

FARGO CITY COMMISSION AGENDA  
Monday, April 29, 2024 - 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, April 15, 2024).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Tax Increment Note and Certificate of Completion with J-Street Properties, LLC.
- 2. Agreement for Special Improvements with Dakota Commerce Center 5 LLC (Improvement District No. BN-23-F1).
- 3. Direct the City Attorney to make the necessary changes to the Fargo Municipal Code 25-1509.1 to allow an event vendor to supply their own alcoholic beverage vessel.
- 4. Receive and file the Summons and Complaint relating to 501 Main Ave DevCorp, LLC v. City of Fargo.
- 5. Receive and file an Ordinance Amending Section 25-1504.1 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 6. Site Authorizations for Games of Chance:
  - a. American Gold Gymnastics, Inc. at The Box.
  - b. Fargo Angels Hockey Club at Double Down Bar Grill Casino.
  - c. Fargo Youth Hockey Association at Buffalo Wild Wings-19th.
  - d. Fargo Youth Hockey Association at Buffalo Wild Wings-42nd.
  - e. Metro Sports Foundation at Mexican Village.
  - f. Metro Sports Foundation at Brewtus Clubhouse.
  - g. Prairie Public Broadcasting, Inc. at Bison Turf.
  - h. Prairie Public Broadcasting, Inc. at Dempsey's.
  - i. Prairie Public Broadcasting, Inc. at Pepper's.
  - j. Prairie Public Broadcasting, Inc. at Slammer's Sports Bar.
  - k. Prairie Public Broadcasting, Inc. at Tailgator's.
  - l. Red River Human Service Foundation at Sickies on 45th.
  - m. Red River Human Service Foundation at The Northern.
  - n. Team Makers Club, Inc. at Frank's Lounge.
  - o. Team Makers Club, Inc. at King Pinz.
  - p. Team Makers Club, Inc. at Lucky's 13 Pub.
  - q. Team Makers Club, Inc. at Sanford Heath Athletic Complex-Scheel's Arena (SHAC).

Applications for Games of Chance:

- a. Bethlehem Lutheran Church for a raffle on 5/29/24.
  - b. Fargo All Stars Family for a raffle on 5/17/24.
  - c. Fargo Youth Baseball for a raffle board on 5/4/24.
  - d. FM Derby Girls for a calendar raffle on 5/18, 6/8, 8/3, 8/24 and 9/28/24.
  - e. Rebuilding Together Fargo-Moorhead Area for a raffle board on 5/9/24.
8. Right of Way Use Agreement with Oak Grove Lutheran School and Olaf Anderson Construction, Inc. for property located at 124 North Terrace North.
  9. Farm Lease with Aaron Brakke d/b/a Aaron Brakke Farms for property located at 6851 45th Street South.
  10. Memorandum of Offer to Landowner for Easement (Temporary Construction Easement) with Forum Communications Company (Project No. SN-24-A1).
  11. Bid advertisement for Project No. UR-24-H.
  12. Contract and bond for Project No. SR-24-A1.
  13. Memorandum of Offer to Landowner for Permanent Easement (Sidewalk) with Peter M. Stollenwerk and Lorraine R. Stollenwerk, and MIS LLC (Improvement District No. SR-24-B1).
  14. Change Order No. 3 in the amount of \$115,097.57 for Improvement District No. BN-23-C1.
  15. Capital Improvement Plan Revision for Improvement District No. BR-23-G1.
  16. Bid award to Border States Paving, Inc. in the amount of \$2,913,976.48 for Improvement District No. PR-24-G1.
  17. Bid award to Master Construction Company, Inc. in the amount of \$1,871,362.80 for Improvement District No. BR-24-F1.
  18. Create Improvement District No. AN-24-B (Alley Paving).
  19. Contract and bond for Improvement District No. BN-23-E.
  20. Contract and bond for Improvement District No. BN-24-A.
  21. Items from the FAHR Staff meeting:
    - a. General Fund Budget to Actual through 3/31/24.
    - b. General Fund - 2024 Year End Projections.
    - c. Grant Award/Budget Adjustment in the amount of \$376,000.00 for the Ryan White Part B Program with a budget adjustment in the amount of \$76,000.00.
  22. Notice of Grant Award Amendment from the ND Department of Health and Human Services for detection and mitigation of COVID-19 in homeless shelters (CFDA #93.323).
  23. Resolution approving Plat of Edition Fourth Addition.
  24. Resolution approving Plat of Laverne's Fifth Addition.
  25. Receive and file Bias Motivation and Hate Crime 1st Quarter Report.

26. Landscape Maintenance Services Agreement with JT Lawn Services (RFP24140).
27. Piggyback purchase through the State of North Dakota contract with Nelson International for one 2025 International HV613 SBA Water Filtration Sludge truck chassis (PBC24196).
28. Amendment No. 1 with KLJ, Inc. in the amount of \$9,988.78 for the MATBUS Transit Reorganization Study.
29. Change Order No. 1 with Phoenix Fabricators and Erectors, LLC in the amount of \$61,877.55 for Project No. WA1910.
30. Bid advertisement for Project No. WA2451.
31. Bid Award to Park Construction Company in the amount of \$3,720,432.80 for Project No. WW1707.
32. Bills.

#### REGULAR AGENDA:

33. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at [FargoND.gov/VirtualCommission](https://FargoND.gov/VirtualCommission)).**

#### **\*Public Input Opportunity\* - PUBLIC HEARINGS - 5:15 pm:**

34. **PUBLIC HEARING** – Application for a Class “C” Alcoholic Beverage License for AKC Hoff Co. LLC d/b/a Good Times on NP to be located at 623 NP Avenue.
35. **PUBLIC HEARING** – Erskine’s Addition (1002 and 1008 10th Street South); approval recommended by the Planning Commission on 4/2/24:
  - a. Zoning change from MR-2, Multi-Dwelling Residential and SR-3, Single-Dwelling Residential to P/I, Public and Institutional.
  - b. 1st reading of rezoning Ordinance.
36. **PUBLIC HEARING** - Application filed by NEX Senior, LLC for a Payment in Lieu of Tax Exemption (PILOT) to be located at 1728 42nd Street South which the applicant will use primarily for 40 units of affordable senior housing.
37. Recommendation to adopt a Resolution and Memorandum of Understanding with the Fargo Housing and Redevelopment Authority to provide TIF funds for the Lashkowitz Housing Project.
38. Update on the NP Parking Garage Project.
  - a. Receive and file the Revised Inter-Fund Loan Policy.
  - b. Receive and file an Ordinance Amending Section 4-0402 of Article 4-04 of Chapter 4 of the Fargo Municipal Code Relating to Authorizing the City Commission to Approve Program of Interfund Loans.
39. Update on the Overnight Winter Weather Initiative at the Engagement Center.

Recommendation to adopt a Resolution Adopting Governance Policies of the Board of City Commissioners.

a. Potential options for reviewing the City's Boards, Commissions and Committees.

41. Recommendation for appointments to the Library Board.

42. Liaison Commissioner Assignment Updates.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310 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).

34

**MEMORANDUM**

---

TO: Liquor Control Board  
FROM: Steven Sprague, City Auditor  
SUBJECT: Liquor License Application – Good Times on NP  
DATE: April 17, 2024

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

License Class: C – beer only – bar allowed, no food sales required  
Location: 623 AP Ave.  
Applicants: Cordell Hoff

This application is for the issuance of a Class C liquor license. This facility will be an entertainment facility featuring comedy shows, local musicians and open mic night.

Being no significant concerns, staff & Liquor Control recommend approval of the issuance of a Class C alcoholic beverage license to AKD Hoff Comp. LLC d/b/a Good Times on NP. The complete application is available for review in the Auditor's Office.

**Recommended Motion:**

**Move to approve the issuance of a Class C alcoholic beverage license to AKC Hoff Comp. LLC d/b/a Good Times on NP.**



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): AKC Hoffco LLC

Doing business as: Good Times on NP

Business address (location): 623 NP Ave

Mailing address: 6797 28th St S, Fargo ND 58104

Business e-mail address: vapeswindsonnd@gmail.com

Phone number: (701) 220-3946 Anticipated Date of Opening: ASAP

The following section to be completed by City Staff:

Date Received by Auditor's Office: 3/19/24

Investigations Fee Paid (\$250)  Yes  No Date Paid: 3/19/24 Check # 3841

Reviewed - Police Department by: SGT. WAGNER Date: 3.22.24

Comments (or see attached report):

Approval Recommendation

Denial Recommendation

[Signature]  
Chief of Police

\_\_\_\_\_  
Date

Reviewed - Liquor Control Committee on (date): \_\_\_\_\_

Approval Recommendation

Denial Recommendation

(See attached comments or minutes)

Reviewed - City Commission on (date): \_\_\_\_\_

Approval

Denial



# FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

## CRIMINAL INVESTIGATIONS DIVISION

# MEMORANDUM

To: Chief David Zibolski

From: Sergeant Jerrrod Wagner

Date: 03.22.2024

RE: Alcoholic Beverage License Application, Class "C", Good Times on NP

Application for a class "C" Alcoholic Beverage License from  
AKC Hoff Co. LLC, Located at 623 NP Ave.

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 examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

### HOFF, CORDELL

#### Criminal History -

A search of Fargo Police Department criminal records, North Dakota public records ([publicsearch.ndcourts.gov](https://publicsearch.ndcourts.gov)) and Minnesota public records (<https://chs.state.mn.us>) showed two offenses not listed in his background packet.

- ND courts listed a 2006 C-felony theft of property where Cordell was listed as a suspect. The status of the case was "Dismissed". I called and spoke with Cordell about this offense and the fact that it was not disclosed on his background packet. Cordell said the case was dismissed because there was not sufficient evidence to charge him with the offense and he was "wrongfully" accused. Cordell said this situation involved the

- usage of a fuel card for an employer he was working for.
- ND courts listed a 2004 conviction for Delivery of alcohol to minor. This was not disclosed on the background packet. The disposition of this case was "sealed" but I located it while I was investigating the theft case above. Cordell said that this was a long time ago and he received a summons to court for it but it was a "misunderstanding" and he paid a \$375 dollar fine.

**Credit History -**

Cordell Hoff's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

**Investigation Notes**

This application is for a class "C" alcoholic beverage license (Authorizes the licensee to sell beer "on-sale" only) for "AKC Hoff Co LLC".

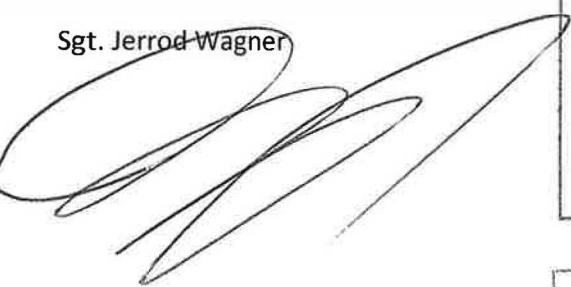
**Business Location**

Good Times on NP is located at 623 NP Ave. Other businesses in the area with alcoholic beverage licenses are Old Broadway, Fort Knox, Sports Bar.

**Conclusion**

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.

Sgt. Jerrod Wagner



RECEIVED  
 FARGO POLICE DEPARTMENT  
 MAR 26 2024  
 MATT CHRISTENSEN  
 LIEUTENANT  
 REF: CAPT AHLFELDT

RECEIVED  
 FARGO POLICE DEPARTMENT  
 MAR 28 2024  
 TRAVIS STEFONOWICZ  
 ASSISTANT CHIEF OF POLICE  
 REF: Chief Zibolski - PV

RECEIVED  
FARGO POLICE DEPARTMENT

MAR 27 2024

WILLIAM S AHLFELDT  
CAPTAIN  
REF: A.C. STEFANOWICZ

- Forwarded for  
CONSIDERATION



95

City of Fargo Staff Report			
<b>Title:</b>	Erskine's Addition	<b>Date:</b> <b>Update:</b>	03/28/2024 04/25/2024
<b>Location:</b>	1002 & 1008 10 <sup>th</sup> Street South	<b>Staff Contact:</b>	Luke Morman, Planner
<b>Legal Description:</b>	Lots 14-19, Block BB, Erskine's Addition		
<b>Owner(s)/Applicant:</b>	Salem Evangelical Free Church/Relevant Life Church	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from MR-2, Multi-Dwelling Residential and SR-3, Single Dwelling Residential to P/I, Public and Institutional)		
<b>Status:</b>	Planning Commission Public Hearing: April 29 <sup>th</sup> , 2024		

Existing	Proposed
<b>Land Use:</b> Religious Institution	<b>Land Use:</b> No Change
<b>Zoning:</b> MR-2, Multi-Dwelling Residential and SR-3, Single Dwelling Residential	<b>Zoning:</b> P/I, Public and Institutional
<b>Uses Allowed:</b> MR-2 allows detached house, attached house, duplex, multi-dwelling structure, group living, community service, daycare centers up to 12 children, parks and open areas, religious institutions, safety services, schools, basic utilities, and limited telecommunications facilities.  SR-3 allows detached house, attached house, duplex, daycare centers up to 12 children, parks and open areas, religious institutions, safety services, schools, basic utilities, and limited telecommunications facilities.  Erskine's Historic Overlay District (Ordinance 4821)	<b>Uses Allowed:</b> P/I allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open areas, religious institutions, safety services, schools, basic utilities, office, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste-related use, agriculture, aviation, surface transportation, major entertainment events, and limited telecommunication facilities.  Erskine's Historic Overlay District to remain.
<b>Maximum Density Allowed:</b> MR-2 allows 20 units per acre SR-3 allows 8.7 units per acre	<b>Maximum Density Allowed:</b> N/A

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> <li><b>Zoning Change</b> (from MR-2, Multi-Dwelling Residential and SR-3, Single Dwelling Residential to P/I, Public and Institutional)</li> </ol> <p>The applicant is pursuing a zone change in order to be able to put in a larger sign for their church than what is currently allowed by MR-2 and SR-3 zones (which is only 8 square feet). The applicant indicated that they would propose a static sign of approximately 50 square feet, orientated towards 10<sup>th</sup> Street South. The future signage will need its own permit if this zone change is approved and will need to meet all of the Sign Code requirements.</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: SR-3, Single-Dwelling Residential with household living</li> <li>East: SR-3, Single-Dwelling Residential with parking, household living</li> <li>South: SR-2, Single-Dwelling Residential with vacant land</li> </ul>

- West: SR-3, Single-Dwelling Residential with household living

**Area Plans:**

The subject property is located within the 2021 Core Neighborhoods Master Plan. The future land use map of the Hawthorne neighborhood brief designates the subject property as being suitable for Institutional and Single-Family Residential uses. The Single-Family Residential portion covers the 1002 10<sup>th</sup> Street South property which cuts through the existing church building. Therefore, staff has determined that the proposed zone of P/I, Public and Institutional is consistent with this land use designation.



**Context:**

**Neighborhood:** The subject property is located in the Hawthorne neighborhood.

**Schools:** The subject properties are located within the Fargo School District and served by Clara Barton and Hawthorne Elementary schools, Ben Franklin Middle school and North High school.

**Parks:** Located within a half-mile of the subject property is Dill Hill Park (652 6<sup>th</sup> Avenue South), Burdick Park (1550 South River Road), and Island Park (302 7<sup>th</sup> Street South). Dill Hill Park provides amenities of baseball and softball fields. Burdick Park provides recreational trails. Island Park provides amenities of a basketball court, cross country ski trails, grill, handball court, outdoor pools, picnic table, playgrounds, recreational trails, restrooms, reservable shelter, and tennis courts.

**Pedestrian / Bicycle:** A shared use path exists within a half-mile located along Red River.

**Bus Route:** MATBUS routes 14 and 15 run along 10<sup>th</sup> Street South, 13<sup>th</sup> Avenue South, and University Drive South. Routes 18 runs along 9<sup>th</sup> Avenue South and University Drive South. Several stops along these roads are within one quarter of a mile from the subject property.

**Staff Analysis:**

**Erskine's Historic Overlay District**

The subject properties are located within the Erskine's Historic Overlay District (Ordinance 4821). Though the Erskine's Historic Overlay District ordinance normally would require a review, a new sign at this location will not trigger review, as the existing building was developed in 1975. The structure and sign do not meet the threshold date for when the ordinance applies. "Historic Neighborhood Structure" as defined by subsection B.1. of ordinance 4821 states, "...any residential structure built within the Erskine's Addition Historic Overlay District prior to 1945." Furthermore, the ordinance does not include review criteria specific to signs. The new sign will need to meet Fargo Sign Code requirements of Article 20-13 of the Land Development Code.

**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?**

The proposed change in zoning is not the result of any error in the zoning map as it relates to the subject properties. The properties are currently zoned MR-2, Multi-Dwelling Residential and SR-3, Single Dwelling Residential. The proposed P/I, Public and Institutional, zoning is consistent with the "Institutional" land use designation of the 2021 Core Neighborhoods Master Plan. The change in zoning will allow the tenant to construct a larger sign for their church than what is currently allowed by the Sign Code.

**(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?**

The subject property is already served by existing public services and infrastructure. City staff and other applicable review agencies have reviewed this proposal and finds no deficiencies in the current public utilities that serve the development.

**(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 documentation or evidence to suggest that the approval of this zoning change 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. Staff received four inquiries about the project but did not have any objections. Discussion took place with a neighborhood representative about what can be developed or redeveloped in P/I. Staff finds that the approval of the zoning change 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 this proposal is consistent with the purpose of the LDC, the Core Neighborhoods Master Plan, and other adopted policies of the City.

**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the proposed zoning change from MR-2, Multi-Dwelling Residential and SR-3, Single-Dwelling Residential to P/I, Public and Institutional on Lots 14-19, Block BB, Erskine's Addition, on the basis that it satisfactorily complies with the Core Neighborhoods Master Plan, Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

**Planning Commission Recommendation: April 2, 2024**

At the April 2<sup>nd</sup>, 2024 Planning Commission public hearing, that Commission, by a vote of 8-0 with one Commissioner absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and recommend approval of the proposed zoning change from MR-2, Multi-Dwelling Residential and SR-3, Single-Dwelling Residential to P/I, Public and Institutional on Lots 14-19, Block BB, Erskine's Addition, on the basis that it satisfactorily complies with the Core Neighborhoods Master Plan, Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

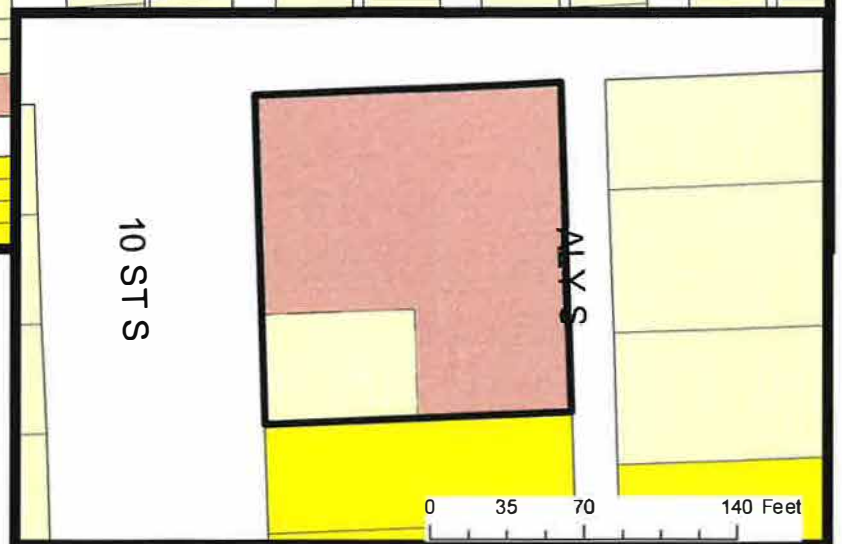
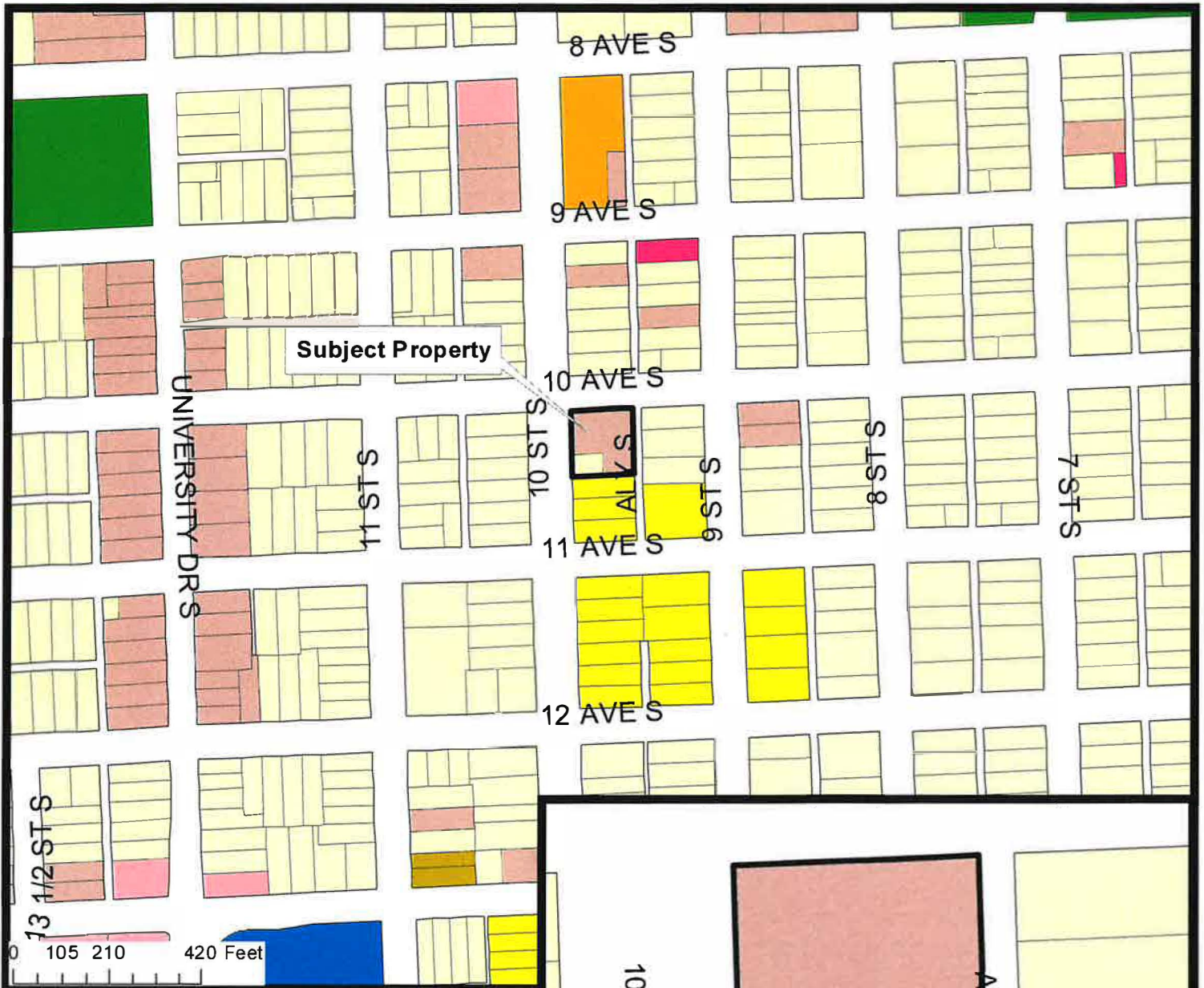
**Attachments:**

