

FARGO CITY COMMISSION AGENDA  
Monday, March 11, 2019 - 5:00 p.m.

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, February 25, 2019).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. 2nd reading and final adoption of an Ordinance Repealing and Re-Establishing a Conditional Overlay District on Certain Parcels of Land Lying in BLU Water Creek 4th Addition: 1st reading, 2/25/19.
- 2. Applications for property tax exemptions for improvements made to buildings:
  - a. Bruce E. and Elizabeth M. Thompson, 434 7th Avenue South (5 year).
  - b. Nicholas Rintoul, 1461 7th Street North (5 year).
  - c. Kevin M. and Wendy A. Miller, 38 18th Avenue North. (5 year).
- 3. Applications for Games of Chance:
  - a. St. Joseph's School for a raffle on 3/16/19.
  - b. NDSU Saddle and Sirloin Club for a raffle on 4/10/19.
  - c. Kappa Delta Sorority for a raffle on 3/25/19.
  - d. Essentia Health Fargo Foundation for a raffle on 4/4/19; Public Spirited Resolution.
  - e. Grace Lutheran School for a raffle on 3/23/19.
- 4. Receive and file a report of City investment holdings as of 12/31/18.
- 5. Sole Source Procurement with Odney Media for campaign regarding e-cigarettes tobacco program (SSP19036).
- 6. Wildlife Management Program Report for 2018-2019 and Resolution authorizing program for 2019-2020.
- 7. Award Ground Transportation Center (GTC) Design/Bid/Build project to KLJ, Inc.
- 8. Tax Increment Financing (TIF) and Payment in Lieu of Taxes (PILOT) Application Fee Schedule.
- 9. Bid award for Concrete Utility Cut Repair (RFP 19018).
- 10. Bid award for Aggregate Materials, Concrete, Asphalt, Emulsified Asphalt and Re-Bar (RFP 19019).

11. Purchase Agreement with Janice L. Springer for property located at 709 Royal Oaks Drive North (Project No. FM-19-B).
12. Memorandum of Offer to Landowner, Permanent Easement (Levee for Flood Control) and Agreement for Use of Easement Area Granted to City with Elaine A. Fiske (Project No. 5946-02).
13. Create Project No. TR-19-A.
14. Contract award for Project No. TR-18-A2.
15. Revisions to the 2019 Capital Improvement Plan.
16. Negative Final Balancing Change Order No. 3 in the amount of \$-1,690.00 for Project No. SR-18-A1.
17. Bid award to PCI Roads, LLC for Project No. QR-19-A1.
18. Bills.
19. Agreement for Early Building Permit for Improvement District Nos. UN-18-C1 and PN-18-C1.
20. Negative Final Balancing Change Order No. 2 in the amount of \$-55,187.53 for Improvement District No. BR-17-L1.
21. Final Balancing Change Order No. 3 in the amount of \$23,638.40 for Improvement District No. BN-18-G1.
22. Change Order No. 3 for an increase of \$62,725.80 and a 30-day time extension for Improvement District No. NR-18-A1.
23. Change Order No. 3 for an increase of \$99,997.00 and a 31-day time extension for Improvement District No. FM-17-C1.
24. Bid award for Improvement District No. PN-18-C1.
25. Create Improvement District No. PR-19-G.

**REGULAR AGENDA:**

26. Set 7:30 a.m., Tuesday, April 9, 2019, as the date for the Board of Equalization to meet.
27. State Water Commission requests for Cost Reimbursement for FM Diversion Flood Project Costs:
  - a. Costs totaling \$135,130.77
  - b. Costs totaling \$13,901.70
28. Presentation by Gate City Bank regarding the Neighborhood Revitalization Initiative (NRI) Program.
29. Public Hearings - 5:15 pm:
  - a. Special assessments of sewer repairs.

- b. Schatz Fourth Addition (5622, 5630, 5650 34th Avenue South; 5621, 5631 and 5651 36th Avenue South; and 3435, 3475 and 3501 56th Avenue South); approval recommended by the Planning Commission on 2/5/19:
    - 1. Zoning Change to repeal and re-establish a C-O, Conditional Overlay.
    - 2. 1st reading of rezoning Ordinance.
  - c. Plat of King Third Addition, a replat of Lot 6, Block 1 (3173 43rd Street South); approval recommended by the Planning Commission on 1/3/19.
- 30. Initiate and Draft a Request for Proposal (RFP) for the Land Development Code Diagnostic Study.
  - 31. Amendment Number 1 to Project Partnership Agreement between the Department of the Army and the City of Fargo, North Dakota, the City of Moorhead, Minnesota, and the Metro Flood Diversion Authority for Construction of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.
  - 32. Spring Flood Outlook.
  - 33. Authorize Engineering Department to obtain appraisals and begin negotiating purchase of properties in Belmont area.

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).

27a

**TO: BOARD OF CITY COMMISSIONERS**  
**FROM: KENT COSTIN, DIRECTOR OF FINANCE** *KAC*  
**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**  
**DATE: February 28, 2019**

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 \$135,130.77.

February 28, 2019

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 #82 pursuant to the terms and conditions of House Bill 1020 for costs incurred from January 1, 2019 to January 31, 2019 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 \$135,130.77.

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	\$188,338,407.83	\$135,130.77	100%	\$135,130.77	\$55,526,461.41

**Project Narrative, this request:**


Project Number	Project Description
V01704	Right of entry for biotic and geomorphic services
V02821	Pay Application #5 for WP42F.2 – Flood Control 2 <sup>nd</sup> St S
V04201	Traffic control signage
V04802	Utility relocations at Southern Embankment

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  
January 2019**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-0000-206.10-00	1/31/2019	294141	HOUGH INCORPORATED	38,000.01	Retainage PO #185963	V02821	2ND ST S FLOOD CONTROL
			<b>Total Retainage</b>	<b>38,000.01</b>			
790-7930-429.34-65	1/31/2019	294116	CASS COUNTY JOINT WATER RESOURCE DI	75,750.00	MANY INDIVIDUALS	V01704	ND LAND - BIOTIC GEO MORP
790-7930-429.34-65	1/22/2019	JB13180031	CITY OF FARGO-AUDITORS OFFICE	250.00	RCLS CCJWRD EXPENSE	V01704	ND LAND - BIOTIC GEO MORP
			<b>Total LERRDS - North Dakota - Right of Entry Requests</b>	<b>76,000.00</b>			
790-7950-429.38-99	1/17/2019	293857	CASS COUNTY TREASURER	174.60	END OF ROAD SIGNS	V04201	DUST/TRAFFIC CONTRL-INLET
			<b>Total ND Construction - Other Services</b>	<b>174.60</b>			
790-7950-429.73-52	1/31/2019	294141	HOUGH INCORPORATED	4,857.88	2 ST S FLOOD CONTROL	V02821	2ND ST S FLOOD CONTROL
			<b>Total ND Construction - Flood Control</b>	<b>4,857.88</b>			
790-7950-429.73-70	1/31/2019	294118	CENTURYLINK ASSET ACCOUNTING-BART	16,098.28	COSTS-UTILITY RELOCATION	V04802	S EMBANKMENT UTILITY RELCT
			<b>Total ND Construction - Utilities</b>	<b>16,098.28</b>			
			<b>Total Expense for Period</b>	<b>135,130.77</b>			

27b

**TO: BOARD OF CITY COMMISSIONERS**

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

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

**DATE: February 28, 2019**

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 January 2019.

**Suggested Motion:**

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$13,901.70



February 28, 2019

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 #83 pursuant to the terms and conditions of House Bill 1020 for costs incurred on the OHB Levee project from January 1, 2019 to January 31, 2019. 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 \$13,901.70.

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	\$188,473,538.60	\$13,901.70	100%	\$13,901.70	\$55,512,559.71

**Project Narrative, this request:**

Project Number	Project Description
V02411	Residential relocation assistance for homeowners that will be displaced by the O/H/B ring levee project

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  
 January 2019 - OHB Levee Related Costs**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-7930-429.67-11	1/31/2019	294116	CASS COUNTY JOINT WATER RESOURCE DI	13,901.70	AACTION MOVERS AND CHRIS	V02411	OXBOW MOU-RESIDENT RLCTN
<b>Total LERRDS - North Dakota - Residential Relocation Assistance</b>				<b>13,901.70</b>			
<b>Total Expense for Period</b>				<b>13,901.70</b>			

(28)

**MEMORANDUM**

**DATE: MARCH 7, 2019**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: NICOLE CRUTCHFIELD, PLANNING DIRECTOR** *NC*

**RE: GATE CITY BANK ANNOUNCES 2019 NRI PROGRAM FUNDING**

At the March 11<sup>th</sup> City Commission meeting, Gate City Bank will be in attendance to present the next round of funding for the Neighborhood Revitalization Program. Details about the program and information on how residents can apply are provided on the attached flyer. We will publish additional marketing materials throughout this spring as we inform residents about the program.

The Planning Department is proud to be part of the administration of this program. We see evidence every day on the benefits it provides to our residents as households diligently maintain and improve their homes.

