

FARGO CITY COMMISSION AGENDA
Wednesday, January 8, 2025 - 5:00 p.m.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at 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.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, December 23, 2024).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Letter of Support for Small Wonders Preschool & Child Care Center.
- 2. 2nd reading, waive reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in Hal Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 12/23/24.
- 3. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Eagle Valley Fifth Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 12/23/24.
- 4. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 8-0602, of Article 8-06, of Chapter 8, of the Fargo Municipal Code, Relating to Starting, Stopping, or Turning Movements and Required Signals; 1st reading, 12/23/24.
- 5. Second Amendment to the Findings of Fact, Conclusions and Order regarding 909 4th Street North.
- 6. Amend Fargo Municipal Code sections 20-0403(C)(5)(e) and 20-0402(T)(3) to comply with the North Dakota Supreme Court decision.
- 7. Applications for Games of Chance:
 - a. F5 Project for a raffle on 1/27/25.
 - b. Fargo Air Museum for bingo on 1/23/25.
 - c. St. John Paul II Catholic Schools for a raffle on 1/31/25.
- 8. Concur with the findings of staff and the Liquor Control Board and apply the administrative penalty of a \$500.00 fine for a first failure to the liquor license violations identified at Buffalo Wild Wings-42nd Street South.
- 9. Concur with the findings of staff and the Liquor Control Board and apply the administrative penalty of a \$500.00 fine for a first failure to the liquor license violations identified at Rick's Bar.

10. Concur with the findings of staff and the Liquor Control Board and apply the administrative penalty of a \$500.00 fine for a first failure to the liquor license violations identified at Old Broadway.
11. Concur with the findings of staff and the Liquor Control Board and apply the administrative penalty of a \$500.00 fine for a first failure to the liquor license violations identified at Rhombus Guys.
12. Concur with the findings of staff and the Liquor Control Board and apply the administrative penalty of a \$750.00 fine for a second failure to the liquor license violations identified at VFW.
13. Memorandum of Offer to Landowner for Permanent Easement (Sidewalk) with Christopher Sanger (Improvement District No. BR-25-B1).
14. Memorandum of Offer to Landowner for Permanent Easement (Sidewalk) with Michele Sanger (Improvement District No. BR-25-B1).
15. Memorandum of Offer to Landowner for Permanent Easement (Sidewalk) with Jonathan B. and Marie T. Offutt (Improvement District No. BR-25-B1).
16. Memorandum of Offer to Landowner for Permanent Easement (Sidewalk) with Brian D. and Rochelle S. Durgin (Improvement District No. BR-25-B1).
17. Memorandum of Offer to Landowner for Permanent Easement (Sidewalk) with Gregory C. and Renee E. Danz (Improvement District No. BR-25-B1).
18. Memorandum of Offer to Landowner for Permanent Easement (Sidewalk) with Tiffaney Marie Persson (Improvement District No. BR-25-B1).
19. Change Order No. 4 in the amount of \$19,309.41 for Improvement District No. BR-24-B1.
20. Create Improvement District No. BR-25-F.
21. Negative Final Balancing Change Order No. 1 in the amount of -\$89,350.42 for Project No. PR-24-F2.
22. Bid advertisement for Project No. TN-24-A.
23. Bid advertisement for Project No. SN-25-A.
24. Master Service Agreements for Electrical Services, as presented (RFP25017).
25. Items from the FAHR Meeting:
 - a. Receive and file Sales Tax update.
 - b. 2024 to 2025 Capital Fund budget rollover request from the Fire Department.
 - c. Piggyback purchase through the State of ND contract with AVI Systems, Inc. for the broadcast display replacement project (PBC24052).
26. Contract with Bee Seen Gear for Fire Department Service Uniforms (RFP25003).
27. Purchase of Service Agreement with Cass Human Service Zone.

28. Notice of Grant Award Amendment for Ryan White Part B Program (CFDA #93.917).
29. Health Savings Account Administrative Services Agreement with WEX.
30. Resolution approving Plat of Estes Addition.
31. Mass Transit Agreement with the City of West Fargo for 2025.
32. Bills.

REGULAR AGENDA:

33. Recommendation for the alignment of the River Drive Shared Use Path.

PUBLIC HEARINGS - 5:15 pm:

34. **PUBLIC HEARING** – Renaissance Zone Rehabilitation Project for MBA Properties, LLC (Project 368-F) for the rehabilitation of a commercial property, including historic preservation tax credits at 701 Main Avenue.
35. **PUBLIC HEARING** – The District of Fargo Fifth Addition (3788 55th Avenue South); approval recommended by the Planning Commission on 12/3/24:
 - a. Zoning Change to repeal and reestablish a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
36. Discuss 2025 Request for Qualifications (RFQ) Process for the Fargo Civic Center.
37. Recommendation for appointment to the Liquor Control Board.
38. Applications for Property Tax Exemptions for Improvements Made to Buildings:
 - a. Thomas and Skylar Bailey, 1506 28 ½ Avenue South (5 years).
 - b. Melody Merrill, 60 6 Avenue North (5 years).
 - c. Jeanna Beyer, 910 35 Avenue South (5 years).
 - d. Mark and Kristi Erickson, 1452 5 Street South (5 years).
 - e. Christine Rose, 1261 Broadway North South (5 years).
 - f. Andrew and Hailey Stein, 3119 46 Avenue South (5 years).
 - g. Wade and Cheryl Iverson, 2620 Parkview Drive South (5 years).
 - h. Michael Toomey, 3302 1 Street North (5 years).
 - i. Paul and Marlys Bohrer, 2828 Parkview Drive South (5 years).
 - j. Heather Neal, 3014 18 Street South (5 years).
 - k. Megan Spencer and Chris Ingenansen, 2825 37 ½ Avenue South (5years).
 - l. Jared and Abigail Hineman, 101 Meadowlark Lane North (5 years).
 - m. Bradley Berg and Lorie Beauchamp, 2724 38 Avenue South (5 years).
 - n. Hannah Briard, 2515 2 Street North (5 years).
 - o. Britta Holland, 1513 11 Street South (5 years).
 - p. Michael and Kimberly Gruchalla, 2849 Lilac Lane North (5 years).
 - q. Kyle and Taylor Wieler, 105 26 Avenue North (5 years).
 - r. Shelly Schwandt, 1237 4 Street North (5 years).
39. Liaison Commissioner Assignment Updates.
40. **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).

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.



City Administration
225 4th Street North
Fargo, ND 58102

MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research



DATE: December 31, 2024

SUBJECT: Letter of Support for Child Care Facilities

The City of Fargo is a member of the North Dakota Opportunity Fund (NDOF) Consortium along with 37 other communities in North Dakota. This fund originated as part of the Small Business Jobs Act of 2010.

The fund provides loans and investments to small businesses. In order for a business to receive support, the Consortium requires an endorsement letter from the City indicating support for the project and NDOF involvement in the financing. There is no City financial support included or required with the letter of support.

Small Wonders Preschool & Child Care Center is in the process of building two brand new facilities to replace two current centers. The two new centers will each have the capacity to serve 330 children and employ up to 10 new employees at each location. The locations of the new facilities are 4651 30th Avenue South and 3889 51st Street South.

I have attached a letter that provides additional information on the facilities.

Recommended Motion

Provide a letter of support to the NDOF Consortium for the Small Wonders Preschool & Child Care Center for their two new facilities.



Small Wonders
Preschool & Child Care Center, Inc.

Amber Valley Center
4737, 4741 & 4745 Amber Valley Parkway
Fargo, ND 58104
(701) 271-0601

Brandt Crossing Center
3239 47th Street South
Fargo, ND 58104
(701) 356-4180

December 23, 2024

To Whom it May Concern:

This letter is to request support from the Fargo City Commission for the Prospective Flex Pace Application. Small Wonders Preschool and Child Care Center, Inc. is in the process of building two brand new facilities to replace our two current centers. Both of new facilities will offer a state-of-the-art facility to families, will provide childcare services for more children in the Fargo area, and will also offer additional teaching positions for those individuals who are seeking employment in the early childhood field. Our new facilities will enable Small Wonders to be able to provide additional care in a state-of-the-art building while also reducing our monthly rent and utilities expenses.

At each new location, our projection right now is to enroll an additional 30 children with our capacity increasing up to a maximum of 60 new children. Initially, this will create roughly four new teaching positions with a total of up to ten new teaching positions in the future at each location. Each of these new facilities will have the capacity to serve approximately 330 children. Your support for Small Wonders to receive approval for this program will provide us with an additional monthly savings that will ultimately help keep our tuition at a more affordable rate for our families while still allowing us to increase salaries for our teachers.

Thank you from the bottom of our hearts for your consideration and kindness for Small Wonders Preschool & Child Care Center, Inc.

God's blessings,

Lynnette Lein
Executive Director

2

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING A CERTAIN PARCEL
OF LAND LYING IN HAL ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on October 1, 2024; and,

WHEREAS, the rezoning changes were approved by the City Commission on December 23, 2024,

NOW, THEREFORE,

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

Section 1. The following described property:

All of HAL Addition to the City of Fargo, Cass County, North Dakota;
is hereby rezoned from "MR-3", Multi-Dwelling Residential, District, "L/C", Limited Commercial, District, and "DMU", Downtown Mixed-Use, District, to "DMU", Downtown Mixed-Use, District.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

3

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN EAGLE VALLEY FIFTH ADDITION TO THE
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the proposed rezoning of certain parcels of land lying in Eagle Valley Fifth Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on December 3, 2024; and,

WHEREAS, the rezoning changes were approved by the City Commission on December 23, 2024,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block One (1) of Eagle Valley Fifth Addition to the City of Fargo, Cass County, North Dakota,

that is currently zoned "LC", Limited Commercial, District, with an existing "C-O", Conditional Overlay, District, as established by Fargo Municipal Ordinance No. 5315, is hereby rezoned to "SR-5", Single-Dwelling Residential, District, repealing said "C-O", Conditional Overlay, District, in its entirety.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

3
4
5 (SEAL)

6 Attest:

7
8 _____
9 Steve Sprague, City Auditor

Timothy J. Mahoney, M.D., Mayor

First Reading:
Second Reading:
Final Passage:

(4)

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING SECTION 8-0602, OF ARTICLE 8-06,
2 OF CHAPTER 8, OF THE FARGO MUNICIPAL CODE,
3 RELATING TO STARTING, STOPPING, OR TURNING MOVEMENTS AND
4 REQUIRED SIGNALS.

5 WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in
6 accordance with Chapter 40-05.1 of the North Dakota Century Code; and

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

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

12 WHEREAS, the Board of City Commissioners deems it necessary and appropriate
13 to implement such authority by the adoption of this ordinance.

14 NOW, THEREFORE,

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

16 Section 1. Amendment.

17 Section 8-0602, of Article 8-06, of Chapter 8, of the Fargo Municipal Code, is amended as
18 follows:

19 8-0602.—Starting, stopping, or turning movements and required signals.

- 20 A. ~~Before starting, stopping, or turning a vehicle from a direct line, the driver shall first~~
21 ~~see that such movement can be made in safety, and if any pedestrian is affected by~~
22 ~~such movement, the driver shall be governed by provisions of article 8-07 of this~~
23 ~~chapter; and whenever the operation of any other vehicle is affected by such~~

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

movement, he shall give a signal plainly visible to the driver of such other vehicle of his intention to make such movement.

A driver shall not start, stop, turn, or merge a vehicle from a direct line until such movement may be made safely, and must give a plainly visual signal. If any pedestrian is affected by such movement, the driver shall also be governed by provisions of article 8-07 of this chapter.

- B. A signal of intention to turn right or left ~~when required~~ shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning. The signal may be given either by an approved mechanical or electrical signal device or by means of hand and arm as follows: Whenever the signal is given by means of hand and arm, the driver shall indicate his intention to make a left turn by extending the hand and arm horizontally, a right turn by extending the forearm and hand upward, and a stop by extending the arm outward and down; in each case the signal shall be made from and beyond the left side of the vehicle.
- C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

Section 2. Penalty.

A person who violates any section of Fargo Municipal Code section 8-0602 shall be deemed to have committed a noncriminal offense and shall be punished as provided in Section 1-0305(C)(4) of the Fargo Municipal Code, as may be amended from time to time.

Section 3. Effective Date.

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

Dr. Timothy J. Mahoney, Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading and Final Passage:
Publication:

**OFFICE OF THE
CITY ATTORNEY****CITY ATTORNEY**
Nancy J. Morris**SERKLAND LAW FIRM**

10 Roberts Street North

P.O. Box 6017

Fargo, ND 58108

Phone: 701.232.8957 | Fax: 701.237.4049

ASSISTANT CITY ATTORNEYS

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

January 2, 2025

Board of City Commissioners
City Hall
225 4th Street North
Fargo, ND 58102**RE: Dangerous Building located at 909 4th Street North**

Dear Commissioners,

Enclosed for your review and approval is the Second Amendment to the Findings of Fact, Conclusions and Order regarding the “dangerous building” at 909 4th Street North. At its December 23, 2024, meeting, the Board granted the property owner an extension of time to either demolish or sell the property “as is,” conditioned upon the buyer’s compliance with the International Property Maintenance Code, wherein the buyer would either demolish or seek the necessary permits to rehabilitate the property so that it is no longer deemed “dangerous.”

As such, the City Attorney’s Office was directed to prepare the appropriate Second Amendment to indicate said extension, which is enclosed for your consideration and approval.

Suggested Motion: I move to approve the Second Amendment to the Findings of Fact, Conclusions and Order, as presented.

Sincerely,

Alissa R. Farol Czapiewski
Assistant City Attorney

Enclosure

cc: Shawn Ouradnik, Inspections Department

SECOND AMENDMENT
FINDINGS OF FACT, CONCLUSIONS AND ORDER
of the
BOARD OF CITY COMMISSIONERS
OF THE CITY OF FARGO

Property Address: 909 4th Street North, Fargo, North Dakota

Property Owner: Wilmington Savings Fund Society, FBS, as Owner Trustee of the Residential
Credit Opportunities Trust VIII-C

A hearing was held before the Board of City Commissioners of the City of Fargo (hereinafter “Board”) on the 24th day of June 2024 regarding the property located at 909 4th Street North, Fargo, North Dakota (hereinafter “Subject Property”). The Board found the Subject Property (residential and garage structures) to be “dangerous buildings” and issued its Findings of Fact, Conclusions and Order, which was approved on July 8, 2024, a copy of which is attached hereto as **Exhibit 1**. The Board ordered that the Subject Property be demolished, and all debris removed on or before August 23, 2024. At that time, Wilmington Savings Fund Society, FBS (hereinafter “Wilmington”) was in legal foreclosure proceedings with the prior owners of the Subject Property, Noah T. Gunderson and Sarah M. Gunderson. On August 19, 2024, another hearing was held before the Board to request an extension of time as Wilmington since gained legal ownership of the Subject Property. The Board granted Wilmington an extension to September 16, 2024, to evaluate the Subject Property and provide a plan moving forward.

During this extension, it was discovered that the statutory redemption period for the Subject

Property would not expire until September 22, 2024. When the discrepancy was noticed, Wilmington requested an additional extension to allow time to clear any potential legal action, which was granted by the Board at its September 16, 2024, meeting, giving Wilmington until December 22, 2024, to evaluate the Subject Property and either demolish the “dangerous buildings” or seek the necessary permits to rehabilitate the structures so they are no longer dangerous.

During this time, Wilmington took possession of the Subject Property, cleared out all trash and debris, and maintained the securing of the “dangerous buildings.” During their assessment, Wilmington determined that it did not have the physical resources in the geographic area to feasibly financially repair the structures and decided to sell “as is.” While serious inquiries have been made, the Subject Property has not sold; therefore, at its December 23, 2024, meeting, Shawn Ouradnik, City of Fargo Building Inspections Director, recommended for the Board’s approval an extension of the December 22, 2024, deadline to April 25, 2025. The Board approved the extension request on December 23, 2024, and hereby makes the following Amended Findings of Fact:

AMENDED FINDINGS OF FACT

1. That Wilmington assessed the Subject Property and determined that it did not have the physical resources in the geographic area to feasibly financially repair the “dangerous buildings” and decided to sell the Subject Property “as is.”

2. Serious inquiries have been made by potential buyers, but the Subject Property has not sold; therefore, Wilmington requested an additional extension of time to either demolish the “dangerous buildings” pursuant to the terms and amendments of all previous Findings of Fact, Conclusions and Order, or sell the “Subject Property” “as is,” conditioned upon the buyer’s compliance with Section 111.6 of the IPMC on or before April 25, 2025.

3. That a “Notice of Dangerous Building” was recorded against the Subject Property with the Cass County Recorder’s Office on November 25, 2024, as Document No. 1724642, providing constructive notice to all potential buyers of the current condition of the Subject Property.

[Remainder of Page Intentionally Blank.]

AMENDED CONCLUSIONS AND ORDER

1. That on June 24, 2024, the Board found that the home and garage structures located at 909 4th Street North, Fargo, North Dakota 58102, were “dangerous buildings” and ordered their demolition on or before August 23, 2024.
2. The owner, Wilmington, has acknowledged this finding and waives the right to any appeal.
3. Wilmington has requested an extension of time to either demolish or sell the Subject Property “as is” by April 25, 2025, wherein the buyer will be accepting full responsibility for correcting the conditions found relating to the “dangerous buildings” pursuant to Section 111.6 of the International Property Maintenance Code (“IPMC”).
4. The Board considered and approved this request on December 23, 2024.
5. All other terms and amendments of the Findings of Fact, Conclusions and Order shall remain in full force and effect.

IT IS HEREBY ORDERED that Wilmington or anyone else claiming an ownership interest, shall either demolish the “dangerous buildings” and remove all building debris or sell the Subject Property “as is,” conditioned upon the buyer’s compliance with Section 111.6 of the IPMC on or before April 25, 2025.

It is further ordered that if the owner fails to demolish the “dangerous buildings” and remove all building debris or sell the Subject Property “as is,” conditioned upon the buyer’s compliance with Section 111.6 of the IPMC, on or before April 25, 2025, the City Auditor, Building Inspector and City Attorney are directed to act on behalf of the city of Fargo to cause the “dangerous buildings” to be demolished, and the cost of said demolition to be assessed against the Subject Property as provided in Section 21-0405 of the Fargo Municipal Code.

DATED this _____ day of January, 2025.

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

By _____
Timothy J. Mahoney, M.D., Mayor

ATTEST:

Steven Sprague, City Auditor

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

Property Address: 909 4th Street North, Fargo, North Dakota

Property Owner: Noah T. Gunderson and Sarah M. Gunderson

A hearing was held before the Board of City Commissioners of the City of Fargo on the 24th day of June, 2024 regarding the property located at 909 4th Street North, Fargo, North Dakota. Shawn Ouradnik, city of Fargo Building Inspections Director, appeared on behalf of the city of Fargo Inspections Department and provided testimony as to the condition of the property. Tyler Wirick, attorney for Wilmington Savings Fund Society, FBS, as Owner Trustee of the Residential Credit Opportunities Trust VIII-C ("Wilmington"), additionally appeared and provided testimony.

The Board heard the testimony offered by the Inspections Director and Mr. Wirick, considered the reports, evidence, and other information presented, and hereby makes the following Findings of Fact:

FINDINGS OF FACT

1. That Noah T. Gunderson and Sarah M. Gunderson are the owners of the following described real property located in the City of Fargo, County of Cass, and State of North Dakota:

Lot Four (4), Block Fifteen (15), Hector's Addition to the city of Fargo

Street address: 909 4th Street North, Fargo, North Dakota, 58102

[hereinafter "Subject Property"].

2. That the mortgage holder, Wilmington, instituted a foreclosure action and received judgment on January 29, 2024 (Case No. 09-2023-CV-02854). The sale of the property has not occurred.

3. That on April 19, 2024, Bill Thompson, Building Inspector for the city of Fargo, inspected the Subject Property and found the buildings, consisting of a two-story, wood-framed house structure and a detached two-stall garage, to be dangerous buildings within the standards outlined in Article 21-04 of the Fargo Municipal Code and Section 111.1.5 of the International Property Maintenance Code concerning dangerous structures.

4. That the buildings are unsafe and dangerous in the following respects: (a) garage roof has a noticeable sag and the rafters show signs of water damage; (b) large amounts of unpermitted electrical in the house and garage structures; (c) entry doors of house and garage are kicked in; (d) multiple broken windows; (e) missing siding on the house; (f) deteriorated weather barrier on house and garage trim, soffit, and fascia; (g) significant rot and deterioration of porch; (h) inhabitable rooms in the basement are used for sleeping purposes; (i) smoke alarms have been removed; (j) noticeable movement in the foundation and exposed foam covering the foundation walls; (k) portions of the kitchen ceiling have been removed; (l) water meter has been tampered with; and (m) drug paraphernalia and large amounts of garbage and junk found.

5. That the following conditions exist concerning the Subject Property:

- a. The buildings are unsafe, fail to provide the amenities essential to decent living, and are unfit for human habitation; and
- b. The buildings are unsafe or dangerous to the health, moral safety, or general welfare of the people of the City of Fargo.

6. That the information in the files of the Inspections Department stemming from various inspections of the property on or before April 19, 2024, concerning the Subject Property is hereby accepted as true and correct.

7. That Notice of Dangerous Building was posted to the house and garage on the property on or about April 22, 2024, under Municipal Code § 21-0404. The Notice of Dangerous Building informed the owner and all occupants, if any, that the "dangerous building" must be vacated and secured, and the building must be demolished, or any necessary and valid permits be obtained

EXHIBIT 1

within thirty (30) days from the date of the notice. Since the Notice of Dangerous Building was posted, the Subject Property was re-secured twice due to the unauthorized entrance of squatters.

CONCLUSIONS AND ORDER

Based on the foregoing Findings of Fact, the Board of City Commissioners hereby makes the following Conclusions:

1. That the buildings located at 909 4th Street North, Fargo, North Dakota 58102, are hereby found to be "dangerous buildings."
2. That the owners or anyone claiming to have an ownership interest in said buildings have not sufficiently presented cause why the "dangerous buildings" should not be demolished.
3. That despite being ordered that the buildings on the Subject Property should be demolished, or necessary and valid permits be obtained within thirty (30) days of the notice, the owners or anyone else claiming to have an ownership interest in said building have failed to do so.

IT IS HEREBY ORDERED that Noah T. Gunderson, Sarah M. Gunderson, or anyone else claiming an ownership interest, shall demolish the "dangerous buildings" and remove all building debris located at 909 4th Street North, Fargo, North Dakota by August 23, 2024.