1. Zoning Map
2. Location Map

# Zone Change from MR-2, Multi-Dwelling Residential & SR-3, Single Dwelling Residential to P/I, Public & Institutional

## Erskine's Addition

1002 & 1008 10th Street South



**Legend**

- |             |      |      |     |      |
|-------------|------|------|-----|------|
| AG          | DMU  | LC   | MHP | SR-2 |
| GGC         | GO   | ML   | NC  | SR-3 |
| MR-1        | MR-2 | MR-3 | P/I | UMU  |
| City Limits |      |      |     |      |

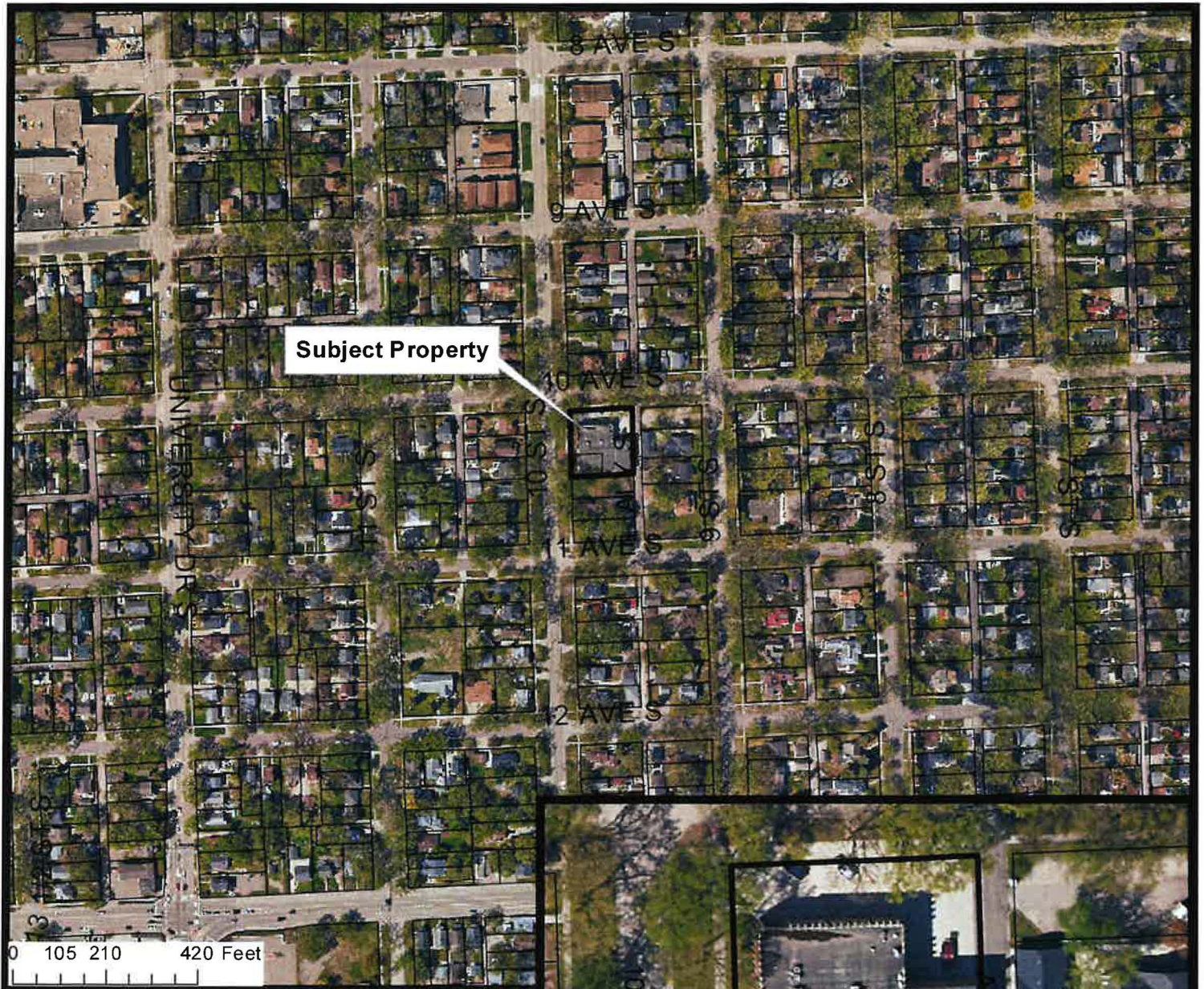


Fargo Planning Commission  
April 2, 2024

# Zone Change from MR-2, Multi-Dwelling Residential & SR-3, Single Dwelling Residential to P/I, Public & Institutional

## Erskine's Addition

1002 & 1008 10th Street South



### Legend

 City Limits

356

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN ERSKINE'S 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 rezoning of certain parcels of land lying in Erskine's Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on April 2, 2024; and,

WHEREAS, the rezoning changes were approved by the City Commission on April 29, 2024,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots Fourteen (14) through Nineteen (19), Block BB, of Erskine's Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned from "MR-2", Multi-Dwelling, Residential, District and "SR-3", Single-Dwelling Residential, District to "P/I", Public and Institutional, District.

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



Economic Development Incentive Committee  
Fargo City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

36

**April 24, 2024**

Board of City Commissioners  
City Hall  
Fargo, ND 58102

**RE: NEX Senior, LLC.**

Dear Commissioners:

Attached is the application made by NEX Senior, LLC., for a payment in lieu of tax (PILOT) according to N.D.C.C. Chapter 40-57.1. The application is for a 17 year exemption of the total improvement value for a 40 unit, low income, senior housing project located at 1728 42<sup>nd</sup> St S.

Notices to competitors have been published. The Economic Development Incentive Committee (EDIC) has met to consider this application. No competitors appeared at the EDIC meeting. This project meets our current policy. The project will continue to pay the full land taxes annually.

The recommendation of the EDIC is to approve the proposed PILOT for this project.

**SUGGESTED MOTION:**

**Approval of a 17-year payment in lieu of tax for NEX Senior, LLC, for a low-income senior housing complex located at 1728 42<sup>nd</sup> St S, with 100% of the improvement value being exempt for the duration.**

Sincerely,

*Michael Splonskowski*

Mike Splonskowski  
City Assessor



### Application For Property Tax Incentives For New or Expanding Businesses

N.D.C.C. Chapter 40-57.1

Project Operator's Application To Fargo  
City or County

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

**This application is a public record**

#### Identification Of Project Operator

1. Name of project operator of new or expanding business NEX Senior, LLC

2. Address of project 1728 South 42nd Street  
City Fargo County Cass

3. Mailing address of project operator 24 South Brooke Street  
City Fond du Lac State WI Zip 54935

4. Type of ownership of project  
 Partnership                       Subchapter S corporation                       Individual proprietorship  
 Corporation                       Cooperative                       Limited liability company

5. Federal Identification No. or Social Security No.                     

6. North Dakota Sales and Use Tax Permit No.                     

7. If a corporation, specify the state and date of incorporation                     

8. Name and title of individual to contact Tyler Sheeran, VP of Development  
Mailing address 24 South Broooke Street  
City, State, Zip Fond du Lac, Wisconsin, 54935 Phone No. 608-556-2939

#### Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific.

<input type="checkbox"/> <b>Property Tax Exemption</b>	<input checked="" type="checkbox"/> <b>Payments In Lieu of Taxes</b>
<u>          </u> Number of years	<u>2025</u> Beginning year <u>2042</u> Ending year
<u>          </u> Percent of exemption	<u>          </u> Amount of annual payments (attach schedule if payments will vary)

10. Which of the following would better describe the project for which this application is being made:  
 New business project                       Expansion of an existing business project

**Description of Project Property**

11. Legal description of project real property

Lot 3 Block 1 Ekman Addition

12. Will the project property be owned or leased by the project operator?  Owned  Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?

Yes  No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility?  New construction  Existing facility

If existing facility, when was it constructed? \_\_\_\_\_

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application June 2024

b. Description of project to be constructed including size, type and quality of construction

NEX Senior will consist of 40 units of affordable housing. Development will feature one midrise style building with first floor covered parking and three stories of residential units above, four stories in total. 40 units will consist of 1 and 2 bedroom units. Affordability will range from 30% AMI to 80% AMI.

c. Projected number of construction employees during the project construction 100-16

14. Approximate date of commencement of this project's operations June 2025

15. Estimated market value of the property used for this project:

a. Land..... \$ 558,000

b. Existing buildings and structures for which an exemption is claimed..... \$ 0

c. Newly constructed buildings and structures when completed ..... \$ 12,000,000

d. Total..... \$ 12,558,000

e. Machinery and equipment..... \$ \_\_\_\_\_

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) ..... 

b. Eligible existing buildings and structures..... \$ 0

c. Newly constructed buildings and structures when completed..... \$ 600,000

d. Total taxable valuation of property eligible for exemption (Add lines b and c)..... \$ 600,000

e. Enter the consolidated mill rate for the appropriate taxing district ..... 272.00

f. Annual amount of the tax exemption (Line d multiplied by line e) ..... \$ 163,200.00

**Description of Project Business**

**Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.**

17. Type of business to be engaged in:  Ag processing  Manufacturing  Retailing  
 Wholesaling  Warehousing  Services

18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

Providing cost-effective rental accommodations for low-income households, this development will meet a pressing demand for senior housing in the Fargo community, offering affordability as its cornerstone.

19. Indicate the type of machinery and equipment that will be installed

The building's design encompasses various features typically associated with four-story apartment buildings, such as communal spaces, parking facilities, and utility rooms. Among these amenities, an elevator will be installed to facilitate easy movement between floors, ensuring accessibility for residents and visitors alike.

20. For the project only, indicate the projected annual revenue, expense, and net income (before tax) from either the new business or the expansion itself for each year of the requested exemption.

Year (12 mo. periods)	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Annual revenue	_____	_____	_____	_____	_____
Annual expense	_____	_____	_____	_____	_____
Net income	_____	_____	_____	_____	_____

21. Projected number and salary of persons to be employed by the project for the first five years:

Current positions & positions added the initial year of project

# Current Positions	New Positions Under \$13.00	New Positions \$13.01-\$15.00	New Positions \$15.01-\$20.00	New Positions \$20.01-\$28.00	New Positions \$28.01-\$35.00	New Positions Over \$35.00
_____	_____	_____	_____	_____	_____	_____

Year	(Before project)	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
No. of Employees	(1) _____	_____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____	_____
Estimated payroll	(1) _____	_____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____	_____

(1) - full time  
(2) - part time

**Previous Business Activity**

22. Is the project operator succeeding someone else in this or a similar business?  Yes  No

23. Has the project operator conducted this business at this or any other location either in or outside of the state?  
 Yes  No

24. Has the project operator or any officers of the project received any prior property tax incentives?  Yes  No

If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).

~~Commonwealth Development Corp. of America, owner of NEX Senior LLC, has previously obtained a PILOT within Fargo for our Edge Artist Flats development located at 1321 5th Ave North, Fargo, ND~~

**Business Competition**

25. Is any similar business being conducted by other operators in the municipality?  Yes  No

If YES, give name and location of competing business or businesses

~~City of Fargo has multiple affordable housing complexes within the city limits.~~

---

Percentage of Gross Revenue Received Where Underlying Business Has ANY Local Competition %

**Property Tax Liability Disclosure Statement**

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it?  Yes  No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property?  Yes  No

If the answer to 26 or 27 is Yes, list and explain

---

**Use Only When Reapplying**

28. The project operator is reapplying for property tax incentives for the following reason(s):

- To present additional facts or circumstances which were not presented at the time of the original application
- To request continuation of the present property tax incentives because the project has:
  - moved to a new location
  - had a change in project operation or additional capital investment of more than twenty percent
  - had a change in project operators
- To request an additional annual exemption for the year of \_\_\_\_\_ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

**Notice to Competitors of Hearing**

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, Kristi Morgan, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

\_\_\_\_\_  
 Signature Authorized Member 4/17/2024  
Title Date

<b>NEX Senior</b>
<b>1728 42nd Street</b>
<b>Fargo, ND</b>

<b>SOURCES</b>	<b>Entity</b>	
Federal LIHTC Equity	Regions Bank	\$ 9,019,098
First Mortgage	Legacy Bank & Trust	1,975,000
Other: HTF		2,852,413.21
Other: HOME		1,558,248.01
GP/SLP Equity		100
Total Third Party Sources		\$ 15,404,859
Deferred Fee		208,997
<b>TOTAL</b>		<b>\$ 15,613,856</b>

<b>USES</b>		
Land		700,000.00
Hard Costs		11,101,440.00
Design & Engineering Fees		567,000.00
Professional Fees		133,500.00
Financing Costs		736,377.00
Soft Costs		2,083,177.00
Tax Credit Fees		111,000.00
Development Reserves		181,362.00
<b>TOTAL</b>		<b>\$ 15,613,856</b>



MARKET  
FLATS

# NEX SENIOR

1728 42ND STREET, FARGO, ND

*PILOT APPLICATION SUPPLEMENTAL DUE DILLIGENCE*

**BY COMMONWEALTH DEVELOPMENT  
CORPORATION OF AMERICA**



**COMMONWEALTH DEVELOPMENT CORPORATION OF AMERICA**

2501 Parmenter St., Suite 300B  
Middleton, WI 53562

[www.commonwealthcorp.com](http://www.commonwealthcorp.com)

March 27, 2024

Economic Development Incentives Committee  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

Subject: Response to Economic Development Incentives Committee (EDIC) Decision on NEX Senior Living Complex

Dear Members of the Economic Development Incentives Committee,

We are writing to address the recent decision made by the EDIC on May 26, 2024, regarding Commonwealth's PILOT approval request for the proposed NEX Senior Living Complex. We understand that the decision to table the request was due to a lack of supplementary detail regarding the project and its overall financing plan.

First and foremost, we extend our sincere apologies for the oversight in providing sufficient detail on the project. It was never our intention to withhold information from the EDIC. We are committed to transparency and being a reliable partner for the EDIC, the City of Fargo, Cass County, the Fargo School District, and all other stakeholders involved in this decision-making process. We believe that the additional materials we are supplying with this letter demonstrate our commitment to this objective.

The NEX Senior Living Complex is envisioned as a 40-unit, 100% affordable development, with financing secured through IRS Section 42 Low-Income Housing Tax Credits (LIHTC). We are proud to have received this financing award in late 2023 following a rigorous review by the North Dakota Housing Finance Agency (NDHFA). Our project was selected from a highly competitive field, which we attribute to two primary factors: addressing the pressing need for in-fill senior housing and strategically locating the complex near the West Acres Mall, offering convenient access to amenities and services within the city.

In order to secure financing from the NDHFA, Commonwealth was required to commission a comprehensive market study by a third-party analyst to assess the demand for the proposed housing type. The study revealed a notable statistic: a vacancy rate of only 1.8% within the primary market area among surveyed independent senior tax credit properties. This underscores the significant housing shortage faced by Fargo's senior population.

The approval of our project presents an opportunity for the EDIC to address this market pressure and ensure its feasibility, ultimately benefiting both the community and potential residents.



**COMMONWEALTH DEVELOPMENT CORPORATION OF AMERICA**

2501 Parmenter St., Suite 300B

Middleton, WI 53562

[www.commonwealthco.net](http://www.commonwealthco.net)

Without affordable options like NEX Senior Living, seniors in Fargo are left with limited choices, often unable to afford the high rents charged by luxury senior living communities.

We appreciate your consideration for approval and look forward to the opportunity to move the NEX Senior Living project forward. We believe that your support is vital for the success of this endeavor, and we are confident that it will bring tangible benefits to the community.

Thank you for your time and attention to this matter.

Sincerely,

*Tyler Sheeran*

**Tyler Sheeran**

*Vice President of Development*

*Commonwealth Development Corporation of America*

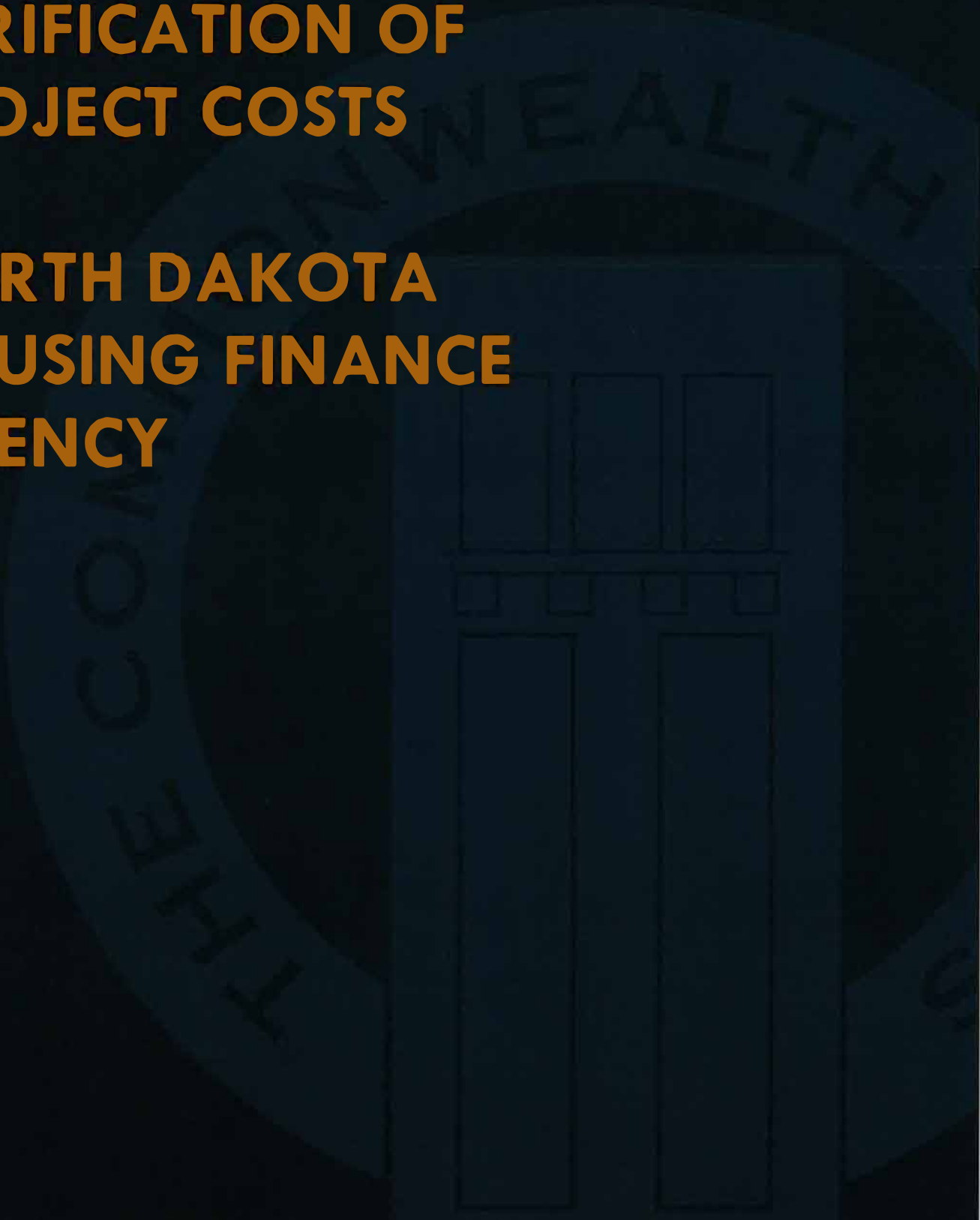
C: 608.558.2939

[t.sheeran@commonwealthco.net](mailto:t.sheeran@commonwealthco.net)



# **VERIFICATION OF PROJECT COSTS**

## **NORTH DAKOTA HOUSING FINANCE AGENCY**



RE: NEX Senior - PILOT Approval

Fink, Joseph K. <jfink@nd.gov>

Wed 3/27/2024 11:58 AM

To: Tyler Sheeran <t.sheeran@commonwealthco.net>

Thanks for the update, not sure how much help I'll be...but you're spot on.

