

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, December 13, 2021).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Gaming Site Authorization for Red River Human Services Foundation at Sickies.
- 2. Applications for Games of Chance:
  - a. Knights of Columbus 11930 for a raffle on 5/19/22.
  - b. United Chinese Americans Fargo Moorhead for a raffle on 1/28/22.
- 3. Termination of Agreements and Termination of Easement and Agreement to Maintain Sanitary Sewer in association with the Nestor/Park Property project.
- 4. Receive and file Financial Status Report Year to Date ending through 11/30/2021 for major operating funds (unaudited).
- 5. Close out of Civic Center Plaza Phase I Project.
- 6. State Water Commission request for cost reimbursement for the FM Metropolitan Area Flood Risk Management Project costs totaling \$5,380,812.43.
- 7. Receive and file General Fund-Budget to Actual through November 2021 (unaudited).
- 8. City of Fargo Resolution Authorizing Officers to Make Deposits and Withdrawals.
- 9. Joint Powers Agreement for Cass County election administration services.
- 10. Sole Source Procurement with Sun Electric for electrical work associated with illuminating The Spirit of the Sandbagger project (SSP22008).
- 11. Bid award for Freedom of Information Act/Open Records Software Project (RFP21196).
- 12. Notice of Grant Award with the ND Department of Health for hiring a mental health/substance abuse coordinator (CFDA #93.391).
- 13. Sole Source Procurement with CentralSquare Remote Service Processing (SSP22010).
- 14. Sole Source Procurement with Business Software, Inc. for IBM i-Series operations (SSP22009).

- Page 15.
15. Agreement with Walker Consultants to prepare a Downtown Parking Study.
  16. Joint Powers Agreement for School Resource Officers for Fargo Public Schools.
  17. Purchase of one Spartan Fire Pumper Truck through Sourcewell (PBC022818-22).
  18. Bid award for two automated side load refuse trucks (RFP21203).
  19. Change Orders for Project No. SW20-01:
    - a. No. 3 for an increase in the amount of \$59,280.00 (civil contract).
    - b. No. G-003 for a decrease in the amount -\$5,519,90 (general contract).
    - c. No. M-004 for a decrease in the amount of -\$5,500.55 (mechanical contract).
    - d. No. E-002 for an increase in the amount of \$1,723.45 (electrical contract).
  20. Amendment to the Task Order with Wenck Associates in the amount of \$81,312.00 for Project No. SW20-01.
  21. Task Order with Stantec in the amount of \$174,370.00 for Cell 20 Design and Construction Observation (Project No. SW22-01).
  22. Task Order with Stantec in the amount of \$16,900.00 for Tier 2 Landfill Gas Sampling.
  23. Amendment No. 5 with KLJ, Inc. in the amount of \$4,015.08 for GTC Remodel project.
  24. MATBUS 2021-2025 Transit Development Plan.
  25. Mass Transit Agreement with the City of West Fargo for 2021.
  26. Sole Source Procurement with Polydyne, Inc. for calendar year 2022 to purchase chemicals for operation of the Residuals Plant on the Water Treatment Plant campus (SSP22004).
  27. Sole Source Procurement with Hawkins Water Treatment Group for calendar year 2022 for chemicals and materials for Water Treatment Plant (SSP22003).
  28. Sole Source Procurement with Avista Technologies, Inc. for calendar year 2022 to purchase chemicals for operating the Reverse Osmosis system of the Membrane Water Treatment Plant (SSP22005).
  29. Request to advertise a Request for Proposal (RFP) for Reverse Osmosis Element Replacement (Project No. WA 2104).
  30. Bills.
  31. Incentive of \$10,000.00/day for a maximum of 50 days for a total incentive of \$500,000.00 for Improvement District No. BR-22-A1.
  32. Create Improvement District No. BR-22-A.
  33. Contracts and bonds for Improvement District Nos. BN-22-A1 and BR-22-B1.

#### REGULAR AGENDA:

34. **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](http://FargoND.gov/VirtualCommission)).

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

- a. Interstate Park Second Addition (3502 and 3518 Interstate Boulevard); approval recommended by the Planning Commission on 9/9/21:
    1. Zoning Change from LC, Limited Commercial and GC, General Commercial to LC, Limited Commercial and GC, General Commercial.
    2. 1st reading of rezoning Ordinance.
  - b. Plat of Crossroads Corporate Center Addition (4001 and 4155 23rd Avenue South).
  - c. University South Second Addition (2301 and 2253 University Drive South); approval recommended by the Planning Commission on 10/5/21:
    1. Zoning Change from LC, Limited Commercial to MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay on Lot 1, Block 1 of the proposed University South Second Addition and from LC, Limited Commercial to GC, General Commercial with a C-O, Conditional Overlay on Lot 2, Block 1 on the proposed University South Second Addition and Lots 1 and 2, Block 1, University South Addition.
    2. 1st reading of rezoning Ordinance for University South Addition.
    3. 1st reading of rezoning Ordinance for University South Second Addition.
    4. Plat of University South Second Addition.
  - d. Development Plan and Development Agreement for Tax Increment Financing District No. 2021-03 to review a plan for development of property at 2301 University Drive South, on the west side of the street.
36. COVID-19 update and discussion regarding mobile vaccine clinics at schools.
37. Application for Abatement or Refund of Taxes #4517 for MyPlace Hotel at 2555 55th Street South requesting a reduction in value for 2019 from \$2,896,000.00 down to \$1,710,000.00.
38. Business Improvement District year-end presentation.
39. Discuss Human Relations Commission name change to Human Rights Commission.
40. Amended Memorandum of Understanding (MOU) between City and Fargo Municipal Airport Authority.
41. Discuss placement of Term Limits Ordinance before City voters for repeal or retention.
42. Discuss appreciation bonuses for City staff.
43. Applications for Property Tax Exemptions for Improvements Made to Buildings:
  - a. Jonathan and Belinda Forknell, 3125 41st Avenue South (3 year).
  - b. Paul and Sarah Nelson, 2806 3rd Street North (5 year).
  - c. Kaaren Duren, 1019 10th Street North (5 year).
  - d. Jeffrey and Marion Kuehn, 1526 28½ Avenue South (5 year).
  - e. Daniel and Lisa Sandaker, 225 22nd Avenue North (5 year)
  - f. Diamondrock Development LLC, 520 11th Street South (5 year).
  - g. Daniel and Tracy Gratton, 102 31st Avenue North (5 year).

- h. Stacia and Dean Ambuehl, 1617 3rd Street North (5 year).
- i. Benjamin and Maren Jystad-Spar, 910 18th Avenue South (5 year).
- j. Mary Vetter, 236 10th Avenue South, Unit 8 (5 year).
- k. Tayler Klizke, 1521 7th Avenue South (5 year).
- l. Eric and Jennifer Momsen, 1220 4th Street North (5 year).

44. Discuss the Resident Comment Period.

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).

35

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Interstate Park Second Addition	<b>Date: Update:</b>	9/1/2021 12/23/2021
<b>Location:</b>	3502 and 3518 Interstate Boulevard S.	<b>Staff Contact:</b>	Adam Martin, assistant planner
<b>Legal Description:</b>	Portions of Lots 6, 7, and 9, and all of Lot 8, Block 4, Interstate Park Addition to the City of Fargo, Cass County, North Dakota (see note on recent replat below)		
<b>Owner(s)/Applicant:</b>	JKJ Enterprises, LLP / Kevin Hall	<b>Engineer:</b>	Houston Engineering
<b>Entitlements Requested:</b>	<b>Zone Change</b> (from GC, General Commercial and LC, Limited Commercial to GC, General Commercial and LC, Limited Commercial within the boundaries of this plat)		
<b>Status:</b>	City Commission Public Hearing: December 27, 2021		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Hotel; multi-dwelling residential	<b>Land Use:</b> Unchanged
<b>Zoning:</b> GC, General Commercial with a CUP, Conditional Use Permit; LC, Limited Commercial	<b>Zoning:</b> GC, General Commercial with a CUP, Conditional Use Permit; LC, Limited Commercial
<p><b>Uses Allowed:</b> GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.</p> <p>With a Conditional Use Permit to allow household living.</p> <p>LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.</p>	<b>Uses Allowed:</b> Unchanged
<b>Maximum Lot Coverage Allowed:</b> 85% for GC; 55% for LC	<b>Maximum Lot Coverage Allowed:</b> 85% for GC; 55% for LC
<b>Proposal:</b>	
The applicant requests one entitlement at this time:	
<ol style="list-style-type: none"> <li>1. A zoning change from GC, General Commercial and LC, Limited Commercial to GC, General Commercial and LC, Limited Commercial within the boundaries of the <b>Interstate Park Second Addition</b> plat.</li> </ol>	

**NOTE ON RECENT REPLAT**

At the December 13, 2021 City Commission public hearing, by a vote of 5-0, the City Commission approved a minor subdivision, entitled **Interstate Park Second Addition**, which is a replat of portions of Lots 6, 7, and 9, and all of Lot 8, Block 4, Interstate Park Addition to the City of Fargo, Cass County, North Dakota. These lots are now Lots 1 and 2, Block 1, Interstate Park Second Addition. The requested zoning change will realign the existing zoning districts to match the newly-platted lots.

*CUP Note: A conditional use permit (CUP) to allow household living on Lot 1, Block 1, of Interstate Park Second Addition was approved by the Planning Commission at their September 9<sup>th</sup>, 2021 hearing. The CUP continues the existing use of residential living in the GC, General Commercial zoning district. The Planning Commission is the decision making body for CUP's.*

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

**Surrounding Land Uses and Zoning Districts:**

- North: GC and LC; commercial development
- East: GC; commercial development
- South: LC; commercial development
- West: Interstate 29 right-of-way

**Area Plans:**

The subject property is not located within a growth plan area.

**Context:**

**Schools:** The subject property is located within the Fargo School District and is served by Jefferson Elementary, Carl Ben Eielson Middle and South High schools.

**Neighborhood:** The subject property is located in the Westgate neighborhood

**Parks:** Boler Park (1734 34<sup>th</sup> Street South) is located approximately 0.7 miles southeast of the subject property, offering amenities such as baseball and softball fields, picnic tables, a playground for ages 5-12, and a shelter.

**Pedestrian / Bicycle:** There are off-street bike facilities located along Westrac Drive South and 13<sup>th</sup> Avenue South, each located approximately one-eighth of a mile from the subject property. All facilities are components of and connect to the metro area bikeways system.

**Staff Analysis:**

The applicant has recently replatted portions of Lots 6, 7, and 9, and all of Lot 8, Block 4, Interstate Park Addition into Lots 1 and 2, Block 1, Interstate Park Second Addition. Lot 1 of the plat will keep the current multi-dwelling residential development, while Lot 2 will keep the existing Super 8 hotel.

**ZONE CHANGE**

In addition to the replat that was approved by the City Commission on December 13, 2021, the subject property will need to be rezoned. The Super 8 hotel currently sits in two separate zoning districts. The east parcel is zoned as GC, General Commercial, while the west parcel is zoned as LC, Limited Commercial. To bring the Super 8 hotel completely into one zoning district, the applicant is proposing to rezone the subject property to align the existing zoning districts with the lots in Interstate Park Second Addition. The east parcel, renamed as Lot 1, Block 1, will be zoned as GC, General Commercial, and will retain the multi-dwelling residential building. The west parcel, renamed as Lot 2, Block 1, will be zoned as LC, Limited Commercial and will retain the Super 8 hotel.

*(continued on next page)*



**Zoning**

Section 20-0906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

**1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**

Staff is unaware of any error in the zoning map as it relates to this property. The subject property is currently zoned GC, General Commercial and LC, Limited Commercial. The zone change simply shifts the boundary between the GC and LC zones to align with the new lots in the proposed plat. **(Criteria Satisfied)**

**2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing, developed public rights-of-way which provide access and public utilities to 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. To date, Planning staff has received no comments or inquiries. 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 LDC states "This Land Development Code is intended 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." The subject property is not located within a growth plan area. The proposed zone change is part of the process to realign the lot boundaries on the subject property. Currently, the Super 8 hotel is divided into two different zoning districts. The proposed zone change will bring the entire Super 8 hotel parcel into the LC, Limited Commercial zoning district. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

*(continued on next page)*

<p><b>Staff Recommendation:</b></p> <p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and move to approve the proposed: 1) zone change from GC, General Commercial and LC, Limited Commercial to GC, General Commercial and LC, Limited Commercial; as the proposal complies with the Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.</p>
<p><b>Planning Commission Recommendation: September 9, 2021</b></p> <p>At the September 9<sup>th</sup>, 2021 Planning Commission hearing, by a vote of 6-0 with one Commissioner absent and four Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) zone change from GC, General Commercial and LC, Limited Commercial to GC, General Commercial and LC, Limited Commercial; and 2) <b>Interstate Park Second Addition</b> subdivision plat as presented; as the proposal complies with the Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC; and to approve 1) the conditional use permit (CUP) to allow household living in the GC, General Commercial zoning district on Lot 1, Block 1 of the proposed Interstate Park Second Addition as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following conditions:</p> <ul style="list-style-type: none"> <li>• Density of 28 dwelling units per acre</li> </ul>
<p><b>Attachments:</b></p> <ol style="list-style-type: none"> <li>1. Location Map</li> <li>2. Zoning Map</li> </ol>



# Zone Change (LC & GC to LC & GC)

## Interstate Park Second Addition

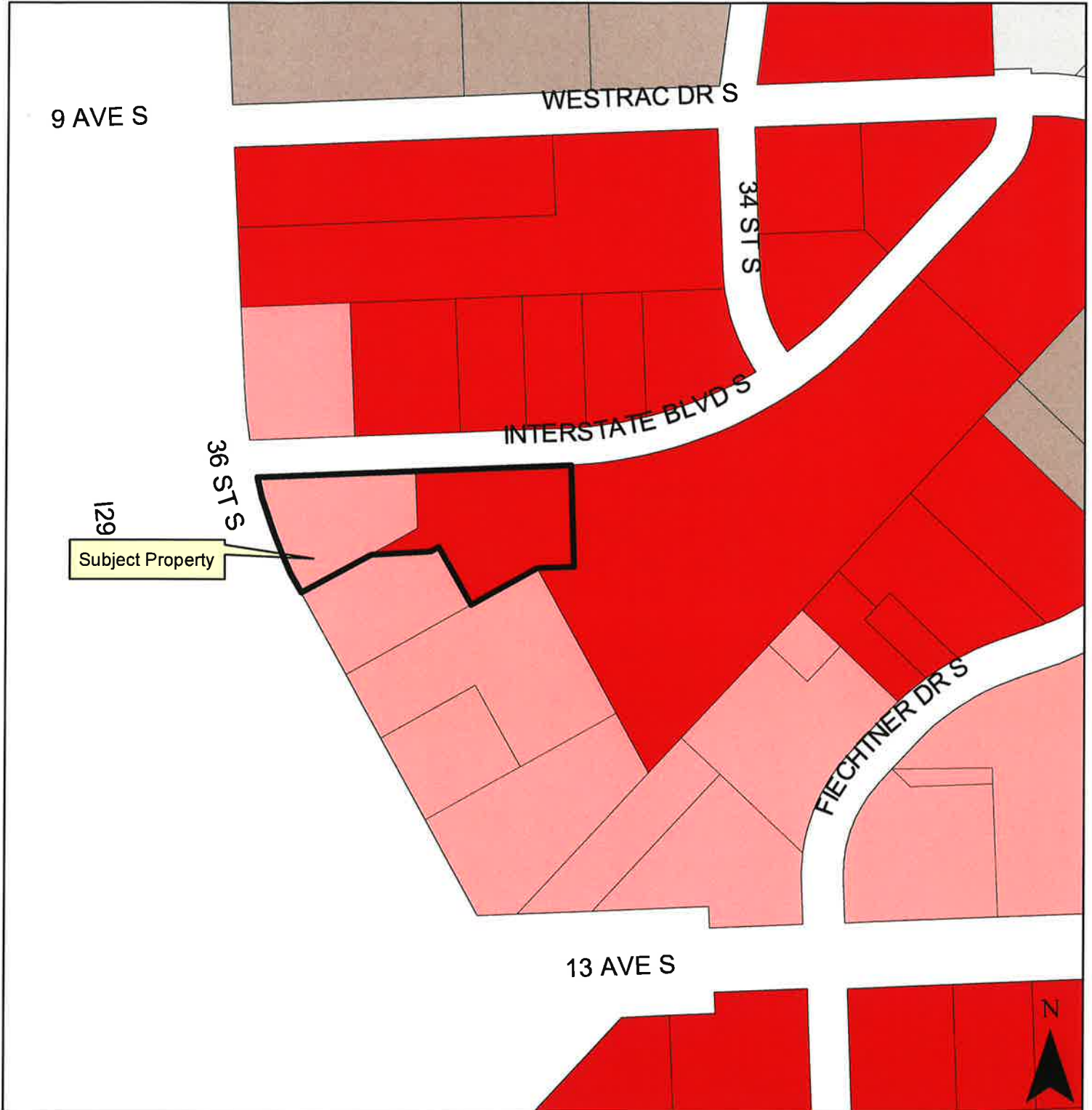
3502-3518 Interstate Blvd S



# Zone Change (LC & GC to LC & GC)

## Interstate Park Second Addition

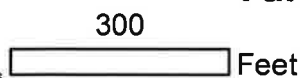
3502-3518 Interstate Blvd S



**Legend**

- AG
- DMU
- GC
- GO
- LC
- MIR-1
- MIR-2
- MIR-3
- MHP
- NC
- NO
- P1
- UMU
- SS-1-2
- SS-1-3
- SS-1-4
- SS-1-5
- SS-1-6
- City Limits

Fargo Planning Commission  
September 9, 2021



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA



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

AN ORDINANCE REZONING CERTAIN  
PARCELS OF LAND  
LYING IN INTERSTATE PARK SECOND ADDITION  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA

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

8  
9 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning  
10 request on September 9, 2021; and,

11  
12 WHEREAS, the rezoning changes were approved by the City Commission on December  
13 27, 2021,

14  
15 NOW, THEREFORE,

16  
17 Be It Ordained by the Board of City Commissioners of the City of Fargo:

18  
19 Section 1. The following described property:

20  
21 Lot One (1), Block One (1) of Interstate Park Second Addition to the City of Fargo,  
22 Cass County, North Dakota;

23  
24 is hereby retaining the base zoning district of "GC", General Commercial, District.

25  
26 Section 2. The following described property:

27  
28 Lot Two (2), Block One (1) of Interstate Park Second Addition to the City of Fargo,  
29 Cass County, North Dakota;

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31 is hereby retaining the base zoning district of "LC", Limited Commercial, District.

32  
33 Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his  
34 office so as to conform with and carry out the provisions of this ordinance.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

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

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(SEAL)

Attest:

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

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

First Reading:  
Second Reading:  
Final Passage:

356

City of Fargo Staff Report			
<b>Title:</b>	Crossroads Corporate Center Addition	<b>Date:</b>	10/27/2021
		<b>Update:</b>	12/22/2021
<b>Location:</b>	4001 and 4155 23rd Avenue South	<b>Staff Contact:</b>	Donald Kress, current planning coordinator
<b>Legal Description:</b>	Unplatted portion of the NE 1/4 of Sec. 22, T139N, R49W		
<b>Owner(s)/Applicant:</b>	Scheels All Sports, Inc. / Houston Engineering, Inc.	<b>Engineer:</b>	Houston Engineering, Inc.
<b>Entitlements Requested:</b>	<b>Major Subdivision</b> (Plat of <b>Crossroads Corporate Center Addition</b> a plat of an unplatted portion of the NE ¼ of Sec. 22, T139N, R49W,)		
<b>Status:</b>	City Commission Public Hearing: December 27, 2021		

Existing	Proposed
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Commercial
<b>Zoning:</b> GC, General Commercial	<b>Zoning:</b> No change proposed
<b>Uses Allowed:</b> GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.	<b>Uses Allowed:</b> No change
<b>Maximum Density Allowed:</b> GC allows a maximum building coverage of 85%	<b>Maximum Density Allowed:</b> No change

Proposal:
<p>The applicant requests two entitlements:</p> <ol style="list-style-type: none"> <li>1. A major subdivision, entitled <b>Crossroads Corporate Center Addition</b>, which is a plat of an unplatted portion of the NE ¼ of Sec. 22, T139N, R49W</li> </ol> <p>The property was zoned from AG, Agricultural to GC, General Commercial in 2017. No zone change is proposed.</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: Interstate 94 right of way</li> <li>• East: Interstate 29 right of way</li> <li>• South: AG, Agricultural; undeveloped</li> <li>• West: P/I, Public / Institutional; Red River Zoo</li> </ul> <p>(continued on next page)</p>

The subject property is located within the 2003 Southwest Future Land Use Plan. This plan designates the subject properties as "Office;" "Either Office or Commercial;" and "Either Office or Medium/ High Density Residential." The existing GC, General Commercial zoning is consistent with these designations. No zone change is proposed. No growth plan amendment is required.



**Context:**

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

**Neighborhood:** The subject property is located within the Anderson Park neighborhood.

**Parks:** The Red River Zoo, 4255 23rd Avenue South, is located west across 42nd Street South. Anderson Softball Complex, 4200 23rd Avenue South, is located southwest of the subject property and offers amenities of baseball/softball fields, concessions, picnic table, playground, ages 2-5, and restrooms.

**Pedestrian / Bicycle:** An 10-foot wide off-road multi-use trail, which is a component of the metro area bikeways system, is within the 42nd Street South right of way located west across 42nd Street from the subject property,

**Staff Analysis:**

PLAT

The plat creates 12 lots in three blocks, all zoned GC, General Commercial and intended for commercial development.

**ACCESS:** The project site takes access from 23rd Avenue South by way of 41st Street South and Crossroads Drive South, which will be dedicated public streets within the subdivision. Access to Lot 1, Block 3 is proposed to be provided by easement through Lot 2, Block 3.

**PUBLIC WATER and SEWER:** Public water and sewer will be provided in the dedicated public streets.

(continued on next page)

**Major Subdivision**

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

- 1. Section 20-0907.C.1 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**

The subject property is currently zoned GC, General Commercial. No zone change is proposed. This zone will accommodate the proposed commercial development and is consistent with the "Office;" "Either Office or Commercial;" and "Either Office or Medium/ High Density Residential" designations for this property in the 2003 Southwest Future Land Use Plan. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has not received any public comment. **(Criteria Satisfied)**

- 2. Section 20-0907.C.4.d of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The property is zoned GC, General Commercial. As noted in the finding above, this zone is consistent with the 2003 Southwest Future Land Use Plan designations. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

- 3. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC). Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed plat of the **Crossroads Corporate Center Addition**, as the proposal complies with the 2003 Southwest Future Land Use Plan, Standards of Article 20-06, Section 20-0907.C, and all other applicable requirements of the LDC."

**Planning Commission Recommendation: November 2nd, 2021**

At the November 2<sup>nd</sup>, 2021 Planning Commission hearing, by a vote of 6-0 with two Commissioners absent and three Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed plat of the **Crossroads Corporate Center Addition**, as the proposal complies with the 2003 Southwest Future Land Use Plan, Standards of Article 20-06, Section 20-0907.C, and all other applicable requirements of the LDC."

**Attachments:**

1. Zoning map
2. Location map
3. Preliminary plat

# Plat (Major)

## The Crossroads Corporate Center Addition

4001 & 4155 23rd Avenue South

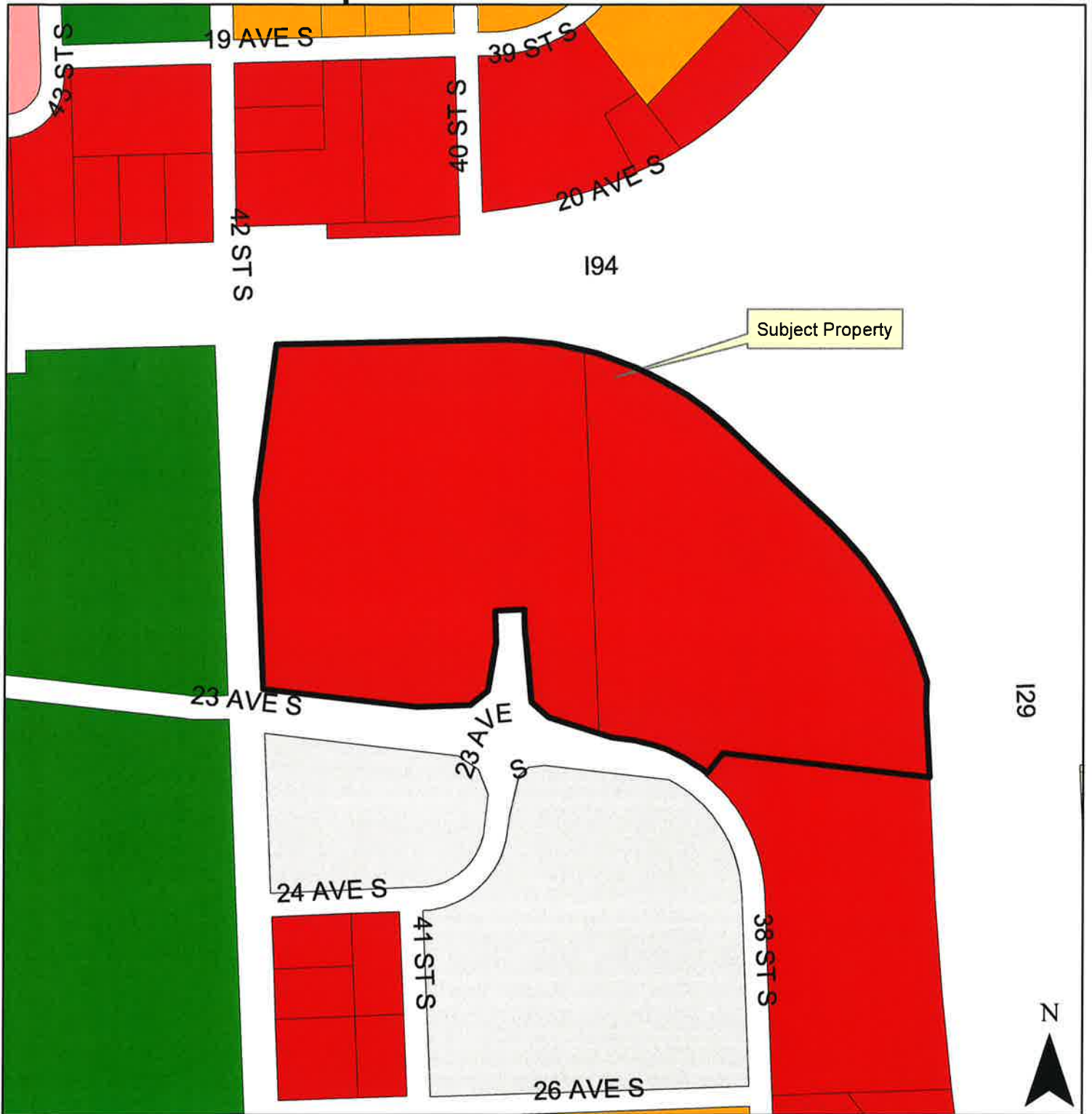




# Plat (Major)

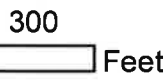
## The Crossroads Corporate Center Addition

4001 & 4155 23rd Avenue South



### Legend

AG	DMU	LC	MHP	SR-2
GC	GL	ML	NC	SR-3
GO	MR-1	MR-2	NO	SR-4
	MR-3	UMU	P/I	SR-5
			City Limits	



Fargo Planning Commission  
November 2, 2021





35c

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	University South Second Addition	<b>Date: Update:</b>	9/29/2021 12/22/2021
<b>Location:</b>	2301 and 2253 University Drive South	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Lots 1, 2, and 3, Block 1, University South Addition to the City of Fargo, Cass County, North Dakota		
<b>Owner(s)/Applicant:</b>	GFI Dakota Development / Houston Engineering	<b>Engineer:</b>	Houston Engineering
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (Replat of Lot 3, Block 1, University South Addition to the City of Fargo, Cass County, North Dakota) and <b>Zone Change</b> (from LC, Limited Commercial to GC, General Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay);		
<b>Status:</b>	City Commission Public Hearing: December 27, 2021		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Commercial	<b>Land Use:</b> Commercial; Residential
<b>Zoning:</b> LC, Limited Commercial	<b>Zoning:</b> GC, Limited Commercial with a C-O, Conditional Overlay; MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay
<b>Uses Allowed:</b> LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.	<b>Uses Allowed:</b> GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events. <b>with Conditional Overlay which prohibits some uses noted above and provides site and building design guidelines</b> MR-3, Multi-Dwelling allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities. <b>with Conditional Overlay which prohibits some uses noted above and provides site and building design guidelines</b>
<b>Maximum Lot Coverage Allowed:</b> 55%	<b>Maximum Lot Coverage Allowed:</b> 85% (GC) <b>Maximum Residential Density:</b> 24 dwelling units per acre (MR-3)
(continued on next page)	

**Proposal:**

The applicant requests two entitlements:

1. A minor subdivision, entitled **University South Second Addition**, which is a replat of Lot 3, Block 1, University South Addition to the City of Fargo, Cass County, North Dakota
2. A zoning change from LC, Limited Commercial to GC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay.

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. This report includes analysis by assistant planner Adam Martin.