It is further ordered that if the owners fail to demolish said "dangerous buildings," the City Auditor, Building Inspector, and City Attorney are directed to act on behalf of the city of Fargo to cause the "dangerous buildings" to be demolished, and the cost of said demolition to be assessed against the Subject Property as provided in Section 21-0405 of the Fargo Municipal Code.

DATED this 8 day of July, 2024.

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

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

ATTEST:


Steven Sprague, City Auditor

NOTICE OF ENTRY OF ORDER

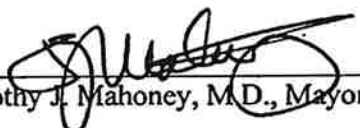
TO: NOAH T. GUNDERSON, SARAH M. GUNDERSON, AND ALL OTHER PERSONS
HAVING INTEREST IN THIS PROPERTY

RE: PROPERTY AT 909 4th STREET NORTH, FARGO, NORTH DAKOTA 58102

YOU ARE HEREBY GIVEN NOTICE that you shall have thirty (30) days from the date of service of Findings of Fact and Conclusions and Order of the Board of City Commissioners of the City of Fargo ("Order") upon you in which to appeal the Order to the District Court of Cass County, North Dakota, or to take such other legal action to enjoin the enforcement of this Order as you deem proper, all under the appeal procedure outlined in Fargo Municipal Code § 21-0412. You are further given notice that the "dangerous buildings" on the Subject Property may be demolished by the city of Fargo at any time on or after August 23, 2024.

DATED this 8 day of July, 2024.

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

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

ATTEST:


Steven Sprague, City Auditor

CITY ATTORNEY

Nancy J. Morris

ASSISTANT CITY ATTORNEYS

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

6

January 2, 2025

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

RE: Amending Fargo Municipal Code sections 20-0403(C)(5)(e) and 20-0402(T)(3) to comply with the North Dakota Supreme Court decision.

Dear Commissioners:

On December 19, 2024, the North Dakota Supreme Court issued its ruling that North Dakota Century Code sections 40-05.1-06 and 62.1-01-03, as amended in 2023, are constitutional and expressly preempt and render void Fargo Municipal Code sections 20-0403(C)(5)(e) and 20-0402(T)(3).

These Fargo Municipal Court sections had prohibited Fargo residents, within specifically zoned areas (primarily residential), from engaging in a home occupation relating to the sale of firearms and/or ammunition, and the production of ammunition for sale and or resale. In effect, with these sections of the Fargo Municipal Code having been rendered void, residents may now engage in these home occupations subject to the same restrictions which apply to all other home occupations which are allowed in Fargo.

As the North Dakota Supreme Court has ruled that Fargo Municipal Code sections 20-0403(C)(5)(e) and 20-0402(T)(3) are void and unenforceable, it is the City Attorney Office's recommendation that these specific sections be removed from the Fargo Municipal Code in order to comply with the North Dakota Supreme Court decision.

Recommend Motion: I move to direct the City Attorney's Office to amend the subject ordinances to comply with the North Dakota Supreme Court opinion and to present the amended ordinances to the City Commission at the next regularly scheduled City Commission meeting.

Sincerely,



Ian R. McLean

Assistant City Attorney



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 GAMING DIVISION
 SFN 9336 (9-2023)

Approved by City of Fargo, Auditors Office

Applying for (check one)
☒ Local Permit ☐ Restricted Event Permit*

Games to be conducted ☐ Raffle by a Political or Legislative District Party

☐ Bingo ☒ Raffle ☐ Raffle Board ☐ Calendar Raffle ☐ Sports Pool ☐ Poker* ☐ Twenty-One* ☐ Paddlewheels*

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.
LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group FS PROJECT		Dates of Activity (Does not include dates for the sales of tickets) 1-27-2025	
Organization or Group Contact Person BRODY CLARKE	E-mail BRODY@FSPROJECT.ORG	Telephone Number 701-960-9464	
Business Address 1122 1ST AVE N	City FARGO	State ND	ZIP Code 58102
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name SUITE 548TS		County CASS	
Site Physical Address 3400 JAMES WAY S	City FARGO	State ND	ZIP Code 58104
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) RAFFLE 1/27/25			

PRIZE / AWARD INFO (if more than THREE prizes please attach an additional sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
	SEE ATTACHED	
Total (limit \$40,000 per year)		\$ 2,079

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds **Books and Training**

Does the organization presently have a state gaming license? (If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240)
☐ Yes ☒ No

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit)
☐ Yes ☒ No

Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)
☒ No ☐ Yes - Total Retail Value: **—** (This amount is part of the total prize limit for \$40,000 per fiscal year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)
☐ Yes ☒ No

Printed Name of Organization Group's Permit Organizer BRODY CLARKE	Telephone Number 701-960-9464	E-mail Address BRODY@FSPROJECT.ORG
Signature of Organization Group's Permit Organizer <i>[Signature]</i>	Title DIRECTOR OF YOUTH PROGRAMS	Date 12/20/24



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9336 (9-2023)

Approved by City of Fargo, Auditors Office

Applying for (check one)

☒ Local Permit ☐ Restricted Event Permit*

Games to be conducted

☒ Bingo ☐ Raffle ☐ Raffle Board ☐ Calendar Raffle ☐ Sports Pool ☐ Poker* ☐ Twenty-One* ☐ Paddlewheels*

LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group Fargo Air Museum		Dates of Activity (Does not include dates for the sales of tickets) 01/23/25	
Organization or Group Contact Person Alex Day	E-mail alex@fargoairmuseum.org	Telephone Number 701-293-8043	
Business Address 1609 19th Ave N	City Fargo	State ND	ZIP Code 58102
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Fargo Air Museum		County Cass	
Site Physical Address 1609 19th Ave N		City Fargo	State ND
		ZIP Code 58102	
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)			
January Bingo Night 01/23/2025			

PRIZE / AWARD INFO (If more than 1 prize, please specify prize in each space)

Game Type	Description of Prize	Exact Retail Value of Prize
	See attached	
	Total limit \$40,000 per year	\$ 650.00

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds

Proceeds will be used to fund education classes, airplane restoration, & Veteran Services @ the museum

Does the organization presently have a state gaming license? (If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240)

☐ Yes ☒ No

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit)

☐ Yes ☒ No

Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)

☐ No ☒ Yes - Total Retail Value, \$612.99 (This amount is part of the total prize limit for \$40,000 per fiscal year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)

☐ Yes ☒ No

Printed Name of Organization Group's Permit Organizer <i>Army OTH</i>	Telephone Number <i>202-293-8043</i>	E-mail Address <i>Ann@Perq.scar.museum.org</i>
Signature of Organization Group's Permit Organizer <i>Ann OTH</i>	Title <i>Director of Operations</i>	Date <i>12-19-21</i>



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (9-2023)

Approved by City of Fargo, Auditors Office

7c vpd 12/23/24

Applying for (check one)									
<input checked="" type="checkbox"/> Local Permit	<input type="checkbox"/> Restricted Event Permit*								
Games to be conducted					<input type="checkbox"/> Raffle by a Political or Legislative District Party				
<input type="checkbox"/> Bingo	<input checked="" type="checkbox"/> Raffle	<input type="checkbox"/> Raffle Board	<input type="checkbox"/> Calendar Raffle	<input type="checkbox"/> Sports Pool	<input type="checkbox"/> Poker*	<input type="checkbox"/> Twenty-One*	<input type="checkbox"/> Paddlewheels*		

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.
LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group		Dates of Activity (Does not include dates for the sales of tickets)	
St. John Paul II Catholic Schools		01/31/2025	
Organization or Group Contact Person	E-mail	Telephone Number	
Liz. Bassett	liz.bassett@jp2schools.org	701-893-3242	
Business Address	City	State	ZIP Code
5600 25th Street S	Fargo	ND	58104
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name		County	
Nativity Elementary School		Cass	
Site Physical Address	City	State	ZIP Code
1825 11th Street S	Fargo	ND	58103
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)			
1 - 31 - 2025			

PRIZE / AWARD INFO (If More Prizes, Attach An Additional Sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	Cash	\$500
Raffle	Cash	\$250
Raffle	Cash	\$100
Raffle Board Solo Stove \$450		Total (limit \$40,000 per year) \$1,300

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds	
Support JP2 Catholic Schools daily operational needs	
Does the organization presently have a state gaming license? (If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240)	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit)	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)	
<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes - Total Retail Value: \$7,000 (This amount is part of the total prize limit for \$40,000 per fiscal year)
Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Printed Name of Organization Group's Permit Organizer	Telephone Number	E-mail Address
Liz Bassett	701-893-3242	liz.bassett@jp2schools.org
Signature of Organization Group's Permit Organizer	Title	Date
	Special Events Coordinator	08/26/2024

8

AUDITOR'S OFFICE

Fargo City Hall
225 4th Street North
PO Box 2471

Fargo, ND 58108
Phone: 701.241.8108 | Fax: 701.241.8184
www.FargoND.gov

December 23, 2024

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: Buffalo Wild Wings

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1509 of the Fargo Municipal Code. The Liquor Control Board met on December 18, 2024 at 1:30 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Police Department and Auditor's office and recommended following the established administrative penalty, compliance check failure service to a minor. This is a first compliance check failure, the penalty is \$500. The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the administrative penalty (\$500 fine, first failure) to the liquor license violations identified at Buffalo Wild Wings

December 23, 2024

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: Ricks Bar

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1509 of the Fargo Municipal Code. The Liquor Control Board met on December 18, 2024 at 1:30 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Police Department and Auditor's office and recommended following the established administrative penalty, compliance check failure service to a minor. This is a first compliance check failure, the penalty is \$500. The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the administrative penalty (\$500 fine, first failure) to the liquor license violations identified at Ricks Bar

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AUDITOR'S OFFICE

Fargo City Hall
225 4th Street North
PO Box 2471
Fargo, ND 58108
Phone: 701.241.8108 | Fax: 701.241.8184
www.FargoND.gov

December 23, 2024

To: Board of City Commissioners
From: Steven Sprague, City Auditor
Re: Old Broadway

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1509 of the Fargo Municipal Code. The Liquor Control Board met on December 18, 2024 at 1:30 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Police Department and Auditor's office and recommended following the established administrative penalty, compliance check failure service to a minor. This is a first compliance check failure, the penalty is \$500. The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the administrative penalty (\$500 fine, first failure) to the liquor license violations identified at Old Broadway



AUDITOR'S OFFICE

Fargo City Hall
225 4th Street North
PO Box 2471
Fargo, ND 58108
Phone: 701.241.8108 | Fax: 701.241.8184
www.FargoND.gov

December 23, 2024

To: Board of City Commissioners
From: Steven Sprague, City Auditor
Re: Rhombus Guys

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1509 of the Fargo Municipal Code. The Liquor Control Board met on December 18, 2024 at 1:30 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Police Department and Auditor's office and recommended following the established administrative penalty, compliance check failure service to a minor. This is a first compliance check failure, the penalty is \$500. The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the administrative penalty (\$500 fine, first failure) to the liquor license violations identified at Rhombus Guys

12

AUDITOR'S OFFICE

Fargo City Hall
225 4th Street North
PO Box 2471

Fargo, ND 58108
Phone: 701.241.8108 | Fax: 701.241.8184
www.FargoND.gov

August 19, 2024

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: VFW

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1509 of the Fargo Municipal Code. The Liquor Control Board met on December 18, 2024 at 1:30 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Police Department and Auditor's office and recommended following the established administrative penalty, compliance check failure service to a minor. This is a second compliance check failure, the penalty is \$750. The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the administrative penalty (\$750 fine, second failure) to the liquor license violations identified at VFW

December 24, 2024

13

Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

**Re: Memorandum of Offer to Landowner
Permanent Easement – Improvement District #BR-25-B1**

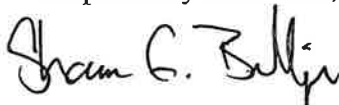
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a permanent easement in association with Improvement District #BR-25-B1. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a permanent easement from **Christopher Sanger** in association with Improvement District #BR-25-B1 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Jason Leonard
Kasey McNary

MEMORANDUM OF OFFER TO LANDOWNER

City of Fargo, Engineering Department

Project BR-25-B1	County Cass	Parcel(s) 01-0780-01980-000
Landowner Christopher Sanger		
Mailing Address 1006 7th ST S Fargo, ND 58103		

The following-described real property and/or related temporary easement areas are being acquired for project purposes:

See enclosed easement(s).

I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 2,867.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	
Easement and Access Control	\$	<u>2,867.00</u>
Improvements on Right of Way*	\$	
Damages to Remainder	\$	
Total Offer	\$	<u>2,867.00</u>

*Description of Damages to Remainder are as follows:

Christopher Sanger
Owner Signature
Signature hereby constitutes acceptance of offer as presented above.

Shawn G. Bullinger
Shawn G. Bullinger
Land Acquisition Specialist, City of Fargo

Fargo City Commision has considered the offer and approves the same:



Timothy J. Mahoney

MAYOR

SIGNATURE

DATE

PERMANENT EASEMENT
(Sidewalk)

KNOW ALL MEN BY THESE PRESENTS that **Christopher Sanger**, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to them in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of constructing and maintaining a sidewalk and associated improvements, together with the customary appurtenances, said tract being more particularly described as follows:

A tract of land in Lots 16 and 17, Block Y, ERSKIN’S ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as follows:

The westerly 9.0 feet of said Lots 16 and 17.

Said tract contains 450 square feet, more or less.

Grantor, its successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agree that they will not disturb, injure, molest or in any manner interfere with said sidewalk and customary appurtenances, or with material for

laying, maintaining, operating or repairing the same, in, over or upon the above described premises, and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said sidewalk, including customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said sidewalk and customary appurtenances was begun.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 29 day of OCTOBER, 2024.

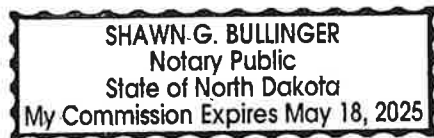
GRANTOR:

Christopher Sanger
Christopher Sanger

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this 29 day of OCTOBER, 2024, before me, a notary public in and for said county and state, personally appeared **Christopher Sanger**, to me known to be the persons who are described in, and that they executed the within and foregoing instrument, and acknowledged to me that they executed the same.

(SEAL)



Shawn G. Bullinger
Notary Public
My Commission Expires:

GRANTEE:

City of Fargo, North Dakota, a North Dakota
Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2024, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
Justin W. Zastrow (LS 27985)
Professional Land Surveyor
City of Fargo – Engineering Dept.
225 4th Street North
Fargo ND 58102
(701) 476-6796

This document prepared by:
Kasey D. McNary (ND# 06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street North
Fargo, ND 58102
(701) 232-8957

14

December 24, 2024

Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

**Re: Memorandum of Offer to Landowner
Permanent Easement – Improvement District #BR-25-B1**

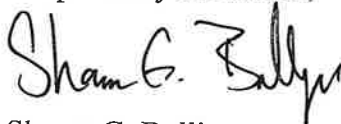
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a permanent easement in association with Improvement District #BR-25-B1. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a permanent easement from **Michele Sanger** in association with Improvement District #BR-25-B1 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Jason Leonard
Kasey McNary

MEMORANDUM OF OFFER TO LANDOWNER

City of Fargo, Engineering Department

Project BR-25-B1	County Cass	Parcel(s) 01-0780-01970-000
Landowner Michele Sanger		
Mailing Address 1002 7th ST S Fargo, ND 58103		

The following-described real property and/or related temporary easement areas are being acquired for project purposes:

See enclosed easement(s).

I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 2,867.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	
Easement and Access Control	\$	<u>2,867.00</u>
Improvements on Right of Way*	\$	
Damages to Remainder	\$	
Total Offer	\$	<u>2,867.00</u>

*Description of Damages to Remainder are as follows:


Owner Signature
Signature hereby constitutes acceptance of offer as presented above.


Shawn G. Bullinger
Land Acquisition Specialist, City of Fargo



Fargo City Commission has considered the offer and approves the same:

Timothy J. Mahoney

MAYOR

SIGNATURE

DATE

PERMANENT EASEMENT
(Sidewalk)

KNOW ALL MEN BY THESE PRESENTS that **Michele Sanger**, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to them in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of constructing and maintaining a sidewalk and associated improvements, together with the customary appurtenances, said tract being more particularly described as follows:

A tract of land in Lots 14 and 15, Block Y, ERSKIN’S ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as follows:

The westerly 9.0 feet of said Lots 14 and 15.

Said tract contains 450 square feet, more or less.

Grantor, its successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agree that they will not disturb, injure, molest or in any manner interfere with said sidewalk and customary appurtenances, or with material for

laying, maintaining, operating or repairing the same, in, over or upon the above described premises, and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said sidewalk, including customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said sidewalk and customary appurtenances was begun.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 7th day of NOVEMBER, 2024.

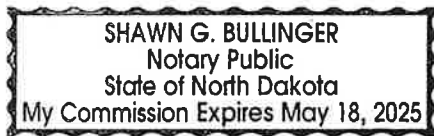
GRANTOR:

Michele Sanger
Michele Sanger

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this 7th day of NOVEMBER, 2024, before me, a notary public in and for said county and state, personally appeared **Michele Sanger**, to me known to be the persons who are described in, and that they executed the within and foregoing instrument, and acknowledged to me that they executed the same.

(SEAL)



Shawn G. Bullinger
Notary Public
My Commission Expires:

GRANTEE:

City of Fargo, North Dakota, a North Dakota
Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2024, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
Justin W. Zastrow (LS 27985)
Professional Land Surveyor
City of Fargo – Engineering Dept.
225 4th Street North
Fargo ND 58102
(701) 476-6796

This document prepared by:
Kasey D. McNary (ND# 06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street North
Fargo, ND 58102
(701) 232-8957

December 24, 2024

Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

**Re: Memorandum of Offer to Landowner
Permanent Easement – Improvement District #BR-25-B1**

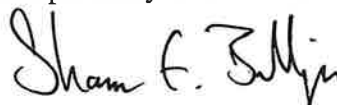
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a permanent easement in association with Improvement District #BR-25-B1. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a permanent easement from **Jonathan B & Marie T Offutt** in association with Improvement District #BR-25-B1 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Jason Leonard
Kasey McNary

Project BR-25-B1	County Cass	Parcel(s) 01-0780-02000-000
Landowner Jonathan B & Marie T Offutt		
Mailing Address 1014 7th ST S Fargo, ND 58103		

The following-described real property and/or related temporary easement areas are being acquired for project purposes:

--


I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 2,708.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	
Easement and Access Control	\$	2,708.00
Improvements on Right of Way*	\$	
Damages to Remainder	\$	
Total Offer	\$	2,708.00

*Description of Damages to Remainder are as follows:

--


Owner Signature
Signature hereby constitutes acceptance of offer as presented above.


Shawn G. Bullinger
Land Acquisition Specialist, City of Fargo


Owner Signature
Signature hereby constitutes acceptance of offer as presented above.

Fargo City Commision has considered the offer and approves the same:

Timothy J. Mahoney

MAYOR

SIGNATURE

DATE

PERMANENT EASEMENT
(Sidewalk)

KNOW ALL MEN BY THESE PRESENTS that **Jonathan B. Offutt and Marie T. Offutt**, hereinafter referred to collectively as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to them in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of constructing and maintaining a sidewalk and associated improvements, together with the customary appurtenances, said tract being more particularly described as follows:

A tract of land in Lots 20 and 21, Block Y, **ERSKIN’S ADDITION** to the City of Fargo, Cass County, North Dakota more particularly described as follows:

The westerly 8.5 feet of said Lots 20 and 21.

Said tract contains 425 square feet, more or less.

Grantor, its successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agree that they will not disturb, injure, molest or

in any manner interfere with said sidewalk and customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above described premises, and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said sidewalk, including customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said sidewalk and customary appurtenances was begun.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 23 day of September, 2024.

GRANTOR:


Jonathan B. Offutt

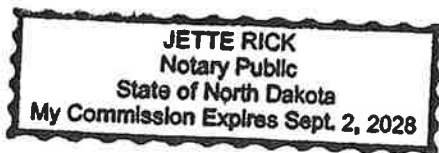

Marie T. Offutt

STATE OF NORTH DAKOTA)

COUNTY OF CASS)

On this 23 day of September, 2024, before me, a notary public in and for said county and state, personally appeared **Jonathan B. Offutt** and **Marie T. Offutt**, to me known to be the persons who are described in, and that they executed the within and foregoing instrument, and acknowledged to me that they executed the same.

(SEAL)




Notary Public
My Commission Expires: 9/2/2028

GRANTEE:

City of Fargo, North Dakota, a North Dakota
Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2024, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
Justin W. Zastrow (LS 27985)
Professional Land Surveyor
City of Fargo – Engineering Dept.
225 4th Street North
Fargo ND 58102
(701) 476-6796

This document prepared by:
Kasey D. McNary (ND# 06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street North
Fargo, ND 58102
(701) 232-8957

16

December 24, 2024

Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

**Re: Memorandum of Offer to Landowner
Permanent Easement – Improvement District #BR-25-B1**

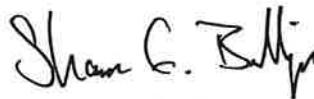
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a permanent easement in association with Improvement District #BR-25-B1. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a permanent easement from **Brian D & Rochelle S Durgin** in association with Improvement District #BR-25-B1 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Jason Leonard
Kasey McNary


Project BR-25-B1	County Cass	Parcel(s) 01-0780-02020-000
Landowner Brian D & Rochelle S Durgin		
Mailing Address 1024 7th ST S Fargo, ND 58103		


The following-described real property and/or related temporary easement areas are being acquired for project purposes:

I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 2,549.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	
Easement and Access Control	\$	<u>2,549.00</u>
Improvements on Right of Way*	\$	
Damages to Remainder	\$	
Total Offer	\$	<u>2,549.00</u>

*Description of Damages to Remainder are as follows:


Owner Signature
Signature hereby constitutes acceptance of offer as presented above.


Owner Signature
Signature hereby constitutes acceptance of offer as presented above.


Shawn G. Bullinger
Land Acquisition Specialist, City of Fargo

Fargo City Commission has considered the offer and approves the same:

Timothy J. Mahoney
MAYOR

SIGNATURE

DATE

PERMANENT EASEMENT
(Sidewalk)

KNOW ALL MEN BY THESE PRESENTS that **Brian D. Durgin and Rochelle S. Durgin**, hereinafter referred to collectively as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to them in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of constructing and maintaining a sidewalk and associated improvements, together with the customary appurtenances, said tract being more particularly described as follows:

A tract of land in Lots 1 and 24, Block Y, ERSKINE’S ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as follows:

The westerly 8.0 feet of said Lots 1 and 24.

