Fiscal Year</i>	
<i>2019 Legislative Assembly</i>	
December 1, 2018- June 30, 2019	\$35,000

Any out of pocket expenses, entertainment or engagement budget will be considered separately. There are no hourly rates so that all communication can be as frequent and open as needed to get the job done.

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A draft contract is attached on the following two pages.





## **LEGISLATIVE COUNSEL AGREEMENT**

This AGREEMENT, made the day and year hereafter written, between the City of Fargo, hereafter called "Fargo", and John M. Olson, P.C., hereinafter called "Olson".

WITNESSETH;

WHEREAS, the City of Fargo desires to retain Olson to advise and represent the City of Fargo on legislative matters from December 1, 2018 through June 30, 2019 for purposes of the 2019 Legislative Session and interim;

NOW THEREFORE, Fargo agrees to retain Olson under the terms and conditions hereinafter set forth.

### **SECTION ONE**

#### **SCOPE OF WORK**

Olson agrees to perform the following services for Fargo;

1. To assist Fargo in its legislative affairs efforts, at the direction of and reporting to the Fargo's City Administrator.
2. To make a continuing effort to be well versed on any legislative initiatives involving matters that may be of interest to Fargo.
3. To meet with Fargo officials upon request and to attend meetings from time to time as may be required.
4. Olson shall be authorized to employ additional persons under personal supervision to assist her in the performance of her duties described herein.
5. Olson will not commit Fargo to the expenditure of any additional funds without approval.
6. Olson will not take on representation of other entities whose interests would be directly adverse to Fargo at the legislature that, in the determination of Fargo, would be adverse to Fargo.
7. This agreement can be terminated at any point by Fargo if it is dissatisfied with the effort or performance of Olson. In the event of termination by Fargo, Olson is entitled to any previous payments made pursuant to the Fee Schedule noted below and reimbursement for any expenses incurred prior to termination, but Fargo will not be responsible for any future payments after termination.



**FEES**

Fargo agrees to pay Olson. the total sum of \$35,000 for all services rendered as follows:

1. For all government affairs activities, communication updates, research and related services in preparation for, during and immediately after the 2019 North Dakota biennial Legislative Session.
  - a. Facilitation of the drafting of bills for possible Fargo sponsorship when requested by Fargo in addition to daily lobbying functions during the 2019 Session.
  - b. Preparation for and attendance at selected legislative hearings when any Fargo matters pertaining to the interim and 2019 session of the North Dakota Legislature are to be considered.
2. This agreement shall be in effect from December 1, 2018 through June 30, 2019 and payment shall be made to John M. Olson, P.C. in accordance with a timetable agreed to by the parties.
3. In addition to the above fees, Fargo agrees to reimburse Olson for actual out-of-pocket expenses, such as international phone calls, travel, meals and copy costs. Costs in excess of \$500, will require additional approval by the City Administrator of Fargo obtained prior to additional expenditures being made.

IN WITNESS WHEREOF, the parties have herunto signed their names this \_\_\_\_ day of November, 2019.

Signed: \_\_\_\_\_

**John M. Olson**  
Lawyer  
John M. Olson, P.C.

Signed: \_\_\_\_\_



40

MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: JIM GILMOUR, <sup>JA</sup> DIRECTOR OF STRATEGIC PLANNING AND RESEARCH**

**DATE: NOVEMBER 27, 2018**

**SUBJECT: PREFERENCE LAND PURCHASE**

This is a recommendation to purchase a 40-foot strip of land from Preference Employment Solutions in case there is a future need to extend 26th Avenue west of 42nd Street. The Finance Committee is recommending that the land be paid for with funds from a Tax Increment Financing District that is already in place.

The purchase price is based on \$5.00 a square foot for land that is within an easement area, \$7.50 a square foot for land that is not within an access easement and \$30,520.00 for a negative access easement, which was the added cost for Preference to locate their driveway west of the planned entrance. The total purchase price would be \$69,707,50.00.

The proposed purchase agreement is attached.

Recommended Motion: To approve the purchase of land from Preference Employment Solutions with funding to come from the TIF District.

**AGREEMENT**

**Purchase, Lease Back and Easement**  
**Preference Employment Solutions—City of Fargo**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between **PREFERENCE EMPLOYMENT SOLUTIONS, INC.**, a North Dakota corporation; 2600 9<sup>th</sup> Avenue South, Fargo, North Dakota 58103, hereinafter "Seller", and, the **CITY OF FARGO**, a North Dakota municipal corporation, 225 4th Street North, Fargo, North Dakota 58102, hereinafter "Buyer".

**WITNESSETH:**

**WHEREAS**, Seller is the owner of real estate situate in the County of Cass and State of North Dakota, described as follows:

Lot One (1), Block One (1), Autumn Fields Second Addition to the City of Fargo,  
North Dakota,

the street address for which is 2605 42nd Avenue S, Fargo, North Dakota; and,

**WHEREAS**, Buyer desires to purchase a portion of the above-described property, the legal description for which is set forth as "Parcel A" on Exhibit "A", attached hereto and incorporated as if fully set forth herein, and to pay Seller under the terms and conditions hereinafter stated; and,

**WHEREAS**, as part of the terms hereof, said Parcel A is to be leased back to Seller in accordance with terms also set forth herein and, in addition, Seller is to grant to Buyer an easement for the purpose of restricting direct access from portions of the above-described property to the future 26<sup>th</sup> Avenue South, which is adjacent to Seller's property; and,

**WHEREAS**, the parties wish to set forth the terms of their agreement in writing;

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and agreements of the parties, it is hereby agreed as follows:

**SECTION ONE. PURCHASE OF SUBJECT PROPERTY BY CITY.**

1. Seller agrees to sell and Buyer agrees to buy Parcel A.
2. Purchase Price. The purchase price will be SIXTY NINE THOUSAND SEVEN HUNDRED SEVEN and 50/100 Dollars (\$69,707.50). The purchase price shall be paid at closing. Closing costs or other adjustments in accordance with this agreement may be payable in cash at time of closing, said amount to be paid at Closing.
3. Abstract and Title Opinion. Seller will furnish Buyer with an updated abstract of title to the subject property evidencing marketable title in Seller, cost of which (updating) shall be borne by Seller. Seller warrants that Seller has not done anything or failed to perform any act that would change the condition of title. The cost of examination of the abstract shall be borne by Buyer.
4. Taxes and Special Assessments. Taxes and installments of special assessments, if any, for 2017, payable in 2018, are the responsibility of Seller and taxes and installments of special assessments, if any, for 2018 payable in 2019 are to be prorated to the date of closing. Taxes and installments of special assessments, if any, for 2019 and thereafter shall be the responsibility of Buyer.
5. Closing Date and Transfer of Possession. Closing of this transaction shall take place as soon as reasonably possible but no later than January 31, 2019, at a mutually agreeable location, unless such other time and place shall be agreed upon in writing. Possession of the property shall be on the date of closing.
6. Closing Costs. The preparation of the purchase agreement and warranty deed will be the responsibility of Buyer. The title opinion and recording of the deed shall be at the expense of Buyer.
7. Liens and Encumbrances. The property shall be conveyed to Buyer free and clear of all liens and encumbrances except special assessments, and all easements or covenants of record, if any.
8. In the event Seller's title is not insurable or free of defects and cannot be made so within sixty (60) days after notice containing a written statement of defects is delivered to Buyer, then said earnest money shall be refunded and all rights of the Buyer terminated, except that Buyer may waive defects and elect to purchase.