# FARGO NEIGHBORHOOD REVITALIZATION INITIATIVE



**RATES AS LOW AS 4.30% APR\* • 10 YEAR OR 15 YEAR OPTIONS • \$10,000-\$75,000**

The Fargo Neighborhood Revitalization Initiative is established for City of Fargo homeowners to encourage the preservation of homes and add to the long-term value and life of their property and neighborhood. Gate City Bank is investing in this program by providing low-interest loans to eligible homeowners for qualified home improvement projects.

- Available to homeowners of an owner-occupied residence that is 40 years or older.
- Assessed value must be less than \$250,000.
- Requires automatic payment plan from Gate City Bank checking account.
- Application must be received on or before October 31, 2019.
- Subject to credit qualification and home evaluation.

**Contact the City of Fargo at 701-241-1474 or [fargond.gov/nri](http://fargond.gov/nri) for more information!**



38 locations in North Dakota and west central Minnesota



\*Terms and conditions may apply. A \$25,000 home equity loan at 3.95% interest rate for 120 monthly payment of \$252.52 will have an APR of 4.30%

Member FDIC

NOTICE OF HEARING  
FOR SPECIAL ASSESSMENT OF  
SEWER REPAIRS

29a

The Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing on special assessments for Sewer Repairs, provided in the list below, on Monday, March 11, 2019, at 5:15 o'clock p.m. in the City Commission Room, City Hall, Fargo, North Dakota.

Address	Parcel	Assessment
1340 5th Avenue South	01-0700-02590-000	\$ 15,125.00
1445 16 1/2 Street South	01-2040-01930-000	\$ 9,500.00
1513 8th Avenue South	01-0560-00800-000	\$ 10,500.00
1346 9th Street North	01-2220-02310-000	\$ 5,375.00
1604 4th Street North	01-2100-01020-000	\$ 9,331.25
1402 20th Street South	01-1240-01150-000	\$ 10,730.00
703 4th Street South	01-1440-01051-000	\$ 10,511.00
1119 11th Street South	01-1860-00120-000	\$ 10,000.00
921 29th Street North	01-0480-02830-000	\$ 5,282.00
1123 6th Street South	01-0780-00900-000	\$ 9,066.00
1127 9th Avenue South	01-2400-01990-000	\$ 10,983.00
2106 7th Street North	01-3020-00330-000	\$ 11,675.00
700 9th Street South	01-2400-00951-000	\$ 8,180.00
210 21st Avenue North	01-1110-00290-000	\$ 3,087.50
817 14th Street South	01-0540-01080-000	\$ 9,650.00
112 Roberts Street North	01-2381-00700-000	\$ 43,725.00
1521 3rd Avenue South	01-0980-01330-000	\$ 7,220.00
1317 8th Avenue North	01-1620-00400-000	\$ 11,975.00
1301 Elm Circle North	01-4200-00030-000	\$ 3,840.00
408 8th Avenue South	01-4100-00080-000	\$ 9,344.00
93 26th Avenue North	01-2120-01230-000	\$ 9,875.00
531 23rd Avenue South	01-3200-00290-000	\$ 5,000.00
1610 9th Street North	01-0380-02370-000	\$ 6,875.00
1650 11th Avenue South	01-0960-00010-000	\$ 8,000.00
1330 14th Street South	01-2040-00390-000	\$ 7,062.50
1613 8th Street North	01-0380-03000-000	\$ 7,565.00
1810 12th Avenue South	01-1270-02150-000	\$ 8,225.00
1033 12th Street North	01-0440-02110-000	\$ 14,488.25
914 18th Avenue South	01-2660-00060-000	\$ 12,500.00
1614 7th Street North	01-0380-02840-000	\$ 6,645.00
810 19th Street South	01-1700-00240-000	\$ 5,375.00
1445 2nd Avenue South	01-0700-00580-000	\$ 8,600.00
1113 7th Street North	01-0440-00110-000	\$ 8,093.75
1621 8th Avenue South	01-0560-00580-000	\$ 9,200.00
1101 4th Street South	01-4100-01530-000	\$ 5,500.00
1111 4th Street South Unit A	01-4100-01540-010	\$ 987.50
1111 4th Street South Unit B	01-4100-01540-020	\$ 987.50
1111 4th Street South Unit C	01-4100-01540-030	\$ 987.50
1111 4th Street South Unit D	01-4100-01540-040	\$ 987.50
1111 4th Street South Unit E	01-4100-01540-050	\$ 987.50
1111 4th Street South Unit F	01-4100-01540-060	\$ 987.50

1111 4th Street South Unit G	01-4100-01540-070	\$ 987.50
1111 4th Street South Unit H	01-4100-01540-080	\$ 987.50
1005 9th Street South	01-0780-00520-000	\$ 8,037.50
402 9th Avenue South	01-4100-00570-000	\$ 9,000.00
1516 2nd Street North	01-1890-00180-000	\$ 9,020.00
1522 10th Avenue South	01-0560-02120-000	\$ 7,625.00
1129 7th Street North	01-0440-00100-000	\$ 6,701.00
1428 12th Street South	01-0280-00530-000	\$ 5,450.00
1017 8th Avenue North	01-1140-00210-000	\$ 10,406.00
1421 13 1/2 Street South	01-2040-03140-000	\$ 15,350.00
1634 7th Street North	01-0380-02890-000	\$ 7,850.00
1339 6th Street South	01-1400-00130-000	\$ 7,600.00
1014 18th Avenue South	01-2660-00010-000	\$ 13,625.00
1625 3rd Street North	01-2100-02370-000	\$ 14,000.00
1226 Oak Street North	01-1320-00080-000	\$ 10,265.00
1533 3rd Avenue South	01-0980-01320-000	\$ 6,593.75
311 Elmwood Avenue South	01-0120-01890-000	\$ 8,000.00
1809 4th Street North	01-2100-01790-000	\$ 11,375.00
316 15th Street North	01-2340-00920-000	\$ 9,990.69
1801 5th Street North	01-2100-00870-000	\$ 8,306.00
454 Elmwood Avenue South	01-0120-02380-000	\$ 6,500.00
1343 2nd Avenue South	01-0700-00900-000	\$ 12,734.50

Any person aggrieved may appeal from the action of the Board of City Commissioners by filing with the City Auditor, prior to March 11, 2019, a written Notice of Appeal stating therein the grounds upon which the appeal is based. Any person having filed such a Notice may appear before the Board of City Commissioners to present reasons why the action of the Board of City Commissioners should not be confirmed.

City Auditor's Office  
(February 11 & February 18, 2019- Legals)

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INSTRUCTIONS TO THE FORUM

Please publish on Monday, February 11 & February 18, 2019 – Legals.

I will need an affidavit of publication.

Bill to:           CITY AUDITOR'S OFFICE  
                      ATTN MICHELLE

P.O. BOX 2471  
FARGO ND 58107

If you have any questions, please call 241-1301.  
Steve Sprague



2961

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Schatz 4th Addition	<b>Date:</b>	1/17/2019
		<b>Update:</b>	3/1/2019
<b>Location:</b>	5622, 5630, 5650 34 <sup>th</sup> Avenue South; 5621, 5631, and 5651 36 <sup>th</sup> Avenue South; and 3435, 3475, and 3501 56 <sup>th</sup> Street South	<b>Staff Contact:</b>	Kylie Murphy
<b>Legal Description:</b>	Lots 1-4, Block 1, Schatz 4th Addition		
<b>Owner(s)/Applicant:</b>	Jon Youness	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (to repeal and reestablish a C-O, Conditional Overlay on Lots 1-4, Block 1, Schatz 4 <sup>th</sup> Addition)		
<b>Status:</b>	City Commission Public Hearing: March 11, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Office and Retail Sales and Services	<b>Land Use:</b> No Change
<b>Zoning:</b> LC, Limited Commercial, with a C-O, Conditional Overlay	<b>Zoning:</b> No Change
<b>Uses Allowed:</b> Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, <del>off premise advertising signs</del> , commercial parking, retail sales and service, <del>self-service storage</del> , <del>vehicle repair</del> , limited vehicle service.	<b>Uses Allowed:</b> No Change
<b>Maximum Lot Coverage Allowed:</b> 55% building coverage	<b>Maximum Lot Coverage Allowed:</b> No change

**Proposal:**

The applicant is seeking a zoning change to repeal and reestablish a C-O, Conditional Overlay on Lots 1-4, Block 1, Schatz 4<sup>th</sup> Addition. The subject property is located at 5622, 5630, 5650 34<sup>th</sup> Avenue South; 5621, 5631 and 5651 36<sup>th</sup> Avenue South; and 3435, 3475, 3501 56<sup>th</sup> Street South.

The original C-O on the subject property is intended for commercial development, however, the applicant has a more detailed development plan for the area. The proposed C-O maintains all of the original C-O requirements, while seeking to extend the use of portable signs until June 30, 2021 or until the development has been completed and issued certificates of occupancy within the completed development, whichever comes first. A draft of the proposed C-O language is attached to this staff report.