Said tract contains 400 square feet, more or less.

Grantor, its successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agree that they will not disturb, injure, molest or


in any manner interfere with said sidewalk and customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above described premises, and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said sidewalk, including customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said sidewalk and customary appurtenances was begun.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 24 day of OCTOBER, 2024.

GRANTOR:

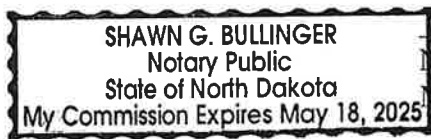

Brian D. Durgin

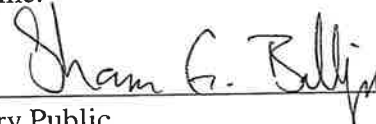

Rochelle S. Durgin

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this 24 day of OCTOBER, 2024, before me, a notary public in and for said county and state, personally appeared **Brian D. Durgin** and **Rochelle S. Durgin**, to me known to be the persons who are described in, and that they executed the within and foregoing instrument, and acknowledged to me that they executed the same.

(SEAL)




Notary Public
My Commission Expires:

GRANTEE:

City of Fargo, North Dakota, a North Dakota
Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2024, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
Justin W. Zastrow (LS 27985)
Professional Land Surveyor
City of Fargo – Engineering Dept.
225 4th Street North
Fargo ND 58102
(701) 476-6796

This document prepared by:
Kasey D. McNary (ND# 06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street North
Fargo, ND 58102
(701) 232-8957

December 24, 2024

Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

**Re: Memorandum of Offer to Landowner
Permanent Easement – Improvement District #BR-25-B1**

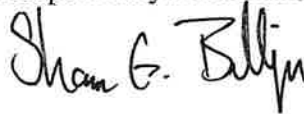
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a permanent easement in association with Improvement District #BR-25-B1. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a permanent easement from **Gregory C & Renee E Danz** in association with Improvement District #BR-25-B1 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Jason Leonard
Kasey McNary

Project BR-25-B1	County Cass	Parcel(s) 01-0780-02010-000
Landowner Gregory C & Renee E Danz		
Mailing Address 1020 7th ST S Fargo, ND 58103		

The following-described real property and/or related temporary easement areas are being acquired for project purposes:

--


I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 2,549.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:


Land	\$	
Easement and Access Control	\$	2,549.00
Improvements on Right of Way*	\$	
Damages to Remainder	\$	
Total Offer	\$	2,549.00

*Description of Damages to Remainder are as follows:

--


Owner Signature
Signature hereby constitutes acceptance of offer as presented above.


Owner Signature
Signature hereby constitutes acceptance of offer as presented above.


Shawn G. Bullinger
Land Acquisition Specialist, City of Fargo

Fargo City Commission has considered the offer and approves the same:

Timothy J. Mahoney

MAYOR

SIGNATURE

DATE

PERMANENT EASEMENT
(Sidewalk)

KNOW ALL MEN BY THESE PRESENTS that **Gregory C. Danz and Renee E. Danz**, hereinafter referred to collectively as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to them in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of constructing and maintaining a sidewalk and associated improvements, together with the customary appurtenances, said tract being more particularly described as follows:

A tract of land in Lots 22 and 23, Block Y, ERSKINE’S ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as follows:

The westerly 8.0 feet of said Lots 22 and 23.

Said tract contains 400 square feet, more or less.

Grantor, its successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agree that they will not disturb, injure, molest or

in any manner interfere with said sidewalk and customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above described premises, and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said sidewalk, including customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said sidewalk and customary appurtenances was begun.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 7th day of November, 2024.

GRANTOR:

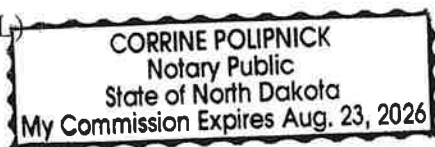
Gregory C. Danz
Gregory C. Danz

Renee E. Danz
Renee E. Danz

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this 7th day of November, 2024, before me, a notary public in and for said county and state, personally appeared **Gregory C. Danz** and **Renee E. Danz**, to me known to be the persons who are described in, and that they executed the within and foregoing instrument, and acknowledged to me that they executed the same.

(SEAL)



Corrine Polipnick
Notary Public
My Commission Expires:

GRANTEE:

City of Fargo, North Dakota, a North Dakota
Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2024, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
Justin W. Zastrow (LS 27985)
Professional Land Surveyor
City of Fargo – Engineering Dept.
225 4th Street North
Fargo ND 58102
(701) 476-6796

This document prepared by:
Kasey D. McNary (ND# 06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street North
Fargo, ND 58102
(701) 232-8957

18

December 24, 2024

Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

**Re: Memorandum of Offer to Landowner
Permanent Easement – Improvement District #BR-25-B1**

Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a permanent easement in association with Improvement District #BR-25-B1. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a permanent easement from **Tiffany Marie Persson** in association with Improvement District #BR-25-B1 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Jason Leonard
Kasey McNary

MEMORANDUM OF OFFER TO LANDOWNER

City of Fargo, Engineering Department

Project BR-25-B1	County Cass	Parcel(s) 01-0780-01990-000
Landowner Tiffaney Marie Persson		
Mailing Address 1010 7th ST S Fargo, ND 58103		


The following-described real property and/or related temporary easement areas are being acquired for project purposes:

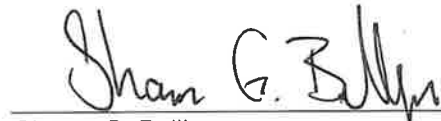
See enclosed easement(s).

I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 2,708.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	
Easement and Access Control	\$	2,708.00
Improvements on Right of Way*	\$	
Damages to Remainder	\$	
Total Offer	\$	2,708.00

*Description of Damages to Remainder are as follows:


Owner Signature
Signature hereby constitutes acceptance of offer as presented above.


Shawn G. Bullinger
Land Acquisition Specialist, City of Fargo

Fargo City Commision has considered the offer and approves the same:



Timothy J. Mahoney
MAYOR
SIGNATURE
DATE

PERMANENT EASEMENT
(Sidewalk)

KNOW ALL MEN BY THESE PRESENTS that **Tiffany Marie Persson**, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to them in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of constructing and maintaining a sidewalk and associated improvements, together with the customary appurtenances, said tract being more particularly described as follows:

A tract of land in Lots 18 and 19, Block Y, ERSKINE’S ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as follows:

The westerly 8.5 feet of said Lots 18 and 19.

Said tract contains 425 square feet, more or less.

Grantor, its successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.


Grantor, its successors and assigns, further agree that they will not disturb, injure, molest or in any manner interfere with said sidewalk and customary appurtenances, or with material for

laying, maintaining, operating or repairing the same, in, over or upon the above described premises, and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said sidewalk, including customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said sidewalk and customary appurtenances was begun.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 23 day of DECEMBER, 2024.

GRANTOR:

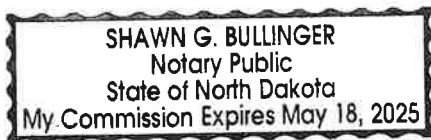


Tiffany Marie Persson

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this 23 day of DECEMBER, 2024, before me, a notary public in and for said county and state, personally appeared **Tiffany Marie Persson**, to me known to be the persons who are described in, and that they executed the within and foregoing instrument, and acknowledged to me that they executed the same.

(SEAL)





Notary Public
My Commission Expires:

GRANTEE:

City of Fargo, North Dakota, a North Dakota
Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2024, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
Justin W. Zastrow (LS 27985)
Professional Land Surveyor
City of Fargo – Engineering Dept.
225 4th Street North
Fargo ND 58102
(701) 476-6796

This document prepared by:
Kasey D. McNary (ND# 06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street North
Fargo, ND 58102
(701) 232-8957

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

19

Improvement District No. BR-24-B1

Type: Change Order #4

Location: 9th St S, 9th – 13th Ave, 9th & 11th Ave S from
8th – 10th St, 10th & 12th Ave S, 9th – 10th St

Date of Hearing: 12/30/2024

RoutingDate

City Commission

1/8/2025

PWPEC File

X

Project File

Will Bayuk

The Committee reviewed the accompanying correspondence from Project Manager, Will Bayuk, related to Change Order #4 in the amount of \$19,309.41 for additional work.

Staff is recommending approval of Change Order #4 in the amount of \$19,309.41, which brings the total contract amount to \$4,197,972.91.

On a motion by Brenda Derrig, seconded by Ben Dow, the Committee voted to recommend approval of Change Order #4 to Dakota Underground Co., Inc.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #4 in the amount of \$19,309.41, bringing the total contract amount to \$4,197,972.91 to Dakota Underground Co., Inc.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Waste Water, Water, Storm, Traffic/Street Light, Sales Tax, Prairie Dog Funds & Special Assessments

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

Yes	No
N/A	
N/A	
N/A	

COMMITTEE

Tim Mahoney, Mayor
Nicole Crutchfield, Director of Planning
Steve Dirksen, Fire Chief
Brenda Derrig, Assistant City Administrator
Ben Dow, Director of Operations
Steve Sprague, City Auditor
Tom Knakmuhs, City Engineer
Susan Thompson, Finance Director

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

ATTEST:

C: Kristi Olson

T. Knakmuhs
Tom Knakmuhs, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Will Bayuk, PE, Project Manager
Date: December 30, 2024
Re: Improvement District No. BR-24-B1 – Change Order #4

Background:

Improvement District No. BR-24-B1 is for the reconstruction of 9th Street South from 9th Avenue to 13th Avenue, 9th and 11th Avenue South from 8th Street to 10th Street, and 10th and 12th Avenue South from 9th Street to 10th Street.

Dakota Underground is the Prime Contractor on this project.

I am writing to seek your approval for the attached Change Order #4, which details additional work performed by the Contractor due to unforeseen circumstances encountered during the ongoing construction project. The total amount for this change order is \$19,309.41.

Details of the Additional Work:

During construction of Phase 3 of the project, the Contractor encountered subgrade soils that were deemed unsuitable by the Engineer. A soil correction was performed to remove the unsuitable soils to an average depth of 14 inches, install woven geotextile fabric at that depth, and install crushed concrete back up to subgrade elevation. The total time of the soil correction was 7.5 hours. The attached documents show the Contractors cost breakouts for this extra work.

The additional work outlined above was critical to ensuring the safety, functionality, and compliance of the construction project. All changes have been reviewed and verified by our engineering team to ensure necessity and accuracy.

Recommended Motion:

Approval of Change Order #4 in the amount of \$19,309.41 for additional work to Dakota Underground.

WRB/klb
Attachment

CHANGE ORDER REPORT
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-24-B1
9TH ST S FROM 9TH AVE S TO 13TH AVE S, 9TH AVE S FROM 10TH ST S TO 8TH ST
S, 10TH AVE S FROM 10TH ST S TO 9TH ST S, 11TH AVE S FROM 10TH ST S TO 8TH
ST S, 12TH AVE S FROM 10TH ST S TO 9TH ST S

Change Order No 4 Change Order Date 11/12/2024
Contractor Dakota Underground Co Inc

This change is made under the terms of or is supplemental to your present contract, if and when approved, you are ordered to perform the work in accordance with the additions, changes, or alterations hereinafter described.

EXPLANATION OF CHANGE Change Order # 4

During construction of Phase 3 of the project, the Contractor encountered subgrade soils that were deemed unsuitable by the Engineer. A soil correction was performed to remove the unsuitable soils to an average depth of 14 inches, install woven geotextile fabric at that depth, and install crushed concrete back up to subgrade elevation.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Change Order 4	25	Remove Manhole	EA	0	0	0	1	1	\$18,221.31	\$18,221.31
								Change Order 4 Sub Total		\$18,221.31
Paving	68	F&I Woven Geotextile	SY	13825		13825	558	14383	\$1.95	\$1,088.10
								Paving Sub Total		\$1,088.10

Summary	
Source Of Funding	Waste Water Utility Funds, Water Utility Funds, Storm Utility Funds, Traffic/Street Light Utility Funds, Street Sales Tax Funds, Prairie Dog Funds, and Special Assessments
Net Amount Change Order # 4 (\$)	\$19,309.41
Previous Change Orders (\$)	\$71,537.41
Original Contract Amount (\$)	\$4,107,126.09
Total Contract Amount (\$)	\$4,197,972.91

I hereby accept this order both as to work to be performed and prices on which payment shall be based.

APPROVED		APPROVED DATE
For Contractor		
Title	Dakota Underground Company	Department Head
	Project Manager	Mayor
		Attest

6/26/2024

BR 24-B1	Description
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Subcut clay

Employee	Rate	Hours	Amount
Adam Endres	\$78.75	13	\$1,023.75
Collin Miller	\$58.50	3	\$175.50
Kurt Dwyer	\$94.50	3	\$283.50
Billy Wolfe	\$72.00	3	\$216.00
Kevin Jackson	\$78.75	10	\$787.50
Subtotal			\$2,486.25
+ 25% profit & overhead			\$621.56
Total Labor			\$3,107.81

Equipment	Rate	Hours	Amount
D6 Dozer	\$204.35	3	\$613.05
JD 135	\$107.38	3	\$322.14
JD 245	\$139.87	3	\$419.61
T870	\$89.83	3	\$269.49
Tandem Truck	\$83.63	10	\$836.30
Subtotal			\$2,251.52
+ 25% profit & overhead			\$562.93
Total Equipment			\$2,814.45

Material/Subs	Cost	Qty	Amount
- Crushed Concrete	\$25.00	498.44	\$12,461.00
- Fabric	\$1.95	612	\$1,193.40
- Export Clay	\$8.00	204	\$1,632.00
-			
-			
-			
-			
-			
-			
Subtotal			\$15,286.40
+ 25% profit & overhead			\$3,821.60
Total Material			\$19,108.00

	Amount
Total Labor	\$3,107.81
Total Equipment	\$2,814.45
Total Material	\$19,108.00
Total	\$24,676.40
+ 25% profit & overhead	\$6,169.13
Final Total	\$30,845.53

COVER SHEET
CITY OF FARGO PROJECTS

20

This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of improvement district as it will appear in the contract:

Paving and Utility Rehab/Reconstruction

Improvement

District No. BR-25-F

Call For Bids	<u>January 8</u>	, <u>2025</u>
Advertise Dates	<u>January 15 & 22</u>	, <u>2025</u>
Bid Opening Date	<u>February 12</u>	, <u>2025</u>
Substantial Completion Date	<u>September 30</u>	, <u>2025</u>
Final Completion Date	<u>October 30</u>	, <u>2025</u>

N/A

PWPEC Report (Part of 2025 CIP)

X

Engineer's Report (Attach Copy)

X

Direct City Auditor to Advertise for Bids

X

Bid Quantities (Attach Copy for Auditor's Office Only)

X

Notice to Property Owners (Special Assessments)

N/A

Supplemental Funding Language Included

Project Engineer Rick Larson

Phone No. (701) 241-1545

The items listed above are for use on all City projects. The additional items listed below are to be checked only when all or part of a project is to be special assessed:

X

Create District (Attach Copy of Legal Description)

X

Order Plans & Specifications

X

Approve Plans & Specifications

X

Adopt Resolution of Necessity

N/A

Approve Escrow Agreement (Attach Copy for Commission Office Only)

X

Assessment Map (Attach Copy for Auditor's Office Only)



ENGINEER'S REPORT
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-25-F
NP AVE N FROM 170' EAST OF 8TH ST N TO BROADWAY

Nature & Scope

This project is for the replacement of the existing water main, sanitary sewer, storm sewer, concrete pavement, curb and gutter, sidewalks, driveway aprons, street lights, and for the installation of bike lanes.

Purpose

The existing water main on NP Avenue is CIP, which was installed over 100 years ago and is being replaced to minimize impacts and costs associated with breaks. As part of this, we will replace the water main services to the curb stop and the sanitary services from the main to behind the curb. The street reconstruction is necessary because the existing street section has deteriorated significantly and has exceeded its life expectancy. Reconstruction will include concrete street paving, gravel base, curb and gutter, storm sewer inlets and leads, driveway approaches, sidewalk, streetlights, and streetscape.

Special Assessment District

All properties within the Special Assessment District will benefit from the infrastructure improvements and were determined through consideration of the longevity, consistency, and uniformity of benefiting properties within the City of Fargo. Special Assessments will be levied to each property in accordance with the City's Infrastructure Funding Policy and are subject to the approval of the Special Assessment Commission and the City Commission.

The City of Fargo was awarded \$1,427,804 in Flex Funds for this project from the State of North Dakota. These Flex Funds are included in the funding source titled "State Funds - Other ND". Also included in "State Funds - Other ND" is the remaining portion being funded with Prairie Dog Funds.

Feasibility

The estimated cost of construction is \$2,244,238.00. The cost breakdown is as follows:

Sanitary Sewer

Construction Cost		\$240,881.00
Fees		

Admin	4%	\$9,635.24
Contingency	5%	\$12,044.05
Engineering	10%	\$24,088.10
Interest	4%	\$9,635.24
Legal	3%	\$7,226.43

Total Estimated Cost		\$303,510.06
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Funding

Special Assessments	14.58%	\$44,253.62
State Funds - Other ND	85.42%	\$259,256.44

Storm Sewer

Construction Cost		\$235,810.00
Fees		

Admin	4%	\$9,432.40
Contingency	5%	\$11,790.50
Engineering	10%	\$23,581.00
Interest	4%	\$9,432.40
Legal	3%	\$7,074.30

Total Estimated Cost		\$297,120.60
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Funding

Special Assessments	50.00%	\$148,560.30
State Funds - Other ND	50.00%	\$148,560.30

Water Main

Construction Cost		\$331,658.00
Fees		

Admin	4%	\$13,266.32
Contingency	5%	\$16,582.90
Engineering	10%	\$33,165.80
Interest	4%	\$13,266.32
Legal	3%	\$9,949.74

Total Estimated Cost		\$417,889.08
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Funding

Special Assessments	17.50%	\$73,112.40
State Funds - Other ND	82.50%	\$344,776.68

Paving

Construction Cost		\$1,261,919.00
Fees		

Admin	4%	\$50,476.76
Contingency	5%	\$63,095.95
Engineering	10%	\$126,191.90
Interest	4%	\$50,476.76
Legal	3%	\$37,857.57

Total Estimated Cost		\$1,590,017.94
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Funding

Special Assessments	24.47%	\$389,053.04
State Funds - Other ND	75.53%	\$1,200,964.90

Street Amenities

Construction Cost		\$173,970.00
Fees		

Admin	4%	\$6,958.80
Contingency	5%	\$8,698.50
Engineering	10%	\$17,397.00
Interest	4%	\$6,958.80
Legal	3%	\$5,219.10

Total Estimated Cost		\$219,202.20
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Funding

Special Assessments	100.00%	\$219,202.20
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Project Funding Summary

Special Assessments	30.91%	\$874,181.56
State Funds - Other ND	69.09%	\$1,953,558.32

Total Estimated Project Cost		\$2,827,739.88
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We believe this project to be cost effective.



A handwritten signature in black ink, appearing to read "THKPE", written over a horizontal line.

Thomas Knakmuhs, P.E.
City Engineer



**LOCATION AND COMPRISING
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-25-F
NP AVE N FROM 170' EAST OF 8TH ST N TO BROADWAY**

LOCATION:

Northern Pacific Avenue North from 170' East of 8th Street to Broadway.

COMPRISING:

The south 25 ft of Lots 1 through 4, the South 50 1/3 FT & West 10 FT of the North 89 2/3 FT of 5, 6 through 21 and the adjacent vacated Robert's Street North Right-of-Way, Block 1.

All in Robert's First Addition.

Lots 1 & 2, inclusive, Block 1.

All in Global Development Addition.