9. Title. Buyer wishes to take title as follows:

City of Fargo, a North Dakota Municipal Corporation

Conveyance of the subject property shall be by warranty deed in the usual form used in North Dakota. The Seller will arrange for preparation of the deed.

10. Personal Property and Appliances. Personal property included in the sale of this property is as follows: **No personal property is included in the sale.**

**SECTION TWO. EASEMENT FOR ACCESS GRANTED BACK TO SELLER.**

11. Easement for Access to Seller. Upon conveyance to Buyer of Parcel A, simultaneously with said conveyance, Buyer shall grant to the Seller an easement for access, the terms of which easement shall be substantially in conformance with the form of Easement attached hereto as Exhibit "B".

12. Consideration. The right of Seller to receive the Easement as described in this Section Two shall also constitute consideration for the sale and purchase of the Subject Property as contemplated in Section One above and no further consideration may be paid by Seller, or Seller's successors and interest, to Buyer for this Easement.

13. Closing. The Easement shall be executed by and between the parties at the same time and location as the closing of the purchase transaction described in Section One hereof.

**SECTION THREE. NEGATIVE ACCESS EASEMENT.**

14. Negative Access Easement to Seller. Upon conveyance to Buyer of Parcel A, simultaneously with said conveyance, Buyer shall dedicate and grant to the Seller an easement limiting access to a portion of Parcel A, the terms of which easement shall be substantially in conformance with the form of declaration of easement attached hereto as Exhibit "C" [the "Negative Access Easement"].

15. Consideration. The obligation of Seller to dedicate and grant the Negative Access Easement as described in this Section Three shall also constitute consideration for the sale and purchase of the Subject Property as contemplated in Section One above and no further

consideration may be paid by Buyer, or Buyer's successors and interest, to Seller for the easement.

16. Closing. The Negative Access Easement shall be executed by and between the parties at the same time and location as the closing of the purchase transaction described in Section One hereof.

**DATED** the day and year as set forth above.

SELLER:

BUYER:

CITY OF FARGO

PREFERENCE EMPLOYMENT  
SOLUTIONS, INC.

By: \_\_\_\_\_  
Timothy J. Mahoney, M.D. its Mayor

\_\_\_\_\_  
David C. Dietz, President

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

**EXHIBIT "A"**

**LEGAL DESCRIPTIONS**

**Parcel A [the acquired parcel and easement parcel]:**

A tract of land in AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as:

The northerly 40.00 feet of Lot 1, Block 1 of AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota.

Said tract contains 6600 square feet, more or less.

**Parcel B [negative access easement]:**

A strip of land in AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as:

A line of no particular width, coincident with the south line of the northerly 40.00 feet of Lot 1, Block 1 of AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota, beginning on the east line of said Lot 1; thence westerly along said south line for a distance of 100.00 feet and there terminating.

**Parcel C [remainder parcel after conveyance]:**

A tract of land in AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as:

Lot 1, Block 1 of AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota, less the northerly 40.00 feet thereof.

Said tract contains 41,715 square feet, more or less.



**EXHIBIT "B"**

**EASEMENT**

**EASEMENT**  
**(Ingress/Egress)**

**This Easement**, herein this "**AGREEMENT**", made this \_\_\_\_ day of \_\_\_\_\_, 2018, between the CITY OF FARGO, a North Dakota municipal corporation, 225 4<sup>th</sup> Street North, Fargo, North Dakota 58102, herein "**GRANTOR**", and **PREFERENCE EMPLOYMENT SOLUTIONS, INC.**, a North Dakota corporation; 2600 9<sup>th</sup> Avenue South, Fargo, North Dakota 58103, herein "**GRANTEE**",

**ARTICLE ONE - DEFINITIONS**

**SECTION 1.1** – The Grantor’s Property consists of the following described property:

A tract of land in AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as:

The northerly 40.00 feet of Lot 1, Block 1 of AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota,

said tract containing 6600 square feet, more or less.

**SECTION 1.2** – The Grantee’s Property consists of the following described property:

A tract of land in AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as:

Lot 1, Block 1 of AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota, less the northerly 40.00 feet thereof.

said tract containing 41,715 square feet, more or less.

**SECTION 1.3** - As used herein the words "Occupant" or "Occupants" shall mean and include the parties hereto, their tenants, and the agents, employees, customers, and invitees of the parties hereto and their tenants, and such other persons as may from time to time be lawfully upon any portion of Grantor's Property.

## **ARTICLE TWO - GRANT OF EASEMENT**

**SECTION 2.1** – GRANTOR hereby grants to GRANTEE and its successors and assigns and Occupants a nonexclusive easement for ingress and egress over and across the Grantor's Property for the purpose of providing GRANTEE and GRANTEE'S Occupants ingress and egress off of 42<sup>nd</sup> Street South, Fargo, North Dakota.

## **ARTICLE THREE - NATURE OF EASEMENT AND RIGHTS GRANTED**

**SECTION 3.1** - Each and all of the easements and rights granted or created herein are appurtenances to the affected portions of Grantor's Property and none of the easements and rights may be transferred, assigned, or encumbered except as an appurtenance to such portions. For the purposes of such easements and rights the parcels which are benefitted shall constitute the dominant estate, and the particular areas of Grantor's Property which are burdened by such easements and rights shall constitute the servient estate.

**SECTION 3.2** - The acceptance of any transfer or conveyance of title or any other property or leasehold interest from any party hereto or its respective heirs, representatives, successors, or assigns of all or any part of its interest in its parcel shall be deemed to be an agreement by the prospective tenant, grantee, or assignee not to use or occupy the parcel in any manner which would constitute a violation or breach of any of the easements and covenants contained herein.

**SECTION 3.3** – GRANTEE shall be responsible for maintenance, repairs, replacement or upkeep of the existing driveway, including any required striping, directional signs, paving maintenance and items of a similar nature; provided, however, that such obligations may be shared by GRANTEE with the Park District of the City of Fargo, by separate instrument entitled Driveway Easement, which Easement was recorded in the Office of the Cass County Recorder on March 23, 2018 as Document No. 1533515. Further, GRANTEE shall be responsible for all snow removal services for the entire such existing driveway, said obligation also being addressed in said Driveway Easement.

## **ARTICLE FOUR - DURATION AND TERMINATION**

This Easement and the parties' rights and obligations hereunder shall commence immediately upon execution of this Easement (except as otherwise provided for herein). This Easement shall remain in full force and effect unless and until the earlier of the following to occur: (a) this Easement is terminated by the written agreement of the parties hereto or their respective successors





**EXHIBIT "C"**

**EASEMENT**

**[Negative Access Easement]**

**DEDICATION OF NEGATIVE ACCESS EASEMENT**

**Preference Employment Solutions, Inc.**, a North Dakota corporation (the “Declarant”) is the owner of certain real property in the city of Fargo, County of Cass, State of North Dakota, described as:

A tract of land in AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as:

Lot 1, Block 1 of AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota, less the northerly 40.00 feet thereof.