Affordable housing development IS NOT the same as developing Market Rate housing. Yes for both, you end up with an apartment building, but they are not run the same nor do they house the same populations. The overlays and requirements of receiving HUD and/or LIHTC funding require an Affordable Housing development to complete multiple levels of due diligence (not applicable to a Market Rate development); these include but are not limited to architectural design to comply with priorities of the funding sources (Universal Design), prioritization of completing outreach efforts for the hiring local low-income workers and contracting with local Section 3 Business Concerns (Section 3), outreach to Women-Owned and Minority-Owned businesses for contracting an employment (M/WBE), eligible costs documentation, verification & review for the investor and funding sources, initial tenant screening, income verification & HUD Beneficiary documentation...the list literally goes on & on.

Yes, affordable housing development has higher soft-costs than market-rate development. The public demands much of an affordable housing project and holds it accountable for a long period of time.

Joe Fink

Program Manager

PO Box 1535 | 2624 Vermont Ave | Bismarck, ND 58502-1535

p: 701-328-8066 | f: 701-328-8090 | e: [jfink@nd.gov](mailto:jfink@nd.gov)

---

From: Tyler Sheeran <t.sheeran@commonwealthco.net>

Sent: Wednesday, March 27, 2024 10:17 AM

To: Fink, Joseph K. <jfink@nd.gov>

Subject: NEX Senior - PILOT Approval

**\*\*\*\*\* CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. **\*\*\*\*\***

Good morning Joe,

As you are aware, Commonwealth is currently seeking PILOT approval for our NEX Senior housing project to ensure the feasibility of the deal thus enabling us to proceed with construction in the upcoming months.

During the review by the Fargo Economic Development Incentives Committee, there were inquiries regarding the total development costs associated with the project. Regarding the hard costs, I explained that material expenses are escalating due to inflation, and the market has yet to reset since the COVID-19 pandemic, suggesting that these increased costs may be the new standard for development. Additionally, I provided information about JN Contracting's involvement in the project, highlighting their status as a local general contractor in the Fargo area. I mentioned their recent completion of construction projects for us in North Dakota, as well as projects for third-party clients. This comparative data, coupled with ongoing discussions with their subcontractor network, provides substantial reassurance regarding their cost estimates. The board seemed to understand this explanation.

The primary concern revolves around the project's soft costs. I clarified that Low Income Housing Tax Credit (LIHTC) projects often incur additional soft costs compared to market-rate developments. These may include project reserves, NDHFA agency fees, green building verification, market studies, cost certification, developer fees, and syndicator due diligence fees, among others. While some of these costs may vary from project to project, they are generally standardized expenses applicable to any LIHTC project or developer, whether in Fargo or elsewhere in North Dakota. Furthermore, I elaborated on NDHFA's rigorous underwriting criteria, explaining that all such costs undergo thorough analysis and comparison during the application review process.

Your input on these matters, along with any additional commentary you wish to provide, would be greatly appreciated.

**We've moved! Please update our office address to 2501 Parmenter Street, Suite 300 B, Middleton, WI 53562**

**TYLER SHEERAN**

*Vice President of Development*

*Commonwealth Development Corporation*

O: [608.688.0754](tel:6086880754)

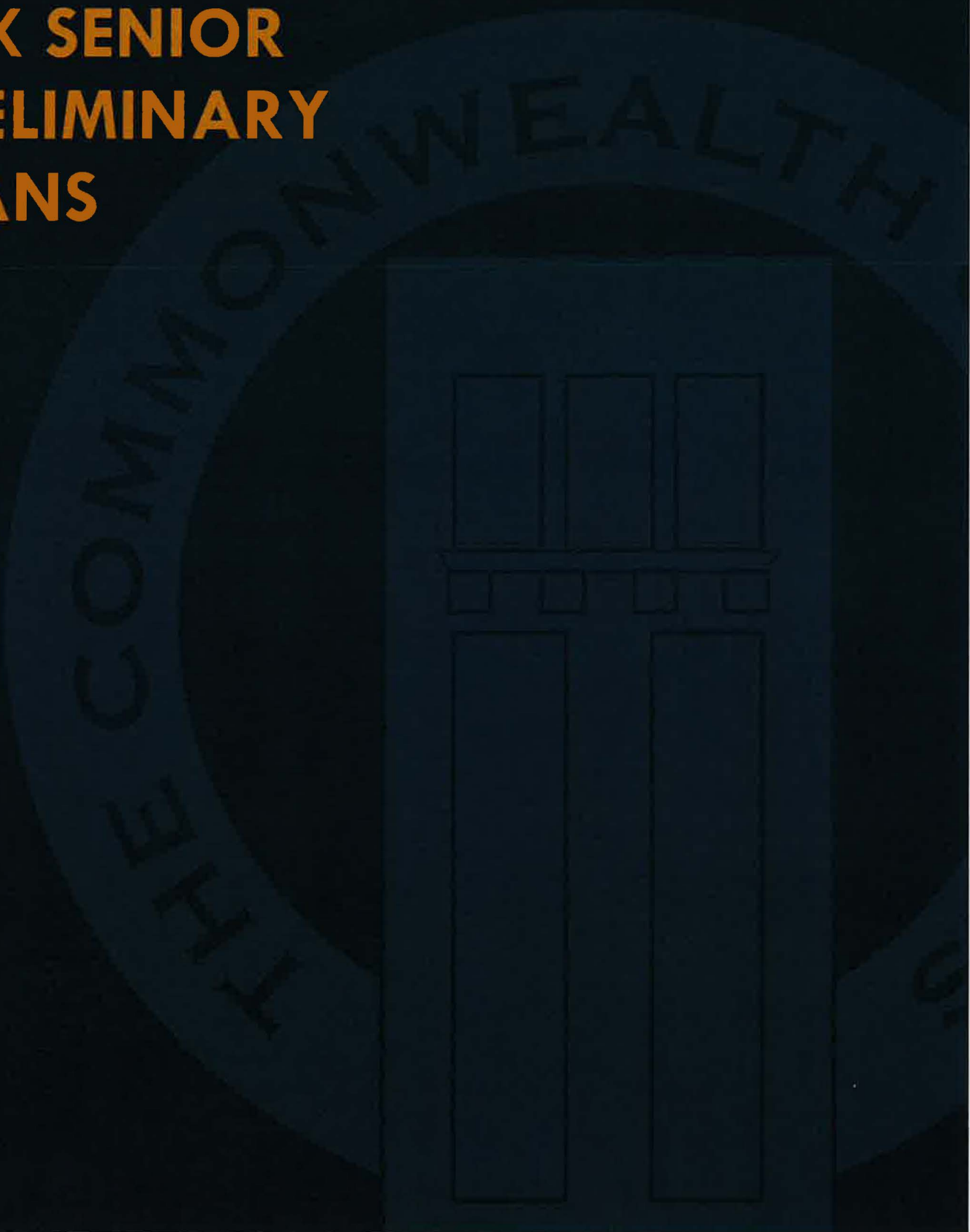
C: [608.556.2939](tel:6085562939)

W: [www.commonwealthco.net](http://www.commonwealthco.net)

**2501 Parmenter St., Ste. 300B, Middleton, WI 53562**


*Not associated with Common Wealth Development, Inc., a not-for-profit affordable housing development company located in Madison, Wisconsin.*

# **NEX SENIOR PRELIMINARY PLANS**



PRELIMINARY SHEET DATE:	
DATE:	
BY:	
CHECKED BY:	
SCALE:	
PROJECT NO.:	

24 SOUTH BROCKWAY STREET  
 FOND DU LAC, WISCONSIN 54937  
 920.922.8110 FAX 920.922.8171  
 info@maecorp.net 920.922.8170



COMMONWEALTH COMPANIES



SENIOR APARTMENTS FOR:  
**NEX SENIOR APARTMENTS**  
 42ND STREET  
 FAROUD, NORTH DAKOTA 58102

JOB NUMBER: <b>2023.33</b>
SHEET <b>C1.0</b>

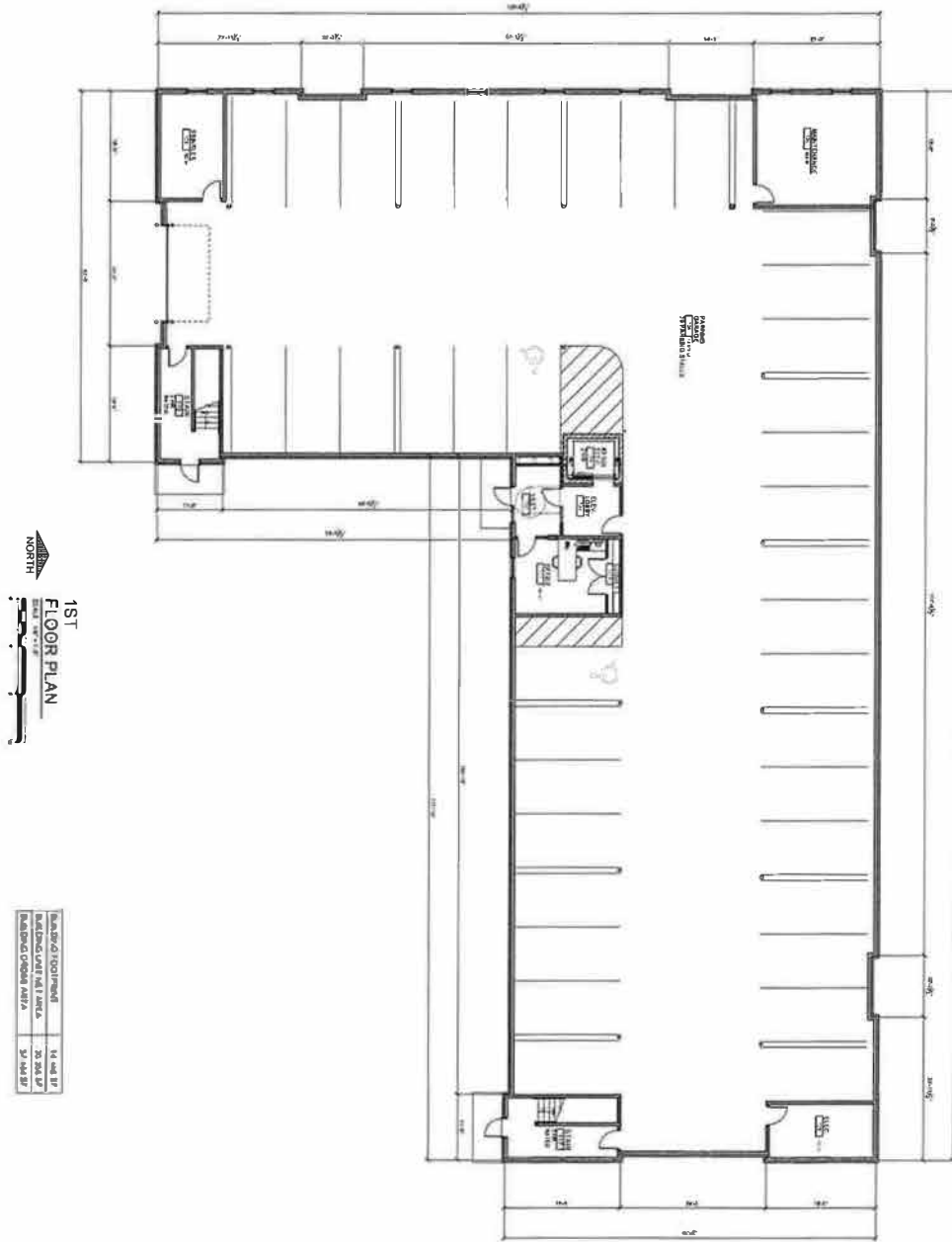
PRELIMINARY DRAWING - NOT FOR CONSTRUCTION



OPEN SPACE:  
 33,012 SF COVERAGE /  
 61,134 SF (1.40 ACRES) LOT SIZE  
 = 54% TOTAL COVER OF SITE  
 = 46% OPEN SPACE

**PRELIMINARY SITE PLAN**  
 SCALE 1" = 30.0'





GRAND TOTAL	14,447 SF
RESIDENTIAL UNIT AREA	33,300 SF
RESIDENTIAL COMMON AREA	37,144 SF

UNIT MIX:	100	101	102	103
1-BED ROOM	1	5	14	14
2-BED ROOM	1	1	1	1
3-BED ROOM	1	1	1	1
TOTAL UNITS	4	7	16	16
TOTAL RESIDENTIAL AREA	1,111	2,111	4,444	4,444
TOTAL COMMON AREA	1,111	1,111	1,111	1,111
TOTAL AREA	2,222	3,222	5,555	5,555

2023 © 2024 FURD PC  
 2023.33  
 SHEET  
**A1.1**

SENIOR APARTMENTS FOR:  
**NEX SENIOR APARTMENTS**  
 42ND STREET  
 FARGO NORTH DAKOTA 58102



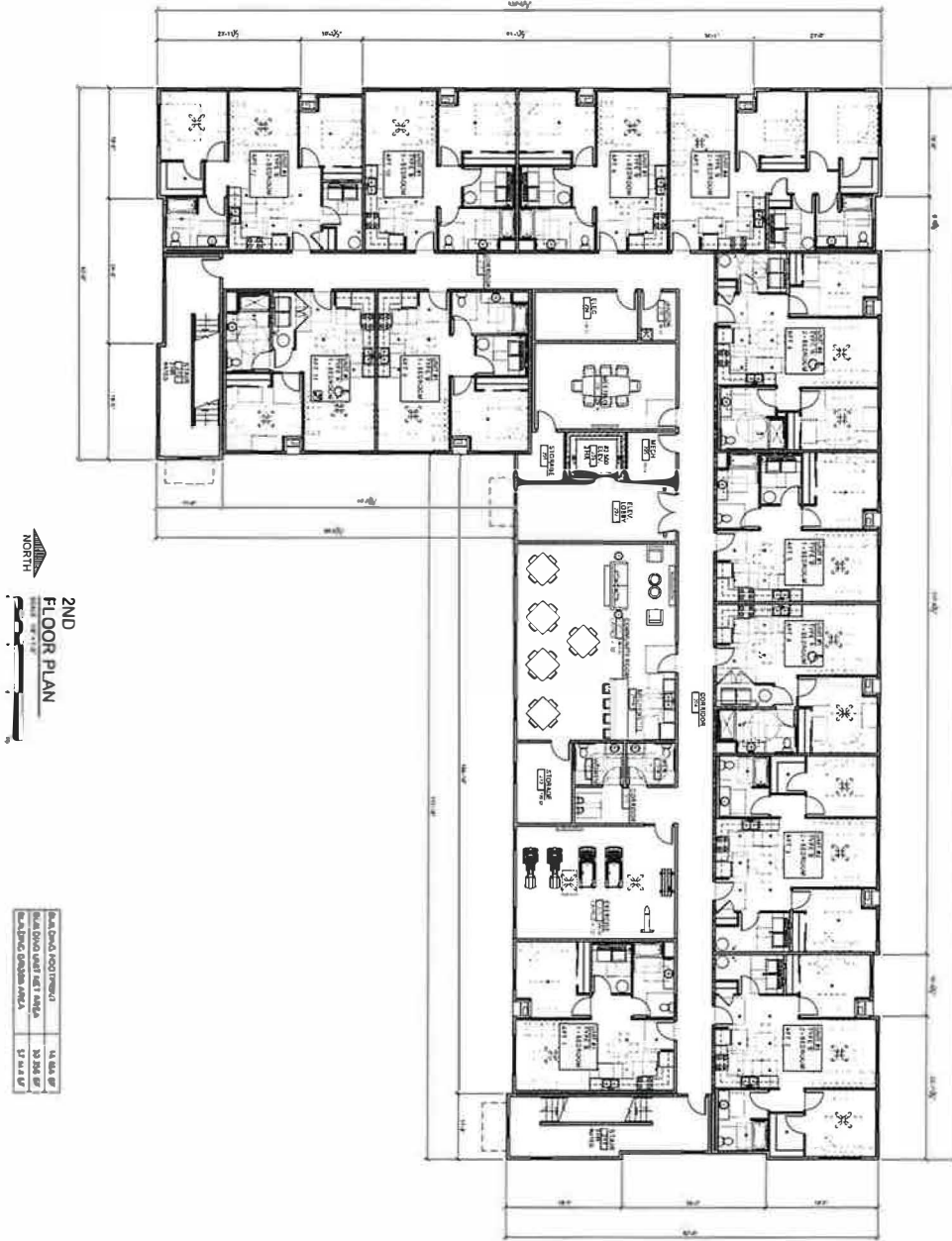
**COMMONWEALTH COMPANIES**  
 24 SOUTH BROOK STREET  
 FOND DU LAC, WISCONSIN 54937  
 (920) 922-8170 FAX (920) 922-8171

**PRELIMINARY DRAWING - NOT FOR CONSTRUCTION**



24 SOUTH BROOK STREET  
 FOND DU LAC, WISCONSIN 54937  
 1 PINE@madsgroup.com (920) 922-8170

**PRELIMINARY SHEET DATES:**  
 08/27/2023



**2ND FLOOR PLAN**  
 NORTH

PLAN SHEET (SHEET NUMBER)	14. 000. 00
PLAN SHEET (SHEET NUMBER)	14. 000. 00
PLAN SHEET (SHEET NUMBER)	14. 000. 00

UNIT MAX:	100	100	100	100
RESIDENTIAL	1	1	1	1
COMMERCIAL	1	1	1	1
STORAGE	1	1	1	1
MECHANICAL	1	1	1	1
UTILITY	1	1	1	1
STAIR	1	1	1	1
LOBBY	1	1	1	1
REAR PORCH	1	1	1	1
FRONT PORCH	1	1	1	1
SCREENED PORCH	1	1	1	1
PAVING	1	1	1	1
LANDSCAPING	1	1	1	1
TYPE & DATE	1	1	1	1
ADDER SHEET	1	1	1	1

2023 © MAE STUDIO, INC.  
**A1.2**  
 SHEET

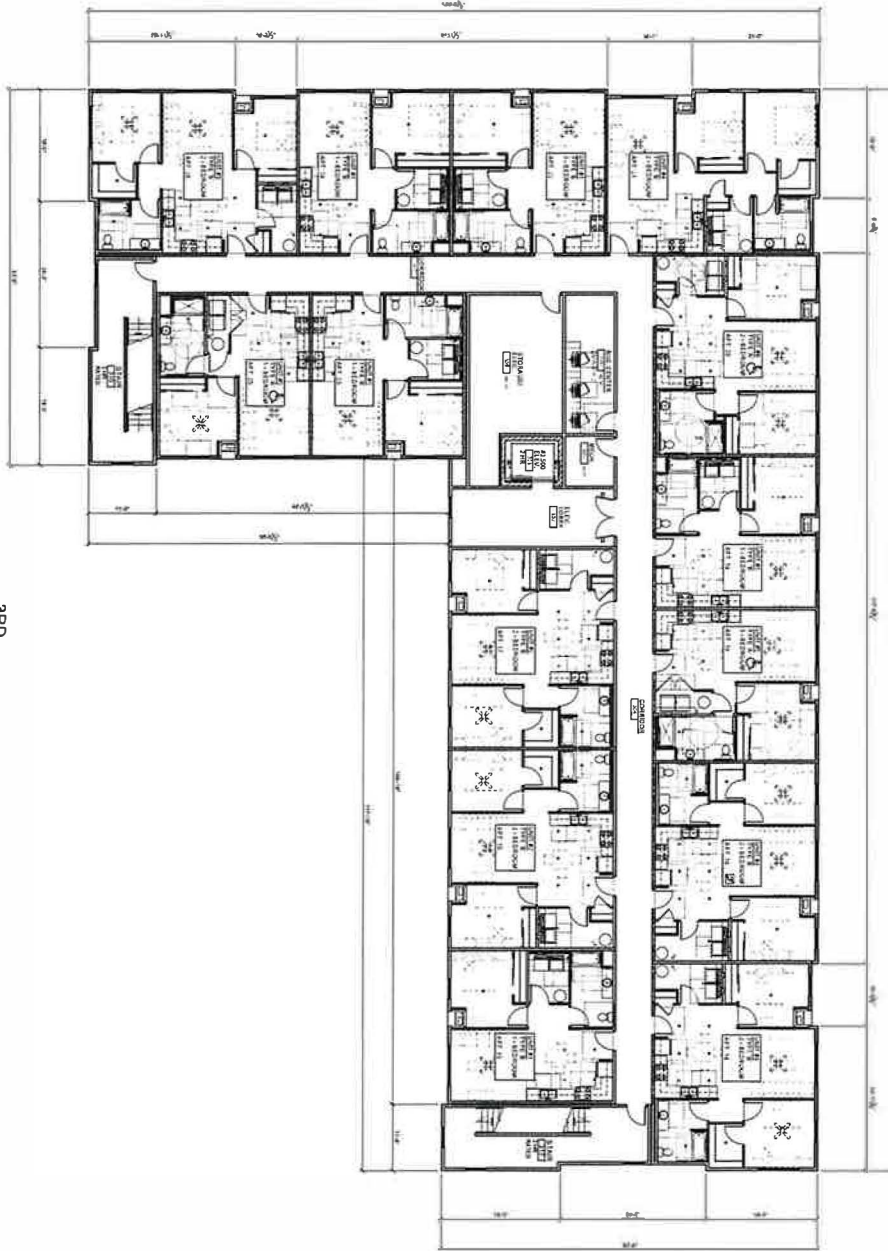
SENIOR APARTMENTS FOR:  
**NEX SENIOR APARTMENTS**  
 42ND STREET  
 FARGO, NORTH DAKOTA 58102

**COMMONWEALTH COMPANIES**  
 24 SOUTH BROOKE STREET  
 FOND DU LAC, WISCONSIN 54901  
 (920) 922-8170 FAX: (920) 922-8171

**MA**  
 24 SOUTH BROOKE STREET  
 FOND DU LAC, WISCONSIN 54901  
 1 pma@maestroginc.net (920) 922-8170

PRELIMINARY DRAWING - NOT FOR CONSTRUCTION

PRELIMINARY SHEET DATES:



**3RD FLOOR PLAN**  
DATE: 08.13.23

RESIDENT FLOOR AREA	14,000 SF
RESIDENT UNIT NET AREA	29,200 SF
RESIDENT COMMON AREA	57,800 SF

UNIT NO.	100	101	102	103	104	105	106	107	108	109	110
UNIT 100											
UNIT 101											
UNIT 102											
UNIT 103											
UNIT 104											
UNIT 105											
UNIT 106											
UNIT 107											
UNIT 108											
UNIT 109											
UNIT 110											

2023 © MAJORS  
**A1.3**  
 SHEET

SENIOR APARTMENTS FOR:  
**NEX SENIOR APARTMENTS**  
 42ND STREET  
 FARGO, NORTH DAKOTA 58102

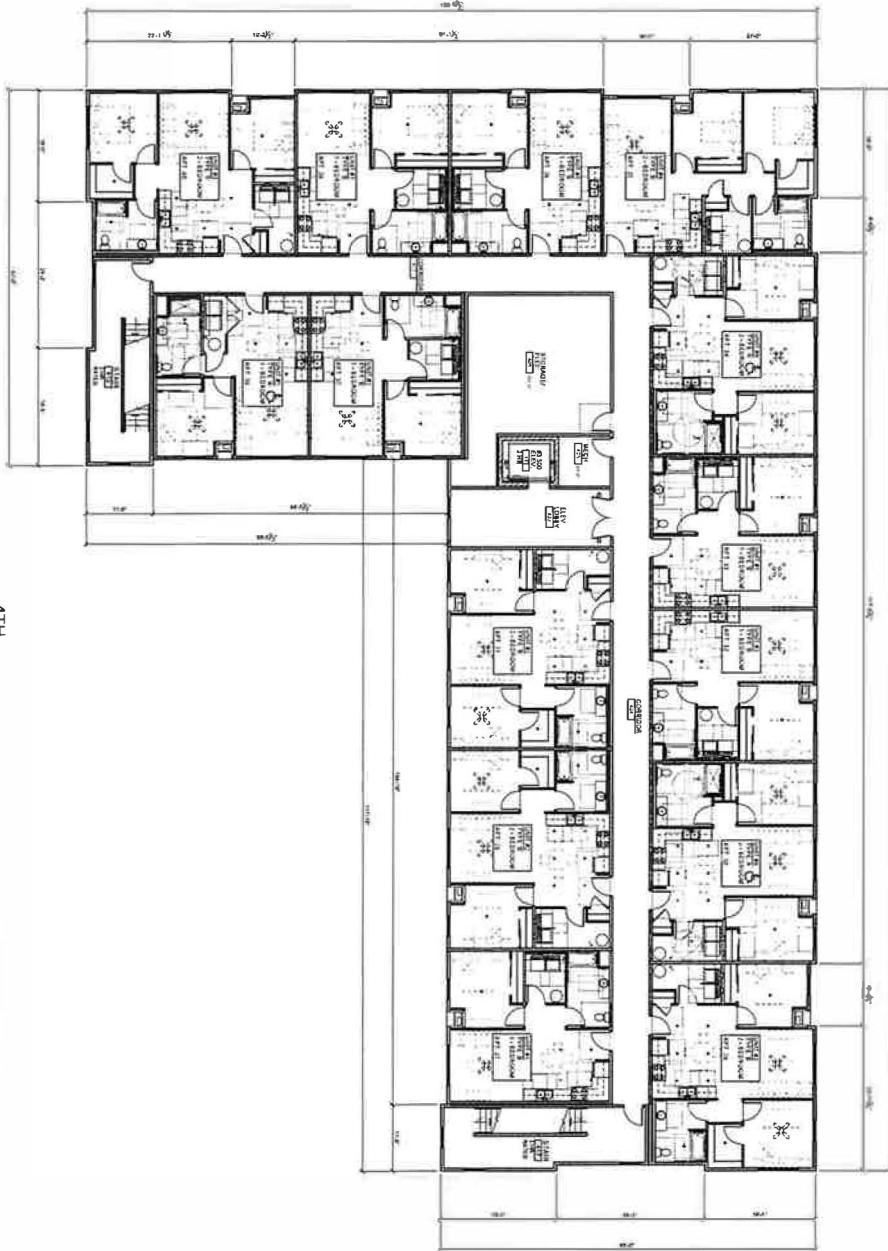
**COMMONWEALTH COMPANIES**  
 34 SOUTH BROOKE STREET  
 FOND DU LAC, WISCONSIN 54937  
 (920) 922-4170 FAX: (920) 922-4111

**MA**  
 24 SOUTH BROOKE STREET  
 FOND DU LAC, WISCONSIN 54937  
 1palm@ma.jsginc.com (920) 922-4170

PRELIMINARY SHEET DATES:  
 08/13/23

PRELIMINARY DRAWING - NOT FOR CONSTRUCTION





4TH FLOOR PLAN

PLANNING FOOTPRINT	14,664 SF
PLANNING UNIT NET AREA	38,358 SF
PLANNING GROSS AREA	57,144 SF

UNIT MIX:	101	201	101A
FIRST FLOOR	1	1	1
SECOND FLOOR	1	1	1
THIRD FLOOR	1	1	1
FOURTH FLOOR	1	1	1
TOTAL UNITS	4	4	4

PRELIMINARY DRAWING - NOT FOR CONSTRUCTION

JOB NUMBER	2023.33
SHEET	A1.4

SENIOR APARTMENTS FOR:  
**NEX SENIOR APARTMENTS**  
 42ND STREET  
 FARGO, NORTH DAKOTA 58102

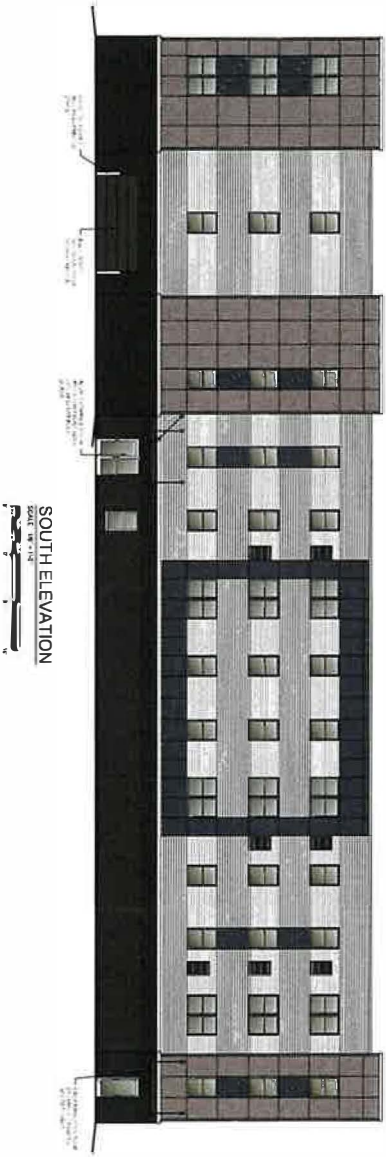


**COMMONWEALTH COMPANIES**  
 24 SOUTH BROOKE STREET  
 FOND DU LAC, WISCONSIN 54930  
 (920) 922-8170 FAX (920) 322-8171

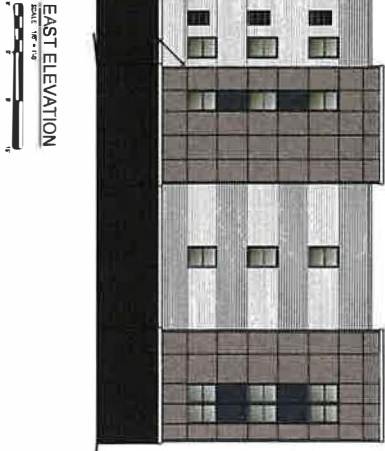


24 SOUTH BROOKE STREET  
 FOND DU LAC, WISCONSIN 54937  
 1.668th @ mcarr@mcarr.com (920) 322-8170

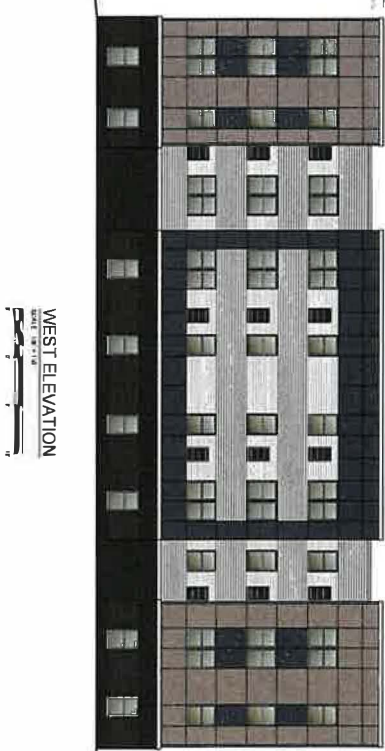
PRELIMINARY SHEET DATES



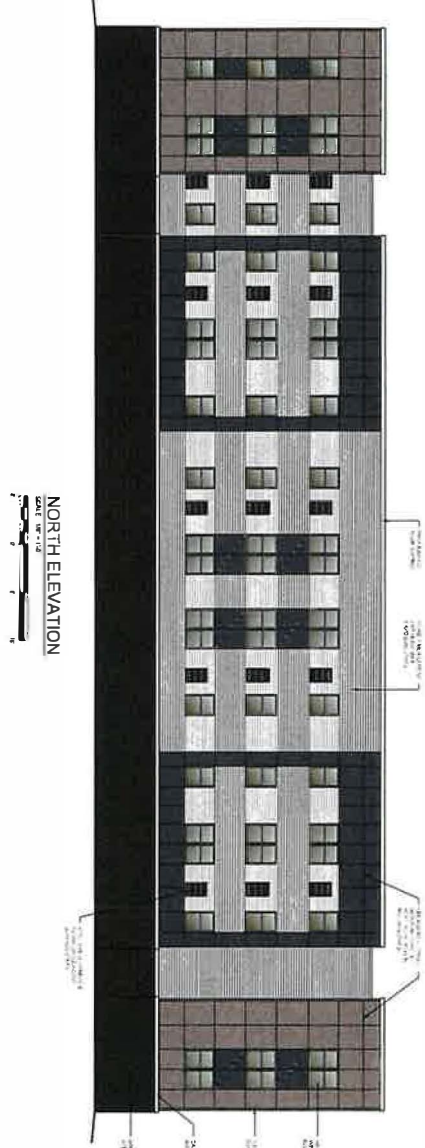
**SOUTH ELEVATION**  
DATE: 08-11-23



**EAST ELEVATION**  
DATE: 08-11-23



**WEST ELEVATION**  
DATE: 08-11-23



**NORTH ELEVATION**  
DATE: 08-11-23

- 1. EXTERIOR WALL
- 2. EXTERIOR WINDOW
- 3. EXTERIOR DOOR
- 4. EXTERIOR ROOF
- 5. EXTERIOR FLOOR
- 6. EXTERIOR CEILING
- 7. EXTERIOR BALCONY
- 8. EXTERIOR SIGNAGE
- 9. EXTERIOR LIGHTING
- 10. EXTERIOR PLANTING
- 11. EXTERIOR FURNITURE
- 12. EXTERIOR ACCESSORIES

- 1. EXTERIOR WALL
- 2. EXTERIOR WINDOW
- 3. EXTERIOR DOOR
- 4. EXTERIOR ROOF
- 5. EXTERIOR FLOOR
- 6. EXTERIOR CEILING
- 7. EXTERIOR BALCONY
- 8. EXTERIOR SIGNAGE
- 9. EXTERIOR LIGHTING
- 10. EXTERIOR PLANTING
- 11. EXTERIOR FURNITURE
- 12. EXTERIOR ACCESSORIES

- 1. EXTERIOR WALL
- 2. EXTERIOR WINDOW
- 3. EXTERIOR DOOR
- 4. EXTERIOR ROOF
- 5. EXTERIOR FLOOR
- 6. EXTERIOR CEILING
- 7. EXTERIOR BALCONY
- 8. EXTERIOR SIGNAGE
- 9. EXTERIOR LIGHTING
- 10. EXTERIOR PLANTING
- 11. EXTERIOR FURNITURE
- 12. EXTERIOR ACCESSORIES


  
 2023-33  
 SHEET  
 A2.0

SENIOR APARTMENTS FOR:  
**NEX SENIOR APARTMENTS**  
 42ND STREET  
 FARGO, NORTH DAKOTA 58102



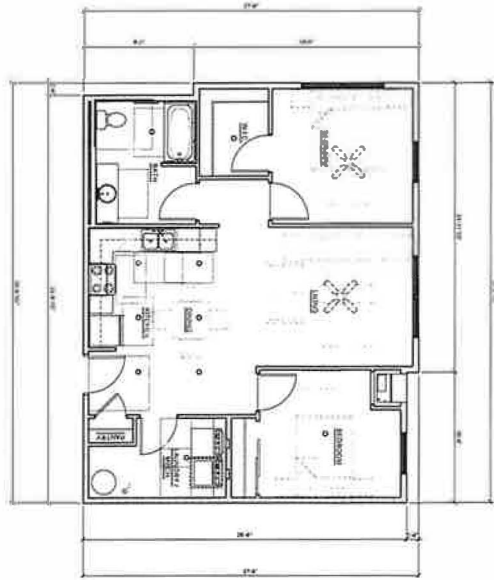
**COMMONWEALTH COMPANIES**  
 38 SOUTH SADDLE STREET  
 FARGO ND 58103  
 (701) 724-1170 FAX (701) 722-8112

PRELIMINARY DRAWING - NOT FOR CONSTRUCTION



24 800/1198006 STREET  
 FARGO ND 58103  
 (701) 722-8112

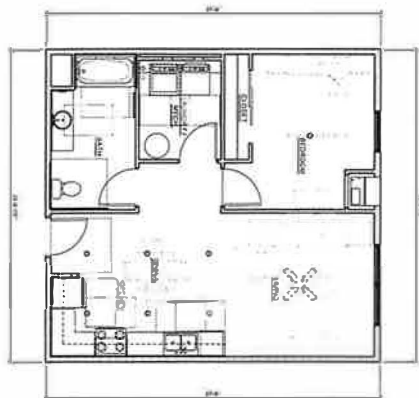
PRELIMINARY  
 SHEET 1/1  
 2023-33



UNIT #3 FLOOR PLAN  
2 BED, 1 BATH - TYPE 'B'  
SCALE: 1/8" = 1'-0"



UNIT #2 FLOOR PLAN  
2 BED, 1 BATH - TYPE 'B'  
SCALE: 1/8" = 1'-0"



UNIT #1 FLOOR PLAN  
1 BED, 1 BATH - TYPE 'B'  
SCALE: 1/8" = 1'-0"



PRELIMINARY DRAWING - NOT FOR CONSTRUCTION

JOHN KUMAR  
2023.33  
SHEET  
A5.0

SENIOR APARTMENTS FOR:  
**NEX SENIOR APARTMENTS**  
42ND STREET  
FARGO, NORTH DAKOTA 58102



**COMMONWEALTH COMPANIES**  
24 SOUTH BROOKE STREET  
FARGO, ND, USA 58103-5499  
701.722-4172 FAX 701.727-8111

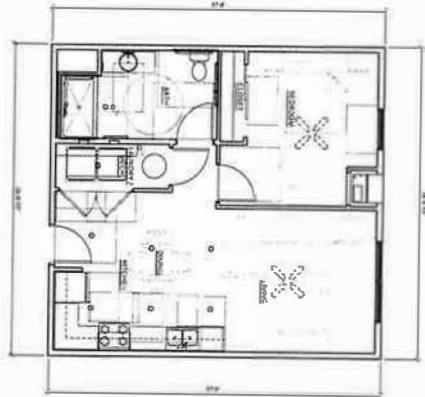


24 SOUTH BROOKE STREET  
FARGO, ND, USA 58103-5433  
1-800-855-8888 ext. 800 927-4135

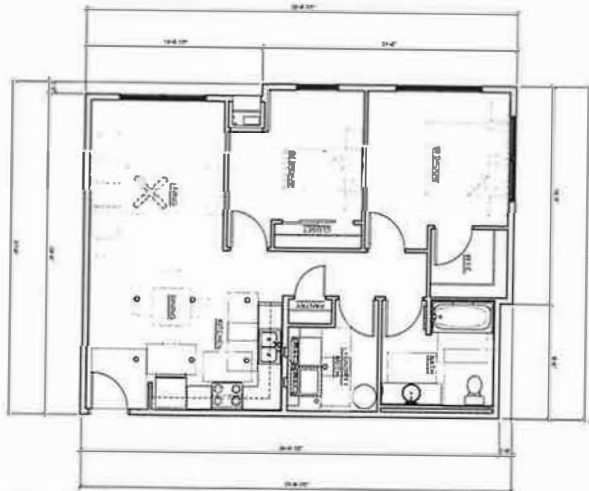
REVISIONS	PRELIMINARY SHEET DATES:



UNIT #6 FLOOR PLAN  
2 BED, 2 BATH - TYPE 'A'  
SCALE: 1/8" = 1'-0"



UNIT #5 FLOOR PLAN  
1 BED, 1 BATH - TYPE 'A'  
SCALE: 1/8" = 1'-0"



UNIT #4 FLOOR PLAN  
2 BED, 1 BATH - TYPE 'B'  
SCALE: 1/8" = 1'-0"



PRELIMINARY DRAWING - NOT FOR CONSTRUCTION

SENIOR APARTMENTS FOR:  
**NEX SENIOR APARTMENTS**  
42ND STREET  
FARGO, NORTH DAKOTA 58102



**COMMONWEALTH COMPANIES**  
24 SOUTH BROOKE STREET  
FARGO & LAC. WISCONSIN 58102  
(701) 792-4170 FAX: (701) 822-8333



24 SOUTH BROOKE STREET  
FARGO & LAC. WISCONSIN 58102  
1800-225-7474 FAX: (701) 922-8170

PRELIMINARY SHEET DATES  
REVISIONS  
NO. DATE

JOB NUMBER: 2023.33  
SHEET: A5.1

# DETAILED SOURCE AND USE BREAKDOWN





# PROJECT PROFORMA



Permanent Loan

Rate:	5.00%
OCR:	1-15
Amort:	35
Constant:	6.06%
Annual Debt Service:	\$ 119,611
Mortgage Amount	\$ 1,975,000

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	
<b>REVENUE</b>																
REV Growth %	2.00%															
Gross Potential Revenue	\$ 406,980	\$ 415,120	\$ 423,422	\$ 431,890	\$ 440,528	\$ 449,339	\$ 458,326	\$ 467,492	\$ 476,842	\$ 486,379	\$ 496,106	\$ 506,028	\$ 516,149	\$ 526,472	\$ 537,001	
Other Income	4,800	4,896	4,994	5,094	5,196	5,300	5,406	5,514	5,624	5,736	5,851	5,968	6,088	6,209	6,333	
Less: Vacancy	(28,825)	(29,401)	(29,989)	(30,589)	(31,201)	(31,825)	(32,461)	(33,110)	(33,773)	(34,448)	(35,137)	(35,840)	(36,557)	(37,288)	(38,033)	
Total Income	\$ 382,955	\$ 390,615	\$ 398,427	\$ 406,395	\$ 414,523	\$ 422,814	\$ 431,270	\$ 439,895	\$ 448,693	\$ 457,667	\$ 466,820	\$ 476,157	\$ 485,680	\$ 495,394	\$ 505,302	
<b>Operating Expenses</b>																
Annual % Expense Growth	3.00%															
Operating Expenses	206,135	212,319	218,689	225,250	232,007	238,967	246,136	253,521	261,126	268,960	277,029	285,340	293,900	302,717	311,798	
Property Management Fee	22,977	23,667	24,377	25,108	25,861	26,637	27,436	28,259	29,107	29,980	30,880	31,806	32,760	33,743	34,755	
Reserves for Replacement	\$ 350	14,000	14,420	14,853	15,298	15,757	16,230	16,717	17,218	17,735	18,267	18,815	19,379	19,961	20,559	
Total Operating Expenses	\$ 243,113	\$ 250,406	\$ 257,918	\$ 265,656	\$ 273,626	\$ 281,834	\$ 290,289	\$ 298,998	\$ 307,968	\$ 317,207	\$ 326,723	\$ 336,525	\$ 346,621	\$ 357,019	\$ 367,730	
<b>Net Operating Income</b>	\$ 139,843	\$ 140,208	\$ 140,509	\$ 140,739	\$ 140,898	\$ 140,979	\$ 140,981	\$ 140,897	\$ 140,725	\$ 140,460	\$ 140,097	\$ 139,632	\$ 139,059	\$ 138,374	\$ 137,572	
<b>Temporary Income - TIF</b>																
Debt Service: First Mortgage Loan	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	\$ 119,611	
MIP / Guarantee Fee (on declining loan balance)																
Debt Service: Second Mortgage Loan																
Debt Service: TIF Mortgage																
<b>Cash Flow After Debt Service</b>	\$ 20,232	\$ 20,597	\$ 20,898	\$ 21,129	\$ 21,287	\$ 21,369	\$ 21,370	\$ 21,286	\$ 21,114	\$ 20,849	\$ 20,486	\$ 20,021	\$ 19,448	\$ 18,783	\$ 17,961	
Accumulated Cash Flow	\$ 20,232	\$ 40,829	\$ 61,727	\$ 82,855	\$ 104,142	\$ 125,510	\$ 146,880	\$ 168,166	\$ 189,281	\$ 210,130	\$ 230,616	\$ 250,637	\$ 270,086	\$ 288,849	\$ 306,810	
<b>DISCR - HARD</b>	1.17	1.17	1.17	1.18	1.18	1.18	1.18	1.18	1.18	1.17	1.17	1.17	1.16	1.16	1.15	
Asset Management Fee	\$ 100	\$ 4,000	\$ 4,120	\$ 4,244	\$ 4,371	\$ 4,502	\$ 4,637	\$ 4,776	\$ 4,919	\$ 5,067	\$ 5,219	\$ 5,376	\$ 5,537	\$ 5,703	\$ 5,874	\$ 6,050
Cash Flow Available to Pay Deferred Fee	\$ 16,232	\$ 16,477	\$ 16,654	\$ 16,758	\$ 16,785	\$ 16,731	\$ 16,593	\$ 16,367	\$ 16,047	\$ 15,630	\$ 15,111	\$ 14,484	\$ 13,745	\$ 12,889	\$ 11,910	
Cash Flow Loan Repayment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Cash Flow Loan Repayment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>Deferred Fee Payoff</b>																
Payment	\$ 208,997	\$ 16,232	\$ 16,477	\$ 16,654	\$ 16,758	\$ 16,785	\$ 16,731	\$ 16,593	\$ 16,367	\$ 16,047	\$ 15,630	\$ 15,111	\$ 14,484	\$ 13,745	\$ 1,382	
Current Balance	\$ 192,765	\$ 176,288	\$ 159,634	\$ 142,876	\$ 126,092	\$ 109,360	\$ 92,767	\$ 76,400	\$ 60,353	\$ 44,723	\$ 29,612	\$ 15,128	\$ 1,382	\$ -	\$ -	
<b>Cash Flow Available to Partnership</b>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,507	\$ 11,910



37

MEMORANDUM

**TO:** Fargo City Commission

**FROM:** Jim Gilmour, Director of Strategic Planning and Research *JG*

**DATE:** April 24, 2024

**SUBJECT:** Lashkowitz Housing Project

I reported information about Riverfront Tax Increment Financing (TIF) at the last meeting and described the proposal for TIF assistance to provide a better appearance for the new Lashkowitz housing project. The amount of TIF funds needed is \$536,000.