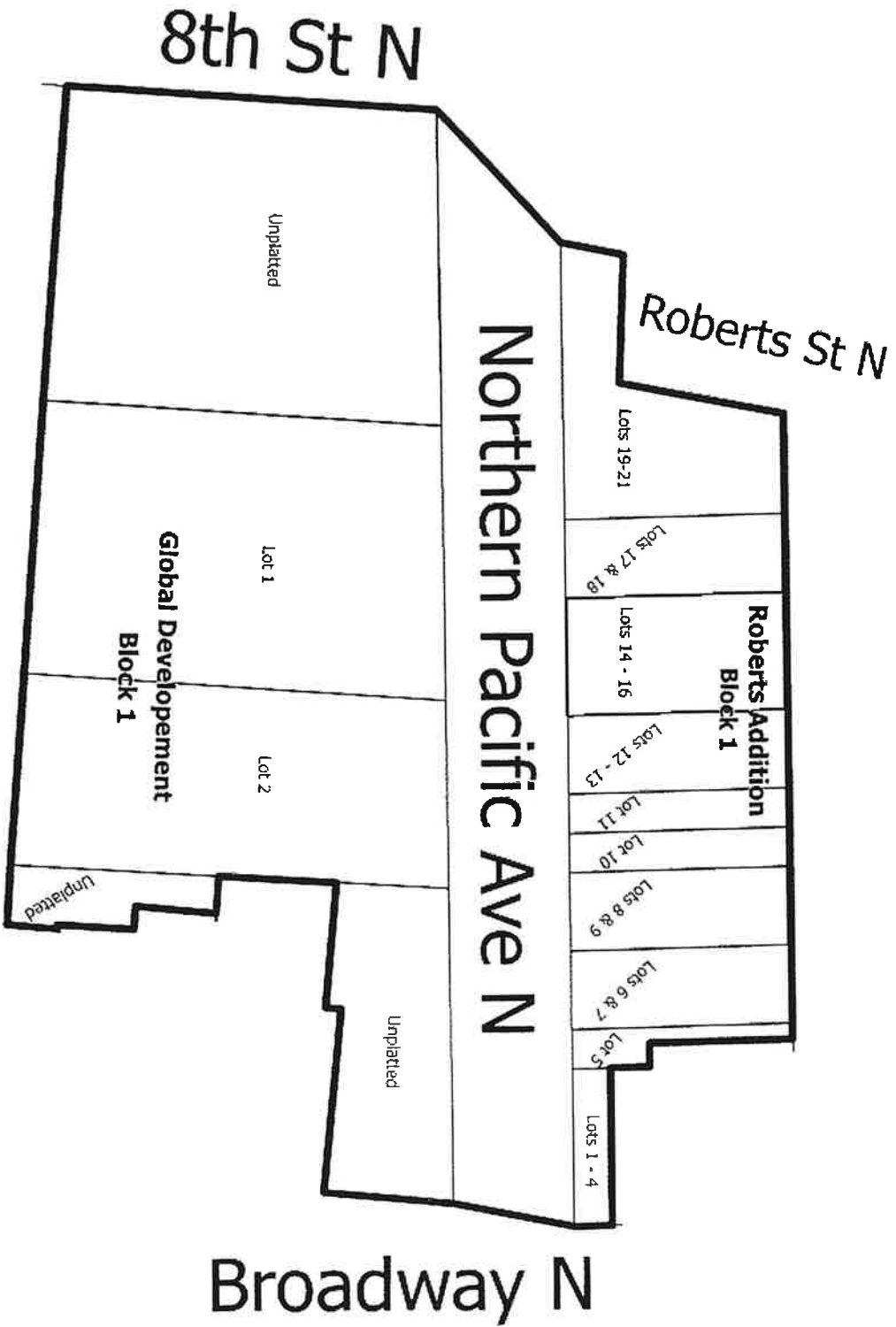
UNPLATTED, A TRACT IN NE 1/4 OF NW 1/4 OF SEC 7, TWP 139N, RGE 48W, DESC AS FOLL: BEG AT THE INTER OF THE S R/W OF NP AVE & WLY R/W OF BDWY; THEN S 04 DEG 08 MIN 02 SEC W ALG THE WLY R/W 81.19 FT; THEN N 85 DEG 58 MIN 41 SEC W 94.85 FT; THEN N 86 DEG 27 MIN 51 SEC W 26.20 FT; THEN S 03 DEG 32 MIN 09 SEC W 9.60 FT; THEN N 86 DEG 27 MIN 51 SEC W 80.14 FT; THEN N 01 DEG 54 MIN 31 SEC E 69.88 FT TO THE PT ON THE SLY R/W OF NP AVE; THEN N 87 DEG 205.00 FT TO THE PT OF BEG

UNPLATTED, A TRACT OF LD IN NE 1/4 OF NW 1/4 OF SEC 7, TWP 139N, RGE 49W, DESC AS FOLL: COMM AT INTER OF SLY R/W OF NP AVE & WLY R/W OF BROADWAY; THEN S 04 DEG 08 MIN 02 SEC W ON A REC BRG ALG SD WLY R/W A DIST OF 291.10 FT TO A PT WHICH IS 50 FT NLY OF NORTHERNMOST MAIN TRACK CENTERLINE OF BNSF RAILWAY CO; THEN N 87 DEG 32 MIN 10 SEC W, ALG A LN PARA WITH & 50 FT NLY OF SD NORTHERNMOST MAIN TRACK CENTERLINE, A DIST 155.01 FT TO PT OF BEG; THEN CONT N 87 DEG 32 MIN 10 SEC W ALG A LN PARA WITH & 50 FT NLY OF SD NORTHERNMOST MAIN TRACK CENTERLINE, A DIST OF 38.20 FT; THEN N 01 DEG 54 MIN 31 SEC E 121.96 FT; THEN S 87 DEG 27 MIN 36 SEC E 4.50 FT; THEN S 01 DEG 54 MIN 31 SEC W 36 FT; THEN S 87 DEG 27 MIN 36 SEC E 10 FT; THEN S 01 DEG 54 MIN 31 SEC W 7.98 FT; THEN S 87 DEG 27 MIN 36 SEC E 26.72 FT; THEN S 04 DEG 08 MIN 02 SEC W 77.94 FT TO PT OF BEG, LESS THE FOLL: A TRACT OF LAND SIT IN THE NE 1/4 OF THE NW 1/4 OF SEC 7 TWP 139N RGE 48W DESC AS FOLL: BEG AT THE INTER OF THE SLY R/W OF NP AVE & THE WLY R/W OF BDWY ST, THEN S 04 DEG 08 MIN 02 SEC W ON A RECORD BRG ALG SD WLY R/W A DIST OF 213.38 FT; THEN N 87 DEG 27 MIN 36 SEC W FOR A DIST OF 155.00 FT TO THE PT OF BEG; THEN S 04 DEG 08 MIN 02 SEC W FOR A DIST OF 47.52 FT TO THE OUTSIDE OF A FOUND WALL OF A BLDG; THEN N 87 DEG 41 MIN 17 SEC W ON SD FOUND WALL FOR A DIST OF 2.88 FT TO THE EXT WALL OF SD BLDG; THEN N 02 DEG 22 MIN 34 SEC E ON SD EXT WALL FOR A DIST OF 47.52 FT; THEN S 87 DEG 27 MIN 36 SEC E FOR A DIST OF 4.34 FT TO THE PT OF BEG & UNPLATTED, A TRACT OF LD IN NE 1/4 OF NW 1/4 OF SEC 7, TWP 139N, RGE 48W DESC AS FOLL: COMM AT INTER OF SLY R/W LN OF NP AVE & WLY R/W OF BROADWAY; THEN S 04 DEG 08 MIN 02 SEC W ON A REC BRG ALG SD WLY R/W A DIST OF 161.71 FT TO TRUE PT OF BEG; THEN CONT S 04

DEG 08 MIN 02 SEC W ALG SD WLY R/W LN A DIST OF 51.67 FT; THEN N 87 DEG 27 MIN 36 SEC W 181.72 FT; THEN N 01 DEG 54 MIN 31 SEC E 7.98 FT; THEN N 87 DEG 27 MIN 36 SEC W, 10 FT; THEN N 01 DEG 54 MIN 31 SEC E, 36 FT; THEN N 87 DEG 27 MIN 36 SEC W 4.50 FT; THEN N 01 DEG 54 MIN 31 SEC E 8.05 FT; THEN S 87 DEG 20 MIN 41 SEC E 198.24 FT TO TRUE PT OF BEG, LESS FOLL TRACT TRACT OF LD IN NE 1/4 OF NW 1/4 OF SEC 7, TWP 139N, RGE 48W DESC AS FOLL: COMM AT INTER OF SLY R/W LN OF NP AVE & WLY R/W OF BROADWAY; THEN S 04 DEG 08 MIN 02 SEC W ON A REC BRG ALG SD WLY R/W A DIST OF 161.71 FT TO TRUE PT OF BEG; THEN CONT S 04 DEG 08 MIN 02 SEC W ALG SD WLY R/W LN A DIST OF 51.67 FT; THEN N 87 DEG 27 MIN 36 SEC W 174.07 FT; THEN N 03 DEG 53 MIN 46 SEC E 52.00 FT; THEN S 87 DEG 20 MIN 40 SEC E 174.28 FT TO PT OF BEG

UNPLATTED, THAT PT OF NW 1/4 OF SEC 7, TWP 139N, RGE 48W, DESC AS FOLL: COMM AT NE COR OF SD NW 1/4; THEN S 87 DEG 53 MIN 56 SEC W (ASSMD BRG), ALG N LN OF SD NW 1/4, A DIST OF 754.23 FT TO NLY EXT OF E LN OF 80 FT WIDE 8 ST IN CITY OF FARGO; THEN S 02 DEG 29 MIN 00 SEC W, ALG SD NLY EXT, 44.84 FT TO A PT IN S LN OF NP AVE & TRUE PT OF BEG OF PARCEL OF LD BEING DESC; THEN N 87 DEG 47 MIN 33 SEC E, ALG SD S LN OF NP AVE, 176.48 FT; THEN S 02 DEG 29 MIN 00 SEC W 115.27 FT; THEN S 87 DEG 30 MIN 57 SEC E, 23.44 FT; THEN S 02 DEG 29 MIN 00 SEC W 132.83 FT TO INTER WITH A LN DRAWN PARA WITH & 50 FT NORMALLY DIST NLY FROM BNSF RAILWAY CO MOST NLY MAIN TRACK CENTERLINE, AS NOW LOC & CONST; THEN N 87 DEG 30 MIN 57 SEC W ALG SD PARA LN 199.33 FT TO E LN OF SD 8 ST; THEN N 02 DEG 29 MIN 00 SEC E 233.61 FT TO TRUE PT OF BEG & COMM AT NE COR OF SD NW 1/4; THEN S 87 DEG 53 MIN 56 SEC W (ASSMD BRG), ALG N LN OF SD NW 1/4, A DIST OF 754.23 FT TO NLY EXT OF E LN OF 80 FT WIDE 8 ST IN CITY OF FARGO; THEN S 02 DEG 29 MIN 00 SEC W, ALG SD NLY EXT, 44.84 FT TO A PT IN S LN OF NP AVE; THEN N 87 DEG 47 MIN 33 SEC E, ALG SD S LN OF NP AVE, 176.48 FT TO TRUE PT OF BEG; THEN N 87 DEG 47 MIN 33 SEC E, ALG SD S LN OF NP AVE, 23.52 FT; THEN S 02 DEG 29 MIN 00 SEC W 117.14 FT; THEN N 87 DEG 30 MIN 57 SEC W, 23.44 FT; THEN 02 DEG 29 MIN 00 SEC E 115.27 FT TO TRUE PT OF BEG

All of the foregoing located in the City of Fargo, Cass County, North Dakota.



CITY OF FARGO
ENGINEERING DEPARTMENT
LOCATION & ASSESSMENT AREA
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-25-F

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(21)

Project No. PR-24-F2 Type: Negative Final Balancing Change Order #1
 Location: 37th St N b/w 40th Ave N & 46th Ave N; Date of Hearing: 12/30/2024
 40th Ave N b/w 32nd St N & the Red
 River Bridge

<u>Routing</u>	<u>Date</u>
City Commission	<u>1/8/2025</u>
PWPEC File	<u>X</u>
Project File	<u>Jason Hoogland</u>

The Committee reviewed the accompanying correspondence from Project Manager, Jason Hoogland, related to Negative Final Balancing Change Order #1 in the amount of \$-89,350.42 to reconcile the final quantities as measured in the field.

Staff is recommending approval of Negative Final Balancing Change Order #1 in the amount of \$-89,350.42, which brings the total contract amount to \$449,567.70.

On a motion by Brenda Derrig, seconded by Ben Dow, the Committee voted to recommend approval of Negative Final Balancing Change Order #1 to Asphalt Surface Tech Corp.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Negative Final Balancing Change Order #1 in the amount of \$-89,350.42, which brings the total contract amount to \$449,567.70 to Asphalt Surface Tech Corp.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: _____ City Funds _____

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

Yes	No
	N/A
	N/A
	N/A


COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Brenda Derrig, Assistant City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Tom Knakmuhs, City Engineer
 Susan Thompson, Finance Director

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

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, P.E.
 City Engineer



CHANGE ORDER REPORT

MICRO SURFACING

PROJECT NO. PR-24-F2

ON 37TH STREET NORTH BETWEEN 40TH AVENUE NORTH AND 46TH AVENUE NORTH, AND ON 40TH AVENUE NORTH BETWEEN 32ND STREET NORTH AND THE RED RIVER BRIDGE.

Final Balancing
Change Order

Change Order No 1 Change Order Date 12/3/2024
Contractor Asphalt Surface Tech Corp

This change is made under the terms of or is supplemental to your present contract, if and when approved, you are ordered to perform the work in accordance with the additions, changes, or alterations hereinafter described.

EXPLANATION OF CHANGE Change Order # 1

Reconcile the final quantities for the project.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Paving	2	F&I Pavement Mix Wear Course Asph	Ton	50		50	-32.47	17.53	\$770.00	-\$25,001.90
	4	F&I Asphalt Emulsion - Microsurfacing	Gal	21556		21556	-1000.86	20555.14	\$2.75	-\$2,752.37
	5	Obliterate Pavement Markings	SF	16580		16580	-15895	685	\$2.75	-\$43,711.25
	6	Temp Paint Line 4" Wide	LF	45388		45388	-26022	19366	\$0.44	-\$11,449.68
	7	Paint Epoxy Line 4" Wide	LF	43090		43090	-3173	39917	\$2.64	-\$8,376.72
	8	Paint Epoxy Line 8" Wide	LF	2298		2298	440	2738	\$6.60	\$2,904.00
	9	Paint Epoxy Line 16" Wide	LF	74		74	33	107	\$27.50	\$907.50
	10	Paint Epoxy Line 24" Wide	LF	160		160	10	170	\$49.50	\$495.00
	11	Paint Epoxy Message	SF	401		401	-43	358	\$55.00	-\$2,365.00
Paving Sub Total										-\$89,350.42

Summary.

Source Of Funding

Net Amount Change Order # 1 (\$)
Previous Change Orders (\$)
Original Contract Amount (\$)
Total Contract Amount (\$)


City Funds
-\$89,350.42
\$0.00
\$538,918.12
\$449,567.70

I hereby accept this order both as to work to be performed and prices on which payment shall be based.

APPROVED

For Contractor

Title Vice President


Dale R Strandberg

APPROVED DATE

Department Head

Mayor

Attest



COVER SHEET
CITY OF FARGO PROJECTS

22

This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of project as it will appear in the contract:

Fiberoptic Communication Improvements

Project No. TN-24-A

Call For Bids	<u>January 8</u>	, <u>2025</u>
Advertise Dates	<u>January 15, 22 & 29</u>	, <u>2025</u>
Bid Opening Date	<u>February 12</u>	, <u>2025</u>
Substantial Completion Date	<u>September 1</u>	, <u>2025</u>
Final Completion Date	<u>October 1</u>	, <u>2025</u>

<u>X</u>	PWPEC Report (Attach Copy)
<u>X</u>	Engineer's Report (Attach Copy)
<u>X</u>	Direct City Auditor to Advertise for Bids
<u>X</u>	Bid Quantities (Attach Copy for Auditor's Office Only)
<u>N/A</u>	Notice to Property Owners (Special Assessments)
<u>N/A</u>	Supplemental Funding Language Included

Project Engineer Jason Leonard

Phone No. (701) 241-1545

The items listed above are for use on all City projects. The additional items listed below are to be checked only when all or part of a project is to be special assessed:

<u>N/A</u>	Create District (Attach Copy of Legal Description)
<u>N/A</u>	Order Plans & Specifications
<u>N/A</u>	Approve Plans & Specifications
<u>N/A</u>	Adopt Resolution of Necessity
<u>N/A</u>	Approve Escrow Agreement (Attach Copy for Commission Office Only)
<u>N/A</u>	Assessment Map (Attach Copy for Auditor's Office Only)

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. TN-24-A1

Type: 2024 CIP Revision

Location: 12th Ave N, 15th Ave N, 47th St & 45th St

Date of Hearing: 10/7/2024

RoutingDate

City Commission

1/8/2025

PWPEC File

X

Project File

Jason Leonard

The Committee reviewed a communication from Division Engineer, Jason Leonard, regarding the addition of Project No. TN-24-A1 to the 2024 CIP. This project is for the installation of fiber optic cable to be used at the new Red River Regional Dispatch Center.

Funding for this project will be determined at a later date.

On a motion by Tim Mahoney, seconded by Susan Thompson, the Committee voted to recommend approval of adding Project No. TN-24-A1 to the 2024 CIP.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the addition of Project No. TN-24-A1 to the 2024 CIP.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: TBD

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

Yes	No

N/A

N/A

N/A

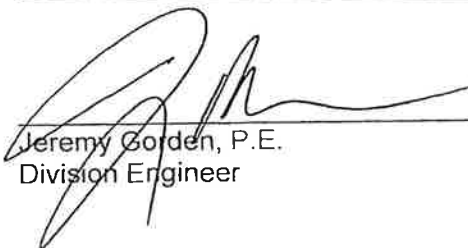
COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Brenda Derrig, Assistant City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Tom Knakmuhs, City Engineer
 Susan Thompson, Finance Director

Present	Yes	No	Unanimous
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jeremy Gorden
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson


 Jeremy Gorden, P.E.
 Division Engineer



ENGINEER'S REPORT
FIBEROPTIC COMMUNICATION IMPROVEMENTS
PROJECT NO. TN-24-A
RED RIVER REGIONAL DISPATCH CENTER FIBEROPTIC
INSTALLATION

Nature & Scope

Installation of Fiberoptic Cable on 12th Avenue North between 45th Street North and 47th Street North and on 47th Street North between 12th Avenue North and 15th Avenue North.

Purpose

Install Fiberoptic Cable for the RRRDC. All project costs will be paid for by the RRRDC.

Feasibility

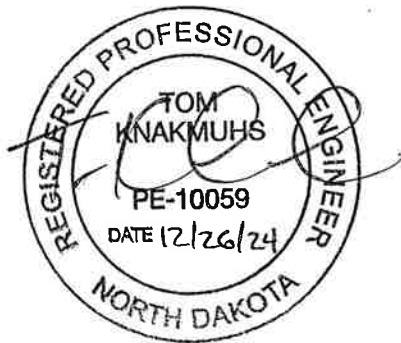
The estimated cost of construction is \$244,752.00. The cost breakdown is as follows:


Fiber Optic Cable			
Construction Cost			\$244,752.00
Fees			
Admin	4%		\$9,790.08
Contingency	5%		\$12,237.60
Interest	4%		\$9,790.08
Legal	3%		\$7,342.56
Total Estimated Cost			\$283,912.32
Funding			
Developer Funded	100.00%		\$283,912.32

Miscellaneous Costs			
Outside Engineering			\$15,000.00
Total Miscellaneous Costs			\$15,000.00
Funding			
Developer Funded	100.00%		\$15,000.00

Project Funding Summary			
Developer Funded	100.00%		\$298,912.32
Total Estimated Project Cost			\$298,912.32

We believe this project to be cost effective.




 Thomas Knakmuhs, P.E.
 City Engineer

COVER SHEET
CITY OF FARGO PROJECTS

23

This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of Project as it will appear in the Contract:

SIDEWALK & SHARED USE PATH CONSTRUCTION

Project No. SN-25-A1

Call For Bids January 8, 2025

Advertise Dates January 15, 22, & 29, 2025

Bid Opening Date February 7 (NDDOT), 2025

Substantial Completion Date September 12, 2025

Final Completion Date October 15, 2025

N/A PWPEC Report (Attach Copy) **(Part of the 2025 CIP)**

X Engineer's Report (Attach Copy)

N/A Direct City Auditor to Advertise for Bids **(To be Bid by NDDOT)**

N/A Bid Quantities (Attach Copy for Auditor's Office Only)

N/A Notice to Property Owners (Doug Durgin)

Project Engineer Eric Hodgson

Phone No. (701) 241-1545

The items listed above are for use on all City projects. The additional items listed below are to be checked only when all or part of a project is to be special assessed:

N/A Create District (Attach Copy of Legal Description)

N/A Order Plans & Specifications

N/A Approve Plans & Specifications

N/A Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

N/A Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT
SIDEWALK & SHARED USE PATH CONSTRUCTION
PROJECT NO. SN-25-A1

Nature & Scope

The City of Fargo, in collaboration with the North Dakota Department of Transportation, Federal Highway Administration, and Fargo Park District, is proposing an off-road, shared-use path improvement that will cross Drain 27, connecting the Timberline Drive South area to the Milwaukee Trail.

The project will consist of concrete sidewalk and concrete box culvert.

Purpose

The City of Fargo, Fargo Park District, and Metro COG have developed plans for an extensive off-street system of shared-use paths to expand the city's pedestrian infrastructure. This project is critical as it addresses the need for expanded pedestrian infrastructure to support proper movement patterns for Fargo residents.

All involved parties have identified this project as a priority for implementation.

Feasibility

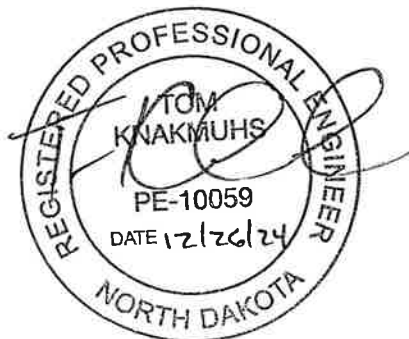
The estimated cost of construction is \$ 686,046.50. The project will be funded by Federal, Fargo Park District, and Infrastructure Sales Tax Funds. The cost breakdown is as follows:

<u>Construction Cost</u>	\$	686,046.50
<u>Amount Federally Funded</u>	\$	555,217.43
<u>Amount Locally Funded</u>	\$	130,829.07
Plus 4% Administration Fee:	\$	5,233.16
Plus 4% Interest Fee:	\$	5,233.16
Plus 3% Legal/Miscellaneous Fee:	\$	3,924.87
Plus 10% Contingency:	\$	13,082.91
Total Estimated Construction Cost:	\$	158,303.17

<u>Miscellaneous Costs</u>	\$	0.00
Plus Land/Easements/ROW Fee:	\$	126,996.00
Outside Design Engineering (Estimated):	\$	126,996.00
Total Estimated Local Project Cost:	\$	126,996.00

<u>Project Funding Summary</u>			
Federal TAP Funds	66.06%	\$	555,217.43
Fargo Park District	16.97%	\$	142,649.58
Infrastructure Sales Tax	16.97%	\$	142,649.59

We believe this project to be cost effective.




Thomas Knakmuhs, P.E.
City Engineer

Memorandum

To: Board of City Commissioners
From: Bekki Majerus, Director of Facilities Management
Date: January 8, 2025
Re: Approve the Master Service Agreements for Electrical Services (RFP25017)

Dear Commissioners:

Facilities Management published a Request for Qualifications (RFQ) on November 22, 2024. This RFQ was specifically for Electrical Services. Submissions were opened and reviewed on December 16, 2024. Two Vendors were selected and then approved by the Commission to proceed with Master Service Agreements (MSA's).

Facilities Management is requesting the Commission's approval of the attached MSA agreements which have been received from their respective firms.

- Red River Electric Inc.
- Wir3d Electric Inc.

Recommended Action:

Move to approve the Master Service Agreements with each of these Vendors.

**Master Services Agreement
Between
City of Fargo
and Red River Electric Inc.
RFP25017**

This Master Services Agreement (the "Agreement," which includes all attachments), effective January 9, 2025 ("Effective Date"), is entered into by and between Red River Electric Inc. (the "Vendor"), having a principal place of business at 3345 43rd St. S, Moorhead, MN, 56560 and City of Fargo (the "City"), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a "Party" and collectively, the "Parties").

1. TERM

The term of this Agreement will be (3) three years from the Effective Date.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form ("Statement of Work") attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as "Services." Any project exceeding \$100,000.00 is required to go through a separate RFP per City policy.