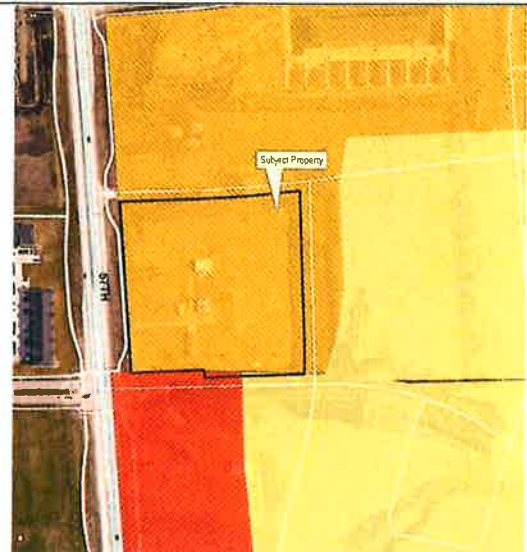
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

**Surrounding Land Uses and Zoning Districts:**

- North: Across 34<sup>th</sup> Avenue South, MR-3, Multi-Dwelling Residential, with attached residential (multi-dwelling structure) use
- East: Across 56<sup>th</sup> Street South, MR-1, Multi-Dwelling Residential, with attached residential (multi-dwelling structure) use
- South: LC, Limited Commercial with daycare, retail, and office uses
- West: Across Veterans Blvd is West Fargo, ND

**Area Plans:**

The subject property is located in the 2003 Southwest Future Land Use Plan. The property is designated as the most suitable for "Low/Medium Density or Medium/High Residential Density" land use.



**Schools and Parks:**

**Schools:** The subject property is located within the West Fargo School District and is served by Independence Elementary, Liberty Middle and Sheyenne High schools.

**Parks:** Brandt Crossing Park (5009 33rd Avenue S) is located about 0.29 miles east of the subject property and offers the amenities of basketball, dog park, playground, recreational trails, and shelter amenities.

**Pedestrian / Bicycle:** Off-road bike facilities are located along Veterans Boulevard adjacent of the subject property to the west. Off-road bike facilities are a component of the metro a component of the metro area trail system.

**Staff Analysis:**

**Zoning**

Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

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?**  
 Staff is unaware of any zoning map error in regard to the subject property. Staff finds that the requested zone change is justified by a change in conditions, as the developer has a clearer picture of the type of development. The proposed C-O zoning is requested in order to keep the development compatible with the existing and emerging development in the area.  
**(Criteria Satisfied)**
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?**  
 City Staff and other applicable review agencies have reviewed this proposal. No deficiencies have been noted in the ability to provide all of the necessary services to the site. The subject property abuts public right-of-way.  
**(Criteria Satisfied)**
3. **Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?**  
 Staff has no evidence that would suggest this proposal would adversely affect the condition or value of the property in the vicinity. 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 phone calls or comments in response to these notices. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity.  
**(Criteria Satisfied)**

**4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**

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.  
**(Criteria Satisfied)**

**Planning Commission Recommendation: February 5, 2019**

On February 5, 2019, with a 7-0 vote, the Planning Commission accepted the findings and recommendations of staff and recommended approval to the City Commission of the proposed zoning change to repeal and reestablish a C-O, Conditional Overlay on Lots 1-4, Block 1, Schatz 4<sup>th</sup> Addition, 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."

**Staff Recommendation:**

"To accept the findings and recommendations of the Planning Commission 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 to repeal and reestablish a C-O, Conditional Overlay on Lots 1-4, Block 1, Schatz 4<sup>th</sup> Addition, 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."

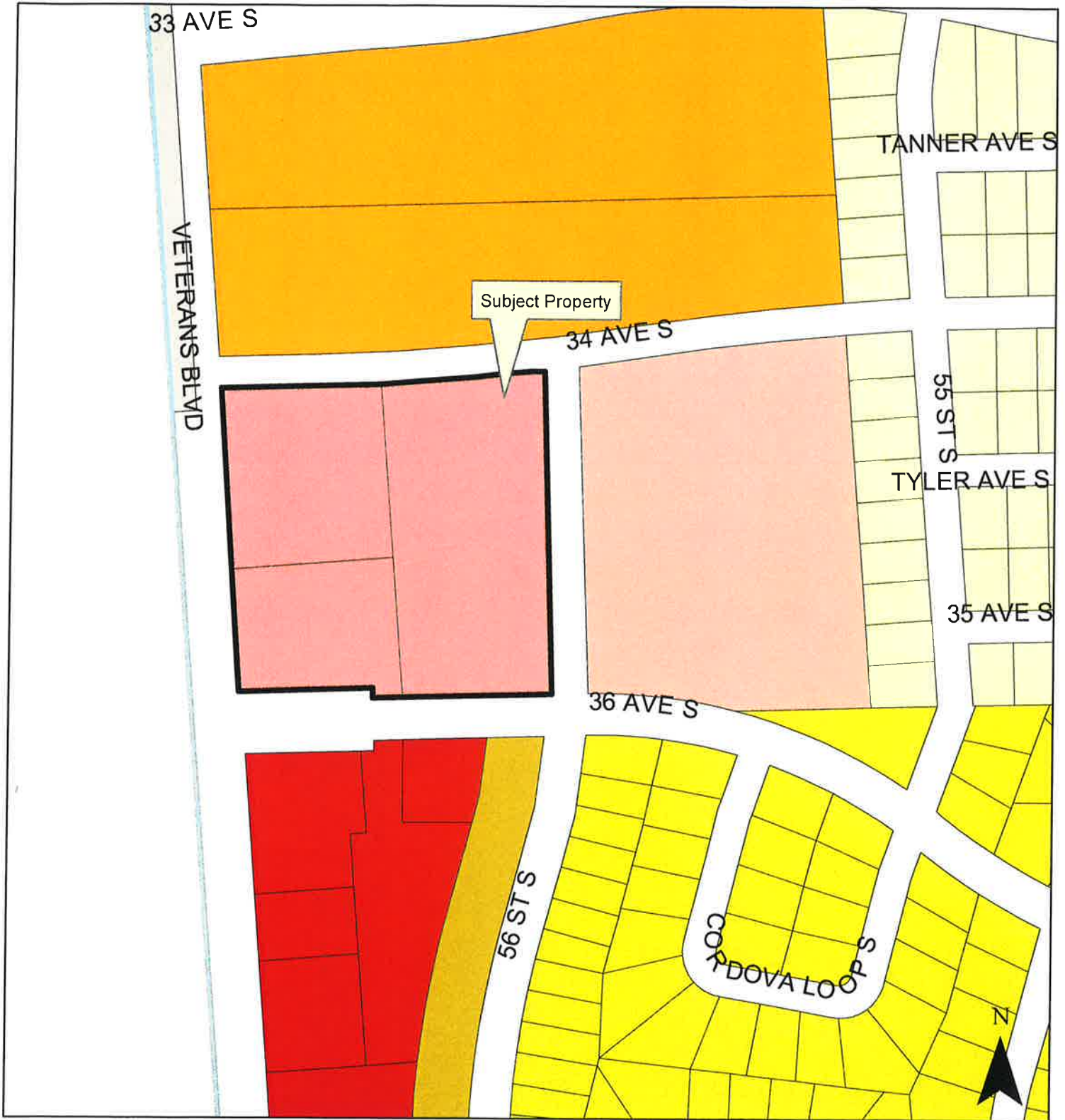
**Attachments:**

1. Zoning Map
2. Location Map
3. Draft C-O

# Zone Change (Repeal & Reestablish C-O)

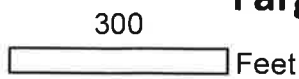
## Schatz 4th Addition

5622, 5630, & 5650 34th Ave S; 5621, 5631, & 5651 36th Ave S; 3435, 3475, & 3501 56th Ave S