Said tract containing 41,715 square feet, more or less [hereinafter the “**Subject Property**”]; and,

The Declarant does hereby dedicate, grant and convey to the city of Fargo, a North Dakota municipal corporation, an easement generally along 42<sup>nd</sup> Street South and adjacent to the **Subject Property** for the purpose of restricting the access from the **Subject Property** to said 42<sup>nd</sup> Street, said easement being more fully described as follows:

A line of no particular width, coincident with the south line of the northerly 40.00 feet of Lot 1, Block 1 of AUTUMN FIELDS SECOND ADDITION to the City of Fargo, Cass County, North Dakota, beginning on the east line of said Lot 1; thence westerly along said south line for a distance of 100.00 feet and there terminating.

Said negative access easement is pictorially represented on Exhibit “A” attached hereto and incorporated herein by reference.





**REPORT OF ACTION**

**PUBLIC WORKS PROJECTS EVALUATION COMMITTEE**

41

Type: 2019 Capital Improvement Plan

Location: Citywide

Date of Hearing: 11/26/2018

Routing  
 City Commission                     Date                      
 PWPEC File                     12/3/2018                      
 Project File                     X                      
                    Brenda Derrig                    

The Committee reviewed an updated 2019 Capital Improvement Plan (summarized below).

Project	Preliminary Estimated Costs				Funding			
	Construction	ROW, Easements, Utilities, Outside Engineering	Fees and Contingency	Total	Outside Funding Sources	Flood Sales Tax	Special Assessments	City Funds
Federal Aid Projects	\$26,489,412	\$3,829,786	\$4,267,235	\$34,586,433	\$16,992,264	\$0	\$13,038,862	\$4,555,307
Water Main and Street Recon Projects	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Arterial Roadway Projects	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Flood Control Projects	\$9,650,000	\$7,241,000	\$2,614,500	\$19,505,500	\$4,800,000	\$14,705,500	\$0	\$0
Pavement Preservation Projects	\$9,675,000	\$0	\$2,457,323	\$12,132,323	\$0	\$0	\$3,833,439	\$8,298,884
Storm Sewer Utility Projects	\$1,490,000	\$30,000	\$432,100	\$1,952,100	\$0	\$0	\$525,675	\$1,426,425
Traffic and Streetlight Projects	\$4,100,000	\$100,000	\$1,269,000	\$5,469,000	\$0	\$0	\$3,210,050	\$2,258,950
New Development Projects	\$6,000,000	\$0	\$2,040,000	\$8,040,000	\$0	\$0	\$8,040,000	\$0
Alley Paving Projects	\$100,000	\$0	\$29,000	\$129,000	\$0	\$0	\$129,000	\$0
Sidewalk Projects	\$850,000	\$0	\$246,500	\$1,096,500	\$0	\$0	\$483,750	\$612,750
Miscellaneous Projects	\$3,460,000	\$0	\$773,000	\$4,233,000	\$100,000	\$0	\$774,000	\$3,359,000
<b>Total 2019 CIP =</b>	<b>\$61,814,412</b>	<b>\$11,200,786</b>	<b>\$14,128,658</b>	<b>\$87,143,856</b>	<b>\$21,892,264</b>	<b>\$14,705,500</b>	<b>\$30,034,777</b>	<b>\$20,511,316</b>

The Federal Aid Projects were updated to the bid prices and new engineer estimates. The Storm Sewer Utility Projects were reduced.

Staff is recommending approval.

On a motion by Nicole Crutchfield, seconded by Brenda Derrig, the Committee voted to recommend approval of the updated 2019 Capital Improvement Plan.

**RECOMMENDED MOTION**

Concur with the recommendations of PWPEC and approve the updated 2019 Capital Improvement Plan.

**PROJECT FINANCING INFORMATION:**

Recommended source of funding for project:           Various          

Developer meets City policy for payment of delinquent specials  
 Agreement for payment of specials required of developer  
 Letter of Credit required (per policy approved 5-28-13)

	Yes	No
Developer meets City policy for payment of delinquent specials	<u>          N/A          </u>	<u>                          </u>
Agreement for payment of specials required of developer	<u>          N/A          </u>	<u>                          </u>
Letter of Credit required (per policy approved 5-28-13)	<u>          N/A          </u>	<u>                          </u>

**COMMITTEE**

- Tim Mahoney, Mayor
- Nicole Crutchfield, Director of Planning
- Steve Dirksen, Fire Chief
- Bruce Grubb, City Administrator
- Ben Dow, Director of Operations
- Steve Sprague, City Auditor
- Brenda Derrig, City Engineer
- Kent Costin, Finance Director

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>          <input checked="" type="checkbox"/>          </u>
Tim Mahoney, Mayor	<u>          <input type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	
Nicole Crutchfield, Director of Planning	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	
Steve Dirksen, Fire Chief	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	
Bruce Grubb, City Administrator	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	
Ben Dow, Director of Operations	<u>          <input type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	
Steve Sprague, City Auditor	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	
Brenda Derrig, City Engineer	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	
Kent Costin, Finance Director	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input checked="" type="checkbox"/>          </u>	<u>          <input type="checkbox"/>          </u>	

ATTEST:

C: Kristi Olson

  
 Brenda E. Derrig, P.E.  
 Division Engineer

2019

# Capital Improvement Plan



THE CITY OF  
**Fargo**  
FAR MORE 

City of Fargo Engineering Department

November 23, 2018

TABLE OF CONTENTS

2019 Capital Improvement Plan Summary ..... 2

Federal Aid Projects ..... 3

Water Main Replacement/Street Reconstruction Projects ..... 4

Arterial Roadway Projects ..... 5

Flood Control Projects ..... 6

Pavement Preservation Projects..... 7

    Repair Projects ..... 9

    Seal Coat Projects ..... 10

    Wear Course Projects ..... 11

    Mill and Overlay Projects ..... 12

Storm Sewer Utility Projects ..... 13

Traffic and Streetlight Projects ..... 14

New Development Projects ..... 15

Alley Paving Projects ..... 16

Sidewalk Projects ..... 17

Miscellaneous Projects ..... 18

2019 Capital Improvement Map ..... 19

## 2019 Capital Improvement Plan Summary

### Overview

Each year the City of Fargo Engineering Department is responsible for creating and managing a capital improvement plan for the initial construction, preservation, and reconstruction of the city's infrastructure. Below is a summary of the 2019 Capital Improvement Plan.