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City's obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet ("Rate Sheet") for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by January 9th for the current Agreement year, the Rate Sheet shall be carried forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor's work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City's property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. "Conflict of Interest" means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person's ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, including the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence, \$2,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Vendor agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, Vendor error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Vendor or of any subcontractor of the Vendor, or which arises out of any workmen's compensation claim of any employee of the Vendor or of any employee of any subcontractor of the Vendor. The Vendor agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Vendor, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Vendor does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Attachment referenced herein constitute the entire understanding of the Parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both Parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other Party.

17. TERMINATION

This Agreement may be terminated by either Party upon seven days written notice should the other Party fail to perform in accordance with the terms hereof, provided such failure is not cured within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Red River Electric Inc. have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

BY _____
Dr. Timothy J. Mahoney, Mayor

DATE: _____

RED RIVER ELECTRIC INC.

BY  _____
Ben Bruhn

DATE: 12-31-24

ATTEST:

BY _____
Steven Sprague, City Auditor

Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the Vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services:

- Electrician Services
- Commercial Contracting
- Industrial
- Design Build
- Agricultural

Rate Sheet

The Rates below are valid beginning January 9, 2025. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by January 9th of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this Agreement will be negotiated separately.

Rates:



ELECTRICAL WIRING AGREEMENT

3345 43rd Street South
Moorhead, Minnesota
56560
Phone (218) 236-0502
Fax (218) 233-3483
www.redriverelectric.com

Date 11-Dec-24 Pg 1 of 1

Customer City of Fargo

Address _____

Project _____

Location of Job Multiple Locations

"Exceeding Your Expectations"

SPECIFICATIONS OF JOB FOR ABOVE-REFERENCED PROJECT

We agree to furnish material and labor to complete electrical as listed below:

Labor Rate	\$100 per man hour
Overtime Rate	\$150 per man hour
Holiday Rate	\$200 per man hour

**Master Services Agreement
Between
City of Fargo
And Wir3d Electric Inc.
RFP25017**

This Master Services Agreement (the "Agreement," which includes all attachments), effective January 9, 2025 ("Effective Date"), is entered into by and between Wir3d Electric Inc. (the "Vendor"), having a principal place of business at 3441 Interstate Blvd., Fargo, ND, 58102 and City of Fargo (the "City"), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a "Party" and collectively, the "Parties").

1. TERM

The term of this Agreement will be (3) three years from the Effective Date.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form ("Statement of Work") attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as "Services." Any project exceeding \$100,000.00 is required to go through a separate RFP per City policy.

3. MATERIALS

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Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City's obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

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7. INDEPENDENT CONTRACTOR

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iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

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Vendor agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, Vendor error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Vendor or of any subcontractor of the Vendor, or which arises out of any workmen's compensation claim of any employee of the Vendor or of any employee of any subcontractor of the Vendor. The Vendor agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Vendor, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Vendor does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

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Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

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18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Wir3d Electric Inc. have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

WIRED ELECTRIC INC.

BY _____

Dr. Timothy J. Mahoney, Mayor

BY  _____

Joshua Holte, President

DATE: _____

DATE: 12/30/24

ATTEST:

BY _____

Steven Sprague, City Auditor

Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the Vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services:

- Electrical Services, repair and installation
- HVAC temperature controls installation and service
- Other low voltage work

Rate Sheet

The Rates below are valid beginning January 9, 2025. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by January 9th of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this Agreement will be negotiated separately.

Rates:



TO: City of Fargo Facilities Department

RE: RFP25017 - Qualified Electrical Contractor for Master Service Agreement

DATE: December 13, 2024

Price Rate Sheet

Base Rate: \$95.00/hr + material

Overtime: \$142.50/hr + material

Holiday Hours: \$190.00/hr + material


No truck charge or mileage fee.



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FINANCE OFFICE
225 4th Street North
Fargo, ND 58102
Phone: (701) 241-1333
www.FargoND.gov

TO: Board of Commissioners

FROM: Susan Thompson, Director of Finance 

RE: FAHR Staff meeting – Items for Commission Review/Approval

DATE: December 30, 2024

Receive & File: Sales Tax Update

Action Needed: Various Financial Approvals
FAHR endorsed the respective departments' requests for City Commissions approval. Reports of Action, along with supporting schedules, are included.

Other Financial Considerations

Fire – Capital Fund Rollover request

Communications – Broadcast Display Replacements

City of Fargo

Comparative Sales Tax Analysis of All Sales Tax Revenue - ACCRUAL BASIS

PB: SS/KAC (prior to 2022)

11/22/2024

Payment Date	month collected	Amount	County Collections	County Growth %	City Collections	City Growth %	
			18,816,202.02	0.3%	56,657,296.33	0.5%	
		County Sales Tax			City Sales Tax		
		County Sales Tax			City Sales Tax		
12/20/2024	24-Oct	County Sales Tax	1,764,529.62		City Sales Tax	5,342,358.63	
11/22/2024	Sept-24	County Sales Tax	2,257,740.11		City Sales Tax	6,622,406.84	
10/21/2024	Aug-24	County Sales Tax	2,088,361.27		City Sales Tax	6,284,633.45	
9/21/2024	July-24	County Sales Tax	1,746,626.42		City Sales Tax	5,168,111.30	
8/21/2024	June-24	County Sales Tax	2,659,707.17		City Sales Tax	7,859,913.01	
7/22/2024	May-24	County Sales Tax	1,348,902.41		City Sales Tax	4,252,926.43	
6/24/2025	Apr-24	County Sales Tax	1,759,660.73		City Sales Tax	5,404,517.72	
5/21/2024	Mar-24	County Sales Tax	2,276,388.27		City Sales Tax	6,980,911.25	
4/22/2024	Feb-24	County Sales Tax	1,023,591.77		City Sales Tax	3,163,097.74	
3/21/2024	Jan-24	County Sales Tax	1,850,694.25		City Sales Tax	5,578,419.96	
2/22/2024	Dec-24	County Sales Tax	2,781,114.42	23,106,462.71	8.2%	69,250,461.96	4.0%
1/22/2024	Nov-24	County Sales Tax	1,559,305.60		City Sales Tax	4,709,032.00	
12/20/2023	Oct-24	County Sales Tax	1,916,009.28		City Sales Tax	5,684,255.33	
11/22/2023	Sep-24	County Sales Tax	2,480,655.78		City Sales Tax	7,615,211.78	
10/21/2023	Aug-24	County Sales Tax	1,509,750.17		City Sales Tax	4,530,239.98	
9/20/2023	Jul-24	County Sales Tax	2,012,131.70		City Sales Tax	6,030,106.74	
8/20/2023	Jun-24	County Sales Tax	2,337,746.99		City Sales Tax	6,739,403.04	
7/21/2023	May-24	County Sales Tax	1,873,134.11		City Sales Tax	5,735,919.99	
6/21/2023	Apr-24	County Sales Tax	2,076,304.07		City Sales Tax	6,368,293.95	
5/21/2023	Mar-24	County Sales Tax	1,528,002.65		City Sales Tax	4,619,852.76	
4/22/2023	Feb-24	County Sales Tax	1,455,198.19		City Sales Tax	4,544,116.43	
3/19/2023	Jan-24	County Sales Tax	1,577,103.75		City Sales Tax	4,515,565.89	
2/22/2023	Dec-22	County Sales Tax	2,331,087.61	21,358,922.89	-2.6%	66,571,120.26	4.3%
1/24/2023	Nov-22	County Sales Tax	1,892,168.21		City Sales Tax	5,746,351.94	
12/21/2022	Oct-22	County Sales Tax	1,904,586.17		City Sales Tax	5,637,286.90	
11/22/2022	Sep-22	County Sales Tax	1,828,464.08		City Sales Tax	5,282,124.95	
10/21/2022	Aug-22	County Sales Tax	1,905,477.39		City Sales Tax	5,697,578.75	
9/20/2022	Jul-22	County Sales Tax	2,321,971.24		City Sales Tax	7,149,286.78	
8/20/2022	Jun-22	County Sales Tax	1,816,911.33		City Sales Tax	5,066,525.72	
7/21/2022	May-22	County Sales Tax	1,811,968.57		City Sales Tax	5,388,350.10	
6/21/2022	Apr-22	County Sales Tax	1,971,576.35		City Sales Tax	6,059,165.61	
5/23/2022	Mar-22	County Sales Tax	1,526,674.55		City Sales Tax	4,461,738.30	
4/22/2022	Feb-22	County Sales Tax	613,842.16		City Sales Tax	4,850,989.43	
3/19/2022	Jan-22	County Sales Tax	1,434,195.23		City Sales Tax	4,216,173.45	
2/22/2022	Dec-21	County Sales Tax	2,471,070.77	21,920,710.74	31.1%	63,840,810.53	29.9%
1/25/2022	Nov-21	County Sales Tax	1,587,312.19		City Sales Tax	4,653,877.92	
12/21/2021	Oct-21	County Sales Tax	2,245,078.73		City Sales Tax	6,847,607.38	
11/22/2021	Sep-21	County Sales Tax	1,578,911.41		City Sales Tax	4,305,274.70	
10/21/2021	Aug-21	County Sales Tax	1,846,222.17		City Sales Tax	4,948,174.14	
9/20/2021	Jul-21	County Sales Tax	1,941,367.18		City Sales Tax	5,563,279.08	
8/20/2021	Jun-21	County Sales Tax	1,928,026.98		City Sales Tax	5,794,768.26	
7/21/2021	May-21	County Sales Tax	2,134,078.28		City Sales Tax	6,292,906.78	
6/21/2021	Apr-21	County Sales Tax	1,247,864.18		City Sales Tax	3,423,096.66	
5/21/2021	Mar-21	County Sales Tax	1,924,292.66		City Sales Tax	5,462,536.61	
4/22/2021	Feb-21	County Sales Tax	1,588,269.26		City Sales Tax	4,766,421.14	
3/19/2021	Jan-21	County Sales Tax	1,428,216.93		City Sales Tax	4,327,619.25	
2/22/2021	Dec-20	County Sales Tax	1,445,794.87	16,719,327.13	0.3%	49,146,842.57	-5.0%
1/25/2021	Nov-20	County Sales Tax	1,587,940.99		City Sales Tax	4,492,863.04	
12/21/2020	Oct-20	County Sales Tax	1,630,976.65		City Sales Tax	4,999,947.66	
11/23/2020	Sep-20	County Sales Tax	1,396,321.95		City Sales Tax	3,952,605.63	
10/21/2020	Aug-20	County Sales Tax	1,694,006.82		City Sales Tax	4,276,558.28	
9/22/2020	Jul-20	County Sales Tax	1,467,915.93		City Sales Tax	4,382,459.17	
8/21/2020	Jun-20	County Sales Tax	1,605,095.72		City Sales Tax	4,774,814.61	
7/22/2020	May-20	County Sales Tax	1,557,866.22		City Sales Tax	4,797,152.70	
6/19/2020	Apr-20	County Sales Tax	860,574.06		City Sales Tax	2,448,782.22	
5/21/2020	Mar-20	County Sales Tax	1,293,072.02		City Sales Tax	3,865,417.55	
4/22/2020	Feb-20	County Sales Tax	1,306,194.23		City Sales Tax	4,286,357.93	
3/20/2020	Jan-20	County Sales Tax	873,567.67		City Sales Tax	2,632,696.22	
2/24/2020	Dec-19	County Sales Tax	1,806,500.14	16,670,136.34	6.0%	51,732,824.69	7.4%
1/23/2020	Nov-19	County Sales Tax	1,765,912.60		City Sales Tax	5,542,185.17	
12/20/2019	Oct-19	County Sales Tax	1,053,485.18		City Sales Tax	5,757,005.84	
11/22/2019	Sep-19	County Sales Tax	1,586,457.86		City Sales Tax	3,055,444.40	
10/21/2019	Aug-19	County Sales Tax	1,600,148.48		City Sales Tax	4,786,259.66	
9/23/2019	Jul-19	County Sales Tax	1,209,618.14		City Sales Tax	4,940,121.35	
8/21/2019	Jun-19	County Sales Tax	2,012,988.64		City Sales Tax	3,618,612.18	
7/22/2019	May-19	County Sales Tax	1,000,237.92		City Sales Tax	6,334,417.88	
6/21/2019	Apr-19	County Sales Tax	1,206,333.76		City Sales Tax	2,954,722.53	
5/21/2019	Mar-19	County Sales Tax	1,575,011.74		City Sales Tax	3,957,201.59	
4/22/2019	Feb-19	County Sales Tax	781,011.94		City Sales Tax	4,907,368.09	
3/21/2019	Jan-19	County Sales Tax	1,072,429.94		City Sales Tax	2,472,350.68	
2/22/2019	Dec-18	County Sales Tax	1,602,337.29	15,720,221.20		3,407,135.32	
1/23/2019	Nov-18	County Sales Tax	1,331,035.62		City Sales Tax	4,957,423.52	
12/21/2018	Oct-18	County Sales Tax	1,343,355.18		City Sales Tax	4,232,397.07	
11/23/2018	Sep-18	County Sales Tax	1,718,685.28		City Sales Tax	4,113,930.12	
10/19/2018	Aug-18	County Sales Tax	991,141.62		City Sales Tax	5,054,359.80	
9/24/2018	Jul-18	County Sales Tax	1,438,831.10		City Sales Tax	2,924,184.95	
8/21/2018	Jun-18	County Sales Tax	1,796,550.82		City Sales Tax	4,290,954.46	
7/23/2018	May-18	County Sales Tax	1,042,677.94		City Sales Tax	5,462,231.25	
6/21/2018	Apr-18	County Sales Tax	1,142,864.18		City Sales Tax	3,258,203.14	
5/21/2018	Mar-18	County Sales Tax	1,508,616.11		City Sales Tax	3,521,756.41	
4/20/2018	Feb-18	County Sales Tax	713,349.48		City Sales Tax	4,674,211.89	
3/21/2018	Jan-18	County Sales Tax	1,090,776.58		City Sales Tax	2,264,455.70	
2/22/2018	Dec-17	County Sales Tax	1,871,667.76		City Sales Tax	3,435,857.59	
1/23/2018	Nov-17	County Sales Tax	924,357.13		City Sales Tax	6,232,808.91	
					City Sales Tax	2,809,247.58	
Totals Since 2018		\$ 113,951,386			\$ 344,902,586		



Report of Action:
FAHR Meeting of 12/30/2024

- ☐ Purchase Policy
- ☐ Budget Adjustment/Reallocation
- ☐ Personnel Request
- ☒ Other Financial

Department: Fire
Description: 2024 Capital Funds Budget Roll-over, as per memo.
Net Financial Impact: NA - budget funds carryover

At their meeting, FAHR endorsed this request.

Suggested Motion:

Approve the budget rollover from 2024 to 2025 of capital accounts for Funds 475-4010-510.74-10 Capital Equipment and 475-4010-510.77-13 in the amounts of \$23,453 and \$84,203, respectively.



Fire Department

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: FIRE CHIEF STEVE DIRKSEN

DATE: DECEMBER 30, 2024

SUBJECT: CAPITAL FUND ROLL OVER

I am requesting the following rollovers to the stated accounts for the 2025 budget year:

Fund 475-4010-510.74-10 Capital Equipment	\$23,453.00
Fund 475-4010-510.77-13 General Equipment	\$84,203.00

Fund 475-4010-510.74-10: We have one remaining encumbrance in the amount of \$23,453.00 for purchase of one Waterous Aquis Foam System, one wire doghouse for Vulcan Lights and one hose divider. The items have all been ordered from Custom Fire Apparatus under PBC24002 and are encumbered via PO 236145.

Fund 475-4010-510.77-13: We were not able to find a concrete contractor to complete our planned concrete replacement in 2024. The budget was set at \$17,500 plus the \$15,000 which was rolled over from 2023, also due to the inability to find a concrete contractor able to complete the work. This leaves us with \$32,500 in concrete repairs we will be pursuing in 2025. I have discussed with Ben Dow using the contractor that he currently uses to complete our work in 2025. The remaining \$50,000 has been earmarked for our continuing project to replace the soon-to-be obsolete alerting system in all of our stations. The project will continue throughout 2025.

RECOMMENDATION: Approve the rollover of capital accounts for Funds 475-4010-510.74-10 Capital Equipment and 475-4010-510.77-13 in the amounts of \$23,453.00 and \$84,203.00 respectively.

Report of Action:
FAHR Meeting of 12/30/2024

- ☒ Purchase Policy
☐ Budget Adjustment/Reallocation
☐ Personnel Request
☐ Other Financial

Department: Communications GA

Description: As per the attached memo, Communications requests to purchase replacement video walls for the Commission Chambers and City Hall atrium. The current equipment is beyond end of life, with replacement components not available. The purchase requires City Commission approval as it exceeds \$100,000. Communications is utilizing a State of ND purchasing contract for vendor AVI Systems, but also extensively researched the various equipment vendor options available through AVI to identify the most cost-effective option for City of Fargo. Initially anticipated to cost roughly \$600,000, the capital replacement was partially funded at \$388,000 in 2025, with plans to budget the remaining funds in 2026. Through Communications' research and discussions with various vendors, they identified a full equipment solution that is within the 2025 budgeted capital funds. The equipment's anticipated useful life is 10-12 years.

Net Financial Impact: \$0 (within 2025 budget; no additional funding anticipated)

At their meeting, FAHR endorsed this request.

Suggested Motion:

Approve the broadcast display replacement project with AVI Systems, Inc. (PBC24052) through equipment provider, Absen, as presented at a cost of \$386,914.30.



**COMMUNICATIONS
& GOV. AFFAIRS**

FARGO MEMORANDUM

TO: Board of City Commissioners

FROM: Gregg Schildberger | Chief Communications Officer
Brian Sellin | Broadcast Services Manager

DATE: 27 December 2024

RE: Capital Improvement Plan – Broadcast Display Replacements



BACKGROUND

The broadcast displays (video walls) in the City Commission Chambers and City Hall atrium reached their collective ends-of-life in December 2023. The warranty from the manufacturer expired on December 31, 2023 and, as a result, the existing panels could no longer be serviced/repaired after this date. This impending capital replacement expense requirement had been communicated for the last several years during departmental budget meetings.

During discussions for the 2024 Budget (in mid-2023), it was determined that sufficient capital funding would not exist to replace the video panels in 2024, but would be a priority for the 2025 Budget. As a result, The City of Fargo operated the last calendar year without any warranty coverage on this critical piece of broadcast gear; during 2024, we had video panel failure occur and correspondingly replaced with the spare units we purchased during the initial capital project purchase. However, with a total of 24 panels in the live environment at all times, we now lack the required spares to support the operations of this end-of-life system.

During discussions for the 2025 Budget (in mid-2024), a broadcast engineering estimate of \$595,000 (as sourced via the City's broadcast partner, AVI Systems) was provided for discussion with the Budget Team. Due to the cost, it was decided that the project would need to be split over two budgetary years, with \$388,000 approved in the 2025 Budget.

Once the 2025 Budget was approved, members of the CommsGA Team worked extensively with AVI Systems and many vendors to identify cost savings and efficiencies on the project; this included traveling to Minneapolis to test the various video wall systems with examples of our use cases, as well as angle/distance testing given our specific setups within City Hall. Through a series of in-depth and complex discussions/re-engineering/negotiations over multiple days, we were able to successfully arrive at a project that would fit within the approved 2025 Budget amounts and allow for a full implementation within the 2025 calendar year.

COST COMPARISON

While The City of Fargo will be utilizing the State of North Dakota's purchasing contract (PBC24052) with AVI Systems as the integrator for this project, the Finance Department requested that we receive three detailed quotes from vendors to ensure we were receiving comparative pricing. Within the purview of AVI Systems, there were multiple vendor options evaluated, as summarized in the table found below.

	Planar	Enlightened LED	Absen
Equipment	\$ 313,047.00	\$ 253,847.30	\$ 278,324.29
Integration	\$ 71,954.86	\$ 92,779.24	\$ 71,955.01
Shipping & Handling	\$ 28,345.00	\$ 25,000.00	\$ 28,260.00
TOTAL	\$ 413,346.86	\$ 371,626.54	\$ 378,539.30
Annual Support	\$ 27,714.00	\$ 34,274.00	\$ 24,520.00

As detailed above, the cost for Enlightened LED equipment was the lowest by a small margin. However, the annual support charges for this vendor will amount to a higher total cost in year one and beyond. As a result, CommsGA staff is recommending Absen as the brand to be utilized through AVI Systems for this project. In addition to a lower cumulative cost, Absen's technology, demonstrated performance and years in the market differentiated it from other vendors evaluated. The retail sales agreement and the Absen warranty are attached onto this memorandum as supporting background materials.

The Absen product being recommended comes with a lifetime limited extended warranty; in addition, staff negotiated the purchase of 11% spare chips for the display system. In consideration of these factors, it is anticipated the new broadcast displays will see a useful life of 10-12 years in our use case environment. The purchase of the additional spares added \$8,375 to the equipment line above, resulting in a total cost of \$386,914.30.

COMMISSION ACTION REQUESTED

City Commission approval is needed since the value of this contract is in excess of \$100,000. Adequate funding has been approved within the 2025 Budget for this project and no additional funding is being requested.

CommsGA staff has engaged in discussions with the Finance Team on alternative uses for the existing displays. It has been determined that, pending City Commission approval of this recommended motion, the displays will be repurposed for usage within the Real-Time Crime Center (RTCC) at The Fargo Police Department (FPD). Since FPD will only be using half of these displays for this purpose, adequate existing spares will exist to power this use case for the next handful of years as the RTCC develops and grows; FPD Leadership is supportive of this usage.

RECOMMENDED MOTION

Approve the broadcast display replacement project with AVI Systems, Inc. (PBC24052) as presented.



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FINANCE OFFICE
PO Box 2083
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1333
www.FargoND.gov

To: Board of City Commissioners

From: Jill Pagel, Procurement Analyst
Craig Nelson, Assistant Fire Chief

Re: Contract for Fire Department Service Uniforms (RFP25003)

Date: January 8, 2025

A Request for Proposal (RFP) was posted on October 30, 2024, seeking service uniforms for all City of Fargo Fire departments. The Board of City Commission awarded the bid to Bee Seen Gear on November 25, 2024.

Attached is a twenty-four (24) month contract expiring on December 31, 2026, with the option for three (3) additional, one-year renewals.

RECOMMENDED MOTION: Approve the contract with Bee Seen Gear for Fire Department Service Uniforms to include all fire stations.

