

Executive Session at 4:00 p.m.

Roll Call.

PLEASE NOTE: The City Commission will convene at 4:00 p.m. and retire into Executive Session in the Red River Room to discuss negotiating strategy and/or to provide negotiating instructions to its negotiator, the Mayor, and also to consult with its attorneys regarding the terms of an amendment to the Memorandum of Agreement between the Fargo Municipal Airport Authority and the City; and to consult with the City's attorneys regarding existing civil litigation between the City and Purdue Pharma, LP et al; both of said matters being authorized by North Dakota Century Code 44-04-19.1 subsections 2 and 9 as public discussion of both will create an adverse fiscal effect on the bargaining and/or litigation position of the City if discussions regarding offers to be made or accepted, negotiating strategy to be taken or legal consultation about negotiations or litigation were to occur in an open meeting.

Regular Meeting at 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, November 15, 2021).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. 2nd reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in Meadow View Addition; 1st reading, 11/15/21.
- 2. Zero Electric Motorcycle Agreement with the Park District of the City of Fargo.
- 3. Resolution Establishing Northern States Power Franchise Fee.
- 4. Agreement for Downtown Business Improvement District Services and Materials with the Downtown Community Partnership beginning 1/1/22 through 12/31/22 (SSP21189).
- 5. Contract and bond for Project No. MP-20-A2.
- 6. Applications for Games of Chance:
 - a. Jeremiah Program Fargo-Moorhead for a raffle on 4/8/22 (amended).
 - b. Nativity School Elementary PTO for a raffle on 2/4/22.
 - c. NDSU Men's Lacrosse Club for a raffle on 4/1/22.

- d. MHA Nation West Segment Fargo Outreach for a raffle on 12/15/21; Public Spirited Resolution.
- e. Benefit for Kerri Gortmaker for a raffle board on 12/10/21; Public Spirited Resolution.
- 7. Milestone No. 6 (Change Order No. 9) for a time extension to 12/15/21 for Project No. FM-16-A1.
- 8. Change Order No. 2 for an increase of \$25,022.00 and time extension to 12/5/21 for Project No. SL-21-A1.
- 9. Final Balancing Change Order No. 3 for an increase of \$1,443.30 for Project No. TM-21-A1.
- 10. Agreement for Professional Services with Houston Engineering, Inc. for Project No. NR-23-A0.
- 11. Reimbursement request to Designer Homes in the amount of \$37,756.44 for repair and backfill of the old borrow pit site located at 6158 31st Street South.
- 12. Permanent Easement (Levee and Retaining Wall for Flood Control) with the Park District of the City of Fargo at 194 North Woodcrest Drive North (Project No. FM-19-C).
- 13. State Water Commission request for cost reimbursement for the FM Metropolitan Area Flood Risk Management Project costs totaling \$5,734,800.64.
- 14. Receive and file General Fund-Budget to Actual through October 2021 (unaudited).
- 15. Bid award for the purchase of one hazardous materials monitor with a Raman spectroscopy and accessories (RFP21194).
- 16. Sole Source Procurement with M & T Fire and Safety for the purchase of Fire Service Plus, FireAde AR-AFFF 3%x3%, 660 gallon tote (SSP21199).
- 17. Sole Source Procurement with Tyler Technologies, Inc. for the purchase of MobileEyes fire inspection software and Amendment to the License Agreement with Tyler Technologies, Inc. (SSP21200).
- 18. Agreement for Services with the following:
 - a. Sue Black.
 - b. Jamie Bunnis.
 - c. Bernadetta Chinema.
- 19. Sole Source Procurement with Custer Health-Mandan, ND for statewide education and awareness of the Women's Way Program.
- 20. Grant Agreement with the ND Department of Health Services, Office of Refugee Support Services for care coordination.
- 21. Amendment to the Notice of Grant Award from the ND Department of Health for the Title X Family Planning Program (CFDA #93.217).
- 22. Sponsorship package with the FM RedHawks to provide advertisement for the immunization program during the 2022 season.

23. Agreement for School Faculty Tobacco Prevention Coordinator with West Fargo Public Schools District.
- Page 3
24. Amendment to the Notice of Grant Award with the ND Department of Health for Ryan White Part B Program (CFDA #93.917).
25. Resolution Approving Plat of Timber Parkway Seventh Addition.
26. Purchase of one vactor combination sewer cleaner truck through Sourcewell in the amount of \$574,467.00 (PBC122017-FSC-2).
27. Piggyback Contract with Christianson's Business Furniture for the Public Works West Administration Office furniture fit-up (PBC21082).
28. Amendment No. 1 with KLJ Engineering, LLC in the amount of -\$7,895.53 for MTG Pit repairs and in-ground hoist replacement (RFQ21072).
29. Request for Proposals for contract electrician services in the Water Utility.
30. Bills.
31. Memorandum of Offer to Landowner for a Permanent Easement (Street and Utility) with Bison Investments, LLC in association with Improvement District No. BR-22-A0.
32. Memorandum of Offer to Landowner for a Permanent Easement (Street and Utility) and Easement (Temporary Construction Easement) with Innovis Health, LLC in association with Improvement District No. BR-22-A0.
33. Permanent Easement (Storm Sewer) with Stanley L. and Patricia J. Ryland in association with Improvement District No. BN-21-G1.
34. Bid awards for the following Improvement Districts:
- No. BN-21-L1.
 - No. BR-22-C1.
 - No. BR-22-F1.
35. Contracts and bonds for the following Improvement Districts:
- No. BN-21-L1.
 - No. BR-22-F1.

REGULAR AGENDA:

36. **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).
37. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**
- Maple Valley Fifth Addition (6050 36th Street South); approval recommended by the Planning Commission on 9/9/21:
 - Zoning Change from LC, Limited Commercial to LC, Limited Commercial with a C-O, Conditional Overlay.
 - 1st reading of rezoning Ordinance.

3. Plat of Maple Valley Fifth Addition.
 - b. Fayland Industrial First Addition (1217 46th Street North); approval recommended by the Planning Commission on 11/2/21:
 1. Zoning Change from GI, General Industrial to LI, Limited Industrial.
 2. 1st reading of rezoning Ordinance.
 - c. Application for a Class "VWB" Alcoholic Beverage License for Cellar 624 LLC d/b/a Cellar 624, The Venue on Main to be located at 624 Main Avenue, Suite 1.
 - d. Proposed changes in Passenger Fare Structure for MATBUS Fixed Routes and MAT Paratransit Service.
38. Discussion regarding the City of Fargo Temporary COVID-19 Mask Policy for employees.
39. Receive and file the 2022 Capital Improvement Plan and the 2023 Federal Aid and 2023 Utility Replacement and Street Reconstruction Projects.
40. Recommendation for award of the Civil Legal Services and Prosecutorial Legal Services.
41. Recommendation to approve the Massage Therapy Establishment requirements, as presented and 1st reading of an Ordinance Relating to Massage Therapy Establishments.
42. 1st reading of an Ordinance Relating to Wildlife Management Program-Regulations.
43. 2nd reading and final adoption of an Ordinance Relating to the City of Fargo Police Advisory and Oversight Board; 1st reading on 11/15/21.
44. Applications for Property Tax Exemptions for Improvements Made to Buildings:
 - a. Gary and Margaret Stende, 1338 3rd Street North (5 year).
 - b. Derek and Kellie Hanson, 2311 Lilac Lane North (5 year).
 - c. James and Patricia Deutsch, 3105 9th Street North (5 year).
 - d. Michael and Lesa Lemoine, 2124 10th Street South (5 year).
 - e. Stephen Illing, 2850 Hickory Street North (5 year).
 - f. Troy and Sydney Knutson, 230 Prairiewood Drive South (5 year).
 - g. Gregory and Gretchen Byer, 1720 Whitestone Circle South (5 year).
 - h. Melissa Bossman and Steven Tedford, 2541 Par Street North (5 year).
 - i. Karl and Carol Berg, 2509 10th Street North (5 year).
 - j. Angela Rockwell, 1929 17th Street South (5 year).

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.

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City of Fargo Staff Report			
Title:	Maple Valley 5 th Addition	Date:	9/2/2021
		Update:	11/24/2021
Location:	6050 36 th Street South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lot 21, Block 6, Maple Valley Addition to the City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	Aspen Ponds Apartments, LLP / Nate Vollmuth---Goldmark	Engineer:	Neset Land Surveys
Entitlements Requested:	Minor Subdivision (Replat of Lot 21, Block 6, Maple Valley Addition to the City of Fargo, Cass County, North Dakota) and Zone Change (from LC, Limited Commercial LC, Limited Commercial with a C-O, Conditional Overlay); <i>(NOTE: a Conditional Use Permit to allow for household living in the LC, Limited Commercial zone was approved by the Planning Commission—see "Conditional Use Permit" below)</i>		
Status:	City Commission Public Hearing: November 29th, 2021		

Existing	Proposed
Land Use: Multi-dwelling residential; undeveloped	Land Use: Commercial; Residential
Zoning: LC, Limited Commercial	Zoning: LC, Limited Commercial with a C-O, Conditional Overlay (for Lot 2, Block 1 only)
Uses Allowed: LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.	Uses Allowed: LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs , commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service. with Conditional Overlay which restricts some uses and provides site and building design guidelines
Maximum Lot Coverage Allowed: 55%	Maximum Lot Coverage Allowed: 55%

Proposal:

The applicant requests three entitlements:

1. A minor subdivision, entitled **Maple Valley Fifth Addition**, which is a replat of Lot 21, Block 6, Maple Valley Addition to the City of Fargo, Cass County, North Dakota
2. A zoning change from LC, Limited Commercial to LC, Limited Commercial with a C-O, Conditional Overlay to apply to Lot 2, Block 1

(NOTE: a Conditional Use Permit to allow for household living in the LC, Limited Commercial zone was approved by the Planning Commission—see "Conditional Use Permit" below)

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.

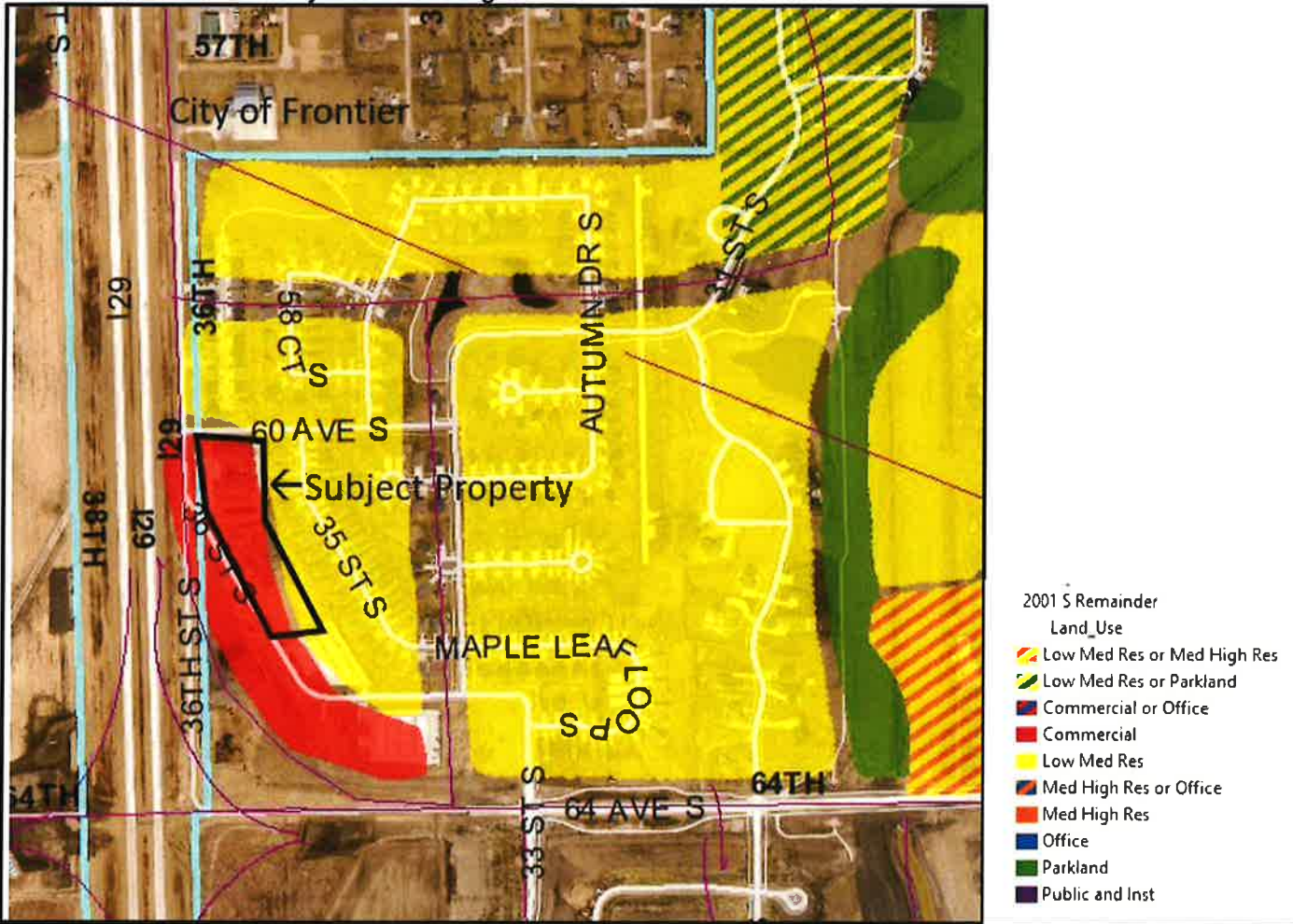
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Surrounding Land Uses and Zoning Districts:

- North: LC; attached residential (twinhomes)
- East: SR-4, Single-Dwelling Residential; detached single-dwelling residential development
- South: LC; commercial development
- West: P/I, Public / Institutional; right of way for Interstate 29

Area Plans:

The subject property is located within the 2001 Growth Plan. This plan designates the subject property primarily as "Commercial." The existing LC, Limited Commercial zoning is consistent with the "Commercial" land use designation. No change from the LC zoning is proposed; the zone change only adds a conditional overlay to the existing LC zone.



Context:

Schools: The subject property is located within the Fargo School District and is served by Centennial Elementary, Discovery Middle and Davies High schools.

Neighborhood: The subject property is located in the Maple Valley neighborhood

Parks: Maple Valley Park (5899 Autumn Drive South) is located approximately 0.25 miles northeast of the subject property and offers a grill, picnic tables, playground and shelter.

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

Staff Analysis:

The applicant proposes to replat Lot 21, Block 6, Maple Valley Addition to create a two-lot subdivision, Maple Valley Fifth Addition. Lot 1 of the proposed plat will keep the current multi-dwelling residential development, while Lot 2 is proposed to be developed with commercial (non-residential) condominiums. Though these condos are in the LC zone, it is anticipated the uses in them will be largely personal.

CONDITIONAL OVERLAY (C-O)

The zone change includes a conditional overlay that will regulate signs, prohibit certain land uses on the property, and provide design standards for the development of the site. The conditional overlay applies only to Lot 2, Block 1. Lot 1, Block 1 will remain zoned LC, Limited Commercial. The conditional overlay is appropriate for this site, which is adjacent to residential uses on two sides, to mitigate the intensity of development. A copy of the draft conditional overlay is attached.

CONDITIONAL USE PERMIT (CUP)

At the September 9th, 2021 Planning Commission hearing, that Commission approved a conditional use permit (CUP) to allow household living in the LC, Limited Commercial zone at a density of 15 dwelling units per acre only for proposed Lot 1, Block 1. The existing residential development of 28 dwelling units in two 14-unit buildings was originally allowed under a CUP granted February 5, 2013 for portions of the Maple Valley Addition. As this property is being replatted, the CUP must be updated to be specific to this plat. The City Commission takes no action on this CUP. The CUP will become effective if the City Commission approves the proposed zone change and subdivision. Staff's findings for this CUP were accepted by the Planning Commission, are included below for the City Commission's reference.

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The subject property is currently zoned LC, Limited Commercial. The zone change adds a conditional overlay to the existing LC zone that applies to Lot 2, Block 1 of the proposed subdivision. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing, developed public rights-of-way which provide access and public utilities to serve the development. **(Criteria satisfied)**

3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received no comments or inquiries. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The subject property is located within the 2001 Growth Plan. This plan designates the subject property as "Commercial." The existing LC, Limited Commercial zoning is consistent with the "Commercial" land use designation. No change from the LC zoning is proposed; the zone change only adds a conditional overlay to the existing LC zone. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

Subdivision

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

1. Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards

of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.

The proposed zoning adds a conditional overlay to the existing LC, Limited Commercial zoning for Lot 2, Block 1. This zoning is consistent with the 2001 Growth Plan which applies to the subject property. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received no comments or inquiries. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

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

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

THE FINDINGS BELOW WERE ACCEPTED BY THE PLANNING COMMISSION IN THEIR APPROVAL OF THE CONDITIONAL USE PERMIT FOR THIS PROJECT.

These findings are included for the City Commission's reference. The City Commission takes no action on this CUP.

Conditional Use Permit Approval Criteria (Section 20-0909.D)

The following is a list of criteria that must be determined satisfied in order for a Conditional Use Permit to be approved:

1. Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. The CUP for household living in the LC, Limited Commercial applies only to Lot 1, Block 1 of this subdivision, which is developed with 28 rental residential units in two 14-unit buildings. The area of proposed Lot 1, Block 1 is 1.90 acres, yielding a density of 15 dwelling units per acre.

(Criteria Satisfied)

2. Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?

The proposed CUP accommodates existing residential development in the LC zone, which was approved by an earlier CUP granted February 5, 2013 on Maple Valley Addition. As this property is being replatted, the CUP must be updated to be specific to this subdivision.

(Criteria Satisfied)

3. Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?

Staff has no data to suggest the proposed use would cause substantial injury to the value of other property in the neighborhood. The residential development allowed by this CUP is existing; it has been in place since 2015. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, Planning staff has received no comments or inquiries. **(Criteria Satisfied)**

4. Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so

as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.

The CUP accommodates existing residential development of 28 residential units, for which a CUP was originally granted in 2013 on the original Maple Valley Addition. The surrounding area to the north and east is already developed with attached and detached residential development.

Structures, walls, fences, and landscaping are existing.

(Criteria Satisfied)

5. Are adequate utility, drainage, and other such necessary facilities and services provided or will they be at the time of development?

The property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place.

(Criteria Satisfied)

6. Have adequate access roads or entrances and exit drives been provided and are they designed to prevent traffic hazards and to minimize traffic congestion in public streets?

The existing development, in place since 2015, consists of 28 residential units and 1,490 commercial space, and takes access from 60th Avenue South and 36th Street South. Review by City staff did not reveal any hazards or congestion. **(Criteria Satisfied)**

Recommended Condition of the CUP:

- The maximum residential density for Lot 1, Block 1, of Maple Valley Fifth Addition shall not exceed 15 dwelling units per acre.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and approve the proposed: 1) zone change from LC, Limited Commercial to LC, Limited Commercial with a C-O, Conditional Overlay and 2) **Maple Valley Fifth Addition** subdivision plat as presented; as the proposal complies with the 2001 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

Planning Commission Recommendation: September 9, 2021

At the September 9th, 2021 Planning Commission meeting, by a vote of 6-0 with one Commissioner absent and four Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) zone change from LC, Limited Commercial to LC, Limited Commercial with a C-O, Conditional Overlay and 2) **Maple Valley Fifth Addition** subdivision plat as presented; as the proposal complies with the 2001 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC; and to approve the 1) the conditional use permit (CUP) to allow household living on Lot 1, Block 1 of the proposed Maple Valley Fifth Addition as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following conditions:

- The maximum residential density for Lot 1, Block 1, of Maple Valley Fifth Addition shall not exceed 15 dwelling units per acre.