### Legend

AG	LC	MHP	SR-2
DM	GC	NO	SR-3
GC	MR-1	NO	SR-4
GO	MR-2	NO	SR-5
GO	MR-3	UML	City Limits

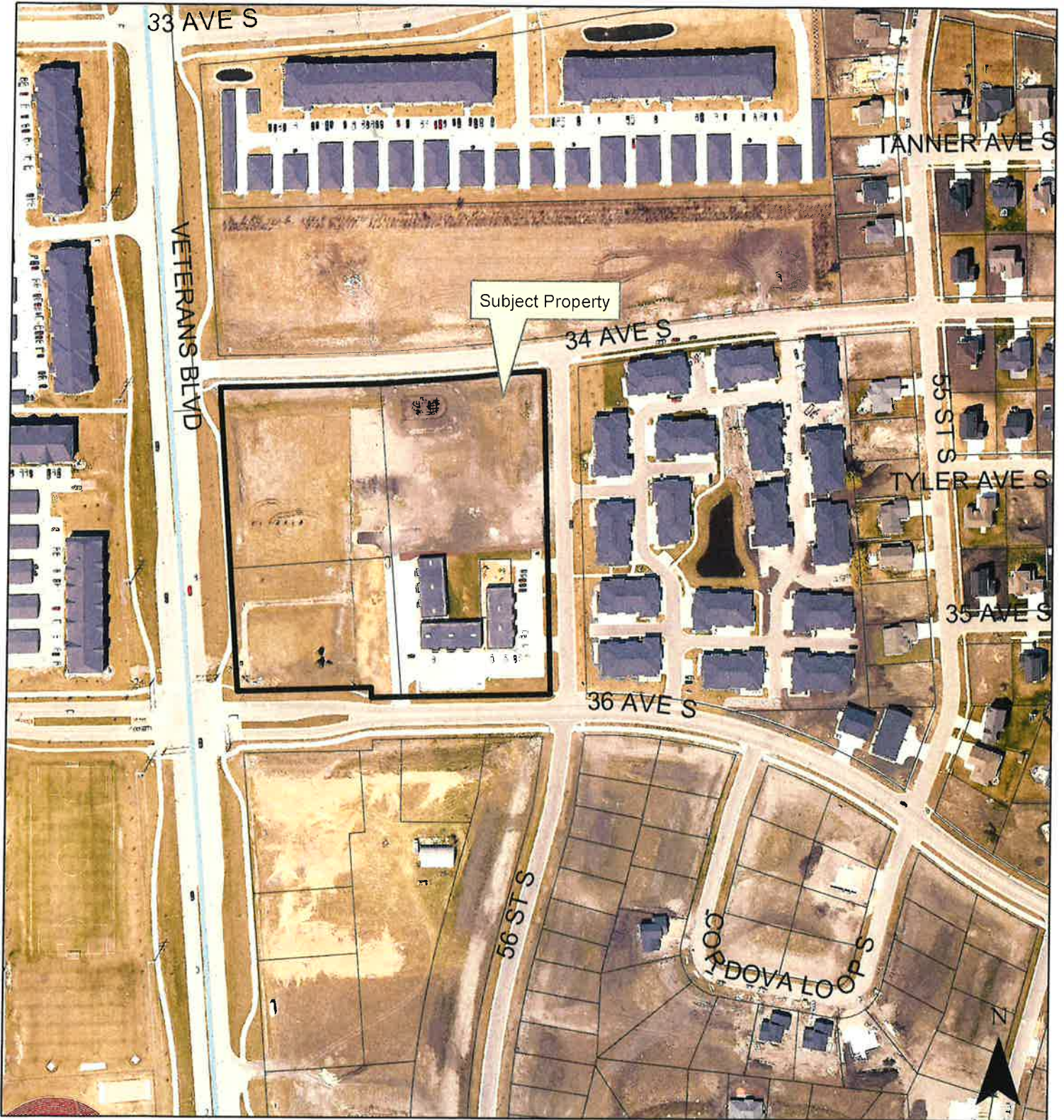


Fargo Planning Commission  
February 5, 2019

# Zone Change (Repeal & Reestablish C-O)

## Schatz 4th Addition

5622, 5630, & 5650 34th Ave S; 5621, 5631, & 5651  
36th Ave S; 3435, 3475, & 3501 56th Ave S



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

2962

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

1  
2 AN ORDINANCE REPEALING AND RE-ESTABLISHING  
3 A CONDITIONAL OVERLAY DISTRICT ON CERTAIN  
4 PARCELS OF LAND LYING IN SCHATZ FOURTH ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

7 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning  
8 request on February 5, 2019; and,

9 WHEREAS, the rezoning changes were approved by the City Commission on March 11,  
10 2019; and,

11 WHEREAS, it is intended by this ordinance that the base zoning districts applicable to the  
12 property described herein shall remain unchanged and that the intended effect hereof is to repeal the  
existing "C-O", Conditional Overlay, District and to amend the "C-O" District by repeal and re-  
13 enactment or re-establishment;

14 NOW, THEREFORE,

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

16 Section 1. The following described property:

17 Lots One (1) through Four (4), Block One (1) of Schatz Fourth Addition to the City  
18 of Fargo, Cass County, North Dakota,

19 is hereby rezoned to retain the base zoning district for said property of a "LC", Limited Commercial  
20 Zoning District and to repeal the existing "C-O", Conditional Overlay, District and to re-establish  
the "C-O", Conditional Overlay, District to read as follows:  
21  
22  
23

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FARGO, NORTH DAKOTA

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

Section 2. The "C-O", Conditional Overlay, District modifications and restrictions are as follows:

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding future commercial and residential development within the described property.
2. All primary buildings shall be constructed or clad with materials that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; EIFS (exterior insulation finishing system), glass, metal panes similar to 'Aluco Bond' and synthetic panels similar to 'Trespa'. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the wood may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures but shall not exceed 75% of the building elevation for and 50% for commercial.
3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.
4. All building façades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade, and extending at least 20 percent of the length of the façade. No uninterrupted length of any façade shall exceed 150 horizontal feet. An articulated façade would emphasis elements on the face of a wall including change in setback, materials, roof pitch or height.
5. Ground floor façades that front Veterans Blvd shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length. If the façade facing the street is not the front, it shall include the same features and/or landscaping in scale with the façade.
6. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets, including but not limited to the back of the structure. The average

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FARGO, NORTH DAKOTA

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

1 height of such parapets shall not exceed one third of the height of the supporting wall,  
2 and such parapets shall not be of a constant height for a distance of greater than 150 feet.

3 7. Dumpsters and outdoor storage areas must be completely screened from view. Collection  
4 area enclosures shall contain permanent walls on at least three (3) sides. The fourth side  
5 shall incorporate a metal gate to visually screen the dumpster or compactor; however, if  
6 the service side does not face any public right-of-way or residentially zoned property the  
7 metal gate shall not be required.

8 8. Separate vehicular and pedestrian circulation systems shall be provided. An onsite system  
9 of pedestrian walkways shall be designed to provide direct access and connections to and  
10 between the following:

11 a. The primary entrance or entrances to each commercial building, including pad site  
12 buildings.

13 b. Any sidewalks or walkways on adjacent properties that extend to the boundaries  
14 shared with the commercial development.

15 c. Parking areas or structures that serve such primary buildings.

16 d. Connections between the on-site (internal) pedestrian walkway network and any  
17 public sidewalk system located along adjacent perimeter streets shall be provided at  
18 regular intervals along the perimeter street as appropriate to provide easy access from  
19 the public sidewalks to the interior walkway network.

20 e. Any public sidewalk system along the perimeter streets adjacent to the commercial  
21 development.

22 f. Where practical and appropriate, adjacent land uses and developments, including but  
23 not limited to residential developments, retail shopping centers, office buildings.

9. A minimum of 5% of the internal surface area of the parking lot shall be landscaped. The  
cumulative open space (green space) of each property shall consist of at least 10% of the  
total property acreage.

10. As to the Use Categories applicable to the base, "LC", zoning district, the following uses  
are prohibited.

a. Detention Facilities

b. Self Service Storage

c. Adult Entertainment Center



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FARGO, NORTH DAKOTA

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

d. Off-Premise Advertising Signs (directional signs that are less than 50 square feet in size are exempt for this prohibition)

e. Portable Signs (portable signs will be allowed until June 30, 2021 or until the development has been completed and issued certificates of occupancy within the completed development, whichever comes first)

f. Vehicle Repair

g. Industrial Service

h. Manufacturing and Production

i. Warehouse and Freight Movement

j. Aviation/Surface Transportation

Section 3. 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 4. This ordinance shall be in full force and effect from and after its passage and approval.

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

(SEAL)

Attest:

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

First Reading:  
Second Reading:  
Final Passage:

**Site Amenities and Project Plan  
King Third Addition  
2019**


1. **Location:** The subject property is located at the northwest quarter of the intersection of 32<sup>nd</sup> Avenue South and 43<sup>rd</sup> Street South, currently addressed as 3173 43<sup>rd</sup> Street South.
2. **Project Details:** The purpose of this subdivision is to support the development of two separate structures owned by separate entities. The anticipated occupancy of both structures is office.
3. **Access Control:** Vehicular access will be restricted to 43<sup>rd</sup> Street South. The subdivision includes a negative access easement along 32<sup>nd</sup> Avenue and a portion of 43<sup>rd</sup> Street South. Development may utilize the existing driveway located at the northeast corner of the subdivision. If a new driveway is necessary, it shall be spaced from the existing driveway.
4. **Storm Water Management:** The lots contained in this plat are served by a regional storm water facility southwest of the intersection of 31<sup>st</sup> Avenue and 44<sup>th</sup> Street. This pond was recently expanded to provide up to 75% imperviousness for these lots and the remainder of the King Additions. The pond also addresses storm water quality, as the water is treated in the pond before being gradually discharged into the City's system.
5. **Utility Services:** Private utilities will be brought into the newly created lots via a sanitary sewer line extended from the City main on 43<sup>rd</sup> Street, and a water main loop serviced from both 43<sup>rd</sup> Street and 32<sup>nd</sup> Avenue South as approved by City of Fargo public works. The water loop will tie into the existing 6" hydrant lead on 32<sup>nd</sup> Avenue by relocating the hydrant and providing a gate valve to control the main. The City of Fargo shall be provided access to operate any water shut-off valves located within the Access and Utility easement included on the plat.
6. **Flood Protection:** King 3<sup>rd</sup> Addition will be protected from flooding with the following measures:
  - Internal Flooding – rainfall or spring event induced:
    - Storm sewer systems designed and installed to city standards;
    - Storm water detention facilities located in the southwest corner of 31<sup>st</sup> Avenue and 44<sup>th</sup> Street South.
  - FEMA Floodplain Expansion: King Third Addition is located within the existing FEMA Floodplain. It is acknowledged by the developer that property within the floodplain will be required to be LOMR'd. It is also acknowledged by the developer that construction of structures shall comply with City of Fargo Flood Proofing Requirements when applicable.
7. **Right-of-Way:** Twenty (20) feet of right-of-way is being dedicated for 32<sup>nd</sup> Avenue South. Additionally, an existing 20-foot-wide Street & Utility Easement is being vacated at the location of the street dedication, as shown on the plat. This easement is no longer necessary since this area will become dedicated public right-of-way.