**Surrounding Land Uses and Zoning Districts:**

- North: LC with retail/service, including a hotel, and office uses.
- East: GC: General Commercial with retail/service uses; and LC with retail/service uses, including a hotel.
- South: LC with retail/service uses and MR-3: Multi-Dwelling Residential with multi-residential dwellings.
- West: LC with multi-residential dwellings (rezone to residential pending)

**Area Plans:**

The subject property is not included in a growth plan or area plan. However, a vision for this area is depicted in Fargo's Go2030 Comprehensive Plan. That plan envisions redevelopment of this portion of South University Drive to follow the model of a walkable mixed-use center, in which redevelopment of the properties along it would create pedestrian-oriented spaces with "walkable friendly" blocks, combining residential, commercial, and park or other amenity uses. A graphic of this general concept from the Go2030 plan is depicted below, with the subject property outlined in red and nearby street names circled in yellow.



(from Go2030 Comprehensive Plan, pages 36 and 37)

(continued on next page)

**Context:**

**Schools:** The subject property is located within the Fargo School District, specifically within the Lincoln Elementary, Carl Ben Eielson Middle and South High schools.

**Neighborhood:** The subject property is located within the Brunsdale neighborhood.

**Parks:** Lincoln Park (2120 9<sup>th</sup> Street South), is approximately 0.27 miles east of the subject property, and provides amenities of baseball/softball fields, basketball court, multipurpose field, playground for ages 5-12, and warming houses, outdoor skating and hockey rinks in the winter.

**Pedestrian / Bicycle:** There are no trails adjacent to the subject property.

**Staff Analysis:**

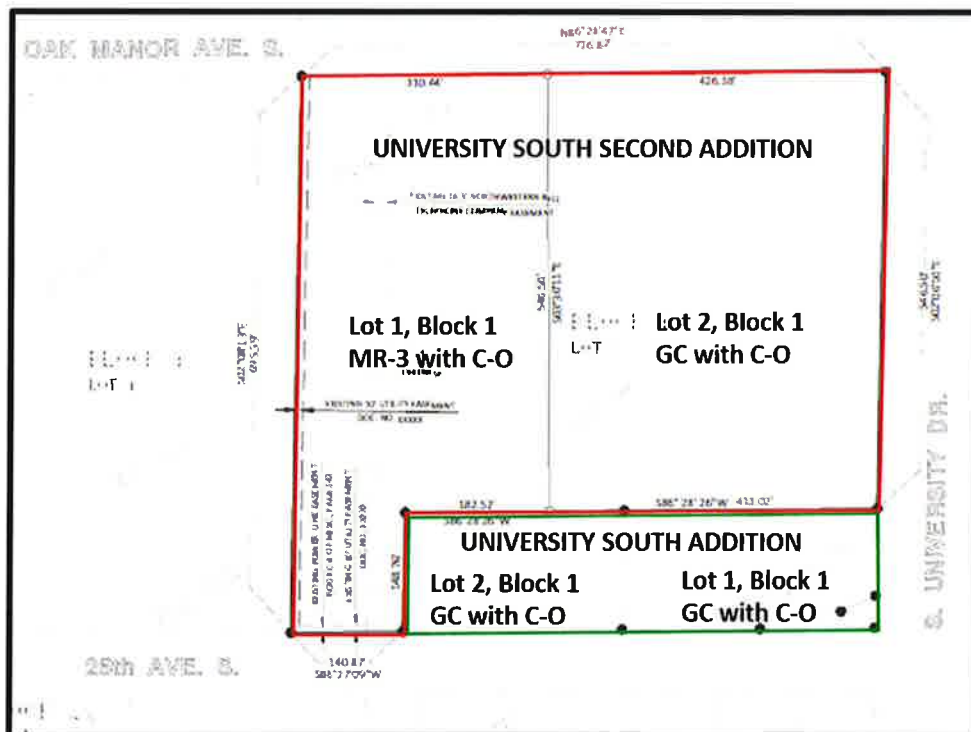
**PLAT AND ZONE CHANGE—UNIVERSITY SOUTH SECOND ADDITION**

The plat will create two lots in one block. Lot 1, Block 1 will be zoned MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay and is proposed to be developed as an affordable senior citizen housing residence. Lot 2, Block 1 will be zoned GC, General Commercial with a C-O, Conditional Overlay and is intended to be developed with several commercial uses.

**ZONE CHANGE—LOTS 1 and 2, BLOCK 1, UNIVERSITY SOUTH ADDITION**

The University South Addition, which divided the original site into three lots, was approved by the City Commission on September 20, 2021 and subsequently recorded. In the process of developing the University South Second Addition, the applicant determined that the overall development of this site would be better served if Lots 1 and 2, Block 1 of the University South Addition were included in the zone change from LC to GC proposed for the University South Second Addition, so that all the commercial lots on this site shared the same zoning. Thus, Lots 1 and 2, Block 1, University South Addition are included in this zone change.

The graphic below summarizes the proposed zoning.



**CONDITIONAL OVERLAY (C-O)**

The zone change includes a conditional overlay that will regulate signs, prohibit certain land uses that would otherwise be allowed by the zoning, and provide design standards for the development of the site. The conditional overlay covers both residential and commercial development on the site. The intent of the conditional overlay is to help development on these properties reach the goals of the Go2030 plan, as noted above, for this location. The conditional overlays for the three lots zoned GC, General Commercial, are individualized to the proposed development on those lots. A copy of the draft conditional overlay is attached.

**ACCESS:** The project site will continue to take access from University Drive South, Oak Manor Avenue South, and 25<sup>th</sup> Avenue South.

**PUBLIC COMMENT:** Planning staff hosted two meetings on Thursday, August 26<sup>th</sup>, 2021 to enable surrounding owners to meet with the developer to discuss this proposal. Planning staff has received and responded to several requests for information since that time. A comment letter was received on November 1, 2021. The letter was received in relation to the rezoning of properties in the Oak Manor Second Addition, adjacent to the east of University South 2<sup>nd</sup> Addition. The City Commission heard and approved the Oak Manor Second Addition zone change on November 1, 2021. However, the comments in the letter appear to be focused on the development proposed as part of the University South 2<sup>nd</sup> Addition, so a copy of that letter is included in this packet (see attachments).

**Zoning**

Section 20-0906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

**1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**

Staff is unaware of any error in the zoning map as it relates to this property. The subject property is currently zoned LC, Limited Commercial. The proposed zone change to GC, General Commercial and MR-3, Multi-Dwelling Residential, both with a conditional overlay, is intended to facilitate the proposed project that redevelops an existing, currently underutilized, commercial site. **(Criteria Satisfied)**

**2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing, developed public rights-of-way which provide access and public utilities to 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. To date, Planning staff has received one comment letter (copy attached) as well as received and responded to several requests for information on the project. 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 LDC states "This Land Development Code is intended 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." The subject property is not located within a growth plan. The proposed zoning, including the conditional overlay, is intended to facilitate the proposed project which redevelops a proposed, currently underutilized, commercial site. The additional development and design standards in the conditional overlay reflect the

vision of the Go2030 Comprehensive Plan for this area of a walkable mixed use center—a higher density neighborhood with connected mixed or integrated commercial and residential uses. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria satisfied)**

**Subdivision**

The LDC stipulates that the following criteria are met before a minor plat can be approved:

- 1. Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The proposed zoning designations of GC, General Commercial and MR-3, Multi-Dwelling Residential, both with a conditional overlay, are intended to accommodate the proposed residential and commercial development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received one comment letter (copy attached) as well as received and responded to several requests for information on the project. The project has been reviewed by the city’s Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

- 2. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: “To accept the findings and recommendations of the Planning Commission and staff and hereby 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: 1) zone change from LC, Limited Commercial to GC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay and 2) **University South Second Addition** subdivision plat as presented; as the proposal complies with the Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC and the Go2030 Comprehensive Plan.”

**Planning Commission Recommendation: October 5, 2021**

At the October 5, 2021, Planning Commission hearing, by a vote of 6-0 with one Commissioner absent and four Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) zone change from LC, Limited Commercial to GC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay and 2) **University South Second Addition** subdivision plat as presented; as the proposal complies with the Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC and the Go2030 Comprehensive Plan.”

**Attachments:**

1. Location Map
2. Zoning Map
3. Preliminary Plat
4. Draft conditional overlay
5. Comment letter



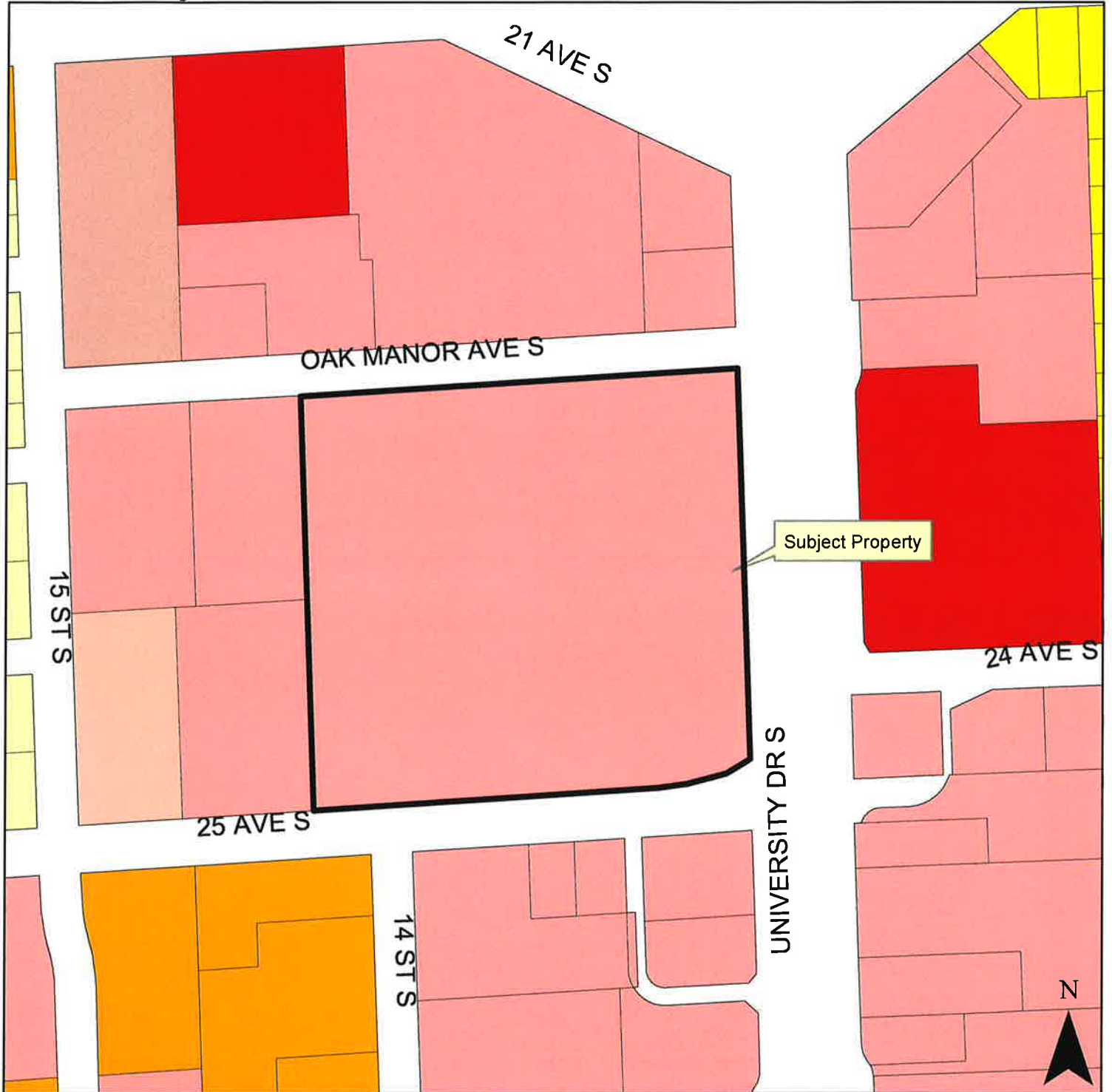
# Zone Change (LC, Limited Commercial to GC, General Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay) and Plat (Minor) University South Addition University South 2nd Addition

2253-2301 University Drive S



**Zone Change (LC, Limited Commercial to GC, General Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay) and Plat (Minor) University South Addition University South 2nd Addition**

2253-2301 University Drive S



**Legend**

AG	DMU	GC	GO	LC	MR-1	MR-2	MR-3	MHP	NO	UMU	SR-1	SR-2	SR-3	SR-4	SR-5	City Limits
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Lots 1 and 2, Block 2, University South Addition and Lots 1 and 2, Block 1, University South Second Addition

**APPLIES TO LOT 1, BLOCK 1, UNIVERSITY SOUTH SECOND ADDITION**

MR-3 Multi-Dwelling Residential zoning Residential Development

**1. Building Form and Style**

1.1. Principal Materials – Unless otherwise deemed acceptable by the Zoning Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic stone, brick, stucco, integrally-colored and textured concrete masonry units or systems, exterior insulation finishing systems (EIFS), fiber cement, curtain walls, rainscreen systems or glass. All materials shall be commercial grade, durable, and have a multi-generational life span. Metal panel, finished wood and vinyl shall be allowed on residential structures but should not exceed 75% of the building elevation.

1.2. Dumpsters, refuse containers, and outdoor storage areas shall be located at the side or rear of buildings and shall be visually screened from adjacent public right-of-way, when located within 150 feet of public right of way, by permanent walls. The permanent walls shall be constructed or clad with the same materials used for the primary building. Dumpsters and refuse containers shall contain permanent walls on at least three sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpsters or refuse containers.

**2. Site Design**

2.1. A minimum of 5% of the internal surface area of the parking lot shall be landscaped through the use of planter islands and peninsulas.

2.2. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent properties may share pedestrian circulation systems that connect to public sidewalks with Zoning Administrator approval. An on-site system of pedestrian walkways shall be provided between building entrances and the following:

2.2.1. Parking lots

2.2.2. Any public sidewalk or multi-use path along the perimeter of the lot

2.2.3. Entrances of other buildings on the site

2.2.4. Any public sidewalk system along the perimeter streets adjacent to the development

2.2.5. Adjacent pedestrian origins and destinations—including but not limited to transit stops, residential development, office buildings, and retail shopping buildings—where deemed practical and appropriate by the Zoning Administrator

**3. Upon approval of the Zoning Administrator, adjacent properties may share pedestrian circulation systems that connect to public sidewalks. Prohibited Signage**

3.1. Pole or pylon sign—A sign that is mounted a freestanding pole or pylon placed in the ground.

3.2. Billboards – a sign advertising products not made, sold, used or served on the premises displaying the sign or that conveys an informational or ideological message.

- 3.3. Fence Signs – a sign affixed in any way to or painted on a fence
- 3.4. Off Site Sign – a sign directing attention to a business commodity, service, product, or property not located, sold or conducted on the same property or site as that on which the sign is located.
- 3.5. Pennant – a flag tapering to a point usually strung together by line or rope.
- 3.6. Portable Sign – any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.
- 3.7. Roof Sign – a sign erected above the highest point of a flat roof or mounted on a gable pitched or hipped roof
- 3.8. Vehicular Sign – a sign or business identification affixed to any vehicle, including but not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured homes and similar vehicles and their accessories.
- 3.9. Exterior Window Sign – means any sign painted or applied to the interior/exterior of the window of a tenant

**APPLIES TO LOT 2, BLOCK 1, UNIVERSITY SOUTH SECOND ADDITION**

GC, General Commercial zoning      Commercial Developments

**1. Building form and style**

- 1.1. All building elevations/façades greater than 200 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least two feet, and the cumulative total horizontal width of all projections and/or recesses within a façade shall equate to at least an accumulated total of 20 percent of the overall horizontal length of the façade. No uninterrupted length of any façade shall exceed 200 horizontal feet.
- 1.2. Ground floor facades that are within 150 feet of the right of way, measured from the exterior wall shall have arcades, display windows, entry areas, awnings, spandrel glass, ground level landscaping, or other such features along no less than 50% of its horizontal length
- 1.3. Principal Materials – Unless otherwise deemed acceptable by the Zoning Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic stone, brick, stucco, integrally-colored and textured concrete masonry units or systems, exterior insulation finishing systems (EIFS), fiber cement, architectural metal panels, curtain walls, rainscreen systems or glass. All materials shall be commercial grade, durable, and have a multigenerational life span.
- 1.4. Accent Materials – In conjunction with the principle materials listed above, the following accent materials may also be used to construct or clad exterior walls: finished wood, and vinyl. Accent materials shall be applied to no greater than 20 percent of each building façade.
- 1.5. Loading/unloading areas, building service entrances, loading docks, overhead doors, and ground level HVAC units within 150ft of public right of way shall be visually screened from adjacent public right-of-way by structures and/or landscaping. All structures used for visual screening shall be constructed or clad with the same materials used for the primary building.
- 1.6. Dumpsters, refuse containers, and outdoor storage areas shall be located at the side or rear of buildings and shall be visually screened from adjacent public right-of-way, when

located within 150 feet of public right of way, by permanent walls. The permanent walls shall be constructed or clad with the same materials used for the primary building. Dumpsters and refuse containers shall contain permanent walls on at least three sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpsters or refuse containers.

- 1.7. Service, loading, and utility areas visible from residential areas shall be screened with a wall, berm, trellising or combination.
2. Site Design
  - 2.1. A minimum of 5% of the internal surface area of the parking lot shall be landscaped through the use of planter islands and peninsulas.
  - 2.2. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent properties may share pedestrian circulation systems that connect to public sidewalks with Zoning Administrator approval. An on-site system of pedestrian walkways shall be provided between building entrances and the following:
    - 2.2.1. Parking lots or parking structures
    - 2.2.2. Any public sidewalk or multi-use path along the perimeter of the lot
    - 2.2.3. Entrances of other buildings on the site
    - 2.2.4. Any public sidewalk system along the perimeter streets adjacent to the development
    - 2.2.5. Adjacent pedestrian origins and destinations—including but not limited to transit stops, residential development, office buildings, and retail shopping buildings—where deemed practical and appropriate by the Zoning Administrator
3. Prohibited Uses
  - 3.1. Detention facilities
  - 3.2. Self-service storage
  - 3.3. Vehicle repair
  - 3.4. Vehicle service, limited
  - 3.5. Industrial uses
  - 3.6. Adult entertainment center
4. Prohibited Signage
  - 4.1. Pole or pylon sign--A sign that is mounted a freestanding pole or pylon placed in the ground.
  - 4.2. Billboards – a sign advertising products not made, sold, used or served on the premises displaying the sign or that conveys an informational or ideological message.
  - 4.3. Fence Signs – a sign affixed in any way to or painted on a fence
  - 4.4. Off Site Sign – a sign directing attention to a business commodity, service, product, or property not located, sold or conducted on the same property or site as that on which the sign is located.
  - 4.5. Pennant – a flag tapering to a point usually strung together by line or rope.
  - 4.6. Portable Sign – any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.
  - 4.7. Roof Sign – a sign erected above the highest point of a flat roof or mounted on a gable pitched or hipped roof

- 4.8. Vehicular Sign – a sign or business identification affixed to any vehicle, including but not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured homes and similar vehicles and their accessories.
- 4.9 Exterior Window Sign – means any sign painted or applied to the interior/exterior of the window of a tenant space that covers greater than 50 percent of the glass area.

**APPLIES TO LOT 1, BLOCK 1, UNIVERSITY SOUTH ADDITION** (proposed car wash)  
GC, General Commercial zoning                      Commercial Developments

1. Building form and style

- 1.1. All building elevations/façades greater than 200 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least two feet, and the cumulative total horizontal width of all projections and/or recesses within a façade shall equate to at least an accumulated total of 20 percent of the overall horizontal length of the façade. No uninterrupted length of any façade shall exceed 200 horizontal feet.
- 1.2. Ground floor facades that are within 150 feet of the right of way, measured from the exterior wall shall have arcades, display windows, entry areas, awnings, spandrel glass, ground level landscaping, or other such features along no less than 50% of its horizontal length
- 1.3. Principal Materials – Unless otherwise deemed acceptable by the Zoning Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic stone, brick, stucco, integrally-colored and textured concrete masonry units or systems, exterior insulation finishing systems (EIFS), fiber cement, architectural metal panels, curtain walls, rainscreen systems or glass. All materials shall be commercial grade, durable, and have a multigenerational life span.
- 1.4. Accent Materials – In conjunction with the principle materials listed above, the following accent materials may also be used to construct or clad exterior walls: finished wood, and vinyl. Accent materials shall be applied to no greater than 20 percent of each building façade.
- 1.5. Loading/unloading areas, building service entrances, loading docks, and ground level HVAC units within 150ft of public right of way shall be visually screened from adjacent public right-of-way by structures and/or landscaping. All structures used for visual screening shall be constructed or clad with the same materials used for the primary building.
- 1.6. Dumpsters, refuse containers, and outdoor storage areas shall be located at the side or rear of buildings and shall be visually screened from adjacent public right-of-way, when located within 150 feet of public right of way, by permanent walls. The permanent walls shall be constructed or clad with the same materials used for the primary building. Dumpsters and refuse containers shall contain permanent walls on at least three sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpsters or refuse containers.
- 1.7. Service, loading, and utility areas visible from residential areas shall be screened with a wall, berm, trellising or combination.

2. Site Design

- 2.1. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent properties may share pedestrian circulation systems that connect to public sidewalks

with Zoning Administrator approval. An on-site system of pedestrian walkways shall be provided between building entrances and the following:

- 2.1.1. Parking lots or parking structures
- 2.1.2. Any public sidewalk or multi-use path along the perimeter of the lot
- 2.1.3. Entrances of other buildings on the site
- 2.1.4. Any public sidewalk system along the perimeter streets adjacent to the development
- 2.1.5. Adjacent pedestrian origins and destinations—including but not limited to transit stops, residential development, office buildings, and retail shopping buildings—where deemed practical and appropriate by the Zoning Administrator

3. Prohibited Uses

- 3.1. Detention facilities
- 3.2. Self-service storage
- 3.3. Vehicle repair
- 3.4. Industrial uses
- 3.5. Adult entertainment center

4. Prohibited Signage

- 4.1. Pole or pylon sign--A sign that is mounted a freestanding pole or pylon placed in the ground.
- 4.2. Billboards – a sign advertising products not made, sold, used or served on the premises displaying the sign or that conveys an informational or ideological message.
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- 4.8. Vehicular Sign – a sign or business identification affixed to any vehicle, including but not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured homes and similar vehicles and their accessories.
- 4.9 Exterior Window Sign – means any sign painted or applied to the interior/exterior of the window of a tenant space that covers greater than 50 percent of the glass area.

**APPLIES TO LOT 2, BLOCK 1, UNIVERSITY SOUTH ADDITION** (allows vehicle service/vehicle repair on this lot only)

GC, General Commercial zoning

Commercial Developments

1. Building form and style

- 1.1. All building elevations/façades greater than 200 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least two feet, and the cumulative



total horizontal width of all projections and/or recesses within a façade shall equate to at least an accumulated total of 20 percent of the overall horizontal length of the façade. No uninterrupted length of any façade shall exceed 200 horizontal feet.

- 1.2. Ground floor facades that are within 150 feet of the right of way, measured from the exterior wall shall have arcades, display windows, entry areas, awnings, spandrel glass, ground level landscaping, or other such features along no less than 50% of its horizontal length
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- 1.7. Service, loading, and utility areas visible from residential areas shall be screened with a wall, berm, trellising or combination.
2. Site Design
  - 2.1. A minimum of 5% of the internal surface area of the parking lot shall be landscaped through the use of planter islands and peninsulas.
  - 2.2. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent properties may share pedestrian circulation systems that connect to public sidewalks with Zoning Administrator approval. An on-site system of pedestrian walkways shall be provided between building entrances and the following:
    - 2.2.1. Parking lots or parking structures
    - 2.2.2. Any public sidewalk or multi-use path along the perimeter of the lot
    - 2.2.3. Entrances of other buildings on the site
    - 2.2.4. Any public sidewalk system along the perimeter streets adjacent to the development
    - 2.2.5. Adjacent pedestrian origins and destinations—including but not limited to transit stops, residential development, office buildings, and retail shopping buildings—where deemed practical and appropriate by the Zoning Administrator

3. Prohibited Uses
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  - 4.6. Portable Sign – any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.
  - 4.7. Roof Sign – a sign erected above the highest point of a flat roof or mounted on a gable pitched or hipped roof
  - 4.8. Vehicular Sign – a sign or business identification affixed to any vehicle, including but not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured homes and similar vehicles and their accessories.
  - 4.9. Exterior Window Sign – means any sign painted or applied to the interior/exterior of the window of a tenant space that covers greater than 50 percent of the glass area.

Oct. 30, 2021

Dear Donald Kress, City Commission Members and Planning and Development Committee Members,

I'm writing to you on behalf of the re-zoning proposal that you will be voting on Nov. 1, 2021, on portions of Lot 1, Block 1, Oak Manor Second Addition. While I do not have any concerns with the rezoning of those properties, I continue to have concerns on the proposed 4-story height of the 55+ apartment building complex. Nowhere in the extended area, with the exception of the Sanford Hospital on S. University, are there any buildings of that height. Because the family homes in that area are mainly ranch homes, the new complex, along with the other apartment buildings that surround us, will make us feel walled in. The height may impact all the satellites for KVLV; they had to raise them up when the newest apartment building on Oak Manor and 15<sup>th</sup> St. was built approximately 20 years ago.

The majority of the older apartment buildings on 14<sup>th</sup>, 15<sup>th</sup> and 17<sup>th</sup> Streets, as well as 21<sup>st</sup>, 25<sup>th</sup> and 27<sup>th</sup> Avenues, house a number of people who have significant mental illnesses and drug/alcohol additions, and some sexual predators. The crime rate has increased substantially since I moved to the neighborhood 35 years ago. This is obviously a concern when addressing the safety for those 55 years and older, with the new apartment building proposed.

When the apartment building at 15<sup>th</sup> St. and Oak Manor Ave. was built, the water pressure went down significantly in our neighborhood. With the significant number of new apartments, as well as any new commercial stores that may be built on the front facing portion of the Kmart Plaza, (i.e., business/retail strip mall, fast-food restaurant, small grocery store, etc.), I am worried about the significant decrease in water pressure to the entire neighborhood. I implore you to please consider this concern.

I ask you to please keep these details in mind as you look at rezoning this block.

Sincerely,

Beth Schaible  
1508 22<sup>nd</sup> Ave. S.  
Fargo, ND

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

35c2

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

1 AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
2 LYING IN UNIVERSITY SOUTH ADDITION  
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning  
9 request on October 5, 2021; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on December  
11 27, 2021,

12 NOW, THEREFORE,

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

14 Section 1. The following described property:

15 Lot One (1), Block One (1) of University South Addition to the City of Fargo, Cass  
16 County, North Dakota;

17 is hereby rezoned from "LC", Limited Commercial, District to "GC", General Commercial, District  
18 with a "C-O", Conditional Overlay, District as follows:

19 **1. Building Form and Style.**

20 1.1. All building elevations/façades greater than 200 feet in length, measured horizontally  
21 from vertical edge to vertical edge, shall incorporate wall plane projections or recesses.  
22 Each projection and/or recess shall have a depth of at least two (2) feet, and the  
23 cumulative total horizontal width of all projections and/or recesses within a façade shall  
equate to at least an accumulated total of twenty (20) percent of the overall horizontal  
length of the façade. No uninterrupted length of any façade shall exceed 200 horizontal  
feet.

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FARGO, NORTH DAKOTA

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

1.2. Ground floor facades that are within 150 feet of the right-of-way, measured from the exterior wall, shall have arcades, display windows, entry areas, awnings, spandrel glass, ground level landscaping, or other such features along no less than fifty (50) percent of its horizontal length.

1.3. Principal Materials. Unless otherwise deemed acceptable by the Zoning Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic stone, brick, stucco, integrally-colored and textured concrete masonry units or systems, exterior insulation finishing systems (EIFS), fiber cement, architectural metal panels, curtain walls, rainscreen systems or glass. All materials shall be commercial grade, durable, and have a multigenerational life span.

1.4. Accent Materials. In conjunction with the principal materials listed above, finished wood and vinyl may also be used to construct or clad exterior walls. Accent materials shall be applied to no greater than twenty (20) percent of each building façade.

1.5. Loading/unloading areas, building service entrances, loading docks, and ground level HVAC units within 150 feet of public right-of-way shall be visually screened from adjacent public right-of-way by structures and/or landscaping. All structures used for visual screening shall be constructed or clad with the same materials used for the primary building.

1.6. Dumpsters, refuse containers, and outdoor storage areas shall be located at the side or rear of buildings and shall be visually screened from adjacent public right-of-way, when located within 150 feet of public right-of-way, by permanent walls. The permanent walls shall be constructed or clad with the same materials used for the primary building. Dumpsters and refuse containers shall contain permanent walls on at least three (3) sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpsters or refuse containers.

1.7. Service, loading, and utility areas visible from residential areas shall be screened with a wall, berm, trellising or combination thereof.

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FARGO, NORTH DAKOTA

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

**2. Site Design.**

2.1. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent properties may share pedestrian circulation systems that connect to public sidewalks with Zoning Administrator approval. An on-site system of pedestrian walkways shall be provided between building entrances and the following:

- 2.1.1. Parking lots or parking structures;
- 2.1.2. Any public sidewalk or multi-use path along the perimeter of the lot;
- 2.1.3. Entrances of other buildings on the site;
- 2.1.4. Any public sidewalk system along the perimeter streets adjacent to the development; and
- 2.1.5. Adjacent pedestrian origins and destinations—including but not limited to transit stops, residential development, office buildings, and retail shopping buildings— where deemed practical and appropriate by the Zoning Administrator.