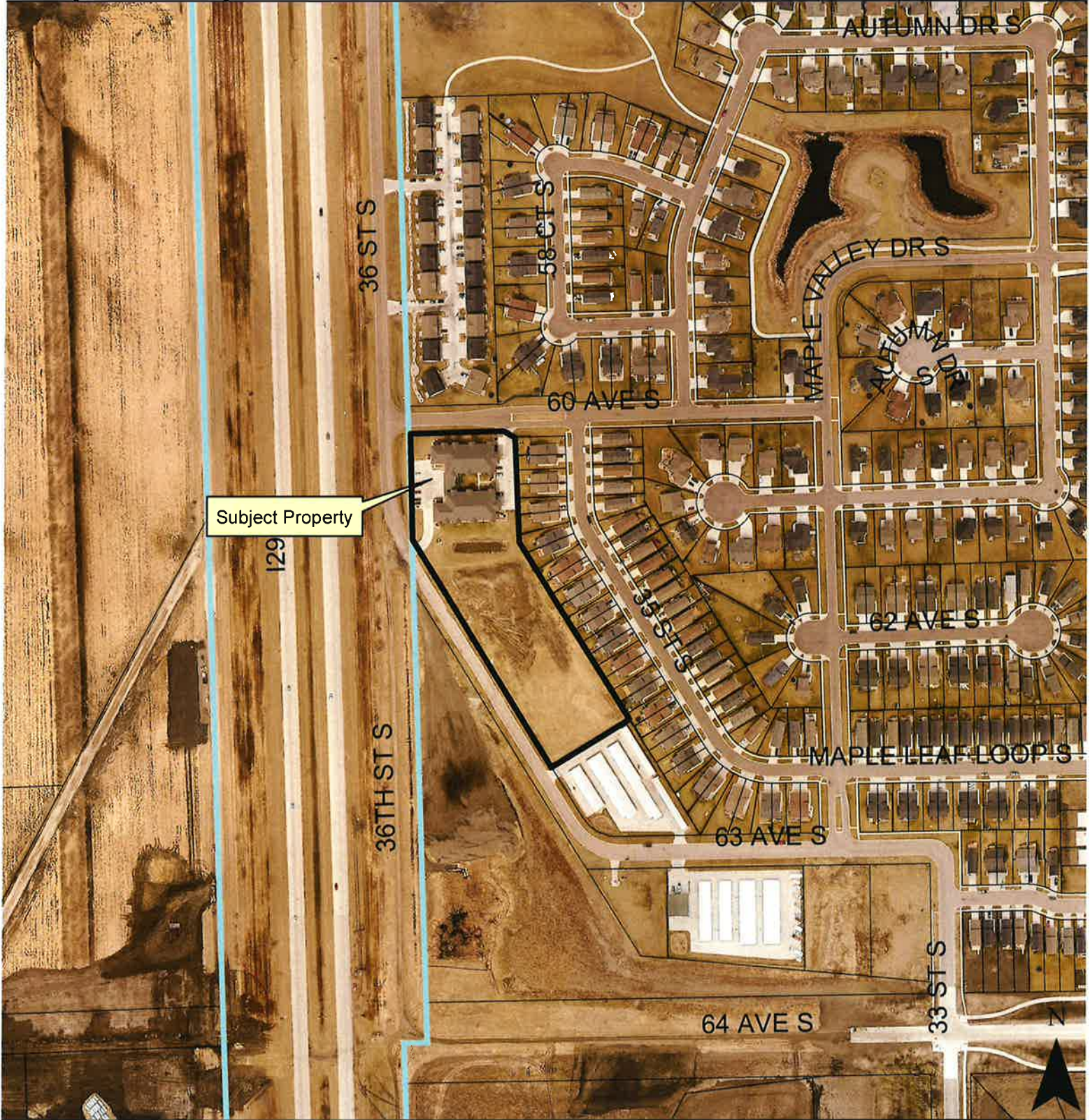
Attachments:

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

Zone Change (LC to LC with C-O), Plat (Minor), CUP

Maple Valley 5th Addition

6050 36th Street S



Subject Property

129

Zone Change (LC to LC with C-O), Plat (Minor), CUP

Maple Valley 5th Addition

6050 36th Street S

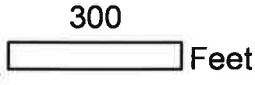


Subject Property
129



Legend

AG	LC	MHP	SS-2
DDMU	MLC	MNC	SS-3
CC	MR-1	B/C	SS-4
GO	MR-2	UMU	SS-5
	MR-3		SS-6
			City Limits



Fargo Planning Commission
September 9, 2021

MAPLE VALLEY 5TH ADDITION

A REPLAT OF LOT 21, IN BLOCK 6, OF MAPLE VALLEY ADDITION TO THE CITY OF FARGO, SITUATE IN THE COUNTY OF CASS AND THE STATE OF NORTH DAKOTA TO THE CITY OF FARGO, SITUATE IN THE COUNTY OF CASS AND THE STATE OF NORTH DAKOTA A MINOR SUBDIVISION



LEGEND
 MONUMENT SET
 EASEMENT
 EASEMENT
 PROPERTY BOUNDARY LINE
 NEW PROPERTY BOUNDARY LINE

SURVEY INFORMATION
 BASIS OF BEARING: CITY OF FARGO GROUND CONTROL SYSTEM

OWNERS CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, ASPEN PONDS APARTMENTS LLP ARE THE OWNERS OF LOT 21, BLOCK 6, OF MAPLE VALLEY ADDITION TO THE CITY OF FARGO, SITUATE IN THE COUNTY OF CASS AND THE STATE OF NORTH DAKOTA.

Said owners have caused the above described tract of land shown on this plat to be replatted as shown on this plat, and a minor subdivision to the City of Fargo, said owners also hereby certify that the replat is for public use, all access and utility easements shown on said plat, said map, and plat, and that the subdivision consists of two lots and one block, and contains 4.99 acres, more or less, together with easements and right of ways of right and record.

ASPEN PONDS APARTMENTS LLP
 BY: *[Signature]*
 ITS PARTNER
 STATE OF NORTH DAKOTA
 COUNTY OF CASS

SURVEYORS CERTIFICATE

I, COLA A. WHEEL, REGISTERED LAND SURVEYOR OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT I HAVE SURVEYED AND PLATTED THE ABOVE DESCRIBED TRACT OF LAND AS MAPLE VALLEY 5TH ADDITION, A MINOR SUBDIVISION THAT THIS PLAT IS A CORRECT AND TRUE AND ACCURATE REPRESENTATION OF THE TRACT OF LAND AS SHOWN ON THE PLAT IN FEET AND INCHES AND THAT ALL DIMENSIONS ARE SHOWN CORRECTLY ON SAID PLAT IN FEET AND INCHES AND THAT THE EXTERIOR BOUNDARY LINES ARE CORRECTLY DESCRIBED AND DATED THIS 11 DAY OF October, 2021.

[Signature]
 REGISTERED LAND SURVEYOR
 NO. REG. NO. 7513
 COUNTY OF CASS
 ON THIS 11 DAY OF October, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED COLA A. WHEEL, REGISTERED LAND SURVEYOR, AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

CITY ENGINEER'S APPROVAL
 APPROVED BY THE FARGO CITY ENGINEER THIS 9 DAY OF November, 2021.

[Signature]
 BRIGID L. BERGER, CITY ENGINEER
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 9 DAY OF November, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BRIGID L. BERGER, CITY ENGINEER, TO ME KNOWING TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

FARGO PLANNING COMMISSION APPROVAL
 APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS 9 DAY OF September, 2021.

[Signature]
 FARGO PLANNING COMMISSION
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 9 DAY OF September, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED ROBERT SCHNEIDER, CHAIR, FARGO PLANNING COMMISSION, TO ME KNOWING TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

FARGO CITY COMMISSION APPROVAL
 APPROVED BY THE BOARD OF CITY COMMISSIONERS AND ORDERED FILED THIS 11 DAY October, 2021.

[Signature]
 FARGO CITY COMMISSION
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 11 DAY OF October, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED ROBERT SCHNEIDER, CHAIR, FARGO PLANNING COMMISSION, TO ME KNOWING TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

MORTGAGEE: LOTS 1 AND 2
 WESTERN STATE BANK
 BY: *[Signature]*
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 11 DAY OF October, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED COLA A. WHEEL, REGISTERED LAND SURVEYOR, AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

MORTGAGEE: LOTS 1 AND 2
 BELL BANK AS TRUSTEE PAUL T. SAHNER IRA
 BY: *[Signature]*
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 11 DAY OF October, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED PAUL T. SAHNER, TRUSTEE, AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

CITY ENGINEER'S APPROVAL
 APPROVED BY THE FARGO CITY ENGINEER THIS 9 DAY OF November, 2021.

[Signature]
 BRIGID L. BERGER, CITY ENGINEER
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 9 DAY OF November, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BRIGID L. BERGER, CITY ENGINEER, TO ME KNOWING TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

FARGO PLANNING COMMISSION APPROVAL
 APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS 9 DAY OF September, 2021.

[Signature]
 FARGO PLANNING COMMISSION
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 9 DAY OF September, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED ROBERT SCHNEIDER, CHAIR, FARGO PLANNING COMMISSION, TO ME KNOWING TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

FARGO CITY COMMISSION APPROVAL
 APPROVED BY THE BOARD OF CITY COMMISSIONERS AND ORDERED FILED THIS 11 DAY October, 2021.

[Signature]
 FARGO CITY COMMISSION
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 11 DAY OF October, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED ROBERT SCHNEIDER, CHAIR, FARGO PLANNING COMMISSION, TO ME KNOWING TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

OWNERS CERTIFICATE
 KNOW ALL MEN BY THESE PRESENTS, ASPEN PONDS APARTMENTS LLP ARE THE OWNERS OF LOT 21, BLOCK 6, OF MAPLE VALLEY ADDITION TO THE CITY OF FARGO, SITUATE IN THE COUNTY OF CASS AND THE STATE OF NORTH DAKOTA.

Said owners have caused the above described tract of land shown on this plat to be replatted as shown on this plat, and a minor subdivision to the City of Fargo, said owners also hereby certify that the replat is for public use, all access and utility easements shown on said plat, said map, and plat, and that the subdivision consists of two lots and one block, and contains 4.99 acres, more or less, together with easements and right of ways of right and record.

ASPEN PONDS APARTMENTS LLP
 BY: *[Signature]*
 ITS PARTNER
 STATE OF NORTH DAKOTA
 COUNTY OF CASS

SURVEYORS CERTIFICATE
 I, COLA A. WHEEL, REGISTERED LAND SURVEYOR OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT I HAVE SURVEYED AND PLATTED THE ABOVE DESCRIBED TRACT OF LAND AS MAPLE VALLEY 5TH ADDITION, A MINOR SUBDIVISION THAT THIS PLAT IS A CORRECT AND TRUE AND ACCURATE REPRESENTATION OF THE TRACT OF LAND AS SHOWN ON THE PLAT IN FEET AND INCHES AND THAT ALL DIMENSIONS ARE SHOWN CORRECTLY ON SAID PLAT IN FEET AND INCHES AND THAT THE EXTERIOR BOUNDARY LINES ARE CORRECTLY DESCRIBED AND DATED THIS 11 DAY OF October, 2021.

[Signature]
 REGISTERED LAND SURVEYOR
 NO. REG. NO. 7513
 COUNTY OF CASS
 ON THIS 11 DAY OF October, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED COLA A. WHEEL, REGISTERED LAND SURVEYOR, AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

MORTGAGEE: LOTS 1 AND 2
 WESTERN STATE BANK
 BY: *[Signature]*
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 11 DAY OF October, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED COLA A. WHEEL, REGISTERED LAND SURVEYOR, AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

MORTGAGEE: LOTS 1 AND 2
 BELL BANK AS TRUSTEE PAUL T. SAHNER IRA
 BY: *[Signature]*
 STATE OF NORTH DAKOTA }
 COUNTY OF CASS }
 ON THIS 11 DAY OF October, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED PAUL T. SAHNER, TRUSTEE, AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

MAPLE VALLEY FIFTH ADDITION

DRAFT CONDITIONAL OVERLAY 1 Sept 21

The following-described property:

Lot 2, Block 1, Maple Valley Fifth Addition

To be rezoned from LC, Limited Commercial, to LC, Limited Commercial with a Conditional Overlay (C-O)

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding future commercial development within the described property.
2. All primary building directly fronting 36th Street South shall be constructed or clad with materials that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured, or glazed concrete masonry units; high-quality pre-stressed concrete systems; or glass. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with an attractive appearance may be used.
3. Color schemes shall tie building elements together, related building pads within the same development to each other, and be used to enhance the architectural form of a building. Colors shall be subtle, have low reflectance quality, and shall be of neutral or earth tones. Brighter, metallic, or fluorescent colors shall be used as accents only.
4. All building facades fronting streets greater than 175 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade, extending at least 20 percent of the length of the façade. No uninterrupted length of façade shall exceed 175 horizontal feet. An articulated façade would emphasize elements on the face of the wall including change in setbacks, materials, roof pitch, or height.
5. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets. The average height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.
6. Off-premise signs (billboards) and portable signs are prohibited.
7. Residential uses are prohibited.
8. ~~On-premise signs shall be designed to incorporate a precise concept or theme.~~ Provisions for consistency, placement, sign scale in relationship to the building, and sign readability shall be considered in developing the signing concept: on-premise signs.
(NOTE: This item reflects a revision by the city attorney's office, indicated by strikethrough/underline)
9. Outdoor storage of materials is prohibited.

10. The property shall not be used in whole or part for the storage of rubbish or debris of any kind whatsoever nor shall the property be used for the storage of any property or items that will cause the property to appear untidy, unclean, or unsightly as determined by the Zoning Administrator. No substance, item, or material may be kept on any lot within this zoning district that will emit foul odors, including compost sites and fertilizer.
11. Dumpsters must be completely screened from view. Collection area enclosures shall contain permanent walls on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.
12. Parking:
 - a. All off-street parking spaces, traffic circulation areas, and outdoor storage areas shall be paved with asphalt or concrete.
 - b. All service vehicles must be parked either inside a structure or a screened/fenced area after business hours.
 - c. No truck parking shall be allowed in any front setback or from any side of the development visible from residentially-zoned property.
 - d. Parking requirements shall be the same as required for self-service storage

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

37a2

ORDINANCE NO. _____

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

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

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

10 WHEREAS, the rezoning changes were approved by the City Commission on November
11 29, 2021,

12 NOW, THEREFORE,

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

14 Section 1. The following described property:

15 Lot Two (2), Block One (1) of Maple Valley Fifth Addition to the City of Fargo,
16 Cass County, North Dakota;

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

- 19 1. This Conditional Overlay is intended to provide for a higher quality of design than is
20 afforded by the City of Fargo Land Development Code regarding future commercial
21 development within the described property.
- 22 2. All primary buildings directly fronting 36th Street South shall be constructed or clad with
23 materials that are durable, economically maintained, and of a quality that will retain their
appearance over time, including, but not limited to, natural or synthetic stone; brick;
stucco; integrally-colored, textured, or glazed concrete masonry units; high-quality pre-

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 stressed concrete systems; or glass. Natural wood or wood paneling shall not be used as
2 a principal exterior wall material, but durable synthetic materials with an attractive
3 appearance may be used.

- 4
- 5 3. Color schemes shall tie building elements together, related building pads within the same
6 development to each other, and be used to enhance the architectural form of a building.
7 Colors shall be subtle, have low reflectance quality, and shall be of neutral or earth tones.
8 Brighter, metallic, or fluorescent colors shall be used as accents only.
- 9 4. All building façades fronting streets greater than 175 feet in length, measured
10 horizontally, shall incorporate wall plane projections or recesses having a depth of at least
11 three (3) percent of the length of the façade, extending at least 20 percent of the length of
12 the façade. No uninterrupted length of façade shall exceed 175 horizontal feet. An
13 articulated façade would emphasize elements on the face of the wall including change in
14 setbacks, materials, roof pitch, or height.
- 15 5. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public
16 view by parapets. The average height of such parapets shall not exceed one third of the
17 height of the supporting wall, and such parapets shall not be of a constant height for a
18 distance of greater than 150 feet.
- 19 6. Off-premise signs (billboards) and portable signs are prohibited.
- 20 7. Residential uses are prohibited.
- 21 8. Provisions for consistency, placement, sign scale in relationship to the building, and sign
22 readability shall be considered in developing on-premise signs.
- 23 9. Outdoor storage of materials is prohibited.
10. The property shall not be used in whole or part for the storage of rubbish or debris of any
kind whatsoever nor shall the property be used for the storage of any property or items
that will cause the property to appear untidy, unclean, or unsightly as determined by the
Zoning Administrator. No substance, item, or material may be kept on any lot within this
zoning district that will emit foul odors, including compost sites and fertilizer.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

4
12. Parking:

- 5 a. All off-street parking spaces, traffic circulation areas, and outdoor storage areas shall be paved with asphalt or concrete.
- 6 b. All service vehicles must be parked either inside a structure or a screened/fenced area after business hours.
- 7 c. No truck parking shall be allowed in any front setback or from any side of the development visible from residentially-zoned property.
- 8 d. Parking requirements shall be the same as required for self-service storage.

9 Section 2. The following described property:

10 Lot One (1), Block One (1) of Maple Valley Fifth Addition to the City of Fargo, Cass
11 County, North Dakota;

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

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

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

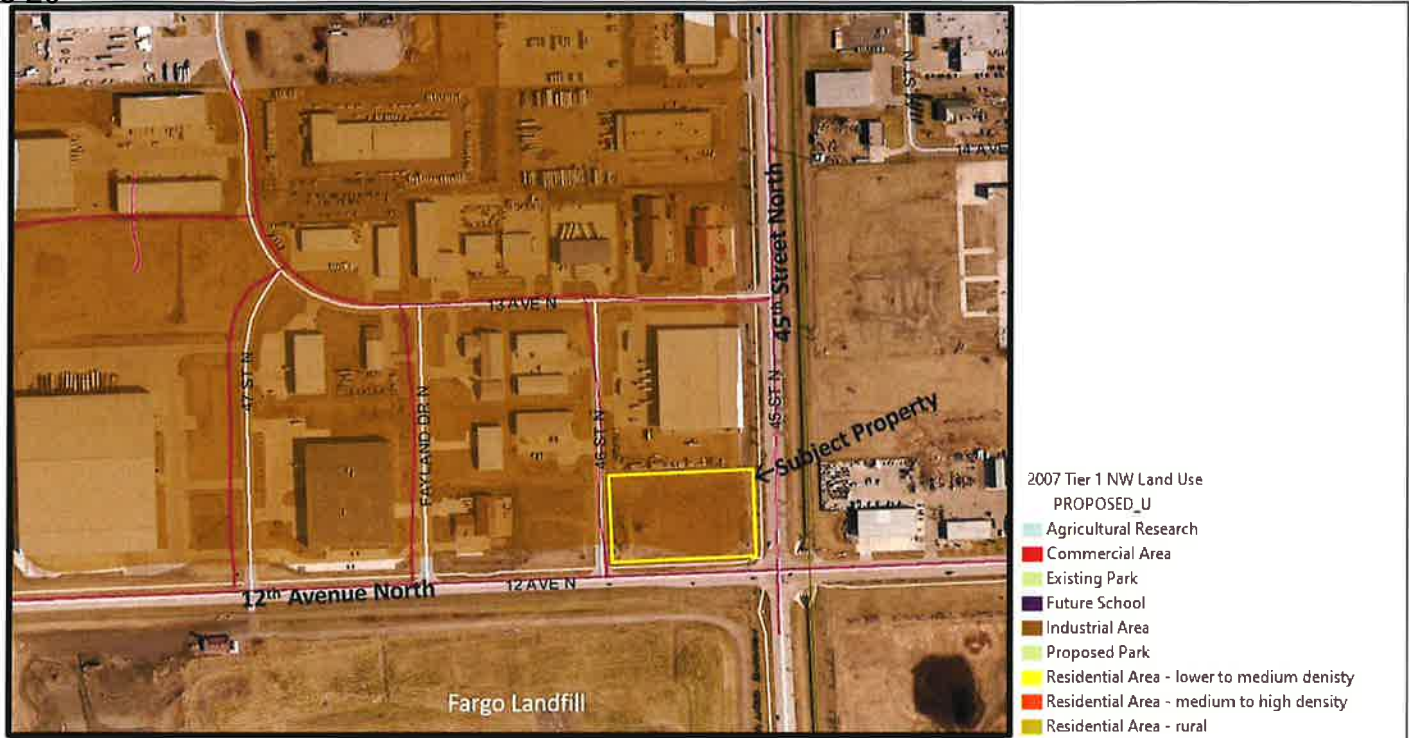
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

376

City of Fargo Staff Report			
Title:	Fayland Industrial First Addition.	Date:	10/27/2021
		Update:	11/24/2021
Location:	1217 46 th Street North	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lot 3, Block 2, Fayland Industrial First Addition.		
Owner(s)/Applicant:	Fay Land Partners, LLP/Nate Vollmuth	Engineer:	None
Entitlements Requested:	Zone Change (from GI, General Industrial to LI, Limited Industrial)		
Status:	City Commission Public Hearing: November 29th, 2021		

Existing	Proposed
Land Use: Undeveloped	Land Use: Industrial
Zoning: GI, General Industrial	Zoning: LI, Limited Industrial
Uses Allowed: GI - General Industrial. 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.	LI – Limited Industrial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation.
Maximum Lot Coverage Allowed: Maximum 85% building coverage	Maximum Lot Coverage: Maximum 85% building coverage
Proposal:	
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A zoning change from GI, General Industrial to LI, Limited Industrial <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; warehouse and distribution • East: GI; contractor services • South: GI; Fargo Landfill • West: LI; undeveloped 	
Area Plans:	
<p>The subject property is located with the 2007 Tier 1 North Northwest growth plan, which designates the subject property for "industrial" land use. This land use category includes both the GI, General Industrial and LI, Limited Industrial zones. No growth plan amendment is required for this zone change.</p>	



Context:

Schools: The subject property is located within the West Fargo School District and is served by Westside Elementary, Cheney Eielson Middle and West Fargo High schools.

Neighborhood: The subject property is not located in a designated neighborhood.

Parks: There are no parks located within a one-mile radius of the subject property

Pedestrian / Bicycle: An 8-foot wide multi-use trail is within the public right of way along the 12th Avenue and 45th Street property frontages. This trail is part of the metro-wide trail system.