Site Amenities and Project Plan  
King Thrd Addition - Page 2

Amenities Plan is hereby approved:

  
\_\_\_\_\_  
Rachel C. Ness, MD  
President  
MRN Holdings, LLC

1/9/2019  
Date

  
\_\_\_\_\_  
Brenda E. Derrig, City Engineer  
City of Fargo

2-15-2019  
Date

29c

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	King Third Addition	<b>Date:</b>	12/27/2018
		<b>Update:</b>	3/5/2019
<b>Location:</b>	3173 43 <sup>rd</sup> Street South	<b>Staff Contact:</b>	Aaron Nelson
<b>Legal Description:</b>	Lot 6, Block 1, King Second Addition		
<b>Owner(s)/Applicant:</b>	MRN Holdings LLC/Matt & Rachel Ness	<b>Engineer:</b>	Moore Engineering
<b>Entitlements Requested:</b>	Major Subdivision		
<b>Status:</b>	City Commission Public Hearing: March 11, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Vacant	<b>Land Use:</b> Office/Commercial
<b>Zoning:</b> LC, Limited Commercial	<b>Zoning:</b> Unchanged
<b>Uses Allowed:</b> LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, 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> Maximum 55% building coverage	<b>Maximum Density Allowed:</b> Unchanged

**Proposal:**

The applicant is seeking approval of a major subdivision. The proposed subdivision would replat one existing lot into two new lots and would dedicate an additional 20 feet of public right-of-way for 32<sup>nd</sup> Avenue South. A negative access easement along 32<sup>nd</sup> Avenue South would prevent vehicular access to/from this arterial street. An access and utility easement accommodates access and utilities from 43<sup>rd</sup> Street South.

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.

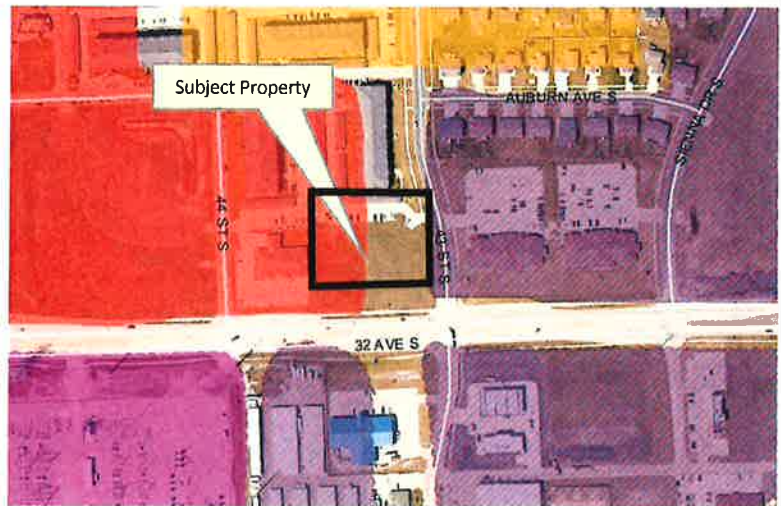
**Surrounding Land Uses and Zoning Districts:**

- North: Multi-dwelling residential within the MR-3, Multi-Dwelling Residential zoning district.
- East: Office/commercial within the GC, General Commercial zoning district
- South: Self-service storage and retail sales & services within the GC, General Commercial zoning district
- West: Office/commercial within the LC, Limited Commercial zoning district

**Area Plans:**

The subject property is located within the 2001 City of Fargo Growth Plan, as referenced within the 2007 Growth Plan. The plan identifies this area as future commercial.

- Commercial
- Commercial or Medium/High Density
- Commercial or Medium/High or Park/Open Space
- Commercial or Park/Open Space
- Either Industrial or Commercial
- Either Office or Commercial
- Either Office or Medium/High Density Residential
- Industrial
- Low/Medium Density Residential
- Low/Medium Density or Medium/High Density
- Medium/High Density Residential
- Medium/High Density or Park/Open Space
- Office
- Office or Commercial or Medium/High Density
- Park/Open Space
- Public
- Public or Commercial
- Public or Low/Medium Density
- Public or Office
- Storm Water



**Context:**

**Schools:** The subject property is located within the West Fargo School District. It is within the school boundaries of Freedom Elementary, Liberty Middle, and Sheyenne High schools.

**Parks:** The subject property is located a half-mile south of Anderson Park and 1/3-mile northwest of Pointe West Park.

**Pedestrian / Bicycle:** There is an existing shared use path located along the north side of 32<sup>nd</sup> Avenue S.

**Staff Analysis:**

**Major Subdivision**

The LDC stipulates that the following criteria is met before a major plat can be approved:

1. **Section 20-0907(C)(1)(Development Review Procedures—Subdivisions—Major Subdivisions) of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.** This subdivision is intended to plat two legal lots for office/commercial development. The proposed use is consistent with the existing zoning and the growth plan for the area. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no inquiries about the application. **(Criteria Satisfied)**
  
2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.** This subdivision is intended to plat two legal lots for office/commercial development. The proposed use is consistent with the existing zoning and the growth plan for the area. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

**3. Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby approve the proposed subdivision plat, *King Third Addition*, on the basis that it satisfactorily complies with the 2007 Growth Plan, standards of Article 20-06, and all other applicable requirements of the LDC."

**Planning Commission Recommendation: January 3, 2019**

On January 3, 2019, by a vote of 9-0, the Planning Commission recommended approval to the City Commission of the proposed subdivision plat, *King Third Addition*, on the basis that it satisfactorily complies with the 2007 Growth Plan, standards of Article 20-06, and all other applicable requirements of the LDC.