**3. The following uses are prohibited:**

- 3.1. Detention facilities;
- 3.2. Self-service storage;
- 3.3. Vehicle repair;
- 3.4. Industrial uses; and
- 3.5. Adult entertainment center.

**4. The following signs are prohibited:**

- 4.1. Pole or pylon sign: a sign that is mounted to a freestanding pole or pylon placed in the ground;
- 4.2. Billboards: a sign advertising products not made, sold, used or served on the premises displaying the sign or that conveys an informational or ideological message;
- 4.3. Fence Signs: a sign affixed in any way to or painted on a fence;

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 4.4. Pennant: a flag tapering to a point usually strung together by line or rope;

2 4.5. Off Site Sign: a sign directing attention to a business commodity, service, product,  
3 or property not located, sold or conducted on the same property or site as that on which  
4 the sign is located;

5 4.6. Portable Sign: any sign which is constructed so as to be movable, either by skids,  
6 wheels, truck or other conveyance; any sign which does not have a permanent  
7 foundation or is otherwise permanently fastened to the ground and/or which is not wired  
8 for electricity in accordance with the sign code;

9 4.7. Roof Sign: a sign erected upon or above a roof or parapet of a building or structure;

10 4.8. Vehicular Sign: a sign or business identification affixed to any vehicle, including  
11 but not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured  
12 homes and similar vehicles and their accessories; and

13 4.9. Window Sign: a sign painted or applied to the interior or exterior of the window that  
14 covers greater than fifty (50) percent of the glass area.

15 Section 2. The following described property:

16 Lot Two (2), Block One (1) of University South Addition to the City of Fargo, Cass  
17 County, North Dakota;

18 is hereby rezoned from "LC", Limited Commercial, District to "GC", General Commercial, District  
19 with a "C-O", Conditional Overlay, District as follows:

20 **1. Building Form and Style.**

21 1.1. All building elevations/façades greater than 200 feet in length, measured  
22 horizontally from vertical edge to vertical edge, shall incorporate wall plane projections  
23 or recesses. Each projection and/or recess shall have a depth of at least two (2) feet, and

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

1 the cumulative total horizontal width of all projections and/or recesses within a façade  
2 shall equate to at least an accumulated total of twenty (20) percent of the overall  
horizontal length of the façade. No uninterrupted length of any façade shall exceed 200  
horizontal feet.

3 1.2. Ground floor facades that are within 150 feet of the right-of-way, measured from the  
4 exterior wall shall have arcades, display windows, entry areas, awnings, spandrel glass,  
5 ground level landscaping, or other such features along no less than fifty (50) percent of its  
horizontal length.

6 1.3. Principal Materials. Unless otherwise deemed acceptable by the Zoning  
7 Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic  
8 stone, brick, stucco, integrally-colored and textured concrete masonry units or systems,  
9 exterior insulation finishing systems (EIFS), fiber cement, architectural metal panels,  
curtain walls, rainscreen systems or glass. All materials shall be commercial grade,  
durable, and have a multigenerational life span.

10 1.4. Accent Materials. In conjunction with the principal materials listed above, finished  
11 wood and vinyl may also be used to construct or clad exterior walls. Accent materials  
12 shall be applied to no greater than twenty (20) percent of each building façade.

13 1.5. Loading/unloading areas, building service entrances, loading docks, and ground level  
14 HVAC units within 150 feet of public right-of-way shall be visually screened from  
15 adjacent public right-of-way by structures and/or landscaping. All structures used for  
visual screening shall be constructed or clad with the same materials used for the primary  
building.

16 1.6. Dumpsters, refuse containers, and outdoor storage areas shall be located at the side or  
17 rear of buildings and shall be visually screened from adjacent public right-of-way, when  
18 located within 150 feet of public right-of-way, by permanent walls. The permanent walls  
19 shall be constructed or clad with the same materials used for the primary building.  
20 Dumpsters and refuse containers shall contain permanent walls on at least three (3) sides  
21 with the service opening not directly facing any public right-of-way or residentially  
zoned property. The fourth side shall incorporate a metal gate to visually screen the  
22 dumpsters or refuse containers.  
23



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 1.7. Service, loading, and utility areas visible from residential areas shall be screened  
2 with a wall, berm, trellising or combination thereof.

3 **2. Site Design.**

4 2.1. A minimum of five (5) percent of the internal surface area of the parking lot shall be  
5 landscaped through the use of planter islands and peninsulas.

6 2.2. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent  
7 properties may share pedestrian circulation systems that connect to public sidewalks with  
8 Zoning Administrator approval. An on-site system of pedestrian walkways shall be  
9 provided between building entrances and the following:

10 2.2.1. Parking lots or parking structures;

11 2.2.2. Any public sidewalk or multi-use path along the perimeter of the lot;

12 2.2.3. Entrances of other buildings on the site;

13 2.2.4. Any public sidewalk system along the perimeter streets adjacent to the  
14 development; and

15 2.2.5. Adjacent pedestrian origins and destinations—including, but not limited to,  
16 transit stops, residential development, office buildings, and retail shopping  
17 buildings— where deemed practical and appropriate by the Zoning Administrator.

18 **3. The following uses are prohibited:**

19 3.1. Detention facilities;

20 3.2. Self-service storage;

21 3.3. Industrial uses; and

22 3.4. Adult entertainment center.

23 **4. The following signs are prohibited:**

24 4.1. Pole or pylon sign: a sign that is mounted to a freestanding pole or pylon placed in  
25 the ground;

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

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4.2. Billboards: a sign advertising products not made, sold, used or served on the premises displaying the sign or that conveys an informational or ideological message;

4.3. Fence Signs: a sign affixed in any way to or painted on a fence;

4.4. Off Site Sign: a sign directing attention to a business commodity, service, product, or property not located, sold or conducted on the same property or site as that on which the sign is located;

4.5. Pennant: a flag tapering to a point usually strung together by line or rope;

4.6. Portable Sign: any sign which is constructed so as to be movable, either by skids, wheels, truck or other conveyance; any sign which does not have a permanent foundation or is otherwise permanently fastened to the ground and/or which is not wired for electricity in accordance with the sign code;

4.7. Roof Sign: a sign erected upon or above a roof or parapet of a building or structure;

4.8. Vehicular Sign: a sign or business identification affixed to any vehicle, including but not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured homes and similar vehicles and their accessories; and

4.9. Window Sign: a sign painted or applied to the interior or exterior of the window that covers greater than fifty (50) percent of the glass area.

Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

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

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(SEAL)

Attest:

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Steven Sprague, City Auditor

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Timothy J. Mahoney, M.D., Mayor

First Reading:  
Second Reading:  
Final Passage:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

3503

1 AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
2 LYING IN UNIVERSITY SOUTH SECOND ADDITION  
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning  
9 request on October 5, 2021; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on December  
11 27, 2021,

12 NOW, THEREFORE,

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

14 Section 1. The following described property:

15 Lot One (1), Block One (1) of University South Second Addition to the City of  
16 Fargo, Cass County, North Dakota;

17 is hereby rezoned from "LC", Limited Commercial, District to "MR-3", Multi-Dwelling  
18 Residential, District with a "C-O", Conditional Overlay, District as follows:

19 **1. Building Form and Style.**

20 1.1. Principal Materials. Unless otherwise deemed acceptable by the Zoning  
21 Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic  
22 stone, brick, stucco, integrally-colored and textured concrete masonry units or systems,  
23 exterior insulation finishing systems (EIFS), fiber cement, curtain walls, rainscreen  
systems or glass. All materials shall be commercial grade, durable, and have a multi-  
generational life span. Metal panel, finished wood and vinyl shall be allowed on  
residential structures but should not exceed seventy-five (75) percent of the building  
elevation.

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FARGO, NORTH DAKOTA

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

1.2. Dumpsters, refuse containers, and outdoor storage areas shall be located at the side or rear of buildings and shall be visually screened from adjacent public right-of-way, when located within 150 feet of public right-of-way, by permanent walls. The permanent walls shall be constructed or clad with the same materials used for the primary building. Dumpsters and refuse containers shall contain permanent walls on at least three (3) sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpsters or refuse containers.

2. **Site Design.**

2.1. A minimum of five (5) percent of the internal surface area of the parking lot shall be landscaped through the use of planter islands and peninsulas.

2.2. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent properties may share pedestrian circulation systems that connect to public sidewalks with Zoning Administrator approval. An on-site system of pedestrian walkways shall be provided between building entrances and the following:

2.2.1. Parking lots;

2.2.2. Any public sidewalk or multi-use path along the perimeter of the lot;

2.2.3. Entrances of other buildings on the site;

2.2.4. Any public sidewalk system along the perimeter streets adjacent to the development; and

2.2.5. Adjacent pedestrian origins and destinations—including, but not limited to, transit stops, residential development, office buildings, and retail shopping buildings— where deemed practical and appropriate by the Zoning Administrator.

3. **The following signs are prohibited:**

3.1. Pole or pylon sign: a sign that is mounted to a freestanding pole or pylon placed in the ground;

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

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3.2. Billboards: a sign advertising products not made, sold, used or served on the premises displaying the sign or that conveys an informational or ideological message;

3.3. Fence Signs: a sign affixed in any way to or painted on a fence;

3.4. Off Site Sign: a sign directing attention to a business commodity, service, product, or property not located, sold or conducted on the same property or site as that on which the sign is located;

3.5. Pennant: a flag tapering to a point usually strung together by line or rope;

3.6. Portable Sign: any sign which is constructed so as to be movable, either by skids, wheels, truck or other conveyance; any sign which does not have a permanent foundation or is otherwise permanently fastened to the ground and/or which is not wired for electricity in accordance with the sign code;

3.7. Roof Sign: a sign erected upon or above a roof or parapet of a building or structure;

3.8. Vehicular Sign: a sign or business identification affixed to any vehicle, including but not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured homes and similar vehicles and their accessories; and

3.9. Window Sign: a sign painted or applied to the interior or exterior of the window that covers greater than fifty (50) percent of the glass area.

16 Section 2. The following described property:

17 Lot Two (2), Block One (1) of University South Second Addition to the City of Fargo,  
18 Cass County, North Dakota;

19 is hereby rezoned from "LC", Limited Commercial, District to "GC", General Commercial, District  
20 with a "C-O", Conditional Overlay, District as follows:

21 **1. Building Form and Style.**

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 1.1. All building elevations/façades greater than 200 feet in length, measured  
2 horizontally from vertical edge to vertical edge, shall incorporate wall plane projections  
3 or recesses. Each projection and/or recess shall have a depth of at least two (2) feet, and  
4 the cumulative total horizontal width of all projections and/or recesses within a façade  
5 shall equate to at least an accumulated total of twenty (20) percent of the overall  
6 horizontal length of the façade. No uninterrupted length of any façade shall exceed 200  
7 horizontal feet.

8 1.2. Ground floor facades that are within 150 feet of the right-of-way, measured from the  
9 exterior wall, shall have arcades, display windows, entry areas, awnings, spandrel glass,  
10 ground level landscaping, or other such features along no less than fifty (50) percent of  
11 its horizontal length.

12 1.3. Principal Materials. Unless otherwise deemed acceptable by the Zoning  
13 Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic  
14 stone, brick, stucco, integrally-colored and textured concrete masonry units or systems,  
15 exterior insulation finishing systems (EIFS), fiber cement, architectural metal panels,  
16 curtain walls, rainscreen systems or glass. All materials shall be commercial grade,  
17 durable, and have a multigenerational life span.

18 1.4. Accent Materials. In conjunction with the principal materials listed above, finished  
19 wood or vinyl may also be used to construct or clad exterior walls. Accent materials  
20 shall be applied to no greater than twenty (20) percent of each building façade.

21 1.5. Loading/unloading areas, building service entrances, loading docks, overhead doors,  
22 and ground level HVAC units within 150 feet of public right-of-way shall be visually  
23 screened from adjacent public right-of-way by structures and/or landscaping. All  
structures used for visual screening shall be constructed or clad with the same materials  
used for the primary building.

1.6. Dumpsters, refuse containers, and outdoor storage areas shall be located at the side  
or rear of buildings and shall be visually screened from adjacent public right-of-way,  
when located within 150 feet of public right-of-way, by permanent walls. The permanent  
walls shall be constructed or clad with the same materials used for the primary building.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 Dumpsters and refuse containers shall contain permanent walls on at least three (3) sides  
2 with the service opening not directly facing any public right-of-way or residentially  
zoned property. The fourth side shall incorporate a metal gate to visually screen the  
dumpsters or refuse containers.

3 1.7. Service, loading, and utility areas visible from residential areas shall be screened  
4 with a wall, berm, trellising or combination thereof.

5 **2. Site Design.**

6 2.1. A minimum of five (5) percent of the internal surface area of the parking lot shall be  
7 landscaped through the use of planter islands and peninsulas.

8 2.2. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent  
9 properties may share pedestrian circulation systems that connect to public sidewalks with  
10 Zoning Administrator approval. An on-site system of pedestrian walkways shall be  
11 provided between building entrances and the following:

12 2.2.1. Parking lots or parking structures;

13 2.2.2. Any public sidewalk or multi-use path along the perimeter of the lot;

14 2.2.3. Entrances of other buildings on the site;

15 2.2.4. Any public sidewalk system along the perimeter streets adjacent to the  
development; and

16 2.2.5. Adjacent pedestrian origins and destinations—including, but not limited to,  
transit stops, residential development, office buildings, and retail shopping  
17 buildings— where deemed practical and appropriate by the Zoning Administrator.

18 **3. The following uses are prohibited:**

19 3.1. Detention facilities;

20 3.2. Self-service storage;

21 3.3. Vehicle repair;

22 3.4. Vehicle service, limited;



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FARGO, NORTH DAKOTA

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

- 3.5. Industrial uses; and
- 3.6. Adult entertainment center.

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2 **4. The following signs are prohibited:**

3 4.1. Pole or pylon sign: a sign that is mounted to a freestanding pole or pylon placed in  
4 the ground;

5 4.2. Billboards: a sign advertising products not made, sold, used or served on the  
6 premises displaying the sign or that conveys an informational or ideological message;

7 4.3. Fence Signs: a sign affixed in any way to or painted on a fence;

8 4.4. Off Site Sign: a sign directing attention to a business commodity, service, product,  
9 or property not located, sold or conducted on the same property or site as that on which  
10 the sign is located;

11 4.5. Pennant: a flag tapering to a point usually strung together by line or rope;

12 4.6. Portable Sign: any sign which is constructed so as to be movable, either by skids,  
13 wheels, truck or other conveyance; any sign which does not have a permanent  
14 foundation or is otherwise permanently fastened to the ground and/or which is not wired  
for electricity in accordance with the sign code;

15 4.7. Roof Sign: a sign erected upon or above a roof or parapet of a building or structure;

16 4.8. Vehicular Sign: a sign or business identification affixed to any vehicle, including but  
17 not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured homes  
18 and similar vehicles and their accessories; and

19 4.9. Window Sign: a sign painted or applied to the interior or exterior of the window that  
20 covers greater than fifty (50) percent of the glass area.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

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

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

(SEAL)

Attest:

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Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:

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MEMORANDUM

36d

**TO:** Fargo City Commission

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

**DATE:** December 22, 2021

**SUBJECT:** Renewal Plan for Kmart Site

---

We have drafted a Renewal Plan for the redevelopment of the old Kmart site on University Drive South. The project is to demolish a vacant commercial building and construct new development with ~80 units of affordable housing, ~20,000 square feet of commercial space, a restaurant and a coffee shop. Construction work would begin in 2022 and be completed by the end of 2024.

The developer is requesting \$1.4 million in Tax Increment Financing (TIF) to remove the building from the site and provide some infrastructure. The estimated annual TIF income is ~\$104,000 a year and the maximum length of the TIF district would be 15 years following the completion of the project.

City financial adviser PFM reviewed the project and stated, "Based on the internal rate of return and the coverage requirements, PFM concludes the project would not be feasible without public assistance."

A public hearing on the Renewal Plan and Developer Agreement is part of the review process. One of the purposes of the hearing is to provide potential competitors an opportunity to comment if they feel the agreement would result in unfair competition.

**Recommended Motion:**

Approve the Resolution adopting the Renewal Plan and a Developer Agreement with Grove Enclave, LLC to provide TIF funds for the project.

**Attachments**

1. Resolution
2. Renewal Plan
3. Financial "But For" Report
4. Form of Developer Agreement

RESOLUTION  
BOARD OF CITY COMMISSIONERS OF THE  
CITY OF FARGO

TAX INCREMENT FINANCING DISTRICT 2021-03

Commissioner \_\_\_\_\_ moved for approval of the following:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas, or areas consisting of industrial or commercial property, or a combination of those areas of properties, exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment, or a combination thereof, of the area contained within the Renewal Plan for Tax Increment Financing District No. 2021-03, is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.
3. That there are blighted areas within the area contained within the Renewal Plan with deteriorated conditions that discourage redevelopment. The Renewal Area, as defined in the Renewal Plan, is blighted due to the presence of these conditions have substantially impaired the growth of the City, and have slowed the provision of appropriate redevelopment in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.
4. That the area designated as the Renewal Plan for Tax Increment Financing District No. 2021-03 is appropriate for a development project.
5. That such development, rehabilitation, conservation or redevelopment of the area contained in the Renewal Plan for Tax Increment Financing District No. 2021-03 requires the powers and authority granted in Chapter 40-58 NDCC.
6. That the Renewal Plan for Tax Increment Financing District No. 2021-03 is hereby officially adopted by the Board.

7. That a Developer Agreement be prepared in regard to the Tax Increment Financing.
8. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof, and that the County Auditor and Treasurer shall do so in accordance with this section.

Said motion was seconded by Commissioner \_\_\_\_\_ and, upon call of the roll, the motion carried with Commissioner(s) \_\_\_\_\_ not being present, Commissioners \_\_\_\_\_ voting aye, Commissioners \_\_\_\_\_ voting nay and Commissioner(s) \_\_\_\_\_ abstaining and the motion therefore being declared carried.

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**RENEWAL PLAN**  
**TAX INCREMENT FINANCING DISTRICT NO. 2021-03**  
**CITY OF FARGO, NORTH DAKOTA**  
**NOVEMBER 2021**

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## RENEWAL PLAN FOR TAX INCREMENT DISTRICT NO. 2021-03

### Subsection 1.1. Definitions.

For the purposes of the Renewal Plan, the following terms shall have the meanings specified below, unless the context otherwise requires:

"City" means the City of Fargo, a municipal corporation under the laws of the State of North Dakota.

"City Commission" or "Commission" means the Fargo City Commission.

"Comprehensive Plan" means the City's GO 2030 Comprehensive Plan, including the objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and water within the City as and when such plan is adopted and finalized.

"County" means Cass County, North Dakota.

"Development" means the construction of new buildings, structures, or improvements; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures or improvements; the acquisition of equipment; and the clearing and grading of land on industrial or commercial property in the Renewal Area.

"Renewal Area" means the property described in Subsection 1.4 of this Plan.

"Renewal Plan" or "Plan" means this Plan adopted by the Commission for the Renewal Area.

"State" means the State of North Dakota.

"Tax Increment Financing Act" or "TIF Act" means North Dakota Century Code, Section 40-58-20, as amended.

"Tax Increment Bonds" means any general obligation or revenue tax increment bonds or notes issued by the City to finance the public costs associated with the TIF District as stated in this Plan, or any obligations issued to refund the Tax Increment Bonds.

"Tax Increment Financing District" or "TIF District" means Tax Increment Financing District No. 2021-03.

"Urban Renewal Law" means North Dakota Century Code, Chapter 40-58.

### Subsection 1.2. Statutory Authority.

The creation of the Renewal Area and the establishment of Tax Increment Financing District No. 2021-03 are authorized by the Urban Renewal Law. Specifically the creation of the Renewal Area is authorized under North Dakota Century Code, Sections 40-58-01.1(7) and (14), which provide that the local governing body may designate industrial or commercial property, a slum or



blighted area, or combination of these properties as appropriate for a development or renewal project.

The Urban Renewal Law provides that communities develop a "workable program" for the use of public and private resources to facilitate the development of industrial or commercial properties, eliminate and prevent the development or spread of slums and urban blight, encourage needed urban rehabilitation, provide for the redevelopment of slum and blighted areas, or undertake these activities or other feasible municipal activities as may be suitably employed to achieve the objectives of the workable program. North Dakota Century Code, Section 40-58-04.

Subsection 1.3. Statement of Public Purpose

In adopting the Renewal Plan for TIF District No. 2021-03, the City Commission intends to make the following findings:

- (a) The Renewal Area includes a blighted area.

**Factual basis:** This Renewal Area is blighted due to the presence of a vacant building and deteriorated asphalt parking lot, which substantially impairs the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use.

- (b) The Renewal Area includes vacant building, which previously was a commercial building with a Kmart as the tenant. The building has been vacant since the Kmart store closed.

**Factual basis:** The renewal area is considered blighted as described in (a) above. Blighted areas are eligible for renewal.

- (c) The Renewal Area is appropriate for a development or renewal project.

**Factual basis:** The renewal area was recently rezoned to allow for a mixed-use development that includes senior housing, retail space, restaurants and other commercial businesses.

- (d) The site is vacant and existing housing will not be affected.

**Factual basis:** No housing will be eliminated by this redevelopment. The redevelopment will include new housing units.

- (e) The Plan conforms to the Comprehensive Policy Plan for the City as a whole.

**Factual basis:** The proposed development is consistent with the goals that are embodied in the Go2030 Comprehensive Plan. Specifically, the Fargo Go2030 Comprehensive Plan supports infill and density within areas that are already developed, serviced with utilities, and protected by a flood resiliency strategy. The promotion of infill development is the number two ranked priority of Go2030.

The proposed use of the property is consistent with zoning, and may encourage additional redevelopment adjacent to the site. The proposed development will use existing infrastructure as the property is served with water and sewer main lines.

Subsection 1.4. Description of Renewal Area

The Renewal Area is located two miles south of the downtown on University Drive in close proximity to Interstate 94. The site is approximately eleven and a half acres as legally described in Appendix A. A map of the Renewal Area is attached as Appendix B.

A zoning map of the Renewal Area is attached as Appendix C. Adjacent land uses are commercial multi-family housing.

The proposed project will be multi-family housing for lower income seniors, retail space, restaurants and other commercial businesses.

The redevelopment plan is attached as Appendix E.

Subsection 1.5. Development, Demolition and Removal of Structures, Redevelopment or Improvements

The Development of the Renewal Area includes the following activities:

Building Demolition and Hazardous Material Removal – This estimate is for environmental cleanup and demolition. The estimate is \$1,400,000.

Public Works Improvements – This is the cost for needed improvements for infrastructure to serve the site, primarily new storm water facilities. The estimate is \$750,000.

Administrative/TIF Fees – Other Tax Increment costs include the administrative costs. There are estimated to be \$50,000 in administrative costs for the City of Fargo.

These costs represent estimated costs for planning purposes, and may be different when this plan is implemented with a development agreement. The development agreement costs will be determined after a review by City financial advisers. The maximum allowed costs will be specified in the development agreement. Based on the proposed development, the present value of TIF revenue is ~\$1.5 million

Subsection 1.6. Land Use Attributes – TIF District

- (a) *Zoning or Planning Changes.*  
The Renewal area was recently replatted into several lots. No additional zoning and planning changes are required to accommodate this project.
- (b) *Maximum Densities.*  
The property within the TIF District will be developed in accordance with the applicable zoning district requirements.

- (c) *Building Requirements.*  
All properties within this district are subject to the provisions of the City of Fargo Building Codes and the Land Development Code.
  
- (d) *Plan relationship to land use objectives (land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public imps.)*  
The physical improvements outlined in the plan meet critical needs required for the redevelopment of this property. The project complies with the General Commercial zoning district and the redevelopment goals of the Go2030 Comprehensive Plan. The development provides clears a largely vacant site and brings needed senior housing and commercial uses to this area of Fargo

Subsection 1.7. Estimate of Development Costs

The City anticipates development of the Renewal Area will involve certain public costs. Under North Dakota Century Code, Sections 40-58-20 and 40-58-20.1 allow the use of funds received from tax increments to be applied to certain specified costs. The City will provide for certain costs as listed below in a development agreement. The primary costs involved in the development are demolition and site cleanup, and public works improvements.

Demolition and Site Cleanup	\$1,300,000
Public Works Improvements	\$100,000
Administration	\$50,000
TOTAL	\$1,450,000

The City and Developer may also obtain reimbursement of interest between the time project costs are incurred and the date the Tax Increment Revenue Note is issued, such interest being capitalized and added to the foregoing costs.

Subsection 1.8. Estimate of Bonded Indebtedness

The City intends to finance certain costs of the Development through the issuance of a Tax Increment Financing Note to the Developer. In addition, the City may use general obligation bonds, special assessment warrants or refunding improvement bonds pursuant to North Dakota Century Code, Section 40-58-20 (9), and the City may specially assess all or a portion of the costs of development and apply funds received from tax increments to payment of the special assessments and other bonds.

Subsection 1.9. Tax Increment Financing.

The County Auditor is requested to compute, certify and remit tax increments resulting from the Development within the Renewal Area.

The original assessed value of the property within the Renewal Area, as last assessed and equalized before the base year of this Plan, is outlined on Attachment A.

Each year, the County Auditor will compute the amount of tax increment generated within the Renewal Area in accordance with the TIF Act. Any year in which there is an "incremental value" as provided in the TIF Act, an increment will be payable to the City and deposited in the fund created by the County Auditor for that purpose. Any year in which there is "lost value" pursuant to the TIF Act, no increment will be payable to the City.

Subsection 1.10. Estimate of Tax Increment.

It is anticipated the Development will result in an increase in true and full value of the Renewal Area redevelopment site to \$10.4 million. The value of the development site within the TIF district is ~\$3 million. The increase in value will be approximately \$7.4 million. Under the mill rate in effect as of the date of this Plan, the Renewal Area will generate tax increment each year in the estimated amount of \$104,000.

Subsection 1.11. Duration of the TIF District.

The City anticipates that the TIF District will continue until all development costs are reimbursed through the receipts of tax increment, or after a maximum of fifteen years after completion of the project. The first tax increment payment will be received in 2024.

**APPENDIX A**  
**LEGAL DESCRIPTION OF PROPERTY**



## Parcel Information Report

Parcel Number: 01-8796-00300-000

### General Information

Segment Id: 1  
 Owner 1: GROVE ENCLAVE LLC  
 Owner 2:  
 Property Address: 2301 UNIVERSITY DR S  
 Mailing Address: 300 23 AVE E STE 300 WEST FARGO, ND 58078  
 Addition Name: University South  
 Block: 1  
 Lot: 3

#### Additional Description:

1, LESS HWY R/W (2383 SF TAKEN IN 1994) \*9/28/2021 SPL/FRM 01-2210-00040-000 VIA NEW ADDITION PLAT #1646464. SPL#2021-094

#### Estimated Flood Stage Levels For River Flooding:

If your property is outside the city limits or your property and structure are not affected by a 25 to 44 foot flood stage data will be not available (N/A).

Property may be affected by an approximate flood stage of N/A or higher.

Structure may be affected by an approximate flood stage of N/A or higher.

Please note that this approximation does not take into account any local issues such as ice and debris jams or localized flooding from intense rainfall events.

### District Information

Cass School District: 1  
 Elem. School District: Lincoln

### Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$2,542,800.00	\$1,176,000.00	\$3,718,800.00

### Building Information

Year Built: 1963	No. of Apartment Units:
Total Building SqFt: 93175	Residential Story Height: ()

### Lot Size

Front Width:	Land Use: C (Commercial)
Back Width:	Property Type: 72 (Retail)
Depth Side 1:	
Depth Side 2:	Square Footage: 423530.00

DISCLAIMER: The City of Fargo provides property information to the public "as is" without warranty of any kind, expressed or implied. Assessed values are subject to change by the City of Fargo. In no event will the City of Fargo be liable to anyone for damages arising from the use of the property data. You assume responsibility for the selection of data to achieve your intended results, and for the installation and use of the results obtained from the property data.

Assessment records are for the sole purpose of identifying the land being taxed. In some cases to attain efficiency, Assessment Department legal descriptions may be shortened yet will retain sufficient information to identify the land. Since tax statements and records are not deeds and may contain abbreviated descriptions, they should not be used as a basis for a survey or a legal document and should not be used by surveyors or others as the primary source of a property description.



**Parcel Information Report**  
**Parcel Number: 01-8796-00300-000**

**General Information**

Segment Id: 2  
 Owner 1: GROVE ENCLAVE LLC  
 Owner 2:  
 Property Address: 2253 UNIVERSITY DR S  
 Mailing Address: 300 23 AVE E STE 300 WEST FARGO, ND 58078  
 Addition Name: University South  
 Block: 1  
 Lot: 3

**Additional Description:**

1, LESS HWY R/W (2383 SF TAKEN IN 1994) \*9/28/2021 SPL/FRM 01-2210-00040-000 VIA NEW ADDITION PLAT #1646464. SPL#2021-094

**Estimated Flood Stage Levels For River Flooding:**

If your property is outside the city limits or your property and structure are not affected by a 25 to 44 foot flood stage data will be not available (N/A).

Property may be affected by an approximate flood stage of N/A or higher.

Structure may be affected by an approximate flood stage of N/A or higher.