The Riverfront TIF received \$8,975.03 this month, so an updated table on TIF funds is below. The table below assumes approval of the Lashkowitz project and some funds for the Civic Plaza:

Balance April 2024	\$	93,444.48
Projected FY 2025 TIF	\$	<u>572,000.00</u>
Available - 2025	\$	665,444.48
Fargo Housing	\$	(536,000.00)
Civic Plaza	\$	<u>(100,000.00)</u>
Balance	\$	29,444.48

The City Attorney's office drafted a resolution and memorandum of understanding to provide these TIF funds. They are attached for your consideration.

Recommended Motion

Approve a Resolution and a Memorandum of Understanding with the Fargo Housing and Redevelopment Authority to provide \$536,000 of TIF funds for the Lashkowitz Housing Project.

COMMISSIONER \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION**

**[Affordable Housing Project – Fargo HRA]**

**BE IT HEREBY RESOLVED** by the board of city commissioners of the City of Fargo:

Whereas, the Fargo Housing & Redevelopment Authority as initially established as a housing authority by resolution of the board of city, commissioners of the City of Fargo, adopted on the 18<sup>th</sup> day of June, 1968, and was abolished and reestablished as the Fargo Housing & Redevelopment Authority [the “Fargo HRA”] pursuant to Fargo Municipal Code §§33-0101 and 33-0102; and,

Whereas, pursuant to Fargo Municipal Code §§33-0106, the board of city commissioners of the City of Fargo, by resolution, may expressly confer upon the Fargo HRA certain powers and duties that have been “... vested in the board of city commissioners as provided in § 40-58-15 [sic] of the North Dakota Century Code ...” in connection with any urban renewal projects of the City, said authorization also further expressed in N.D.C.C. §§ 40-58-15 and 40-58-07(8); and,

Whereas, the City established the Riverfront Renewal Area and the Tax Increment District No. 2021–01, after public hearing, by resolution adopted by the board of city commissioners on April 5, 2021; and,

Whereas, said renewal plan contemplated the expenditure by the City of \$2,000,000 to \$3,000,000 to assist in the costs of the demolition of the high-rise, known as the Lashkowitz High Rise, as well as an expenditure of \$500,000 to \$1,000,000 for affordable housing within the renewal area; and,

Whereas, the Fargo HRA has developed plans for the development and construction of affordable housing units to be constructed at the site of the demolished high-rise at about 101 2nd Street South in Fargo, and the board of city commissioners wishes to allocate and provide funds from the Riverfront TIF District fund for said for the assistance of said affordable housing project;

Now, therefore, be it hereby, resolved:

1. The affordable housing project developed by the Fargo HRA as a partial replacement for the affordable housing provided by the said, described high-rise that was demolished in the fall of 2023, is hereby recognized as conforming to the objectives of the riverfront renewal plan; and,
2. Upon receipt of sufficient tax increment financing funds by the City of Fargo to make such remittance, the sum of \$536,000 is hereby authorized to be remitted from the Riverfront TIF

RESOLUTION

Page 2

Fund to the Fargo HRA, and tax increment collected from the ad valorem property taxes for the 2024 tax year, said taxes becoming due and payable on or after January 1, 2025; and,

- 3. The terms by which such funds will be remitted and the purposes or uses for such funds to be expended by the Fargo HRA will be memorialized in a memorandum of understanding between the City and the Fargo HRA, to be approved by motion of the board of city commissioners of the City of Fargo.

\_\_\_\_\_

Mayor

Attest:

\_\_\_\_\_

City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by  
 COMMISSIONER \_\_\_\_\_, and upon roll call vote, the following voted in favor thereof:  
 COMMISSIONERS \_\_\_\_\_.

The following were absent and not voting: \_\_\_\_\_,  
 and the following voted against the same: \_\_\_\_\_.

whereupon the resolution was declared duly passed and adopted.

## MEMORANDUM OF UNDERSTANDING

### **City of Fargo and Fargo Housing and Redevelopment Authority**

#### **[Affordable Housing Project—Lashkowitz]**

**THIS AGREEMENT** is made and entered into by and between the CITY OF FARGO, a North Dakota municipal corporation (hereinafter “City”) and the FARGO HOUSING AND REDEVELOPMENT AUTHORITY (hereinafter “Fargo HRA”) a public corporation.

**WHEREAS**, the Fargo HRA in conjunction with Lashkowitz Riverfront Four, LLLP, a North Dakota limited liability limited partnership (the “Partnership”) has developed plans for the development and construction of affordable housing units to be constructed at the site of the demolished Lashkowitz High-Rise that was located at 101 2nd Street South in Fargo (the “Lashkowitz Project”) which is to be constructed, owned and operated by the Partnership; and,

**WHEREAS**, the board of city commissioners of the City of Fargo has, by resolution, authorized the expenditure of \$536,000 to be remitted to the Fargo HRA from the Riverfront TIF District Fund (TIF District 2021-01) and has directed that terms by which such funds will be remitted and the purposes or uses for such funds to be expended by the Fargo HRA is to be memorialized in a memorandum of understanding between the City and the Fargo HRA (the “Lashkowitz TIF Funds”);

**WHEREAS**, to facilitate the development, construction and operation of the Lashkowitz Project, the Fargo HRA has agreed to loan the Lashkowitz TIF to the Partnership upon terms and conditions agreed to by and between the Fargo HRA and the Partnership;

**NOW, THEREFOR**, in consideration of the recitals and the mutual covenants and conditions and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree:

1. The Fargo HRA is to or shall cause the Partnership to construct replacement housing in partial replacement of affordable housing that had been provided by the Lashkowitz High-Rise that was recently demolished.
2. The City will remit the sum of Five Hundred Thousand Dollars (\$536,000) to the Fargo HRA as follows:
  - (a) The funds shall be paid from the Riverfront TIF fund, also referred to as the Tax Increment Financing Fund No. 2021-01 which is the fund established by the City for Tax Increment District No. 2021-01;
  - (b) The funds to be remitted by the City shall be limited to ad valorem tax increment proceeds from tax year 2024, which taxes become due and payable January 1, 2025 and, therefore, which are expected to be received by the City of Fargo from the Cass County Auditor’s Office no earlier than approximately March 15, 2025;

Memorandum of Understanding  
Lashkowitz Project—City and FHRA  
Page 2

- (c) It is hereby being recognized and agreed that said proceeds from the 2024 tax year may not accumulate to such amount (i.e. \$536,000) until on or after May 1, 2025; and,
  - (d) The City Finance Director is authorized to determine when sufficient funds have been accumulated and to make such remittance at such time to the Fargo HRA. Notwithstanding the foregoing, such remittance shall be made no later than the project's conversion to permanent financing, which is expected to occur March 2026.
3. Said funds are to be expended for the following purposes and uses:
- (a) The construction of a five-story building with parking and common space on the first floor with housing units located on floors 2-5.
  - (b) The building will have architectural materials in a similar form, flat roof and color palette as the other newly constructed residential buildings that are on the same block, certified by the project architect and subject to building and site plan permit review and approval by the City.
  - (c) The Fargo HRA will provide or shall cause the Partnership to provide funds for amenities to include washers and dryers within each housing unit.
4. The Fargo HRA shall provide the City with a financial report evidencing the expenditure of such funds on said project.

DATED: \_\_\_\_\_

**CITY OF FARGO,**  
a North Dakota municipal corporation

\_\_\_\_\_  
Mayor

Attest:

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

Memorandum of Understanding  
Lashkowitz Project—City and FHRA  
Page 3

DATED: \_\_\_\_\_

**FARGO HOUSING AND REDEVELOPMENT  
AUTHORITY,**  
a North Dakota municipal corporation

\_\_\_\_\_  
Chris Brungardt, its CEO

Attest:

\_\_\_\_\_  
\_\_\_\_\_

38

## MEMORANDUM

**TO:** Fargo City Commission

**FROM:** Jim Gilmour, Director of Strategic Planning and Research *JG*

**DATE:** April 24, 2024

**SUBJECT:** City Parking Garage, FM Community Theatre and Avery Building

---

The FM Community Theatre and Kilbourne Group investors have committed to the redevelopment project on NP Avenue so the project is moving ahead. This is to give you an update on the project.

- The NP Avenue surface parking lot will close April 30. People renting parking spaces have been notified.
- A groundbreaking is scheduled for May 1 at 4:00 pm.
- The City Parking Garage is scheduled for completion in July 2025.
- The shell of the FM Community Theatre is scheduled for completion August 1, 2025.
- The Avery Apartments are scheduled for completion August 1, 2026.
- The FM Community Theatre expects to open in the fall of 2026.
- Global Development is planning to begin renovation of the former Herbst building in the spring of 2025. Main floor commercial space and a hotel on the upper floors is planned.



**FINANCE OFFICE**  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: (701) 241-1333  
[www.FargoND.gov](http://www.FargoND.gov)

**TO:** Board of Commissioners  
**FROM:** Susan Thompson, Director of Finance  
**RE:** NP Parking Garage Financing  
**DATE:** April 29, 2024

At their November 14, 2022 meeting, the City Commission approved the Development Agreement regarding the NP Parking Garage project and related funding plan for the City of Fargo's \$20 million obligation.

As per the plan, the City of Fargo will issue appropriation bonds to finance approximately \$16 million of the project. Municipal advisor Baker Tilly is assisting with an RFP to select a placement agent that will market the bonds. Upon receipt of bids, we will bring forward the bid results and suggested award for your approval.

The remaining construction cash will be provided through a City of Fargo Inter-Fund loan of excess cash within a Debt Service Fund, as per the funding plan. Inter-Fund loans (other than among Debt Service Funds) have been successfully used in the past for projects such as Newman Outdoor Field, Parking Authority repairs, and Neighborhood Revitalization, under the guidelines established by the Inter-Fund Loan Policy.

Upon discussion with Bond Counsel, she has opined that borrowing from a Debt Service Fund can be accomplished via the City's adoption of an enabling Ordinance, as has been presented for consideration and to include requirements of a Resolution and specific terms and conditions. Upon formalization of the Ordinance, Finance will present an Inter-Fund Loan Resolution specific to this project prior to the loan advance.

In conjunction with the new Ordinance, I request updates to the Inter-Fund Loan Policy to include current processes and allow flexibility within borrowing parameters. Both the proposed Revised Policy and current Policy are provided for your review. We will bring forward the proposed policy for consideration at a future City Commission meeting.

Action Items -

**Suggested Motion:** Receive and File First Reading Ordinance Change, per memo.  
**Suggested Motion:** Receive and File Revised Inter-Fund Loan Policy for future consideration.





**FINANCE OFFICE**  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: (701) 241-1333  
[www.FargoND.gov](http://www.FargoND.gov)

**City of Fargo**  
**Inter-Fund Loan Policy**  
**Revised - April 29, 2024**

The Government Finance Officers Association recommends policy adoption of best business practices where applicable to help institutionalize policy and procedures for various financial functions. In governmental accounting inter-fund loans can be advantageous and less costly than using traditional methods of accessing capital for various projects. The City adopts the following policy to provide the appropriate level of authority and approval in using inter-fund loans with the goal of providing funding flexibility when needed to assure that:

- 1) Authorization is granted at an appropriate level of control.
- 2) Inter-fund loans are allowed to help provide capital resources that may be necessary to initiate a project based upon the facts and circumstances in the most efficient and cost-effective manner. Reasonable assumptions shall be used when considering the use of an inter-fund loan.
- 3) The fund granting the loan is repaid on fair and reasonable terms and conditions.
- 4) The fund receiving the loan has the ability to repay the loan based upon the terms approved.

**Inter-Fund Loan Policy Requirements:**

- The City Commission will approve all inter-fund loans.
- Terms will include a reasonable repayment period.
- Inter-fund loans will not amortize longer than the economic life of the class of assets funded by the interfund loan.
- Unless otherwise agreed-upon, interest will be accrued on loans approved and will be incorporated into the annual budget for the fund granting the loan (receiving) and the fund receiving (paying). Interest will be established at a reasonable rate as dictated by marketing conditions, project cashflow, and other related financial considerations. For example, a suggested interest rate is 100 bps below the ten-year U.S. Treasury index.
- The fund granting inter-fund loans shall maintain an appropriate level of cash reserves to comply with fund balance policies or prudent management of cash reserves.
- The funds receiving inter-fund loans shall have a financial plan regarding repayment and should dedicate future revenues as needed to assure that future budgets are not negatively impacted.

**City of Fargo  
Inter-Fund Loan Policy  
February 25, 2019**

The Government Finance Officers Association recommends policy adoption of best business practices where applicable to help institutionalize policy and procedures for various financial functions.

In governmental accounting inter-fund loans can be advantageous and less costly than using traditional methods of accessing capital for various projects.

The City adopts the following policy to provide the appropriate level of authority and approval in using inter-fund loans with the goal of providing funding; flexibility when needed to assure that:

- 1) Authorization is granted at an appropriate level of control
- 2) Inter-fund loans are allowed to help provide capital resources that may be necessary to initiate a project based upon the facts and circumstances in the most efficient and cost effective manner. Reasonable assumptions shall be used when considering the use of an inter-fund loan
- 3) The fund granting the loan is repaid on fair and reasonable terms and conditions
- 4) The fund receiving the loan has the ability to repay the loan based upon the terms approved

**Inter-Fund Loan Policy Mandatory Requirements:**

- The Finance Committee will review and approve inter-fund loans up to \$3 million. No further approval is required.
- The City Commission will approve all inter-fund loans in excess of \$3 million.
- Terms will include a reasonable repayment period.
- Inter-fund loans will not amortize longer than the economic life of the class of assets funded by the interfund loan.
- Interest will be accrued on loans approved and will be incorporated into the annual budget for the fund granting the loan (receiving) and the fund receiving (paying). Interest will be set at 100 bps below the ten-year U.S. Treasury index and will be adjusted periodically by the Finance Department. The Finance Committee has the authority to adjust the interest rate up or down based upon changes in market conditions.
- Fund granting inter-fund loans shall maintain an appropriate level of cash reserves to comply with fund balance policies or prudent management of cash reserves.
- Funds receiving inter-fund loans shall have the financial capacity to repay loans on a timely basis and should dedicate future revenues as needed to assure that future budgets are not negatively impacted.

**Erik R. Johnson**  
**Assistant City Attorney - Fargo**

386

April 24, 2024

Board of City Commissioners  
City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

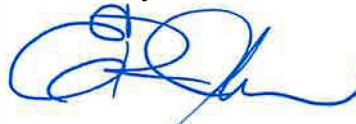
RE: Ordinance amending Section 4-0402 authorizing the City Commission to approve a program of interfund loans

Dear Commissioners:

Enclosed for your consideration and for receipt and filing is a proposed amendment to Section 4-0402 of the Fargo Municipal Code. The amendment is designed to authorize the City Commission to authorize the City's treasurer (Finance Director) to borrow funds internally—from funds already available within the City's treasury. This letter is accompanied by an explanation submitted by Finance Director Susan Thompson and the substance of this ordinance was developed by the City's bond lawyer, Jennifer Hanson, of the Dorsey Law Firm. I plan to be in attendance, virtually, at the April 29<sup>th</sup> regular City Commission meeting to respond to any questions.

**SUGGESTED MOTION:** I move to receive and file An Ordinance Amending Section 4-0402 of Article 4-04 of Chapter 4 of the Fargo Municipal Code Relating to Authorizing the City Commission to Approve Program of Interfund Loans and to place the ordinance on the agenda for the next regular meeting of the City Commission for first reading.

Sincerely,



Erik R. Johnson

Enclosure

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING SECTION 4-0402  
OF ARTICLE 4-04 OF CHAPTER 4 OF THE FARGO MUNICIPAL CODE  
RELATING TO AUTHORIZING THE CITY COMMISSION TO APPROVE PROGRAM OF  
INTERFUND LOANS

1  
2  
3 WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance  
4 with Chapter 40-05.1 of the North Dakota Century Code; and,

5 WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City  
6 shall have the right to implement home rule powers by ordinance; and,

7 WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home  
8 rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith  
and shall be liberally construed for such purposes; and,

9 WHEREAS, it is the wish of the Board of City Commissioners to amend Section 4-0402 to  
10 codify the process for authorization of interfund borrowing and the Board deems it necessary and  
appropriate to do so by the adoption of this ordinance;

11 NOW, THEREFORE,

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

13 Section 1. Amendment.

14 Section 4-0402 of Article 4-04 of Chapter 4 of the Fargo Municipal Code is hereby amended  
15 to read as follows:

16 4-0402. - Treasurer to deposit city funds-Program of Interfund Loans-Interest to accrue to  
17 city.

18 The city treasurer shall organize his records and establish the various accounts and funds required  
19 by law in order to show the receipts, disbursements and balances in said accounts and funds. Said  
treasurer shall be authorized to hold and invest such funds as follows:

20 A. ~~He~~ The city treasurer may hold all funds of the city in one or several bank accounts in  
21 banking institutions approved in accordance with law; and

22 B. The city treasurer may advance or loan money from any accounts or funds otherwise  
23 legally available; provided that: (i) such loan or advance is authorized by resolution of the

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

board of city commissioners, which resolution may approve a program of interfund loans; and (ii) the terms and conditions for forgiveness or repayment of the advance or loan (including at a minimum, the principal amount, the interest rate or interest rate formula, and maximum term) are provided for in the authorizing resolution or program; and

C. ~~He~~ The city treasurer may from time to time, with the assistance of the city auditor, determine the expected cash needs of the city and may accordingly invest the funds of the city for short terms, depending upon the financial needs of the city as herein before determined; and

D. Such short-term investments may be in United States Treasury debentures or debentures guaranteed by the United States or the United States Treasury, as well as interest-bearing deposits of financial intermediaries which are approved according to law.

Any interest earned from the deposit or investment of any funds of the city shall accrue to and be paid over to the general fund of the city unless specifically prohibited by law for any particular fund or account. Any loans or advances pursuant to subsection B herein may be structured as draw-down or line-of-credit obligations of the lending fund.

Section 2. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading:  
Final Passage:

39

**Administration**  
**Brenda Derrig, PE**  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: 701.241.1549  
Email: [bderrig@FargoND.gov](mailto:bderrig@FargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

April 25, 2024

Honorable Board of  
City Commissioners  
City of Fargo  
225 North Fourth Street  
Fargo, ND 58102

Re: Engagement Center Winter Weather Initiative

Dear Commissioners:

The last night of operation of the Overnight Winter Weather Initiative at the Engagement Center will be on April 30<sup>th</sup>. On May 1<sup>st</sup> the Engagement Center will return to the operational hours of 8am to 5pm. I will provide a preliminary update on the Initiative Monday night which will include preliminary estimates on final cost and statistics. A final report will be provided when all the data is collected.

**Recommended Motion:**

NA

Respectfully Submitted,



Brenda Derrig, PE  
Assistant City Administrator

**CITY ATTORNEY**

Nancy J. Morris

**ASSISTANT CITY ATTORNEYS**

Ian R. McLean ▪ Alissa R. Farol ▪ William B. Wischer

40

April 25, 2024

Board of City Commissioners  
City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

**RE: Governance Policies Resolution**

Dear Mayor and City Commissioners:

Please find a resolution prepared for your consideration for the adoption of the Governance policies, as amended, pursuant to your motion on April 15, 2024.

**Suggested Motion:** I move to adopt the Governance Policies pursuant to the terms of the Resolution, effective immediately.

Please feel free to contact me if you have any questions, comments, or concerns.

Regards,

*Nancy J. Morris*  
Nancy J. Morris

NJM/mtw

COMMISSIONER \_\_\_\_\_ introduced the following resolution and moved its adoption:

**Resolution Adopting Governance Policies of the Board of City Commissioners of the City of Fargo**

**WHEREAS**, It is desirable that the transaction of City business be done in an orderly fashion; and

**WHEREAS**, The Board of City Commissioners of the City of Fargo deems it desirable and necessary to promulgate rules and regulations for the guidance of commissioners and citizens; and

**WHEREAS**, the Board of City Commissioners of the City of Fargo has worked diligently over several meeting sessions with a consultant to compile a number of Governance Policies, providing rules and guidance for Board of City Commission members and City of Fargo staff as to numerous operational aspects.