Staff Analysis:

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The subject property is currently zoned GI, General Industrial. The applicant proposes to zone the property to LI, Limited Industrial as this zoning allows a greater variety of uses than does the GI zone. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The existing, developed public rights-of-way provide access and public utilities to serve the development. **(Criteria satisfied)**

3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all

property owners within 300 feet of the subject property as well as the current residents of the subject property. To date, Planning staff has received no comments or inquiries. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The subject property is designated "industrial" by the 2007 Growth Plan; the proposed zoning is consistent with this land use designation. Staff finds this proposal is consistent with the purpose of the LDC, 2007 Growth Plan, and other adopted policies of the City. **(Criteria satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and move to approve the proposed zone change from GI, General Industrial to LI, Limited Industrial on Lot 3, Block 2, Fayland Industrial First Addition, as the proposal complies with the standards of Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

Planning Commission Recommendation: November 2nd, 2021

At the November 2nd, 2021 Planning Commission meeting, by a vote of 6-0 with two Commissioners absent and three Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and to recommend approval to the City Commission for the proposed zone change from GI, General Industrial to LI, Limited Industrial on Lot 3, Block 2, Fayland Industrial First Addition, as the proposal complies with the standards of Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

Attachments:

1. Location Map
2. Zoning Map

Zone Change (GI to LI)

Fayland Industrial Addition

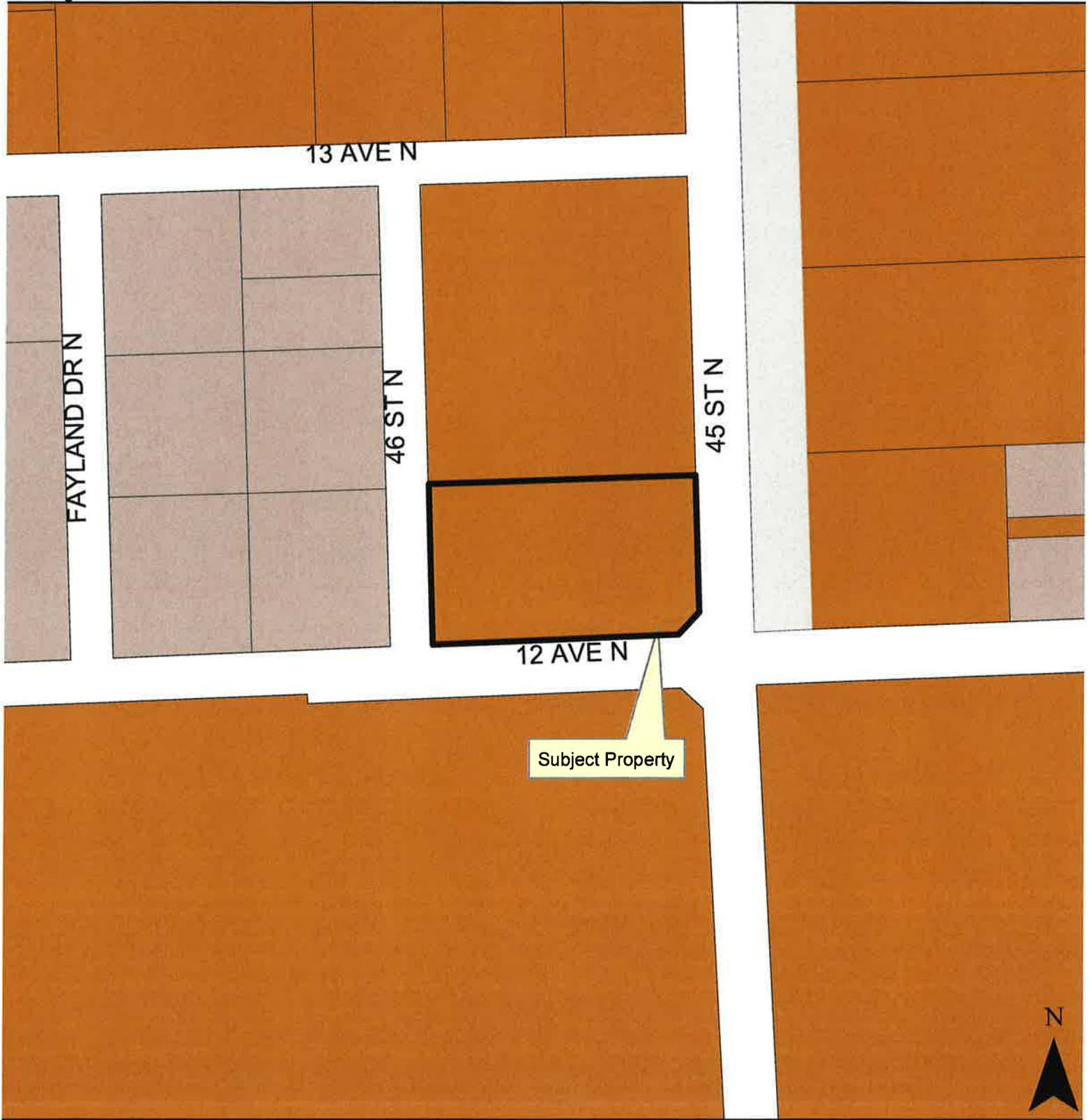
1217 46th Street N



Zone Change (GI to LI)

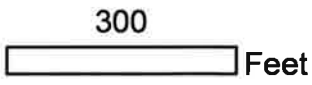
Fayland Industrial Addition

1217 46th Street N



Legend

- AG
- DMU
- LC
- MHP
- MR-1
- MR-2
- MR-3
- NNC
- P/T
- UMU
- City Limits



3762

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN
PARCELS OF LAND
LYING IN FAYLAND INDUSTRIAL FIRST 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 Fayland Industrial First Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on November 2, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on November 29, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot Three (3), Block Two (2) of Fayland Industrial First Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "GI", General Industrial, District to "LI", Limited Industrial, 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.

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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(SEAL)

Attest:

Steven Sprague, City Auditor

Timothy J. Mahoney, M.D., Mayor

First Reading:
Second Reading:
Final Passage:

370

NOTICE OF HEARING

Application for Alcoholic Beverage License

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing in the City Commission Room, City Hall, on Monday, November 29, 2021 at 5:15 o'clock p.m. to consider an application for a Class "VWB" Alcoholic Beverage License for Cellar 624 LLC dba Cellar 624, The Venue on Main to be located at 624 Main Ave, Suite 1, Fargo.

Any interested person may appear and will be heard.

City Auditor's Office
(November 10, 2021)

MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Application – Cellar 624, The Venue on Main

DATE: November 17, 2021

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

License Class: VWB wine only, event center allows off sale
Business Name: Cellar 624, The Venue on Main
Location: 624 Main Ave
Applicants: Ramon Sosa, Michael Wald, Michael Marcil, Ellen Wall, manager

This application is for a new liquor license class, the licensee will be allowed to conduct wine education events, have wine off sale in conjunction with the education events and are allowed to rent just the event space.

The Liquor Control Board expressed concern with Mr. Wald and his troubles from 2011. Mr. Wald indicated he was going through a very difficult time in his life and was self-medicating. After the incidents, he sought professional help and has gotten life back on track. After discussion, the Liquor Board voted 5 to 0 to approve the issuance of a Class VWB alcoholic beverage license to Cellar 624 LLC d/b/a Cellar 624, The Venue on Main. The complete application is available for review in the Auditor's Office.

Recommended Motion:

Move to agree with the findings of the Liquor Control Board and approve the issuance of a Class VWB alcoholic beverage license to Cellar 624 LLC d/b/a Cellar 624, the Venue on Main.



Fargo Police Department Office of the Chief

Memorandum

To: Liquor Control Board

From: Chief David B. Zibolski *DZ*

Date: November 12, 2021

RE: Liquor License Application (Cellar 624)

Dear Board,

I have reviewed this application and find no issue with three of the four applicants. However, partial owner Michael Wald has some concerning criminal history that I would like to bring to your attention. He has two separate offenses for Driving under the Influence in 2011, as well as a separate conviction for Driving under Suspension in 2011. One of the DUIs involves fleeing from an officer, although that crime was not charged and he subsequently pled guilty to the DUI. At the time of these incidents Mr. Wald was working for his currently employer, Maxwell's Restaurant and Bar in West Fargo as a chef/co-owner.

As you are aware, these violations are outside of the general scope of our application guidelines contained in Section 25-1505, Sections 1 through 9. However, pursuant to Section 10, which addresses offenses determined by the Board of City Commission to have a direct bearing on the applicant's ability to serve alcoholic beverages, I defer my recommendation on this individual to the Liquor Control Board. I will be happy to answer any additional questions at the meeting.



Fargo Police Department

To: Chief David Zibolski
From: Sergeant Carlos Nestler
Date: November 5, 2021 *Carlos Nestler*
RE: Liquor License Application (Cellar 624)

**Application for a Class "VWB" Alcoholic Beverage License for
Cellar 624 LLC dba Cellar 624, The Venue on Main, to be located at 624 Main Ave., Suite 1,
Fargo**

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

During this investigation I examined the applicants' credit reports and public records criminal background.

The following information was discovered through this investigation:

Sosa-Escobar, Ramon Jose - Owner

- | | |
|-------------------|--|
| Criminal History- | A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (https://chs.state.mn.us/) showed no criminal activity. |
| Credit History- | Ramon J. Sosa-Escobar's credit report was reviewed. There are no prior bankruptcies or debts turned over to collections. He was 30 days past due twice in 2019/20. All accounts are now current. |



Fargo Police Department

Wald, Michael Dale – Owner

Criminal History-

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (<https://chs.state.mn.us/>) showed the following criminal activity:

1. 2011 Conviction for DUI West Fargo Municipal (2010)
 - a. Also arrested for fleeing, but was not officially charged with the crime.
2. 2011 Conviction for DUS Fargo Municipal Court
3. 2011 Conviction for DUI Fargo Municipal Court
 - a. Fargo DUI was not disclosed on the application
 - i. See Investigation Notes below

Credit History-

Michael D. Wald's credit report was reviewed. There are no prior bankruptcies or debts turned over to collections. He had a note that was 30 days past due in 2016 and a credit card which was 30 days past due three times in 2018 and prior years. All accounts are current now.

Marcil, Michael Jack – Owner

Criminal History-

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (<https://chs.state.mn.us/>) showed no criminal activity.

Credit History-

Michael J. Marcil's credit report was reviewed. There are no prior bankruptcies, past due accounts or debts turned over to collections.



Fargo Police Department

Wall, Ellen M. – Manager (married name was Rodriguez)

Criminal History- A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (<https://chs.state.mn.us/>) showed no criminal activity using last name of Wall or Rodriguez.

Credit History- Ellen M. Wall’s credit report was reviewed. There are no prior bankruptcies, past due accounts or debts turned over to collections. Credit check was done by SSN so both last names of Wall and Rodriguez were on the credit check report.

Investigation Notes

This application is for a “VWB” liquor license (A wine only venue license that allows off sale) for Cellar 624 LLC dba Cellar 624, The Venue on Main, to be located at 624 Main Ave., Suite 1, Fargo.

I spoke to Michael Wald by phone while he was at work at Maxwell’s. I asked Michael about his past DUIs. He said he could not remember the date, but he believed he had a DUI in 2009 in West Fargo (which was actually 2010). I asked him about the DUI through Fargo in 2011, which he did not mention on his application. He said he was going through a rough time during 2010 and 2011. He apologized for not putting the Fargo DUI on the application. He said it was a long time ago and he forgot about it and he was not trying to be dishonest. He said he received help after his DUIs and he has not had any issues for the past 10 years. Mr. Wald has a current driver’s license.

On page 6 of the application for Sosa-Escobar and Wald, they both answered “No” to the questions;

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?



Fargo Police Department

They both filled-out the section above these questions stating they currently own Maxwell's Restaurant and Bar in West Fargo. They both believed the first question was asking if there was **any other** business they own that sells or serves alcohol in addition the bar they just listed as owning. I asked Ramon if he or Michael Wald own or have a financial interest in any other business that sells or serves alcohol besides Maxwell's and he said they both do not.

The investigation into the criminal and credit history of the applicants did not find any concerning issues related to their credit. The only criminal convictions found were two DUIs and a DUS for Mr. Wald in 2011.

Business Location

Cellar 624, The Venue on Main will be located at 624 Main Avenue, Suite 1, in Fargo. Other businesses in the area with an alcoholic beverage license are; Front Street Taproom, Rhombus Guys, Mexican Village and Duffy's.

Conclusion

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

C. Nordstrom 086

RECEIVED FARGO POLICE DEPARTMENT
NOV 12 2021
DAVID B ZIBOLSKI CHIEF OF POLICE
REF: <i>STEVE SPANGLER</i>

City Advisor
↓ SEE ATTACHED MEMO

37d

November 29th, 2021

The Honorable Board of City Commissioners
 City of Fargo
 225 4th St N.
 Fargo, North Dakota 58102

RE: MATBUS Fare Structure Changes

Commissioners,

Fargo and Moorhead have been operating an electronic fare collection system for the MATBUS system since 2009. In December 2019, the City Commission authorized the purchase of an upgrade to the electronic fare system. New fareboxes were installed in the fixed route fleet and the old fareboxes were upgraded and installed in the MAT Paratransit and TapRide fleet in 2020. Transit staff have been working since then to set up and test features available in the new system. Final testing is scheduled for December and the system is scheduled to go live in January or February 2022.

A summary of the proposed changes in fare structure is provided on the attached table. While the system is changing to accommodate the new farebox system, it will not increase costs for passengers, and may offer savings and greater convenience for many. Cash fares will not change, but multi-day passes will no longer be sold. Passengers will load their card with fare money through Connect and may earn free rides by reaching a spending threshold over a period of time.

Customer Type	90-minute ticket	*Earn free rides after spending...	
		1-Day Pass	31-Day Pass
Adult	\$1.50	\$3	\$42
Elderly & Disabled	\$0.75	\$3	\$27
Youth	\$0.75	\$3	\$27 (90-day)

*Earn free rides only with Connect, not cash fares.

In July 2017, Moorhead expanded MAT Paratransit service for ADA Paratransit-Eligible passengers to include Sundays from 7 a.m. to 5 p.m. The State of Minnesota has indicated that the general public should also be able access paratransit service since fixed route service is not available on Sundays. To provide consistency within our system, Fargo will also implement a general public rate for Sunday Paratransit service. The recommended rate of \$25 per one-way ride was established based on the average Sunday trip length of 11 miles. The cost for alternative

transportation ranges from \$18-\$30. The actual cost per ride for MAT Paratransit is currently \$34. ADA eligible Paratransit trips will remain at the current \$3 fare.

Under our Fare and Service Change Policy, all fare changes are considered a major service change requiring a public hearing; the only exceptions are short-term fare-free and reduced fare promotions. An informational public meeting was held on Thursday, November 18, 2021, at the Ground Transportation Center to answer questions and receive comments. The questions, comments and answers are attached. Since the fare structure is joint with the City of Moorhead, both cities must hold public hearings and agree to the changes. Moorhead's public hearing was held on November 22, 2021.

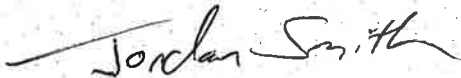
There will be ongoing operating fees for the mobile ticketing option when implemented. GFI Genfare is paid 5% for credit card processing plus \$0.05 per transaction through mobile ticketing. GFI Genfare has indicated that approximately 10-15% of riders choose mobile ticketing nationwide. Riders who are currently purchasing passes with credit cards at the Ground Transportation Center (GTC) will likely transition to mobile ticketing. Moorhead currently pays fees to Fargo for one-third of the credit transactions at the GTC and will continue to cost share in any additional fees related to credit card processing and fare transactions.

Attachments: Table of Proposed Fare Structure Changes
Informational Meeting questions, comments and answers

Recommended Action: The City Commission is asked to approve the following, as recommended by the MAT Coordinating Board:

- Modify the fare structure for MATBUS Fixed Route and MAT Paratransit for implementation of Connect, an account-based system with mobile ticketing, reloadable Smartcards and Pay As You Go with fare capping.
- Convert the promotional College Semester Pass to permanent status with a price adjustment from \$45 to \$60 for 120-days. College students will still ride free, but the Semester Pass can be purchased by college faculty, staff and students not participating in the U-Pass program.
- Convert promotional passes used to encourage ridership downtown to permanent status and rename to "Business Pass" for purchase by employers; increase the price from \$22.50 for 30-days to \$27 for 31-days.
- Establish a new general public fare on MAT Paratransit for Sunday service of \$25.

Sincerely,



Jordan Smith
Assistant Transit Director, Fleet and Facilities

**PUBLIC COMMENTS RECEIVED
FARE STRUCTURE CHANGES
NOVEMBER 2021**

Comments received through email:

1. Richard Swell, RSewell@gmail.com

Question/Comment: Can the Matbus Connect APP be used to pay fares, and if yes, what are the phone requirements for using the APP to pay the fare? For example, does the MATBUS Connect APP use the NFC feature of a mobile phone when paying the fare? For example, does the MATBUS Connect APP require Internet access when paying the fare?

Answer: The mobile app can be used to pay fares; you need an iOS or Android device. The app generates a barcode that can be electronically validated with a barcode reader on-board the bus. You need internet access (through carrier or WiFi) when purchasing passes, but you can activate them while offline.

2. Theresa Hazemann, Rural MN CEP, theresah@rmcep.com

Question/Comment: With the changes that are coming up with MATBUS and passes, how will we be able to continue to get our clients an actual bus pass. Many won't have a phone to download a bus pass to. They will need the "hard" bus pass.

Answer: We will still have Smartcards for those who don't have a Smartphone. They will have to get a new Smartcard. They will need to set up an account to load the Smartcard. Our Customer Care Center downtown at the GTC can also set up the account and load the card on their behalf. We have a video on our web page that explains it. Our software company will be onsite in two weeks and we will be discussing setting up organizations that want to manage their client's passes themselves. This might be an option for Rural MN CEP. Lori Van Beek would like to set up a meeting at the Family Service Center with various agencies to further discuss options; probably in early January.

Comments from Informational Meeting at GTC on November 18, 2021:

3. Question/Comment: Could the WiFi at the GTC become public so passengers without a data plan can load funds on their accounts at the GTC? Could WiFi on the buses become public?

Answer: This is possible through Fargo IS, but would require a password be provided and updated regularly.

4. Question/Comment: Can passengers use both the mobile ticket on their phone and the Smartcard?

Answer: Yes, one account can be tied to both payment methods.

5. Question/Comment: Can we link directly to our bank account rather than use a credit or debit card?

Answer: Not at this time.

6. Question/Comment: I'm concerned about fraud and future price increases with people and organizations sharing cards.
7. Question/Comment: Will we have to download a new mobile app or will this be automatic? Will the same features be on the new app (such as TapRide, live tracking)?
Answer: Yes, you will need to download a new mobile app called MATBUS Connect. It will not automatically replace the previous app. It will have the same features, such as TapRide and live tracking.
8. Question/Comment: I like that the fare capping is set for 31 days rather than 30.

Comments from the Information Meeting that are unrelated to the Fare Structure:

9. Question/Comment: With recent changes to Route 15 due to a driver shortage, there are longer layovers at the GTC to connect with other routes. Passenger was concerned about loitering and security at the GTC. He would prefer two buses over three so that the buses arrive at :15 and :45 after the hour, reducing layover time. In the evening, when Route 15 goes to two buses, he would like the departure time from the GTC to be changed to :15 and :45 to match up with other routes. Usually during Christmas, MATBUS puts more buses on Route 15 on Saturdays; will this be happening this year?
Answer: We have security at the GTC to assist with any issues. We'll pass on the information about the timetable for Route 15, especially during evening hours, to the Fargo Planner for consideration. Route 15 will not have additional buses on Saturdays for Christmas due to a driver shortage.
10. Question/Comment: On Route 18 along 25th Street near 17th Avenue, there are a number of apartments. It would nice if we could have a bus stop on the west side of 25th Street so that passengers do not have to walk three blocks either way to catch a bus.
Answer: There are no paths leading from the apartment buildings to 25th Street along that stretch. The private property owner would have to be willing to put in a sidewalk that reaches to the walking path in order for a bus stop to be useful.
11. Question/Comment: Next year, can MATBUS serve the West Fargo Fairgrounds?
Answer: The fairgrounds are outside of city limits and not in our metro service area.
12. Question/Comment: I would like to see all bus routes end service at the same time in the evenings.
13. Question/Comment: Most of the MATBUS drivers are remarkable in their customer service and passenger assistance. Route 13U and Route 11 are brilliant routes. I'd like to learn how TapRide works.
Answer: The passenger was shown the TapRide app and how to book a trip from West Acres to the Industrial Park area in Fargo.

14. Question/Comment: Route 4 arrives at the GTC on time, making the transfer to Route 2 work. However, Route 2 is often late and makes transferring to Route 4 not work.
Answer: We have implemented the Green Light Priority project in Moorhead, which gives low preemption priority to buses at traffic signals, increasing green and decreasing red by 10 seconds to assist in keeping buses timely. We are hoping this will help Route 2 with on-time performance.

Public Hearing at Moorhead City Council:

15. City Council Comments:

- a. White: I really like the added convenience and financial benefit for frequent riders. Glad to see that there is progress on Sunday service with an option for the general public to use Paratransit. It is a move step, but would like to see a more affordable option in the future. Asked if outreach to Moorhead Business Association or job fares so that folks looking for jobs know they have access to transportation.
- b. Seljevoid: The printed paper public hearing notice did not identify who is eligible for the elderly discount fare like the video did. People should be able to read about the discount.
- c. Dahlquist: Really appreciate the improvement and making it easier for those who don't drive.

16. Public Comments:

- a. Mark Stensland, 446 Brook Avenue in Moorhead: I've read the notice. Seems like they want to do away with \$40 monthly pass. I don't have a computer and don't want people to know my information. I will have to pay \$1.50 to take the bus and another \$1.50 to come back home. It should be left as is. In Fargo, at the bus terminal, the floors are all scratched up, and no toilet paper in both the men's or women's restroom. I asked them to install a 4-roll toilet paper holder and to pay maintenance people to change them. Maintenance people do not want to do that; it is as if they don't care. Trash cans are full all of the time. I asked custodian to change the ? (exterior garbage liners) and she said it is not her job as she only maintains on the inside. Bus stops should have a solar light. I see people taking their foot and smashing windows; maybe in Fargo they should post on all bus stops that vandalizing if against the rules. Could have a bench and chart board with the schedule. Maybe they should do away with glass and use plexi-glass; that way if they kick the window, they will break their ankle. Would be nice if things could change a little bit.

SUMMARY OF PUBLIC COMMENTS RELATED TO FARE STRUCTURE:

Nine (9) questions or comments were received: 2 from email, 6 from the informational meeting held at the GTC on November 18th, and 1 from the Moorhead Public Hearing on November 22nd.

There were one comment against the fare structure received at the public hearing.