Please note that this approximation does not take into account any local issues such as ice and debris jams or localized flooding from intense rainfall events.

**District Information**

Cass School District: 1  
 Elem. School District: Lincoln

**Property Valuation**

	Land	Improvements	Total
Current Appraised Value:	\$0.00	\$979,600.00	\$979,600.00

**Building Information**

Year Built: 1976  
 Total Building SqFt: 4757  
 No. of Apartment Units:  
 Residential Story Height: ()

**Lot Size**

Front Width:  
 Back Width:  
 Depth Side 1:  
 Depth Side 2:  
 Land Use: C (Commercial)  
 Property Type: 71 (Food Service (Quick))  
 Square Footage: #Error

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## Parcel Information Report

Parcel Number: 01-8796-00100-000

### General Information

Segment Id: 1  
 Owner 1: GROVE ENCLAVE LLC  
 Owner 2:  
 Property Address: 1345 25 AVE S  
 Mailing Address: 300 23 AVE E STE 300 WEST FARGO, ND 580478  
 Addition Name: University South  
 Block: 1  
 Lot: 1

#### Additional Description:

1, LESS HWY R/W (2383 SF TAKEN IN 1994) \*9/28/2021 SPL/FRM 01-2210-00040-000 VIA NEW ADDITION PLAT #1646464. SPL#2021-094

#### Estimated Flood Stage Levels For River Flooding:

If your property is outside the city limits or your property and structure are not affected by a 25 to 44 foot flood stage data will be not available (N/A).

Property may be affected by an approximate flood stage of N/A or higher.

Structure may be affected by an approximate flood stage of N/A or higher.

Please note that this approximation does not take into account any local issues such as ice and debris jams or localized flooding from intense rainfall events.

### District Information

Cass School District: 1  
 Elem. School District: Lincoln

### Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$270,900.00	\$0.00	\$270,900.00

### Building Information

Year Built: No. of Apartment Units:  
 Total Building SqFt: N/A Residential Story Height: ()

### Lot Size

Front Width: 326.85	Land Use: C (Commercial)
Back Width: 319.75	Property Type: 95 (Address Segment)
Depth Side 1: 148.66	
Depth Side 2: 108.54	Square Footage: 45116.00

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Assessment records are for the sole purpose of identifying the land being taxed. In some cases to attain efficiency, Assessment Department legal descriptions may be shortened yet will retain sufficient information to identify the land. Since tax statements and records are not deeds and may contain abbreviated descriptions, they should not be used as a basis for a survey or a legal document and should not be used by surveyors or others as the primary source of a property description.





**Parcel Information Report**  
**Parcel Number: 01-8796-00200-000**

**General Information**

Segment Id: 1  
 Owner 1: GROVE ENCLAVE LLC  
 Owner 2:  
 Property Address: 1381 25 AVE S  
 Mailing Address: 300 23 AVE E STE 300 WEST FARGO, ND 58078  
 Addition Name: University South  
 Block: 1  
 Lot: 2

**Additional Description:**

1, LESS HWY R/W (2383 SF TAKEN IN 1994) \*9/28/2021 SPL/FRM 01-2210-00040-000 VIA NEW ADDITION PLAT #1646464. SPL#2021-094

**Estimated Flood Stage Levels For River Flooding:**

If your property is outside the city limits or your property and structure are not affected by a 25 to 44 foot flood stage data will be not available (N/A).

Property may be affected by an approximate flood stage of N/A or higher.

Structure may be affected by an approximate flood stage of N/A or higher.

Please note that this approximation does not take into account any local issues such as ice and debris jams or localized flooding from intense rainfall events.

**District Information**

Cass School District: 1  
 Elem. School District: Lincoln

**Property Valuation**

	Land	Improvements	Total
Current Appraised Value:	\$246,300.00	\$0.00	\$246,300.00

**Building Information**

Year Built: No. of Apartment Units:  
 Total Building SqFt: N/A Residential Story Height: ( )

**Lot Size**

Front Width: 275.79 Land Use: C (Commercial)  
 Back Width: 275.79 Property Type: 95 (Address Segment)  
 Depth Side 1: 148.76  
 Depth Side 2: 148.66 Square Footage: 41000.00

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**APPENDIX B**  
**MAP OF THE RENEWAL AREA/TIF DISTRICT**



City of Fargo, ND

These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

# 2301 University

1:4,514

1/20/2021 12:54:12 PM

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.



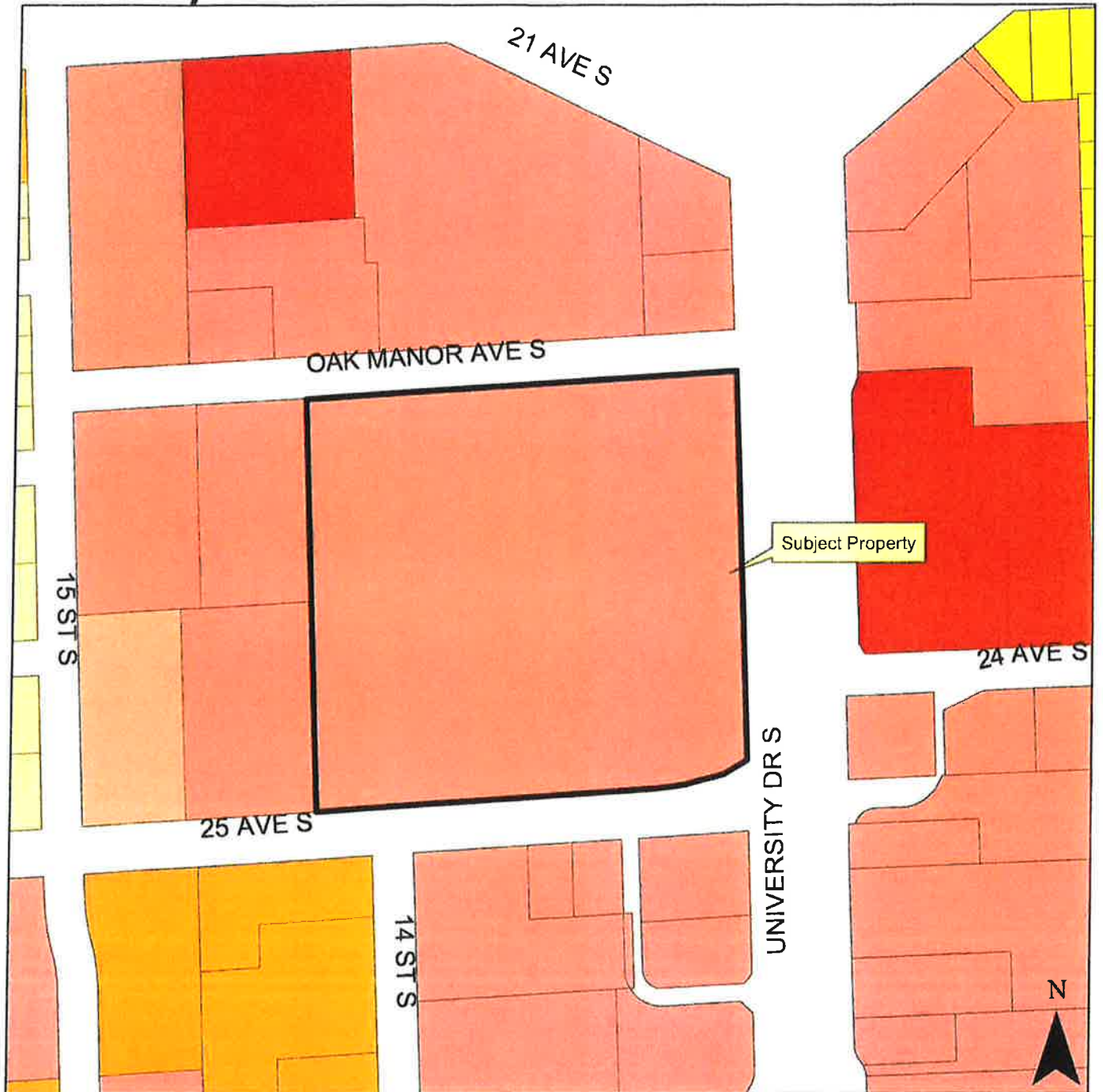
**APPENDIX C**  
**ZONING MAP**

# Zone Change (LC, Limited Commercial to GC, General Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay) and Plat (Minor)

## University South Addition

## University South 2nd Addition

2253-2301 University Drive S



Legend

AG	LC	HP	Special	System
DMU	ML	CO	General	Utility
CC	MR-1	UMU	Office	City Limits
GO	MR-3		Industrial	
			Warehouse	

300

Feet

Fargo Planning Commission

October 5, 2021

**APPENDIX D**  
**PHOTOS OF EXISTING CONDITIONS**

## EXISTING SITE

The vacant Kmart site is currently underutilized in a well-trafficked area of Fargo situated near businesses, schools, and residential neighborhoods. The proposed development will serve as a catalyst for future developments and improvements along the South University thoroughfare.



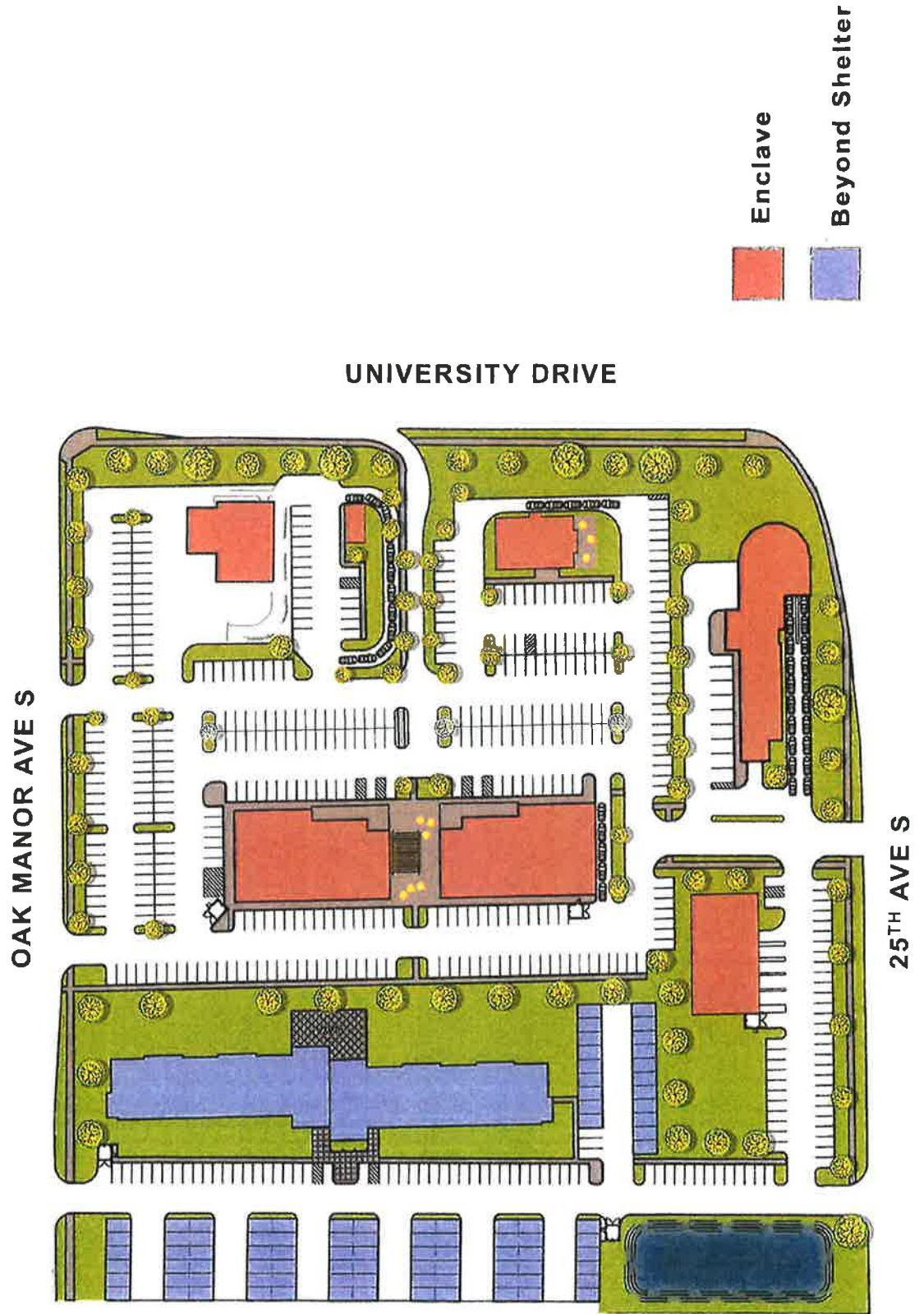
EXISTING SITE MAP

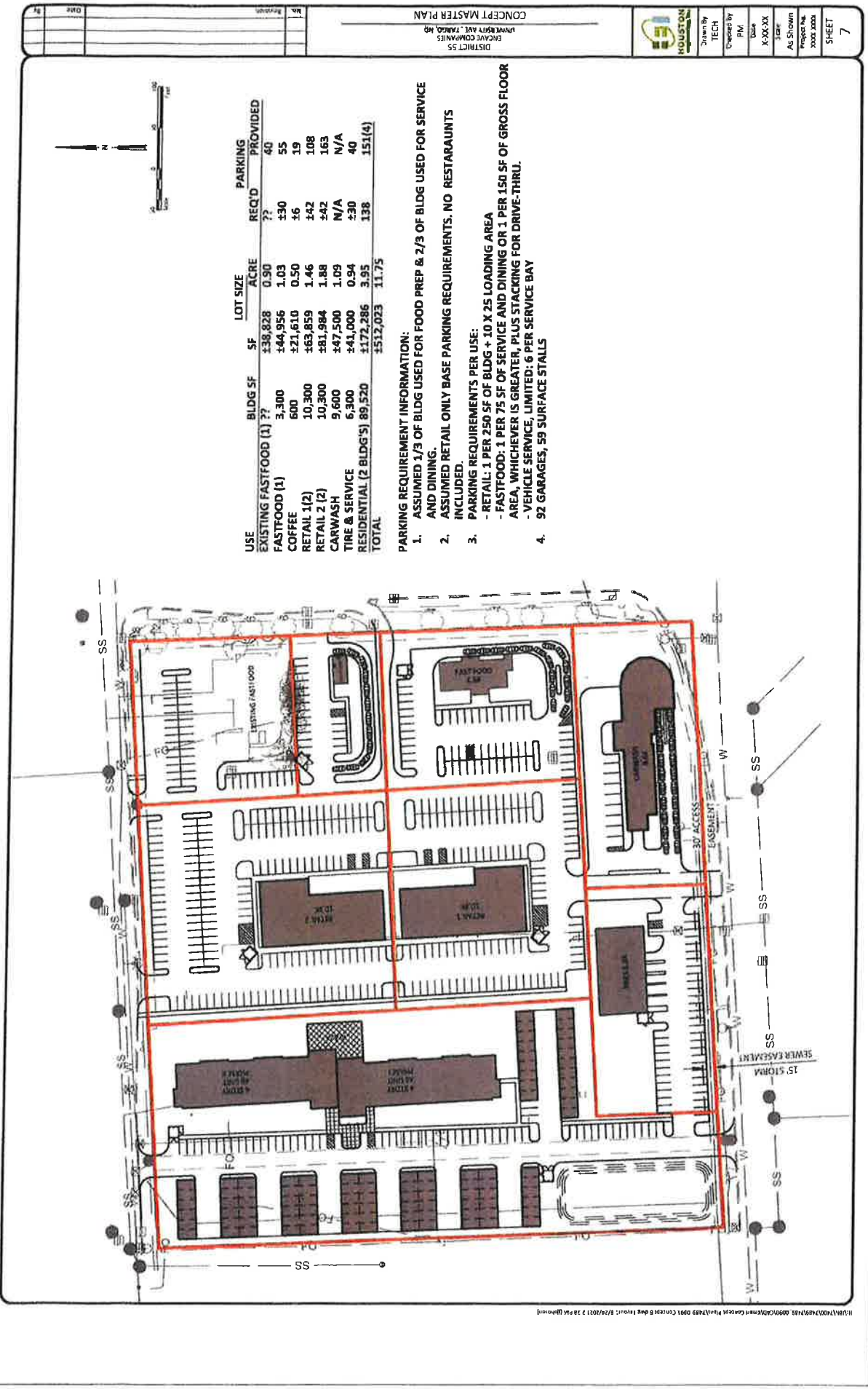




**APPENDIX E**  
**PLAN FOR REDEVELOPMENT**

# CONCEPTUAL MASTER PLAN





**PARKING REQUIREMENT INFORMATION:**

1. ASSUMED 1/3 OF BLDG USED FOR FOOD PREP & 2/3 OF BLDG USED FOR SERVICE AND DINING.
2. ASSUMED RETAIL ONLY BASE PARKING REQUIREMENTS. NO RESTAURANTS INCLUDED.
3. PARKING REQUIREMENTS PER USE:  
 - RETAIL: 1 PER 250 SF OF BLDG + 10 X 25 LOADING AREA  
 - FASTFOOD: 1 PER 75 SF OF SERVICE AND DINING OR 1 PER 150 SF OF GROSS FLOOR AREA, WHICHEVER IS GREATER, PLUS STACKING FOR DRIVE-THRU.  
 - VEHICLE SERVICE, LIMITED: 6 PER SERVICE BAY  
 - 52 GARAGES, 59 SURFACE STALLS
- 4.

# City of Fargo, North Dakota

Tax Increment Financing Program

“But-For” Report

2301 University Drive

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November 19, 2021



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5. Return Analysis	6
6. Conclusion	8

## Purpose

The purpose of this report is to establish and determine the allowable value of the tax increment financing (TIF) for the project at 2301 University Drive, a development by Grove Enclave, LLC (the "Developer").

The Developer plans to demolish the existing K-Mart building and sell off a portion of the land. The demolition and remediation costs are estimated at \$3,350,000 and need to be done prior to the sale of the property. The sale of the properties is expected to generate \$3,378,154 leaving a net purchase price of the entire property at \$5,971,846. PFM reviewed the capitalization rates and annual lease payments the Developer assumed for their pro forma. After confirming the assumptions were reasonable, PFM used those assumptions to project a 15-year cash flow, calculating an internal rate of return ("IRR") and annual debt service coverage. We also made sure the Developer followed the City of Fargo's (the "City") Tax Increment Financing Policy (the "Policy") including the allowable costs and the Developer's calculations for determining the amount of allowable subsidy financing. The following report details PFM's analysis and conclusions concerning the viability of the proposed project without the subsidy.



## Project

The project being proposed by the Developer includes the development of a retail, coffee shop, and fast casual restaurant. In addition, there is an existing Burger King restaurant on the property.

The Developer estimates the construction will be completed in the Fall of 2023 with occupancy immediately following. The Developer has requested as much TIF assistance as available to complete the project.



## Assistance Request

The Developer is requesting assistance in the form of tax increment financing under the City's Tax Increment Financing Policy. The Policy provides public assistance to a development through tax increment financing for private development. According to Policy #3, the maximum TIF assistance is 15 years and the Developer is asking for the full 15 years exemption.

### Requested Reimbursement

Below is the detailed requested cost of the proposed project that are eligible for reimbursement.

Property Acquisition	\$2,940,000
Demolition, Abatement, & Fill	1,100,000
Strip, Grade, & Pave Site	1,325,000
Retention Pond & Utility Infrastructure	750,000
Legal and TIF Fees	<u>25,000</u>
<b>Total Requested Cost to be Reimbursed</b>	<b>\$6,290,000</b>

The Developer is requesting as much TIF assistance as available to complete the project.

### Policy #8

Policy #8 limits the TIF assistance to 15% of hard construction costs, including the costs of acquisition. Based on total hard construction costs of \$10,266,346 the Developer can receive up to \$1,539,952. Policy #8 also states that the Developer must provide at least 10% of total capital costs as Developer's equity in the project. It is estimated the Developer will contribute \$3,016,664 as equity which is 25% of the total capital costs.

### Land Cost

The Developer states the purchase price to acquire the property for the project is \$6,000,000 including the land value at \$3,060,000. The price is based on the actual purchase agreement of the property. Land acquisition is reimbursable under the Policy. The Developer is requesting to be reimbursed \$2,940,000 for the land acquisition.

### Policy #6

The Policy states that the maximum eligible land costs to be recouped by the Developer should be limited to the lesser of:

- 1.) **The total acquisition cost for the property, provided that the acquisition cost is no more than 150% of the assessor's market value of the property.**
- 2.) **The difference between what was paid by the Developer for the property less the assessor's market value for the land (as opposed to land and buildings).**

The Developer is requesting more TIF funds than available outside of the land acquisition so Policy #6 was not taken into account.





**Policy #3**

Policy #3 states the length of the term will be limited to 15 years or less. The Developer is requesting reimbursement for 15 years.

**TIF Estimate**

PFM estimates that \$1,851,240 of TIF will be generated over the 15 years assuming a 1.50% market growth rate. Based on a discount rate of 3.50%, the present value of the estimated TIF cash flow is \$1,391,882. PFM's analysis assumes the Developer receives the full amount of TIF generated.



## Project Financing

The Developer is investing 25% equity, or \$3,016,664, and will be privately financing \$12,066,654. The Developer is additionally requesting annual TIF assistance. The private financing is estimated to be two separate loans - a 20-year loan with an estimated interest rate of 3.50% resulting in an annual principal and interest payment of \$36,667 and a 25-year loan with an estimated interest rate of 3.75% resulting in an annual principal and interest payment of \$517,418. The application states the project will be completed by the Fall of 2023.



## Return Analysis

In calculating the internal rate of return, PFM first analyzed the Developer's purchase price of the property and assumptions including expected lease rates, vacancy rate, and loan assumptions. The Developer is proposing reasonable lease rates per CoStar and included reasonable vacancy rates and loan assumptions.

The second step in determining the internal rate of return is to determine the earned incremental value of the property over a 10- and 15-year period. That value, along with the net operating income cash flows, was used to calculate the internal rate of return. PFM determined that without TIF assistance the Developer would have about a 10.00% internal rate of return based on 10 years and 9% based on 15 years. The Developer would have about a 13.14% internal rate of return for 10 years and 12% for 15 years if it received the public assistance. A reasonable rate of return for the proposed project is 15% - 25%.

Another measure of feasibility and project viability is the debt coverage ratio. PFM has projected a maximum debt coverage ratio in Year 15 of 1.22x without assistance, with a Year 5 coverage of 1.01x. If the City provided assistance to the project the maximum debt coverage is projected to be 1.45x in Year 15, with a Year 5 coverage of 1.21x.

Using PFM's "without assistance" cash flow as the base scenario, PFM ran sensitivity analyses in order to determine if the project would be likely to occur without public assistance. For the first sensitivity analysis, PFM analyzed how much project funds would have to decrease in order to produce a reasonable internal rate of return. We also looked at how much the rental rates would have to fluctuate in order to achieve a reasonable internal rate of return. Lastly, we looked at a combination of the two scenarios. For the sensitivity analyses, we assumed a reasonable internal rate of return of 15% on a 10-year basis.

### Sensitivity Scenario 1 – Project Costs

The project would have to be reduced by \$1,918,598 or 15.9% in order for the project to become viable without assistance. This reduces the amount to be financed from \$9,049,991 to \$7,611,042 and reduces the annual payment from \$554,148 to \$466,038 for the loan. It is unlikely that a reduction in project costs of this magnitude would occur, especially at this stage in the development.



**Sensitivity Scenario 2 – Lease Revenue**

In order for the project to be viable without public assistance, the lease revenue would have to increase by 40%. This high increase is very unlikely to occur.

**Sensitivity Scenario 3 – Combination of Project Costs and Lease Revenue**

The final scenario looks at both a reduction of project costs and an increase in lease revenue. The analysis showed that project costs would have to be reduced by \$1,435,932 or 12% and the lease revenue would have to increase by 10%. While either of these events could occur, PFM does not believe they are likely to occur at this point in the process, especially together.

The above scenarios show the circumstances in which the project would become viable without public assistance. PFM has determined that the project is unlikely to occur "but-for" the public assistance.



## Conclusion

The Developer will bear all the risk involved with the project. The Developer is dependent on a number of factors before and after the project is completed, including project costs and occupancy of the retail buildings. The base scenario without assistance along with the sensitivity analyses demonstrates that the project would be unlikely to be feasible without assistance.

PFM has calculated that with public assistance, and based on the assumptions outlined in this report, a 10-year internal rate of return is estimated to be 13.14%. In addition, the coverage ratio in Year 5 is estimated to be 1.21x. The estimated internal rate of return is on the lower end given the risk level for this type of project. Based on the internal rate of return and the coverage requirements, PFM concludes the project would not be feasible without public assistance.





**DEVELOPER AGREEMENT**

**By and Between**

**CITY OF FARGO,  
a North Dakota Municipal Corporation**

**and**

**GROVE ENCLAVE LLC**

**TAX INCREMENT FINANCING DISTRICT 2021-03**



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DEVELOPER AGREEMENT

THIS AGREEMENT is dated as of \_\_\_\_\_, 2022; is by and between the City of Fargo, North Dakota, and Craig Enclave OG, LLC, a North Dakota Limited Liability Company; and provides as follows:

ARTICLE I

**Definitions**

Section 1.1. **Definitions.** As used in this Agreement, the following terms have the following respective meanings:

"Agreement" means this Developer Agreement, as the same may be amended.

"Available Tax Increments" means the Developer Tax Increments minus the reasonable and not theretofore reimbursed actual expenses incurred by the City in establishing and maintaining the TIF District, in preparing and implementing this Agreement, and in general in administering the TIF District and this Agreement and any supplements hereto and in participating in the actions or transactions contemplated thereby and hereby.

"Certificate of Completion" means a certification in the form of the certificate attached hereto as Exhibit F and hereby made a part of this Agreement, provided to the Developer pursuant to Section 4.4 of this Agreement.

"City" means the City of Fargo, North Dakota.

"Closing Date" means the date Developer closes with its institutional lender on its financing of the Minimum Improvements.

"Condemnation Award" means the amount remaining from an award to the Developer for the acquisition of title to and possession of the Development Property, or any material part thereof, after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such award.

"County" means the County of Cass, North Dakota.

"Capitalized Interest" means the portion of the principal amount of the Tax Increment Note that represents the sum of the products of the various eligible expenses initially borne by Developer and the City that will be reimbursed by the Tax Increment Note multiplied by an interest rate of Three and One-half Percent (3-1/2%) per annum, simple interest, multiplied by the number of years, or fraction thereof, between the date such expense was incurred to the date of the Tax Increment Note.

"Developer" means GROVE ENCLAVE LLC, a North Dakota limited liability company or permitted successors or assigns.

"Developer Tax Increments" means the portion of Developer's Taxes which constitutes Tax Increments, or the portion of Tax Increments derived from Developer's Taxes.

"Developer's Taxes" means taxes paid with respect to the portions of the Development Property and Improvements completed by the Developer for the fifteenth (15<sup>th</sup>) Tax Year and earlier Tax Years. Taxes for the sixteenth (16<sup>th</sup>) year following the first Tax Year, or for any subsequent year, are not included as Developer's Taxes.

"Development Costs" means those costs incurred and to be incurred by or on behalf of the Developer in acquiring the Development Property, in completing the Improvements and in financing those undertakings (including all interest charges on borrowed funds).

"Development Plan" means the Developer's development plan for the Development Property approved by the City on December 27, 2021, including all exhibits thereto, as the same may be amended from time to time.

"Development Property" means the real property described in Exhibit A to this Agreement.

"Effective Date" means the date this Agreement is actually executed and delivered.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. sec. 96.01 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. sec. 69.01 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. sec. 1802 et seq., the Toxic Substances Control Act, 15 U.S.C. sec. 2601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. sec. 1251 et seq., the Clean Water Act, 33 U.S.C. sec. 1321 et seq., the Clean Air Act, 42 U.S.C. sec. 7401 et seq., , and any other federal, state, county, municipal, local or other statute, law, ordinance or regulation which may relate to or deal with human health or the environment, all as may be from time to time amended.

"Event of Default" means an event of default defined in Section 9.1 of this Agreement.

"Hazardous Substances" means asbestos, ureaformaldehyde, polychlorinated biphenyls ("PCBs"), nuclear fuel or material, chemical waste, radioactive material, explosives, known carcinogens, petroleum products and by-products and other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law.

"Improvements" means the improvements constructed or to be constructed by the Developer on the Development Property, including all related landscaping, lighting, parking, and other site improvements. The Improvements may exceed, but shall not be less than, the Minimum Improvements, as provided in Section 4.1

"Maturity Date" means the date that is three (3) years from the Payment Date for the fifteenth Tax Year following the date of the issuance of the Tax Increment Note.

"Minimum Improvements" means the improvements contemplated by and in accordance with this Agreement and generally described in Section 4.1.

"Mortgage" means any mortgage or security agreement in which the Developer has granted a Mortgage or other security interest in the Development Property, or any portion or parcel thereof, or any improvements constructed thereon, and which is a permitted encumbrance pursuant to the provisions of Article VII; the term "Mortgage" shall specifically include, but shall not be limited to, leases or sale-leaseback arrangements which provide financing for the acquisition of the Development Property, or the construction of the Minimum Improvements.

"Net Proceeds" means any proceeds paid by an insurer to the Developer or City under a policy or policies of insurance required to be provided and maintained by the Developer pursuant to Article V of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

"Party" means either the Developer or City.