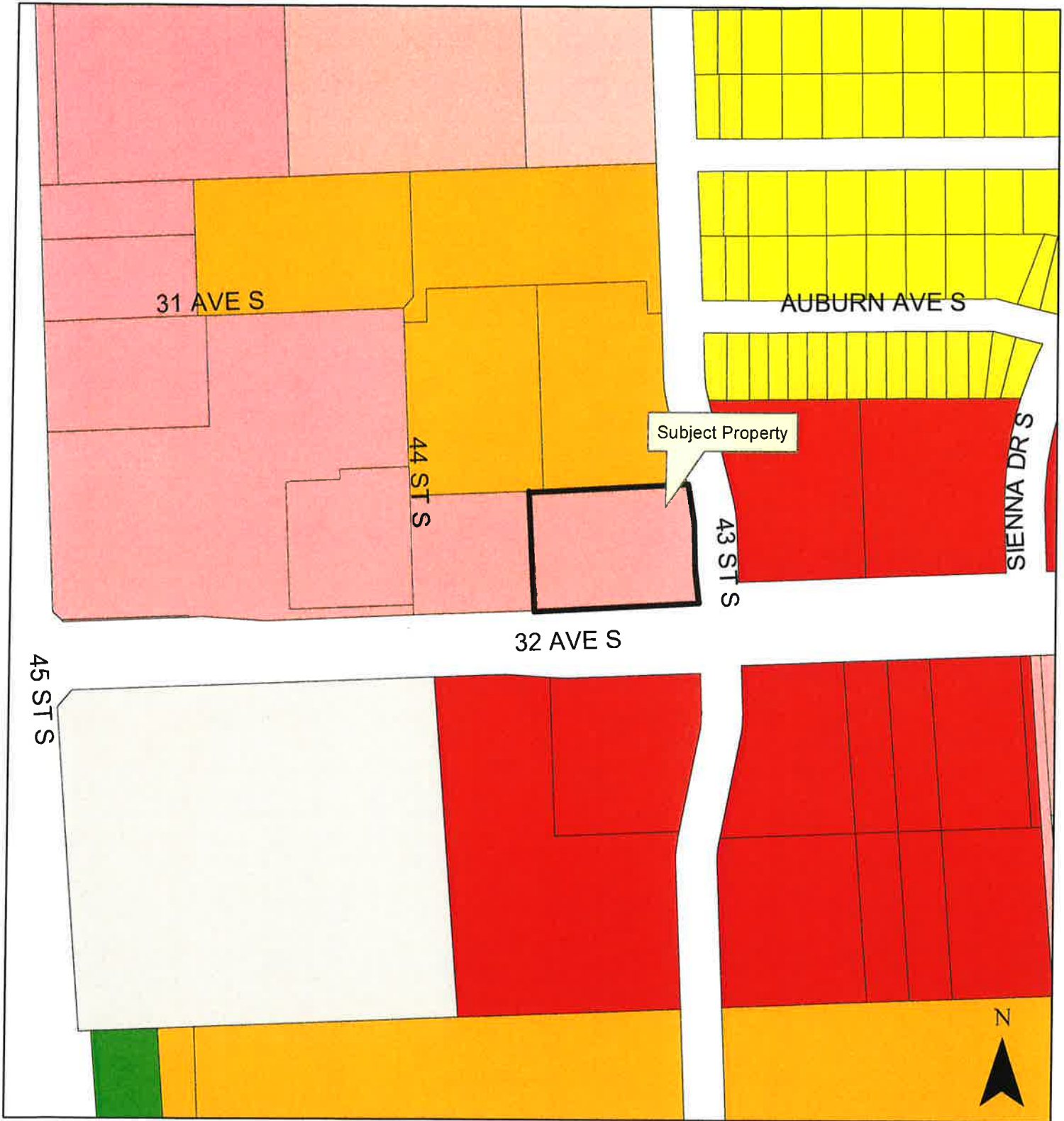
**Attachments:**

1. Zoning Map
2. Location Map
3. Subdivision Plat
4. Amenities Plan

# Plat (Minor)

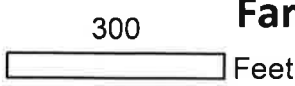
## King 3rd Addition

3173 43rd Street South



### Legend

AG	LC	MHP	SR-2
DM	MR-1	NO	SR-3
CC	MR-2	PA	SR-4
GO	MR-3	UM	SR-5
			City Limits



Fargo Planning Commission

January 3, 2019

# Plat (Major)

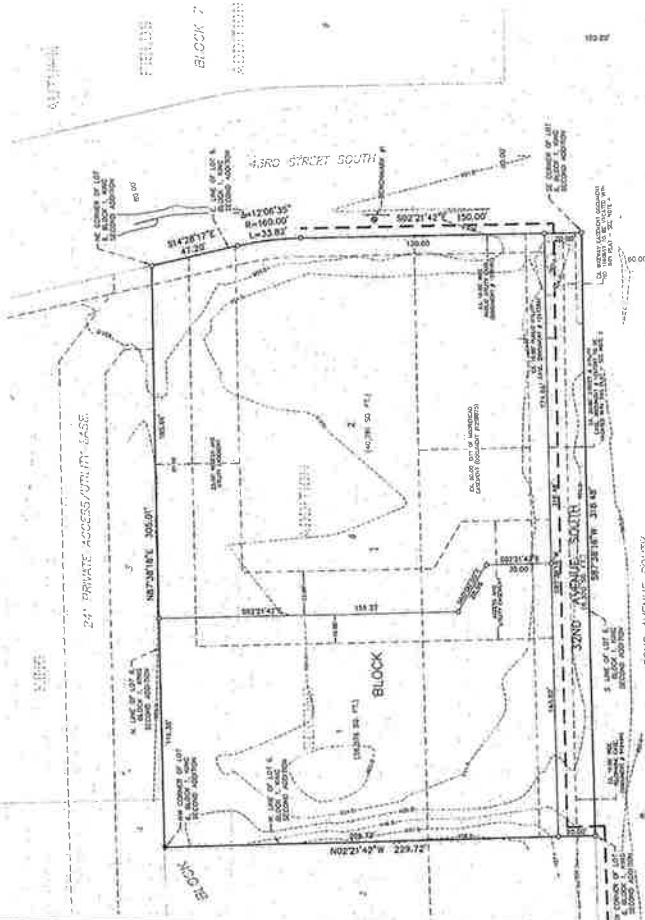
## King 3rd Addition

3173 43rd Street South





A MAJOR SUBDIVISION PLAT OF  
**KING THIRD ADDITION**  
 TO THE CITY OF FARGO, A REPLAT OF LOT 6, BLOCK 1, KING SECOND ADDITION TO  
 THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.



**BENCHMARK LIST**  
 ALL ELEVATIONS SHOWN ARE MAHO 88

NO.	DESCRIPTION	LOCATION	ELEV.
1	TOP SURF OF HIGHWAY 1	AT SW CORNER OF INTERSECTION OF LOT 1, BLOCK 1, KING SECOND ADDITION & LOT 1, BLOCK 1, KING SECOND ADDITION AT WEST END OF LAND 11, 12 & 13	107.94

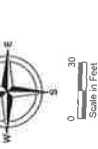
**LEGEND**

- NON-ADJACENT EXISTING BOUNDARY LINE
- ADJACENT EXISTING BOUNDARY LINE
- REPLAT BOUNDARY LINE
- LOT LINE
- PLAT BOUNDARY LINE
- ESTABLISHED LOT LINE
- ESTIMATED LOT LINE
- CONTIGUOUS LINE WITH ELEVATION 855.00' (NAVD 88)
- LINE OF LOT 1, KING SECOND ADDITION
- LINE OF LOT 1, KING SECOND ADDITION
- LINE OF LOT 1, KING SECOND ADDITION

ZONE AE FIRM MAP NO. 3801(2)FIRM

**NOTES:**

- MAKE FLOOD ELEVATION OF 855.00' FROM THE FLOOD ELEVATION OF 855.00' ON THE MAP OF THE CITY OF FARGO, NORTH DAKOTA, RECORD 2012 JANUARY 11, THENCE
- PLAT PORTION OF THE EXISTING 30' STREET AND 1/2" C&G LATERALITY RECORD FEBRUARY 29, 2006, BEING THE PORTION OF THE NORTH 1/2" OF LOT 6, BLOCK 1, KING SECOND ADDITION IS HEREBY REPEATED AND BEING REPEATED IS HEREBY REPEATED.
- THE BEINGING AND BEINGING AS IT APPLIES TO LOT 1, BLOCK 1, KING SECOND ADDITION IS HEREBY REPEATED AND BEING REPEATED IS HEREBY REPEATED AND BEING REPEATED IS HEREBY REPEATED.
- PLAT PORTION OF THE EXISTING BOUNDARY LINE BEING THE PORTION OF THE NORTH 1/2" OF LOT 6, BLOCK 1, KING SECOND ADDITION IS HEREBY REPEATED AND BEING REPEATED IS HEREBY REPEATED.



**RESURVEY**

BEFORE THIS PLAT IS RECORDED, I, THE ENGINEER, HAVE BEEN ADVISED THAT THE ABOVE DESCRIBED LAND IS PART OF THE KING SECOND ADDITION TO THE CITY OF FARGO, NORTH DAKOTA, RECORD 2012 JANUARY 11, THENCE. THAT SAID PLAT IS A REPLAT OF LOT 6, BLOCK 1, KING SECOND ADDITION TO THE CITY OF FARGO, NORTH DAKOTA, RECORD 2012 JANUARY 11, THENCE. THAT SAID REPLAT IS A REPLAT OF LOT 6, BLOCK 1, KING SECOND ADDITION TO THE CITY OF FARGO, NORTH DAKOTA, RECORD 2012 JANUARY 11, THENCE. THAT SAID REPLAT IS A REPLAT OF LOT 6, BLOCK 1, KING SECOND ADDITION TO THE CITY OF FARGO, NORTH DAKOTA, RECORD 2012 JANUARY 11, THENCE.

**NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA**

**STATE OF NORTH DAKOTA**

**NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA**

**STATE OF NORTH DAKOTA**

**NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA**

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2018.

**FRANK TRUCKER, Chairman**

**STATE OF NORTH DAKOTA**

**CITY OF FARGO**

**CITY ENGINEER, JEROME L. STROUB**

**STATE OF NORTH DAKOTA**

**CITY OF FARGO**

**CITY ENGINEER, JEROME L. STROUB**

**NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA**

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**STATE OF NORTH DAKOTA**

**CITY ENGINEER, JEROME L. STROUB**

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**STATE OF NORTH DAKOTA**

**CITY OF FARGO**

**CITY ENGINEER, JEROME L. STROUB**

**STATE OF NORTH DAKOTA**

30

MEMORANDUM

**Planning & Development**  
 225 4th Street North  
 Fargo, ND 58102  
 Office: 701.241.1474 | Fax: 701.241.1526  
 Email: [planning@FargoND.gov](mailto:planning@FargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

**TO:** Fargo City Commission

**FROM:** Nicole Crutchfield, Planning Director  
 Aaron Nelson, Planning Coordinator

**DATE:** March 6, 2019

**RE:** Initiation and RFP for Land Development Code Diagnostic Study

Planning Department staff is requesting formal approval to move forward with a request for proposal (RFP) to hire a professional consultant to conduct a Land Development Code (LDC) diagnostic study. The study will bring the staff, elected officials, Planning Commission and other stakeholders through a process to analyze the effectiveness of the City's development codes and review processes in order to assess the potential for future improvement and to identify the best course of action for achieving improvement.

Background

Modifications to the current Land Development Code has been a topic of ongoing discussion over the years. For instance, in 2015, the Board of City Commissioners established a task force to review residential development codes in response to a high volume of variance requests. The task force produced a number of short- to long-term recommendations aimed at improving the LDC, which were presented to the Board of City Commissioners on February 9, 2017. Recognizing that many of the issues identified during their process fell outside of their scope of review, the task force included a mid-term recommendation to conduct a comprehensive review of the LDC within a two-year period.