### Proposed Projects

Project	Preliminary Estimated Costs				Funding			
	Construction	ROW, Easements, Utilities, Outside Engineering	Fees and Contingency	Total	Outside Funding Sources	Flood Sales Tax	Special Assessments	City Funds
Federal Aid Projects	\$26,489,412	\$3,829,786	\$4,267,235	\$34,586,433	\$16,992,264	\$0	\$13,038,862	\$4,555,307
Water Main and Street Recon Projects	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Arterial Roadway Projects	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Flood Control Projects	\$9,650,000	\$7,241,000	\$2,614,500	\$19,505,500	\$4,800,000	\$14,705,500	\$0	\$0
Pavement Preservation Projects	\$9,675,000	\$0	\$2,457,323	\$12,132,323	\$0	\$0	\$3,833,439	\$8,298,884
Storm Sewer Utility Projects	\$1,490,000	\$30,000	\$432,100	\$1,952,100	\$0	\$0	\$525,675	\$1,426,425
Traffic and Streetlight Projects	\$4,100,000	\$100,000	\$1,269,000	\$5,469,000	\$0	\$0	\$3,210,050	\$2,258,950
New Development Projects	\$6,000,000	\$0	\$2,040,000	\$8,040,000	\$0	\$0	\$8,040,000	\$0
Alley Paving Projects	\$100,000	\$0	\$29,000	\$129,000	\$0	\$0	\$129,000	\$0
Sidewalk Projects	\$850,000	\$0	\$246,500	\$1,096,500	\$0	\$0	\$483,750	\$612,750
Miscellaneous Projects	\$3,460,000	\$0	\$773,000	\$4,233,000	\$100,000	\$0	\$774,000	\$3,359,000
<b>Total 2019 CIP =</b>	<b>\$61,814,412</b>	<b>\$11,200,786</b>	<b>\$14,128,658</b>	<b>\$87,143,856</b>	<b>\$21,892,264</b>	<b>\$14,705,500</b>	<b>\$30,034,777</b>	<b>\$20,511,316</b>

## Federal Aid Projects

### Overview

Federal Aid Projects are for major improvements that typically include coordination with other local entities, such as the North Dakota Department of Transportation, West Fargo, Cass County, and the City of Moorhead. The Federal Aid we receive is programmed through Metro COG and is programmed out for four years. There are different types of federal aid and they are as follows: Interstate Maintenance funds (for use on I-29 and I-94 mainline and service and system interchanges), Regional Highway Funds (for use on US 81 & US 10, which are 52<sup>nd</sup> Ave S, University Drive, 10<sup>th</sup> Street, 19<sup>th</sup> Ave N, and Main Ave), Urban Roads Funds (which can be spent on any road classified as an arterial or collector), and Transportation Alternatives Program (which are funds set aside for shared use paths and pedestrian bridges).

### Proposed Projects

Project Location	Preliminary Estimated Costs				Funding		
	Construction	ROW, Easements, Utilities, Outside Engineering	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
Main Ave from Broadway to Red River Bridge	\$8,897,859	\$1,089,786	\$2,402,422	\$12,390,067	\$5,561,754	\$2,273,006	\$4,555,307
52 Ave S from 63 St S to 45 St S	\$17,591,553	\$2,740,000	\$1,864,813	\$22,196,366	\$11,430,510	\$10,765,856	\$0
<b>Total Federal Aid Projects =</b>	<b>\$26,489,412</b>	<b>\$3,829,786</b>	<b>\$4,267,235</b>	<b>\$34,586,433</b>	<b>\$16,992,264</b>	<b>\$13,038,862</b>	<b>\$4,555,307</b>

## Water Main Replacement/Street Reconstruction Projects

### Overview

On May 21, 2018 the City Commission approved the reinstatement of the 2013 Infrastructure Funding Policy originally approved by the City Commission on December 9, 2013. In addition to the reinstatement of the 2013 Infrastructure Funding Policy for future projects, the City Commission approved the utilization of the 2013 Infrastructure Funding Policy for any projects created after December 9, 2013 that had not used this newly reinstated policy. This change resulted in the reevaluation of 136 projects; 98 projects were not affected and 38 projects were affected. The financial impact of the funding policy change to these 38 projects was presented to the City Commission on July 2, 2018. In an effort to offset a large portion of the increased cost share to the City, the City Commission voted to eliminate all water main replacement/street reconstruction projects contemplated for 2019.

### Proposed Projects

No proposed Water Main Replacement/Street Reconstruction Projects for the 2019 Capital Improvement Plan.

## Arterial Roadway Projects

### Overview

Arterial Roadway Projects are typically on arterial roadway corridors and are necessary to address poor pavement condition and traffic congestion caused by high traffic volumes.

### Proposed Projects

See proposed Federal Aid Projects. No other Arterial Roadway Projects proposed for the 2019 Capital Improvement Plan.

## Flood Control Projects

### Overview

Flood Control Projects are for the continued implementation of the Revised Flood Control Comprehensive Plan and include flood control projects east of I-94 along the Legal Drain systems and along the Red River of the North. The proposed flood control projects also include the acquisition of properties that will need to be moved or demolished for the construction of flood control projects.

Fifty percent (50%) of Flood Control Projects eligible costs are reimbursable from the North Dakota State Water Commission per the cost-share policy.

### Proposed Projects

Project Location	Preliminary Estimated Costs				Funding		
	Construction	ROW, Easements, Utilities, Outside Engineering	Fees and Contingency	Total	Outside Funding Sources	Flood Sales Tax	Special Assessments
Drain #27 Lift Stations #55 & #56	\$4,200,000	\$526,000	\$1,134,000	\$5,860,000	\$2,100,000	\$3,760,000	\$0
Harwood, Hackberry, River Drives - Home Buyout	\$0	\$4,000,000	\$0	\$4,000,000	\$0	\$4,000,000	\$0
Harwood, Hackberry, River Drives - Levee, Phase 3	\$450,000	\$50,000	\$121,500	\$621,500	\$225,000	\$396,500	\$0
Belmont Area - Home Buyout	\$0	\$2,200,000	\$0	\$2,200,000	\$0	\$2,200,000	\$0
Belmont Area - Floodwall/Levee, Phase 2	\$2,900,000	\$260,000	\$783,000	\$3,943,000	\$1,450,000	\$2,493,000	\$0
Oakcreek & Copperfield Court Levee	\$1,650,000	\$205,000	\$445,500	\$2,300,500	\$825,000	\$1,475,500	\$0
Demolition - Flood Buyout	\$450,000	\$0	\$130,500	\$580,500	\$200,000	\$380,500	\$0
<b>Total Flood Control Projects =</b>	<b>\$9,650,000</b>	<b>\$7,241,000</b>	<b>\$2,139,000</b>	<b>\$19,505,500</b>	<b>\$4,800,000</b>	<b>\$14,705,500</b>	<b>\$0</b>



## Pavement Preservation Projects

### Overview

Pavement Preservation Projects are arguably the most important projects in our annual capital improvement plan. Pavement preservation is a proactive approach that implements a series of low-cost, preventative maintenance treatments that are aimed at preserving the investment of our roadway network, extending the pavement life, and meeting our citizens' needs. No pavement will last forever, but with timely applications of these projects we can extend the pavement life resulting in cost savings.