"Parties" mean the Developer and City.

"Project" means the project of improvements in and adjacent to the TIF District contemplated in the Development Plan.

"Specified Event of Default" means an Event of Default for which the City may withhold payment on the Tax Increment Note. Such Event of Default consists of a default of the Developer after the issuance of the Tax Increment Note in the Developer's ongoing covenants set forth in Sections 8.1, and 8.2.

"Tax Increment Note" means the City's Tax Increment Revenue Note in the initial principal amount of \$1,400,000 or in a lesser initial principal amount that represents reimbursement of eligible costs paid by the Developer as described in this agreement, plus Capitalized Interest at 3-1/2% per annum, the form of which is attached as Exhibit C to this Agreement, issued when conditions set forth in Section 3.3 are met.

"Tax Increments" means those tax increments which the City shall be entitled to receive and retain, and which the City shall have actually received from Cass County, from time to time from the TIF District pursuant to the Urban Renewal Law.

"Tax Year" is one of a maximum of fifteen (15) successive calendar years, with the first year being the year that, pursuant to this Agreement, the Tax Increment Note is issued and with the subsequent years being the fourteen (14) subsequent calendar years. The fifteenth (15<sup>th</sup>) Tax Year, therefore, is the fourteenth (14<sup>th</sup>) calendar year following the first said year.

"Urban Renewal Law" means the North Dakota Urban Renewal Law, that is, North Dakota Century Code, Chapter 40-58, as the same may be amended.

"TIF District" means the area identified as the "District," or "District 2021-03" under the City's Development Plan approved by the Board of City Commissioners of the City of Fargo on December 27, 2021, as the same may be amended.

"Unavoidable Delays" means any delay outside the control of the Party claiming its occurrence which is the direct result of strikes; other labor troubles; unusually severe or prolonged bad weather; unavailability of materials; Acts of God; fire or other casualty to the Improvements; remediation of contaminants, pollutants or hazardous substances; unforeseen soil conditions, hazardous materials or concealed conditions; litigation (including without limitation bankruptcy proceedings); or the direct result of the COVID-19 epidemic or other virus-related epidemic and which directly results in delays; or acts of any federal, state or local governmental unit, including epidemic-related government lockdowns, which directly result in delays.

ARTICLE II

**Representations, Warranties and Covenants**

Section 2.1. **Representations, Warranties and Covenants by City.** The City represents and warrants that:

(a) The City has received the approval of its Board of City Commissioners to enter into and perform its obligations under this Agreement.

(b) The City herein makes no representation or warranty, either express or implied, as to the Development Property or its condition or the soil conditions thereon or that the Development Property shall be suitable for the Developer's purposes or needs.

Section 2.2. **Representations, Warranties and Covenants by Developer.** The Developer represents and warrants that:

(a) The Developer is a limited liability company duly organized and in good standing under the laws of the State of North Dakota, is not in violation of any provisions of its agreement or the laws of the State of North Dakota and is authorized to enter into and perform its obligations under this Agreement.

(b) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented or limited by and will not conflict with or result in a breach of any provision or requirement applicable to the Developer or of any provision of any evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound.

(c) The Developer, with respect to its construction, operation and maintenance of the Improvements upon the Development Property, will cause the same to occur in accordance in all material respects with this Agreement and all local, state and federal laws and regulations (including without limitation environmental, zoning, building code and public health laws and regulations and including any relocation requirements under local, state or federal law).

(d) The Developer has received no notice or communication from any local, state or federal official or body that any activities of the Developer respecting the Development Property contemplated by this Agreement, including the construction of the Improvements on the Development Property, may be or will be in violation of any law or regulation.

(e) The Developer will use its reasonable efforts to obtain, in a timely manner, all required permits, licenses and approvals, and to meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Improvements may be lawfully constructed and completed.

(f) To the best knowledge and belief of the Developer, the construction of the Improvements on the Development Property within the reasonably foreseeable future is conditioned on the assistance and benefit to the Developer provided for in this Agreement. The Developer would not undertake the Project without the financing provided by the City pursuant to this Agreement.

(g) The Developer represents and covenants that throughout the term of this Agreement that the tax increment assistance provided under this Agreement will be used by the Developer solely to finance those costs which are eligible costs for reimbursement of a project as defined in the Urban Renewal Law. This provision does not apply to those costs that are initially borne by the City and reimbursed to the City by Developer as provided in Section 3.3 of this Agreement.

(h) The Developer will cooperate fully with the City with respect to any litigation commenced by third parties or by the City or both against third parties with respect to the Project.

(i) The Developer will cooperate fully with the City in resolution of any traffic, parking, trash removal or public safety problems which may arise in connection with the construction and operation of the Project.

(j) The Developer has not received any notice from any local, state or federal official that the activities of the Developer with respect to the Project may or will be in violation of any Environmental Law or regulation, and the Developer, without any duty of inquiry, is not aware of any state or federal claim filed or planned to be filed by any party relating to any violation of any Environmental Law.

(k) The Developer understands that the City will or may subsidize or encourage the development of other properties in the City, including properties that compete with the Development Property and Improvements, and that such subsidies or encouragements may be more favorable than the terms of this Agreement, and that the City has not represented that development of the Development Property will be favored over the development of other properties.

(l) The Developer will spend enough in construction of the Minimum Improvements, when combined with the value of the Development Property, to generate an estimated minimum market value of \$ \_\_\_\_\_.

(m) The Developer expects that, barring Unavoidable Delays, the Project will be substantially completed by December 31, 2024.

(n) As of the Closing Date, the Developer shall have binding arrangements for all the equity and loan financing necessary to complete the Minimum Improvements.

(o) As of the Closing Date, the Developer shall have submitted to the City Construction Plans consistent with the Improvements as described in Section 4.1.

(p) As of the Closing Date, the City shall be satisfied in its reasonable judgment that the Developer has firm arrangements for financing construction or acquisition of the Project in an amount sufficient, together with equity commitments, to complete the Project in conformance with such Construction Plans, or the City shall receive such other evidence of financial ability as in the reasonable judgment of the City is required.

(q) As of the Closing Date, the Developer shall have obtained an opinion from its independent legal counsel that this Agreement is in accordance with North Dakota state law, including the provisions of N.D.C.C. Chapter 40-58, and is a binding and enforceable agreement.

(r) As of the Effective Date, the Developer has marketable record title to Developer's Property free and clear of any encumbrances or lienholders except as provided in Article VII of this Agreement or, to the extent Developer does not have marketable record title, Developer has obtained from the person, firm or entity having such title an agreement [hereinafter referred to as an "Agency Agreement"] authorizing Developer to develop Developer's Property as contemplated by this agreement and authorizing Developer to enter into this Agreement, said Agency Agreement to be in a form approved by the City.

## ARTICLE III

**Completion of Improvements; Reimbursement  
of Certain Costs**

Section 3.1. **Completion of Improvements by Developer.** Subject to Unavoidable Delays as provided in Section 4.2, below, the Developer shall have substantially completed the Improvements by December 31, 2024. The Developer's use of the Development Property shall be subject to (a) all of the conditions, covenants, restrictions and limitations imposed by this Agreement and also to (b) building and zoning laws and ordinances and all other local, state and federal laws and regulations.

Section 3.2. Intentionally Left Blank.

Section 3.3. **Reimbursement by City of Certain Costs; Terms of Tax Increment Note.** The Developer hereby represents to the City that the Developer has incurred and paid and will incur and pay significant Development Costs. The reimbursements that establish the principal balance of the Tax Increment Note whose principal and interest are payable to the Developer shall be as follows. The City hereby agrees to defray a portion of the Development Costs up to \$1,450,000, as follows:

1. Demolition & Site Cleanup	\$ 1,300,000
2. Public Works Improvements	\$ 100,000
3. Advance administrative Costs (Fees)	<u>\$ 50,000</u>
Total	\$ 1,450,000

For purposes of the above-described Development Costs, eligible costs for Demolition and Site Cleanup shall include, without limitation, ~~soil and foundation corrections~~, soil remediation, building/basement removal, ~~levee shoring~~, asbestos removal, engineering and other consultant fees, topographic, soil excavation and site fill, including reasonable fees and overhead charges and eligible costs for Public Works Improvements shall include, without limitation, storm water infrastructure/detention, grading, ~~gate valve removal, sidewalk and curb, street work and utilities~~, including reasonable consultants' costs and fees and including reasonable overhead charges. The demolition and site clearing and public works improvement costs may be transferred between categories so long as the total costs do not exceed \$1,450,000 (including the stated administrative fee). The advance administrative fee, set forth above, will be paid by Developer to the City at the time of issuance of the Tax Increment Note. In addition, an annual administrative fee equal



to five percent (5%) of the annual increment received from the County Auditor shall be retained by the City prior to remittance to developer of said increment as payment on the TIF Renewal Note.

If there is a category of expense that is deemed ineligible under the Urban Renewal Law, but there are additional eligible expenses not otherwise reimbursed under this Agreement, then such otherwise non-reimbursed, but eligible, expenses may be recognized as an eligible expense under this Agreement. In addition to the foregoing costs, Developer shall be entitled to reimbursement over and above the foregoing eligible expenses an agreed upon interest rate of Three and One-half Percent (3.50%) Per Annum to be paid to Developer under the Tax Increment Note. All of the said costs, and interest, meet the representation set forth at Section 2.2(g) by issuing the Tax Increment Note, substantially in the form of Exhibit C to this Agreement, subject to the following conditions:

(a) There shall be one (1) Tax Increment Note. The principal amount of the Tax Increment Note shall be determined by adding the \$1,450,000 (or so much thereof as shall be demonstrated as set forth in Section 3.3(d)) plus a sum equal to Capitalized Interest. The Tax Increment Note shall provide for payments to be made by the City to Developer of Developer's Tax Increment received by the City from the County for the Project for the first Tax Year and for each of fourteen (14) subsequent Tax Years, with payments to be made annually on the Payment Dates, it being further provided that Available Tax Increment exists pertaining to the fifteenth (15<sup>th</sup>) or earlier Tax Years .(b) The Tax Increment Note shall be delivered only if no Event of Default shall have occurred and be at the time continuing.

(c) This subsection intentionally left blank.

(d) If the conditions set forth in this Section are met, the Tax Increment Note shall be dated, issued and delivered when the Certificate of Completion has been delivered and when the Developer shall have demonstrated in writing to the reasonable satisfaction of the City that the Developer has incurred and paid eligible costs of the Improvements to be borne by Developer which will not be otherwise reimbursed or paid hereunder. Demonstration of eligible costs of Improvements up to the maximum amount of the Tax Increment Note shall be made pursuant to one or more certifications in form and substance satisfactory to the City that all or a portion of the costs of the Improvements have been incurred, together with evidence satisfactory to the City

of the nature and amount of the costs of the Improvements and of the costs incurred by the Developer. Each certification shall demonstrate the specific purpose and amount of the costs of the Improvements and their compliance with the representation set forth at Section 2.2(g). The City's determination of a cost's compliance with the representation set forth at Section 2.2(g) shall, if based on the advice of its city attorney after consultation with the Developer or its counsel, be conclusive. The delivery of the Tax Increment Note itself constitutes reimbursement of expenditures in an amount equal to the principal amount of the Tax Increment Note; there are no monetary proceeds received by Developer upon delivery of the Tax Increment Note.

(e) Subject to the provisions of the Tax Increment Note, the principal of and interest on the Tax Increment Note shall in the aggregate be payable on May 15<sup>th</sup> following the date of issuance of the Tax Increment Note and on May 15<sup>th</sup> of each year thereafter until the Maturity Date, said May 15<sup>th</sup> dates being referred to herein as the "Payment Date" or collectively as the "Payment Dates". The first payment on the Tax Increment Note, to become due and payable on the first Payment Date, shall be limited to all the Available Tax Increments received to said date by the City on the Project. For all payments after said first payment on the Tax Increment Note, the amounts payable on the Tax Increment Note on each Payment Date shall be limited to the Available Tax Increments received by the City since the the prior year's Payment Date. All payments made on the Tax Increment Note shall be applied first to pay accrued and unpaid interest on the Tax Increment Note and second toward payment of principal. To the extent that the Available Tax Increments are insufficient, through the Maturity Date, to pay all accrued and unpaid interest on and the principal of the Tax Increment Note, said unpaid amounts shall then cease to be any debt or obligation of the City or of the City whatsoever.

(f) The unpaid principal of the Tax Increment Note shall bear interest at Three and One-half Percent (3.50%) per annum from the date of issuance, compounded annually. Interest shall be computed on the basis of a 360-day year consisting of 12 months of 30 days each.

(g) The City expresses no opinion in particular as to whether, or not, the interest income from any such TIF Revenue Note is exempt from federal income taxation, but it is assumed that the Tax Increment Note will be a "taxable" obligation.

(h) The Tax Increment Note shall be a special and limited revenue obligation of the City and not a general obligation of the City, and only Available Tax Increments received by the City shall be used to pay the principal of and interest on the Tax Increment Note. [Note: See definition of "Available Tax Increments", above.]

(i) The Tax Increment Note shall be governed by and payable pursuant to the additional terms thereof, as set forth in Exhibit C. In the event of any conflict between the terms of the Tax Increment Note and the terms of this Section 3.3, the terms of the Tax Increment Note shall govern. No payments will be made on the Tax Increment Note during such time as there is a Specified Event of Default that has not been cured by the Developer.

(j) In connection with the issuance of the Tax Increment Note, and as conditions to such issuance, the Developer shall be provided with a Private Placement Memorandum and shall execute a receipt in a form acceptable to the City stating that it has relied on its own determinations in acquiring the Tax Increment Note and not on representations or information provided by the City.

(k) For purposes of this Agreement all project values shall be as valued by the City Assessor.

**Section 3.4. Release and Indemnification Covenants.**

(a) The Developer releases the City and the governing body members, officers, agents, including independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this Section, collectively the "Indemnified Parties") from, covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to indemnify and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person for which a claim is made prior to the issuance of a Certificate of Completion and occurring at, about or in connection with the Development Property and/or Improvements, or the Developer's undertaking and completion thereof, or resulting from any defect therein, except to the extent such loss, damage or death is caused by the negligence or other wrongful acts of the Indemnified Parties. This paragraph (a) shall only apply to claims made prior to the issuance of a Certificate of Completion.

(b) Except for any willful misrepresentation or any willful or wanton misconduct or negligence of the Indemnified Parties, the Developer agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any

claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever brought prior to the issuance of a Certificate of Completion and arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Improvements; provided that this indemnification shall not apply to the warranties made or obligations undertaken by the City in this Agreement.

(c) The Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Project due to any act of negligence of any person, other than any act of negligence on the part of any such indemnified party or its officers, agents, servants or employees.

(d) All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any governing body member, officer, agent, servant or employee of the City.

(e) This Agreement shall not create nor be construed to create any partnership, joint venture, agency, or employment relationship between the Parties.

Section 3.5. Intentionally left blank.

Section 3.6. **Use of Tax Increments.**

The City receives the Tax Increments generated by the TIF District from the County. The City may use Tax Increments which are not Developer Tax Increments for any purpose permitted by law. Developer Tax Increments shall be used on any date of application for the following purposes in the following order of priority:

- (1) to make payments on the Tax Increment Note; and
- (2) after payment of the Tax Increment Note in full, to pay or reimburse redevelopment costs identified by the City and to pay other eligible expenses for other projects that may be approved for the TIF District, from time to time, by the governing body of the City.

## ARTICLE IV

**Construction Of Minimum Improvements**

Section 4.1 **Construction of Minimum Improvements.** The development shall be construction of ~~housing~~ multi-family housing with 80 affordable housing units, 20,000 square feet of commercial space, and two new stand-alone restaurant or coffee businesses. The Improvements constructed by the Developer may, and are hereby permitted to and encouraged to, exceed in scope, scale and nature the Minimum Improvements. The Minimum Improvements constitute the lowest (or minimum) amount of Improvements which meet the development required to be provided hereunder by the Developer.

Section 4.2 **Commencement and Completion of Construction.** Subject to Unavoidable Delays, by December 31, 2024, the Developer shall have substantially completed the construction of the Minimum Improvements.

Time lost as a result of Unavoidable Delays shall be added to extend the completion date beyond such date, a number of days equal to the number of days lost as a result of Unavoidable Delays.

The Developer agrees for itself, and every successor in interest to the Development Property, or any part thereof, that the Developer, and such successors and assigns, shall cause to be promptly begun and diligently prosecuted to complete construction of the Minimum Improvements thereon, and that such construction shall in any event be commenced and completed within the period specified in this Section 4.2. Until construction of the Minimum Improvements has been completed, the Developer shall make reports to the City, in such detail and at such times as may reasonably be requested by the City, as to the actual progress of the Developer with respect to construction of the Minimum Improvements.

The Developer agrees that it shall permit designated representatives of the City to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction, after reasonable notice to Developer and at City's risk, to determine compliance with this agreement. This paragraph is not intended to apply to the customary building or code inspections by the City.

Section 4.3 **Certificate of Completion.** Promptly after completion of the Minimum Improvements in accordance with the provisions of this Agreement, the City will furnish the Developer with a Certificate of Completion, in substantially the form set forth in Exhibit F attached hereto. Such Certificate of Completion shall be a conclusive determination that the Developer has fulfilled the obligations of the Developer, and its successors and assigns, to construct the Minimum Improvements.

If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 4.4, the City shall, within twenty (20) days after written request by the Developer, provide the Developer with a written statement indicating in adequate detail in

what respects the Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such Certificate of Completion.

ARTICLE V

**Insurance And Condemnation**

Section 5.1. **Insurance.**

(a) The Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements and, from time to time at the request of the City, furnish the City with proof of payment of premiums on:

(I) Builder's risk insurance, written on the so-called "Builder's Risk -- Completed Value Basis" in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in non-reporting form on the so-called "all risk" form of policy; the interest of the City shall be protected in accordance with a clause in form and content satisfactory to the City;

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's Contractor's Policy with limits against bodily injury and property damage of not less than \$500,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used); and

(iii) Worker's compensation insurance, with statutory coverage.

(b) All insurance required in this Article V shall be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of the State to assume the risks covered thereby. The Developer will deposit upon the request of the City, but no more often than annually, with the City a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. In lieu of separate policies, the Developer may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event the Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

Section 5.2. **Condemnation.** In the event that title to and possession of the Improvements, or any material part thereof, but solely as to the Development Property and Improvements which the Developer retains ownership of, shall be taken in condemnation or by the exercise of the power of eminent domain by any governmental body or other person (except the City) prior to the Maturity Date [EJ] the Developer shall, with reasonable promptness after such taking, notify the City as to the nature and extent of such taking.

ARTICLE VI

**Intentionally left blank.**





## ARTICLE VII

**Mortgage Financing**

Section 7.1. **Limitation Upon Encumbrance of Property.** Prior to the completion of the Minimum Improvements, as certified by the City, neither the Developer nor any successor in interest to the Development Property or any part thereof shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Development Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Development Property, other than:

- (a) except for the purpose of securing financing for the Development Property or Minimum Improvements, or all of them; and
- (b) if the City is given notice of such Mortgage in accordance with Sections 7.1 and 7.2.

Section 7.2. **Notice of Mortgage.** The Developer shall provide the City with a copy of the Mortgage and related note prior to the completion of the Minimum Improvements thereon.

Section 7.3. **Notice of Default; Copy to Mortgagee.** Whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in its obligations or covenants under this Agreement for which the remedies of Sections 9.3 and 9.4 are available, the City shall at the same time forward a copy of such notice or demand to each holder of any Mortgage at the last address of such holder shown in the records of the City.

Section 7.4. **Mortgagee's Option to Cure Defaults.** After any breach or default referred to in Section 7.3, each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Development Property covered by its mortgage) and to add the cost thereof to the Mortgage debt and the lien of its Mortgage; provided, however, that if the breach or default is with respect to construction covered by the Mortgage, nothing contained in this Section or any other Section of this Agreement shall be deemed to require such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the work covered by the Mortgage (beyond the extent necessary to conserve or protect the work or construction already made), provided that any such holder shall not devote the Development Property or portion thereof to a use inconsistent with the Development Plan or this Agreement without the agreement of the City.

Section 7.5. **City's Option to Cure Default on Mortgage.** In the event that the Developer is in default under any Mortgage authorized pursuant to this Article VII, whether or not the holder of the Mortgage has given the Developer notice of such default, the Developer shall notify the City in writing of:

- (a) the fact of the default;

- (b) the elements of the default; and
- (c) the actions required to cure the default.

If the default is an "Event of Default" under such Mortgage, which shall entitle such holder thereof to foreclose upon the Development Property covered by the Mortgage or any portion thereof, the Developer shall afford the City an opportunity to cure the "Event of Default" to the extent consistent with the Mortgage or permitted by the holder of the Mortgage upon request of the Developer, which request the Developer hereby covenants to make, within the time for cure provided by the Mortgage or within such longer reasonable time period as the holder shall deem appropriate. The City shall have no obligation to cure any such default.

## ARTICLE VIII

**Prohibitions Against Assignment And Transfer; Indemnification**

Section 8.1. **Status of Developer; Transfer of Substantially All Assets.** As security for the obligations of the Developer under this Agreement, the Developer represents and agrees that prior to the earlier of the Maturity Date, the Developer will maintain its existence as a North Dakota limited liability company and maintain its authority to conduct business in the State of North Dakota and shall not consolidate with or merge into another entity and shall not dissolve or otherwise dispose of all or substantially all of its assets; provided that the Developer may consolidate with or merge into another entity or sell or otherwise transfer to a partnership, limited liability partnership or corporation organized under the laws of one of the United States, or an individual, all or substantially all of its assets as an entirety and thereafter dissolve and be discharged from liability hereunder if (i) the transferee partnership, corporation or individual assumes in writing all of the obligations of the Developer under this Agreement; and (ii) the City receives such new security from the successor Developer to assure completion of the Project and the fulfillment of the remaining obligations of this Agreement as the City deems necessary or desirable.

Section 8.2. **Prohibition Against Transfer of Property and Assignment of Agreement.** The Developer represents and agrees that prior to the Maturity Date (treated for this purpose as the earlier of the date on which all principal of and premium, if any, and interest on the Tax Increment Note have been paid or fifteen (15) years after issuance of the Tax Increment Note):

(a) Subject to Article VII and Section 8.2(c) of this Agreement, except (i) only by way of security for, and only for, the purpose of obtaining financing (including construction loans secured by the Project, and loans secured by the Tax Increment Note) necessary to enable the Developer or any successor in interest to the Development Property, or any part thereof, to perform its obligations with respect to making the Minimum Improvements under this Agreement, (ii) for a transfer of a portion of the Development Property to a separate entity that controls, is controlled by, or is under common control with, Developer, or (iii) for any other purpose authorized by this Agreement, the Developer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the relevant portion of the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the City.

(b) Subject to Section 8.2(c), the City shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such approval that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the City, necessary and adequate to

fulfill the remaining obligations undertaken in this Agreement by the Developer with respect to the relevant portion of the Development Property.

(ii) Any proposed transferee, by instrument in writing satisfactory to the City and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the City, have expressly assumed with respect to the relevant portion of the Development Property all of the remaining obligations of the Developer under this Agreement and agreed to be subject to all the conditions and restrictions to which the Developer is subject (unless the Developer agrees to continue to fulfill those obligations, in which case the preceding provisions of this Section 8.2(b)(ii) shall not apply); provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the City) deprive the City of any rights or remedies or controls with respect to the Development Property or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Minimum Improvements that the City would have had, had there been no such transfer or change. In the absence of specific written approval by the City to the contrary, no such transfer or approval by the City thereof shall be deemed to relieve the Developer, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements, from any of its obligations with respect thereto.

(iii) There shall be submitted to the City for review and prior written approval all pertinent instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII.

(c) Upon the furnishing of a Certificate of Completion pursuant to Section 4.4, notwithstanding any provisions to the contrary in this Article VIII, the Developer may sell or transfer such property or a portion thereof without any approval pursuant to Section 8.2(a) or (b).

(d) Nothing in subsections (a) or (b), above, is intended to limit the Developer's authority and right to rent or lease space in the Development Property to tenants.

Section 8.3. **Approvals.** Any approval of a transfer of interest in the Developer, this Agreement, or the Development Property or of a release of the Developer from its obligations hereunder required to be given by the City under this Article VIII may be denied only in the event that the City reasonably determines that the ability of the Developer to perform its obligations under this Agreement and its statutory duty, as owner, to pay ad valorem real property taxes assessed with respect to the Development Property, or any part thereof, or the overall financial security provided to the City under the terms of this Agreement, or the likelihood of the Minimum Improvements being successfully constructed and operated pursuant to the terms of this Agreement, will be materially impaired by the action for which approval is sought.

ARTICLE IX

**Events of Default**

Section 9.1. **Events of Default Defined.** The following are Events of Default under this Agreement:

(a) There shall have occurred a failure in the observance or performance in any material respect of any covenant, condition, obligation or agreement to be observed or performed under this Agreement.

(b) If any representation or warranty made by the Developer herein shall at any time prove to have been incorrect in any material respect as of the time made.

(c) If the Improvements are not substantially completed by December 31, 2024, as such time may be extended by Unavoidable Delays.

(d) If the holder of any mortgage on the Development Property or any portion thereof shall commence a legal action on the secured indebtedness or a foreclosure of its mortgage.

(e) If the Developer shall breach, in a material respect, any warranties, covenants or other provisions of this Agreement not referred to in the foregoing provisions of this Section 9.1.

(f) The filing by the Developer of a voluntary petition in bankruptcy or the adjudication of the Developer as a bankrupt, the insolvency of the Developer or the filing by the Developer of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation resolution or similar relief under any present or future federal, state or other statutes, laws or regulations relating to bankruptcy, insolvency or other relief for debtors, or if the Developer seeks or consents to or acquiesces in the appointment of any trustee, receiver or liquidator for itself or its property, or makes any general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due.

(g) If the Developer shall not have available, and be able to demonstrate to the reasonable satisfaction of the City, sufficient funds to complete the Improvements and pay all costs thereof.

An Event of Default shall also include any occurrence which would with the passage of time or giving of notice become an Event of Default as defined hereinabove.

Section 9.2. **Remedies on Default.** Whenever any Event of Default occurs, in addition to all other remedies available to the City at law or in equity, the City (1) may, upon written notice, suspend its performance (other than the payment of the Tax Increment Note, except as provided below for a Specified Event of Default) under this Agreement until it receives assurances from the Developer, deemed adequate by the City, that the Developer has cured its

default and will continue its performance under this Agreement, and (2) may, after provision of sixty (60) days written notice to the Developer of the Event of Default, but only if the Event of Default has not been cured within said sixty (60) days, or, if the Event of Default cannot be cured within sixty (60) days, the Developer does not provide assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible, terminate this Agreement, without further obligation whatsoever hereunder to the Developer.

Notwithstanding anything to the contrary stated in this Agreement, the City shall not exercise any remedies at law or in equity or under this Agreement upon an Event of Default by the Developer, other than the City's right to suspend its performance under this Agreement, until after provision of sixty (60) days written notice to the Developer of the Event of Default, but only if the Event of Default has not been cured within said sixty (60) days, or, if the Event of Default cannot be cured within sixty (60) days, the Developer does not provide assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible.

As a remedy for an Event of Default:

- (a) The City may suspend or terminate payments on the Tax Increment Note, if the Event of Default is a Specified Event of Default.
- (b) The City may withhold a Certificate of Completion.
- (c) The City may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, to recover any damages or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

Section 9.3. **No Remedy Exclusive.** No remedy herein conferred upon or reserved to the either Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 9.4. **No Additional Waiver Implied by One Waiver.** If any agreement contained in this Agreement should be breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.5. **Agreement to Pay Attorneys' Fees and Expenses.** Whenever any Event of Default occurs and has not been cured within sixty (60) days and the City shall employ attorneys or incur other expenses for the enforcement, performance or observance of any obligations or agreement on the part of the Developer contained herein, or for the identification

and/or pursuit of any remedies or possible workouts of such default, the Developer agrees that it shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other reasonable expenses so incurred by the City. If an Event of Default cannot be cured within sixty (60) days, but the Developer has provided assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible (as provided in Section 9.2), and the Developer does so cure said Event of Default in the manner as assured to the City, the Event of Default shall be deemed to have been cured within said sixty (60) days for purposes of this Section.



ARTICLE X

**Additional Provisions**

Section 10.1. **Titles of Articles and Sections.** Any titles of the several parts, Articles and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions hereof.

Section 10.2. **Notices and Demands.** Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by either Party to the other shall be sufficiently given or delivered if sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and,

(a) in the case of the Developer, to Austin Morris, Manager, GROVE ENCLAVE LLC, 1 2nd Street North #102, Fargo, North Dakota 58102, and

(b) in the case of the City, to the City at 225 North 4th Street, Fargo, North Dakota 58102, Attention: Director of Strategic Planning and Research AND to the City at 225 North 4<sup>th</sup> Street, Fargo, North Dakota 58102, Attention: City Auditor;

or at such other address with respect to either such Party as that Party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 10.3. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute an original hereof.

Section 10.4. **Law Governing.** The Parties agree that this Agreement shall be governed and construed in accordance with the laws of the State of North Dakota.

To the extent the ability of the City to perform any obligations under this agreement is impaired or limited by modifications in North Dakota law, as established either by the legislature or the courts, this agreement shall be interpreted and construed to maximize the fulfillment of such obligations under the law; however, no breach of this agreement may be deemed to occur as a result of such impairment or limitation.