**NOW, THEREFORE, BE IT RESOLVED** By the Board of City Commissioners of the City of Fargo that the Governance Policies attached hereto **ARE HEREBY ADOPTED**, superseding any and all former rules and regulations which have been adopted.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Dr. Timothy J. Mahoney, Mayor

Attest:

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



The motion for the adoption of the foregoing resolution was duly seconded by COMMISSIONER \_\_\_\_\_, and upon roll call vote, the following voted in favor thereof: COMMISSIONERS \_\_\_\_\_. The following were absent and not voting: \_\_\_\_\_, and the following voted against the same: \_\_\_\_\_, whereupon the resolution was declared duly passed and adopted.



**BOARD OF CITY COMMISSIONERS  
GOVERNANCE POLICIES**

## Table of Contents

Policy No. 1 - Organizational Structure .....	2
Policy No. 2 - Single Point of Contact .....	4
Policy No. 2a - Operational Expectations Policies (OE) .....	5
I.    City Administrators Roles and Responsibilities .....	6
II.   Succession Planning and Continuity of Operations.....	7
III.  Treatment of Community Members.....	8
IV.  Personnel Administration .....	9
V.   Financial Planning and Administration .....	11
VI.  Asset Protection.....	13
VII. Communication with the Board of City Commissioners .....	14
Policy No. 3 - Single Unit of Control .....	15
Policy No. 4 - Culture Policy.....	16
Policy No. 5 - Process for Resident Comment .....	19
Policy No. 6 - Code of Ethics/Conflict of Interest .....	21
Policy No. 7 - Commissioners Addressing Board Member Violations.....	25

## **Policy No. 1 - Organizational Structure**

The Mayor and four Commissioners, collectively known as the Board of City Commissioners, shall be the governing body of the City of Fargo. The Fargo City government shall operate with the Commission form of government.

### **Mayor – Duties - Limitations.**

The Mayor shall (1), when present, preside at all meetings of the Board of City Commissioners; (2) perform all duties prescribed by law and the ordinances of the City of Fargo; and (3) be authorized and empowered to issue proclamations, provided, that any such proclamation may be rescinded upon concurrence of at least three members of the Board of City Commissioners. In addition to these duties, the Mayor will also coordinate and deliver an annual performance review process for the City Administrator.

1. Serving as the elected head of the City of Fargo, the Mayor shall represent or designate a representative at City functions and at meetings, conferences and negotiations relating to policy matters with other units of government and legislative bodies. The Mayor shall represent the City in negotiations with individuals and private or public enterprises when cultural or economic improvement of the City of Fargo may be involved.
2. The Mayor shall be the executive officer of the City and shall see that all the laws of the City are enforced. The Mayor shall have the right to vote as a member of the Board but shall have no veto power.
3. The procedure for making appointments of members to all boards, Commissions and other agencies shall be established by City ordinance.
4. The Mayor shall cause to be prepared and shall present to the governing body on or before September 1st of each year, the proposed budget for the ensuing fiscal year, which starts on January 1st and ends on December 31st. The budget shall be in a form as permitted by state law. The proposed budget shall include all maintenance and operating expenses, all wages and salaries, all carryover cash reserves anticipated from the current fiscal year, and all anticipated revenues from City taxes and fees and all other sources of revenue, and all debt retirement requirements.
5. The proposed budget may establish reserves for equipment replacement and other capital improvement projects.
6. The proposed budget shall include the total anticipated revenue of all City-operated utilities, and the allotment of that revenue to the City treasury, to utility operating expenses, to debt retirement, to capital improvements and to reserves.
7. The Mayor in his budget message shall include all long-range plans, in place or anticipated, for major capital improvement and investment programs. The proposed budget shall contain a review of the economic, physical, and social conditions and needs of the City, and its long-range plans for cultural and economic development.

8. At the first meeting of the new governing body after each biennial election, the governing body shall elect one of its members as deputy mayor. The deputy mayor shall perform all the duties of the office of the Mayor in the absence or inability of the Mayor to act. If the Mayor's office becomes vacant, the Deputy Mayor shall become the acting Mayor until the vacancy is filled, as provided in this charter.

*Reference - Home Rule Charter Article 2 Governing Body and Mayor Section A #5*

#### **Nominating Process for Deputy Mayor**

- a. The Chair (Mayor) can make nominations for the Deputy Mayor position as may be provided in the bylaws or by the adoption of a motion.
- b. Nominations from the floor – the Chair (Mayor) must call for further nominations at the session in which the election is held. The person making the nomination shall provide no more than one name for the office or position.
- c. Once the nominations have been completed, the meeting Chair will call for a roll call vote. The individual receiving a majority of votes shall be declared the successful candidate.

*Reference Roberts Rule of Order page 408.*

#### **Roles and Responsibilities - City Commissioners**

1. Represents City residents at City Commission meetings.
2. Serves on the City Commission and votes on issues before the City Commission at meetings.
3. Engages with City residents to determine City needs.
4. Engage in liaison portfolios and assignments.
5. Participate in the budgeting process and represent their liaison departments.
6. Participate with liaison boards and Commissions.
7. Provide liaison reports at Commission meetings.
8. Adherence to all laws and oath of office.
9. Participate in a designated City of Fargo orientation training.
10. Engage in professional development opportunities.

*Reference Code of Ordinances/Chapter 2 Board of City Commissioners—Duties. General Article 2-0101.*

## **Policy No. 2 - Single Point of Contact**

The Board of City Commissioners sole direction of the operational organization is through the City Administrator. The Board of City Commissioners outlines the powers given to the City Administrator through Operational Expectation Policies (OE's)

## **Policy No. 2a - Operational Expectations Policies (OE)**

Operational expectations are policies that define the parameters or power given to the City Administrator to make decisions and carry out their roles and responsibilities. They are also policies that monitor the City Administrators' performance.

- I. City Administrators' Roles and Responsibilities
- II. Succession Planning and Continuity of Operations
- III. Treatment of Community Members
- IV. Personnel Administration
- V. Financial Planning and Administration
- VI. Asset Protection
- VII. Communication with the Board of Commissioners

## **I. City Administrator's Roles and Responsibilities**

The City Administrator is appointed by the City Commission and reports to the commission. He or she serves as the head of the administrative branch of the City of Fargo and is responsible for administering the City's affairs to the Board of City Commissioners. The city commission is responsible for participating in the city administrator's annual performance reviews. The mayor will coordinate the city administrator's annual performance review.

4-1401. City administrator supervises all city departments.

The city administrator shall supervise the activities of all city departmental managers. Ensures completion of all reports and correspondences required by state and federal rules and regulations.

4-1402. City administrator establishes goals and objectives.

The city administrator shall establish goals and objectives for all departments and the city to ensure compliance with city commission policy directives and any applicable local, state or federal laws rules and regulations.

4-1403. City administrator coordinates budget.

The city administrator coordinates financial status of city with departmental goals, objectives and actual performance. The city administrator aids in development of the budget, and recommends and monitors the budget for all departments and monitors expenditures for various items to ensure compliance with guidelines.

4-1404. City administrator represents departments to commission.

The city administrator represents city departments to the city commission to present the plans and accomplishments of each department and to provide recommendations regarding current plans, projects and programs.

4-1405. Liaison for city.

The city administrator shall serve as liaison for the city with non-governmental organizations, contractors and citizens concerning city projects and policies.

***Reference Code of Ordinances/Chapter 4 Officers – General Article 4-14 2002***



## **II. Succession Planning and Continuity of Operations**

To protect the City of Fargo in the event of an unexpected absence of the City Administrator's services, the City Administrator shall ensure that at least one other executive staff member is familiar with the Board of City Commissioners and City Administrator issues and processes, and can assume those responsibilities on a temporary basis, should the need arise.

1. The Assistant City Administrator shall serve as the Interim City Administrator when the office of the City Administrator is vacant and unfilled or unable to serve.
2. Designation as an interim City Administrator does not guarantee promotion to the City Administrator position, however the employee would be entitled to a previous position.
3. If the City Administrator position becomes vacant, procedures for replacing the City Administrator shall be initiated and follow the guidelines outlined in the City Code of Ordinance, Chapter 7 Civil Service, Article 7-03 - Rules and Regulations, 7-0302 - Recruitment.

In addition, the City Administrator shall:

1. Ensure Succession Plans are in place for all Departments.

### **III. Treatment of Community Members**

Concerning interactions with the community, the City Administrator shall not cause or knowingly allow conditions, procedures, and actions that are unlawful, unethical, unsafe, disrespectful, disruptive or undignified.

The City Administrator shall ensure the following:

1. Protect confidential information;
2. Effectively handle concerns or complaints;
3. Maintain an organizational culture that values individual differences in opinion;
4. Protect against wrongful or illegal conditions;
5. Establish policies and procedures to ensure compliance with all federal and state laws; and
6. Establish policies and procedures to protect against discrimination, bullying, hazing and harassment, which explicitly includes everyone but is not limited to the following characteristics: race, color, religion, sex, sexual orientation, national origin, age, mental or physical disability, gender expression/identity, genetic information or status concerning marriage or public assistance, or standing in any group protected by federal, state or local law.

#### **IV. Personnel Administration**

The City Administrator shall ensure a process is in place to recruit, employ and evaluate all City of Fargo employees.

1. The City Administrator recommends, as per Chapter 7—Civil Service, that employees be appointed based on merit and fitness and are subject to the City of Fargo's applicable personnel policies or rules.
2. The City Administrator may remove or suspend appointed employees subject to the Civil Service Commission and all applicable personnel policies or rules.
3. The City Administrator may delegate tasks and projects to City of Fargo employees.

The City Administrator shall ensure the following:

1. Clear personnel rules and procedures for employees should be administered as per the City Code of Ordinances, Chapter 7 - Civil Service, and the employee handbook;
2. Effective handling of complaints and concerns;
3. Adequate job descriptions for all staff positions;
4. A process is in place to evaluate all employees' performance according to their contribution toward achieving the organization's goals and policies and their compliance with the City of Fargo policies;
5. Protection of confidential information;
6. Ensure that compensation and benefit plans are in place to attract and retain the highest-quality employees by compensating employees within available resources in a manner consistent with the applicable marketplace;
7. Ensure that all staff members are qualified and trained to perform their responsibilities;
8. An organizational culture that positively impacts staff's ability to perform their jobs responsibly and allows them to work in an environment of professional support and courtesy; and

9. Establish policies and procedures to protect against discrimination, bullying, hazing, and harassment, which explicitly includes everyone but is not limited to the following characteristics: race, color, religion, sex, sexual orientation, national origin, age, mental or physical disability, gender expression/identity, genetic information or status concerning marriage or public assistance, or standing in any group protected by federal, state or local law.

## **V. Financial Planning and Administration**

The City Administrator aids in budget performance and recommends and monitors all departments' budgets to ensure compliance with the guidelines. The City Administrator must keep the Board of City Commissioners updated about the ongoing performance of the budget throughout the year.

### **Financial Planning**

1. The City Administrator shall assist the Mayor and City Commissioners in developing the budget in collaboration with the City of Fargo Board of City Commissioners.
2. The City Administrator shall develop a budget that:
  - a. In a summary format, is understandable to the Board of City Commissioners and presented to allow the Board to understand the relationship between the budget and the priorities of the City of Fargo; and
  - b. Assures fiscal soundness in future years.

### **Financial Administration**

The City Administrator shall delegate the authority to the Finance Director or designee to ensure the following:

1. Ongoing performance of the budget throughout the year;
2. Not cause or allow any financial activity or condition that deviates from the budget the Board of City Commissioners adopted. This includes expending more funds than have been received in the fiscal year unless revenues are made available through other legal means, including the use of fund balances or the authorization to transfer funds from reserve or other funds;
3. The City of Fargo reviews contracts, bonds, instruments, and documents to which it is a party annually;
4. Ensure that payroll and legitimate debts are paid promptly when due;
5. Ensure that all purchases are based upon the purchasing policies of the City;
  - a. reasonable precaution against conflict of interest;
  - b. comparative prices based on items of similar quality;
  - c. a balance between long-term quality and cost;
6. Coordinate with the City of Fargo's appointed financial auditor for an annual audit of all funds and accounts;

7. Keep complete and accurate financial records by funds and accounts following Governmental Accounting Standards Board (GASB) standards and official positions;
8. Maintain compliance with the City of Fargo's Purchasing Policy, which includes entering a purchase or contract in the amount as per the purchasing policy approved by the Board on behalf of the City of Fargo without the approval of the Board of City Commissioners; and
9. Communicate Year-to-Date and projected Year-End financial results and foster ongoing dialogue on new and/or existing financial matters through a quarterly Finance Committee meeting of the Board of City Commissioners.
10. Budget line items are not transferred from one fund to another unless reviewed by the Finance Committee and authorized by the Board of City Commissioners.

## **VI. Asset Protection**

The City Administrator shall not allow assets to be unprotected, inadequately maintained, inappropriately used or unnecessarily risked.

The City Administrator shall ensure the following:

1. Obtain insurance coverage complying with the City of Fargo policies;
2. Take reasonable steps to ensure that the facilities and equipment are sufficiently maintained;
3. Ensure that actions do not knowingly, recklessly or negligently expose the organization to legal liability;
4. A process is in place to make purchases by weighing:
  - a. a reasonable precaution against conflict of interest;
  - b. comparative prices based on items of similar quality;
  - c. a balance between long-term quality and cost;
5. A process is in place to protect intellectual property;
6. A process is in place to protect information and files from loss or significant damage; and
7. A process is in place to preserve and dispose of all records related to the affairs or business of the City of Fargo by all applicable state and federal laws.

## **VII. Communication with the Board of City Commissioners**

The City Administrator shall ensure that the Board of City Commissioners are fully and adequately informed about matters relating to the City of Fargo's work and significant organizational concerns.

The City Administrator shall ensure the following:

1. Attendance at meetings of the Board of City Commissioners. The City Administrator may participate in discussions at the meetings but not vote;
2. Recommend procedures or actions necessary to efficiently administrate the City of Fargo's affairs to the Board of City Commissioners;
3. Promptly provide information about trends, facts and other information relevant to the Board of City Commissioners;
4. Inform the Board of City Commissioners of significant money transfers within funds or other changes substantially affecting the organization's financial condition;
5. The Board of City Commissioners has adequate information from various internal and external viewpoints to ensure informed Board decisions;
6. Inform the Board of City Commissioners of anticipated significant media coverage;
7. Present information in a simple and concise form, indicating clearly whether the information is incidental, intended for decision preparation or for formal monitoring;
8. Treat all Board of City Commissioners members impartially and ensure all members have equal access to information;
9. Inform the Mayor if, in the City Administrator's opinion, the Board or individual members have encroached into areas of responsibility assigned to the City Administrator or if the Board or its members are non-compliant with any Governance policies; and
10. Inform the Board of City Commissioners of any actual or anticipated noncompliance with any Board Operational Expectation policy or any expected failure to achieve reasonable progress toward compliance with these policies.



### **Policy No. 3 - Single Unit of Control**

The Board of City Commissioners will direct the City Administrator only through official decisions of the Board.

Accordingly:

1. The Board of City Commissioners will make decisions by formal, recorded vote to avoid ambiguity about whether direction has been given;
2. The City Administrator is neither obligated nor expected to follow the directions or instructions of individual Board members or committees unless the Board has specifically delegated the exercise of authority;
3. It is not unusual for citizens to ask questions of or express concerns to a Board member or members. The Board member is responsible for appropriately referring operational and personnel issues and concerns to the City Administrator. If citizens express concerns that a Commissioner believes require a different course of action, the Commissioner has the responsibility to appropriately inform or discuss the matter with the Liaison Commissioner or Mayor; and
4. If the City Administrator determines that an information request from an individual Board member or a Committee is unreasonable or requires a material amount of staff time, the City Administrator shall ask the Committee or the Board member to refer such requests to the entire Board of City Commissioners for authorization.

## **Policy No. 4 - Culture Policy**

The Board of City Commissioners will govern lawfully, make all official decisions by a formal vote of the Board and govern with a long-term vision.

1. The Board of City Commissioners will function as a single unit. Individual members' opinions and personal strengths will be used to the Board's best advantage. The Board will make decisions as a group by a formal vote. No individual or committee will be permitted to limit the Board of City Commissioners' performance or prevent the Board from fulfilling its commitments.
2. The Board of City Commissioners is responsible for its performance and commits itself to continuous improvement. The Board of City Commissioners will ensure its members receive the training and professional support necessary to govern effectively.
3. To ensure that the Board of City Commissioners business meetings are conducted with maximum effectiveness and efficiency, members will:
  - a. Come to meetings adequately prepared.
  - b. Support the Mayor's efforts to facilitate an orderly meeting.
  - c. Communicate openly and actively in conversation and dialog.
  - d. Encourage balanced participation of all members.
4. To ensure the Board of City Commissioners are prepared for each Commission meeting and conduct the meetings in an orderly fashion, the following rules will be used to develop the agenda for the meeting:

### **Meeting Agenda**

- a. There shall be one agenda prepared for each meeting.
- b. Any City Commissioner, City Board, Committee or Commission through the liaison City Commissioner, may place an item or issue on a future agenda working with the City Administrator and Executive Assistant. The City Commissioner shall present the appropriate background material for said item, including a suggested motion.
- c. A City Commissioner may place an item on the agenda at the request of a resident of the City of Fargo. Staff is not expected to speak to this item unless a majority of the Board of City Commissioners approves a recommended motion on the citizen-initiated agenda item.

- d. In preparation for each Commission Meeting, the City Administrator and Executive Assistant of the Board of City Commissioners shall review and finalize the meeting agenda.
- e. All agenda items or issues to be qualified for regular consideration must be submitted in clear, articulate and definite terms and must be communicated to the City Commission office prior to 12:00 noon on the Thursday preceding the meeting.
- f. Agenda items must be accompanied by a written explanation of the item. A "suggested" motion must be typed at the end of the communication which states the action being requested of the Board. If the communication is for information purposes only, there should be a statement to that effect at the beginning of the letter.
- g. Any correspondence or other supporting material for any item on the agenda which is intended to become a part of the public record of the City must be received in the City Commission office no later than 12:00 noon on the Thursday preceding the meeting. All necessary and appropriate redactions must be accomplished before being submitted. In the event such material is not submitted to the City Commission office as stated above, such material and the related agenda item shall be stricken and placed on the agenda for the next regular meeting.
- h. Any item or issue placed on the agenda may be removed or withdrawn only by the person who placed it there prior to finalization and publication of the meeting agenda.
- i. Any items or issues which have not qualified for the Regular Agenda under the rules as stated above, or any new and timely issues which arise after preparation of the Regular Agenda may, with the consent of a majority of the City Commissioners may be added to the agenda.
- j. Ordinances shall be sponsored by the City Administrator or Department Head working with the Department Liaison Commissioner and legal counsel.
- k. The order of the agenda shall be as determined by the Executive Assistant to the Board of City Commissioners utilizing general guidelines as follows:
  - 1. Consent agenda at the beginning of the agenda. The consent agenda shall be determined by the City Administrator and Executive Assistant; and
  - 2. Non-consent agenda at the end of the agenda. Non-consent items shall be determined by the City Administrator and Executive Assistant.

- l. The calling and conduct of Special Meetings shall be in accordance with the laws of the State of North Dakota.
- m. Protocols for Special Meetings shall be established in advance of the meeting by the Mayor to the extent possible.

**Rules Governing Conduct of City Commission Meetings**

- a. Meetings shall be conducted in accordance with the most recently revised Roberts Rules of Order, except that the principle of majority rule shall always prevail, and any such rule may be changed or suspended by a majority vote of the Board of City Commissioners.
  - b. The official meeting parliamentarian shall be the Executive Assistant to the Board of City Commissioners.
  - c. At each regular meeting, the first item of business shall be considering and approving the agenda, which may include adding or deleting any item.
  - d. City Commissioners have a duty to vote unless otherwise ineligible by reason of conflict of interest. The conflicted Commissioner is expected to announce the conflict and not vote on the issue. If there is a question as to whether or not a conflict exists, the City Commissioner may advise the entire Board of City Commissioners of the potential conflict and request a ruling from the entire Board to waive the conflict, by a majority vote. A City Commissioner excused from voting by reason of conflict is deemed to be disqualified and shall be noted but not counted.
  - e. Any on duty Police Officer may be considered as a sergeant at arms for Commission meetings and may be summoned to maintain order by any member of the Board of City Commissioners at any time.
5. By majority vote, the Board of City Commissioners may revise or amend its policies at any time. A formal request to revise or amend a Governance Policy (formal resolution of policies) shall be made by a City Commissioner and approved for review through a formal vote of the Commission. If the review is approved, the City Administrator and Executive Assistant will revise and bring back to the Commission a proposal for revision to a policy. A proposed policy revision will be discussed at least one session of the Board before being approved at a Board meeting.

## **Policy No. 5 - Process for Resident Comment**

Board meetings are business meetings held in a limited public—not public forums. Guidelines have been established to ensure that public input is orderly and productive and that special interest groups are not allowed to dominate the proceedings of the Board of City Commissioners.

### **Resident Comment on Agenda Items**

1. Residents or Fargo business owners who wish to address the Board of City Commissioners may do so for topics on the agenda during that section of the agenda following the staff presentation.
2. Sign-up can be completed online or by contacting the City Commission Office ([The City of Fargo – Resident Comment Signup \(fargond.gov\)](https://www.fargond.gov)) by noon on the day of a regularly scheduled meeting.
3. At the beginning of the agenda item, the Mayor will state the number of speakers and the time to be allotted for resident comment. No more than 12 individuals will be allowed to sign up for an agenda item.

### **Public Hearings Pursuant to Legal Notice**

Legally noticed public hearing comments during the meeting will occur when legally required. The time limitation applicable to other comment opportunities shall not apply, but speakers are encouraged to keep their comments to under 3 minutes, when possible.