	Surface Type	Total Network	Arterial (24.6%)	Collector (13.0%)	Local (56.7%)	Alley (5.7%)
Length (Centerline Miles)	All Streets	511.65	126.02	66.40	290.00	29.24
	Asphalt (59.7%)	305.30	23.3	40.62	231.08	10.30
	Brick (0.01%)	0.06	-	-	-	0.06
	Composite (4.2%)	21.52	9.46	2.10	9.76	0.20
	Gravel (2.6%)	13.40	0.58	-	0.68	12.14
	Concrete (33.5%)	171.37	92.68	23.68	48.48	6.53

	Surface Type	Total Network	Arterial (31.0%)	Collector (14.2%)	Local (50.9%)	Alley (3.9%)
Area (Square Yards)	All Streets	9,847,595	3,057,189	1,397,108	5,008,825	384,474
	Asphalt (54.2%)	5,333,987	485,317	793,546	3,898,807	156,316
	Brick (0.01%)	547	-	-	-	547
	Composite (4.5%)	445,945	225,510	49,317	168,192	2,926
	Gravel (1.6%)	158,320	8,127	-	6,438	143,755
	Concrete (39.7%)	3,908,797	2,338,236	554,244	935,387	80,929

	Surface Type	Total Network	Arterial	Collector	Local	Alley
Pavement Condition Index (Centerline Miles)	All Streets	81.88	88.38	83.24	79.58	67.96
	Asphalt	79.62	75.19	79.73	81.18	54.16
	Composite	60.63	68.36	42.20	57.60	37.02
	Concrete	88.60	93.74	92.89	76.38	90.67

	Surface Type	Total Network	Arterial	Collector	Local	Alley
Pavement Condition Index (Square Yards)	All Streets	82.98	89.39	83.65	79.74	65.06
	Asphalt	79.73	75.52	79.72	81.33	52.75
	Composite	61.45	67.54	44.74	58.62	36.23
	Concrete	89.87	94.38	92.74	76.87	89.88

Proposed Projects

Project Location	Preliminary Estimated Costs			Funding	
	Construction	Fees and Contingency	Total	Special Assessments	City Funds
Repair and Rehabilitation Projects	\$3,825,000	\$879,751	\$4,704,750	\$0	\$4,704,750
Seal Coat Projects	\$1,250,000	\$301,574	\$1,551,573	\$171,439	\$1,380,134
Wear Course Projects	\$1,000,000	\$340,000	\$1,340,000	\$1,340,000	\$0
Mill and Overlay Projects	\$3,600,000	\$936,000	\$4,536,000	\$2,322,000	\$2,214,000
<b>Total Pavement Preservation Projects =</b>	<b>\$9,675,000</b>	<b>\$2,457,323</b>	<b>\$12,132,323</b>	<b>\$3,833,439</b>	<b>\$8,298,884</b>

## Pavement Preservation: Repair and Rehabilitation Projects

### Overview

Repair projects include asphalt crack seal and concrete spot repairs. The annual crack seal project is located in the same areas as the seal coat project and aids in preserving and extending the life of the asphalt roadway. The citywide concrete spot repair project repairs relatively small concrete issues that arise throughout the city each year. The concrete rehabilitation project is performed on a roadway corridor and is utilized to extend the overall pavement life of that project corridor.

### Proposed Projects

Project Location	Preliminary Estimated Costs			Funding	
	Construction	Fees and Contingency	Total	Special Assessments	City Funds
Asphalt Crack Seal - Various Locations City Wide	\$75,000	\$17,250	\$92,250	\$0	\$92,250
Concrete Spot Repairs City Wide	\$750,000	\$172,500	\$922,500	\$0	\$922,500
Concrete Rehabilitation (42 St S – 19 Ave S to 32 Ave S)	\$1,500,000	\$345,000	\$1,845,000	\$0	\$1,845,000
Concrete Rehabilitation (40 Ave S – 51 St S to 32 St S)	\$1,500,000	\$345,000	\$1,845,000	\$0	\$1,845,000
<b>Total Repair Projects =</b>	<b>\$3,825,000</b>	<b>\$879,751</b>	<b>\$4,704,750</b>	<b>\$0</b>	<b>\$4,704,750</b>

## Pavement Preservation: Seal Coat Projects

### Overview

Seal Coat Projects take place throughout the city and are a way to extend the life of asphalt pavement. As the name implies, they are utilized to seal the pavement to keep water from penetrating the road structure. They also prevent deterioration of the asphalt surface from the effects of aging and oxidation due to water and the sun. Many state DOTs have studied the benefits of seal coats and have found that seal coats are most effective when placed within one or two years after the surface layer (asphalt wear course) is placed. After two years, the pavement has already been damaged from the effects of the sun and will no longer benefit from a seal coat. Studies also recommend a seal coat be reapplied approximately every eight years.

Based on that research, seal coats are installed on new wear course projects two years after installation and are funded 100% by special assessments. Seal coats are installed on mill and overlay projects two years after installation and are funded 100% by city funds. Subsequent seal coats are installed every eight years and are also funded 100% by city funds.

Seal coat projects are performed on arterial, collector, and local roadways. Combined those three roadway classifications account for 5,177,670 SY of asphalt pavement in the City of Fargo. This year our seal coat project includes 63,970 SY of seal coating on projects that received a wear course in 2017 and will be funded by special assessments. Our project will also include 540,710 SY of seal coating on projects that received a mill and overlay in 2017 or a seal coat approximately eight years ago. The total amount of asphalt pavement to receive a seal coat in 2019 is 604,680 SY or about 11.7% of our asphalt roadway network.

### Proposed Projects

Project Location (See CIP Map for Locations)	Preliminary Estimated Costs			Funding	
	Construction	Fees and Contingency	Total	Special Assessments	City Funds
Section 1C	\$73,500	\$16,905	\$90,405	\$0	\$90,405
Section 2C	\$27,860	\$6,408	\$34,268	\$0	\$34,268
Section 3C	\$30,600	\$7,038	\$37,638	\$0	\$37,638
Section 4C	\$158,600	\$36,478	\$195,078	\$0	\$195,078
Section 5C	\$91,900	\$21,137	\$113,037	\$0	\$113,037
Section 6C	\$505,760	\$116,325	\$622,085	\$0	\$622,085
Section 7C	\$55,600	\$12,788	\$68,388	\$0	\$68,388
Section 8C	\$56,240	\$12,935	\$69,175	\$0	\$69,175
Section 9C	\$122,000	\$28,060	\$150,060	\$0	\$150,060
Section 10A	\$60,740	\$20,652	\$81,392	\$81,392	\$0
Section 11A	\$16,100	\$5,474	\$21,574	\$21,574	\$0
Section 12A	\$51,100	\$17,374	\$68,474	\$68,474	\$0
<b>Total Seal Coat Projects =</b>	<b>\$1,250,000</b>	<b>\$301,573</b>	<b>\$1,551,573</b>	<b>\$171,439</b>	<b>\$1,380,134</b>