Section 10.5. **No Filing of Agreement.** The Parties agree that this Agreement shall not be filed against the Development Property, and each Party agrees that if it shall inadvertently cause or suffer this Agreement to be so filed, it will take such actions as may be necessary to remove, satisfy and render ineffective any such filing.

Section 10.6. **Modification.** If the Developer is requested by the holder of a Mortgage or by a prospective holder of a prospective Mortgage to amend or supplement this Agreement in any manner whatsoever, the City will, in good faith, consider the request with a view to granting the same unless the City, in its reasonable judgment, concludes that such modification is not in

the public interest, or will significantly and undesirably weaken the financial security provided to the interests of the City by the terms and provisions of this Agreement.

Section 10.7.           **Legal Opinions.** Upon execution of this Agreement, each party shall, upon request of the other parties, supply the other parties with an opinion of its legal counsel to the effect that this Agreement is legally issued or executed by, and valid and binding upon, such party, and enforceable in accordance with its terms.

Section 10.8.           **Approvals; Officer Action.** Wherever in this Agreement the consent or approval of the City or Developer is required or requested, such consent or approval shall not be unreasonably withheld or unduly delayed (except to the extent that, as a remedy upon the occurrence of an Event of Default, the City is entitled to withhold its performance). Any approval, execution of documents, or other action to be taken by the City pursuant to this Agreement or for the purpose of determining sufficient performance by the Developer under this Agreement may be made, executed or taken by the Mayor of the City without further approval by the Board of City Commissioners of the City, to the extent permitted by law. The Mayor may, but shall not be required to, consult with other City staff with respect to such matters. Any approval, execution of documents, or other action to be taken by the City pursuant to this Agreement or for the purpose of determining sufficient performance by the Developer under this Agreement may be made, executed or taken by the Mayor without further approval by the Board of City Commissioners of the City, to the extent permitted by law. The Mayor may, but shall not be required to, consult with City staff with respect to such matters.

ARTICLE XI

**Termination of Agreement; Expiration**

Section 11.1. **City's Option to Terminate.** As provided and under the conditions specified in Section 9.2, the City may terminate this Agreement if an Event of Default shall have occurred hereunder and be continuing. Nothing in that or in this Section shall affect the City's right, should the City not so elect to terminate this Agreement and as recourse against the Developer, to insist on performance hereunder by the Developer.

Section 11.2. **Expiration.** This Agreement shall expire when the Tax Increment Note is paid in full or, if earlier, on the Maturity Date.

Section 11.3. **Effect of Termination or Expiration.** No termination or expiration of this Agreement pursuant to the terms hereof shall terminate (i) any rights or remedies of the City arising hereunder due to an Event of Default, or of the Developer arising hereunder due to a breach of this Agreement by the City, occurring prior to such termination or expiration or (ii) the provisions of Sections 3.5, 3.6 and 9.7 hereof.

Section 11.4. **No Third Party Beneficiaries.** There shall, as against the City, be no third party beneficiaries to this Agreement. More specifically, the City enters into this Agreement, and intends that the consummation of the City obligations contemplated hereby shall be, for the sole and exclusive benefit of the Developer, and notwithstanding the fact that any other "persons" may ultimately participate in or have an interest in the Improvements, the City does not intend that any party other than the Developer shall have, as alleged third party beneficiary or otherwise, any rights or interests hereunder as against the City, and no such other party shall have standing to complain of the City's exercise of, or alleged failure to exercise, its rights and obligations, or of the City's performance or alleged lack thereof, under this Agreement.

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be executed by their duly authorized representatives.

CITY OF FARGO, NORTH DAKOTA

(SEAL)

By \_\_\_\_\_  
Timothy Mahoney, its Mayor

ATTEST:

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by Timothy Mahoney and Steven Sprague, the Mayor and City Auditor, respectively, of the City of Fargo, North Dakota, on behalf of said City.

\_\_\_\_\_  
Notary Public

This document drafted by:

Erik R. Johnson  
Office of the Fargo City Attorney  
505 Broadway, Suite 206  
Fargo, ND 58102  
(701) 280-1901  
ejohnson@lawfargo.com



**EXHIBIT A**

**Legal Description:**

Lots One (1) through Three (3), Block One (1), University South Addition to the City of Fargo, Cass County, North Dakota,

EXCEPT:

[[[insert exclusion from above legal description]]

**EXHIBIT B**

INTENTIONALLY LEFT BLANK.

**EXHIBIT C**

**FORM OF TAX INCREMENT NOTE**

No. R-1

\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF NORTH DAKOTA  
CASS COUNTY  
CITY OF FARGO

TAX INCREMENT  
REVENUE NOTE OF 20\_\_  
(TAX INCREMENT DISTRICT 2021-03 PROJECT)

KNOW ALL PERSONS BY THESE PRESENTS that the City of Fargo, Cass County, North Dakota (the "City"), certifies that it is indebted and for value received promises to pay to GROVE ENCLAVE LLC (the "Developer"), or the registered assign, the principal sum of \_\_\_\_\_ Million \_\_\_\_\_ Hundred \_\_\_\_\_ Thousand and no/100 Dollars (\$\_\_\_\_,\_\_\_\_,000.00), an amount issued in reimbursement of eligible costs paid by the Developer, unless due sooner by redemption or early payment, on the Maturity Date defined below; but only in the manner, at the times, from the sources of revenue, and to the extent hereinafter provided; and to pay interest on the unpaid principal amount of this Note at the rate of interest of Three and One-half Percent (3.50%) per annum, compounded annually. Interest shall accrue from the date of this Note on the amount issued and shall be computed on the basis of a 360-day year consisting of 12 30-day months. This Note is the "Tax Increment Note" (the "Note") described and defined in that certain Developer Agreement, dated as of December 13, 2021 (as the same may be amended from time to time, the "Developer Agreement"), by and between the City and GROVE ENCLAVE LLC, a North Dakota limited liability company, as the initial Developer under the Developer Agreement. Each capitalized term which is used but not otherwise defined in this Note shall have the meaning given to that term in the Developer Agreement or in the resolution authorizing the issuance of this Note. Principal and interest are payable at such address as shall be designated in writing by GROVE ENCLAVE LLC, or other registered holder of this Note, in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

Payment Dates. Subject to the terms hereof, the principal of and interest on the Tax Increment Note shall in the aggregate be payable on May 15<sup>th</sup> following the date of issuance of the Tax Increment Note and on May 15<sup>th</sup> of each year thereafter until the Maturity Date, said May 15<sup>th</sup> dates being referred to herein as the "Payment Date" or collectively as the "Payment Dates".



Payment Amounts. On each Payment Date (or, if not a business day of the City, the first business day thereafter) the City shall pay by check or draft mailed to the person that was the Registered Owner of the Note at the close of the last business day of the City preceding such Payment Date an amount as follows: (a) the first payment on the Tax Increment Note, to become due and payable on the first Payment Date, shall be limited to all the Available Tax Increments received to said date by the City on the Project and (b) for all payments after said first payment on the Tax Increment Note, the amounts payable on the Tax Increment Note on each Payment Date shall be limited to the Available Tax Increments received by the City since the the prior year's Payment Date. All payments made on the Tax Increment Note shall be applied first to pay accrued and unpaid interest on the Tax Increment Note and second toward payment of principal. To the extent that the Available Tax Increments are insufficient, through the Maturity Date, to pay all accrued and unpaid interest on and the principal of the Tax Increment Note, said unpaid amounts shall then cease to be any debt or obligation of the City or of the City whatsoever. In no event shall any City be obligated to remit payment of principal in excess of the aggregate amount of the unpaid principal of the Note. The City shall have the option at any time to prepay in whole or in part the principal amount of this Note at par plus accrued interest. All payments made by the City under this Note shall be applied first to pay accrued and unpaid interest on this Note and second toward payment of principal hereof.

Redemption. In addition to the amounts of principal required to be paid by the City as hereinabove set forth, the City shall have the right to prepay on any date the entire principal amount hereof then remaining unpaid, or such lesser portion thereof as it may determine upon, in multiples of \$1,000, at par plus accrued interest. Notice of any such optional prepayment shall be given prior to the prepayment date by mailing to the registered owner of this Note a notice fixing such prepayment date and the amount of principal to be prepaid.

Available Tax Increments. "Available Tax Increments" are defined in the Developer Agreement as follows:

"Developer Tax Increments minus the reasonable and not theretofore reimbursed actual expenses incurred by the City in establishing and maintaining the TIF District, in preparing and implementing this Agreement, and in general in administering the TIF District and this Agreement and any supplements hereto and in participating in the actions or transactions contemplated thereby and hereby."

"Developer Tax Increments" are defined in the Developer Agreement as follows:

"The portion of Developer's Taxes which constitutes Tax Increments, or the portion of Tax Increments derived from Developer's Taxes."

"Tax Increments" are defined in the Developer Agreement as follows:

“Tax Increments’ means those tax increments which the City shall be entitled to receive and retain, and which the City shall have actually received from Cass County, from time to time from the TIF District pursuant to the Urban Renewal Law.

In addition, “Developer’s Taxes” are defined in the Developer Agreement as follows:

“Developer's Taxes’ means taxes paid with respect to the portions of the Development Property and Improvements completed by the Developer for the fifteenth (15<sup>th</sup>) Tax Year and earlier Tax Years. Taxes for the sixteenth (16<sup>th</sup>) year following the first Tax Year, or for any subsequent year, are not included as Developer’s Taxes..”

In addition, “Tax Year” is defined in the Developer Agreement as follows:

“Tax Year” is one of a maximum of fifteen (15) successive calendar years, with the first year being the year that, pursuant to this Agreement, the Tax Increment Note is issued and with the subsequent years being the fourteen (14) subsequent calendar years. The fifteenth (15<sup>th</sup>) Tax Year, therefore, is the fourteenth (14<sup>th</sup>) calendar year following the first said year.

In addition, “Maturity Date” is defined in the Developer Agreement as follows:

"Maturity Date" means the date that is three (3) years from the Payment Date for the fifteenth Tax Year following the date of the issuance of the Tax Increment Note.

In addition, Section 3.6 of the Developer Agreement provides as follows:

"The City receives the Tax Increments generated by the TIF District from the County. The City may use Tax Increments which are not Developer Tax Increments for any purpose permitted by law. Developer Tax Increments shall be used on any date of application for the following purposes in the following order of priority:

- (a) to make payments on the Tax Increment Note; and,
- (b) after payment of the City Development Costs and Tax Increment Note in full, to pay or reimburse redevelopment costs identified by the City and to pay other eligible expenses for other projects that may be approved for the TIF District, from time to time, by the governing body of the City.

**No Payment Upon Default. No payments will be made on this Note during such time as there is an Event of Default under the Developer Agreement which has not been cured by the Developer.**

Lack of Protective Covenants. The City of Fargo, North Dakota (the "City"), has not covenanted to endeavor in any fashion to cause Tax Increments to be sufficient to generate Available Tax Increments sufficient to pay this Note, nor have they covenanted to take actions under the Developer Agreement with such sufficiency as a goal.

Sufficiency of Revenues. The City makes no representation or covenant, express or implied, that the revenues described herein will be sufficient to pay, in whole or in part, the amounts which are or may otherwise become due and payable hereunder. Any amounts which have not become due and payable on this Note on or before the Maturity Date shall no longer be payable, as if this Note had ceased to be any debt or obligation of the City or of the City whatsoever.

Issuance; Purpose; Special Limited Obligation. This Note is in the aggregate principal amount of \$1,450,000 (the "Note"), which Note has been issued pursuant to and in full conformity with the Constitution and laws of the State of North Dakota including North Dakota Century Code Chapter 40-58, for the purpose of providing money to finance certain eligible costs within the City's Urban Renewal District 2021-03, specifically the costs identified in Section 3.3 of the Developer Agreement. The Notes are payable out of the Tax Increment Revenue Note of 2021-03(Craig Enclave OG Project) Fund of the City, to which have been pledged amounts representing Available Tax Increments to be received by the City from the City's 2021-03 Tax Increment District in the City. This Note is not any obligation of any kind whatsoever of any public body, except that this Note is a special and limited revenue obligation but not a general obligation of the City and is payable by the City only from the sources and subject to the qualifications and limitations stated or referenced herein. Neither the full faith and credit nor the taxing powers of the City or of the City are pledged to or available for the payment of the principal of or interest on this Note, and no property or other asset of the City or of the City, save and except the above referenced Available Tax Increments, is or shall constitute a source of payment of the City's obligations hereunder.

Limitation on Transfer. This Note may only be transferred to a person who is (1) a successor of GROVE ENCLAVE LLC, by reorganization, merger or acquisition, (2) a member of GROVE ENCLAVE LLC, (3) to a lender of GROVE ENCLAVE LLC, as collateral for financing as permitted by the Developer Agreement, (4) a related person to such partner or successor, (5) a "qualified institutional buyer" as defined in Rule 144A promulgated under the federal Securities Act of 1933, or (6) an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) promulgated under the federal Securities Act of 1933. The City shall not register any transfer of this Note unless (i) a registered owner's prospective transferee delivers a representation letter in form satisfactory to the City verifying that the transferee is a "qualified institutional buyer"; or (ii) such transferee is an "accredited investor" which has delivered a representation letter in form satisfactory to the City; or (iii) the prospective transferee demonstrates to the satisfaction of the City that it is the successor, partner or related person to GROVE ENCLAVE LLC, noted above.

**Any registered owner desiring to effect a transfer shall, and does hereby, agree to indemnify the City against any liability, cost or expense (including attorneys' fees) that may result if the transfer is not so made.**

Registration; Transfer. This Note shall be registered in the name of the payee on the books of the City by presenting this Note for registration to the officer of the City performing the functions of the Treasurer, who will endorse his or her name and note the date of registration opposite the name of the payee in the certificate of registration on the reverse side hereof. Thereafter this Note may be transferred to a bona fide purchaser who is a permitted transferee only by delivery with an assignment duly executed by the registered owner or his, her or its legal representative, and the City may treat the registered owner as the person exclusively entitled to exercise all the rights and powers of an owner until this Note is presented with such assignment for registration of transfer, accompanied by assurance of the nature provided by law that the assignment is genuine and effective, and until such transfer is registered on said books and noted hereon by the Treasurer of the City.

Developer Agreement. The terms and conditions of the Developer Agreement are incorporated herein by reference and made a part hereof. The Developer Agreement may be attached to this Note, and shall be attached to this Note if the holder of this Note is any person other than GROVE ENCLAVE LLC. No payments will be made on this Note during such time as there is a Specified Event of Default under the Developer Agreement which has not been cured by the Developer.

Taxable Obligation. This Note is intended to bear interest that is included in the gross income of the owner.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done, to happen and to be performed, precedent to and in the issuance of this Note, have been done, have happened and have been performed, in regular and due form, time and manner as required by law; and that this Note, together with all other debts of the City outstanding on the date hereof, being the date of its actual issuance and delivery, does not exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the City of Fargo, Cass County, North Dakota, by its Board of City Commissioners has caused this Note to be executed on its behalf by the signature of its Mayor and attested by the signature of the City Auditor, all as of \_\_\_\_\_, 20\_\_.

CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

By: \_\_\_\_\_  
Timothy Mahoney, its Mayor

ATTEST:

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

(SEAL)

Tax Increment Revenue Note of 2022 (District 2021-03)

CERTIFICATE OF REGISTRATION

The transfer of ownership of the principal amount of the attached Note may be made only by the registered owner or his, her or its legal representative last noted below.

DATE OF  
REGISTRATION

REGISTERED OWNER

SIGNATURE OF  
AUTHORITY'S TREASURER

GROVE ENCLAVE LLC

_____, 2022	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

EXHIBIT D  
INTENTIONALLY LEFT BLANK

**EXHIBIT E**

INTENTIONALLY LEFT BLANK.



**EXHIBIT F**

**CERTIFICATE OF COMPLETION**

WHEREAS, the City of Fargo, North Dakota, a municipal corporation, (the "City") and GROVE ENCLAVE LLC, a North Dakota limited liability company (the "Developer") have entered into an agreement dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_; and

WHEREAS, the Developer has to the present date performed said covenants and conditions insofar as it is able in a manner deemed sufficient by the City to permit the execution and recording of this certification:

NOW, THEREFORE, this is to certify that all building construction and other physical improvements specified to be done and made by the Developer have been completed, and the above covenants and conditions in said Developer Agreement have been performed by the Developer therein, and that the Tax Increment Note, referred to in said Developer Agreement, may be issued to Developer by the City.

CITY OF FARGO, NORTH DAKOTA

By: \_\_\_\_\_  
Timothy Mahoney, Mayor

Attest:

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

**EXHIBIT G**  
**INTENTIONALLY LEFT BLANK.**

**EXHIBIT H**  
**FORM OF LEGAL OPINION OF DEVELOPER'S COUNSEL**

[Fargo]

Re: Development Agreement by and between the City of Fargo, North Dakota, and GROVE ENCLAVE LLC, a North Dakota limited liability company

Ladies and Gentlemen:

As counsel for GROVE ENCLAVE LLC, a North Dakota limited liability company (the "Company"), and in connection with the execution and delivery of a certain Developer Agreement (the "Development Agreement") dated as of \_\_\_\_\_, 2022, between the Company and the City of Fargo, North Dakota (the "City"), we hereby render the following opinion:

We have examined the original certified copy, or copies otherwise identified to our satisfaction as being true copies, of the following:

- (a) The LLC Operating Agreement;
- (b) Minutes relating to the meetings of the board of directors of the Company at which action was taken with respect to the transactions covered by this opinion;
- (c) The Development Agreement;
- (d) and such other documents and records as we have deemed relevant and necessary as a basis for the opinion set forth herein.

Based on the pertinent law, the foregoing examination and such other inquiries as we have deemed appropriate, we are of the opinion that:

1. The Company has been duly organized and is validly existing as a limited liability company under the laws of the State of North Dakota and is qualified to do business in the State of North Dakota. The Company has full power and authority to execute, deliver and perform in full the Development Agreement; and the Development Agreement has been duly and validly authorized, executed and delivered by the Company and, assuming due authorization, execution and delivery by the other parties thereto, is in full force and effect and is a valid and legally binding instrument of the Company enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting creditors' rights generally.

**December 20, 2021**

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Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Attached is the *Application for Abatement or Refund of Taxes* prepared by Joel Fremstad of Fremstad Law. The application is for the MyPlace hotel, under the ownership of Fargo My Place, LLC, located at 2555 55 St S. and is requesting a value reduction for 2019 from \$2,896,000 down to \$1,710,000.

The appellant presented an income approach as support for a reduction, but no market evidence was provided.

Information regarding our valuation has been included for this property, including a market comparison and equity analysis.

**SUGGESTED MOTION:**

**Denial of the Application of Abatement or Refund of Taxes on 2555 55 St S. and retain the 2019 value.**

Sincerely,

  
Michael Splonskowski  
Fargo City Assessor

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

RECEIVED

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent. CASS CO AUDITOR

State of North Dakota Assessment District Fargo
County of Cass Property I.D. No. 01-8529-00100-000
Name FARGO MY PLACE LLC Telephone No. 612.799.6074
Address 2555 55 ST S, Fargo, ND

DCT 28 2021 PM02:42

Legal description of the property involved in this application:

\*02/05/2014 REPLAT OF LT 2 BL 1 OF AMBER VALLEY WEST THIRD ADDN (2/25/14, B:Z-1: P:54, DOC#1410608) SPL/FR 01-8516-00200-000

Total true and full value of the property described above for the year 2019 is:

Land \$ 797,000
Improvements \$ 2,099,000
Total \$ 2,896,000 (1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 470,000
Improvements \$ 1,240,000
Total \$ 1,710,000 (2)

The difference of \$ 1,186,000 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
2. Residential or commercial property's true and full value exceeds the market value
3. Error in property description, entering the description, or extending the tax
4. Nonexisting improvement assessed
5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
6. Duplicate assessment
7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
8. Error in noting payment of taxes, taxes erroneously paid
9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
10. Other (explain)

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.

1. Purchase price of property: \$ N/A Date of purchase: Constructed in 2014 by owner.
Terms: Cash Contract Trade Other (explain)
Was there personal property involved in the purchase price? yes/no Estimated value: \$
2. Has the property been offered for sale on the open market? No If yes, how long?
Asking price: \$ Terms of sale:
3. The property was independently appraised: yes/no Purpose of appraisal:
Market value estimate: \$
Appraisal was made by whom?
4. The applicant's estimate of market value of the property involved in this application is \$ 1,710,000
5. The estimated agricultural productive value of this property is excessive because of the following condition(s):

Applicant asks that The true and full value of the Subject Property be reduced to \$1,710,000 based on the owner's opinion of market value.

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) Date 10/27/2021 Signature of Applicant Date 10/27/2021

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was \_\_\_\_\_ by action of \_\_\_\_\_ County Board of Commissioners.  
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ \_\_\_\_\_ to \$ \_\_\_\_\_ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ \_\_\_\_\_. The Board accepts \$ \_\_\_\_\_ in full settlement of taxes for the tax year \_\_\_\_\_.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. \_\_\_\_\_

Dated \_\_\_\_\_  
County Auditor \_\_\_\_\_ Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest? yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor \_\_\_\_\_ Date \_\_\_\_\_

Application For Abatement Or Refund Of Taxes

Name of Applicant Fargo My Place LLC

County Auditor's File No. 4517

Date Application Was Filed With The County Auditor 10/28/2021

Date County Auditor Mailed Application to Township Clerk or City Auditor 10/29/2021  
(must be within five business days of filing date)

**Appeal of Assessment for Year: 2019**

Name of Applicant: Fargo My Place LLC  
Representative: Joel Fremstad, Fremstad Law Firm

Assessed Value(s) 2019 \$ 2,896,000  
Applicants Requested Value(s) 2019 \$ 1,710,000 -41.0%

**General Property Information**

Property Type Hotel / Motel  
Year Built 2014  
Building Area 28,879  
Land Sale Price (03/03/2014) \$ 776,300  
Declared Construction Cost \$ 2,496,000  
Total Construction Cost (with land) \$ 3,272,300



**Summary**

Applicant provided financial statements and an income approach to value as support for the requested value. We are concerned with a lack of market evidence in applicant's supporting documentation. No comparable sales are provided as support. Applicant's requested value is significantly under (~ 48%) the relatively recent declared construction cost of the facility. City staff utilizes recent comparable sales as support for the True & Full Value. We also use a market driven cost model (est \$3.4M) and recent construction cost.

**Comparable Sales Summary**

Property Name/Type	Address	Sale Date	Contract Price	Adjusted Price	Year Built	Total \$/Room	Total \$ / SF
Holiday Inn Express	1040 40 St S	03/01/2016	\$ 9,000,000	\$ 7,681,000	1993	\$ 99,753	\$ 190.46
Holiday Inn Express	4711 19 Ave S	06/08/2017	\$ 14,224,000	\$ 12,113,300	2013	\$ 110,120	\$ 172.69
Four Points by Sheraton	5064 23 Ave S	03/26/2019	\$ 9,040,000	\$ 7,805,400	2013	\$ 86,727	\$ 121.43
Days Inn	1507 19 Ave N	09/20/2019	\$ 2,825,000	\$ 2,435,350	1994	\$ 40,589	\$ 87.44
MicroTel (West Fargo)	705 23 Ave E	06/01/2018	\$5,961,038	\$ 5,106,038	2014	\$58,023	\$124.30
<b>Subject</b>	2555 55 St S				2014	\$ 45,250	\$ 100.28

**Competing Properties (Assessed Values) Summary**

To test for uniformity among assessments, we studied the assessed valuations of similar properties. The sample set consists of hotel and motel properties that are 'suite style facilities'. We limited our search to those properties built after 1999. There are 10 such properties within Fargo. We found the assessed value range reasonably brackets the subject property. We feel the subject is equalized and fairly valued relative to its competitors.

	Value Per Room	Value Per SF
Maximum	\$ 74,726	\$ 101.70
3 <sup>rd</sup> Quartile	\$ 62,614	\$ 96.22
Median	\$ 58,466	\$ 90.66
1 <sup>st</sup> Quartile	\$ 48,891	\$ 80.56
Minimum	\$ 29,480	\$ 76.49
<b>Subject</b>	\$ 45,250	\$ 100.28

**Recommended Action:** Retain the current value of \$2,896,000 for the 2019 Tax Year.

## INCOME APPROACH

Fargo My Place LLC					
Rooms	64	64	64	64	64
Financial Information Date	Year-End 2020	Year-End 2019	Year-End 2018	Year-End 2017	Year-End 2016
Assessment Date	Feb. 1, 2021	Feb. 1, 2020	Feb. 1, 2019		
AEMV	\$2,461,600	\$2,896,000	\$2,896,000		
AEMV Per Key	\$38,463	\$45,250	\$45,250		
Rooms Sold	10832	14919	13893	10796	10457
Occupancy	46.24%	63.87%	59.47%	46.22%	44.64%
ADR	\$63.50	\$64.06	\$65.88	\$65.89	\$69.71
REVPAR	\$29.37	\$40.91	\$39.18	\$30.45	\$31.12
Room Revenue	\$687,881	\$955,660	\$915,316	\$711,361	\$728,919
<b>Expenses</b>					
Payroll	\$238,085	\$281,812	\$280,265	\$261,789	\$246,782
Room Expenses	\$71,429	\$73,541	\$89,006	\$85,553	\$62,824
Repairs/Maintenance	\$49,303	\$46,655	\$53,360	\$31,798	\$35,788
Utilities	\$55,158	\$60,088	\$59,026	\$54,533	\$49,454
Sales/Marketing	\$31,717	\$54,927	\$59,405	\$55,327	\$100,351
Insurance	\$14,682	\$16,723	\$16,411	\$17,919	\$18,060
Other	\$36,071	\$45,547	\$49,757	\$50,276	\$34,583
Total Expenses	\$496,445	\$579,293	\$607,220	\$557,195	\$547,842
<b>Personal Property</b>					
Est. FF&E/Room	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000
Total FF&E	\$128,000	\$128,000	\$128,000	\$128,000	\$128,000
Reserve (4%)	\$5,120	\$5,120	\$5,120	\$5,120	\$5,120
Income to Personal Property	\$5,120	\$5,120	\$5,120	\$5,120	\$5,120
<b>Business Enterprise</b>					
Initial Franchise Fee	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
Annual Franchise Fee Rate	4.0%	4.0%	4.0%	4.0%	4.0%
Annual Franchise Fees	\$27,515	\$38,226	\$36,613	\$28,454	\$29,154
Return of Initial Fee	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000
Management Fee (5%)	\$34,394	\$47,783	\$45,766	\$35,568	\$36,446
Income to Business	\$64,909	\$89,009	\$85,379	\$67,022	\$68,600
NOI to Real Property	\$121,407	\$282,238	\$217,597	\$82,024	\$107,357
Base Capitalization Rate	8.12%	8.12%	8.12%	8.12%	8.12%
ETR	1.38%	1.38%	1.38%	1.38%	1.38%
Loaded Capitalization Rate	9.5%	9.5%	9.5%	9.5%	9.5%
Indicated Value	\$1,277,968	\$2,970,926	\$2,290,497	\$863,410	\$1,130,074
Indicated Value Per Key	\$19,968	\$46,421	\$35,789	\$13,491	\$17,657




Fargo My Placa LLC			
Rooms	64	64	64
Financial Information Date	Average 2018-2020	Average 2016-2020	Average 2016-2018
Rooms Sold	13215	12179	11715
Occupancy	56.42%	52.14%	50.15%
ADR	\$64.55	\$65.67	\$67.02
REVPAR	\$36.41	\$34.24	\$33.61
Room Revenue	\$852,952	\$799,827	\$785,199
<b>Expenses</b>			
Payroll	\$266,721	\$261,747	\$262,945
Room Expenses	\$77,992	\$76,471	\$79,128
Repairs/Maintenance	\$49,769	\$43,379	\$40,312
Utilities	\$58,091	\$55,652	\$54,338
Sales/Marketing	\$48,683	\$60,345	\$71,694
Insurance	\$15,939	\$16,759	\$17,463
Other	\$43,792	\$43,247	\$44,872
Total Expenses	\$560,986	\$557,599	\$570,752
<b>Personal Property</b>			
Est. FF&E/Room	\$2,000	\$2,000	\$2,000
Total FF&E	\$128,000	\$128,000	\$128,000
Reserve (4%)	\$5,120	\$5,120	\$5,120
Income to Personal Property	\$5,120	\$5,120	\$5,120
<b>Business Enterprise</b>			
Initial Franchise Fee	\$30,000	\$30,000	\$30,000
Annual Franchise Fee Rate	4.0%	4.0%	4.0%
Annual Franchise Fees	\$34,118	\$31,992	\$31,407
Return of Initial Fee	\$3,000	\$3,000	\$3,000
Management Fee (5%)	\$42,648	\$39,991	\$39,260
Income to Business	\$79,766	\$74,984	\$73,667
NOI to Real Property	\$207,081	\$162,125	\$135,659
Base Capitalization Rate	8.12%	8.12%	8.12%
ETR	1.38%	1.38%	1.38%
Loaded Capitalization Rate	9.5%	9.5%	9.5%
<b>Indicated Value</b>	<b>\$2,179,797</b>	<b>\$1,706,575</b>	<b>\$1,427,994</b>
<b>Indicated Value Per Key</b>	<b>\$34,059</b>	<b>\$26,665</b>	<b>\$22,312</b>



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**MEMORANDUM**

**TO:** Fargo City Commission

**FROM:** Terry Hogan, Director of Diversity, Equity and Inclusion 

**DATE:** December 22, 2021

**SUBJECT:** Human Relations Commission name change

Being specific about the City's intent to protect rights, enumerating these rights and putting "rights" in the name cannot hurt. Language and definitions are important: the current documents and the Human Relations Commission name have too much of a common or broad feeling.