**Agreement Between
City of Fargo
And Bee Seen Gear**

This Agreement (the "Agreement," which includes all attached schedules), effective January 1, 2025 ("Effective Date"), is entered into by and between Bee Seen Gear (the "Vendor"), having a principal place of business at 4600 17 Avenue South, Fargo, ND 58103 and City of Fargo (the "City"), a North Dakota municipal corporation, having a principal place of business at 225 4 Street North, Fargo, North Dakota 58102 (each a "Party" and collectively, the "Parties").

1. TERM

The term of this Agreement will be two (2) years from the Effective Date. The City of Fargo reserves the right to execute the option to automatically renew for a period of up to three (3) additional one (1) year renewals. A price adjustment may be considered on the anniversary date each contract year.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form ("Statement of Work") attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as "Services."

3. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors and material suppliers with invoices Vendor submits to City. City's obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

4. COMPENSATION

Negotiated Rate Sheet ("Rate Sheet") for the current Agreement is attached as Attachment B. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to CNelson@FargoND.gov. Please use Reference number **RFP25003** on each invoice.

5. OWNERSHIP OF DOCUMENTS

Vendor's work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City's property, unless otherwise agreed.

6. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

7. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. "Conflict of Interest" means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person's ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

8. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

9. INDEMNIFICATION

Vendor agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, Vendor error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Vendor or of any subcontractor of the Vendor, or which arises out of any workmen's compensation claim of any employee of the Vendor or of any employee of any subcontractor of the Vendor. The Vendor agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Vendor, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands.

10. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

11. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

12. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

13. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

14. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

15. TERMINATION

This Agreement may be terminated by either party upon sixty days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured within such sixty-day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

16. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Bee Seen Gear have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Dr. Timothy Mahoney, Mayor

Date: _____

ATTEST:

Steven Sprague, City Auditor

BEE SEEN GEAR



Owner

Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the contract.

SERVICE REQUIREMENTS

It is the intent of the City to outfit each Firefighter with a wardrobe of the brands specified in Specifications to maintain uniformity, standardization, and quality appearance. All garment care will be as recommended by the manufacturer. The vendor shall-

- A. Have the ability to provide alteration and sizing services within a 25-mile radius of City of Fargo. Make sure to specify which location(s) fittings and alterations will be performed at.
- B. Have the ability to design artwork files; design and supply the city with electronic, readable, transferrable copies of all graphic files including dimensions for the original, functional artwork upon request and without hesitation or modification.
- C. Manage a database or record-keeping system to maintain all sizing profiles for all officers and firefighters. The database/record-keeping system shall include the required alterations to assist in expediting the delivery of future replacement garments.

NOTE: City will work with Vendor on garment information. This includes the sizing, font, color, nametags, artwork, and layout of uniform shirts.

- D. Shipping is included for delivery in the Fargo Moorhead area.

SIZING/MEASUREMENT LOCATIONS

For a new employee's initial sizing, the City will send all personnel to the Vendor's location. Periodic sizing for large groups of new cadet classes will be required and will be coordinated between the Vendor and the Fire Department point of contact.

EMBROIDERY SERVICES

The Vendor shall have the facilities capable of performing embroidery services as required. The thread colors of the embroidered logos or designs must match the files provided by the City.

BACKORDERS

Vendor shall-

- A. Make every attempt to locate products and provide details of their attempts to resolve backorder issues to City personnel within 24 hours of notice from manufacturer to Contractor of backordered items.
- B. Give an updated estimated delivery date on any backordered item.
- C. Provide a monthly report of all back-ordered product/items to the City's designated contacts for the Fire Departments.

ONLINE STORE

Vendor shall offer an online store specifically for the City of Fargo. Online store will have an individual account set up for each fire department employee. Each employee's account will track the amount the employee has spent and cut off orders after the designed allotment has been spent.

DESIGNATED CONTACT PERSON

This POC may be invited to attend periodically held meetings at the Fargo Fire Department to ensure appropriate contract management.

RETURNS

Any item found to be defective, improperly sized, or not in accordance with specifications, although accepted through oversight or otherwise, shall be replaced or altered and shipped at the expense of the vendor. **Custom orders furnished in accordance with specifications shall not be subject to this return provision. **



M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: JENN FAUL
DIRECTOR OF PUBLIC HEALTH

DATE: JANUARY 2, 2025

**RE: PURCHASE OF SERVICE AGREEMENT WITH CASS HUMAN
SERVICE ZONE.
FUNDS: \$ SETTING RATES FOR 2025
EXPIRES: 12/31/2025**

The attached purchase of service agreement with Cass Human Service Zone is for Fargo Cass Public Health to provide in home services for residents that qualify for services. (Rates: \$7.14 per 15-minute unit for homemaker services and \$7.93 per 15-minute unit for personal care services).

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve this grant award amendment from the ND Department of Health and Human Services.

JF/lls
Attachment

PURCHASE OF SERVICE AGREEMENT

WHEREAS, the Cass Human Service Zone (CHSZ) 1010 2nd Ave. S, Fargo, ND 58103 has determined the services referred to in the paragraph entitled "Scope of Service" should be purchased: and

WHEREAS Fargo Cass Public Health
1240 25th Street South
Fargo, ND 58103

(Provider), proposes to provide those services.

NOW, THEREFORE, the CHSZ and Provider enter into the following:

AGREEMENT

I. TERM OF THE AGREEMENT:

The term of this agreement shall be from January 1, 2025, through December 31, 2025.

II. SCOPE OF SERVICE:

The Provider agrees to render in-home services to eligible individuals (Recipients) in Cass County, North Dakota. The Provider understands and agrees that eligibility will be determined solely by CHSZ. The Provider agrees that the specific services to be provided Recipients, the definitions of those services, and related manual chapters are those set forth in Addendum B. In rendering services, the Provider agrees to abide by the provisions of the North Dakota Department of Human Services Manual Chapter Policies and Procedures.

The Provider understands and agrees that the CHSZ will inform the Provider of the name of the Recipients of services under the terms of this Agreement. The Provider further agrees to designate an individual to negotiate with a similarly designated individual from the CHSZ for the specific services to be provided Recipients, the number of units of service to be provided Recipients, and the compensation for Recipients as set forth in paragraph III herein.

III. COMPENSATION:

- A. Compensation under the terms of this agreement shall not exceed the maximum amount allowed for the service provided under the terms of this contract. The maximum amount allowed for the service is set forth in Addendum B.
- B. The Provider understands and agrees that:
 - 1. Travel time will not be billed nor paid.
 - 2. The contracted rates are the maximum allowable and will cover all costs to provide a unit of service, as defined by this contract. CHSZ makes no guarantee of the number of hours that will be referred for service.
 - 3. No release time or cancel time will be billed.
 - 4. Supervisory time, charting time, training, client reassessment, and all other activities relating to program management are built into the rate.

incorporate this agreement, together with its attachments. The Provider agrees to be solely responsible for the performance of any subcontractor.

VIII. TERMINATION:

This contract may be terminated by mutual consent of both parties, or by either party upon 30 day's notice, in writing, and delivered by certified mail or in person.

The CHSZ may terminate this contract effective upon delivery of written notice to the Provider, or at such later date as may be established by the CHSZ, under any of the following conditions:

- A. If CHSZ funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
- B. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
- C. If any license or certificate required by law or regulations to be held by the Provider to provide the services required by this contract is for any reason denied, revoked, or not renewed.
- D. If the Qualified Service Provider (QSP) rate is increased by the State in July, discussions will occur which may result in modifications to accommodate for a potential increased rate.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

The CHSZ by written notice of default, including breach of contract, to the Provider may terminate the whole or any part of this agreement:

- A. If the Provider fails to provide services provided under the terms of this contract within the time specified herein or any extension thereof; or
- B. If the Provider fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the CHSZ, fails to correct such failures within 10 days or such longer period as the CHSZ may authorize. The rights and remedies of the CHSZ provided in the above clause related to defaults, including breach of contract, by the Provider shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

IX. ACCESS TO RECORDS:

The CHSZ, ND Department of Human Services, Office of Attorney General of the State of North Dakota, the Federal Government, the Cass County States Attorney's Office and others at its direction, and their duly authorized representatives, shall have access to the books, documents, paper and records of the Provider which are pertinent, as reasonably determined by the CHSZ, to this contract for the purpose of making audit, examination, excerpts, and transcripts.

against the other party, each party will pay for half the combined attorney's fees and legal defense costs incurred on or before the date, or the amount of such fees and costs covered by the CHSZ's liability coverage or self-retention fund, whichever is less. After that date, the remaining party will be responsible for its own attorney's fees and legal defense costs. The CHSZ shall provide such reimbursement in accordance with the Special Assistant Attorney General Billing policy within thirty (30) days after the total amount of reimbursement can be determined.

Provider shall secure and keep in force during the term of this Agreement, from a company or pool authorized to provide the coverage in this County, general liability and errors and omissions coverage with minimum liability limits of \$250,000 per person and at least \$5000,000 per occurrence covering its officers, employees, and agents for any and all claims of any nature which may in any manner result from or arise out of this Agreement. Provider shall furnish a certificate of insurance or memorandum of coverage and any endorsements required under this agreement to the undersigned County representative prior to commencement of this agreement and shall also provide at least thirty (30) days' notice before such coverage of endorsements are canceled or modified.

Provider shall also secure from its insurance company or government self-insurance pool a limited endorsement stating that the company or pool will provide a legal defense to Cass County and the CHSZ, its officers, employees or agents, including attorney's fees, costs, disbursements, and other expenses associated with such defense under this agreement, for any and all claims of any nature brought by third parties against the County, its officers, employees or agents, including attorney's fees, costs, disbursements, and other expenses associated with such defense under this agreement, for any and all claims of any nature brought by third parties against Cass County and the CHSZ, its officers, employees or agents which in any manner result from or arise out of this agreement. Such legal defense is not required if Cass County and the CHSZ refuse to waive a potential conflict of interest that can be waived under the North Dakota Rules of Professional conduct. Said endorsement shall also provide that any attorney representing Cass County and the CHSZ, its officers, employees or agents under this clause must first qualify and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under NDCC. Section 54-12-08 and agree to follow the Special Assistant Attorney General Billing Policy.

XX. SEVERABILITY:

The parties agree that if any term of provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

XXI. WAIVER:

The failure by either party to enforce any provisions of this contract shall not constitute a waiver by the party of that or any other provision.

XXII. MERGER CLAUSE:

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The

Addendum A**PROVIDER ASSURANCES**

- A. All licensing or other standards required by Federal and State Law and regulations and by ordinance of the city and county in which the services purchased hereunder are provided will be complied with in full for the duration of this contract.
- B. No qualified person (s) shall be denied services purchased hereunder, or be subjected to discrimination, because of race, religion, color, national origin, sex, age, or handicap.
- C. The Provider will abide by the provisions of Title VII of the Civil Rights Act of 1964 (42 USC 2000C) which prohibits discrimination against any employee or applicant for employment because of race, religion, color, national origin, sex, age or handicap. In addition, the Provider agrees to abide by Executive Order No. 11246, as amended by Executive Order No. 11375, which prohibits discrimination because of sex.
- D. The Provider will comply with Section 504 of the Rehabilitation Act of 1973, as amended, and all requirements imposed by and pursuant to regulations promulgated thereunder to the end that no otherwise qualified handicapped individual shall, solely by reason of their handicap, be excluded from participation in, be denied benefits of or be subjected to discrimination under any program in the provision of services under this agreement.
- E. The Provider will not, except upon the written consent of the affected individual or their responsible parent, guardian or custodian, use or cause to be used, any information concerning such individual for any purpose not directly connected with the county or the Provider's responsibilities with respect to services purchased hereunder.
- F. Unless otherwise authorized by federal law, the charges to be made by the Provider do not include costs financed by federal monies other than those generated by this agreement.
- G. The Provider shall not assign this agreement.
- H. Provider assures that the sources from which it purchases goods and services used for the provision of the services described in the agreement will conform to applicable provisions of Executive Order 11346, Equal Opportunity.
- I. The Provider assures they have met the Basic National Standards for Homemaker/Personal Care Aide Services listed as follows:

STRUCTURE:

- Standard I. There shall be legal authorization to operate the agency.
- Standard II. There shall be a duly constituted authority and a government structure for assuring responsibility and for requiring accountability for performance.
- Standard III. There shall be compliance with all legislation relating to prohibition of discriminatory practices.
- Standard IV. There shall be responsible fiscal management.

Addendum B

DEFINITION	DEFINITION OF UNIT	MAXIMUM ALLOWABLE AUTHORIZATION	RATE NEGOTIATED
The provision of non-personal (environmental support) tasks such as light housekeeping, laundry, meal planning and preparation that enables an individual to maintain as much independence and self-reliance as possible to continue living in their home.	\$7.14/15 min.	7 units/visit 26 visits/year	\$28.56/hr of direct client time

DEFINITION	DEFINITION OF UNIT	MAXIMUM ALLOWABLE AUTHORIZATION	RATE NEGOTIATED
The intermittent or occasional provision of personal support care tasks/activities that enables an individual to maintain as much independent and self-reliance as possible to continue living in their home.	\$7.93/15 min.	\$30,000/year	\$31.72/hr of direct client time



28

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: JENN FAUL
DIRECTOR OF PUBLIC HEALTH

DATE: JANUARY 2, 2025

**RE: NOTICE OF GRANT AWARD AMENDMENT FOR RYAN WHITE
PART B PROGRAM.
NO: G23.713A CFDA: 93.917
FUNDS: \$100,000
EXPIRES: 03/31/2025**

The attached Notice Of Grant Award amendment provides an additional funding of \$100,000 for the Ryan White Part B Program.

BUDGET ADJUSTMENT

Revenue 2025

Ryan White	101-0000-331-12-09	\$100,000
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Expenses 2025

Ryan White	101-6040-451-33-58	\$100,000
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If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve this grant award amendment from the ND Department of Health and Human Services.

JF/lls
Attachment

**NOTICE OF GRANT AWARD**

NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES
SFN 53771 (04-2023)

Grant Number G23.713A	CFDA Name HIV Care Formula Grants		CFDA Number 93.917
FAIN Number X0700043	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 4/1/2024	Grant End Date 3/31/2025
Federal Award Date 6/13/2024	Federal Awarding Agency Health Resources Services Administration (HRSA)		
This award is not effective and expenditures related to this award should not be incurred until all parties have signed this document.			
Title of Project/Program Ryan White Part B Program		North Dakota Department of Health and Human Services (NDDHHS) Project Code: 2201 HLH 5435-03: \$60,000 2201 HLH 5435-09: \$416,000	
Grantee Name Fargo Cass Public Health		Project Director Lindsey VanderBusch	
Address: 1240 25 th Street South		Address: 600 East Boulevard Avenue, Dept. 325	
City/State/ZIP Code: Fargo, ND 58103-2367		City/State/ZIP Code: Bismarck, ND 58505-0250	
Contact Name: Jenn Faul		Contact Name: Lindsey VanderBusch	
Telephone Number: 701-241-1380		Telephone Number: 701-328-4555	
Email Address: jfaul@fargond.gov		Email Address: lvanderbusch@nd.gov	
	NDDHHS Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	\$100,000	\$0	\$100,000
Previous Funds Awarded	\$376,000	\$0	\$376,000
Total Funds Awarded	\$476,000	\$0	\$476,000
Indirect Rate (Check One)	<input type="checkbox"/> Subrecipient waived indirect costs	<input checked="" type="checkbox"/> De minimis rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of %
Scope of Service This amendment provides additional funding of \$100,000 for the continued support of the scope of service requirements as noted in the original agreement.			
Reporting Requirements All reporting requirements of the original agreement remain the same.			
Special Conditions This amendment lifts the special conditions funding restriction as noted in the original agreement.			
This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the NDDHHS as signed by Grantee for the period of July 1, 2023 to June 30, 2025 [Finance Use Only: <input checked="" type="checkbox"/> Requirements Received; <input checked="" type="checkbox"/> Questionnaire received] and (2) applicable State and Federal regulations.			
Evidence of Grantee's Acceptance		Evidence of NDDHHS Acceptance	
Date 01/02/2025	Signature <i>Jenn Faul</i>	Date	Signature
Typed Name/Title of Authorized Representative Jenn Faul, Director of Public Health		Typed Name/Title of Authorized Representative Lindsey VanderBusch, MPH, Unit Director Sexually Transmitted and Blood Borne Diseases	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative Sara E. Stolt, Deputy Commissioner	
ATTEST: Steve Sprague, City Auditor			

If attachments are referenced, they must be returned with the signed award.
If you did not receive attachments as indicated, contact the Program Director identified above.

29

To: Board of City Commissioners

From: Jill Minette, Director of Human Resources

Re: WEX Health Savings Account Administrative Services Agreement

Date: January 2, 2025

Attached, you will find the WEX Health Savings Account Administrative Services Agreement. A Health Savings Account (HSA) was added in 2025 in conjunction with the addition of the high deductible health plan. The cost of services from WEX is already included in the Human Resources budget.

The agreement has been reviewed by the City Attorney.

RECOMMENDED MOTION:

Approve the WEX Health Savings Account (HSA) Administrative Services Agreement effective January 1, 2025.

WEX Health, Inc. Services Agreement
Updated: October 2024
Proprietary & Confidential
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APPLICATION

CITY OF FARGO ("Employer") hereby requests the administrative services and/or subscription indicated below from WEX Health, Inc., successor in interest to Discovery Benefits, LLC, ("WEX"), subject to the terms and conditions set forth in the attached corresponding agreements. If this application is not signed prior to the Effective Date, Employer's consent to the terms and conditions set forth in the attached will be presumed and deemed to have been obtained upon submission of Employer data through the portal, the design guide or any other WEX authorized format.

N/A	Arrears Billing
N/A	COBRA
N/A	Direct Billing
N/A	Education Assistance Program
X	Health Savings Account
N/A	Premium Conversion Plan
N/A	Reimbursement Account
N/A	Non-Discrimination Testing Subscription

N/A HIPAA Business Associate (acknowledged by the Employer as the sponsor on behalf of and as an authorized representative of the group health plan or plans)

SIGNATURE

Accepted and entered into as of **01/01/2025** ("Effective Date").

Employer Authorized Signature

Name

Fee Schedule

Effective Date 01/01/2025 or later if services start different months

	<u>Fee Amount</u>	<u>Fee Minimum</u>	<u>Frequency</u>	<u>Bill To</u>
HSA - Monthly	\$2.00	\$0.00	Monthly	Customer
Fees per HSA Participant per month Includes Benefits Debit Card Spouse, dependent, and replacement Benefits Debit Cards available at no additional fee				

Fees are guaranteed until 01/01/2028 ("Rate Expiration Date").

Printing and postage are included for standard material and mailings.

Additional charges/fees will apply for non-standard mailings and/or expedited requests.

Participant facing educational webinars may be subject to fees.

In person enrollment meetings (optional) are \$350 per day plus travel expenses.

If Employer/Customer has contracted with a third party whereby the third party pays WEX's fees on Employer's behalf, WEX's fees will be invoiced to that third party and are due within thirty (30) days after the date the invoice is received. If the third party fails to pay WEX, Employer remains responsible to pay WEX's fees. Fee rates may be based on a third-party discount. If WEX's fees are no longer to be paid by the third party on Employer's behalf, guarantees could be voided and the fee schedule revised.

WEX Health, Inc. Services Agreement
Updated October 2024
Proprietary & Confidential
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HEALTH SAVINGS ACCOUNT ADMINISTRATIVE SERVICES AGREEMENT

RECITALS

WEX and Employer may be referred to herein individually as a "party" and collectively as the "parties."

Employer makes Internal Revenue Code (together with its implementing regulations, in each case as amended) (the "Code") (26 USC § 223) health savings accounts ("HSAs") available for its employees enrolled in a high deductible health plan under which HSAs can be established by or on behalf of Employer's employees ("Employees").

An HSA is a tax-advantaged medical savings account available to taxpayers in the United States who are enrolled in a high-deductible health plan.

The funds contributed to an account are not subject to federal income tax at the time of deposit. HSA funds roll over and accumulate year to year if they are not spent.

The HSAs are owned by the individual account owner ("Owner").

An HSA is an account used to pay or reimburse certain medical expenses, to which an employee, the employer or both may make contributions.

Employer desires WEX to assist in its administration of HSAs, and WEX agrees to perform certain recordkeeping and nondiscretionary administrative services based on the terms and conditions set forth in this Health Savings Account Administrative Services Agreement (this "Agreement").

WEX will transfer and distribute deductions and contributions made by or on behalf of Employees to the HSAs.

WEX Inc., the ultimate parent company of WEX Health, Inc., will serve as the IRS-approved non-bank custodian of the HSAs ("Custodian" to distinguish Custodian from WEX Health, Inc.).

The above-stated recitals are accurate, true, and correct and are incorporated herein and made a part hereof by this reference.

Now, therefore, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows.

ARTICLE 1 SCOPE AND PURPOSE

This Agreement is limited in scope and purpose to establishing the terms and conditions for the transfer and distribution of payroll deductions and Employer contributions (as applicable) to HSAs of Employees.

Nothing in this Agreement shall modify or amend the terms of any HSA custodial agreement entered into between the Custodian and Owner.

Complete and accurate information from Employer is required in order for WEX to perform the services set forth herein.

WEX shall not be responsible for the truth or accuracy of such information or for the establishment of an HSA or for the HSA maintenance activities based on the information received from Employer.

Employer acknowledges and agrees that WEX shall have no liability in connection with:

- Determining that the Employee is eligible to maintain an HSA and make contributions under applicable tax law;
- Ensuring that all distributions Employees take are permitted under applicable tax law;
- The tax consequences of any contribution (including rollover contributions) or distribution; or

- Paying any custodian investment fees that may be applicable to an HSA.

WEX assumes no responsibility or authority under this Agreement for:

- Providing legal, tax or accounting advice in relation to the HSAs;
- The design, funding or operation of any Employer-sponsored health and welfare benefit plan or for compliance of any such plan with the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), including any aspect of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA");
- Duties incumbent upon a "plan sponsor" or "covered entity" under the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA") privacy and security rules;
- The funding of claims for benefits under any HSA or employee benefit plan or the payment of fees to third parties providing services or products to Employer or Employees;
- The funding of any contributions; or
- Insuring or underwriting any liability to provide benefits under any employee benefit plan.

The parties agree that it is intended that the HSAs shall not be employee benefit plans subject to ERISA and that the assets held in the HSAs shall not be plan assets subject to the provisions of ERISA, and that neither party will take any action that will cause the HSAs to become subject to ERISA. Neither WEX nor Employer, when dealing with the other party in relation to Employer's HSA program provided herein, shall be obliged to determine the other party's authority to act pursuant to this Agreement.