## Pavement Preservation: Wear Course Projects

### Overview

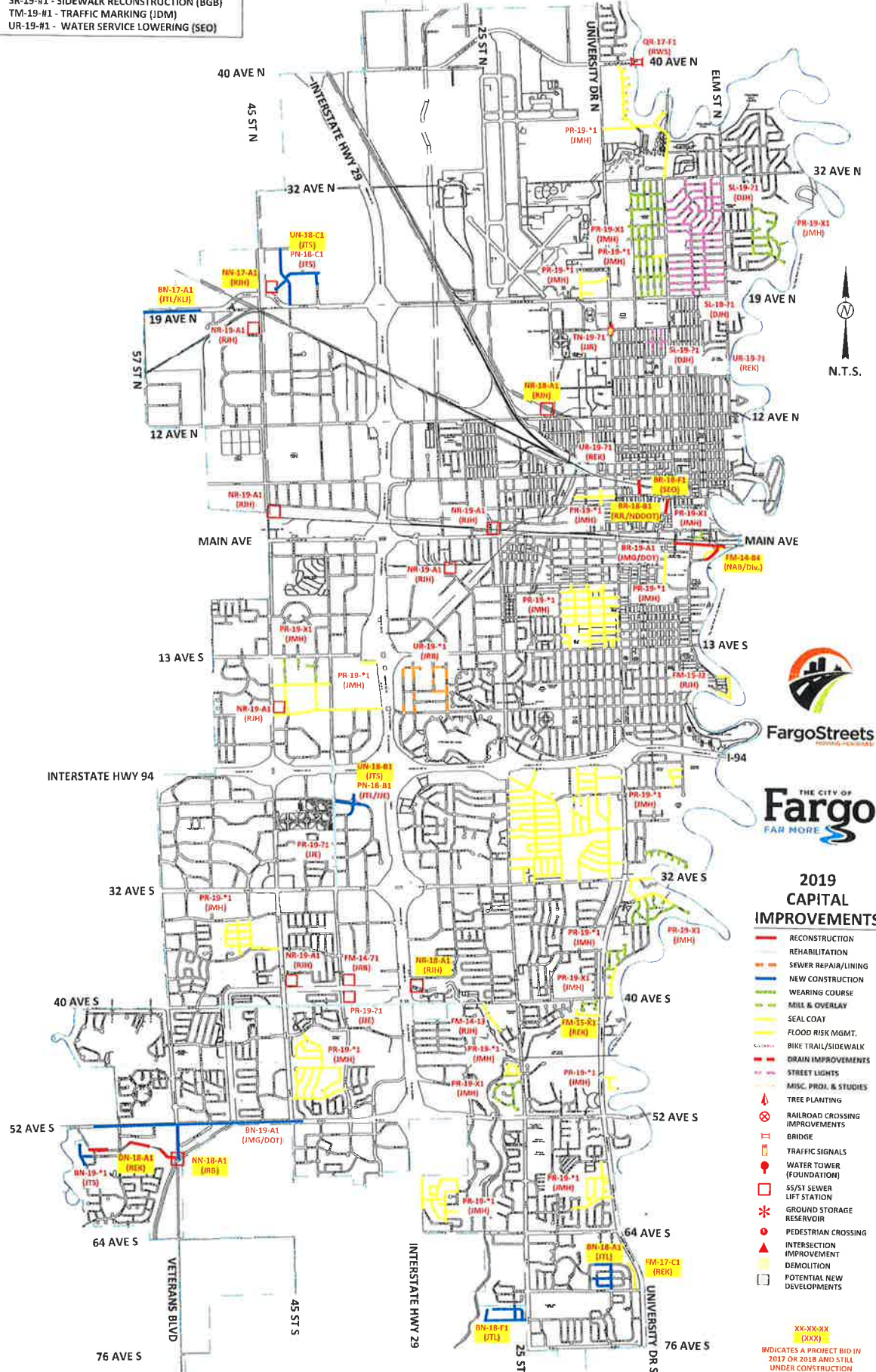
Wear Course Projects place the final surface layer of asphalt in new developments. These projects take place anywhere from just a couple of years up to 15 years after the initial construction of a new development and include drainage correction and installation of the final surface of asphalt. Wear course projects don't typically take place until approximately 90% of the lots in a new development have been built on. This allows private contractors time to construct buildings without fear of damaging the final surface of asphalt. It also allows for settlement to occur, which we correct during the wear course project.

### Proposed Projects

Locations for the wear course project will be evaluated in the early part of 2019. This will allow us to make the best determination of the appropriate locations based on the percentage of build out in new developments. Based on previous capital improvement projects, we anticipate the project to be approximately \$1 million.

Project Location	Preliminary Estimated Costs			Funding	
	Construction	Fees and Contingency	Total	Special Assessments	City Funds
Locations to be determined	\$1,000,000	\$340,000	\$1,340,000	\$1,340,000	\$0

- CITY-WIDE PROJECTS:**
- PR-19-#1 - ASPHALT CRACK SEAL (JMH)
  - PR-19-#1 - CONCRETE SPOT REPAIR (JE)
  - SN-19-#1 - NEW SIDEWALK CONSTRUCTION (BGB)
  - SR-19-#1 - SIDEWALK RECONSTRUCTION (BGB)
  - TM-19-#1 - TRAFFIC MARKING (JDM)
  - UR-19-#1 - WATER SERVICE LOWERING (SEO)



**2019 CAPITAL IMPROVEMENTS**

- RECONSTRUCTION
- REHABILITATION
- SEWER REPAIR/LINING
- NEW CONSTRUCTION
- WEARING COURSE
- MILL & OVERLAY
- SEAL COAT
- FLOOD RISK MGMT.
- BIKE TRAIL/SIDEWALK
- DRAIN IMPROVEMENTS
- STREET LIGHTS
- MISC. PROJ. & STUDIES
- TREE PLANTING
- RAILROAD CROSSING IMPROVEMENTS
- BRIDGE
- TRAFFIC SIGNALS
- WATER TOWER (FOUNDATION)
- 55/51 SEWER LIFT STATION
- GROUND STORAGE RESERVOIR
- PEDESTRIAN CROSSING
- INTERSECTION IMPROVEMENT
- DEMOLITION
- POTENTIAL NEW DEVELOPMENTS

XX-XX-XX  
(XXX)  
INDICATES A PROJECT BID IN  
2017 OR 2018 AND STILL  
UNDER CONSTRUCTION

## Pavement Preservation: Mill and Overlay Projects

### Overview

Mill and Overlay Projects extend the life of the pavement and improve the ride quality. As part of these projects we also correct drainage issues and replace sidewalk curb ramps that do not meet Federal ADA requirements.

The anticipated frequency of asphalt mill and overlay projects can vary greatly depending on a number of factors, such as pavement subgrade and drainage, traffic volumes, weight of vehicle traffic, and initial quality of asphalt pavement, but is typically once every 25 years. Mill and overlay projects are performed on arterial, collector, and local roadways. Combined those three roadway classifications account for 5,177,670 SY of asphalt pavement in the City of Fargo. This year our proposed mill and overlay projects include 177,200 SY of asphalt paving or about 3.4% of our network. Based on a 25 year cycle, our goal should be to mill and overlay approximately 4% of our asphalt roadway network each year.

### Proposed Projects

Project Location (See CIP Map for Locations)	Preliminary Estimated Costs			Funding	
	Construction	Fees and Contingency	Total	Special Assessments	City Funds
Section 1	\$1,516,000	\$394,160	\$1,910,160	\$977,820	\$932,340
Section 2	\$604,000	\$157,040	\$761,040	\$389,580	\$371,460
Section 3	\$52,000	\$13,520	\$65,520	\$33,540	\$31,980
Section 4	\$235,000	\$61,100	\$296,100	\$151,575	\$144,525
Section 5	\$800,000	\$208,000	\$1,008,000	\$516,000	\$492,000
Section 6	\$393,000	\$102,180	\$495,180	\$253,485	\$34,440
<b>Total Mill &amp; Overlay Projects =</b>	<b>\$3,600,000</b>	<b>\$936,000</b>	<b>\$4,536,000</b>	<b>\$2,322,000</b>	<b>\$2,214,000</b>

## Storm Sewer Utility Projects

### Overview

Storm Sewer Utility Projects are for the ongoing maintenance and improvement of the City's storm sewer system which includes 81 storm water lift stations and associated piping, ponds, and drain systems.