Within the most recent budgeting cycle, staff has worked to realign funding towards planning services in order to better utilize professional consultants for strategic projects, such as this. More recently, at the February 5<sup>th</sup> Planning Commission meeting, staff presented a general overview of the Land Development Code diagnostic study. Two weeks later, at the February 20<sup>th</sup> Planning Commission Brown Bag meeting, detailed discussion was had regarding the Land Development Code diagnostic study. Staff walked through the attached Project Summary with Planning Commission members.

In summary, staff intends to partner with a qualified professional consultant to lead a LDC diagnostic study and help the City identify the best course of action for improvement based on the results of the study. To this end, staff will draft and publish a request for proposal (RFP) in order to solicit interest from qualified consultants from across the country. Staff anticipates the RFP to be published by the end of May 2019, and for the selected consultant to complete work by February 2020.

Ultimately, the Planning Commission unanimously approved staff's request to initiate this study and to move forward with the RFP process at their regular meeting on March 5, 2019.

Suggested Motion

"To approve staff's request to draft and publish a request for proposal for the Land Development Code diagnostic study and to otherwise initiate this project."

# Project Summary

Project Name: Land Development Code Diagnostic Study

February 20, 2019

**Project Abstract:**

The purpose of this project is to partner with a qualified consultant to evaluate the City's development codes and processes in order to assess the potential for future improvement and identify the best course of action for achieving improvement.

**Purposes and Needs**

- To assess how well Fargo's development codes align with the City's development goals (such as those stated within the Go2030 Comprehensive Plan and related plans and policies), and the effectiveness of Fargo's development codes in reaching those goals.
- To assess how well Fargo's development codes align with citizen expectations and national development trends.
- To assess the simplicity, intelligibility, and overall user-friendliness of Fargo's development codes.
- To assess the appropriateness and legal compliance of Fargo's development codes.
- To assess stakeholder opinion and support of Fargo's development codes.
- To assess the impacts and effects of Fargo's development codes on City finances and the local economy.

**Outcomes & Deliverables:**

**Project Outcomes:**

- An understanding of the strengths and weaknesses of current development codes, as they relate to the Purposes & Needs outlined above.
- A clear rationale supporting a preferred alternative action.
- Buy-in, support, and general consensus from stakeholders on needed actions.

**Project Deliverables:**

- Assessment Report
- Recommendation on Alternatives Action Steps
- Presentations to Planning Commission, City Commission, and other applicable committees.

**Timeline:**

- RFP Available for Viewing                      May 31, 2019
- Questions Due                                      June 17, 2019
- Answers Due                                         June 24, 2019
- Proposals Due                                        July 1, 2019
- Interview Selection Notice                      July 15, 2019
- Interviews     July 29 – August 2, 2019
- Award Notice                                        August 15, 2019
- Contract Due                                         August 29, 2019
- Contract to City Commission                    September 9, 2019
- Project Kick-off                                     September 2019
- Project Completion                                February 2020

## Scope of Work

- **Project Management** – The consultant will take the lead in managing their time, staff, resources, budget, and related activities to ensure that the project objectives are met. The consultant will be in close communication with staff throughout the life of the project. Staff will provide general oversight of the consultant and will help to facilitate interactions with the Planning Commission and project stakeholders.
- **Public & Stakeholder Participation** – The consultant will develop a strategy for public and stakeholder participation in the project. The City will provide a list of potential stakeholders as a reference to the consultant.
- **Development Codes Analysis** – The consultant will conduct an in-depth and multi-faceted analysis of the City's development codes. The City's development codes are codified within the Land Development Code (LDC), which is Chapter 20 of the Fargo Municipal Code. While the LDC will be the primary focus of the analysis, it should be noted that there are a few development-related codes that are located outside of the LDC, which may also need to be considered as part of the analysis. The analysis is not intended to include assessment of building codes or fire codes, unless there is direct impact to the LDC or the objectives of this project.

It is anticipated that this analysis shall include the following components:

- *Alignment with Existing Plans & Policies* – An assessment of how well development codes align with the City's development goals (such as those stated within the Go2030 Comprehensive Plan and related plans and policies), and the effectiveness of current development codes in reaching those goals.
- *Legal Compliance* – An assessment of code compliance and alignment with state and federal requirements and enabling legislation.
- *Best Practices & Expectations* – An assessment of how well the City's development codes align with 1) expectations of citizens and the development community, 2) national development trends, and 3) municipal best practices.
- *Development Review Processes* – An assessment of the City's development review process, including application review, communications, application fees, etc.
- *User Friendliness* – An assessment of the simplicity, intelligibility, and overall usability of the City's development codes.
- *City Financial Impacts* – A high-level assessment of how development under current codes impacts costs and revenues of the City.
- *Economic Considerations* – A high-level assessment of how current development codes impact the local economy. This could include such factors as housing affordability, economic development goals, etc.
- **Development of Alternatives** – The consultant will develop and propose at least three (3) different alternative courses of action based on the results of the codes analysis. Each alternative developed shall be sufficiently detailed to clearly outline necessary action steps and discuss the pros and cons of each.
- **Recommendation on Preferred Alternative** – The consultant will develop a persuasive argument in favor of a preferred alternative. The preferred alternative will be selected with input from City staff and the Planning Commission.
- **Presentation & Communication** – The consultant will present the codes analysis report and alternatives recommendation to the Planning Commission, City Commission, and other applicable committees as defined in the final scope of work.



31

March 11, 2019

**To: Board of City Commissioners**  
**Fr: Mayor Dr. Tim Mahoney**  
**Re: Approval of Amendment #1 to Project Partnership Agreement (PPA)**

At the request of the FM Area Diversion Project's non-Federal sponsors (City of Fargo, City of Moorhead, & Metro Flood Diversion Authority), the Assistant Secretary of the Army (Civil Works) has approved an amendment to the Project Partnership Agreement (PPA). This PPA amendment will increase Federal participation in the Diversion Project to \$750,000,000; representing a \$300,000,000 increase in Federal support to the project.

With the approval of PPA Amendment #1 by the Department of the Army, the non-Federal sponsors are now requested to consider and approve the amendment at upcoming meetings in March 2019. The Moorhead City Council will consider the item on March 11, and the Metro Flood Diversion Authority will consider the same on March 14.

**Recommended Action:** Approve Amendment Number 1 to the Project Partnership Agreement between the Department of the Army and the City of Fargo (ND), City of Moorhead (MN), and the Metro Flood Diversion Authority.

**Attachments:** Colonel Samuel L. Calkins Correspondence to Mayor Mahoney  
Assistant Secretary of the Army (Civil Works) Approval Memorandum  
Amendment Number 1 to the Project Partnership Agreement between the Department of the Army and the City of Fargo (ND), City of Moorhead (MN), and the Metro Flood Diversion Authority.



**DEPARTMENT OF THE ARMY**  
ST. PAUL DISTRICT, CORPS OF ENGINEERS  
180 FIFTH STREET EAST, SUITE 700  
ST. PAUL, MN 55101-1678

Executive Office

Timothy J. Mahoney  
Mayor of Fargo  
200 Third Street North  
Fargo, North Dakota 58102-4809

Dear Mayor Mahoney:

Your request to Mr. R. D. James, Assistant Secretary of the Army (Civil Works) in a letter dated January 14, 2019, requesting that the project partnership agreement (PPA) for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project be amended to increase the Federal Participation Amount to \$750,000,000, has been approved. Attached is the amendment to the PPA approved by the ASA (CW).

The Assistant Secretary has delegated signature authority for the amendment to the St. Paul District Commander. Terry Williams will coordinate a date for executing this amendment.

Sincerely,

A handwritten signature in black ink that reads "Samuel L. Calkins".

Samuel L. Calkins  
Colonel, Corps of Engineers  
District Commander

Encl



**DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
CIVIL WORKS  
108 ARMY PENTAGON  
WASHINGTON DC 20310-0108**

**MAR - 1 2019**

**MEMORANDUM FOR THE DEPUTY COMMANDING GENERAL FOR CIVIL AND  
EMERGENCY OPERATIONS**

**SUBJECT: Fargo-Moorhead Metropolitan Area Flood Risk Management Project – Draft  
Amendment Number 1 to the Project Partnership Agreement (PPA)**

1. This responds to the memorandum from the Director of Civil Works dated February 26, 2019, requesting approval of the subject amendment which increases the Federal participation amount for the project from \$450,000,000 to \$750,000,000 and delegation of signature authority to the St. Paul District Commander.
2. Amendment Number 1 for the PPA is approved. I hereby delegate authority to sign the amendment, on behalf of the Department of the Army, to the St. Paul District Commander. Please make appropriate revisions to the PPA Amendment to reflect the delegated signature authority.

A handwritten signature in blue ink, appearing to read "R. James", is positioned above the typed name.

**R.D. JAMES**  
Assistant Secretary of the Army  
(Civil Works)

AMENDMENT NUMBER 1  
TO  
PROJECT PARTNERSHIP AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
THE CITY OF FARGO, NORTH DAKOTA,  
THE CITY OF MOORHEAD, MINNESOTA, AND  
THE METRO FLOOD DIVERSION AUTHORITY  
FOR  
CONSTRUCTION  
OF THE  
FARGO-MOORHEAD METROPOLITAN AREA  
FLOOD RISK MANAGEMENT PROJECT

THIS AMENDMENT NUMBER 1 is entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for St. Paul District; and the City of Fargo, North Dakota, represented by its Mayor; the City of Moorhead, Minnesota, represented by its Mayor and City Manager; and the Metro Flood Diversion Authority, represented by its Chair and two Co-Deputy Executive Directors (hereinafter collectively referred to as the "Non-Federal Sponsors").