A brief summary of responses:

- The mobile requires iOS or Android device. Wifi or internet access is required to set up an account and load funds. When ready to ride, you can activate the ticket while offline.
- People without access to Smartphones can get a plastic Smartcard. The CCC can assist in setting up an account and loading funds.
- GTC does not currently have public WiFi; however, Fargo IS could implement this. Public Wifi at the GTC would require a password updated regularly.
- A passenger can utilize both the mobile ticket on their phone and have a the Smartcard. One account can be tied to both payment methods.
- At this time, passengers cannot directly link to their bank account.
- There was concern about fraudulent sharing of cards, which would require price increases in the future.
- Our current APP will be replaced with MATBUS Connect. This change will not be automatic and will require deleting the old APP and downloading the new. The new APP will have the same features, such as a link to TapRide, live tracking and trip planning.
- We received a compliment that the fare capping time-period will be 31 days, rather than the current 30-day.
- A passenger wanted to keep the current card system. He did not want to give out any personal information in order to set up an account.

PROPOSED FARE STRUCTURE CHANGES		
	<u>Current</u>	<u>Proposed</u>
MATBUS Fixed Route (includes TapRide Industrial Park)		
Cash Fares		
Adult	\$ 1.50	Same
Elderly & Disabled	\$ 0.75	Same
Youth (K-12th grade)	\$ 0.75	Same
Child (age birth to 6)	Free	Same
Disabled Veterans	Free	Same
Prepaid Tokens/Tickets (10 or more)		
Adult	\$ 1.50	Remove
Elderly & Disabled	\$ 0.75	Remove
Youth (K-12th grade)	\$ 0.75	Remove
30-Day Pass		
Adult	\$ 40.00	Remove
Elderly & Disabled	\$ 26.00	Remove
Other Passes		
14-Day Pass - All Customers	\$ 21.00	Remove
4-Day Pass (Conventions Only)	\$ 10.00	Remove
1-Day Pass - All Customers (Cash on-board bus only)	\$ 5.00	\$ 5.00
90-Day Pass-Youth (K-12th grade)	\$ 26.00	Remove
120-Day College Semester Pass (Excludes students in U-Pass Program)	\$ 45.00	\$60.00
31-Day Business Pass (Must be employer purchased)	\$ 22.50	\$27.00
MATBUS CONNECT: Mobile Ticket & Smart Card		
Pay as You Go - Adult (Load funds and manage online by customer)		
1 Ride (Valid for 90 minutes)		\$1.50
1 Day Best Fare - Free Rides After Spend \$3		\$3.00
31 Days Best Fare - Free Rides After Spend \$42		\$42.00
Pay as You Go - Elderly, Disabled & Youth		
1 Ride (Valid for 90 minutes)		\$0.75
1 Day Best Fare - Free Rides After Spend \$3		\$3.00
31 Days Best Fare - Free Rides After Spend \$27		\$27.00
90 Days (Youth Only) Best Fare - Free Rides After Spend \$27		\$27.00
Transfers Between MATBUS Routes	Free - valid 60 minutes	Free - Valid 90 minutes
MAT Paratransit		
PARATRANSIT CONNECT: Mobile Ticket or Smart Card		
Pay as You Go - ADA Eligible (Load funds and manage online by customer)		
1 Ride		\$3.00
Cash	\$ 3.00	Same
Prepaid Coupons (10 or more)	\$ 3.00	Same
Personal Care Attendant (1 per disabled person)	Free	Same
Agency Rate for Non-Emergency Medical Trip Eligible for Medicaid	\$ 38.00	Same
Sunday Only General Public Fare (Passenger Not ADA Paratransit Eligible)		\$25.00
Metro Senior Ride		
Cash Fares		
Senior Citizens age 60 & older	\$ 3.00	Same
One Guest to Senior Citizen	\$ 3.00	Same
General public	\$ 23.00	Same
Preschool child (under age 7)	Free with adult	Same
Transfers to Metro Area Transit	Free	Same
Prepaid Punch Cards		
Senior Citizen (60+) 20 ride card	\$ 60.00	Same
Senior Citizen (60+) 10 ride card	\$ 30.00	Same

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City of Fargo
Temporary Employment Policy
COVID-19 Prevention Measures

Effective: December 1st until repealed

In accordance with CDC recommendations, the City of Fargo is adopting the following measures to protect our workforce and to support the health community's efforts to prevent the spread of COVID-19:

- Strongly encouraging all employees to get vaccinated and maintain vaccination status based on CDC guidance.
- The Temporary Employment Policy requiring employees to wear a mask expires on December 1, 2021, with the exception of those employees described below.
- Requiring that all employees, contractors and vendors in Library, Public Health and Transit departments wear a mask indoors in public areas.
- Requiring all employees who are ill and/or are a close contact to a COVID-positive individual to stay home and call Employee Health at 476-4030 for guidance.
- Requiring all employees to follow recommended prevention measures such as frequent hand washing and distancing.

This policy is subject to amendment to conform to changes recommended by the CDC.

Employee health and wellness is a key spread prevention tool. Further guidance can be found at <https://fargond.gov/city-government/departments/human-resources/covid-19-employee-information>

Enforcement:

Refusal to wear a mask or face covering when directed by a supervisor, under the direction of this policy, or in accordance with departmental procedures, may be subject to disciplinary action under 300-008 Disciplinary Guidelines.

Working with the public:

Members of the public will be encouraged to wear a mask when in City of Fargo facilities. Employees shall engage a supervisor in the event that guest or member of the public is not complying with any measures adopted by the City Commission for the public on City of Fargo premises.



November 24, 2021

Honorable Board of City
Commissioners
City of Fargo
Fargo, North Dakota

Re: 2022 Capital Improvement Plan

Dear Commissioners:

Attached you will find our comprehensive report for the 2022 Capital Improvement Plan (CIP). Engineering, Public Works, and Planning have been working to update, expand, and formalize the criteria and decision making process used for the evaluation, prioritization, and selection of capital improvement projects. In addition to the technical data used heavily in the past, we anticipate existing comprehensive studies and master plans, such as Go2030 and the Core Neighborhood Plan, as well as soon to be completed studies, Fargo Transportation Plan, to be important tools in this expanded method of prioritizing projects.

This year we are asking for the approval of the 2022 CIP along with 2023 Federal Aid and Utility Replacement and Street Reconstruction categories. This will allow us to communicate earlier with those Fargo citizens that will be impacted by these projects. Once we have completed the update to our project selection process, within the next year, we will be back with a four year CIP.

I look forward to presenting the 2022 CIP Report and the proposed 2023 Federal Aid and Utility Replacement and Street Reconstruction projects and answering any questions you have. We will take the next two weeks to answer any remaining questions, make any necessary adjustments, and be back at the next meeting with a request for approval.

RECOMMENDED MOTION

Receive and File the proposed comprehensive 2022 Capital Improvement Plan (CIP) Report and the 2023 Federal Aid and the 2023 Utility Replacement and Street Reconstruction projects.

Respectfully,

Brenda E. Derrig, P.E.
City Engineer

Attachments

Proposed Federal Aid and Utility Replacement and Street Reconstruction Projects for 2023:

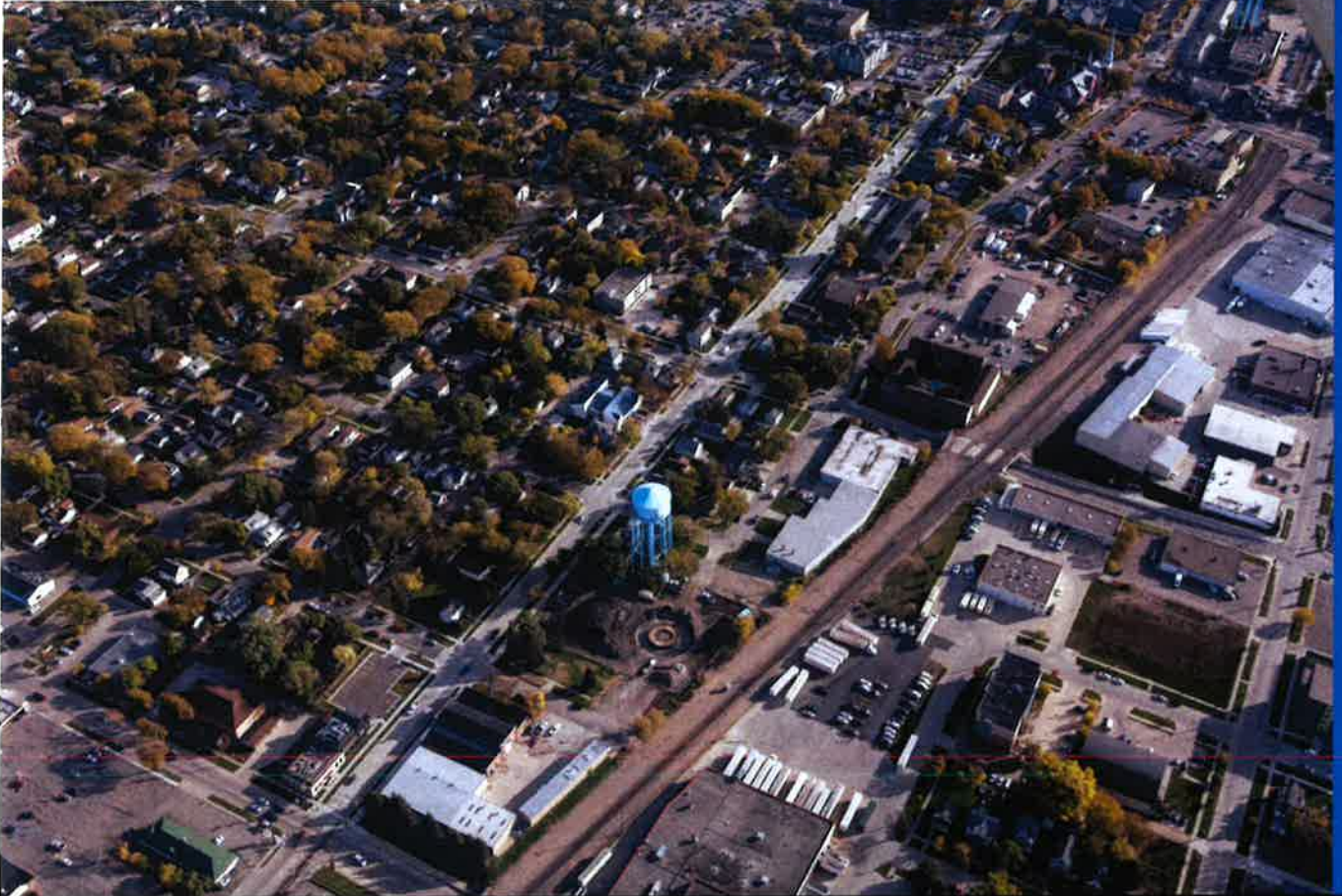
Federal Aid Projects:

- 52nd Ave S from 63rd St S to Sheyenne
- Main Ave from 25th St to University Dr (bid in 2023 and constructed in 2024)
- 2nd St Pedestrian Bridge
- Bison Village Shared Use Path

Utility Replacement and Street Reconstruction Projects:

- 8 St N from 7 Ave N to 10 Ave N; ½ block east and west of 8 St N on 8 Ave N, 9 Ave N, and 10 Ave N
- 6 Ave N from 10 St N to Roberts St N; 8 St N from 6 Ave N to 7 Ave N; 7 St N from BNSF RR to 7 Ave N
- 8 St S from 9 Ave S to 13 Ave S

2022



2022 Capital Improvement Plan



City of Fargo Engineering Department

November 23, 2021

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2022 Capital Improvement Plan Summary

Overview

The City of Fargo Engineering Department is responsible for the creation and management of a capital improvement plan (CIP) for the initial construction, preservation, and reconstruction of the City's infrastructure. Historically, the Engineering Department has collaborated with the Public Works Department to evaluate and prioritize projects based heavily on technical data. For example, we would give great consideration to the number of water main breaks and pavement condition index and lesser attention to other items in order to prioritize projects. We acknowledge there are many factors that should be considered when prioritizing projects and that the process and criteria for selecting a project should be more transparent. For that reason, staff from Engineering, Public Works, and Planning have been working to update, expand, and formalize the criteria and decision making process used for the evaluation, prioritization, and selection of capital improvement projects. In addition to the technical data used heavy in the past, we anticipate existing comprehensive studies and master plans, such as Go2030 and the Core Neighborhood Plan, as well as soon to be completed studies, Fargo Transportation Plan, to be important tools in this expanded method of prioritizing projects.

Below is a summary of the 2022 CIP.

Proposed Projects

Project	Preliminary Estimated Costs				Funding			
	Construction	Misc. Costs*	Fees and Contingency	Total	Outside Funding Sources	Flood Sales Tax	Special Assessments	City Funds
Federal Aid Projects	\$11,480,663	\$2,578,132	\$1,836,906	\$15,895,701	\$5,508,620	\$0	\$7,741,077	\$2,646,004
Utility Repl/Street Recon Projects	\$5,355,614	\$0	\$1,392,460	\$6,748,073	\$0	\$0	\$2,444,612	\$4,303,461
Flood Control Projects	\$15,710,000	\$3,716,000	\$1,596,200	\$21,022,200	\$0	\$21,022,200	\$0	\$0
Pavement Preservation Projects	\$9,835,000	\$0	\$2,557,100	\$12,392,100	\$0	\$0	\$5,015,749	\$7,376,351
Storm Sewer Utility Projects	\$1,148,572	\$0	\$287,786	\$1,436,357	\$113,357	\$0	\$0	\$1,323,000
Traffic and Streetlight Projects	\$2,675,000	\$0	\$695,500	\$3,370,500	\$220,500	\$0	\$1,575,000	\$1,575,000
New Development Projects	\$21,145,713	\$1,022,414	\$5,437,594	\$27,605,721	\$1,036,351	\$0	\$24,852,984	\$1,716,385
Alley Paving Projects	\$100,000	\$0	\$26,000	\$126,000	\$0	\$0	\$126,000	\$0
Sidewalk Projects	\$1,132,000	\$0	\$294,320	\$1,426,320	\$0	\$0	\$555,660	\$870,660
Miscellaneous Projects	\$410,000	\$0	\$91,000	\$501,000	\$0	\$0	\$0	\$501,000
Total 2022 CIP =	\$68,992,561	\$7,316,546	\$14,214,866	\$90,523,973	\$6,878,828	\$21,022,200	\$42,311,083	\$20,311,861

* Misc. Costs include Right-of-Way, Easements, Utility Relocation, Outside Engineering, and Incentives.

Federal Aid Projects

Overview

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

It is important to acknowledge the major change that will soon be happening in the allocation of federal funds to the City of Fargo. The preliminary results of the 2020 Decennial Census indicate that the Fargo-Moorhead region has surpassed the 200,000 population threshold needed to become a Transportation Management Area (TMA). The Urban Area boundary delineation process, which occurs after each census, was delayed because of the COVID-19 Pandemic, due to the delay in collecting, amalgamating, and reporting of the data. The Census Bureau has indicated that they will start Urban Area boundary delineations sometime in 2022. After that process is completed, the Census Bureau will then publish a listing of Metropolitan Planning Organizations (MPO) and Transportation Management Areas (TMA) in the federal register. The complete count population numbers indicate that Metro COG will become a TMA after this process is complete. This is dependent on federal transportation legislation maintaining the current thresholds. At this point, there is no indication that the thresholds are changing as a result of the Infrastructure Investment and Jobs Act. NDDOT has indicated that the transition will likely begin to take place in Federal fiscal year 2023, which begins October 1, 2022.

Upon becoming a TMA, Metro COG will have the ability to prioritize and select projects using Surface Transportation Block Grant (STBG), Transportation Alternatives (TA), and Highway Safety Improvement Program (HSIP) funds. However, this process will still be subject to the same federal oversight that currently exists, as well as new federal transportation planning documentation and additional reporting requirements. Local jurisdictions will need to forecast future projects, conduct applicable planning efforts, acquire right of way, design, and construct projects according to an achievable schedule in order to avoid the risk of funds lapsing. Metro COG will need to work with local jurisdictions to develop a list of “shovel-ready” projects that can be chosen to backfill those that fall behind or that may be programmed if additional funding is made available.

Proposed Projects

Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
32 Ave S from 32 St S to 22 St S	\$11,480,663	\$2,578,132	\$1,836,906	\$15,895,701	\$5,508,620	\$7,741,077	\$2,646,004
Total Federal Aid Projects =	\$11,480,663	\$2,578,132	\$1,836,906	\$15,895,701	\$5,508,620	\$7,741,077	\$2,646,004

Utility Replacement and Street Reconstruction Projects

Overview

The City of Fargo has 523.42 miles of water main. Cast iron water main is typically the oldest and most susceptible to breakage. Asbestos cement water main is typically the next oldest and is most susceptible to breakage during dry conditions when the soil shrinks.

Water Main Material Type	Length (Miles)	Percentage Of Network
All Material Types	523.42	100.00%
Asbestos Cement	86.29	16.49%
Cast Iron	33.92	6.48%
Ductile Iron	25.35	4.84%
PVC	377.86	72.19%

The City of Fargo has 415.93 miles of sanitary sewer gravity mains and 43.22 miles of force mains. The “Other” category listed in the table below includes less common materials such as polyethylene (PE), brick, asbestos cement pipe (ACP), gunite, Rib (which is a corrugated PVC), and acrylonitrile butadiene styrene (ABS).

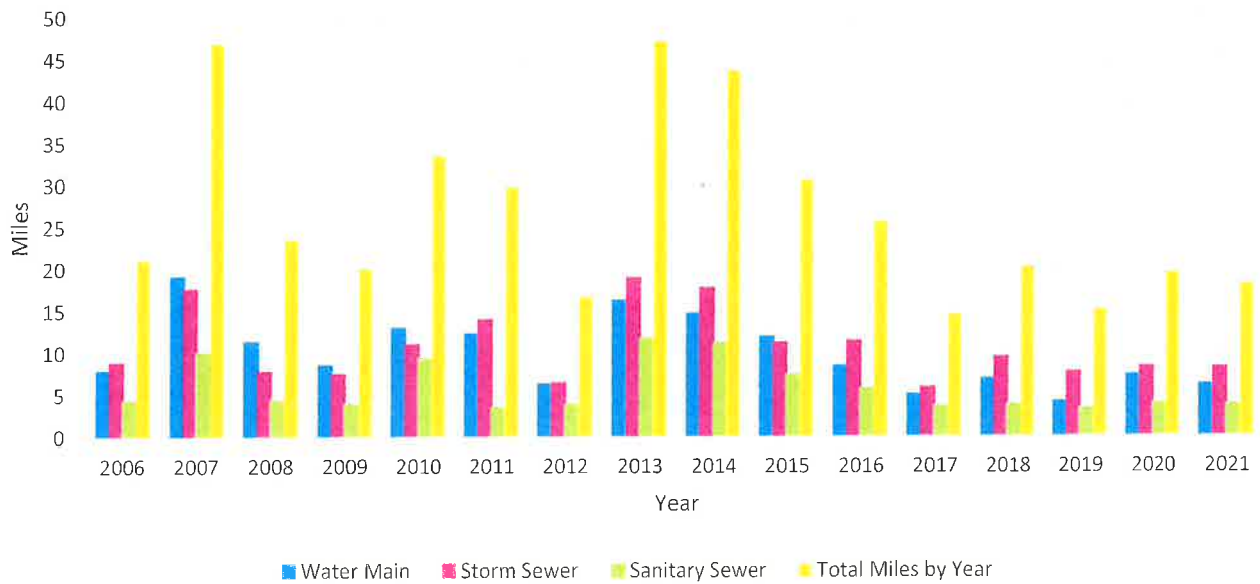
Sanitary Sewer Material Type	Length (Miles)	Percentage Of Network
All Material Types	415.93	100.00%
RCP	31.54	6.03%
VCP	111.29	21.26%
Other	12.59	2.41%
PVC	260.51	49.77%

The City of Fargo has 514.35 miles of storm sewer. The “Other” category includes less common materials such as vitrified clay pipe (VCP), corrugated metal pipe (CMP), and steel.

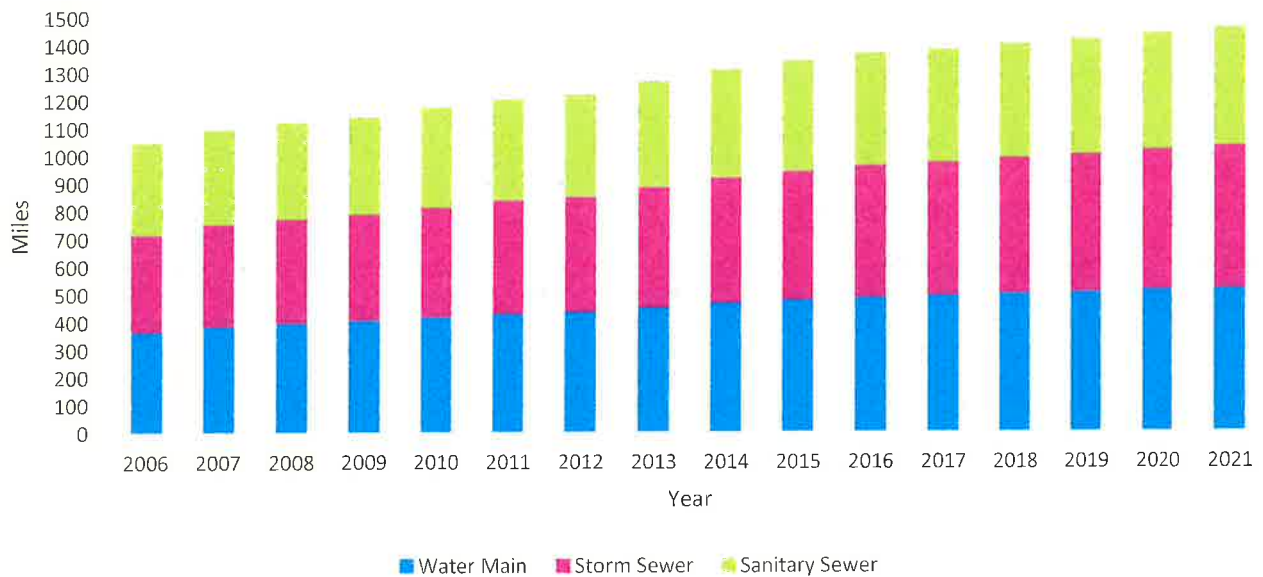
Storm Sewer Material Type	Length (Miles)	Percentage Of Network
All Material Types	514.35	100.00%
RCP	440.73	84.20%
Other	11.24	2.15%
PVC/PP	62.38	11.92%

Due to our City's continued growth, our infrastructure network continues to grow. As our network grows, so does our need to invest in the preventative maintenance and replacement of our infrastructure. Since 2005, the City's underground utility main network has increased by 427 miles (an increase of 41.6%). The two graphs below depict the expansion of our underground utility main network in recent years.