### Proposed Projects

Project	Preliminary Estimated Costs			Funding		
	Construction	ROW, Easements, Utilities, Outside Engineering	Fees and Contingency	Total	Special Assessments	City Funds
Storm Sewer/Outfall Repairs - Various	\$260,000	\$0	\$75,400	\$387,000	\$167,000	\$167,700
Great Northern Dr – 17 St N to Drain	\$675,000	\$30,000	\$195,750	\$900,750	\$0	\$900,750
Lift Station Repairs - LS #8, #10, #12, #49	\$555,000	\$0	\$160,950	\$715,950	\$357,975	\$357,975
<b>Total Storm Sewer Utility Projects =</b>	<b>\$1,490,000</b>	<b>\$30,000</b>	<b>\$432,100</b>	<b>\$1,952,100</b>	<b>\$525,675</b>	<b>\$1,426,425</b>



## Traffic and Streetlight Projects

### Overview

Traffic and Streetlight Projects improve the safety and efficiency of traffic operations by providing for the maintenance, initial construction, and improvements of street lights, traffic signals, communication cable, intelligent transportation systems, and pavement markings.

### Proposed Projects

Project Location	Preliminary Estimated Costs			Funding		
	Construction	ROW, Easements, Utilities, Outside Engineering	Fees and Contingency	Total	Special Assessments	City Funds
Street Light Rehab Citywide	\$250,000	\$0	\$72,500	\$322,500	\$0	\$322,500
New Street Lighting - Area bound by Broadway, 32 Ave N, Elm St, 25 Ave N	\$750,000	\$0	\$255,000	\$1,005,000	\$1,005,000	\$0
New Street Lighting - Area bound by Broadway, 25 Ave N, Elm St, 19 Ave N	\$750,000	\$0	\$255,000	\$1,005,000	\$1,005,000	\$0
New Street Lighting - Area bound by 9 St N, 17 Ave N, Broadway, 15 Ave N	\$100,000	\$0	\$34,000	\$134,000	\$134,000	\$0
Traffic Signal Maintenance - LED Replacement	\$150,000	\$0	\$43,500	\$193,500	\$0	\$193,500
New Traffic Signal - University Dr N and 17 Ave N	\$350,000	\$0	\$101,500	\$451,500	\$316,050	\$135,450
Pavement Marking - 2 Ave N from 10 St to 4 St	\$150,000	\$0	\$43,500	\$193,500	\$0	\$193,500
Pavement Marking Replacement	\$400,000	\$0	\$116,000	\$516,000	\$0	\$516,000
Quiet Zone -- 7 Ave N and 16 St N	\$1,200,000	\$100,000	\$348,000	\$1,648,000	\$750,000	\$898,000
<b>Total Traffic and Streetlight Projects =</b>	<b>\$4,100,000</b>	<b>\$100,000</b>	<b>\$1,269,000</b>	<b>\$5,469,000</b>	<b>\$3,210,050</b>	<b>\$2,258,950</b>

## New Development Projects

### Overview

New Development Projects can vary greatly from year to year as they are driven by developer request. For 2019, we have either received, or are likely to receive, the following requests.

### Proposed Projects

Project Location	Preliminary Estimated Costs			Funding	
	Construction	Fees and Contingency	Total	Special Assessments	City Funds
Laverne's Addition – Paving	\$1,000,000	\$340,000	\$1,340,000	\$1,340,000	\$0
23 Ave S from 42 St S to 38 St S - Paving	\$1,000,000	\$340,000	\$1,340,000	\$1,340,000	\$0
Grayland Addition Phase 2	\$1,000,000	\$340,000	\$1,340,000	\$1,340,000	\$0
Golden Valley Phase 2	\$1,000,000	\$340,000	\$1,340,000	\$1,340,000	\$0
Eagle Valley Phase 3	\$1,000,000	\$340,000	\$1,340,000	\$1,340,000	\$0
New Development - TBD	\$1,000,000	\$340,000	\$1,340,000	\$1,340,000	\$0
<b>New Development Projects Total =</b>	<b>\$6,000,000</b>	<b>\$2,040,000</b>	<b>\$8,040,000</b>	<b>\$8,040,000</b>	<b>\$0</b>

# Alley Paving Projects

## Overview

Alley Paving Projects must be petitioned by at least 55 percent of the benefitting property owners to be included in the annual capital improvement plan. Typically this is done by a property owner going door-to-door with a petition to get at least 55 percent of the benefitting property owner’s signatures. The petition is then submitted to the Engineering Department where we verify signatures and request approval by the Public Work Project Evaluation Committee (PWPEC) to start design. All alley paving projects are 100% special assessed.

Alley Surface Type	Area (Square Yards)	Percentage by Area	Length (Centerline Miles)	Percentage by Length
All Surface Types	384,474	100.00%	29.24	100.00%
Asphalt	156,316	40.66%	10.30	35.22%
Brick	547	0.14%	0.06	0.21%
Composite	2,926	0.76%	0.20	0.69%
Gravel	143,755	37.39%	12.14	41.53%
Concrete	80,929	21.05%	6.53	22.34%

## Proposed Projects

Project Location	Preliminary Estimated Costs			Funding	
	Construction	Fees and Contingency	Total	Special Assessments	City Funds
Alley - TBD	\$100,000	\$29,000	\$129,000	\$129,000	\$0

## Sidewalk Projects

### Overview

Sidewalk Projects are included annually in the capital improvement plan to address areas of town where sidewalks have not yet been installed by the property owner and areas of town where tripping hazards or nonconforming conditions exist. In either type of projects, the locations of improvements are typically populated by citizen complaint. Upon notice from the city, property owners have the option to correct deficiencies by hiring a licensed sidewalk contractor on their own or they can elect to have the work included in one of the city’s annual sidewalk projects.

### Proposed Projects

Project Location	Preliminary Estimated Costs			Funding	
	Construction	Fees and Contingency	Total	Special Assessments	City Funds
Sidewalks: 2019 New Sidewalks (including APPR)	\$300,000	\$87,000	\$387,000	\$193,500	\$193,500
Sidewalks: 2019 Reconstruct Sidewalks (including APPR)	\$450,000	\$130,500	\$580,500	\$290,250	\$290,250
Broadway – Handicap Parking/ADA Improvements	\$100,000	\$29,000	\$129,000	\$290,250	\$129,000
<b>Total Sidewalk Projects =</b>	<b>\$850,000</b>	<b>\$246,500</b>	<b>\$1,096,500</b>	<b>\$483,750</b>	<b>\$612,750</b>

## Miscellaneous Projects

### Overview

Miscellaneous Projects vary from year to year, but this year they include tree planting, water service lowering, sanitary sewer/manhole rehabilitation, new water main installation, public relations/communications, and bridge maintenance.

The tree planting project is for plantings along arterial roadways and is funded utilizing city funds.

The water service lowering project is an annual project to lower water services throughout the city that are known to be susceptible to freezing. Currently these property owners need to run water continuously during winter in order to reduce the risk of a frozen water service. This project will reduce the risk of freezing water services and eliminates the need to continuously run water.

The sanitary sewer lining/manhole rehabilitation project is to repair sanitary sewer mains and manholes that have been discovered by Public Work's televising program. This project will use "no dig" repairs as much as feasible and is necessary to prevent what will otherwise become very costly repairs in the near future.

The water main project on 19<sup>th</sup> Ave N is necessary to provide looping and adequate fire flows for the continued development along the 19<sup>th</sup> Ave N corridor.