Having "rights" in the name follows naming patterns of national and state organizations (Human Rights Campaign; ND Human Rights Campaign). It makes it more clear and accessible and an easier transition so people know where to go. Relationships and building them with the community are important; however, what is more poignant today is to offer support.

The Human Relations Commission name does not give the impression of being a place where someone can take a complaint.

The recommendation to change the name to the Human Rights Commission was approved by the Human Relations Commission at its October 21, 2021 meeting.

**Recommended Motion:**

To direct the City Attorney to work with staff to revise Article 15-02 of Chapter 15 of the Fargo Municipal Code relating to the Human Relations Commission.



Office of the City Attorney

City Attorney  
Erik R. Johnson

Assistant City Attorney  
Nancy J. Morris

December 23, 2021

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

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RE: Amended Memorandum of Understanding (MOU) - Fargo Municipal Airport Authority

Dear Commissioners,

Enclosed for your consideration is an amendment to the January 2020 memorandum of understanding between the Fargo Municipal Airport Authority (“Airport”) and the City. This amendment memorializes the results of the process that has been undertaken by the Airport and the City throughout this past ten months, or so. As you know, since the Airport Authority was established in 1969, the Airport employees have been on City payroll, among other things. Over the years, the level of City benefits and services has grown. This amendment recognizes a significant change. Effective January 1, 2022, the Airport will no longer be reliant upon the services that have been provided by the City, at one level or another, since 1969. There will still be a substantial relationship between the City and the Airport. The Airport has been, and will remain, a separate political subdivision with all the powers given to “airport authorities” by state law. The City Commission will still appoint the airport commission members, will still determine whether to levy property taxes at the request of the Airport, will still approve any bonds sought to be issued by the Airport. This Amended MOU is designed to establish groundwork for the relationship going forward. Among other things, it provides a framework for interaction between the Airport commission and the City Commission on various governance issues, including budgeting, mill levy requests and the like and for accountability and transparency of governance to the public.

**SUGGESTED MOTION:** I MOVE to approve the Amended Memorandum of Agreement between the City and the Municipal Airport Authority of the City of Fargo, as presented.

Sincerely,

Erik R. Johnson

Enclosures



## AMENDED MEMORANDUM OF UNDERSTANDING

### City of Fargo – Municipal Airport Authority

THIS AMENDED AGREEMENT is made and entered into by and between the CITY OF FARGO, a North Dakota municipal corporation (hereinafter “City”) and the MUNICIPAL AIRPORT AUTHORITY OF THE CITY OF FARGO (hereinafter “Municipal Airport Authority” or “MAA”) a municipal airport authority established under the authority of N.D.C.C. Ch. 2-06 and by resolution of the board of city commissioners of the City.

**WHEREAS**, the Fargo airport, now known as Hector International Airport has been in its same general location since 1927, starting with a lease of a quarter of land by Martin Hector. On April 8, 1969, the Fargo board of city commissioners (“City Commission”) adopted a resolution establishing the Municipal Airport Authority of the City of Fargo under the authority of N.D.C.C. Chapter 2-06 and, an agreement dated September 16, 1969, set forth terms by which, effective April 8, 1969, the City assigned, transferred, and conveyed all rights of the City to the MAA to operate, maintain, lease and collect revenues from the airport (thereby transferring ownership and control of all airport lands), a copy of which is attached hereto as Exhibit “A”; and,

**WHEREAS**, a narrative of the historical background between the City and the MAA, since said 1969 agreement is attached hereto as Exhibit “B”; and,

**WHEREAS**, the City and the MAA entered into a Memorandum of Understanding on January 14, 2020, which replaced the 1969 agreement; and,

**WHEREAS**, the parties wish to amend the terms of the January 14, 2020 Memorandum of Understanding, in the spirit of continued mutual cooperation between the parties, and in furtherance of the current and future needs of the City, the MAA and the citizens of the City of Fargo and all airport users and in an effort to continue the parties’ intention to work diligently to maintain open lines of communication and to work together for the purpose of the betterment of the City and the Airport.

**NOW, THEREFORE**, based upon these premises and mutual covenants herein stated, it is hereby agreed:

Section 1. Definition. For purposes of this Agreement, the term “Airport Employees” will mean the (a) Executive Director and (b) those employees in the chain of reporting and accounting to the airport Executive Director, which employees are, as of the effective date of this MOU, ten (10) Aircraft Rescue and Firefighters (“ARFF”), seventeen (17) full-time employees and approximately eight (8) part-time and seasonal employees.

Section 2. Airport Employees are no longer to be considered “City Employees”. The designation of the Airport Employees being employees of the City for purposes of the payroll system, pension, health insurance and other benefits, civil service, and applicable state and federal employment compliance requirements, city policy requirements and general financial and accounting standards, as the same designation is set forth in the January 14, 2020, MOU shall hereby be deemed to end upon the transfer of such Airport Employees from that of the City of Fargo to the MAA, which transfer is expected to occur on or about December 26, 2021, but no later than December 31, 2021. From and after said transfer, the Airport Employees shall terminate any employment relationship with the City and they shall fully become employees of the MAA, with the MAA to be responsible for all aspects of their employment, including payroll, benefits, legal compliance, reporting compliance with local, state and federal requirements. Specifically, with respect to matters of pension benefits, the Airport Employees who, prior to such transfer, have been a participant in the City Employee Pension Plan (as recognized in the January 14, 2020, MOU) because of the termination of said employees as “City employees” will be treated in the same manner as any other City employee whose employment with the City is terminated.

A. City Pension—Closed-Pension Liability of MAA. To the extent that certain Airport Employees, who participated in the City Employee Pension Plan (as the same is established and set forth in Article 6-02 of the Fargo Municipal Code) will, as a result of the termination of their employment with the City for purposes of said pension as of the effective date of said transfer, no longer be in the permanent employ of the City of Fargo, the City and MAA will cooperate in determining the extent to which the MAA is to be responsible for the closed fund liability attributable to said Airport Employees. The parties recognize and agree that certain actuarial analysis will be needed to address the means and methods

for the MAA to cover said ongoing closed pension fund liability and the amount to be identified and apportioned to it with the MAA paying a determined amount to the City and thereafter the City agrees to hold the MAA harmless from any liability arising therefrom. The parties further recognize that a similar approach was identified and developed for the Park District employees who participated in the City's pension plan (see: N.D.C.C. §40-49-21) prior to said plan closure.

Section 3. Termination of City Centralized Services for MAA. Effective December 31, 2021, the MAA will discontinue the use and benefit received by the City for Human Resources benefits and services, Finance office services, Information Services and Street Department Services, as the same were described in the January 14, 2020, MOU and the MAA shall be fully responsible for all aspects of such operations, benefits and services.

A. With respect to the audit of the MAA's 2021 finances, the annual audit of the Airport's 2021 finances will be included in the City's audit (consistent with the practice for many years) and, therefore, the Finance Department will continue to provide services in 2022 related to said audit. Said 2021 audit-related tasks to be performed by the Finance Department typically include the production of the various audit-related documents, the adjustment of records to convert the basis of accounting and also the production of financial statements to be presented to the auditing firm. The parties will make arrangements for the Airport to recoup to the City the value of said services performed in 2022 (the fixed value for "centralized services" having terminated at year-end 2021).

Section 4. Reporting Obligations of MAA. The MAA will prepare periodic reports and will provide such reports to the board of city commissioners of the City at one or more public meetings thereof, in the time and manner as set forth in Section 7, below, as follows:

- A The MAA's annual budget,
- B. The MAA's annual audit,
- C. MAA employee benefit costs,
- D. MAA employee pension costs,

E. MAA safety report (i.e., annual FAA report),

F. MAA financial, employee and operational policies, and

G. Beginning with the audit for calendar year 2022 of the MAA's finances, to be performed after the year's end, Government Accounting Standards Board (GASB) standards require the City to include the MAA in the City's financial reporting as a "component unit", said requirement being due to the fact that the MAA board members are appointed by the City, that approval by the City Commission is required as to certain debt (i.e. bonds) issued by the MAA (see: N.D.C.C. §2-06-10(9)), and other factors. Since the City begins its audit process in April of each year, therefore, the MAA will endeavor to provide the City with its audit report, as well as other necessary reports by March 31 of each year.

H. Such other information upon the reasonable request of the City Commission.

Section 5. Public Meeting Agenda and Multi-Media/Broadcasting Obligations of MAA.

The MAA shall maintain a website for its governance operations that is available for viewing by the public. For all meetings of the MAA, including the board of authority of the MAA, itself, and any other appointed committees or subcommittees (as may be required by ND Open Meeting Law, N.D.C.C. §44-04-17.1 *et seq.*) for which public notice is required, an agenda is required to be published and/or posted, or both, such notice and/or agenda shall be posted to the MAA website. The materials presented to the members of the board of authority of the MAA in advance of such meetings in support of particular agenda items shall also be uploaded to the MAA website as the "Agenda packet" so that said materials are also available for public viewing, along with the Agenda itself, in advance of the meeting. Said Agenda and Agenda Packet shall be posted to the website at least two (2) business days before the meeting. The parties recognize that, from time to time, topics may be added to an agenda after the agenda deadline and, as a result, materials may be circulated to MAA board members and MAA staff that were not in the Agenda packet. The MAA will endeavor to share those materials with the Liaison City Commissioner and the Liaison City Staff member as well in a timely manner. The MAA will be responsible for making arrangements for all meetings of the MAA board to be live-stream broadcast for public viewing, with a reasonable quality of recording and transmission under current standards of recording, and will be responsible to maintain a hyperlink on the MAA's website for such live-stream broadcast; for

video-recording said MAA board meetings; and for making said recording available for replay by the public by accessing the MAA's website. Further, the MAA will, upon request of the City, provide such live-stream and the recordings of such broadcasts to the City so that they may be made available for transmission on the City's cable public-access channels.

Section 6. Appointment of MAA board members. The parties recognize and agree that, pursuant to N.D.C.C. §2-06-02, the members of the MAA board (commissioners of the authority per N.D.C.C. §2-06-02(3)) are appointed for five-year terms by the board of city commissioners of the City. The parties recognize that said appointments occur by recommendation of the mayor of nominees for such appointment with the board of city commissioners approving such nomination.

Section 7. Annual Report of State of the Airport, Budgeted Revenues and Expenses, Approval of budget and Establishment of Mill Levy. The MAA will provide to the City an annual report of the state of the airport; an annual report of budgeted revenues and expenses of the airport, said report to be in accordance with the established budget development timeline of the City, as described below; and, to the extent the MAA will request a tax mill levy, a report supporting the MAA's tax mill levy request, as contemplated by N.D.C.C. §§2-06-14 and -15. Said reports and requests shall be presented to the City as follows:

A. State of the Airport. On or before April of each year, the MAA will present to the City Commission, at one of its regular meetings or at a special meeting scheduled for such purpose, a report as to the state of the airport, which report will include an overview of operations, capital improvements and construction from the prior fiscal year, an overview of expectations regarding business operations and capital improvements for current and future years, the status of any outstanding bond obligations and other indebtedness of the MAA and any other information that may be appropriate.

B. Report of Budgeted Revenues and Expenses of MAA. On or before July of each year, the MAA will present to the City Commission, at one of its regular meetings or at a special meeting scheduled for such purpose, a report of the audited financial statements of the MAA for the prior fiscal year, a report on the current year-to-date operations,



including revenues and expenses, of the MAA along with the MAA's proposed budgeted revenues and expenses for the next year.

C. Presentation and Request for Mill Levy by MAA. To the extent that the MAA will be seeking approval by the City Commission of a tax mill levy, as contemplated by N.D.C.C. §§2-06-14 and -15, on or before July of each year the MAA will present its request to the City Commission, at one of its regular meetings or at a special meeting scheduled for such purpose. The MAA's presentation supporting such request shall include the following:

1. a financial report for the preceding calendar year showing the ending balances of each fund or account held by MAA, in compliance with N.D.C.C. §57-15-30.2, as applicable;
2. the MAA's capital improvement plan or plans;
3. an explanation of the MAA's need for, and the amount of, local support that is needed in order for the MAA to garner state, federal or other grants or other sources of financial support; and,
4. an explanation as to how prior years' mill levy revenues were expended on capital, operational or other expenses and how the actual such expenditures compared to the need presented to the City Commission in prior year's or prior years' mill levies requested.

A timely presentation and request from the MAA to the City Commission will enable the City Commission to act upon the request in advance of the deadline date for taxing districts, such as the City, to amend budgets and certify taxes, said deadline date currently being October 10<sup>th</sup> of each year as provided by N.D.C.C. §57-15-31.1. To the extent that City services must be provided for the benefit of the MAA in order for such mill levy requests to be incorporated into the City's report, including its report to the county auditor, the City and MAA agree to cooperate and coordinate such activities. Further, to the extent that such services must be provided in order for the mill levy request of the MAA to be incorporated

into the City's report, then either the MAA must arrange for the providing of such services independently of the City or, upon request by the MAA, the City will provide such services with the MAA being responsible for reimbursement of the reasonable value of such services. The City agrees that if any remittance by the MAA to the City for said value is determined by the Federal Aviation Administration to not be a permissible expenditure of the MAA, the City agrees that it will return such funds to the MAA and the parties will, in good faith, determine an alternative means to offset the reasonable value of such services in a manner that is acceptable under federal or other regulations.

D. Presentation and Request for Approval of Bond Issue. To the extent that the MAA will be seeking approval by the City Commission of the issuance by the MAA of bonds, as contemplated by N.D.C.C. §§2-06-10 and, in particular, Subsection 9 thereof, the MAA will present its request to the City Commission, at one of its regular meetings or at a special meeting scheduled for such purpose.

Section 8. Airport Employee, Finance, Operational and Safety Policies. The City Human Resource Policy Manual and City Finance policies shall no longer apply to Airport Employees with the separation of the service relationship between the City and the MAA. The MAA has standard operating guidelines, operational requirements and policies and procedures, including those for employees and for finance and accounting purposes, which are fundamental to the prudent operation of the airport. Such policies and procedures may be important for reasons of safety, security and other reasons; for compliance with airport regulations including Federal Aviation Administration or other state or federal regulations. The MAA is authorized to adopt such policies and procedures. Such policies, training and procedures shall include, at a minimum the following: Airport Ground Vehicle Training; TSA Airport Security Training; Airfield Operations Training; Aircraft Rescue and Firefighting (AARF) training; Air operations certification training; Wildlife hazard management training among others pursuant to FAR Part 139. A complete copy of all such employee policies, finance policies and operational policies and procedures that have been approved by the MAA shall be delivered to City Administration and, as said policies and procedures may be expanded in scope or amended from time to time, copies of the same (either in hard-copy or digital format) shall be made available to the City upon request.

Section 9. Reserved.

Section 10. Reserved.

Section 11. City and MAA Communication, Cooperation and Relationship. The City and the MAA agree that continued effort should be expended by the City as well as the MAA to improve the relationship between the parties and, in furtherance of such purpose, the parties agree as follows:

- a. The City will continue the tradition of appointing one of the members of the board of city commissioners as a "liaison commissioner" to the MAA. The MAA and the City share in the goal that the appointed liaison commissioner will regularly attend the meetings of the MAA and sit at the table as a non-voting, ex officio member. In the event the MAA, including MAA Administration, wish to provide the City with a written report regarding matters which the MAA wishes to inform the City, including

the City Commission, the MAA is welcome to provide such report to the appointed liaison commissioner and the City Commission Executive Assistant for placement by the Executive Assistant on the agenda for a City Commission meeting and MAA staff or appointed officials, as the MAA may deem appropriate, are welcome to attend said City Commission meeting as well to respond to questions from City Commissioners regarding such report.

- b. The parties are authorized and encouraged to take other action and organize other meetings or activities that may be necessary or appropriate to the achievement of the mutually shared goal of the parties, their elected and appointed officials and their respective administrative and other staff members gaining a mutual understanding as to the operations of the airport and of city government.
- c. The City and MAA, and its respective board members, pledge and agree to undertake such effort as to establish and maintain an open line of communication by and between the parties.
- d. The City and the MAA also agree to make their best efforts to meet on at least a quarterly basis to discuss issues pertaining to the parties.

Section 12. Cooperation by and between the City and the MAA. The City and MAA agree to continue to cooperate and work with one another for the betterment of the City and airport and for the citizens of the City and surrounding communities and airport users as follows:

- a. The MAA will certify annually, to the City, the amount of the proposed tax to be levied by the City for airport purposes within the limitations of section 2-06-15.
- b. The City and the MAA agree to work in conjunction with one another with regard to any and all bonding needs of the MAA as it relates to airport projects.
- c. The City and the MAA agree to cooperate as it relates to Mutual Aid Agreements by and between the parties, as well as any future Mutual Aid Agreements as the same shall be necessary.

- d. The MAA will provide to the City easements, as it may need for City projects on or adjacent to Airport property unless required by the FAA for property acquired by the MAA with FAA funds. In that event, the FAA may require compensation to the MAA.
- e. The City and the MAA agree that each will work in conjunction with each other as it relates to the needs of all of the Departments of the City requiring assistance of the MAA such as Planning and Development, Assessor, Auditor, Engineering, Zoning, Waste Water Management and Water Treatment, Forestry, Police and Fire as well as other Departments of the City if assistance shall so be needed by the airport.
- f. The City and the MAA agree to work in conjunction with each other in furtherance of economic development of the City of Fargo, the Airport, and surrounding communities for the benefit of all.
- g. Existing Separate Agreements to Remain in Place. Existing agreements will remain in place regarding the Fire mutual aid arrangements (between Airport Fire and Fargo Fire Department) and regarding the police officer support provided for the airport passenger terminal (i.e. the officer required by T.S.A.). Also, to the extent there are one or more other separate agreements, including cost-share arrangements, between the MAA and the City, such existing agreements shall remain in place.

Section 13. Indemnification. Each party will hold the other harmless and indemnify the other for any claims or demands brought or lawsuits filed against the other party for personal injury or damages to the property of any third person or persons, arising from the performance of this Agreement within the limits of N.D.C.C. Ch. 32-12.1 or -12.2.

Section 14. Dissolution. The City and the MAA understand and acknowledge that the City has the power pursuant to Chapter 2-06 of the North Dakota Century Code to dissolve an airport authority by resolution as set forth therein. The MAA certainly opposes such action by the City if contemplated. While the City and the MAA do not contemplate a dissolution of the MAA and the parties intend to continue to work with each other within the parameters of this Amended Agreement, it has been previously suggested by the City that dissolution is an option for the City. If there is a decision by the City to initiate dissolution of the MAA, the City acknowledges that the MAA can oppose such decision and assert that a dispute between the entities exists as to the purported change in sponsorship and the Certificate of Operation. The City and MAA agree that

in order for a change in sponsorship and the Certificate of Operation to be considered by the FAA, current FAA regulations state that any dispute would need to be resolved by way of a binding agreement between the parties or by court order. In the event of resolution of any dispute raised by the MAA is in favor of the City, the parties agree to work with the FAA and with each other so that the existing airport sponsor (the MAA) may continue to maintain compliance with Federal requirements, including FAA requirements and, in addition, the parties will work with one another and with the FAA with respect to a change-of-sponsorship that would be requested of the FAA by the City.

Section 15. The City hereby affirms its support for future growth and expansion of the Airport, including its passenger terminal, ramp areas, taxiways and runways, and the City hereby pledges to refrain from interference with plans or processes of the MAA to obtain federal and/or state grants or long-term financing of such Airport projects. The parties acknowledge and agree that the City has no authority to pledge MAA revenues or MAA funds of any type toward the repayment of any obligations of the City without the express approval of the MAA.

Section 16. Effective Date of Agreement. This Amended Agreement shall be deemed effective upon the first day of January, 2022, although certain aspects of this Agreement will commence on December 26, 2021 and other aspects shall extend into 2022 as set forth above.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands the day and year first above written.

[Remainder of page left blank—execution pages to follow]

**MUNICIPAL AIRPORT AUTHORITY OF  
THE CITY OF FARGO,**

a Political Subdivision under the laws of the State of North  
Dakota

By \_\_\_\_\_  
Erik Lind, Chair

By \_\_\_\_\_  
Shawn A. Dobberstein, A.A.E., Executive Director

**CITY OF FARGO,**  
a North Dakota Municipal Corporation

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

ATTEST:

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



**EXHIBIT "A"**

**1969 Agreement**

**(attached)**

AGREEMENT REGARDING  
HECTOR AIRPORT PROPERTY

THIS AGREEMENT Made and entered into this 16th day of September, 1969, by and between the CITY OF FARGO, NORTH DAKOTA, a municipal corporation, hereinafter called the "City", and the MUNICIPAL AIRPORT AUTHORITY OF THE CITY OF FARGO, NORTH DAKOTA, a public body corporate and politic created and existing pursuant to the provisions of Chapter 2-06 of the North Dakota Century Code, hereinafter called the "Authority":

WHEREAS, by resolution dated April 8, 1969, the Board of City Commissioners of the City of Fargo, North Dakota, established the Authority to operate in accordance with the provisions of Chapter 2-06 of the North Dakota Century Code; and

WHEREAS, Section 2-06-07 (5) of the North Dakota Century Code provides that the Authority may acquire existing airports and air navigation facilities; and

WHEREAS, the City has heretofore operated the air navigation facilities and property known as Hector Municipal Airport and the City deems it to be in the best interests of the City that the Authority acquire said property by lease; and

WHEREAS, the City desires to cooperate with the Authority in the planning and operation of airports and air navigation facilities pursuant to Section 2-06-19 of the North Dakota Century Code;

NOW, THEREFORE, the parties hereto do hereby covenant and agree as follows:

(1) Effective April 8, 1969, the City does hereby assign, transfer, and convey to the Authority all rights of the City

to operate, maintain, lease, and collect revenues from existing airport and air navigation facilities known as Hector Municipal Airport, which property is portrayed on a map attached hereto as Exhibit "A", and does hereby lease all said airport property together with all building and appurtenances to said airport Authority.

(2) From and after the effective date of this instrument, the Authority shall:

- (a) Assume full responsibility and authority for operating, maintaining, repairing, leasing, insuring and collecting revenues from the properties hereinbefore described and shall operate said properties according to the provisions of Chapter 2-06 of the North Dakota Century Code and any other laws that may be applicable to the construction, maintenance and operation of said property.
- (b) Pay over to the City the sum of Thirty Thousand Dollars (\$30,000.00) on or before the end of fiscal year plus any sum that may be necessary to reimburse the City for any expenditures made by the City on behalf of the Authority.

(3) The City does hereby sell, assign, and transfer to the Authority all of its right, title, and interest in any and all leases or operating agreements presently in effect between the City and third persons, provided, however, that the said leases or agreements shall continue in full force and effect until they expire by their own terms or until modified by mutual agreement between the Authority and said third persons.

(4) The City hereby recognizes that the Authority shall have the right to modify any existing facilities and buildings or construct new buildings and facilities on any of the property hereby transferred, and, shall have the right pursuant to Chapter 2-06 of the North Dakota Century Code to acquire additional property as an addition to the airport.

(5) The City hereby covenants and agrees that in accordance with the terms of this agreement, it will not enter into any new

lease or operation agreement, or extend any existing lease or operating agreement relating to any of the property hereby transferred.

(6) It is further agreed and understood that the City will provide the Authority with the use of its treasurer, auditing department, and will continue to regard the employees of the Airport Authority as City employees for the purpose of the City employees Pension Plan.

(7) The term of this lease shall be ten (10) years from and after the date of execution hereof.

Dated at Fargo, North Dakota, this 16th day of September, 1969.

CITY OF FARGO, A Municipal Corporation

BY Herschel Lashkowitz  
Herschel Lashkowitz, President of  
Board of City Commissioners

Attest: Frank R. Fahrlander  
Frank R. Fahrlander  
City Auditor

THE MUNICIPAL AIRPORT AUTHORITY  
OF THE CITY OF FARGO, NORTH DAKOTA

BY Nicholas F. Schuster  
Nicholas F. Schuster, Chairman

AND Joseph Farmer  
Joseph Farmer, Secretary

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

On this 16<sup>th</sup> day of September, 1969, before me, a notary public in and for said county and state, personally appeared HERSCHEL LASHKOWITZ and FRANK R. FAHRLANDER, to me known to be the President of the Board of City Commissioners and the City Auditor, respectively, of the CITY OF FARGO, a municipal corporation, and acknowledged to me that said municipal corporation executed the same.

Carol J. Kraft  
Notary Public  
Cass County, North Dakota  
My Commission Expires:

(NOTARIAL SEAL)

CAROL J. KRAFT  
Notary Public, CASS COUNTY, N. DAK.  
My Commission Expires SEPT. 11, 1973

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

On this 16<sup>th</sup> day of September, 1969, before me, a notary public in and for said county and state, personally appeared NICHOLAS F. SCHUSTER and JOSEPH PARMER, to me known to be the Chairman and Secretary, respectively, of the public corporation that is described herein and that they executed the foregoing instrument and acknowledged to me that such corporation executed the same.

Carol J. Kraft  
Notary Public  
Cass County, North Dakota  
My Commission Expires:

(NOTARIAL SEAL)

CAROL J. KRAFT  
Notary Public, CASS COUNTY, N. DAK.  
My Commission Expires SEPT. 11, 1973

AMENDMENT NO. 1 TO AGREEMENT  
REGARDING HECTOR AIRPORT AUTHORITY

THIS AGREEMENT, Made and entered into this 23rd day of June, 1970, by and between the CITY OF FARGO, NORTH DAKOTA, a municipal corporation hereinafter called the "City", and the MUNICIPAL AIRPORT AUTHORITY OF THE CITY OF FARGO, NORTH DAKOTA, a public body corporate and politic created and existing pursuant to the provisions of Chapter 2-06 of the North Dakota Century Code, hereinafter called the "Authority", provides as follows:

WHEREAS, By agreement dated September 16, 1969, by and between the City and the Authority, the Authority agreed to pay to the City on or before the end of each fiscal year the sum of \$30,000 plus any sum necessary to reimburse the City for any expenditures made by the City on behalf of the Authority; and

WHEREAS, In accordance with the provisions of Section 2-06-10, North Dakota Century Code, as amended, the Authority now proposes to issue its bonds payable from net revenue of the municipal airport and air navigation facilities; and

WHEREAS, The marketability of such bonds will be enhanced by a subordination of the promise of the Authority to make an annual payment to the City and it is in the best interest of the City and the Authority to agree to such a subordination;

NOW, THEREFORE, The parties hereto do hereby agree as follows:

Paragraph (2) (b) of the Agreement Regarding Hector Airport Authority, dated September 16, 1969, by and between

the City and the Authority is hereby amended to read as follows:

- (b) Pay over to the City the sum of THIRTY THOUSAND DOLLARS (\$30,000) on or before the end of each fiscal year which commences on and after July 1, 1970, plus any sum that may be necessary to reimburse the City for any expenditures made by the City on behalf of the Authority; provided, that such annual payment to the City shall be made by the Authority only from funds of the Authority in excess of amounts required to be paid or maintained by the Authority for payment of principal of, interest on or reserve with respect to bonds of the Authority issued for airport purposes.

Paragraph 7 of the Agreement dated September 16, 1969, by and between the City and the Authority is hereby rescinded and repealed.

Dated at Fargo, North Dakota, this 23rd day of June, 1970.

CITY OF FARGO, A MUNICIPAL CORPORATION

By Herschel Lashkowitz  
Herschel Lashkowitz, President of  
the Board of City Commissioners

Attest:

Frank R. Fahrlander  
Frank R. Fahrlander, City Auditor

THE MUNICIPAL AIRPORT AUTHORITY OF THE CITY OF FARGO, NORTH DAKOTA

By Nicholas J. Schaefer  
Nicholas J. Schaefer, Chairman

Attest:

Joseph Farmer  
Joseph Farmer, Secretary

**EXHIBIT "B"**

**HISTORICAL BACKGROUND—CITY AND MAA**

The Fargo airport, now known as Hector International Airport has been in its same general location since 1927, starting with a lease of a quarter of land by Martin Hector. On April 8, 1969, the Fargo board of city commissioners ("City Commission") adopted a resolution establishing the Fargo Municipal Airport Authority under the authority of N.D.C.C. Chapter 2-06 and, by agreement dated September 16, 1969, the City and MAA agreed (a) that effective April 8, 1969, the City assigned, transferred, and conveyed all rights of the City to the MAA to operate, maintain, lease and collect revenues from the airport (thereby transferring ownership and control of all airport lands); (b) that the City recognized that the MAA would have the right pursuant to Chapter 2-06 of the North Dakota Century Code to acquire additional property as an addition to the airport; (c) that the City would provide the MAA with the use of the City's treasurer and auditing department; (d) that the City ". . . will continue to regard the employees of the Airport Authority as City employees for the purpose of the City employees [sic] Pension Plan"; and, (e) that the MAA would pay the City \$30,000 annually plus any additional amounts necessary to reimburse the City for expenditures made by the City on behalf of the MAA. The 1969 agreement initially had a ten-year expiration date however in order to allow the MAA to be able to issue bonds payable from net revenues of the airport and to improve the marketability of such bonds, the requirement of the \$30,000 payment was modified to be subordinate to the bond payment obligations and the 10-year term was rescinded and repealed. (See Agreements dated September 16, 1969 and amendment dated June 24, 1970.)