Newly Installed Miles of Underground Mains by Year



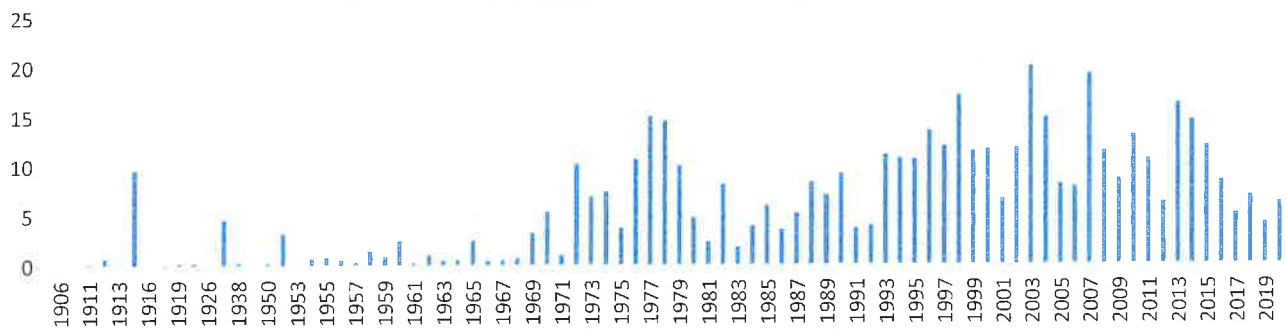
Cumulative Miles of Underground Mains by Year



Important items to consider when programming projects and determining the appropriate size of an annual capital improvement plan is the network size and the useful life of infrastructure. A number of factors influence the actual useful life of a water main and therefore it is difficult to predict the exact life expectancy for all materials, but there have been a number of studies in recent years that try to estimate the anticipated life expectancy of water mains based on materials. The results of these studies differ, but a fair estimate would be from 80 to 100 years for ACP and CIP and 80 to 120 years for PVC. Using these various life expectancy estimates, we are able to estimate the amount of water main replacement required each year to keep pace with the anticipated replacement cycles. It is important to follow these replacement cycles since falling behind today would require an even more aggressive replacement program in the future.

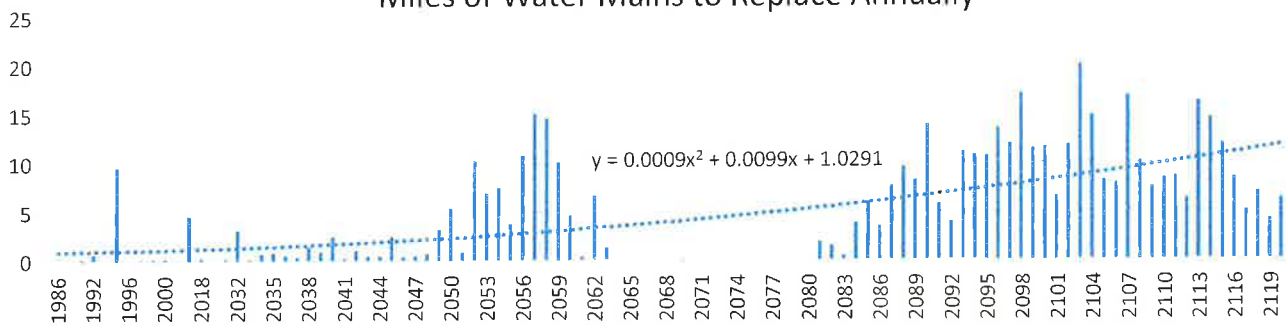
Utilizing data from our GIS system, we are able to graph the number of miles of water mains in the ground by the year installed. Some of our very early data (over 100 years old) may not be exact, but it is accurate enough for this purpose.

Miles of Water Mains In-service by Year Installed



We are then able to shift the replacement year of the water mains by the estimated life expectancy. The graph below shifts ACP and CIP mains by 80 years and PVC mains by 100 years. By graphing this data, we can then get an equation for the number of miles to be replaced annually to keep pace with replacement cycles and therefore not fall behind.

Miles of Water Mains to Replace Annually



As you can see from the following table, the amount of water main that should be replaced annually varies greatly dependent upon the assumed life expectancy of the water main material.

Year	CIP - 80 Years ACP - 80 Years PVC - 80 Years "Conservative"	CIP - 80 Years ACP - 80 Years PVC - 100 Years "Moderate"	CIP - 100 Years ACP - 100 Years PVC - 120 Years "Optimistic"
2022	3.00	2.55	1.42
2023	3.14	2.63	1.46
2024	3.28	2.70	1.50
2025	3.42	2.78	1.54
2026	3.56	2.87	1.59
2027	3.70	2.95	1.63
2028	3.85	3.03	1.68
2029	4.00	3.12	1.73
2030	4.15	3.21	1.79
2031	4.31	3.30	1.84
2032	4.46	3.39	1.89
2033	4.62	3.48	1.95
2034	4.78	3.58	2.01
2035	4.94	3.68	2.07
2036	5.10	3.77	2.14
2037	5.27	3.87	2.20
2038	5.44	3.98	2.27
2039	5.61	4.08	2.34
2040	5.78	4.19	2.41

A conservative estimate would recommend the replacement of 3.00 miles of water main in 2022. A moderate estimate would recommend the replacement of 2.55 miles of water main in 2022. An optimistic estimate would recommend the replacement of 1.42 miles of water main in 2022. The proposed utility replacement and street reconstruction projects for 2022 will replace a total of approximately 7,348 feet (1.39 miles) of cast iron and asbestos cement water main.

The amount of water main being replaced in 2022 would fall into an "optimistic" category for estimated life expectancy. If City leaders feel a more moderate or conservative estimated life expectancy should be utilized, discussions would need to be had on how to fund and staff additional utility replacement and street reconstruction projects.

The Engineering Department works with the Public Works Department and the Planning Department to determine which roads to prioritize for replacement. There are many factors that we consider when selecting projects. Some of those factors are health and safety, failing underground utility infrastructure, pavement condition, alignment with adopted master plans and comprehensive studies, and many others. With the financial constraints of our funding, the Engineering, Public Works, and Planning team recommend the following projects as the most important to prioritize for replacement in 2022.

Proposed Projects

Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
7 Ave N from 2 St N to Elm St; Oak St from 8 Ave to BNSF RR	\$2,262,281	\$0	\$588,193	\$2,850,474	\$0	\$871,775	\$1,978,698
3 Ave N from 10 St N to 7 St N; 7 St N from 2 Ave N to 4 Ave N	\$1,713,188	\$0	\$445,429	\$2,158,617	\$0	\$1,175,884	\$982,733
21 St S from 13 Ave S to 9 Ave S	\$1,380,145	\$0	\$358,838	\$1,738,983	\$0	\$396,953	\$1,342,030
Total Utility Replacement and Street Reconstruction Projects =	\$5,355,614	\$0	\$1,392,460	\$6,748,073	\$0	\$2,444,612	\$4,303,461

Flood Control Projects

Overview

Flood control projects are part of the overall FM Diversion Project and are necessary to safely allow the planned flow thru town of 37-feet during a 100 year flood event without any emergency measures. The proposed flood control projects also include the acquisition of properties that will need to be moved or demolished for the construction of flood control projects.

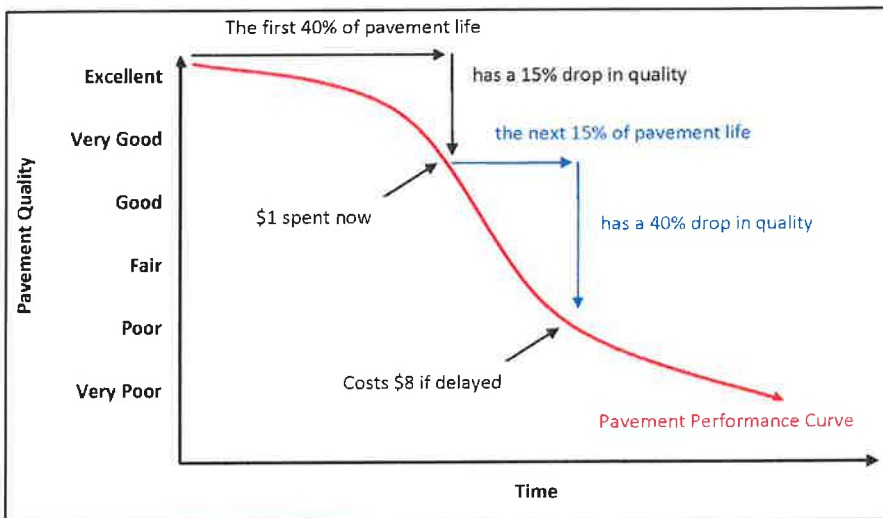
Proposed Projects

Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Flood Sales Tax	Special Assessments	City Funds
Woodcrest	\$6,000,000	\$2,302,000	\$600,000	\$8,902,000	\$8,902,000	\$0	\$0
Demolition - Flood Buyouts (3 Homes)	\$180,000	\$0	\$43,200	\$223,200	\$223,200	\$0	\$0
Storm Lift Station # 15	\$2,600,000	\$286,000	\$260,000	\$3,146,000	\$3,146,000	\$0	\$0
Storm Lift Station #55 & #56	\$5,500,000	\$985,000	\$550,000	\$7,035,000	\$7,035,000	\$0	\$0
South University Rip Rap	\$1,430,000	\$143,000	\$143,000	\$1,716,000	\$1,716,000	\$0	\$0
Total Flood Control Projects =	\$15,710,000	\$3,716,000	\$1,596,200	\$21,022,200	\$21,022,200	\$0	\$0

Pavement Preservation Projects

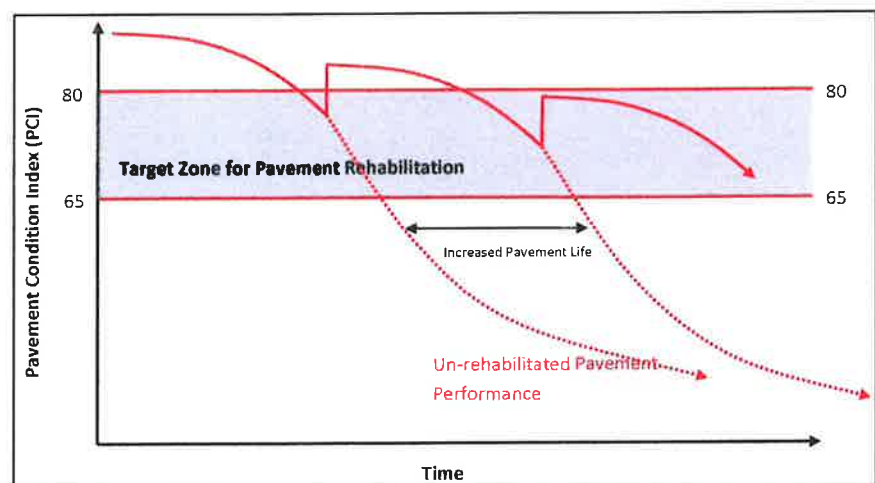
Overview

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



A \$1 investment after 40% lifespan is much more effective than deferring maintenance until heavier overlays or reconstruction is required just a few years later.

Pavement life can be extended through the application of timely rehabilitation activities.



Pavement Network Overview

The table below summarize the size, surface type, and classification of the various roadways throughout the City of Fargo.

	Surface Type	Total Network	Arterial (31.41%)	Collector (14.36%)	Local (51.79%)	Alley (2.44%)
Area of Pavement (Square Yards)	All Streets	9,936,943	3,121,233	1,426,978	5,145,854	242,878
	Asphalt (54.68%)	5,433,087	446,868	811,771	4,019,815	154,633
	Composite (3.89%)	387,019	173,476	41,269	169,348	2,926
	Concrete (41.43%)	4,116,837	2,500,889	573,938	956,691	85,319

There are multiple pavement metrics used throughout the nation; however, Pavement Condition Index (PCI) is the most commonly used metric for assessing pavement condition. The City hires a consultant to perform a pavement condition survey typically every four years. In order to provide for a consistent assessment of the pavement network, the survey is performed in adherence to the ASTM D6433 standard for collecting and calculating PCI. A survey was performed in 2021 and will deliver updated PCI scores for all roadways within the next few months. These updated PCI scores will give us a better understanding of actual PCI data and allow us to make better decisions on the necessary funding level for pavement preservation.

Between surveys, the City uses a pavement management software, ICON 7, to estimate current PCI scores. This software uses previous pavement condition surveys and user entered pavement preservation data to calculate a PCI score utilizing deterioration curves for various pavements based on network classification and surface types.

The tables below show that our pavement management software estimates that our PCI rating for our entire network dropped from 82.48 to 81.12 in the last year. This drop in network PCI would suggest that additional funding is necessary to maintain our network PCI at the current rating.

	Surface Type	Total Network	Arterial	Collector	Local	Alley
Estimated Pavement Condition Index in November 2020	All Streets	82.48	88.81	81.68	79.88	60.35
	Asphalt	78.77	73.14	76.58	81.12	46.02
	Composite	57.04	64.08	35.52	55.26	26.79
	Concrete	90.04	93.58	92.37	79.13	87.94

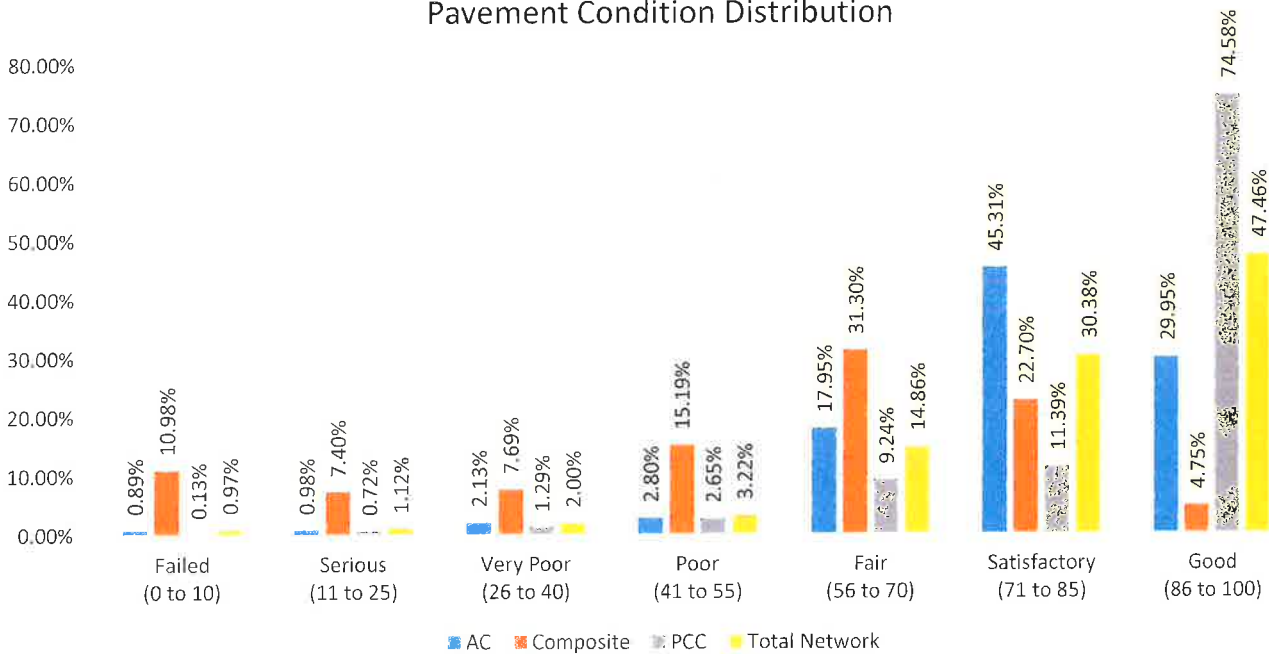
	Surface Type	Total Network	Arterial	Collector	Local	Alley
Estimated Pavement Condition Index in November 2021	All Streets	81.12	87.91	80.93	78.15	57.78
	Asphalt	77.50	70.83	76.01	79.94	41.24
	Composite	54.23	63.03	31.80	51.23	22.61
	Concrete	88.42	92.68	91.43	75.41	88.95

Another way to track the overall condition of a pavement network, and whether or not current funding levels and rehab strategies are effective, is to track backlog. In pavement management, the term backlog refers to streets that cannot be rehabilitated without partial or complete reconstruction. Because reconstructing a street is much more expensive than preventative maintenance, pavement segments that fall into the backlog category (roads below a PCI of 40) are often deferred until the funds are available to dedicate towards such projects. The constant deferral of these projects can lead to a build-up of a network’s backlog until it reaches an unmanageable state. A network is treading into precarious territory when the backlog exceeds 15% of the total pavement network. Once a network's backlog exceeds 15%, the cost of reconstruction projects begins to eat up large portions of the budget that would otherwise be used for preventative care. This spirals into a situation where pavement segments fall into the reconstruction category faster than the city can repair them. This situation can be devastating to a city’s budget and the residents.

Fortunately, the City of Fargo’s backlog is currently estimated at 406,217 SY of pavement or 4.09% of the total network.

The table below illustrates the distribution of pavement conditions by surface type for the City of Fargo. For example, 10.98% of composite pavements are in the “Failed” condition, whereas only 0.97% of the total pavement network is in the “Failed” condition.

Pavement Condition Distribution



Repair and Rehabilitation Projects Overview

Repair and rehabilitation projects include asphalt crack seal and concrete spot repairs. The annual crack seal project is typically located in the same areas as the seal coat project and aids in preserving and extending the life of the asphalt roadway. The citywide concrete spot repair project repairs relatively small concrete issues that arise throughout the City each year.

Seal Coat Projects Overview

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

Based on that research, seal coats are installed on new wear course projects no later than two years after installation and are funded 100% by special assessments. Seal coats are installed on mill and overlay projects no later than two years after installation and are funded 100% by City funds. Subsequent seal coats are installed every eight years and are funded 100% by City funds.

Mill and Overlay Projects Overview

The anticipated frequency of asphalt mill and overlay projects can vary widely depending on a number of factors, such as pavement subgrade and drainage, traffic volumes, weight of vehicle traffic, and initial quality of asphalt pavement. The anticipated frequency of a mill and overlay on a residential street can range from 15 to 25 years. The anticipated frequency of a mill and overlay on a collector or arterial roadway is shorter due to traffic and loading, but can be expected every 12 to 15 years. Mill and overlay projects are an effective pavement management strategy utilized to extend the life of the asphalt pavement and improve the ride quality. As part of these projects, drainage issues are corrected and sidewalk curb ramps that do not meet Federal ADA requirements are replaced. Mill and Overlay projects are funded equally with special assessments and City funds.

Street Reconstruction Projects Overview

The City uses the above-mentioned methods to preserve pavement quality as long as practical, but unfortunately not all pavement can be preserved or rehabilitated indefinitely. Therefore at some point, all roads will have no other viable option other than replacement. Street reconstruction projects are for those roadways that have reached the end of their useful life, but do not require replacement of underground utilities like sanitary sewer mains or water mains.

Proposed Projects

Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
Asphalt Crack Seal - Various Locations Citywide	\$85,000	\$0	\$22,100	\$107,100	\$0	\$0	\$107,100
Concrete Spot Repairs Citywide	\$500,000	\$0	\$130,000	\$630,000	\$0	\$0	\$630,000
Concrete Rehab - 13th Ave S from 28th St S to 38th St S	\$3,500,000	\$0	\$910,000	\$4,410,000	\$0	\$1,262,822	\$3,147,178
Seal Coat Projects	\$900,000	\$0	\$234,000	\$1,134,000	\$0	\$260,820	\$873,180
Street Reconstruction - 18th Ave S and 40th St S	\$1,350,000	\$0	\$351,000	\$1,701,000	\$0	\$1,287,107	\$413,893
Mill & Overlay	\$3,500,000	\$0	\$910,000	\$4,410,000	\$0	\$2,205,000	\$2,205,000
Total Pavement Preservation Projects =	\$9,835,000	\$0	\$2,557,100	\$12,392,100	\$0	\$5,015,749	\$7,376,351

Storm Sewer Utility Projects

Overview

The Storm Sewer Utility was created in 1998 and a designated fee was implemented for the maintenance and repair of the City's storm sewer infrastructure. In 2019, the Storm Sewer Utility completed a financial modeling evaluation which highlighted a significant deficit in revenue by comparing the system needs to the existing fee rate and structure. This effort ultimately resulted in the replacement of a flat rate fee structure for all properties to an overall impervious and lot area formula for non-residential parcels and the continuance of a flat rate for single-family parcels. The new fee structure adopted in 2019 was reduced from the proposed rate necessary to support the infrastructure needs. Upon adoption in 2019, it was anticipated that the utility rate would need to be evaluated for adjustments every three years to catch it up to the original proposed rate. The first incremental increase will be in 2022 and the utility rate will need to be evaluated again in 2025 in order to allow the Storm Sewer Utility to fully fund capital improvement plan expenditures associated with the storm sewer system and no longer rely on transfers from sales tax.