The public relations/communications project is to aid in the communication of capital improvement projects. This project is critical to the successful construction of our projects as it allows us to effectively communicate with the public by giving updates of progress, road closures, and other items that aid in a positive public perception of roadway projects.

The bridge maintenance projects are in collaboration with other local entities and the City of Fargo will cost share in the projects utilizing city funds.

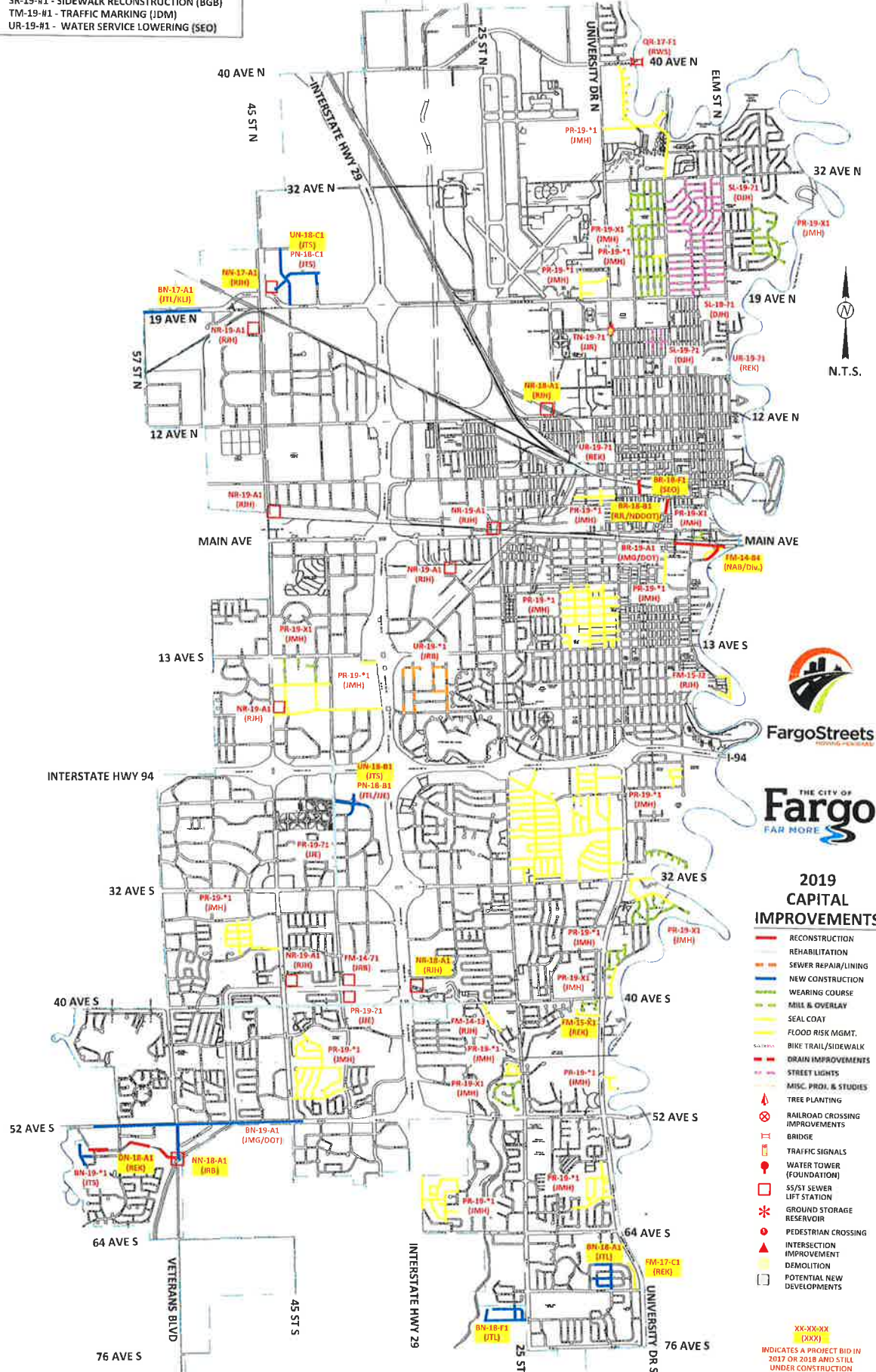
The miscellaneous repairs project is a place holder for emergency repairs that unfortunately arise each year.

### Proposed Projects

Project	Preliminary Estimated Costs				Funding		
	Construction	ROW, Easements, Utilities, Outside Engineering	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
Tree Planting	\$150,000	\$0	\$34,500	\$184,500	\$0	\$0	\$184,500
Water Service Lowering	\$350,000	\$0	\$80,500	\$430,500	\$0	\$0	\$430,500
Sanitary Sewer Lining/Manhole Rehab	\$1,600,000	\$0	\$368,000	\$1,968,000	\$0	\$0	\$1,968,000
19 Ave N Water Main Loop	\$1,000,000	\$0	\$290,000	\$1,290,000	\$0	\$774,000	\$516,000
Public Information Coordinator Services	\$60,000	\$0	\$0	\$60,000	\$0	\$0	\$60,000
Bridge Maintenance - 40th Ave N (Clay Co to lead, COF to cost share)	\$200,000	\$0	\$0	\$200,000	\$100,000	\$0	\$100,000
Misc. Repairs	\$100,000	\$0	\$0	\$100,000	\$0	\$0	\$100,000
<b>Total Miscellaneous Projects =</b>	<b>\$3,460,000</b>	<b>\$0</b>	<b>\$773,000</b>	<b>\$4,233,000</b>	<b>\$100,000</b>	<b>\$774,000</b>	<b>\$3,359,000</b>

## 2019 Capital Improvement Map

- CITY-WIDE PROJECTS:**
- PR-19-#1 - ASPHALT CRACK SEAL (JMH)
  - PR-19-#1 - CONCRETE SPOT REPAIR (JE)
  - SN-19-#1 - NEW SIDEWALK CONSTRUCTION (BGB)
  - SR-19-#1 - SIDEWALK RECONSTRUCTION (BGB)
  - TM-19-#1 - TRAFFIC MARKING (JDM)
  - UR-19-#1 - WATER SERVICE LOWERING (SEO)



- 2019 CAPITAL IMPROVEMENTS**
- RECONSTRUCTION
  - REHABILITATION
  - SEWER REPAIR/LINING
  - NEW CONSTRUCTION
  - WEARING COURSE
  - MILL & OVERLAY
  - SEAL COAT
  - FLOOD RISK MGMT.
  - BIKE TRAIL/SIDEWALK
  - DRAIN IMPROVEMENTS
  - STREET LIGHTS
  - MISC. PROJ. & STUDIES
  - TREE PLANTING
  - RAILROAD CROSSING IMPROVEMENTS
  - BRIDGE
  - TRAFFIC SIGNALS
  - WATER TOWER (FOUNDATION)
  - SS/SI SEWER LIFT STATION
  - GROUND STORAGE RESERVOIR
  - PEDESTRIAN CROSSING
  - INTERSECTION IMPROVEMENT
  - DEMOLITION
  - POTENTIAL NEW DEVELOPMENTS
- XX-XX-XX (XXX)  
INDICATES A PROJECT BID IN 2017 OR 2018 AND STILL UNDER CONSTRUCTION