From the time of the 1969 Agreement to calendar year 1986, the MAA paid to the City \$30,000 per year for services identified above (but later to include IT services as the same came into existence). In 1986, the MAA voted to raise the amount paid to the City by the MAA for said services to \$50,000, which the MAA has paid. The MAA and the City agreed to increase the annual payment to \$90,000 effective January 1, 2017. The City was in the process of pursuing FAA approval for a higher annual payment pursuant to a higher overhead cost allocation plan, which resulted in the City collecting \$98,144 for calendar year 2016 and \$107,009 for 2017.



Since then the MAA has owned and operated the Hector International Airport. Over the course of the past 50 years, both the airport and the city of Fargo have grown, both in size and in complexity. Currently, 35 individuals (17 full time airport employees and 10 full time ARFF (Aircraft Rescue and Firefighting employees) and 8 part time/seasonal, more or less, are employed at the airport, said employees being actively involved in all manner of operation and maintenance of the airport facility.

Those employees have been on the payroll system of the City and have been paid by City paycheck, have been covered by the City workers' compensation coverage, have been enrolled either in the City's retirement plan with the North Dakota Public Employee Retirement System or in the City employee pension plan as an employee of the City (pursuant to the agreement between the parties dated September 16, 1969), have been enrolled as the City's employee for state and federal unemployment compensation benefits, have been covered by having employee and employer contributions for social security (FICA) via the City paycheck, and have been covered as a City employee under the City's health and other benefits offered to City employees. The City and the MAA agree that the MAA has paid any and all such costs associated with each of items identified above to the City.

The North Dakota Airport Authorities Act, N.D.C.C. Chapter 2-06 [the "Airport Authorities Act"] was initially enacted by the North Dakota legislature in 1958 and has been amended from time to time since then. The Airport Authorities Act authorized the Fargo City Commission to establish the Municipal Airport Authority of the City of Fargo in 1969 and it provides airport authorities with broad powers, including the authority to employ employees, including its executive director, secretary, technical experts and other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation (see N.D.C.C. 2-06-06 (Commissioners,-Compensation-Meetings-Officers); establish, enlarge, improve, equip, operate and maintain the airport and to acquire lands and property, even by eminent domain, for the airport and many other powers. See generally, N.D.C.C. §2-06-07 (General powers of an Authority).

The Airport Authorities Act also contemplated the value of a close working relationship between an airport authority and a city by authorizing a city to provide assistance and cooperation by loaning money to the airport authority, to handle the finances of the authority, to

furnish the airport with sewer and water, to dedicate, sell, convey or lease property to the airport, to provide streets and road access to the airport and to “[d]o all things not prohibited by law, necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction, or operation of airports.” See N.D.C.C. §2-06-19. Cities and airport authorities are authorized to enter into agreements regarding this cooperation and assistance. *Id.*

As such, starting in 2019, the City and the MAA began discussions regarding the establishment of a Memorandum of Understanding between the City and the MAA, to further outline the relationship between these two entities. Negotiations resulted in several mediation sessions over several months between representatives of the respective parties, which culminated in an agreement between the City and the MAA. That is, on January 14, 2020, the City and the MAA entered into a Memorandum of Understanding which identified and outlined the relationship between the City and the MAA wherein the MAA would continue to utilize certain services provided by the City and paid for by the MAA and said Memorandum of Understanding has been in place since that time and the City and the MAA have continued to operate under the terms of that Memorandum of Understanding.

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Office of the City Attorney

City Attorney  
Erik R. Johnson

Assistant City Attorney  
Nancy J. Morris

December 23, 2021

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

RE: Submitting "term limits" ordinance to City voters - procedural ordinance - enactment of Section 1-0210

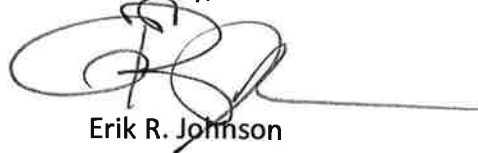
Dear Commissioners,

I seek your guidance and direction with respect to the matter of the City's term limits ordinance (F.M.C. Section 2-0106). You may recall that at your November 15, 2021, meeting you approved a motion that, rather than seeking an "advisory vote" as to whether the term limits ordinance should be retained, the matter should be submitted for an "up or down vote". The City Commission does have the authority by home rule charter to submit a proposed ordinance to the city electorate for approval and passage; however, before it can do so, a procedure must be established to accomplish this task AND that procedure must be enacted by ordinance. I have prepared a draft of an ordinance accomplishing this task, for receipt and filing.

Having said that, I would like the opportunity to visit with you during the City Commission meeting about the next stage in this process of submitting the Term Limits ordinance to the voters. The topic has to do with how the ballot language will read, when presented to the voters.

**SUGGESTED MOTION:** I move to receive and file An Ordinance Enacting Section 1-0210 of Article 1-02, of Chapter 1 of the Fargo Municipal Code Relating To Ordinances – Procedure and to place the ordinance on the next regular city commission meeting for first reading.

Sincerely,



Erik R. Johnson

Enclosure



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE ENACTING SECTION 1-0210  
OF ARTICLE 1-02, OF CHAPTER 1 OF THE FARGO MUNICIPAL CODE  
RELATING TO ORDINANCES - PROCEDURE

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

4  
5 WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City  
shall have the right to implement home rule powers by ordinance; and,

6  
7 WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said  
home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict  
therewith and shall be liberally construed for such purposes; and,

8  
9 WHEREAS, the Board of City Commissioners deems it necessary and appropriate to  
implement certain procedures by which the Board of City Commissioners might propose either  
enactment or repeal of a city ordinance to be determined by vote of the City electorate at a special  
or regular city election by the adoption of this ordinance;

10  
11 NOW, THEREFORE, Be It Ordained by the Board of City Commissioners of the City of  
Fargo:

12  
13 Section 1. Enact.

14  
15 Section 1-0210 of Article 1-02 of Chapter 1 of the Fargo Municipal Code is enacted  
as follows:

16  
17 1-0210. Procedure in passing ordinances by city electorate. Notwithstanding the procedure  
in passing ordinances, signing and attesting as set forth in this article, proposals for enactment of an  
18 ordinance may be submitted to the voters by adoption of a resolution approved by a majority of all  
members of the electorate. Proposals for enactment of an ordinance may be submitted to the voters  
19 by adoption of a resolution approved by a majority of all members of the governing body. The  
resolution must contain the proposed ordinance and the resolution shall be published in the official  
20 newspaper of the city at least 60 days prior to the election at which the matter will be decided. The  
proposal must be submitted to the voters at the next city-wide election occurring at least 60 days after  
21 publication of the resolution in the official newspaper of the city. The ballot question shall be "Shall  
such ordinance be approved?" If there is a majority of "Yes" votes of those voting on the matter, the  
22

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

ordinance shall become effective ten days after the election results are certified except as to an ordinance imposing any penalty, fine, imprisonment, or forfeiture for a violation of its provisions, in which case the title and penalty clause of the ordinance shall be published in one issue of the official newspaper of the city and it shall take effect and be in force from and after the publication thereof unless otherwise expressly provided therein. If the "No" votes are in majority, the ordinance is rejected. The proposal may enact a new ordinance, may amend an existing ordinance, may repeal an existing ordinance, or it may propose any combination thereof.

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

(SEAL)

Attest:

First Reading:  
Second Reading:  
Final Passage:

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

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42

**TO: BOARD OF CITY COMMISSIONERS**  
**FROM: COMMISSIONER JOHN STRAND** JAS  
**DATE: DECEMBER 23, 2021**  
**RE: APPRECIATION BONUS**

Members of the Fargo City Commission,

In recognition of the extraordinary hours of hard work, expertise and commitment to service of City staff, I am proposing the Fargo City Commission direct the Finance and Human Resources Departments take the necessary steps to provide staff members with appreciation bonuses based upon the employees' status to include employees in positions that fall under the official pay plan. It is not uncommon for large organizations to offer employees a bonus at the end of a challenging or successful year. We saw both in 2021. The ongoing pandemic, supply chain issues and workforce-related challenges made the job of public servants even more difficult for all departments. We must remember that we serve the community through our people. The ideas and policies of the commission are acted upon by staff. Without employees, there are no services.

Now, more than ever, we must bolster the organization's competitiveness. This is a job market in which retention and recruitment are becoming increasingly difficult. This is evidenced in several recent job postings only generating a fraction of the typical applicant pool. We are in competition to recruit, attract, retain and elevate Team Fargo. We can and we must do better.

A bonus would also be tremendously helpful in boosting employee morale and clearly illustrate The City of Fargo is a place where each team member is valued by us. This is the City Commission's opportunity to clearly demonstrate the appreciation we place in our employees and that we are glad they choose to work here.

I am proposing each full-time employee of The City of Fargo, including contract and temporary full-time, receive a \$1,000 bonus, each full-time regular (30-39) employee receive \$750 and each part-time regular (20-29) employee receive \$500. This bonus would be paid entirely through CARES funding. The sum of all bonuses would total \$943,250. All active employees who are in a bonus eligible status on December 31 will receive the appreciation bonus on their regular December 31 payroll check and applicable tax withholdings will occur.

- Commissioner John Strand

<b>APPRECIATION BONUS</b>	<b># of Employees</b>	<b>Bonus</b>	<b>Cost</b>
Full-time 40 (FT)	884	\$ 1,000	\$ 884,000
Contract Full-time 40 (C4)	6	\$ 1,000	\$ 6,000
Full-time 30 (F3)	17	\$ 750	\$ 12,750
Part-time 20 (P2)	39	\$ 500	\$ 19,500
Temporary 40 (T4)	21	\$ 1,000	\$ 21,000
Airport Full-time 40 (FT)	27		
Airport Temporary 40 (T4)	1		
Temp 30 (T3)	20		
Temp 20 (T2)	9		
Seasonal (SE)	8		
Temp Variable (TV)	691		
Appointed Officials (AO)	5		
Elected Officials (EO)	6		
Total Bonus Eligible	967		\$ 943,250
Total EE's on Payroll	1734		

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

43a

December 6, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3125 41 Ave S as submitted by Jonathan and Belinda Forknell. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 3 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$125 with the City of Fargo's share being \$20.

Sincerely,



Mike Splonskowski  
City Assessor

nlb  
attachment



**Application For Property Tax Exemption For Improvements  
To Commercial And Residential Buildings**  
North Dakota Century Code ch. 57-02.2  
(File with the local city or township assessor)

**Property Identification**

1. Name of Property Owner Jonathan + Belinda For Krell Phone No. 701/ 238-3207

2. Address of Property 3125 41<sup>st</sup> Ave. S.  
 City FARGO State ND Zip Code 58103 58104

3. Legal description of the property for which the exemption is being claimed. Lot 2 Block 3 Timberline Add'n

4. Parcel Number 01-3210-00160-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner Same  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Description Of Improvements For Exemption**

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Convert unfinished space into a workout area

7. Building Permit No. 21010437 8. Year Built 1996

9. Date of Commencement of making the improvement 1/20/21

10. Estimated market value of property before improvement \$ 471,000

11. Cost of making the improvement (all labor, material and overhead) \$ 5,000

12. Estimated market value of property after improvement \$ 480,400

**Applicant's Certification and Signature**

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

X Applicant's Signature [Signature] Date 11/30/21

**Assessor's Determination**

14. The local assessor finds that the improvements in this application has  has not  met the qualifications for exemption for the following reason(s):

Assessor's Signature [Signature] Date 12-15-2021

**Action of Governing Body**

15. Action taken on this application by local governing board of the county or city: Denied  Approved

Approval subject to the following conditions: \_\_\_\_\_

Chairman of Governing Body \_\_\_\_\_ Date \_\_\_\_\_

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

4/36

December 6, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2806 3 St N as submitted by Paul and Sarah Nelson. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$150 with the City of Fargo's share being \$25.

Sincerely,



Mike Splonskowski  
City Assessor

nlb  
attachment

# Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

### Property Identification

1. Legal description of the property for which exemption is claimed Lt 17, Blk 4, Edgewood 1st

2. Address of Property 2806 3 St N

3. Parcel Number 01-0720-00360-000

4. Name of Property Owner Paul & Sarah Nelson Phone No. 218-585-9422

5. Mailing Address of Property Owner Same

### Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Vinyl siding & new windows

7. Building permit No. 2105-0037 8. Year built (residential property) 1960

9. Date of commencement of making the improvements 05/04/2021

10. Estimated market value of property before the improvements \$ 198,900.00

11. Cost of making the improvement (all labor, material and overhead) \$ 7,500.00

12. Estimated market value of property after the improvements \$ \_\_\_\_\_

### Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Sarah Nelson Date 12/1/21

### Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do  do not  meet the qualifications for exemption for the following reason(s): \_\_\_\_\_

Assessor/Director of Tax Equalization [Signature] Date 12-15-2021

### Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved  Denied

Approval is subject to the following conditions: \_\_\_\_\_

Exemption is allowed for years 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_.

Chairperson \_\_\_\_\_ Date \_\_\_\_\_

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

430

December 6, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:


Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1019 10<sup>th</sup> St N as submitted Kaaren Duren. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$120 with the City of Fargo's share being \$20.

Sincerely,



Mike Spionskowski  
City Assessor

nlb  
attachment

# Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

### Property Identification

1. Legal description of the property for which exemption is claimed Lot F, Blk 13, Auditor's Subd, Chapins

2. Address of Property 1019 10 St N

3. Parcel Number 01-0440-02560-000

4. Name of Property Owner Kaaren Duren Phone No. 701/652-5239

5. Mailing Address of Property Owner Same

### Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Convert 1/2 bath to 3/4 bath on main level

7. Building permit No. 21080238 8. Year built (residential property) 1903

9. Date of commencement of making the improvements 08/17/2021

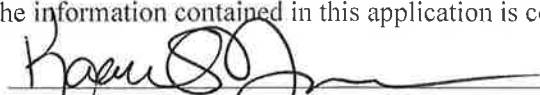
10. Estimated market value of property before the improvements \$ 187,400.00

11. Cost of making the improvement (all labor, material and overhead) \$ 8,000.00

12. Estimated market value of property after the improvements \$ 196,600.00

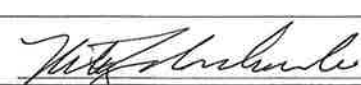
### Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant  Date 11-30-2021

### Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do  do not  meet the qualifications for exemption for the following reason(s): \_\_\_\_\_

Assessor/Director of Tax Equalization  Date 12-15-2021

### Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved  Denied

Approval is subject to the following conditions: \_\_\_\_\_

Exemption is allowed for years 20 \_\_, 20 \_\_, 20 \_\_, 20 \_\_, 20 \_\_.

Chairperson \_\_\_\_\_ Date \_\_\_\_\_

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

4/3d

December 8, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1526 28 ½ Ave S as submitted Jeffrey and Marion Kuehn. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$420 with the City of Fargo's share being \$70.

Sincerely,



Mike Splonskowski  
City Assessor

nib  
attachment

**Application For Property Tax Exemption For Improvements  
To Commercial And Residential Buildings**

North Dakota Century Code ch. 57-02.2  
(File with the local city or township assessor)

**Property Identification**

1. Name of Property Owner Jeffrey & Marion Kuehn Phone No. <sup>704</sup> 234-0183  
2. Address of Property 1526 28 1/2 Ave, S  
City FARGO State ND Zip Code 58103  
3. Legal description of the property for which the exemption is being claimed. Lot 27 Block C The Meadows addition  
4. Parcel Number 01-1910-00670-000 Residential  Commercial  Central Business District   
5. Mailing Address of Property Owner Same  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Description Of Improvements For Exemption**

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Remodel Kitchen  
7. Building Permit No. 20110254 8. Year Built 1985  
9. Date of Commencement of making the improvement 11/20/20  
10. Estimated market value of property before improvement \$ 191,800  
11. Cost of making the improvement (all labor, material and overhead) \$ 60,000  
12. Estimated market value of property after improvement \$ 223,900

**Applicant's Certification and Signature**

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.  
Applicant's Signature Jeff Kuehn Date 12/3/21

**Assessor's Determination**

14. The local assessor finds that the improvements in this application has  has not  met the qualifications for exemption for the following reason(s):  
Assessor's Signature Walter J. Lambert Date 12-15-2021

**Action of Governing Body**

15. Action taken on this application by local governing board of the county or city: Denied  Approved   
Approval subject to the following conditions: \_\_\_\_\_  
Chairman of Governing Body \_\_\_\_\_ Date \_\_\_\_\_

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

43e

December 10, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 225 22 Ave N as submitted by Daniel and Lisa Sandaker. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$155 with the City of Fargo's share being \$30.

Sincerely,



Mike Splonskowski  
City Assessor

nlb  
attachment



## Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

### Property Identification

1. Legal description of the property for which exemption is claimed <u>Lt 7, Blk 5, Minnie Hector Smith</u>
2. Address of Property <u>225 22 Ave N</u>
3. Parcel Number <u>01-2780-00740-000</u>
4. Name of Property Owner <u>Daniel &amp; Lisa Sandaker</u> Phone No. <u>701-261-2904</u>
5. Mailing Address of Property Owner <u>Same</u>

### Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). <u>New siding, windows, exterior door &amp; OH garage door</u>	
7. Building permit No. <u>2105-0186</u>	8. Year built (residential property) <u>1953</u>
9. Date of commencement of making the improvements <u>05/10/2021</u>	
10. Estimated market value of property before the improvements	\$ <u>181,400.00</u>
11. Cost of making the improvement (all labor, material and overhead)	\$ <u>24,000.00</u>
12. Estimated market value of property after the improvements	\$ <u>193,200.00</u>

### Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.	
Applicant <u><i>Anna Sandaker</i></u>	Date <u>12.10.21</u>

### Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application	
do <input checked="" type="checkbox"/> do not <input type="checkbox"/> meet the qualifications for exemption for the following reason(s): _____	
Assessor/Director of Tax Equalization <u><i>Walter Kolmankor</i></u>	Date <u>12-15-2021</u>

### Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved <input type="checkbox"/> Denied <input type="checkbox"/>	
Approval is subject to the following conditions: _____	
Exemption is allowed for years 20____, 20____, 20____, 20____, 20____.	
Chairperson _____	Date _____

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

438

December 13, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 520 11 St S as submitted Diamondrock Development LLC. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$180 with the City of Fargo's share being \$30.

Sincerely,



Mike Splonskowski  
City Assessor

nlb  
attachment

Application For Property Tax Exemption For Improvements  
To Commercial And Residential Buildings  
North Dakota Century Code ch. 57-02.2  
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner DIAMONDROCK DEVELOPMENT LLC Phone No. 701 388 6226

2. Address of Property 520 11 ST S

City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. BLK 41 LT 7 NORTHERN PACIFIC

4. Parcel Number 01-2140-00740-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner 423 8 ST S

City FARGO State ND Zip Code 58103

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Replace plaster with sheetrock on main level, patch and repair throughout. Remodel kitchen. Relocate laundry to ~~upper~~ level. Remodel the existing upper level bathroom and relocate main level bath. Work includes flooring, fixtures, ventilation, plumbing and electrical.

7. Building Permit No. 21010492 8. Year Built 1903

9. Date of Commencement of making the improvement 01/21/2021

10. Estimated market value of property before improvement \$ 164800

11. Cost of making the improvement (all labor, material and overhead) \$ 45,000

12. Estimated market value of property after improvement \$ 224,900

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature [Signature] Date 12/11/2021

Assessor's Determination

14. The local assessor finds that the improvements in this application has  has not  met the qualifications for exemption for the following reason(s):

Assessor's Signature [Signature] Date 12-15-21

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied  Approved

Approval subject to the following conditions: \_\_\_\_\_

Chairman of Governing Body \_\_\_\_\_ Date \_\_\_\_\_

Submit Via Email

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

439

December 6, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 102 31<sup>st</sup> Ave N as submitted Daniel and Tracy Gratton. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$280 with the City of Fargo's share being \$50.

Sincerely,



Mike Splonskowski  
City Assessor

nlb  
attachment

**Application For Property Tax Exemption For Improvements  
To Commercial And Residential Buildings**  
North Dakota Century Code ch. 57-02.2  
(File with the local city or township assessor)

**Property Identification**

1. Name of Property Owner Daniel + Tracy Gratton Phone No. 701/630-2601

2. Address of Property 102 31<sup>st</sup> Ave. N.  
 City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. Lot 6 Block 8 Edgewood 2nd

4. Parcel Number 01-0730-00782-050 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner Same  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Description Of Improvements For Exemption**

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). 20 x 18 addition

7. Building Permit No. 21020412 8. Year Built 1973

9. Date of Commencement of making the improvement 2/23/21

10. Estimated market value of property before improvement \$ 282,700

11. Cost of making the improvement (all labor, material and overhead) \$ 60,000.00

12. Estimated market value of property after improvement \$ 303,700

**Applicant's Certification and Signature**

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature [Signature] Date 11/24/21

**Assessor's Determination**

14. The local assessor finds that the improvements in this application has  has not  met the qualifications for exemption for the following reason(s):

Assessor's Signature [Signature] Date 11-15-2021

**Action of Governing Body**

15. Action taken on this application by local governing board of the county or city: Denied  Approved

Approval subject to the following conditions: \_\_\_\_\_

Chairman of Governing Body \_\_\_\_\_ Date \_\_\_\_\_

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

436

December 6, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1617 3<sup>rd</sup> St N as submitted by Stacia and Dean Ambuehl. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$335 with the City of Fargo's share being \$60.

Sincerely,



Mike Splonskowski  
City Assessor

nlb  
attachment

**Application For Property Tax Exemption For Improvements  
To Commercial And Residential Buildings**  
North Dakota Century Code ch. 57-02.2  
(File with the local city or township assessor)

**Property Identification**

1. Name of Property Owner Stacia & Dean Ambuehl Phone No. <sup>701/</sup>371-9597

2. Address of Property 1617 3<sup>rd</sup> St. N.  
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. Lot 367 & 368 North Broadway

4. Parcel Number 01-2100-02340<sup>000</sup> Residential  Commercial  Central Business District

5. Mailing Address of Property Owner Same  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Description Of Improvements For Exemption**

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Remodel Kitchen + convert attached garage into Family room

7. Building Permit No. 21060734 8. Year Built 1955

9. Date of Commencement of making the improvement 4/22/21

10. Estimated market value of property before improvement \$ 237,300

11. Cost of making the improvement (all labor, material and overhead) \$ 85,000

12. Estimated market value of property after improvement \$ 262,700

**Applicant's Certification and Signature**

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.  
 Applicant's Signature Stacia Ambuehl Date 11/28/21

**Assessor's Determination**

14. The local assessor finds that the improvements in this application has  has not  met the qualifications for exemption for the following reason(s):  
Assessor's Signature Mike Splandowski Date 12-15-2021

**Action of Governing Body**

15. Action taken on this application by local governing board of the county or city: Denied  Approved   
Approval subject to the following conditions: \_\_\_\_\_  
Chairman of Governing Body \_\_\_\_\_ Date \_\_\_\_\_

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

43i

December 6, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 910 18 Ave S as submitted by Benjamin and Maren Jystad-Spar. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$150 with the City of Fargo's share being \$25.

Sincerely,



Mike Spionskowski  
City Assessor

nlb  
attachment



**Application For Property Tax Exemption For Improvements  
To Commercial And Residential Buildings**  
North Dakota Century Code ch. 57-02.2  
(File with the local city or township assessor)

**Property Identification**

1. Name of Property Owner Benjamin + Maren Dystad - Sparr Phone No. \_\_\_\_\_

2. Address of Property 910 18<sup>th</sup> Ave S.  
City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. \_\_\_\_\_  
Lot 7 ; Block 1

4. Parcel Number 01-2660-00070-006 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner Same  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Description Of Improvements For Exemption**

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Remodel Kitchen

7. Building Permit No. 21061093 8. Year Built 1958

9. Date of Commencement of making the improvement 6/29/21

10. Estimated market value of property before improvement \$ 248,400

11. Cost of making the improvement (all labor, material and overhead) \$ 17,000

12. Estimated market value of property after improvement \$ 259,900

**Applicant's Certification and Signature**

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature Benjamin Dystad Date 11/24/21

**Assessor's Determination**

14. The local assessor finds that the improvements in this application has  has not  met the qualifications for exemption for the following reason(s): \_\_\_\_\_

Assessor's Signature Michelle Spalmer Date 12-15-2021

**Action of Governing Body**

15. Action taken on this application by local governing board of the county or city: Denied  Approved

Approval subject to the following conditions: \_\_\_\_\_

Chairman of Governing Body \_\_\_\_\_ Date \_\_\_\_\_

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

43j

December 6, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 236 10<sup>th</sup> Ave S Unit 8 as submitted by Mary Vetter. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$65 with the City of Fargo's share being \$10.

Sincerely,



Mike Splonskowski  
City Assessor

nlb  
attachment

**Application For Property Tax Exemption For Improvements  
To Commercial And Residential Buildings**  
North Dakota Century Code ch. 57-02.2  
(File with the local city or township assessor)

**Property Identification**

1. Name of Property Owner Mary Vetter Phone No. 701/809-3022

2. Address of Property 326 10<sup>th</sup> Ave. S. - Unit 8  
 City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. Lot 4 & 5 Block 6 Woodruffs

4. Parcel Number 01-4160-01190-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner Same  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Description Of Improvements For Exemption**

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Remodel Kitchen

7. Building Permit No. 21020021 8. Year Built 1980

9. Date of Commencement of making the improvement 2/2/21

10. Estimated market value of property before improvement \$ 166,400

11. Cost of making the improvement (all labor, material and overhead) \$ 13,000

12. Estimated market value of property after improvement \$ 171,400

**Applicant's Certification and Signature**

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.  
 Applicant's Signature Mary Vetter Date 11/29/21

**Assessor's Determination**

14. The local assessor finds that the improvements in this application has  has not  met the qualifications for exemption for the following reason(s):  
 Assessor's Signature Wils Steinhilber Date 12-15-2021

**Action of Governing Body**

15. Action taken on this application by local governing board of the county or city: Denied  Approved   
 Approval subject to the following conditions: \_\_\_\_\_  
 \_\_\_\_\_  
 Chairman of Governing Body \_\_\_\_\_ Date \_\_\_\_\_



ASSESSMENT DEPARTMENT

43k

December 15, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1521 7 Ave S as submitted Tayer Klizke. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$290 with the City of Fargo's share being \$50.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Splonskowski".

Mike Splonskowski  
City Assessor

nlb  
attachment

**Application For Property Tax Exemption For Improvements  
To Commercial And Residential Buildings**  
North Dakota Century Code ch. 57-02.2  
(File with the local city or township assessor)

**Property Identification**

1. Name of Property Owner TAYLER KLIZKE Phone No. 701-730-4404

2. Address of Property 1521 7 AVE S

City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. BLK 1 LT 9 DARLINGS 2ND

4. Parcel Number 01-0560-00090-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner SAME

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Description Of Improvements For Exemption**

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Finish portion of lower level. Minimum ceiling height is 7'.

7. Building Permit No. 21010694 8. Year Built 1922

9. Date of Commencement of making the improvement 03/26/2021

10. Estimated market value of property before improvement \$ 137,100

11. Cost of making the improvement (all labor, material and overhead) \$ 7,500

12. Estimated market value of property after improvement \$ \_\_\_\_\_

**Applicant's Certification and Signature**

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature Taylor Klizke Date 12/12/2021

**Assessor's Determination**

14. The local assessor finds that the improvements in this application has  has not  met the qualifications for exemption for the following reason(s): \_\_\_\_\_

Assessor's Signature [Signature] Date 12-17-2021

**Action of Governing Body**

15. Action taken on this application by local governing board of the county or city: Denied  Approved

Approval subject to the following conditions: \_\_\_\_\_

Chairman of Governing Body \_\_\_\_\_ Date \_\_\_\_\_

**Submit Via Email**

CITY OF  
**Fargo**  
ASSESSMENT DEPARTMENT

438

December 15, 2021

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1220 4 St N as submitted Eric and Jennifer Momsen. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$380 with the City of Fargo's share being \$65.

Sincerely,



Mike Splonskowski  
City Assessor

nlb  
attachment

# Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

### Property Identification

1. Legal description of the property for which exemption is claimed Pt of Lts 27 & 28, Blk 1, Holes 1st

2. Address of Property 1220 4 St N

3. Parcel Number 01-1360-00250-000

4. Name of Property Owner Eric & Jennifer Momsen Phone No. 701-318-7747

5. Mailing Address of Property Owner Same

### Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Main floor & 2nd floor baths taken down to studs & rebuilt updated plumbing/electrical as needed, moved some walls & created bedroom closet

7. Building permit No. 2107-0348 8. Year built (residential property) 1927

9. Date of commencement of making the improvements 07/13/2021

10. Estimated market value of property before the improvements \$ 279,500.00

11. Cost of making the improvement (all labor, material and overhead) \$ 80,000.00

12. Estimated market value of property after the improvements \$ 308,300.00

### Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant *Eric Momsen* Date 12/12/21

### Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do  do not  meet the qualifications for exemption for the following reason(s): \_\_\_\_\_

Assessor/Director of Tax Equalization *[Signature]* Date 12-17-2021

### Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved  Denied

Approval is subject to the following conditions: \_\_\_\_\_

Exemption is allowed for years 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_.

Chairperson \_\_\_\_\_ Date \_\_\_\_\_