The Storm Sewer Utility infrastructure is comprised of more than 80 storm sewer lift stations, more than 500 miles of various sized collection piping, and 20 regional storm water ponds.

The projects selected for the 2022 Capital Improvement Plan have been identified by storm sewer pipe televising, annual inspections and cleaning operations of lift stations and river/drainage outfalls, identified failure and recurring maintenance locations by the Street Department, and the 2011 lift station evaluation report.

Proposed Projects

Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
Drainage Repairs – 64 th Ave S outfall	\$125,000	\$0	\$32,500	\$157,500	\$0	\$0	\$157,500
Drainage Repairs - Various	\$500,000	\$0	\$130,000	\$630,000	\$0	\$0	\$630,000
Storm Repairs/Rehab - Roers pond and Deer Creek	\$150,000	\$0	\$39,000	\$189,000	\$0	\$0	\$189,000
Storm Repairs/Rehab - Various	\$275,000	\$0	\$71,500	\$346,500	\$0	\$0	\$346,500
Fargo Project Pond	\$98,572	\$0	\$14,786	\$113,357	\$113,357	\$0	\$0
Total Storm Sewer Utility Projects =	\$1,148,572	\$0	\$287,786	\$1,436,357	\$113,357	\$0	\$1,323,000

Traffic and Streetlight Projects

Overview

Traffic signal and street light projects improve the safety and efficiency of traffic operations for the City of Fargo. The Traffic and Street Light Utility was implemented for the maintenance and repair of the City's 15,000 street lights and 157 traffic signals. Associated with this infrastructure are over 600 electrical feed points and 450 miles of wire and fiber. This utility also installs and maintains pedestrian crosswalk beacons, better known as HAWK crossings, as well as school zone speed flashers and driver speed feedback electronic signs. The proposed projects are for the initial installation, maintenance, and improvements of street lights, traffic signals, communication cable, intelligent transportation systems, signing and pavement markings.

Proposed Projects

Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
Street Light Rehab - Citywide	\$325,000	\$0	\$84,500	\$409,500	\$0	\$0	\$409,500
Traffic Signal Maintenance - Citywide	\$250,000	\$0	\$65,000	\$315,000	\$0	\$0	\$315,000
HAWK Installation	\$250,000	\$0	\$65,000	\$315,000	\$0	\$315,000	\$0
New Traffic Signal - Veterans Blvd/37th Ave S	\$350,000	\$0	\$91,000	\$441,000	\$220,500	\$0	\$220,500
Railroad Quiet Zone - 7th Ave N and 16th St N	\$1,000,000	\$0	\$260,000	\$1,260,000	\$0	\$1,260,000	\$0
Pavement Marking Replacement	\$500,000	\$0	\$130,000	\$630,000	\$0	\$0	\$630,000
Total Traffic and Streetlight Projects =	\$2,675,000	\$0	\$695,500	\$3,370,500	\$220,500	\$1,575,000	\$1,575,000

New Development Projects

Overview

The number and scope of new development projects can vary widely from year to year as they are driven by developer's requests. For 2022, we have either received or believe we are likely to receive the projects listed in the table below.

Wear course projects are also part of new development projects. Wear course projects include drainage correction and the placement of the final surface layer of asphalt in new developments. These projects take place anywhere from just a couple of years to as many as 15 years after the initial construction of a new development. Wear course projects are not typically constructed until nearly all of the building construction in a new development is complete. This allows private contractors time to construct buildings without fear of damaging the final surface of asphalt. It also allows settlement to occur, which is corrected during the wear course project.

Proposed Projects

Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
New Development Project - Laverne's 2nd Addition	\$1,000,000	\$0	\$260,000	\$1,260,000	\$0	\$1,260,000	\$0
New Development Project - Duda Property	\$1,000,000	\$0	\$260,000	\$1,260,000	\$0	\$1,260,000	\$0
New Development Project - The District of Fargo 4th Addition	\$1,000,000	\$0	\$260,000	\$1,260,000	\$0	\$1,260,000	\$0
New Development Project - Meadow View Phase 2	\$1,000,000	\$0	\$260,000	\$1,260,000	\$0	\$1,260,000	\$0
New Development Project - Nelson Property	\$1,000,000	\$0	\$260,000	\$1,260,000	\$0	\$1,260,000	\$0
New Development Project - Golden Valley 6th Addition	\$500,000	\$0	\$130,000	\$630,000	\$0	\$630,000	\$0
New Development Project - SW Quadrant of I-29/I-94	\$1,000,000	\$0	\$260,000	\$1,260,000	\$0	\$1,260,000	\$0
New Development Project - 14 1/2 St N Paving	\$694,100	\$0	\$180,466	\$874,566	\$0	\$823,179	\$51,387
Meadow View Addition - Phase 1	\$1,328,271	\$0	\$285,059	\$1,613,330	\$0	\$1,613,330	\$0
45 St from 52 Ave S to 64 Ave S and 64 Ave S from 45 St S to 38 St S	\$11,623,342	\$1,022,414	\$3,022,069	\$15,667,824	\$1,036,351	\$12,966,475	\$1,664,998
Wear Course Projects	\$1,000,000	\$0	\$260,000	\$1,260,000	\$0	\$1,260,000	\$0
Total New Development Projects =	\$21,145,713	\$1,022,414	\$5,437,594	\$27,605,721	\$1,036,351	\$24,852,984	\$1,716,385

Alley Paving Projects

Alley Network Overview

Alley paving projects are at the request of property owners. There are typically an increase in requests in years where the condition of gravel alleys are difficult to maintain due to a lot of precipitation. As shown in the table below, most of the alleys in the City of Fargo are either gravel or asphalt. Most of the asphalt alleys were constructed in 1983 and were constructed with a thin asphalt pavement section. Many of these asphalt alleys have met, or will soon meet, the end of their useful life. All alleys that are constructed or reconstructed today are done so with concrete pavement.

Alley Surface Type	Area (Square Yards)	Percentage by Area	Length (Centerline Miles)	Percentage by Length
All Surface Types	383,522	100.00%	29.18	100.00%
Asphalt	154,633	40.32%	10.19	34.92%
Brick	547	0.14%	0.06	0.21%
Composite	2,926	0.76%	0.20	0.69%
Gravel	140,097	36.53%	11.83	40.54%
Concrete	85,319	22.25%	6.90	23.63%

Proposed Projects

Alley paving projects must be petitioned by at least 55 percent of the benefitting property owners to be included in the annual CIP. Typically, a property owner going door-to-door with a petition to get signatures from the benefitting property owners does this. Upon verification of signatures, the Engineering Department then moves forward with the design, creation, bidding, and construction of the petitioned alley project. All alley paving projects are 100% special assessed. The following project has been petitioned.

Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
Alley Paving - 9 Ave N to 10 Ave N between 2 St N and 3 St N	\$100,000	\$0	\$26,000	\$126,000	\$0	\$126,000	\$0
Total Alley Paving Projects =	\$100,000	\$0	\$26,000	\$126,000	\$0	\$126,000	\$0

Sidewalk Projects

Overview

Sidewalk projects are included annually in the CIP to address areas of town where the property owner has not yet installed sidewalks and areas of town where tripping hazards or nonconforming conditions exist. The list of sidewalk locations to be improved is typically generated by citizen complaint. Upon notice from the City, property owners have the option to make the improvements by hiring and paying a licensed sidewalk contractor directly or property owners can elect to have the improvements included in the annual sidewalk project and be assessed.

Proposed Projects

Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
Sidewalks: Northside New/Recon Sidewalks	\$441,000	\$0	\$114,660	\$555,660	\$0	\$277,830	\$277,830
Sidewalks: Southside New/Recon Sidewalks with 25th St S work	\$691,000	\$0	\$179,660	\$870,660	\$0	\$277,830	\$592,830
Total Sidewalk Projects =	\$1,132,000	\$0	\$294,320	\$1,426,320	\$0	\$555,660	\$870,660

Miscellaneous Projects

Overview

Miscellaneous projects vary from year to year, but this year the category includes water service lowering and/or lead service line replacement and public relations/communications.

The water service lowering and/or lead service line replacement project is a project that will address two issues. There are a number of water services throughout the City that are known to be susceptible to freezing and need to be lowered. Currently the owners of these service lines need to run water continuously during winter in order to reduce the risk of a frozen water service. This project will look to prioritize those water service lines that are prone to freezing and that are lead. This project will reduce the amount of freezing water services, which eliminates the need to continuously run water during the winter, and lead water services. Currently in the City of Fargo, there are 356 properties with lead service lines from the water main to the building, 116 properties with lead service lines from the water main to the curb stop, and 1,048 properties with lead service lines from the curb stop to the building.

The public relations/communications project is to aid in the communication of capital improvement projects. This project is critical to a successful construction project as it allows us to successfully communicate with the public by providing construction progress updates, notice of upcoming road closures, changing access and detour routes, and other items that aid in a positive public perception of roadway projects.

Proposed Projects

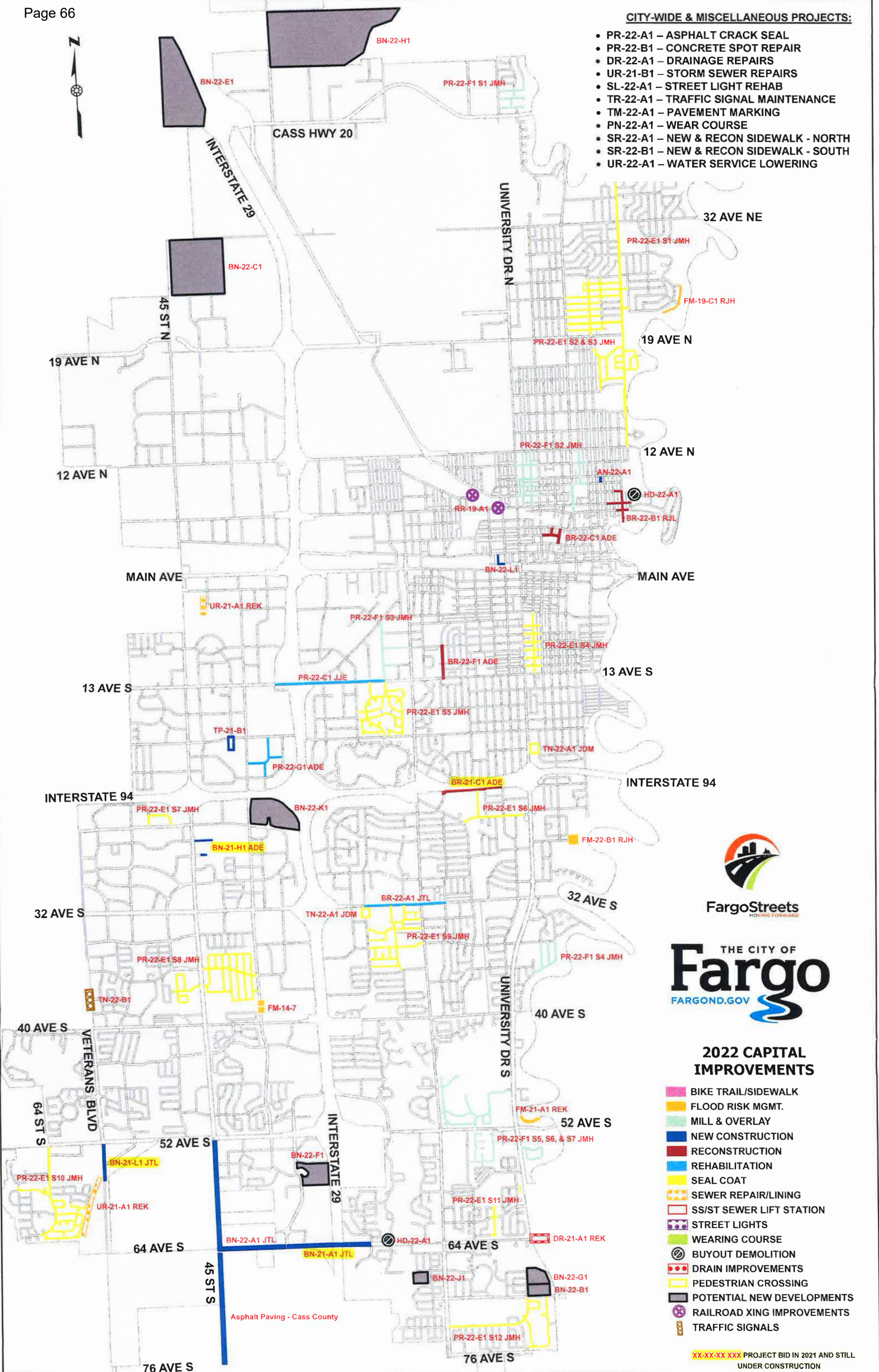
Project	Preliminary Estimated Costs				Funding		
	Construction	Misc. Costs	Fees and Contingency	Total	Outside Funding Sources	Special Assessments	City Funds
Water Service Lowering and/or lead replacement	\$350,000	\$0	\$91,000	\$441,000	\$0	\$0	\$441,000
Public Information Coordinator Services	\$60,000	\$0	\$0	\$60,000	\$0	\$0	\$60,000
Total Miscellaneous Projects =	\$410,000	\$0	\$91,000	\$501,000	\$0	\$0	\$501,000

2022 Capital Improvements Map



CITY-WIDE & MISCELLANEOUS PROJECTS:

- PR-22-A1 – ASPHALT CRACK SEAL
- PR-22-B1 – CONCRETE SPOT REPAIR
- DR-22-A1 – DRAINAGE REPAIRS
- UR-21-B1 – STORM SEWER REPAIRS
- SL-22-A1 – STREET LIGHT REHAB
- TR-22-A1 – TRAFFIC SIGNAL MAINTENANCE
- TM-22-A1 – PAVEMENT MARKING
- PN-22-A1 – WEAR COURSE
- SR-22-A1 – NEW & RECON SIDEWALK - NORTH
- SR-22-B1 – NEW & RECON SIDEWALK - SOUTH
- UR-22-A1 – WATER SERVICE LOWERING



FargoStreets
MOVING FORWARD



2022 CAPITAL IMPROVEMENTS

- BIKE TRAIL/SIDEWALK
- FLOOD RISK MGMT.
- MILL & OVERLAY
- NEW CONSTRUCTION
- RECONSTRUCTION
- REHABILITATION
- SEAL COAT
- SEWER REPAIR/LINING
- SS/ST SEWER LIFT STATION
- STREET LIGHTS
- WEARING COURSE
- BUYOUT DEMOLITION
- DRAIN IMPROVEMENTS
- PEDESTRIAN CROSSING
- POTENTIAL NEW DEVELOPMENTS
- RAILROAD XING IMPROVEMENTS
- TRAFFIC SIGNALS

XX-XX-XX XXX PROJECT BID IN 2021 AND STILL UNDER CONSTRUCTION



November 29, 2021

To: Board of City Commissioners
Fr: Michael Redlinger, Assistant City Administrator
Re: Approve Civil Legal Services & Prosecutorial Legal Services RFP Award Recommendations

Background: On September 13, 2021, City Attorney Erik Johnson provided written notice to the City Administrator of his intent to terminate the agreement that Erik R. Johnson & Associates, Ltd. has with the City of Fargo to provide City Attorney services. These services include representation in general municipal law matters as well as prosecutorial services in court venues in which the City appears, such as Municipal Court, District Court, and the North Dakota Supreme Court (on appeals).

On October 4, 2021, the City Commission received a presentation from City staff on the various procurement methods to secure City Attorney services. Following this presentation, the City Commission authorized a Request for Proposals (RFP) process to solicit proposals from qualified law firms or individuals interested in providing Civil or Prosecutorial Legal Services. A link to the October 4, 2021 City Commission agenda material is below.

10/4/21 City Commission Regular Agenda – RFPs (Item #44, page 22):

<https://download.fargond.gov/0/oct4regularagendanew.pdf>

The RFP notice was published in *The Forum* and distributed locally and regionally through other entities and organizations, including:

- Cass County Bar Association
- North Dakota State Bar Association
- North Dakota League of Cities General Counsel's Office
- North Dakota City Attorneys email distribution
- City of Fargo website
- *The Forum* Legal Advertisements (published October 13 & October 20, 2021)

At the RFP submittal deadline (November 5, 2021 at 4:00 p.m.), the following responsive proposals were received in the City Auditor's Office at Fargo City Hall:

Civil Legal Services

- Serkland Law Firm

Prosecutorial Legal Services

- Serkland Law Firm
- Solberg Stewart Miller

The sole Civil Legal Services proposal and the two (2) Prosecutorial Legal Services proposals are attached for your review and reference. *Note: No additional proposals were received after the 11/5/21 RFP submission deadline or rejected as non-responsive.*

Written Proposal Evaluation & Interview Process: On November 19, 2021, the City Administrator and Assistant City Administrator conducted in-person interviews with representatives from the Serkland Law Firm (Civil & Prosecutorial Legal Services proposals) and the Solberg Stewart Miller firm (Prosecutorial Legal Services proposal). A standardized question set was utilized for all three interviews, and a quantitative ranking was assigned by the City Administrator and Assistant City Administrator based on evaluation of the proposals to the RFP criteria, as well as the in-person interview. Proposal scores were averaged together to provide a collective perspective of City Administration on each proposal.

RFP Award Recommendations & Finance Committee Approvals – November 22, 2021: As expressed in the quantitative rankings of the proposals and in-person interviews, City Administration requested the Finance Committee approve the following recommendations for the City Commission's consideration at its November 29, 2021 meeting:

- Award the Civil Legal Services RFP process to the Serkland Law Firm and authorize City staff to finalize terms of agreement with the Serkland Law Firm.
- Award the Prosecutorial Legal Services RFP process to the Serkland Law Firm and authorize City staff to finalize terms of agreement with the Serkland Law Firm.

The Finance Committee unanimously approved City Administration's recommendation to award Civil Legal Services and Prosecutorial Legal Services to the Serkland Law Firm. A Finance Committee Report of Action (ROA) is attached for reference which documents the recommendation to approve.

Final Agreements: Once final agreements have been reached between the Serkland Law Firm and City for the two scopes of work, the Finance Committee and City Commission will consider and approve final agreements in December 2021. At that time, the appointment of the City Attorney will also occur per the provisions of the Fargo Municipal Code, and a professional services agreement will be approved with Erik Johnson, co-counsel, to support the transition and provide continued services.

Suggested Motion: Upon the unanimous recommendation of the Finance Committee, I move to approve the RFP Award Recommendations for Civil and Prosecutorial Legal Services to the Serkland Law Firm. City staff is further authorized to finalize agreement terms between the Serkland Law Firm and City, and Erik Johnson (co-counsel) and City.

Attachments: November 22, 2021 Finance Committee Report of Action
Serkland Law Firm Civil Legal Services Proposal
Civil Legal Services Interview Questions
Civil Legal Services Proposal Rating
Serkland Law Firm Prosecutorial Services Proposal
Solberg Stewart Miller Prosecutorial Services Proposal
Prosecutorial Legal Services Interview Questions
Prosecutorial Services Proposal Ratings

REPORT OF ACTION

FINANCE COMMITTEE

Project: Civil Legal Services & Prosecutorial Legal Services RFP Award Recommendations

Type: Professional Services

Location: City of Fargo

Date of Hearing: November 22, 2021

<u>Routing</u>	<u>Date</u>
City Commission	11/29/2021
Project File	N/A

The Finance Committee received a presentation from City staff regarding a Request for Proposals (RFP) process for Civil Legal Services and Prosecutorial Legal Services. The City Commission approved the RFP process on October 4, 2021 to solicit proposals from qualified law firms or individuals interested in providing professional legal services to the City of Fargo.

City staff summarized the publication and notice of the two RFPs, noting that the RFP was advertised twice in the legal advertisements of *The Forum* and distributed locally and regionally through other entities and organizations, including:

- Cass County Bar Association
- North Dakota State Bar Association
- North Dakota League of Cities General Counsel's Office
- North Dakota City Attorneys email distribution
- City of Fargo website

The Finance Committee was then provided with an overview of the three (3) responsive proposals that were submitted by the RFP submission deadline of November 5, 2021 at 4:00 p.m. One (1) Civil Legal Services proposal and two (2) Prosecutorial Legal Services proposals were received from the following law firms:

Civil Legal Services

- Serkland Law Firm

Prosecutorial Legal Services

- Serkland Law Firm
- Solberg Stewart Miller

Staff noted that no additional proposals were received after the 11/5/21 RFP submission deadline, or rejected as non-responsive.

After receiving a summary of the written proposal evaluation; in-person interview; and quantitative rankings of the proposals, the Finance Committee considered and unanimously approved the recommendation of City Administration to award the Civil Legal Services and Prosecutorial Legal Services RFPs to the Serkland Law Firm, and further authorized City staff to finalize terms of agreement with the law firm.

MOTION:

On a motion by Redlinger, seconded by Costin, the Finance Committee voted unanimously to recommend and approve the RFP Award Recommendations for Civil and Prosecutorial Legal Services to the Serkland Law Firm as outlined in the November 22, 2021 memorandum to the Finance Committee. City staff is further authorized to finalize agreement terms between the Serkland Law Firm and the City of Fargo.