### **General Resident Comment Period**

At the end of the City Commission meeting, there will be a resident comment period for items not on that evening's Commission meeting agenda. Rules for this comment period will be the same as the Resident Comment on Agenda Items.

### **Rules Applicable to ALL Comment Opportunities**

1. Only those individuals who signed up online or contacted the City Commission Office before the meeting will be permitted to address the Board.
2. Speakers will not be allowed to verbally attack individual Board of City Commission members or employees or use vulgar or profane language.

3. Speakers unwilling to abide by these policies and conform to the rules or time constraints regarding public participation at Board of City Commissioners meetings may be removed from the meeting.
4. Groups will be urged to designate a spokesperson.
5. Speakers may not "donate" their speaking time to another person.
6. Citizen input should not subrogate the regular business of the Board.
7. *Reserved: Future City of Fargo Facilities Security Policy.*

**Guidelines to be read by the Mayor before recognition of the audience**

At this time, the City Commission will hear comments from residents. We ask each speaker who has signed up to address the Board of City Commissioners to state their name for the record.

Speakers must refrain from using this forum to criticize or complain about a specific employee or Commissioner. Vulgar or profane language will not be tolerated. The Board of City Commissioners is interested in your comments and will listen carefully, but is not obligated to respond to or debate issues in this forum.

Should you desire a written response to a specific question, you may request it. This evening each speaker will be allotted 2 ½ minutes for a maximum of 30 minutes for a total of 12 speakers. A timer will be used. You will receive a warning beep when there are 15 seconds of time remaining in the allotted 2 ½ minutes. At the end of the allotted time, a buzzer will sound and the microphone will be switched off.

## Policy No. 6 - Code of Ethics/Conflict of Interest

The purpose of a Code of Ethics/Conflict of Interest policy is to ensure that the Board of City Commissioners adhere to and promote proper ethical standards, abide by the law and preserve the organization's integrity, reputation and professional and business relationships.

Before taking any action or casting a vote regarding a matter before the Board, which would constitute a conflict of interest under North Dakota law:

*44-04-22. Conflict of interest law. A person acting in a legislative or quasi-legislative or judicial or quasi-judicial capacity for a political subdivision of the state who has a direct and substantial personal or pecuniary interest in a matter before that board, council, commission, or other body, must disclose the fact to the body of which that person is a member, and may not participate in or vote on that particular matter without the consent of a majority of the rest of the body.*

### Conflict of Interest

Recognizing it is not possible to address all ways in which ethical issues may arise; the following principles are intended to guide making sound judgments and decisions on behalf of the Board of City Commissioners and its purpose.

### Pledge of Personal and Professional Conduct

- **Integrity** -- I will demonstrate the highest standards of individual conduct, personal accountability, trustworthiness, fair dealings, consideration of the rights of others, and the highest principles of good business relationships.
- **Excellence** -- I will strive to meet the highest performance, quality, service and achievement standards.
- **Honesty** -- I will communicate directly, respectfully, honestly and openly, and avoid misrepresentation, including misrepresentation through omission.
- **Diversity** -- I will support and value diversity -- promoting an environment that embraces all people's similarities and differences to the organization.
- **Respect** -- I will respect and act fairly toward all those I encounter and refuse to engage in or tolerate any form of discrimination or harassment.
- **Responsibility** -- I will take responsibility for my actions and decisions, and remain a careful steward of funds and resources.
- **Compliance** -- I will comply with the Board of City Commissioner's Code of Ethics and all laws and regulations.

The Board of City Commissioners commits itself and its members to ethical business and lawful conduct, including proper use of authority and appropriate decorum when acting as a Board member.

Accordingly,

1. All officers of the City, whether elected or appointed, before entering upon the duties of their respective offices shall take and subscribe to the Oath of Office prescribed in Section 4 of Article XI of the Constitution of the State of North Dakota. Such oath shall be filed in the Office of the City Auditor, provided that the Oath of the City Auditor and the City Treasurer shall be filed in the office of the County Auditor.
2. Commission members will represent the interests of the citizens of the entire City of Fargo, and this accountability will supersede the following:
  - Any conflicting loyalty a member may have to other groups;
  - Loyalty is based upon membership to other boards or staff; and
  - Conflicts are based on personal relations with different employers or boards.
3. Commission members who are a liaison to a department are responsible for working with the department head on budgets and issues in their department.
4. Commissioners will show respect to the Department Liaison Commissioner when asking for information or ideas in the different departments. The liaison Commissioner shall accommodate the request or meeting.
5. If there is a disagreement between a Commissioner and a Department Liaison Commissioner, they can appeal to the City Administrator to resolve the issue. If a disagreement happens to be with the Mayor, then the Deputy Mayor would resolve the issue.
6. Commission members will maintain confidentiality appropriate to sensitive issues and information. They will review the open meeting laws annually and note that information that is discussed in the Executive Session is confidential.
7. Commission members will not express individual negative comments about City staff or employees in a public meeting. They will be expected to discuss such issues with the City Administrator.
8. Dialogue at Commission meetings shall be respectful and courteous.
9. When interacting with the public or a legislative body, a Commissioner must make it clear whether they represent the City of Fargo or for a personal purpose.





**Code of Ethics and Conflict of Interest Certificate**

I acknowledge that I have received and read my copy of the Board of City Commissioners Code of Ethics and Conflict of Interest policies for Board Members. I understand that I am responsible for adhering to the Code of Ethics principles, and I confirm that I will conduct myself in accordance with the Code of Ethics principles.

Please sign and date this Code of Ethics and Conflict of Interest certificate and return it to the Executive Assistant to the Board of City Commissioners.

\_\_\_\_\_ Neither I nor, to the best of my knowledge, any member of my family has had or has an interest or taken any action which would contravene the policy of this Board.

\_\_\_\_\_ Neither I, nor to the best of my knowledge, any member of my family has had or has an interest or taken any action which would contravene the policy of this Board, **except** such interest or action fully disclosed below:

\_\_\_\_\_ I am in compliance with the Code of Ethics and Conflict of Interest policies.

Printed Name

---

Signature

---

Date

---

**References -**

ND League of Cities – City Government Basics: Open records, Open meetings and Conflict of Interest [www.ndlc.org](http://www.ndlc.org)

NDCC: 44-04-19. Access to public meetings.

NDCC: 44-04-20. Notice of public meetings required.

NDCC: 44-04-22. Conflict of interest law.

NDCC: 44-01-05. Oath of civil officers.

Attorney General Opinion 95-06 Conflict of Interest – Duty to Vote

Attorney General Opinion 2002- L-54, 2008-L-07, Conflict of Interest

## **Policy No. 7 - Commissioners Addressing Board Member Violations**

The Board of City Commissioners is committed to faithful compliance with the provisions of the Board's policies. A Board member will inform the City Administrator or Mayor if, in the Board member's opinion, the Board or individual members are not in compliance with the Board's policies. If the Mayor is the member whom the Board member feels is not acting in compliance with policy, the Board member will inform the Deputy Mayor. In the event of a member's willful and continuing violation of policy, the Board will seek a remedy in the following order:

1. Conversation privately between the offending member, the City Administrator and the Mayor.
2. Discussion in a public meeting between the offending member and the entire Board.
3. Public Censure of the offending member of the Board.
4. Removal from an officer role on any Boards, Committees and Commissions shall happen by a majority vote of the Board of City Commissioners.



**BOARD OF CITY COMMISSIONERS -**

**GOVERNNANCE POLICIES**

**Draft Review Workshop 4.4.24**

## Table of Contents

Policy No. 1 - Organizational Structure .....	<u>22</u>
Policy No. 2 - Single Point of Contact .....	<u>44</u>
Policy No. 2a - Operational Expectations Policies (OE) .....	<u>55</u>
I.    City Administrators Roles and Responsibilities .....	<u>66</u>
II.   Succession Planning and Continuity of Operations.....	<u>87</u>
III.  Treatment of Community Members.....	<u>98</u>
IV.   Personnel Administration.....	<u>109</u>
V.    Financial Planning and Administration .....	<u>1211</u>
VI.   Asset Protection.....	<u>1413</u>
VII.  Communication with the Board of City Commissioners .....	<u>1514</u>
Policy No. 3 - Single Unit of Control .....	<u>1615</u>
Policy No. 4 - Culture Policy.....	<u>1716</u>
Policy No. 5 - Process for <del>Resident</del> Public Comment .....	<u>2119</u>
Policy No. 6 - Code of Ethics/Conflict of Interest .....	<u>2421</u>
Policy No. 7 - Commissioners Addressing Board Member Violations .....	<u>2925</u>
<del>Policy Monitoring Form (Template) .....</del>	<del><u>3026</u></del>

## Policy No. 1 - Organizational Structure

The Mayor and four Commissioners, collectively known as the Board of City Commissioners, shall be the governing body of the City of Fargo. The Fargo City government shall operate with the Commission form of government.

### Mayor – Duties - Limitations.

The Mayor shall (1), when present, preside at all meetings of the Board of City Commissioners; (2) perform all duties prescribed by law and the ordinances of the City of Fargo; and (3) be authorized and empowered to issue proclamations, provided, that any such proclamation may be rescinded upon concurrence of at least three members of the Board of City Commissioners. *In addition to these duties, the Mayor will also coordinate and deliver an annual performance review process for the City Administrator.*

1. Serving as the elected head of the City of Fargo, the Mayor shall represent or designate a representative at City functions and at meetings, conferences and negotiations relating to policy matters with other units of government and legislative bodies. The Mayor shall represent the City in negotiations with individuals and private or public enterprises when cultural or economic improvement of the City of Fargo may be involved.
2. The Mayor shall be the executive officer of the City and shall see that all the laws of the City are enforced. The Mayor shall have the right to vote as a member of the Board but shall have no veto power.
3. The procedure for making appointments of members to all boards, Commissions and other agencies shall be established by City ordinance.
4. The Mayor shall cause to be prepared and shall present to the governing body on or before September 1st of each year, the proposed budget for the ensuing fiscal year, which starts on January 1st and ends on December 31st. The budget shall be in a form as permitted by state law. The proposed budget shall include all maintenance and operating expenses, all wages and salaries, all carryover cash reserves anticipated from the current fiscal year, and all anticipated revenues from City taxes and fees and all other sources of revenue, and all debt retirement requirements.
5. The proposed budget may establish reserves for equipment replacement and other capital improvement projects.
6. The proposed budget shall include the total anticipated revenue of all City-operated utilities, and the allotment of that revenue to the City treasury, to utility operating expenses, to debt retirement, to capital improvements and to reserves.
7. The Mayor in his budget message shall include all long-range plans, in place or anticipated, for major capital improvement and investment programs. The proposed budget shall contain a review of the economic, physical, and social conditions and needs of the City, and its long-range plans for cultural and economic development.
8. At the first meeting of the new governing body after each biennial election, the governing body shall elect one of its members as deputy mayor. The deputy mayor shall perform all

the duties of the office of the Mayor in the absence or inability of the Mayor to act. If the Mayor's office becomes vacant, the Deputy Mayor shall become the acting Mayor until the vacancy is filled, as provided in this charter.

*Reference - Home Rule Charter Article 2 Governing Body and Mayor Section A #5*

### **Nominating Process for Deputy Mayor**

- a. The Chair (Mayor) can make nominations for the Deputy Mayor position as may be provided in the bylaws or by the adoption of a motion.
- b. Nominations from the floor – the Chair (Mayor) must call for further nominations at the session in which the election is held. The person making the nomination shall provide no more than one name for the office or position.
- c. Once the nominations have been completed, the meeting Chair will call for a roll call vote. The individual receiving a majority of votes shall be declared the successful candidate.

*Reference Roberts Rule of Order page 408.*

### **Roles and Responsibilities - City Commissioners**

1. Represents City residents at City Commission meetings.
2. Serves on the City Commission and votes on issues before the City Commission at meetings.
3. Engages with City residents to determine City needs.
4. Engage in liaison portfolios and assignments.
5. Participate in the budgeting process and represent their liaison departments.
6. Participate with liaison boards and Commissions.
7. Provide liaison reports at Commission meetings.
8. Adherence to all laws and oath of office.
9. Participate in a designated City of Fargo orientation training.
10. Engage in professional development opportunities.

*Reference Code of Ordinances/Chapter 2 Board of City Commissioners—Duties. General Article 2-0101.*

## **Policy No. 2 - Single Point of Contact**

The Board of City Commissioners sole direction of the operational organization is through the City Administrator. The Board of City Commissioners outlines the powers given to the City Administrator through Operational Expectation Policies (OE's)



## **Policy No. 2a - Operational Expectations Policies (OE)**

Operational expectations are policies that define the parameters or power given to the City Administrator to make decisions and carry out their roles and responsibilities. They are also policies that monitor the City Administrators' performance.

- I. City Administrators' Roles and Responsibilities
- II. Succession Planning and Continuity of Operations
- III. Treatment of Community Members
- IV. Personnel Administration
- V. Financial Planning and Administration
- VI. Asset Protection
- VII. Communication with the Board of Commissioners

## I. City Administrator's Roles and Responsibilities

*The City Administrator is appointed by the City Commission and reports to the commission. He or she serves as the head of the administrative branch of the City of Fargo and is responsible for administering the City's affairs to the Board of City Commissioners. The city commission is responsible for participating in the city administrator's annual performance reviews. The mayor will coordinate the city administrator's annual performance review.*

The City Administrator shall:

~~4-1401. City Administrator supervises all City departments.~~

~~The City Administrator shall supervise the activities of all City departmental managers and ensure the completion of all reports and correspondence required by state and federal rules and regulations.~~

~~4-1402. City Administrator establishes goals and objectives.~~

~~The City Administrator shall establish goals and objectives for all departments and the City to ensure compliance with City Commission policy directives and any applicable local, state, or federal laws, rules, and regulations.~~

~~4-1403. City Administrator coordinates the budget with the Mayor.~~

~~The City Administrator coordinates the financial status of the City with departmental goals, objectives, and actual performance. The City Administrator aids in the development of the budget recommends and monitors the budget for all departments, and monitors expenditures for various items to ensure compliance with guidelines.~~

~~4-1404. City Administrator represents departments to the Commission.~~

~~The City Administrator represents City departments to the City Commission to present the plans and accomplishments of each department and to provide recommendations regarding current plans, projects, and programs.~~

~~4-1405. Liaison for the City.~~

~~The City Administrator shall serve as a liaison for the City with non-governmental organizations, contractors, and citizens concerning City projects and policies.~~

4-1401. City administrator supervises all city departments.

The city administrator shall supervise the activities of all city departmental managers. Ensures completion of all reports and correspondences required by state and federal rules and regulations.

4-1402. City administrator establishes goals and objectives.

The city administrator shall establish goals and objectives for all departments and the city to ensure compliance with city commission policy directives and any applicable local, state or federal laws rules and regulations.

4-1403. City administrator coordinates budget.

The city administrator coordinates financial status of city with departmental goals, objectives and actual performance. The city administrator aids in development of the budget, and recommends and monitors the budget for all departments and monitors expenditures for various items to ensure compliance with guidelines.

4-1404. City administrator represents departments to commission.

The city administrator represents city departments to the city commission to present the plans and accomplishments of each department and to provide recommendations regarding current plans, projects and programs.

4-1405. Liaison for city.

The city administrator shall serve as liaison for the city with non-governmental organizations, contractors and citizens concerning city projects and policies.

***Reference Code of Ordinances/Chapter 4 Officers – General Article 4-14 2002***

## II. Succession Planning and Continuity of Operations

To protect the City of Fargo in the event of an unexpected absence of the City Administrator's services, the City Administrator shall ensure that at least one other executive staff member is familiar with the Board of City Commissioners and City Administrator issues and processes, and can assume those responsibilities on a temporary basis, should the need arise.

1. The Assistant City Administrator shall serve as the Interim City Administrator when the office of the City Administrator is vacant and unfilled or unable to serve.
2. Designation as an interim City Administrator does not guarantee promotion to the City Administrator position, however the employee would be entitled to a previous position.
3. If the City Administrator position becomes vacant, procedures for replacing the City Administrator shall be initiated and follow the guidelines outlined in the City Code of Ordinance, Chapter 7 Civil Service, Article 7-03 - Rules and Regulations, 7-0302 - Recruitment.

In addition, the City Administrator shall:

1. Ensure Succession Plans are in place for all Departments.

### III. Treatment of Community Members

Concerning interactions with the community, the City Administrator shall not cause or knowingly allow conditions, procedures, and actions that are unlawful, unethical, unsafe, disrespectful, disruptive or undignified.

The City Administrator shall ensure the following:

1. Protect confidential information;
2. Effectively handle concerns or complaints;
3. Maintain an organizational culture that values individual differences in opinion;
4. Protect against wrongful or illegal conditions;
5. Establish policies and procedures to ensure compliance with all federal and state laws; ~~and~~
6. Establish policies and procedures to protect against discrimination, bullying, hazing and harassment, which explicitly includes everyone but is not limited to the following characteristics: race, color, religion, sex, sexual orientation, national origin, age, mental or physical disability, gender expression/identity, genetic information or status concerning marriage or public assistance, or standing in any group protected by federal, state or local law.

#### IV. Personnel Administration

The City Administrator shall ensure a process is in place to recruit, employ and evaluate all City of Fargo employees.

1. The City Administrator recommends, as per Chapter 7—Civil Service, that employees be appointed based on merit and fitness and are subject to the City of Fargo's applicable personnel policies or rules.
2. The City Administrator may remove or suspend appointed employees subject to the Civil Service Commission and all applicable personnel policies or rules.
3. The City Administrator may delegate tasks and projects to City of Fargo employees.

The City Administrator shall ensure the following:

1. Clear personnel rules and procedures for employees should be administered as per the City Code of Ordinances, Chapter 7 - Civil Service, and the employee handbook;
2. Effective handling of complaints and concerns;
3. Adequate job descriptions for all staff positions;
4. A process is in place to evaluate all employees' performance according to their contribution toward achieving the organization's goals and policies and their compliance with the City of Fargo policies;
5. Protection of confidential information;
6. Ensure that compensation and benefit plans are in place to attract and retain the highest-quality employees by compensating employees within available resources in a manner consistent with the applicable marketplace;
7. Ensure that all staff members are qualified and trained to perform their responsibilities;
8. An organizational culture that positively impacts staff's ability to perform their jobs responsibly and allows them to work in an environment of professional support and courtesy; and
9. Establish policies and procedures to protect against discrimination, bullying, hazing, and harassment, which explicitly includes everyone but is not limited to the following characteristics: race, color, religion, sex, sexual orientation, national origin, age, mental

or physical disability, gender expression/identity, genetic information or status concerning marriage or public assistance, or standing in any group protected by federal, state or local law.

## V. Financial Planning and Administration

The City Administrator aids in budget performance and recommends and monitors all departments' budgets to ensure compliance with the guidelines. The City Administrator must keep the Board of City Commissioners updated about the ongoing performance of the budget throughout the year.

### Financial Planning

1. The City Administrator shall assist the Mayor and City Commissioners in developing the budget in collaboration with the City of Fargo Board of City Commissioners.
- 1.2. The City Administrator shall develop a budget that:
  - a. In a summary format, is understandable to the Board of City Commissioners and presented to allow the Board to understand the relationship between the budget and the priorities of the City of Fargo; and
  - b. Assures fiscal soundness in future years.

### Financial Administration

The City Administrator shall delegate the authority to the Finance Director or designee to ~~and Finance Committee to~~ ensure the following:

1. Ongoing performance of the budget throughout the year;
2. Not cause or allow any financial activity or condition that deviates from the budget the Board of City Commissioners adopted. **This includes expending more funds than have been received in the fiscal year unless revenues are made available through other legal means, including the use of fund balances or the authorization to transfer funds from reserve or other funds;**
3. The City of Fargo reviews contracts, bonds, instruments, and documents to which it is a party annually;
4. Ensure that payroll and legitimate debts are paid promptly when due;
5. Ensure that all purchases are based upon the purchasing policies of the City; ~~and~~
  - a. reasonable precaution against conflict of interest;
  - b. comparative prices based on items of similar quality;
  - c. a balance between long-term quality and cost;



6. Coordinate with the City of Fargo's appointed financial auditor for an annual audit of all funds and accounts;
7. Keep complete and accurate financial records by funds and accounts following Governmental Accounting Standards Board (GASB) standards and official positions; ~~following Generally Accepted Accounting Principles.~~
8. Maintain compliance with the City of Fargo's Purchasing Policy, which includes entering a purchase or contract in the amount as per the purchasing policy approved by the Board on behalf of the City of Fargo without the approval of the Board of City Commissioners; and.
9. Communicate Year-to-Date and projected Year-End financial results and foster ongoing dialogue on new and/or existing financial matters through a quarterly Finance Committee meeting of the Board of City Commissioners.
10. Budget line items are not transferred from one fund to another unless reviewed by the Finance Committee and authorized by the Board of City Commissioners.

## VI. Asset Protection

The City Administrator shall not allow assets to be unprotected, inadequately maintained, inappropriately used or unnecessarily risked.

The City Administrator shall ensure the following:

1. Obtain insurance coverage complying with the City of Fargo policies;
2. Take reasonable steps to ensure that the facilities and equipment are sufficiently maintained;
3. Ensure that actions do not knowingly, recklessly or negligently expose the organization to legal liability;
4. A process is in place to make purchases by weighing:
  - a. a reasonable precaution against conflict of interest;
  - b. comparative prices based on items of similar quality;
  - c. a balance between long-term quality and cost;
5. A process is in place to protect intellectual property;
6. A process is in place to protect information and files from loss or significant damage; and
7. A process is in place to preserve and dispose of all records related to the affairs or business of the City of Fargo by all applicable state and federal laws.

## VII. Communication with the Board of City Commissioners

The City Administrator shall ensure that the Board of City Commissioners are fully and adequately informed about matters relating to the City of Fargo's work and significant organizational concerns.