WEX may, in its discretion, prepare and deliver to Employer benchmarks or other metrics showing the experience of Employer and its participants with the services provided herein as compared to other employers. WEX will develop any such benchmarks or metrics through the use of data that has been aggregated and de-identified consistent with any executed or applicable business associate agreement between the parties.

WEX services shall be performed in a professional manner consistent with generally accepted industry standards and in compliance with applicable law.

Employer may subscribe to WEX's non-discrimination testing and request additional products and services from WEX.

ARTICLE 2 OPENING OF ACCOUNTS

In accordance with procedures to be agreed upon by the parties, Employer will: (i) inform Employees who are eligible to participate that they may enroll in an HSA via electronic procedures established by WEX; (ii) provide each Employee with all applicable WEX notices, forms, and disclosures directly or online through the consumer portal; and (iii) provide to WEX at such time and in such format as WEX requires, the information with respect to each Employee participating in Employer's HSA program.

Employer shall ask WEX to establish or "open" HSAs only for those Employees who have indicated the intent to open such an account; represents that the Employees have certified their authorization to work in the United States and have furnished their social security or other taxpayer identification numbers, which Employer will provide to WEX for the purposes of establishing HSAs; and warrants that the information and data Employer provides to WEX under this Agreement will be true and complete to the best of Employer's knowledge, information and belief.

WEX reserves all rights to decline to open or activate any HSA or to close any HSA insofar as its practices and procedures have not been properly observed by Employer or the Employee.

ARTICLE 3 FUNDING OF ACCOUNTS

Based on the contribution timing set and maintained by Employer and in the form to be agreed upon by the parties, Employer shall remit the contributions to WEX and provide accompanying information that accurately indicates each HSA and the dollar amount to be deposited in each such HSA.

WEX shall have no liability for any funds not received by WEX or for any errors in crediting an HSA based on the information provided by Employer, including where such contributions are automated, recurring contributions.

Unless the account has not been successfully opened, contributions may be withdrawn or transferred from an HSA solely upon the instructions of the Custodian and the respective Owner.

Employer shall have the sole responsibility and liability for payment of all benefits it makes available to its Employees.

ARTICLE 4 MISTAKEN EMPLOYER CONTRIBUTIONS

Employer acknowledges and agrees that federal regulation requires that HSA contributions be non-forfeitable, provided that the Internal Revenue Service ("IRS") will allow the reversal of "Mistaken Employer Contributions" under the following circumstances:

- When there is a mistake in the eligibility to establish an HSA and the employee was never eligible for HSA contributions.
- When the contribution exceeds the annual HSA maximum contribution.
- When there is clear documentary evidence demonstrating that there was an administrative or process error.

WEX agrees to assist Employer in requesting the return of Mistaken Employer Contributions from the Custodian in the above situations, or as otherwise permitted by applicable IRS guidance. In all cases, the return of mistaken HSA contributions is subject to the rules, procedures, and limitations of the Custodian.

WEX assumes no liability for "Mistaken Employer Contributions."

ARTICLE 5 ACCOUNT MAINTENANCE

In order to administer and maintain the HSAs, from time-to-time in accordance with procedures to be agreed upon, Employer shall submit to WEX certain information concerning the status of Employees and HSA contributions, and WEX may provide certain information about the HSAs to Employer.

Employer acknowledges that WEX may rely upon all information provided by Employer in maintaining and administering the HSAs.

Employer shall be responsible for all costs and expenses incurred by WEX for error correction or other activities undertaken by WEX at Employer's request or as a result of erroneous information provided by Employer to WEX.

If requested, Employer shall certify to WEX the personnel authorized by Employer to receive and furnish information under this Agreement.

As permitted by law, Employer shall cooperate with WEX in any manner deemed reasonably necessary by WEX to protect its rights.

ARTICLE 6 CLOSING OF HSAs

WEX will close an HSA only upon the instructions of the respective Owner.

Notwithstanding anything to the contrary herein, at its discretion, WEX may refuse to open, or may close any previously established HSA for which the Employee is unable or unwilling to sign WEX forms or otherwise agree to the terms and conditions related to such HSA or otherwise violates any terms thereof.

Employer acknowledges that upon any such closure, funds in the HSA will be returned to Owner or forwarded to another financial institution upon instructions of Owner unless the Mistaken Employer Contribution rules apply, in which case the funds will be returned to Employer.

Employer further acknowledges that such closure may result in tax consequences for which Owner shall be solely responsible and Employer will be responsible for the applicable tax reporting consequences.

The Custodian may resign and close the HSA for any reason or no reason, effective thirty (30) days after it provides written notice of its resignation to Owner.

ARTICLE 7 EMPLOYER RESPONSIBILITIES

Employer represents and warrants that it will have confirmed the identity and employment eligibility of all Employees for whom information is provided to WEX as follows:

- Through the U.S. Citizenship and Immigration Services I-9 forms completed by Employees if hired after November 6, 1986; or
- Through review by Employer of Employees' driver's licenses or other government-issued identifying documentation evidencing nationality or residence and bearing a photograph or similar safeguard, for Employees hired before November 6, 1986.

Employer represents and warrants that it does not:

- Limit the ability of eligible individuals to move their funds to another HSA beyond restrictions imposed by the Internal Revenue Code of 1986, as amended ("Code");
- Impose conditions on uses of HSA funds beyond those permitted under the Code;
- Make or influence the investment decisions with respect to funds contributed to an HSA;
- Represent that HSAs are an employee welfare benefit plan established or maintained by Employer; or
- Receive any payment or compensation from WEX in connection with an HSA.

To the extent applicable, the HSA comparability testing under Code Section 4980G is the responsibility of Employer to complete.

ARTICLE 8 EMPLOYER INFORMATION AND INSTRUCTIONS

Employer has authorized and instructed WEX in this Agreement to implement WEX's standard administrative procedures to provide services in accordance with this Agreement. WEX shall be fully protected in relying upon representations by Employer set forth in this Agreement and communications made by or on behalf of Employer in effecting its obligations under this Agreement.

To the extent provided by law, employer agrees to hold WEX harmless from and against all liability, damages, costs, losses, and expenses (including reasonable attorney fees) and expressly releases all claims against WEX in connection with any claim or cause of action for any activity or occurrence prior to the commencement of services under this Agreement that results from the failure or alleged failure of Employer, its officers and employees, and any other entity related to or performing services on behalf of Employer (other than WEX) to comply with ERISA, the Code, and any other applicable law or regulation with respect to the HSAs.

If Employer instructs WEX with a specific written request in a format acceptable to WEX to provide services in a manner other than in accordance with WEX's standard forms and procedures, WEX may (but need not) comply with such an instruction. This would include any Employer instruction to add a vendor link to the consumer portal. To the extent that WEX complies with such an instruction, Employer and not WEX shall be solely responsible for WEX's action so taken, and Employer agrees to hold WEX harmless from and against all liability, damages, costs, losses, and expenses (including reasonable attorney fees), and expressly releases all claims against WEX in connection with any claim or cause of action, which results from or in connection with WEX complying with Employer's specific written instruction to provide services in a manner other than in accordance with WEX's standard procedures.

ARTICLE 9 RETENTION AND RELEASE OF DATA, RECORDS, AND FILES

Written and electronic records containing personal information are securely destroyed or deleted consistent with business needs or legal retention requirements.

Per business records needs and associated retention and secure destruction periods, WEX retains a copy of all information, excluding emails or similar electronic communications destroyed in the ordinary course of business pursuant to WEX policy, for at least seven (7) years from the date created at WEX.

Following the termination of this Agreement, WEX shall cooperate with Employer or Employer's subsequent service provider for an orderly transition of services provided under this Agreement and, within a reasonable time, will release to Employer a copy of all data, records, and files in WEX's standard format.

Upon termination of this Agreement, WEX is entitled to retain a copy of all information including the data, records, and files to use and disclose such information for claims, audits, and legal and contractual compliance purposes to the extent permitted by law.

ARTICLE 10 NON-DISCLOSURE AGREEMENT AND INTELLECTUAL PROPERTY

(a) General Obligations

For purposes of this Article 10, "confidential company information" shall mean trade secrets or any company information identified by either party as "confidential" and/or "proprietary," or which, under the circumstances, ought to be treated as confidential or proprietary, including non-public information related to the disclosing party's business, service methods, software, documentation, financial information, prices, and product plans. Neither WEX nor Employer shall disclose confidential company information of the other party.

The receiving party shall use reasonable care to protect the confidential company information and ensure it is maintained in confidence, and in no event use less than the same degree of care as it employs to safeguard its own confidential company information of like kind. The foregoing obligation shall not apply to any information that: (i) is at the time of disclosure, or thereafter becomes, part of the public domain through a source other than the receiving party; (ii) is subsequently learned from a third party that does not impose an obligation of confidentiality on the receiving party; (iii) was known to the receiving party at the time of disclosure; (iv) was generated independently by the receiving party; or (v) is required to be disclosed by law, subpoena or other process.

WEX may disclose Employer's confidential company information to a governmental agency or other third party required by law to the extent necessary for WEX to perform its obligations under this Agreement or if Employer has given WEX written authorization to do so.

Although WEX may have confidential company information processed, managed, and/or stored with subcontractors or third parties, it remains fully responsible to Employer for the confidentiality obligations set forth herein.

(b) WEX Sensitive Information

If Employer requests access to WEX confidential and/or proprietary security resources and assessments, service organization controls audit reports or other audit information for the purpose of reviewing the

operating and business condition of WEX, Employer's acceptance of or access to such information shall constitute its agreement with the following:

- Employer will maintain the information (whether communicated by means of oral, electronic or written disclosures) in confidence and shall not use the same for its own benefit, or for any purpose other than the furtherance of its review, or disclose the same to any third party.
- Employer may only disclose the information to its own officers, employees, and agents on a need-to-know basis for the purposes of its review.
- Employer shall use reasonable care to protect the information and to ensure that it is maintained in confidence, and in no event use less than the same degree of care as Employer uses to safeguard its own like information.
- If Employer is a state agency or otherwise subject to a freedom of information type statute, the information shall be treated as confidential and exempt from disclosure in accordance with the applicable law and the information contains sensitive proprietary information and data defined as trade secret information that would not otherwise be publicly available and that disclosure of this information to the public, including WEX's competitors, would likely result in substantial harm to WEX's competitive positions and may also contain confidential supervisory information and personal information relating to directors, officers, and major shareholders of WEX, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(c) Intellectual Property

All materials, including, without limitation, documents, forms (including data collection forms provided by WEX), brochures, and online content ("Materials") furnished by WEX to Employer are licensed, not sold. Employer is granted a personal, non-transferable, and nonexclusive license to use Materials solely for *Employer's own internal business use. Employer does not have the right to copy, distribute, reproduce, alter, display or use these Materials or any WEX trademarks for any other purpose other than its own internal business use. Employer shall use commercially reasonable efforts to prevent and protect the content of Materials from unauthorized use. Employer's license to use Materials ends on the termination date of this Agreement. Upon termination, Employer agrees to destroy Materials or, if requested by WEX, to return them to WEX, except to the extent Employer is required by law to maintain copies of such Materials. WEX retains exclusive ownership rights to and reserves the right to independently use its experience and know-how, including processes, ideas, concepts, techniques, and software acquired prior to or developed in the course of performing services under this Agreement. Employer shall not permit any information regarding the systems of WEX or its subcontractors to be disseminated, sold, assigned, leased or licensed to any third party, nor otherwise used or commercially exploited in any way except as expressly set forth in this Agreement.

(d) Application

Each party agrees that its obligations contained in this Article 10 apply also to its parent, subsidiary, and affiliated companies, if any, and to similarly bind all successors, employees, and agents.

ARTICLE 11 TERM OF AGREEMENT

(a) Duration

The term of this Agreement shall commence as of the Effective Date and shall continue for a period of twelve (12) months (the "Initial Term").

(b) Renewal

This Agreement shall automatically renew for another twelve (12) months at the end of the Initial Term and every twelve (12) months thereafter unless terminated pursuant to this Article 11.

(c) Termination without Cause

Notwithstanding the foregoing, this Agreement may be terminated at any time during the Initial Term or any renewal term by Employer or by WEX without cause and without liability with written notice of the intention to terminate to be effective as of a date set forth in the written notice not fewer than sixty (60) days from the date of such notice.

(d) This Agreement may be terminated upon written notice:

- If any law is enacted or interpreted to prohibit the continuance of this Agreement, upon the effective date of such law or interpretation;
 - If any fee (to the extent not subject to a good faith dispute) for any service provided by WEX to Employer remains unpaid to WEX beyond thirty (30) days past the due date, upon written notification by WEX to Employer that WEX intends to exercise its option to enforce this provision;
 - If at any time Employer fails to provide or make available funds for the payment of HSA contributions; or
 - Due to (i) a party's filing for bankruptcy, (ii) a party's making any assignment for the benefit of creditors, (iii) a party's consenting to the appointment of a trustee or receiver, (iv) a party's insolvency, as defined by applicable law, or (v) the filing of an involuntary petition against Employer under the Federal Bankruptcy Code or any similar state or federal law which remains un-dismissed for a period of forty-five (45) days.
- (e) If a party is in default under any provision of this Agreement other than a payment default, the other party may give written notice to the defaulting party of such default. If the defaulting party has not used good faith efforts to cure such breach or default within thirty (30) days after it receives such notice, or if good faith efforts to cure have begun within thirty (30) days but such cure is not completed within sixty (60) days after receipt of the notice, the other party shall have the right by further written notice (the "Termination Notice") to terminate the Agreement as of any future date designated in the Termination Notice.

(f) Fees or Charges

All fees and charges that have accrued up to the date of termination shall be paid within thirty (30) days after the date of termination.

ARTICLE 12 COST OF SERVICES

The service fees shall be payable in accordance with the fee schedule attached hereto.

Fees are invoiced monthly and are due within thirty (30) days of the invoice date.

If Employer disputes in good faith any portion of the fees invoiced, Employer shall provide WEX with written notice of any disputed fees together with a complete written explanation of the reasons for the dispute (the "Dispute Notice") within thirty (30) days of the invoice date. The parties shall work together in good faith to reach a mutually agreeable resolution of the dispute identified in the Dispute Notice for a period of ten (10) days following the date of the Dispute Notice.

If Employer fails to pay within sixty (60) days of the invoice date, and upon written request of WEX to the Custodian, fees will be deducted directly from each HSA to which the fees relate, provided that no amount may be deducted from one HSA to cover the unpaid service fees from another HSA.

Employer shall have thirty (30) days from the date of the invoice to correct the HSA participant count for credit or refund.

The service fees are billed to Owner after termination of employment with Employer.

If requested by Employer, the service fees may be charged to Owners, and withdrawn from the HSAs on or around the first of each month. This transaction will appear as a separate line item on the account. The fees cannot be charged to Owners if the service fees are part of a WEX solution or a monthly minimum fee.

Notwithstanding the foregoing, WEX reserves the right to:

- Charge Employer a 1.5% finance fee on unpaid balances that are ninety (90) days or more past due.
- Charge Employer reasonable fees for the reproduction or return of records or reports requested by Employer or governmental agencies if the governmental agency has made the request on behalf of Employer or for reasonable fees charged by other parties for information reasonably required by WEX to perform its duties under this Agreement;
- Charge for the provision of additional services and/or proprietary technology that were neither included in nor contemplated by this Agreement on the Effective Date;
- Increase fees based on additional costs imposed on WEX, such as significant postal rate or bank fee increases or substantiated increased costs due to legislative or regulatory changes, foreign or domestic, actually incurred in performing its services; and
- Pass through any fees charged to WEX by a vendor of Employer.

WEX's service fees incorporate the service fees charged by the Custodian. Upon thirty (30) days' advance written notice to Employer, WEX may adjust its service fees to reflect any adjustment in the service fees charged to WEX by the Custodian. The service fees do not include the investment management fee, if any, charged by the Custodian.

WEX shall provide Employer with reasonable prior written notice of such increases.

On or after the rate expiration date indicated on the fee schedule, WEX reserves the right to amend the fee schedule with at least sixty (60) days' advance written notice. If Employer is unwilling to accept the changes to the fee schedule, Employer may terminate this Agreement by providing notice to WEX no later than the effective date of the fee schedule amendment.

Fees quoted assume that WEX standard software and systems will be compatible with Employer's software and systems and with any prior service provider's software and systems so that the services can be readily performed without any modifications or alterations of WEX's software and systems. If costs are incurred by WEX to integrate the WEX services with Employer's software and systems and/or in migrating the data from the prior service provider to WEX's systems, those costs may be charged separately on a time and materials basis or as otherwise provided under a separate agreement between the parties.

ARTICLE 13 RED FLAGS RULE COMPLIANCE

For the purposes of this Article 13, "Red Flags Rule" means regulation adopted by various federal agencies, including the Federal Trade Commission, in connection with the detection, prevention, and mitigation of identity theft and located at 72 Fed. Reg. 63718 (November 9, 2007), as amended.

For the purposes of this Article 13, "Covered Services" means the services provided that allow Owners to pay for eligible expenses with a debit card or other stored-value card and any other services provided by WEX pursuant to this Agreement that fall under the protections of the Red Flags Rule as determined by WEX in its sole discretion.

To the extent applicable, WEX shall comply with the Red Flags Rule with respect to Covered Services provided by WEX under this Agreement as determined by WEX in its sole discretion. As part of its Red Flags Rule compliance, WEX shall adopt, maintain, and use appropriate and commercially reasonable rules, procedures, and safeguards to detect and identify red flags and to prevent and mitigate identity theft as required by the Red Flags Rule.

This Article 13 shall be null and void to the extent action is taken by U.S. Congress or a federal agency to exempt the Covered Services (or third-party administrators that provide Covered Services) from the Red Flags Rule.

ARTICLE 14 LIMITATIONS

- (a) Notwithstanding any other provision in this Agreement to the contrary, the total cumulative liability of WEX to Employer for all claims, actions, or suits however caused arising out of or in connection with this Agreement shall be limited to direct damages and shall not exceed the amount of fees received by WEX from Employer under this Agreement for the twenty-four (24) months prior to the occurrence of the event giving rise to any such claims, actions or suits. In no event shall either party be liable for consequential, special, exemplary, punitive, indirect or incidental damages, including, but not limited to, any damages resulting from loss of use, or loss of profits arising out of or in connection with this Agreement, whether in an action based on contract, tort (including negligence) or any other legal theory whether existing as of the Effective Date or subsequently developed, even if the party has been advised of the possibility or foreseeability of such damages
- (b) WEX and Employer expressly agree that the limitations of liability in this Article 14 represent an agreed allocation of the risks between the parties under this Agreement. This allocation is reflected in the pricing offered by WEX to Employer and is an essential element of the basis of the bargain between the parties.
- (c) Subject to the limitations in this Article 14, WEX will indemnify, defend and hold harmless Employer (and its respective officers, directors, employees, authorized representatives, successors, and permitted assigns) from and against any and all liability, damages, costs, losses, penalties, expenses and reasonable attorney fees (collectively, "Losses") incurred by Employer in connection with any threatened, pending or adjudicated claim, demand, action, suit or proceeding by any third party (including an action brought by or on behalf of an Employee or Owner) to the extent arising out of WEX's (i) fraudulent or criminal actions or omissions or (ii) material breach of this Agreement or of any executed or applicable business associate agreement between the parties.
- (d) In addition to the provisions of Article 8, Employer will indemnify, defend and hold harmless WEX (and its respective officers, directors, employees, authorized representatives, successors, and permitted assigns) from and against any and all Losses incurred by WEX in connection with any threatened, pending or adjudicated claim, demand, action, suit or proceeding by any third party (including an action brought by or on behalf of an Employee or an Owner) to the extent arising out of Employer's (i) fraudulent or criminal actions or omissions or (ii) material breach of this Agreement or of any executed or applicable business associate agreement between the parties. If Employer is a state agency or otherwise subject to a public entity/political subunit non-indemnification type statute and therefore unable to indemnify under this subsection, WEX shall not be responsible for any injury or damage that occurs as a result of any negligent act or omission committed by Employer, including its employees or assigns.
- (e) A party (the "Indemnified Party") seeking indemnification under sections (c) or (d) above shall promptly notify the other party (the "Indemnifying Party") of any matters in respect of which the foregoing indemnity may apply and of which the Indemnified Party has knowledge, and give the Indemnifying Party the opportunity to control the response thereto and the defense thereof; provided, however, that the Indemnified Party shall have the right to participate in any legal proceeding to contest and defend a claim for indemnification involving a third party and to be represented by its own attorneys, all at the Indemnified Party's sole cost and expense; and provided further, however, that no settlement or compromise of an asserted third-party claim may be made without the prior written consent of the Indemnifying Party.
- (f) The Indemnified Party must notify the Indemnifying Party within thirty (30) days in writing of any actual or threatened claim, demand, action, suit or proceeding to which it claims such indemnification applies. Failure to so notify the Indemnifying Party shall not be deemed a waiver of the right to seek indemnification, unless the actions of the Indemnifying Party have been materially prejudiced by the failure of the Indemnified Party to provide notice within the required time period.

ARTICLE 15 GENERAL

- (a) During the term of this Agreement, WEX shall maintain commercial general liability insurance in an amount not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate; errors and omissions (professional liability) insurance in the amount of at least \$3,000,000 per occurrence; crime and fidelity insurance, covering the crimes and fidelity of WEX and WEX's employees in an amount not less than \$3,000,000 in the aggregate;

and cyber risk liability in an amount not less than \$5,000,000. Upon Employer's written request, but no more than once per year during the term of this Agreement, WEX shall provide Employer with a certificate or certificates of insurance reflecting the required coverage.