Serkland Law Firm Civil Legal Services Proposal

**City of Fargo Legal Services
Request for Proposals – Civil Services**

November 5, 2021

Submitted to:

City of Fargo
Auditor's Office
225 4th Street North
Fargo, ND 58102

Submitted by:

Serkland Law Firm
Jane Dynes, President
Nancy J. Morris, Proposed City Attorney
10 Roberts Street North
Fargo, ND 58102
701-232-8957

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A. EXECUTIVE SUMMARY

The Serkland Law Firm, with the addition of the entire staff of the current City Attorney's Office, is proud to present this proposal for City Attorney legal services to the City of Fargo. By so combining, Serkland will create a strong and powerful legal team dedicated to serving the City of Fargo and meeting its demands for legal counsel, advice, and services consisting of the following:

City Attorney (proposed):

- Nancy Morris

Assistant City Attorneys (proposed):

- Ian McLean
- Jane Dynes
- Kasey McNary
- Alissa Farol (current Assistant City Attorney and City Prosecutor)
- William Wisher (current Assistant City Attorney and Chief City Prosecutor)
- Erik Johnson (current City Attorney, to become Assistant City Attorney).

This legal team will be joined by the entire Serkland Law Firm (11 attorneys strong), as needed, to meet the demands of the City. Serkland proposes Nancy Morris as the City Attorney. Nancy has represented the City for 10 years as First Assistant City Attorney and is the most qualified person to fill the role of City Attorney. Alissa Farol and William Wisher, Assistant City Attorneys and Prosecutors, will continue to serve in their roles. Nancy, Alissa, and William have extensive knowledge and experience in representing the City. Erik Johnson, who has represented the City for 35 years (the past 14 years as City Attorney) will remain a part of the team and continue to be an important resource for the City, supporting and assisting Nancy and Serkland as the work transitions, all the while maintaining direct involvement in various projects (including those of the Strategic Planning and Research Department) and with certain City departments (including Planning) as detailed below.

Serkland attorneys have extensive experience representing and providing legal services to the City of Fargo. In 2008 the City sought requests for proposals for litigation services and the City selected Serkland as its principal litigation counsel. Serkland has continued to serve in that role ever since. Nancy and Erik have developed a tremendous working relationship with Serkland over the past 10+ years and this close relationship forms the foundation for a successful transition to a new "City Attorney Office."

In recent history, the City Attorney budget has assumed a base of 2,800 hours for principal attorneys and 1,250 hours for staff attorneys. Serkland believes the demand from the City of Fargo for attorneys' services has increased over time, and currently, a more accurate base estimate would be for an increase to 3,200 hours for principal attorneys and 2,000 hours for staff attorneys. Serkland proposed a reduced rate of \$235 per hour for principal attorneys and a reduced rate of \$170 per hour for staff attorneys.

B. FIRM SUMMARY AND QUALIFICATION

Serkland is a full-service law firm located in the heart of downtown Fargo. Serkland lawyers represent diverse practice areas. Serkland consists of 11 lawyers, who are supported by a total of 10 paralegals and legal assistants, representing more than 100 years of quality legal service. Serkland and many of its attorneys are recognized as "Super Lawyers" and in various industry publications such as Chambers USA.

Serkland is pleased to present this Proposal, which includes all members of the present City Attorney's Office, specifically Nancy Morris, who is put forward as the City Attorney, and Erik Johnson, as co-counsel, a valuable resource available to the City for specific projects. This team and its representative attorneys are imminently qualified:

- Extensive experience in all facets of the practice of municipal law, including in representing the City of Fargo;
- Significant experience in contract drafting and review;
- Extensive experience in real estate transactions;
- Extensive experience advising and representing public bodies;
- Significant litigation experience;
- Unparalleled reputation in the North Dakota legal community;
- Proven ability to work closely with government bodies and municipal legal departments to solve legal issues;
- Extensive experience in open records and open meeting compliance and guidance.

C. PROPOSED LEGAL COUNSEL FOR THE CITY OF FARGO

Serkland intends to approach the representation of the City of Fargo as a team, drawing on all of the expertise of its members to provide the finest legal representation possible. Although Serkland works as a team, we are pleased to propose Nancy Morris as the City Attorney and primary provider of legal counsel services.

1. Nancy J. Morris

Nancy brings extensive experience as the proposed primary provider of legal services to the City of Fargo. She has served as the First Assistant City Attorney for the past 10 years, during which time she has represented the City in various and diverse matters. As First Assistant City Attorney, Nancy advised regularly on real estate matters and acquisitions, ordinance drafting, contract negotiations, public works projects, employment matters, public bidding law and document review, and open records and open meeting issues, to name a few.

Nancy works closely with the Human Resources Department on a day-to-day basis and has represented the City of Fargo in civil service appeals, as well as responded to Department of Labor complaints, unemployment claims, and worker's compensation appeals. Nancy provides extensive litigation oversight in matters ranging from eminent domain, employment complaints, injury claims and excessive force litigation. Nancy has assisted the auditor's office in various capacities, including counsel to the Liquor Control Committee, taxi regulations, and other licensing matters. She has drafted and revised numerous ordinances and has been extensively involved in legislative matters, tracking, analyzing, and recommending statutes and ordinances in order to advance the City of Fargo's interests. Nancy has been extensively involved in police and fire-related matters, most recently in ordinance drafting for the Police Advisory and Oversight Board. She has experience negotiating franchise agreements with municipal power providers and accomplished enacting a small cell ordinance for the anticipated new 5G technology. Nancy has negotiated several memorandums of understanding and joint powers agreements, most recently with Fargo Public Schools. Nancy provides legal advice to MATBUS on matters regarding advertising, purchasing, and federal regulatory matters, and to Fargo Cass Public Health to aid in furthering its mission.

Prior to joining Erik R. Johnson and Associates, Nancy served as a senior law clerk to Magistrate Judge Karen K. Klein from 2000-2011. In addition to extensive legal opinion writing and case management duties, Nancy served as a mentor to term clerks and program management for the district court extern program. Nancy's work with the Federal Court was extensive in both criminal and civil matters; a combination that has served her well in her role as First Assistant City Attorney.

From 1993-2000 Nancy was an associate attorney with the Conmy Feste law firm where she maintained a diverse and rewarding practice. Areas of practice included real estate transactions, contract drafting, commercial litigation, and employment law, representing both employers and employees. Nancy spoke extensively on employment law issues in various venues.

From 1991-1993 Nancy served as a term law clerk to the Honorable Rodney S. Webb, drafting judicial opinions and engaging in extensive trial work from the judicial point of view.

Nancy earned her juris doctor from the University of North Dakota in 1991, graduating with distinction, Order of the Coif. She served as Managing Editor for the North Dakota Law Review, and was a Moot Court quarter finalist. Nancy graduated *summa cum laude* with a degree in banking and finance in 1988 from the University of North Dakota. Nancy is a proud Bruin, graduating from Fargo South High in 1984.

Nancy is a past president of the Cass County Bar Association, served on the Board of Governor's for the State Bar Association, is a former secretary/treasurer for the Board of Governor's, and is a former president of the North Dakota State Bar Association. She is currently the president of the North Dakota Municipal Lawyers Association and an active member of the International Municipal Lawyer's Association. She continues to serve the North Dakota State Bar Association as a member of the Inquiry Committee Southeast and as a member of the Joint UND Law School/SBAND Committee, advancing the cooperation between the State of North Dakota's Law School and the practicing bar. Nancy has been an active community member, serving on various boards and committees over the past 30 years, including president of Zonta Service Club, secretary/treasurer of the Infinity Volleyball Club, board member of Friends of the Opera, board member of Yunker Farm, active member of the PTA, Girl Scouts troop leader, and Hope Lutheran Church volunteer.

Nancy is prepared to undertake all legal duties for the City of Fargo with the assistance of a team of capable and experienced lawyers, identified in greater detail below.

2. Ian McLean

Ian advises and represents clients in all types of litigation, administrative, and appellate matters and has been serving as legal counsel on City of Fargo matters since 2014, working closely with the City Attorney's Office. Ian represents and advises various school districts and other political subdivisions in negotiating and drafting contracts, complying with open meetings and record law, drafting home rule charters, ordinances, and policies, and providing advice on employment situations. Ian has regularly represented the City of Fargo in civil matters, including currently in opioid litigation, in a dispute with the State of North Dakota regarding the ability of the City of Fargo to prohibit home use occupations relating to the sale of firearms, and in a declaratory judgment action regarding its "term

limits” ordinance. Ian has also previously represented the City in numerous other civil legal matters before the East Central Judicial District Court in Fargo and the North Dakota Supreme Court, including matters related to faulty equipment sold to the City, inspections/condemnation of properties, nuisance abatement, overweight truck violations, and other civil disputes.

As mentioned, since 2014 Ian has worked with the City Attorney’s Office on various matters, including drafting and revising ordinances, advising on open record/meeting laws, responding to complaints filed with the North Dakota Attorney General’s Office, assisting the City of Fargo’s Code Enforcement Task Force, and providing advice to the Fargo Police Department on various matters.

Ian has also worked as a Fargo City Prosecutor since February 2015, representing the City of Fargo in municipal and district courts in numerous trials (bench and jury), motion hearings, and other court hearings. Ian has also represented the City of Fargo in criminal appeals at the North Dakota Supreme Court.

Ian McLean has been an attorney with the Serkland Law Firm since 2012. Ian is a native of Fargo and graduated from Fargo South High School. Ian earned a Bachelor of Science in political science from the University of Minnesota in 2008. Ian earned his juris doctor from the University of Iowa in 2011. While in law school, Ian externed with the Honorable Kermit Bye on the Eighth Circuit Court of Appeals and with the Cass County Public Defender’s Office. Ian is licensed to practice in state and federal courts in North Dakota and Minnesota. Ian is a member of the Cass County Bar Association, the State Bar Association of North Dakota, and the North Dakota Municipal Lawyers Association.

3. Alissa R. Farol

Alissa has been a Fargo Assistant City Attorney since February 2018. She began her service in “code enforcement” matters, including dangerous building proceedings for the City, and serving a critical role in supporting criminal and traffic prosecutions. Since then, her role has expanded into advising, inspections and planning departments, and the environmental health division, as well as being the lead contact within the City Attorney’s Office for open records questions and “challenges.” She has served in lead and supportive roles on all matters, including drafting ordinances and handling of a variety of real estate transactions - sales, purchases, easements, leases and licenses. She has drafted license agreements for some notable artwork around the City, including the City Hall artwork panels, skyway banner artwork, “Spirit of the Sandbagger” artwork, and the water tower artwork. Alissa has experience in parliamentary procedure and attends public meetings for the Fargo City Commission, Planning Commission, Liquor Control Board, and the Human Relations Commission. She also handles land development code matters, including prosecuting violations, drafting rezoning ordinances, annexations and exclusions (“de-

annexations”), land transfers, and sign code issues. She continues to support the City Prosecutors’ Office by prosecuting criminal offenses in both Fargo Municipal Court and Cass County District Court. She has represented the City in numerous civil cases. Alissa is admitted in state and federal courts in North Dakota and is licensed to practice in North Dakota.

Alissa is a member of the City’s Code Enforcement Task Force and Hoarding Coalition and spends considerable time focusing on code enforcement matters, such as nuisance abatements and dangerous buildings. In particular, she has assisted in 22 successful dangerous building demolitions and was a presenter on the subject at the 2020 North Dakota League of Cities Annual Conference in Bismarck. Alissa is a member of the International Municipal Lawyers Association, having recently attended the 2021 IMLA Annual Conference in Minneapolis. Alissa is a member, and board member, of the North Dakota Municipal Attorneys Association, and a member of the State Bar Association of North Dakota and Cass County Bar Association.

A native of Fargo, Alissa graduated from Fargo South High School and went on to earn a Bachelor of Science in criminal justice studies and sociology from the University of North Dakota. From there, she earned her law degree from Western Michigan University Thomas M. Cooley Law School in Grand Rapids, Michigan. She was also president of Phi Alpha Delta Law fraternity.

Prior to her work as Fargo Assistant City Attorney, Alissa was an Associate Attorney at Neustel Law Offices, a local firm that specializes in intellectual property matters, such as federal trademark, patent, and copyright infringement litigation and services.

4. William Wischer

William Wischer has served as the Chief Prosecutor for the City, handling all charges brought in Fargo Municipal Court: DUI charges, theft, assault, and ordinary traffic offenses. His responsibilities include the review and charge-out decision-making for all City charges - most of which are presented by the Fargo Police Department. This position requires daily appearances in court - including both municipal and district (Cass County) courts - and handling appeals from the district court to the North Dakota Supreme Court. Responsibilities of the position include analysis of police reports for charging decision, initiating and responding to evidentiary and substantive motions, negotiating and trying cases of various types, making sentencing recommendations to the courts, advising and working with the police on legal matters, and coordinating the rights and restitution of victims. William has conducted over 550 bench trials, 40 motion hearings, five jury trials, and three North Dakota Supreme Court appeals.

In addition to his prosecutor role, William has taken a lead/supporting role in numerous City matters, including several ordinance amendments, HIPPA rights advisement, insurance coverage liability, land rights, contract drafting and analysis, open records requests, liquor control board matters, tax exemption applications, and interpretations of various ordinances.

While in law school, William worked for a criminal defense law firm and clerked for the Grand Forks County State's Attorney's Office and the Honorable Judge Medd.

William began practicing law in Bismarck in 2011 at the firm of Schweigert, Klemin, and McBride, where he focused on family law, real estate, mineral rights, evictions, estate planning, and personal injury. In 2013 William relocated to Fargo and began working at Gjesdahl Law, a firm that specializes in family law matters; specifically, divorce, custody, child support, spousal support, adoption, and gestational carrier agreements. William grew up in Grand Forks, North Dakota, and graduated from Red River High School. He graduated *cum laude* from Concordia College in 2008, majoring in business management and minoring in political science in 2008. He graduated from the University of North Dakota School of Law with distinction in 2011.

5. Jane Dynes

Jane Dynes practices in the areas of general litigation, asbestos defense litigation, and employment law. Since 2010 Jane has worked for the City of Fargo on various appeals from decisions of the Board of Commissioners regarding issues arising with the Board of Adjustment, the Planning Commission, the Liquor Control Board, the Special Assessment Commission, and the Inspections and Engineering Departments. Those appeals involved building permits, a liquor license transfer; liquor license ordinance interpretations, a liquor license violation, a dangerous structure, multiple special assessment challenges, Land Development Code interpretations and applications, including the river setback ordinance, a conditional use permit, a joint powers agreement, and eminent domain. Jane has argued the City's position in these appeals to both the East Central Judicial District Court and, often, the North Dakota Supreme Court. In addition to appellate work, Jane has tried City eminent domain cases to jury verdict and represented the City in successfully negotiating the acquisition of multiple properties for flood mitigation purposes. The assignments have allowed Jane to meet and work with the professional and knowledgeable people within various city departments.

Jane has been an attorney with the Serkland Law Firm since 1990 and has served as its President since 2011. Jane graduated *summa cum laude* from Concordia College in Moorhead and earned her law degree from the University of North Dakota School of Law. She served as a law clerk to the Honorable Rodney S. Webb of the United District Court for the District of North Dakota before joining Serkland. Jane is licensed to practice law in all North Dakota and Minnesota state and federal courts. She is also admitted to practice in the Supreme Court of the United States.

Jane served on the Board of Governors of the State Bar Association of North Dakota and later served as President of the State Bar Association of North Dakota. She presently serves on the State Board of Law Examiners as its President.

6. Kasey McNary

Kasey McNary represents clients in litigation and advises businesses, financial institutions, and corporate clients in various matters including real estate and financial transactions. Kasey, along with Jane Dynes, has represented the City of Fargo in eminent domain cases for flood mitigation, including two resulting in jury trials. He has worked closely with the City's engineering department. He also currently represents the Fargo Housing and redevelopment Authority pursuing collections from a former customer.

Kasey has been an attorney with the Serkland Law Firm since 2010. Kasey is a native of Williston, North Dakota, and graduated from Williston High School. Kasey attended Jamestown College (n/k/a University of Jamestown) and graduated with a Bachelor of Arts in criminal justice. Kasey received his juris doctor with distinction from the University of North Dakota in 2009. He was elected to the Order of Barristers. While in law school, Kasey served on the Moot Court Board and wrote for the North Dakota Law Review. He was also a member of the Trial Team, which won its regional competition and then competed at the National Trial Competition hosted by the Texas Young Lawyers Association and co-sponsored by the American College of Trial Lawyers. Kasey is licensed in state and federal courts in North Dakota and Minnesota. Kasey is a member of the Cass County Bar Association, State Bar Association of North Dakota, and Minnesota State Bar Association. Prior to joining Serkland, Kasey worked as a judicial law clerk for the judges of the East Central Judicial District in Cass County. Kasey currently serves as a member of the State Bar Association of North Dakota's Ethics Committee. In 2010 he was selected to the Great Plains Super Lawyers for Business Litigation.

7. Jim Maring

Jim Maring practices in the areas of tax law, business and commercial law, estate planning, probate law, and real estate law. Jim is currently representing the Fargo Housing and Redevelopment Authority regarding various real estate transactions.

Jim has been an attorney with the Serkland Law Firm since 2014. Jim graduated *cum laude* from Arizona State University with a Bachelor of Science in finance. Jim received his juris doctor from the University of St. Thomas School of Law in 2005, and he earned his Masters of Laws (LLM) in Taxation from the University of Denver in 2006. Jim is licensed in North Dakota, Minnesota, and Arizona and is a member of the State Bars in all three states, as well as a member of the Cass County Bar Association and American Bar Association.

Jim is on the board for the non-profit Jeremiah Program, and he is an active member of the Red River Valley Estate Planning Counsel and Kiwanis of Fargo.

8. Morgan Croaker

Morgan is a Bismarck native who graduated from the University of North Dakota with a Bachelor of Science in public administration in 2014. Morgan obtained her juris doctor with distinction from the University of North Dakota School of law in 2018. While in law school, Morgan was a member of the Board of Editors of the North Dakota Law Review, won UND's best appellant oralist award, and was elected to the Order of Barristers. After graduating from law school, Morgan served as a judicial law clerk for Chief Justice Gerald W. VandeWalle of the North Dakota Supreme Court.

Morgan began working with Serkland in 2018. She has a wide practice assisting attorneys at Serkland in various types of law including municipal law, contract disputes, litigation, and family law.

9. Erik Johnson

Erik has been the Fargo City Attorney since 2007, and before that he represented the City as a prosecutor, assistant city attorney going back to 1985. Erik has served as co-bond counsel for the City--with Paul H. Tietz--from 2003 until Paul's death in 2017. Significant roles, events and projects in which Erik has served the City include: assisted in major re-write of City's zoning and subdivision regulations (Land Development Code); served as City's Zoning Administrator (1998 - 1999); annexation disputes and litigation in southwest development area (currently Deer Creek) in early 2000s; lead counsel FM Diversion Project for 7 years (2009-16); drafted formative/governing documents for FM Diversion Authority, Red River Regional Dispatch Center; significant multi-jurisdictional development project to supply water to and treat effluent from Theraldson Ethanol Plant; multiple City-developer agreements involving tax increment financing, Renaissance Zone incentives, Payment-in-lieu-of-tax (PILOT) incentive agreements including Matrix TIF (32nd Ave S/42nd Street), FM City Development TIF (Herd'n Horns), Fargoan hotel (Stroh-Brandt), Roers 19th Ave project, T-Lofts project, Fay Land (Industrial Park) project and the Newman Center-Roers Project (12th Ave N/Univ. Dr.); Public-Private Partnership (P3) projects, including Roberts Commons, Block Nine and Mercantile project, as well as formative stages of the P3 proposal on the FM Diversion Project; "P3" and drafted hundreds of ordinances of all types along with Home Rule Charter amendments—involving city-wide voter approval—on multiple city sales tax proposals; advise City and testify-proposed ND legislation; SRF funding and development of wind turbine projects for City; collaboration with neighboring cities and their city attorneys (and state's attorney) on matters from annexation to joint powers agreements (i.e. RRRDC, Transit System, Diversion Project) to criminal prosecution to legislative matters; developed positive working relationship with N.D. Attorney General and his office. During the course of his 14+ years as city attorney, Erik has attending over 350 city commission meetings and countless other meetings. Erik is a member of the International Municipal Lawyers Association, the North Dakota Municipal Lawyers Association and is a past member of the National Association of Bond Lawyers. He was admitted to practice in all courts in North Dakota, Minnesota and Montana, in the U.S. District Court for the District of North Dakota and in the U.S. Ninth Circuit Court of Appeals. He is currently licensed to practice law in North Dakota and Minnesota.

Erik was born and raised in Fargo. He graduated from Concordia College in 1979 and from the University of North Dakota School of Law in 1982.

D. RESEARCH RESOURCES

Serkland has a subscription to LexisNexis, which provides access to online databases of court cases from all state and federal courts, statutes and other laws from North Dakota and other jurisdictions, and various legal treatises among other legal authority. Serkland updates and maintains copies of the North Dakota Century Code and Minnesota State Statutes. Serkland also receives up-to-date copies of various rule books for North Dakota and Minnesota state and federal courts each year.

E. RATES, FEES AND CHARGES

General legal services will be provided as follows:

1. Approximately 3,200 hours at a rate of \$235/hour for principal attorneys, most notably Nancy Morris and Ian McLean; as well as other partners of the Firm;
2. Approximately 2,000 hours at a rate of \$170/hours for associate attorneys, most notably Alissa Farol and William Wischer;
3. Paralegal services provided at a rate of \$130/hour;
4. Erik Johnson will provide the services and support as described in this proposal which will involve a contribution of approximately 25 hours/month in services at a rate of \$235. Erik's services will include finishing various ongoing projects and tasks, serving as a reference source based on his institutional knowledge having represented the City of Fargo for more than 25 years, and primarily focusing in the areas of Strategic Planning, Research, and Development, Community Development, Financing regarding debt and public finance matters, the FargoDome, and City Affiliated entities. Erik's services will be provided through his existing firm (a professional corporation) as co-counsel for the City of Fargo (and entities affiliated with the City, such as the RRRDC and Fargo HRA). Said co-counsel arrangement will be memorialized formally between the City, Serkland, and Erik's firm.