The City Administrator shall ensure the following:

1. Attendance at meetings of the Board of City Commissioners. The City Administrator may participate in discussions at the meetings but not vote;~~;~~
2. Recommend procedures or actions necessary to efficiently administrate the City of Fargo's affairs to the Board of City Commissioners;~~;~~
3. Promptly provide information about trends, facts and other information relevant to the Board of City Commissioners;~~;~~
4. Inform the Board of City Commissioners of significant money transfers within funds or other changes substantially affecting the organization's financial condition;~~;~~
5. The Board of City Commissioners has adequate information from various internal and external viewpoints to ensure informed Board decisions;~~;~~
6. Inform the Board of City Commissioners of anticipated significant media coverage;~~;~~
7. Present information in a simple and concise form, indicating clearly whether the information is incidental, intended for decision preparation or for formal monitoring;~~;~~
8. Treat all Board of City Commissioners members impartially and ensure all members have equal access to information;~~;~~
9. Inform the Mayor if, in the City Administrator's opinion, the Board or individual members have encroached into areas of responsibility assigned to the City Administrator or if the Board or its members are non-compliant with any Governance policies; ~~and~~;
10. Inform the Board of City Commissioners of any actual or anticipated noncompliance with any Board Operational Expectation policy or any expected failure to achieve reasonable progress toward compliance with these policies.

### **Policy No. 3 - Single Unit of Control**

The Board of City Commissioners will direct the City Administrator only through official decisions of the Board.

Accordingly:

1. The Board of City Commissioners will make decisions by formal, recorded vote to avoid ambiguity about whether direction has been given;
2. The City Administrator is neither obligated nor expected to follow the directions or instructions of individual Board members or committees unless the Board has specifically delegated the exercise of authority;
3. It is not unusual for citizens to ask questions of or express concerns to a Board member or members. The Board member is responsible for appropriately referring operational and personnel issues and concerns to the City Administrator. If citizens express concerns that a Commissioner<sup>s</sup> believes require a different course of action, the Commissioner has the responsibility to appropriately inform or discuss the matter with the Liaison Commissioner or Mayor; and;
4. If the City Administrator determines that an information request from an individual Board member or a Committee is unreasonable or requires a material amount of staff time, the City Administrator shall ask the Committee or the Board member to refer such requests to the entire Board of City Commissioners for authorization.

## Policy No. 4 - Culture Policy

The Board of City Commissioners will govern lawfully, make all official decisions by a formal vote of the Board and govern with a long-term vision.

1. The Board of City Commissioners will function as a single unit. Individual members' opinions and personal strengths will be used to the Board's best advantage. The Board will make decisions as a group by a formal vote. No individual or committee will be permitted to limit the Board of City Commissioners' performance or prevent the Board from fulfilling its commitments.
2. The Board of City Commissioners is responsible for its performance and commits itself to continuous improvement. The Board of City Commissioners will ensure its members receive the training and professional support necessary to govern effectively.
3. To ensure that the Board of City Commissioners business meetings are conducted with maximum effectiveness and efficiency, members will:
  - a. Come to meetings adequately prepared.
  - b. Support the Mayor's efforts to facilitate an orderly meeting.
  - c. Communicate openly and actively in conversation and dialog.
  - d. Encourage balanced participation of all members.
4. To ensure the Board of City Commissioners are prepared for each Commission meeting and conduct the meetings in an orderly fashion, the following rules will be used to develop the agenda for the meeting:

### Meeting Agenda

- a. There shall be one agenda prepared for each meeting.
- b. Any City Commissioner, advisory City Board, Committee or Commission through the liaison a City Commissioner staff, or citizen of the City, through a commissioner, may place an item or issue on a future agenda working with the City Administrator and Executive Assistant. The City Commissioner shall present the appropriate background material for said item, including a suggested motion.
- b.c. A City Commissioner may place an item on the agenda at the request of a resident of the City of Fargo. Staff is not expected to speak to this item unless directed by the Board of City Commissioners, unless a majority of the Board of City Commissioners approves a recommended motion on the citizen initiated citizen-initiated agenda item.

- ~~e~~.d . In preparation for each Commission Meeting, the City Administrator and Executive Assistant of the Board of City Commissioners shall review and finalize the meeting agenda.
- ~~d~~.e . All agenda items or issues to be qualified for regular consideration must be submitted in clear, articulate and definite terms and must be communicated to the City Commission office prior to 12:00 noon on the Thursday preceding the meeting.
- ~~e~~.f. Agenda items must be accompanied by a written explanation of the item. A "suggested" motion must be typed at the end of the communication which states the action being requested of the Board. If the communication is for information purposes only, there should be a statement to that effect at the beginning of the letter.
- ~~f~~.g. Any correspondence or other supporting material for any item on the agenda which is intended to become a part of the public record of the City must be received in the City Commission office no later than 12:00 noon on the Thursday preceding the meeting. All necessary and appropriate redactions must be accomplished before being submitted. In the event such material is not submitted to the City Commission office as stated above, such material and the related agenda item shall be stricken and placed on the agenda for the next regular meeting.
- ~~g~~.h . Any item or issue placed on the agenda may be removed or withdrawn only by the person who placed it there prior to finalization and publication of the meeting agenda.
- ~~h~~.i. Any items or issues which have not qualified for the Regular Agenda under the rules as stated above, or any new and timely issues which arise after preparation of the Regular Agenda may, with the consent of a majority of the City Commissioners may be added to the agenda.
- ~~i~~.j. Ordinances shall be sponsored by the City Administrator or Department Head working with the Department Liaison Commissioner and legal counsel.
- ~~j~~.k. The order of the agenda shall be as determined by the Executive Assistant to the Board of City Commissioners utilizing general guidelines as follows:
  1. Consent agenda at the beginning of the agenda. The consent agenda shall be determined by the City Administrator and Executive Assistant;  
and

2. Non-consent agenda-at the end of the agenda. Non-consent items shall be determined by the City Administrator and Executive Assistant.

~~k.l.~~ l. The calling and conduct of Special Meetings shall be in accordance with the laws of the State of North Dakota.

~~l.m.~~ m. Protocols for Special Meetings shall be established in advance of the meeting by the Mayor to the extent possible.

### **Rules Governing Conduct of City Commission Meetings**

- a. Meetings shall be conducted in accordance with the most recently revised Roberts Rules of Order, except that the principle of majority rule shall always prevail, and any such rule may be changed or suspended by a majority vote of the Board of City Commissioners.
- b. The official meeting parliamentarian shall be the Executive Assistant to the Board of City Commissioners.
- c. ~~e.~~ At each regular meeting, the first item of business shall be considering and approving the agenda, which may include adding or deleting any item.
- d. ~~Each member of the Board of City Commissioners have a duty to vote unless otherwise ineligible by reason of conflict of interest. The conflicted Commissioner is expected to announce the conflict and not vote on the issue. If there is a question as to whether or not a conflict exists, the City Commissioner may advise the entire Bboard of Ceity Ceommissioners of the potential conflict and request a ruling from the entire Board to waive the conflict, by a majority vote shall vote on every issue unless absent from the meeting or excused from voting. Any member wishing to be excused from voting or who does not feel qualified to vote because of a conflict of interest shall ask to be excused from voting and state the reasons; therefore, the remaining Commissioners shall, by majority vote, either to grant or deny such request to be excused. A vote must be taken to either accept or deny the conflict. If the Commissioner making such a request is excused, he or she shall be deemed to be disqualified and the abstention shall be noted but not be counted. If the request is denied and the Commissioner refuses to vote, their vote shall be deemed to be the same as the affirmative of those voting. A City Commissioner excused from voting by reason of conflict is deemed to be disqualified and shall be noted but not counted.~~

Aligned to page 254.

- e. Any on duty Police Officer may be considered as a sergeant at arms for Commission meetings and may be summoned to maintain order by any member of the Board of City Commissioners at any time.
  
5. By majority vote, the Board of City Commissioners may revise or amend its policies at any time. A formal request to revise or amend a Governance Policy (formal resolution of policies) shall be made by a City Commissioner and approved for review through a formal vote of the Commission. If the review is approved, the City Administrator and Executive Assistant will reviewse and bring back to the Commission a proposal for revision to a policy. A proposed policy revision will be discussed at least one session of the Board before being approved at a Board meeting.



## Policy No. 5 - Process for Resident Public Comment

Board meetings are business meetings held in a limited public—not public forums. Guidelines have been established to ensure that public input is orderly and productive and that special interest groups are not allowed to dominate the proceedings of the Board of City Commissioners.

### Resident Comment on Agenda Items

#### Section A

1. Residents or Fargo business owners who wish to address the Board of City Commissioners may do so for topics on the agenda at during that section of the agenda following the staff presentation.
2. Resident Public comments will occur at the end of the meeting on topics that are not on the agenda.
- 3.2. Sign-up can be done-completed online or by contacting the City Commission Office (The City of Fargo -- ResidentPublic Comment Signup (fargond.gov)) by noon on the day of a regularly scheduled meeting.
- 4.3. At the beginning of the public comment periodagenda item, the Mayor will state the number of speakers and the time to be allotted for publicresident comment. No more than 12 individuals will be allowed to sign up for anper agenda item.
5. Only those who signed up online or contacted the City Commission offices before the meeting will be permitted to address the Board.
6. Speakers will not be allowed to verbally attack individual Board of City Commissioners members or employees or use vulgar or profane language.
7. Speakers unwilling to abide by these policies and conform to the rules or time constraints regarding public participation at Board of City Commissioners meetings may be removed from the meeting.

8. ~~Generally, speakers will be given two and a half minutes each. If speakers cannot be heard within the allotted timeframe, the Mayor may consider setting up a separate meeting to hear testimony on public interest issues.~~
9. ~~Groups will be urged to designate a spokesperson. When there is a large number of speakers to be heard or if the pressure of business or other circumstances dictates, the Mayor may decide to shorten the length of time allowed to each speaker and limit the total time devoted to public comment.~~
10. ~~Speakers may not "donate" their speaking time to another person.~~
11. ~~Citizen input should not subrogate the regular business of the Board.~~

#### 12.4. Reserved: Future City of Fargo Facilities Security Policy.

##### Section B: Public Hearings Pursuant to Legal Notice

Legally noticed public hearing comments during the meeting will occur when legally required. The time limitation applicable to other comment opportunities shall not apply, but speakers are encouraged to keep their comments to under 3 minutes, when possible.

##### Section C: General Resident Comment Period

At the end of the [City Commission](#) meeting, there will be a resident comment period for items not on that evening's e-Commission meeting agenda. Rules for this comment period will be the same as the Resident Comment on Agenda Items.

##### Rules Applicable to ALL Comment Opportunities

1. Only those [individuals](#) who signed up online or contacted the [City Commission eOffices](#) before the meeting will be permitted to address the Board.
2. Speakers will not be allowed to verbally attack individual Board of City Commissioners members or employees or use vulgar or profane language.
3. Speakers unwilling to abide by these policies and conform to the rules or time constraints regarding public participation at Board of City Commissioners meetings may be removed from the meeting.

4. Groups will be urged to designate a spokesperson. When there is a large number of speakers to be heard or if the pressure of business or other circumstances dictates, the Mayor may decide to shorten the length of time allowed to each speaker and limit the total time devoted to public comment.
5. Speakers may not "donate" their speaking time to another person.
6. Citizen input should not subrogate the regular business of the Board.

~~The Mayor will proceed with the agenda once the speakers have been heard or the time has expired. Generally, the Board of City Commissioners will not act on items not included on the agenda. If items are brought to the Board of City Commissioners' attention during the citizen comment portion of the meeting, which merits further study, follow-up or a written response, Board of City Commissioner members, may request such action by the City Administer and/or a committee of the Board of City Commissioners.~~

#### **Guidelines to be read by the Mayor before recognition of the audience**

At this time, the City Commissioner's will hear comments from the public residents. We ask each speaker who has signed up to address the Board of City Commissioners to state their name ~~and address~~ for the record.

Speakers must refrain from using this forum to criticize or complain about a specific employee or Commissioner. Vulgar or profane language will not be tolerated. The Board of City Commissioners is interested in your comments and will listen carefully, but is not obligated to respond to or debate issues in this forum.

Should you desire a written response to a specific question, you may request it. This evening each speaker will be allotted ~~a maximum of~~ 2 ½ minutes for a maximum of 30 minutes for a total of 12 speakers. maximum per meeting. A timer will be used. ~~You, you~~ will receive a warning beeper when there ~~are~~ 15 seconds amount of time remaining in the allotted 2 ½ minutes. A, and at the end of the allotted time, a buzzer will sound and the microphone will be switched off.

## Policy No. 6 - Code of Ethics/Conflict of Interest

The purpose of a Code of Ethics/Conflict of Interest policy is to ensure that the Board of City Commissioners adhere to and promote proper ethical standards, abide by the law and preserve the organization's integrity, reputation and professional and business relationships.

Before taking any action or casting a vote regarding a matter before the Board, which would constitute a conflict of interest under North Dakota law:

*44-04-22. Conflict of interest law. A person acting in a legislative or quasi-legislative or judicial or quasi-judicial capacity for a political subdivision of the state who has a direct and substantial personal or pecuniary interest in a matter before that board, council, commission, or other body, must disclose the fact to the body of which that person is a member, and may not participate in or vote on that particular matter without the consent of a majority of the rest of the body.*

### Conflict of Interest

Recognizing it is not possible to address all ways in which ethical issues may arise; the following principles are intended to guide making sound judgments and decisions on behalf of the Board of City Commissioners and its purpose.

### Pledge of Personal and Professional Conduct

- **Integrity** -- I will demonstrate the highest standards of individual conduct, personal accountability, trustworthiness, fair dealings, consideration of the rights of others, and the highest principles of good business relationships.
- **Excellence** -- I will strive to meet the highest performance, quality, service and achievement standards.
- **Honesty** -- I will communicate directly, respectfully, honestly and openly, and avoid misrepresentation, including misrepresentation through omission.
- **Diversity** -- I will support and value diversity -- promoting an environment that embraces all people's similarities and differences to the organization.
- **Respect** -- I will respect and act fairly toward all those I encounter and refuse to engage in or tolerate any form of discrimination or harassment.
- **Responsibility** -- I will take responsibility for my actions and decisions, and remain a careful steward of funds and resources.
- **Compliance** -- I will comply with the Board of City Commissioner's Code of Ethics and all laws and regulations.

The Board of City Commissioners commits itself and its members to ethical business and lawful conduct, including proper use of authority and appropriate decorum when acting as a Board member.

Accordingly,

1. All officers of the City, whether elected or appointed, before entering upon the duties of their respective offices shall take and subscribe to the Oath of Office prescribed in Section 4 of Article XI of the Constitution of the State of North Dakota. Such oath shall be filed in the Office of the City Auditor, provided that the Oath of the City Auditor and the City Treasurer shall be filed in the office of the County Auditor.
2. Commission members will represent the interests of the citizens of the entire City of Fargo, and this accountability will supersede the following:
  - Any conflicting loyalty a member may have to other groups;
  - Loyalty is based upon membership to other boards or staff; and;
  - Conflicts are based on personal relations with different employers or boards.
3. Commission members who are a liaison to a department is responsible for working with the department head on budgets and issues in their department.
4. Commissioners will show respect to the Department Liaison Commissioner when asking for information or ideas in the different departments. The liaison Commissioner shall accommodate the request or meeting.
5. If there is a disagreement between a Commissioner and a Department Liaison Commissioner, they can appeal to the City Administrator to resolve the issue. If a disagreement happens to be with the Mayor, then the Deputy Mayor would resolve the issue.
6. Commission members will maintain confidentiality appropriate to sensitive issues and information. They will review the open meeting laws annually and note that information that is discussed in the Executive Session is confidential.
7. Commission members will not express individual negative comments about City staff or employees in a public meeting. They will be expected to discuss such issues with the City Administrator.
8. Dialogue at Commission meetings shall be respectful and courteous.
9. ~~If there is a conflict of interest on a vote of the Commission, the Commissioner is expected to announce that conflict and not vote on the issue. If there is a question of conflict, the Commissioner can request a ruling from the Commission. Reference — Attorney General Opinion 95-06 Conflict of Interest Conflict statute page 19~~

10. When interacting with the public or a legislative body, a Commissioner must make it clear whether they represent the City of Fargo or for a personal purpose.

**Code of Ethics and Conflict of Interest Certificate**

I acknowledge that I have received and read my copy of the Board of City Commissioners Code of Ethics and Conflict of Interest policies for Board Members. I understand that I am responsible for adhering to the Code of Ethics principles, and I confirm that I will conduct myself in accordance with the Code of Ethics principles.

*Please sign and date this Code of Ethics and Conflict of Interest certificate and return it to the Executive Assistant to the Board of City Commissioners.*

\_\_\_\_\_ Neither I nor, to the best of my knowledge, any member of my family has had or has an interest or taken any action which would contravene the policy of this Board.

\_\_\_\_\_ Neither I, nor to the best of my knowledge, any member of my family has had or has an interest or taken any action which would contravene the policy of this Board, **except** such interest or action fully disclosed below:

\_\_\_\_\_ I am in compliance with the Code of Ethics and Conflict of Interest policies.

Printed Name

---

Signature

---

Date

---

**References -**

ND League of Cities – City Government Basics: Open records, Open meetings and Conflict of Interest [www.ndlc.org](http://www.ndlc.org)

NDCC: 44-04-19. Access to public meetings.

NDCC: 44-04-20. Notice of public meetings required.

NDCC: 44-04-22. Conflict of interest law.

NDCC: 44-01-05. Oath of civil officers.

Attorney General Opinion 95-06 Conflict of Interest – Duty to Vote

Attorney General Opinion 2002- L-54, 2008-L-07, Conflict of Interest



## **Policy No. 7 - Commissioners Addressing Board Member Violations**

The Board of City Commissioners is committed to faithful compliance with the provisions of the Board's policies. A Board member will inform the City Administrator or Mayor if, in the Board member's opinion, the Board or individual members are not in compliance with the Board's policies. If the Mayor is the member whom the Board member feels is not acting in compliance with policy, the Board member will inform the Deputy Mayor. In the event of a member's willful and continuing violation of policy, the Board will seek a remedy in the following order:

1. Conversation privately between the offending member, the City Administrator and the Mayor.
2. Discussion in a public meeting between the offending member and the entire Board.
3. Public Censure of the offending member of the Board.
4. Removal from an officer role on any Boards, Committees and Commissions shall happen by a majority vote of the Board of City Commissioners.

~~Policy Monitoring Form (Template): Kemebr will develop this process, which does not need to be in the deck of policies.~~

~~\_\_\_\_\_ (Name of Policy being Monitored)~~

~~Summary of Compliance Status~~

~~(Date)~~

~~City Administrator Certification~~

~~With respect to (Name of Policy) taken as a whole, the City Administrator certifies that the proceeding information is accurate and complete:~~

~~\_\_\_\_\_ In Compliance~~

~~\_\_\_\_\_ In compliance with Exception (as noted in the evidence)~~

~~\_\_\_\_\_ Not in Compliance~~

~~Summary Statement by City Administrator~~

~~Signed: \_\_\_\_\_ Date \_\_\_\_\_~~

~~Board of City Commissioners Recommendation for Compliance~~

~~With respect to (Name of Policy), the Board:~~

~~\_\_\_\_\_ Accepts the report as fully compliant.~~

~~\_\_\_\_\_ Accepts the report as compliant with noted exceptions.~~

~~\_\_\_\_\_ Finds the City Administrator to be non-compliant.~~

~~Summary statement/motion of the Board~~

~~Signed: \_\_\_\_\_ Date \_\_\_\_\_~~



April 29, 2024

**To: Board of City Commissioners**  
**Fr: Michael Redlinger, City Administrator**  
**Re: Potential Options for Reviewing the City's Boards, Commissions, & Committees**

At the final Governance Policies Workshop on April 4, 2024, it was suggested that a next step could be to review the City of Fargo's Boards, Commissions, & Committees. With the City Commission's anticipated approval of the Governance Policies on April 29, 2024, the City Commission is requested to provide direction on its preferred path to review the City of Fargo's Boards, Commissions, & Committees.

Potential options to review the City's Boards, Commissions, & Committees could include the following:

- **Option 1:** City Commissioners could individually provide their comments/suggestions on existing Boards, Commissions, & Committees to the City Administrator and Executive Assistant, who would then compile this information and report back to the City Commission.

**-OR-**

- **Option 2:** City staff, led by City Administration, could conduct an internal analysis of Boards, Commissions, & Committees with the Departments and provide a technical report and recommendation to the City Commission following. The City Commission could then consider these suggestions and provide further direction to City staff with the wishes of the City Commission.

**Suggested Motion:** There is no suggested motion for this item. The options presented above are for discussion purposes. The City Commission is requested to provide direction on its preferred approach to reviewing the Boards, Commissions, & Committee and to authorize City staff to proceed accordingly.




**OFFICE OF  
THE MAYOR**

**DR. TIM MAHONEY**  
FARGO CITY HALL  
225 Fourth Street North  
Fargo, ND 58102  
Phone: 701.241.1310 | Fax: 701.476.4136  
[FargoND.gov](http://FargoND.gov)

Phone: 701.241.1310 | Fax: 701.476.4136  
[FargoND.gov](http://FargoND.gov)

41

MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**  
**FROM: MAYOR TIMOTHY J. MAHONEY**   
**DATE: APRIL 29, 2024**  
**SUBJECT: APPOINTMENTS TO THE LIBRARY BOARD**

The terms of John Rodenbiker and Jenna Reno on the Library Board will expire on June 30, 2024.

Mr. Rodenbiker and Ms. Reno are willing to continue their service on that Board and I am recommending that they be reappointed for three-year terms ending June 30, 2027.

Your favorable consideration of this recommendation will be greatly appreciated.

**RECOMMENDED MOTION:** To approve the reappointment of John Rodenbiker and Jenna Reno to the Library Board for three-year terms ending June 30, 2027.

mmappt24lib