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsors entered into a Project Partnership Agreement on July 11, 2016 (hereinafter the "Agreement"), for construction of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (hereinafter the "Project");

WHEREAS, based on proposed modifications to the alignment of the Southern Embankment and to increase flows through the Fargo-Moorhead Metropolitan Area, the Government and Non-Federal Sponsors agree to amend the Agreement to reflect the increased projected construction costs and to increase the Federal Participation Amount; and

WHEREAS, the parties agree that "Federal Participation Amount", as defined in Article I.J., will be increased to \$750,000,000 in October 2015 dollars, with annual adjustments for inflation of the remaining balance.

NOW, THEREFORE, the Government and the Non-Federal Sponsors agree to amend the Agreement as follows:



1. Insert before the existing Sixth Whereas Clause the following:

“Whereas, based on changes since execution of the Agreement that include modification of the Southern Embankment alignment and increasing flows through the Fargo-Moorhead Metropolitan Area, the Government and Non-Federal Sponsors agreed to amend the Agreement to reflect the increased projected construction costs and to increase the Federal Participation Amount from \$450,000,000 to \$750,000,000;”

2. In the existing Sixth Whereas Clause, replace “\$450,000,000” with “\$750,000,000”.

3. In Article I.A., before the period insert “and the Supplemental Environmental Assessment, Fargo-Moorhead Metropolitan Area Flood Risk Management Project, dated February 2019 and approved by the District Engineer on February 28, 2019, with modifications as provided in the Engineering Documentation Report, dated February 2019 and approved by the District Engineer on February 28, 2019”.

4. In Article I.J., replace “\$450,000,000” with “\$750,000,000”.

5. In Article IV.A., replace the first sentence with the following:

“As of the effective date of Amendment Number 1, construction costs are projected to be \$2,841,062,000 in October 2018 dollars; with the Government’s share of construction costs consisting of the Federal Participation Amount of \$804,750,000 in October 2018 dollars (\$750,000,000 in October 2015 dollars) and an estimated \$29,008,000 in Federal funds obligated pursuant to the Design Agreement; and the Non-Federal Sponsors’ share of construction costs projected to be \$2,007,304,000 in October 2018 dollars.”

6. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment Number 1, which shall become effective upon the date it is signed by the District Commander.

DEPARTMENT OF THE ARMY

CITY OF FARGO, NORTH DAKOTA

BY: \_\_\_\_\_  
SAMUEL L. CALKINS  
Colonel, U.S. Army  
District Commander

BY: \_\_\_\_\_  
TIMOTHY J. MAHONEY  
Mayor  
City of Fargo, North Dakota

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

CITY OF MOORHEAD, MINNESOTA

CITY OF MOORHEAD, MINNESOTA

BY: \_\_\_\_\_  
JOHNATHAN JUDD  
Mayor  
City of Moorhead, Minnesota

BY: \_\_\_\_\_  
CHRISTINA M. VOLKERS  
City Manager  
City of Moorhead, Minnesota

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

METRO FLOOD DIVERSION AUTHORITY

BY: \_\_\_\_\_  
MARY SCHERLING  
Chair  
Metro Flood Diversion Authority

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
MICHAEL J. REDLINGER  
Co-Deputy Executive Director  
Metro Flood Diversion Authority

BY: \_\_\_\_\_  
ROBERT W. WILSON  
Co-Deputy Executive Director  
Metro Flood Diversion Authority

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

CERTIFICATE OF AUTHORITY

I, Erik Johnson, do hereby certify that I am the principal legal officer of the City of Fargo, North Dakota, that the City of Fargo, North Dakota, is a legally constituted public body with full authority and legal capability to perform the terms of the Project Partnership Agreement dated July 11, 2016 as amended by Amendment Number 1 in connection with the Fargo-Moorhead Metropolitan Area Flood Risk Management Project and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the persons who have executed this Amendment Number 1 on behalf of the City of Fargo, North Dakota have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

---

ERIK JOHNSON  
Fargo City Attorney

CERTIFICATE OF AUTHORITY

I, John Shockley, do hereby certify that I am the principal legal officer of the City of Moorhead, Minnesota, that the City of Moorhead, Minnesota, is a legally constituted public body with full authority and legal capability to perform the terms of the Project Partnership Agreement dated July 11, 2016 as amended by Amendment Number 1 in connection with the Fargo-Moorhead Metropolitan Area Flood Risk Management Project and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the persons who have executed this Amendment Number 1 on behalf of the City of Moorhead, Minnesota have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

---

JOHN SHOCKLEY  
Moorhead City Attorney

CERTIFICATE OF AUTHORITY

I, Erik Johnson, do hereby certify that I am the principal legal officer of the Metro Flood Diversion Authority, that the Metro Flood Diversion Authority, is a legally constituted public body with full authority and legal capability to perform the terms of the Project Partnership Agreement dated July 11, 2016 as amended by Amendment Number 1 in connection with the Fargo-Moorhead Metropolitan Area Flood Risk Management Project and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the persons who have executed this Amendment Number 1 on behalf of the Metro Flood Diversion Authority have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
ERIK JOHNSON  
Lead Counsel, Metro Flood Diversion Authority

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
TIM MAHONEY  
Mayor, City of Fargo, North Dakota

DATE: \_\_\_\_\_

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\_\_\_\_\_  
JOHNATHAN JUDD  
Mayor, City of Moorhead, Minnesota

DATE: \_\_\_\_\_

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

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\_\_\_\_\_  
CHRISTINA M. VOLKERS  
City Manager, City of Moorhead, Minnesota

DATE: \_\_\_\_\_



CERTIFICATION REGARDING LOBBYING

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\_\_\_\_\_  
MARY SCHERLING  
Chair, Metro Flood Diversion Authority

DATE: \_\_\_\_\_

CERTIFICATION REGARDING LOBBYING

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---

MICHAEL J. REDLINGER  
Co-Deputy Executive Director  
Metro Flood Diversion Authority

DATE: \_\_\_\_\_

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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\_\_\_\_\_  
ROBERT W. WILSON  
Co-Deputy Executive Director  
Metro Flood Diversion Authority

DATE: \_\_\_\_\_

33

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Flood Project – Home Buyouts (Appraisals)

Location: Belmont Area

Date of Hearing: 2/19/2019

Routing

City Commission  
PWPEC File  
Project File

Date  
3/11/2019  
X  
Jody Bertrand

The Committee reviewed a letter from Division Engineer, Jody Bertrand, regarding a request for authorization to obtain appraisals for the remaining homes in the Belmont Area. There are four properties what still need to be acquired along South River Road to enable the completion of the Belmont Park flood protection levee project. Engineering received quotes through the MSA process and the cost for the appraisals is \$11,000 to complete all four property reviews.

Staff is seeking approval to utilize the MSA for appraisal services and authorization to begin negotiating the purchases of the four remaining properties.

On a motion by Bruce Grubb, seconded by Steve Sprague, the Committee voted to recommend use of the MSA to obtain appraisals and to authorize Engineering to begin negotiating the purchases of the four remaining properties.

RECOMMENDED MOTION

Concur with PWPEC and authorize Engineering to obtain appraisals and begin negotiating the purchases of the four remaining properties.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax


	<u>Yes</u>	<u>No</u>
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

Present	Yes	No	Unanimous
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST:

  
Jeremy Gorden, PE, PTOE  
Division Engineer

## Memorandum

To: PWPEC  
From: Jody Bertrand, Division Engineer  
Date: 2/19/2019  
Re: Flood Project - Home Buyouts (Appraisals) – Belmont Area for Phase 3 Levee Construction

---

### Background:

This memo is intended as an update to the existing status for properties affected through the buyout process for flood protection projects remaining. As part of the flood protection comprehensive plan developed in 2012 and revised in 2016, the properties located along the primary lines of protection along the Red River and through the City drain systems have previously been offered voluntary buyouts. There are presently four properties, which still need to be acquired along South River Road to enable the completion of the Belmont Park flood protection levee project. The remaining levee sections are proposed to be installed from the Water Treatment Plant Intake structure to Lindenwood Drive S. Staff is requesting approval for appraisals, which would be completed through the MSA to determine the full market value of the remaining properties. Staff would also like to be directed to try to negotiate the purchases with these new appraised values.

One property owner has requested a specific appraiser be used for their property due to the perceived uniqueness of the structure. The Engineering Department recommends the City should maintain its current policy of obtaining appraisals through our MSA process and the homeowner has the option of using a specific appraiser for his market value determination.

The Engineering Department or City Council Staff will reach out to the affected property owners to inform them of the appraisal services contract and that they will be contacted over the next couple of months to set up the home appraisal reviews.

Engineering has received quotes through the MSA process and the cost for the appraisals is \$11,000.00 to complete all four property reviews.

### Recommended Motion:

Authorize City Staff to use the MSA process to obtain appraisals for the remaining four homes along South River Road and to negotiate the purchases of these identified properties.

JRB/jmg