- (b) Neither Employer nor WEX will restrict the ability of Owners to move funds to another HSA beyond those restrictions imposed by the Code.
- (c) By executing this Agreement, the parties agree to extend the term of any Automated Clearing House ("ACH") agreement associated herewith to be coterminous with the term of this Agreement and to have such agreement be covered by the terms and provisions hereof.
- (d) From time-to-time and in compliance with applicable federal and state laws, WEX may monitor and/or record calls which are made to the customer service line for quality assurance and training purposes, and/or to ensure that WEX's services fully comply with the terms of this Agreement. WEX shall provide a customer service line toll-free number Monday through Friday (excluding holidays) Central Time Zone for use during WEX regular business hours: Employers 7:00 a.m. to 7:00 p.m., Owners 6:00 a.m. to 9:00 p.m.
- (e) WEX maintains an information security program in compliance with applicable law.
- (f) WEX may delegate or subcontract any portion of WEX services. For those WEX services that are delegated or subcontracted, WEX shall remain fully responsible to Employer for compliance with all applicable provisions of this Agreement or of any executed or applicable business associate agreement between the parties.
- (g) To the extent that the U.S. Congress, Department of Health and Human Services ("HHS") or another agency with similar authority issues a definitive ruling or order that the Health Insurance Portability and Accountability Act, as amended ("HIPAA") standards for privacy of individually identifiable health information apply to the HSA services, the parties shall confer in good faith to discuss compliance with same.
- (h) Notwithstanding anything to the contrary contained herein, neither party shall be responsible or liable if the performance of its obligations hereunder is hindered or adversely affected or becomes impossible or impracticable, as a result of an event or effect that the party could not have anticipated or controlled or for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including, without limitation, lockouts, strikes, work stoppages or other labor disruption, accidents, epidemics, pandemics, quarantines, war (whether declared or undeclared), acts of war or terrorism (whether foreign or domestic in origin), insurrection, sabotage, riot, a decree of health emergency, national emergencies or other man-made emergency, civil or military disturbances including any law, regulation, order or other action by any governmental authority, nuclear or natural disasters or acts of God, interruptions, loss or malfunctions of utility, transportation, communications or computer (software and hardware) services, including the disruption or outage of the Internet, or disruption of financial markets or banking functions (a "Force Majeure Event"). A party affected by a Force Majeure Event shall as soon as reasonably practicable after the occurrence of the Force Majeure Event or the occurrence of harm resulting from such a Force Majeure Event that causes the party to be unable to perform:
 - (i) provide written notice to the other party of the nature and extent of any such Force Majeure Event; and
 - (ii) use commercially reasonable efforts to remedy any inability to perform due to such a Force Majeure Event.
- (i) If either party fails to enforce any right or remedy under this Agreement, that failure is not a waiver of the right or remedy for any other breach or failure by the other party.
- (j) If any provision of this Agreement is found to be unenforceable or invalid, such determination shall not affect any other provision, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein, and the parties will negotiate a mutually acceptable replacement provision consistent with the parties' original intent.
- (k) This Agreement and the legal relations between the parties hereto shall be governed by and construed in accordance with the internal laws of the State of Delaware (without regard to the laws of conflict that might otherwise apply) as to all matters, including without limitation, matters of validity, interpretation, construction, effect, performance, enforcement and remedies.

- (l) Any claim, controversy or dispute arising out of, or relating to, this Agreement, first promptly shall be settled by managers with direct day-to-day responsibility under this Agreement, and if not so settled, promptly shall be addressed by executives of the parties who have authority to settle the dispute. A party wishing to raise a dispute shall give prompt written notice to the other party, and the good faith attempt to resolve the dispute, as described in the foregoing sentence, shall take place within thirty (30) days thereafter. Engaging in the dispute resolution process described in this subsection shall be a condition precedent to proceeding with litigation.
- (m) Notwithstanding the foregoing, this provision shall not prevent either party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the parties and the subject matter of their dispute relating to this Agreement.
- (n) Any suit, action, or proceeding arising out of or related to this Agreement shall be heard only in the U.S. District Court for the District of Delaware if federal subject matter jurisdiction exists, or if not, only in the state courts of the State of Delaware, in each case to the exclusion of all other courts. The parties hereby consent to the personal jurisdiction of such courts and waive any objection to venue.
- (o) Any notice required or permitted to be given under this Agreement shall be deemed delivered to the address set forth in this Agreement or such other physical or electronic address as specified by the party: (i) when received if delivered by hand; (ii) the next business day if placed with a reputable express carrier for delivery during the morning of the following business day; (iii) three (3) days after deposit in the U.S. mail for delivery, postage prepaid; or (iv) when received if delivered electronically. WEX Health, Inc., 1 Hancock Street, Portland, ME 04101 Attn: Legal or LegalNotice@wexinc.com, Attn: Legal – Health Direct.
- (p) This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements and understandings, whether written or verbal. In the event of a conflict between the terms and conditions of this Agreement and the terms and conditions of any purchase order, payment processing agreement, or other document relating to the services provided by WEX herein, the terms and conditions of this Agreement shall control. Further, the terms and conditions of this Agreement shall prevail over any additional terms contained in any such purchase order, payment processing agreement, or other document. Any amendment to this Agreement must be in writing and signed by authorized representatives of both parties. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, assigns, and successors in interest. Unless expressly set forth in this Agreement, nothing in this Agreement is intended to confer, and nothing herein shall confer upon any person other than the parties hereto, any rights, remedies, obligations or liabilities whatsoever.
- (q) This Agreement may not be assigned by either party without the prior written consent of the other unless to an affiliate or in connection with a change in control, merger, acquisition or sale of all or substantially all of the party's assets and provided that the surviving entity has agreed to be bound by this Agreement and has notified the other party in writing within thirty (30) days following the date of the assignment. If consent is required, the parties shall not unreasonably withhold or delay consent.
- (r) Those provisions that by their nature are intended to survive termination or expiration of this Agreement shall so survive.
- (s) The parties agree that in performing their responsibilities under this Agreement, they are in the position of independent contractors. This Agreement is not intended to create, nor does it create and shall not be construed to create, a relationship of partner or joint venture or any association for profit between Employer and WEX.
- (t) In the event of WEX's resignation or inability to serve, Employer may appoint a successor. In such situations, the replacement of WEX shall be considered a termination of this Agreement, and the termination provisions of Article 11 shall remain effective and controlling.
- (u) Employer grants WEX the right to include Employer's name in WEX's published client list. Subject to Employer's consent to both content and timing (not to be unreasonably withheld), Employer grants WEX permission to issue and distribute a press release announcing the existence of the business relationship

between the parties, and to engage in publicity concerning the same that may appear on the WEX website and in WEX publications, including proposal materials and/or presentations. Employer shall provide and grant WEX use of a company logo for use in the published materials.

- (v) Neither WEX nor Employer, when dealing with the other party in relation to the plan, shall be obliged to determine the other party's authority to act pursuant to this Agreement.

City of Fargo Staff Report			
Title:	Estes Addition	Date: Update:	8/29/2024 1/2/2025
Location:	1301 43rd Street North; 4151 12th Avenue North; 4153 and 4121 12th Avenue North	Staff Contact:	Donald Kress, current planning coordinator
Legal Description:	Lot 1, Block 9 of Industrial Subdivision No. 1 and portions of Lots 1 and 2 of Hector's Subdivision		
Owner(s)/Applicant:	Black Branch Terminal, LLC; T&M Scherr Holdings, LLC / Neset Land Surveys	Engineer:	Neset Land Surveys
Entitlements Requested:	Minor Subdivision (replat of Lot 1, Block 9 of Industrial Subdivision No. 1 and portions of Lots 1 and 2 of Hector's Subdivision to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Consent Agenda: January 8 th , 2025		

Existing	Proposed
Land Use: Industrial Uses and undeveloped	Land Use: No change
Zoning: GI, General Industrial	Zoning: No change
Uses Allowed: Allows detention facilities, health care facilities, safety services, adult entertainment centers, off-premise advertising, commercial parking, industrial service, manufacturing and production, warehouse and freight movement, waste related use, wholesale sales, aviation, surface transportation, and mining.	Uses Allowed: No change.
Maximum Lot Coverage Allowed: Maximum 55% building coverage	Maximum Lot Coverage Allowed: Unchanged

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A minor subdivision, to be known as Estes Addition, a replat Lot 1, Block 9 of Industrial Subdivision No. 1 and portions of Lots 1 and 2 of Hector's Subdivision to the City of Fargo, Cass County, North Dakota 1301 <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>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: GI with industrial uses • East: GI with industrial uses • South: GI with industrial uses. • West: GI with industrial uses <p>(continued on next page)</p>

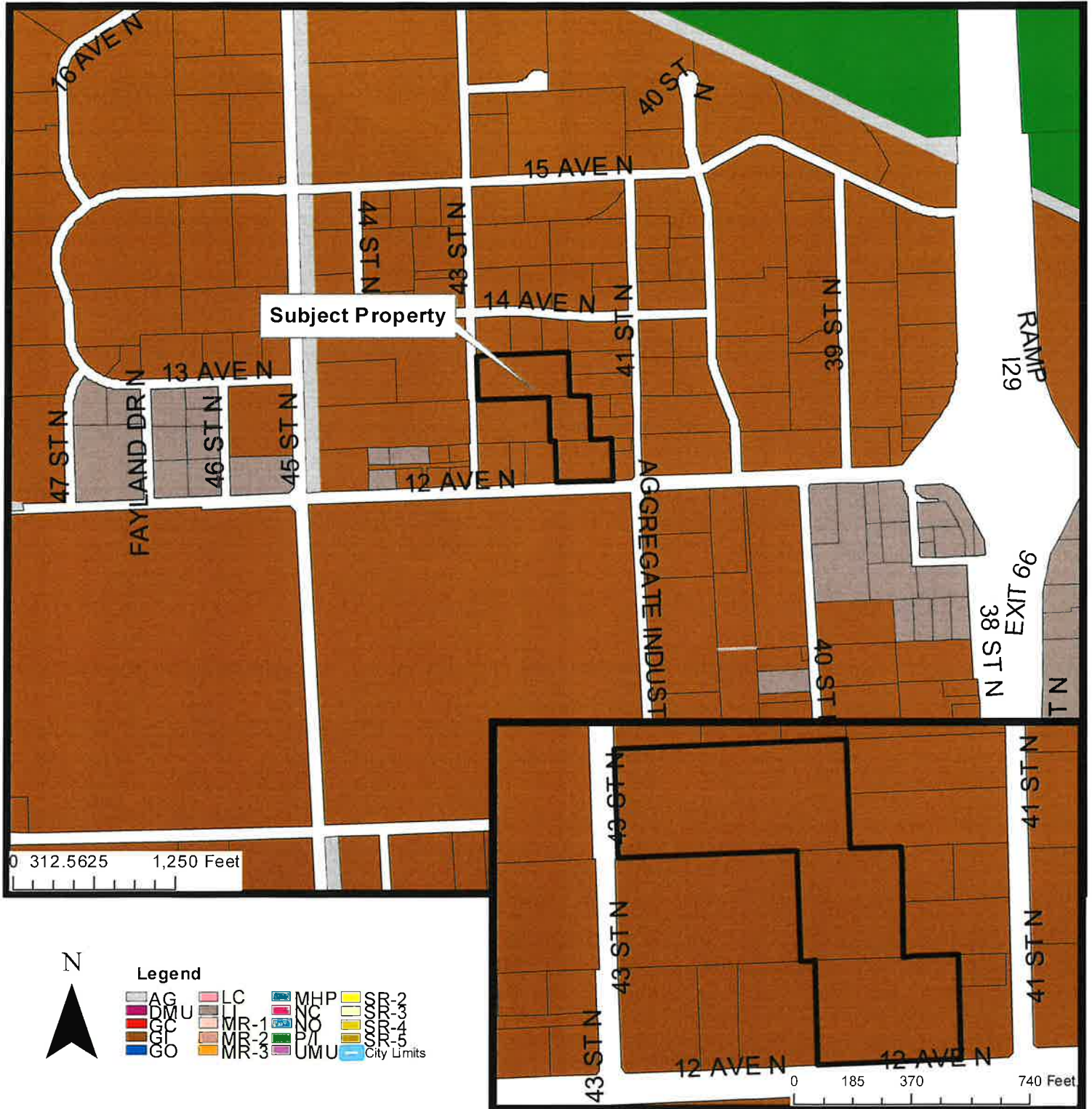
<p>Context:</p> <p>Schools: The subject property is located within the West Fargo School District, specifically within the Westside Elementary, Cheney Middle and West Fargo High schools.</p> <p>Neighborhood: The subject property is not located within a named neighborhood.</p> <p>Parks: There are no Fargo parks within one mile of the subject property.</p> <p>Pedestrian / Bicycle: An 8-foot wide off-road multi-use trail is across 12th Avenue from the subject property within the 12th Avenue North right of way. This trail is a component of the metro area trails system.</p> <p>Transit: The subject property is not along a MATBus route.</p>
<p>Staff Analysis:</p> <p>PLAT The plat combines three existing lots into two lots. Access to the lots is from 43rd Street North and 12th Avenue North.</p> <p>ZONING The properties are zoned GI, General Industrial. No change in the zoning is proposed.</p> <p>AMENITIES PLAN Staff will work with the applicant to create an amenities plan primarily addressing stormwater management. This plan will be finalized prior to the plat going to City Commission for final approval.</p> <p>Minor Subdivision The LDC stipulates that the following criteria is met before a minor plat can be approved:</p> <ol style="list-style-type: none"> 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. This subdivision is intended to replat three existing lots into a two-lot, one block subdivision. The properties within this plat are currently zoned GI, General Industrial. No change to the zoning is proposed. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received and responded to one inquiry about the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. (Criteria Satisfied) 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

<p>storm sewer by the square footage basis as is typical with the City of Fargo assessment principals. (Criteria Satisfied)</p>
<p>Staff Recommendation:</p>
<p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed subdivision plat, Estes Addition as outlined within the staff report, as the proposal complies with the standards of Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code."</p>
<p>Planning Commission Recommendation: September 5th, 2024</p>
<p>At the September 5th, 2024, Planning Commission, that Commission, by a vote of 9-0 with one Commissioner absent and one Commission seat vacant, moved to accept the findings and recommendations of staff and recommended approval to the City Commission the proposed subdivision plat, Estes Addition as outlined within the staff report, as the proposal complies with the standards of Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code.</p>
<p>Attachments:</p>
<ol style="list-style-type: none"> 1. Zoning map 2. Location map 3. Preliminary plat

Minor Subdivision

Estes Addition

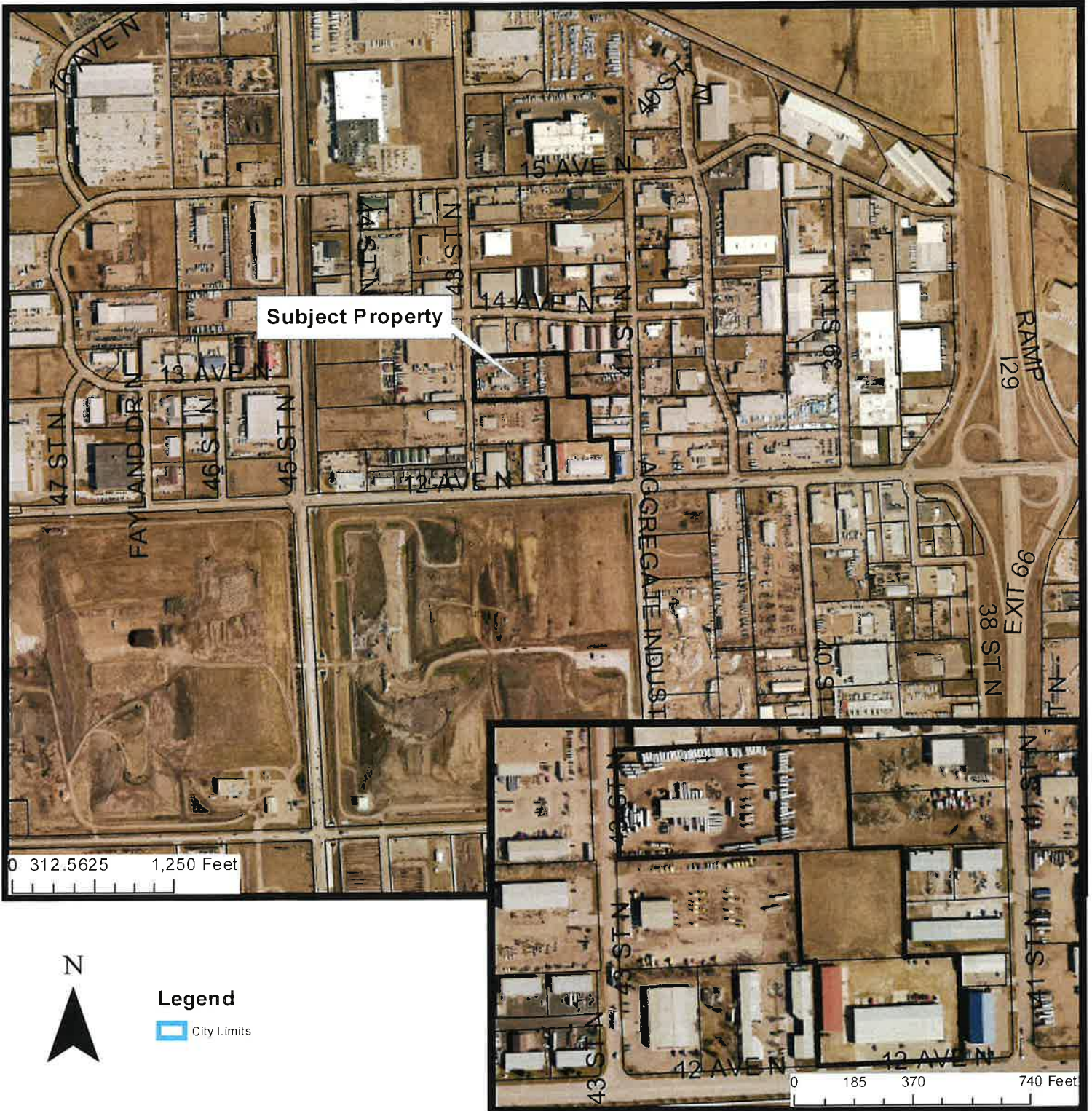
1301 43rd Street North; 4151 12th Avenue North;
4153 and 4121 12th Avenue North



Minor Subdivision

Estes Addition

1301 43rd Street North; 4151 12th Avenue North;
4153 and 4121 12th Avenue North



December 30, 2024

City of Fargo Commissioners
225 N 4th Street
Fargo, ND 58102

Dear Commissioners:

The City of Fargo has provided transit service in West Fargo for many years. An annual Mass Transit Agreement defines the level and estimated cost of the service, and West Fargo provides Fargo with an appropriate amount of funds to pay for local costs of the transit service. A portion of the cost of transit service is paid for with grants from the Federal Transit Administration and the State of North Dakota.

An agreement for these services for 2025 is attached for your consideration. Under the terms of these agreements, the City of West Fargo will contribute monthly towards the cost of fixed route transit and paratransit services.

RECOMMENDED MOTION: Approval of the Mass Transit Agreements between the Cities of Fargo and West Fargo for 2025.

Sincerely,



Cole Swingen
Assistant Transit Director – Operations

MASS TRANSIT AGREEMENT

This AGREEMENT (the "Agreement") made and entered into this 1st day of January, 2025 (the "Effective Date"), by and between the City of West Fargo, North Dakota (hereinafter "West Fargo"), and the City of Fargo, North Dakota (hereinafter "Fargo").

WHEREAS, Fargo provides regular transit service and Paratransit service for its citizens; and

WHEREAS, West Fargo would like to provide such services to the citizens of West Fargo; and

WHEREAS, Fargo is agreeable to provide such transit service to West Fargo on the terms and conditions set out below;

NOW THEREFORE, be it agreed between West Fargo and Fargo as follows:

1. Fargo will provide regular transit service to West Fargo during the term of this Agreement under the following conditions:
 - A. Fargo and West Fargo shall agree to routes, schedules, and stopping points of the transit service in West Fargo. It is understood that such West Fargo routes will tie into the Fargo route system at West Acres. As of the Effective Date, there are two (2) routes servicing West Fargo: Route 20 and Route 24. Route 20 and stopping points must be such that the route can be completed in approximately thirty (30) minutes, and the route will run once each hour. Route 24 and stopping points must be such that the route can be completed in approximately sixty (60) minutes, and the route will run once each hour.
 - B. Persons who get onto the bus in West Fargo shall not be charged a fee to transfer onto other bus routes of the bus system and may transfer onto another bus with no transfer fee.
 - C. The bus fare for using the buses in West Fargo shall be the same fare that is charged to passengers using the bus service in Fargo.
 - D. Fargo shall be responsible for all administrative responsibilities regarding the bus transit service provided to West Fargo, including dispatching, complaint issues, annual grant applications, marketing of routes, preparation and revision of route maps and schedules, and filing of any necessary reports.
2. Fargo shall provide West Fargo transit service for persons with disabilities through the Paratransit service on the following conditions:
 - A. The service shall be available to the citizens of West Fargo on the same basis that it is available to citizens in Fargo.
 - B. The cost of the service to the citizens of West Fargo shall be the same cost as available to the citizens of Fargo.

11. The parties will cooperate and use their best efforts to ensure that the various provisions of this Agreement are fulfilled. The parties agree to act in good faith to undertake resolution of disputes in an equitable and timely manner and in accordance with the provisions of this Agreement.
12. The District Court of Cass County, North Dakota, will be the sole and exclusive venue for any lawsuit pertaining to this Agreement, and the Parties consent to the personal jurisdiction in said court in the event of any such lawsuit.
13. This Agreement shall not be assigned without the express written consent of the other party.
14. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, or word hereof is held by a court with jurisdiction to be illegal or invalid whatsoever, such illegality or invalidity will not affect the validity of the remainder of this Agreement.
15. No party will be liable to another party during any period in which its performance is delayed or prevented, in whole or in part, by circumstances beyond its reasonable control. Circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind), fire, war, act of a public enemy or terrorist, act of sabotage, strike or other labor dispute, riot, misadventure of the sea, inability to secure materials, or a restriction imposed by legislation, an order or a rule, or regulation of a governmental entity. If such a circumstance occurs, the party claiming the delay must undertake reasonable action to notify the other party of the same.
16. All notices, certificates, or other communications required under this Agreement will be deemed sufficiently given when delivered or deposited in the United States mail in certified form with postage fully prepaid and addressed as follows:


If to West Fargo:	City Administrator City of West Fargo 2515 6th Street East West Fargo, ND 58078
If to Fargo:	City Administrator City of Fargo 225 4 th Street North Fargo, ND 58102
17. This Agreement will be controlled by the laws of the State of North Dakota.
18. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. All parties will receive a fully-executed counterpart. The facsimile, email, or other electronically delivered signatures of the parties will be deemed to constitute original signatures, and facsimile or electronic copies hereof will be deemed to constitute duplicable originals.

IN WITNESS WHEREOF, the parties have caused this Mass Transit Agreement to be executed on the day and year first above written.

CITY OF WEST FARGO

BY: 

Bernie L. Dardis, President, City Commission

ATTEST: 

City Auditor

CITY OF FARGO

BY: _____

Timothy J. Mahoney, M.D., Mayor

ATTEST: _____

City Auditor