5. Extra services not generally included in the scope of services on a regular basis, including projects with a different funding source, such as acquisitions, City representation regarding the Fargo-Moorhead Metro Flood Diversion Project (special projects) shall be billed at a rate of \$250/hour for principal attorneys. In the event an associate attorney is engaged for research purposes, such time shall be billed at a rate of \$200/hour;
6. City affiliate rate of \$250/hour, including Red River Regional Dispatch, Fargo Housing Authority and other such related entities;
7. Consulting attorney for specialty matters and litigation, both as the plaintiff and defense in matters excluded by NDIRF (reservation of rights and defense not provided) will be billed at the retained attorney's market rate. The Serkland Firm will provide litigation oversight and communication responsibilities;
8. Litigation services as assigned at the rate of \$235 for principals and \$200 for associate attorneys; and
9. On-line research fees.

The International Municipal Lawyers Association is a valuable resource to attorneys practicing in the municipal law field and has proven to be a worthwhile engagement. The resource furthers the interest of the City, highlighting trends, issues, suggestions and recommendations. IMLA continuing legal education, required by all licensed attorneys, is cost effective and directly related to the legal services provided on a daily basis to the City.

Serkland proposes City reimbursement for the cost of IMLA membership (\$1,355) and annual meeting registration; travel, lodging, and per diem reimbursement for four members of Serkland on a yearly basis; a yearly "kitchen sink" distance learning registration for the firm (\$600); and direct costs, such as recording fees, filing fees, and the like.

F. RETAINER AGREEMENT

Serkland would be willing to consider a retainer agreement after the five-year term of service that it is proposing.

G. CONFLICT CHECKS

Serkland has a robust conflict check system and Serkland attorneys have represented the City of Fargo in the recent past. As such, Serkland has not and is not presently opposed to the City of Fargo in any matters. Serkland does not anticipate any significant conflicts. Ian McLean is presently identified as the City Attorney for Frontier, North Dakota. Should the contract be awarded to Serkland, Mr. McLean will refer the representation of the City of Frontier in any matters involving the City of Fargo to another law firm.

H. TERM

Serkland proposes a five-year term of service, and requests a termination provision of at least 180 days for the convenience of the parties, with a 30-day termination provision for cause by either Serkland or the City. Rate reviews shall be accomplished on a yearly basis and negotiated as necessary.

I. LICENSE REQUIREMENTS, DISCIPLINE AND INSURANCE

All lawyers providing service to the City of Fargo are licensed and in good standing in North Dakota. No disciplinary complaints have been sustained against any of the lawyers intended to provide service under this proposal. None of the attorneys providing services to the City of Fargo have been sued for malpractice. Serkland provides all insurance requirements for the provision of legal services.

Civil Legal Services Interview Questions



Request for Qualifications & Proposals – Civil Legal Services

Interview Question Set

November 2021

Introduction: The City of Fargo thanks you for your response to the City’s Request for Qualifications & Proposals for Civil Legal Services. The City of Fargo is interviewing one (1) law firm that submitted a responsive civil services proposal.

Proposal Evaluation: The City will evaluate your firm’s written proposal, together with the oral interview, and create a compiled score consistent with the 100-point scale described in the “Evaluation Method” section of the RFP. Following completion of the evaluation process, a recommendation will be made to award the Civil Legal Services scope of work at the November 29, 2021 City Commission meeting.

Questions:

1. **Relevant Experience.** Please describe the law firm’s previous experience with providing civil legal services for local government.
 - a. What is the firm’s experience with North Dakota Century Code and general municipal law?
 - b. What is the firm’s experience with preparing and reviewing ordinances and resolutions?
2. **Contract Law.** Please describe your firm’s experience drafting contracts; franchise agreements; joint powers agreements; or other intergovernmental agreements.
3. **Accessibility.** Please describe your office location and accessibility to the client. What is the proposed staffing model to serve the City, and who would be designated as the City Attorney?

4. **Elected Official Support.** Please describe your firm's approach to supporting the City Commission. How will the firm develop a working relationship with the elected body and build a culture of collaboration?

5. **Cost Proposal.** Please expand on the cost proposal contained in your firm's RFP response.

Proposal ratings matrix attached to compile scores.

Civil Legal Services Proposal Rating



City of Fargo Civil Legal Services RFP

Proposal Ratings

11/19/2021

	Question	Available Points	Serkland Law Firm
1	Prior City Attorney or closely related/equivalent local government legal experience.	0-25	20
2	Qualifications of law firm selected to provide full-time City Attorney services.	0-25	21
3	Costs for City Attorney proposal.	0-25	21
4	Organization and structure of firm for delivery of full-time City Attorney services.	0-15	14
5	Firm's understanding of City Attorney services to be provided.	0-10	10
	TOTAL POINTS		86

Serkland Law Firm Prosecutorial Services Proposal

**City of Fargo Legal Services
Request for Proposals – Prosecution Services**

November 5, 2021

Submitted to:

City of Fargo
Auditor's Office
225 4th Street North
Fargo, ND 58102

Submitted by:

Serkland Law Firm
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A. EXECUTIVE SUMMARY

The Serkland Law Firm, with the addition of the entire staff of the current City Attorney's Office, including all prosecutors and prosecutorial staff, is proud to present this proposal for the City of Fargo Prosecutorial Services. Serkland, with the addition of the current City Attorney's Office, provides a strong and powerful legal team dedicated to providing the City of Fargo with prosecutorial services. Serkland proposes the following primary team to provide prosecutorial services to the City:

Managing Prosecutor (proposed):	Ian R. McLean
Chief Prosecutor (current and proposed):	William Wischer
Prosecutor (current and proposed):	Alissa Farol
City Attorney (proposed):	Nancy Morris

This legal team has provided all prosecution services to the City of Fargo in recent years. Specifically, Ian McLean has assisted with the City's prosecution work for the last seven years. William Wischer has been the Chief City Prosecutor for the last 3 1/2 years. Alissa Farol has provided prosecution services for the nearly four years. Finally, Nancy Morris has provided prosecution services when needed over the last many years and has represented the City in municipal and district court on criminal matters numerous times.

This legal team has prosecuted thousands (if not tens of thousands) of cases for the City. They have conducted hundreds of trials (both bench and jury), argued countless motions in court, and handled numerous appeals to the North Dakota Supreme Court. In addition to their in-court experience as prosecutors, this team has made thousands of charge-out decisions for all city charges (most of which are presented by the Fargo Police Department), negotiated thousands of plea agreements, made countless sentencing recommendations, and worked with numerous victims. Additionally, due to their role as prosecutors, this team has extensive experience working with the Fargo Police Department and other city departments (primarily inspections and the code enforcement task force).

Importantly, in addition to including all of the present City prosecutors, this proposal also includes Penny Schoenborn and Alecs Larson, who are the two persons responsible for the filings, file management, discovery requests, subpoenas/notices to police officers, victim and witness contacts/inquiries, video recordings/body cam footage, and numerous other tasks at the City's Prosecutor's Office. Penny has been working with the City's Attorney's Office assisting the Prosecutor's Office for approximately 10 years. Alecs has been working with the City Attorney's Office for approximately 3 1/2 years, with the last two years at the Prosecutor's Office. Penny and Alecs are critical for the running, operations, and success of the Prosecutor's Office and Serkland is pleased to present them as part of this Proposal.

Serkland is proposing a retainer for its attorneys to provide prosecution services. Serkland proposes a retainer of \$337,500, which consists of 50 hours of prosecutorial services for 50 weeks (which accounts for the various days municipal court is closed) at a significantly reduced rate of \$135. Serkland will pay for all benefits, licensing, and other similar costs, for its attorneys providing prosecutorial services. Serkland proposes that all

other costs (i.e., the fixed costs including staff at the Prosecutor's Office) be a pass-through to the City. Serkland projects this cost to be approximately \$325,000 in 2022 (however, this number may be lower or higher depending on the additional costs incurred due to bodycams). Serkland proposes a 2% management fee on the fixed costs (which would be approximately \$6,500 based on fixed costs of \$325,000).

B. FIRM SUMMARY AND QUALIFICATION

Serkland is a full-service law firm located in the heart of downtown Fargo. Serkland lawyers represent diverse practice areas. Serkland consists of 11 lawyers, who are supported by a total of 10 paralegals and legal assistants, representing more than 100 years of quality legal service. Serkland and many of its attorneys are recognized as "Super Lawyers" and in various industry publications such as Chambers USA.

The Serkland Law Firm is pleased to present this Proposal, which includes all members of the present City Attorney's office, specifically William Wischer, the current and proposed Chief Prosecutor, Alissa Farol, the current and proposed Assistant City Attorney and Prosecutor, and Nancy Morris, the proposed City Attorney, as well as Ian McLean.

Serkland and its representative attorneys are imminently qualified:

- Extensive experience in all facets of prosecuting criminal and civil cases in the City of Fargo's Municipal Court, Cass County District Court, and on appeal to the North Dakota Supreme Court.
- Handled thousands (if not tens of thousands) of criminal and civil cases for the City of Fargo.
- Conducted hundreds of trials, argued countless motions, and appeared in court thousands of times for arraignments, change of pleas, pretrial conferences, dispositional conferences, and all other types of court hearings.
- Have strong relationships with the criminal defense bar and have negotiated countless plea agreements with criminal defense attorneys.
- Strong relationship with the Fargo Police Department and worked with the Fargo Police Department on charge-out decisions, officers' testimony and training, and Fargo Police policies, such as shoplifting charging decisions.
- Knowledge of the municipal court, including relationships with the municipal court judges and municipal court staff.
- Strong relationship with prosecutors in other jurisdictions. Specifically, strong relationship with the Cass County State Attorney's Office, which has resulted in

Cass County state attorneys covering various district court appearances for the City of Fargo, which has resulted in great savings to the City.

Additionally, Serkland believes that offering three experienced prosecutors to cover the approximate 50 hours per week needed for prosecutorial services is a significant benefit to the City. The City's prosecutors cover municipal court five days a week and also regularly appear in Cass County District Court. As such, it is not uncommon to need prosecutors in two separate places at the same time.

As detailed in Serkland's separate Proposal for the City's civil legal services, all of the three proposed prosecutors will also be working as Assistant City Attorneys for the City. This provides two significant benefits. First, it provides stability. Prior to William Wischer becoming the Chief Prosecutor, the City had issues with turnover in that position. The three proposed prosecutors have provided legal services to the City for a combined approximate 15 years to date. Additionally, having three prosecutors providing services (who are all also providing civil legal services) will assist in combating the issue of "burn out" which is common for prosecutors. Second, this Proposal will result in synergy between the Prosecutor's Office, Liquor Control Board, Fargo Police Department, Inspections Department, and other departments that have dealings with municipal court. This is because three proposed attorneys providing prosecutorial services will also be providing civil services to these various departments. Due to their experience in both providing civil and prosecution services, these attorneys will be best be able to serve the City.

C. PROPOSED PROSECUTION COUNSEL

Serkland intends to approach the representation of the City of Fargo as a team, drawing on all of the expertise of its members to provide the City of Fargo with the finest legal representation possible. Serkland is pleased to propose Ian McLean as the Managing Prosecution Counsel, William Wischer as the Chief Prosecution Counsel (his present role), and Alissa Farol as a Prosecutor and Assistant City Attorney (also her present role). In addition, Serkland will employ the existing exceptional staff in the Prosecution Office to ensure a seamless transition.

1. Ian McLean

Ian has worked as a Fargo City Prosecutor since February 2015, representing the City of Fargo in municipal court and district court in numerous trials, motion hearings, and other court hearings. Ian has also represented the City of Fargo in criminal appeals at the North Dakota Supreme Court.

Ian advises and represents clients in all types of litigation, administrative, and appellate matters and has been serving as legal counsel on City of Fargo matters since 2014, working closely with the City Attorney's Office. Ian represents and advises various school districts and other political subdivisions in negotiating and drafting contracts, complying with open record/meeting laws, drafting home rule charters, ordinances, and policies, and providing advice on employment situations. Ian has regularly represented the City of Fargo

in civil matters, including presently in opioid litigation, in a dispute with the State of North Dakota regarding the ability of the City of Fargo to prohibit home use occupations relating to the sale of firearms, and in a declaratory judgment action regarding its "term limits" ordinance. Ian has also previously represented the City in numerous other civil legal matters before the East Central Judicial District Court in Fargo and the North Dakota Supreme Court, including matters related to faulty equipment sold to the City, inspections/condemnation of properties, nuisance abatement, overweight truck violations, and other civil disputes.

As mentioned, since 2014 Ian has worked with the City Attorney's Office on various matters including drafting and revising ordinances, advising on open record/meeting laws including responding to complaints filed with the North Dakota Attorney General's Office, assisting the City of Fargo Code Enforcement Task Force, and providing advice to the Fargo Police Department on various matters.

Ian McLean has been an attorney with the Serkland Law Firm since 2012. Ian is a native of Fargo and graduated from Fargo South High School. Ian earned a Bachelor of Science in political science from the University of Minnesota in 2008. Ian earned his juris doctor from the University of Iowa in 2011. While in law school, Ian externed with the Honorable Kermit Bye on the Eighth Circuit Court of Appeals and with the Cass County Public Defender's Office. Ian is licensed to practice in state and federal courts in North Dakota and Minnesota. Ian is a member of the Cass County Bar Association, the State Bar Association of North Dakota, and the North Dakota Municipal Lawyers Association.

2. William Wischer

William Wischer has served as the Chief Prosecutor for the City, handling all charges brought in Fargo Municipal Court: DUI charges, theft, assault, and ordinary traffic offenses. His responsibilities include the review and charge-out decision-making for all City charges - most of which are presented by the Fargo Police Department. This position requires daily appearances in court - including both municipal and district (Cass County) courts - and handling appeals from the district court to the North Dakota Supreme Court. Responsibilities of the position include analysis of police reports for charging decision, initiating and responding to evidentiary and substantive motions, negotiating and trying cases of various types, making sentencing recommendations to the courts, advising and working with the police on legal matters, and coordinating the rights and restitution of victims. William has conducted over 550 bench trials, 40 motion hearings, five jury trials, and three North Dakota Supreme Court appeals.

In addition to his prosecutor role, William has taken a lead/supporting role in numerous City matters, including several ordinance amendments, HIPPA rights advisement, insurance coverage liability, land rights, contract drafting and analysis, open records requests, liquor control board matters, tax exemption applications, and interpretations of various ordinances.

While in law school, William worked for a criminal defense law firm and clerked for the Grand Forks County State's Attorney's Office and the Honorable Judge Medd.

William began practicing law in Bismarck in 2011 at the firm of Schweigert, Klemin, and McBride, where he focused on family law, real estate, mineral rights, evictions, estate planning, and personal injury. In 2013 William relocated to Fargo and began working at Gjesdahl Law, a firm that specializes in family law matters; specifically, divorce, custody, child support, spousal support, adoption, and gestational carrier agreements. William grew up in Grand Forks, North Dakota, and graduated from Red River High School. He graduated *cum laude* from Concordia College in 2008, majoring in business management and minoring in political science in 2008. He graduated from the University of North Dakota School of Law with distinction in 2011.

3. Alissa R. Farol

Alissa has been a Fargo Assistant City Attorney since February 2018. She began her service in "code enforcement" matters, including dangerous building proceedings for the City, and serving a critical role in supporting criminal and traffic prosecutions. Since then, her role has expanded into advising, inspections and planning departments, and the environmental health division, as well as being the lead contact within the City Attorney's Office for open records questions and "challenges." She has served in lead and supportive roles on all matters, including drafting ordinances and handling of a variety of real estate transactions - sales, purchases, easements, leases and licenses. She has drafted license agreements for some notable artwork around the City, including the City Hall artwork panels, skyway banner artwork, "Spirit of the Sandbagger" artwork, and the water tower artwork. Alissa has experience in parliamentary procedure and attends public meetings for the Fargo City Commission, Planning Commission, Liquor Control Board, and the Human Relations Commission. She also handles land development code matters, including prosecuting violations, drafting rezoning ordinances, annexations and exclusions ("de-annexations"), land transfers, and sign code issues. She continues to support the City Prosecutors' Office by prosecuting criminal offenses in both Fargo Municipal Court and Cass County District Court. She has represented the City in numerous civil cases. Alissa is admitted in state and federal courts in North Dakota and is licensed to practice in North Dakota.

Alissa is a member of the City's Code Enforcement Task Force and Hoarding Coalition and spends considerable time focusing on code enforcement matters, such as nuisance abatement and dangerous buildings. In particular, she has assisted in 22 successful dangerous building demolitions and was a presenter on the subject at the 2020 North Dakota League of Cities Annual Conference in Bismarck. Alissa is a member of the International Municipal Lawyers Association, having recently attended the 2021 IMLA Annual Conference in Minneapolis. Alissa is a member, and board member, of the North Dakota Municipal Attorneys Association, and a member of the State Bar Association of North Dakota and Cass County Bar Association.

A native of Fargo, Alissa graduated from Fargo South High School and went on to earn a Bachelor of Science in criminal justice studies and sociology from the University of North Dakota. From there, she earned her law degree from Western Michigan University Thomas M. Cooley Law School in Grand Rapids, Michigan. She was also president of Phi Alpha Delta Law fraternity.

Prior to her work as Fargo Assistant City Attorney, Alissa was an Associate Attorney at Neustel Law Offices, a local firm that specializes in intellectual property matters, such as federal trademark, patent, and copyright infringement litigation and services.

4. Nancy J. Morris

Nancy brings extensive experience as the proposed primary provider of legal services to the City of Fargo. She has served as the First Assistant City Attorney for the past 10 years, during which time she has represented the City in various and diverse matters. As First Assistant City Attorney, Nancy advised regularly on real estate matters and acquisitions, ordinance drafting, contract negotiations, public works projects, employment matters, public bidding law and document review, and open records and open meeting issues, to name a few.

Nancy works closely with the Human Resources Department on a day-to-day basis and has represented the City of Fargo in civil service appeals, as well as responded to Department of Labor complaints, unemployment claims, and worker's compensation appeals. Nancy provides extensive litigation oversight in matters ranging from eminent domain, employment complaints, injury claims and excessive force litigation. Nancy has assisted the auditor's office in various capacities, including counsel to the Liquor Control Committee, taxi regulations, and other licensing matters. She has drafted and revised numerous ordinances and has been extensively involved in legislative matters, tracking, analyzing, and recommending statutes and ordinances in order to advance the City of Fargo's interests. Nancy has been extensively involved in police and fire-related matters, most recently in ordinance drafting for the Police Advisory and Oversight Board. She has experience negotiating franchise agreements with municipal power providers and accomplished enacting a small cell ordinance for the anticipated new 5G technology. Nancy has negotiated several memorandums of understanding and joint powers agreements, most recently with Fargo Public Schools. Nancy provides legal advice to MATBUS on matters regarding advertising, purchasing, and federal regulatory matters, and to Fargo Cass Public Health to aid in furthering its mission.

Prior to joining Erik R. Johnson and Associates, Nancy served as a senior law clerk to Magistrate Judge Karen K. Klein from 2000-2011. In addition to extensive legal opinion writing and case management duties, Nancy served as a mentor to term clerks and program management for the district court extern program. Nancy's work with the Federal Court was

extensive in both criminal and civil matters; a combination that has served her well in her role as First Assistant City Attorney.

From 1993-2000 Nancy was an associate attorney with the Conmy Feste law firm where she maintained a diverse and rewarding practice. Areas of practice included real estate transactions, contract drafting, commercial litigation, and employment law, representing both employers and employees. Nancy spoke extensively on employment law issues in various venues.

From 1991-1993 Nancy served as a term law clerk to the Honorable Rodney S. Webb, drafting judicial opinions and engaging in extensive trial work from the judicial point of view.

Nancy earned her juris doctor from the University of North Dakota in 1991, graduating with distinction, Order of the Coif. She served as Managing Editor for the North Dakota Law Review, and was a Moot Court quarter finalist. Nancy graduated *summa cum laude* with a degree in banking and finance in 1988 from the University of North Dakota. Nancy is a proud Bruin, graduating from Fargo South High in 1984.

Nancy is a past president of the Cass County Bar Association, served on the Board of Governor's for the State Bar Association, is a former secretary/treasurer for the Board of Governor's, and is a former president of the North Dakota State Bar Association. She is currently the president of the North Dakota Municipal Lawyers Association and an active member of the International Municipal Lawyer's Association. She continues to serve the North Dakota State Bar Association as a member of the Inquiry Committee Southeast and as a member of the Joint UND Law School/SBAND Committee, advancing the cooperation between the State of North Dakota's Law School and the practicing bar. Nancy has been an active community member, serving on various boards and committees over the past 30 years, including president of Zonta Service Club, secretary/treasurer of the Infinity Volleyball Club, board member of Friends of the Opera, board member of Yunker Farm, active member of the PTA, Girl Scouts troop leader, and Hope Lutheran Church volunteer.

Nancy is prepared to undertake all legal duties for the City of Fargo with the assistance of a team of capable and experienced lawyers, identified in greater detail below.

D. RESEARCH RESOURCES

Serkland has a subscription to LexisNexis, which provides access to online databases of court cases from all state and federal courts, statutes and other laws from North Dakota and other jurisdictions, and various legal treatises among other legal authority. Serkland updates and maintains copies of the North Dakota Century Code and Minnesota State Statutes. Serkland also receives up-to-date copies of various rule books for North Dakota and Minnesota state and federal courts each year.

E. RATES, FEES AND CHARGES

1. Actual costs of staff and other expenses, plus a management fee of 2% of actual fixed costs.
 - a. Actual fixed costs shall be all salaries, benefits and compensation package provided to staff by the Serkland Law Firm, in addition to all direct costs, including supplies, copies, computers, and fees (estimated to be approximately \$325,000, which estimate includes an adjustment for body worn cameras, impacts yet unknown).
2. Legal services estimated at 50 hours per week, including time spent in municipal court, district court, preparation time, file management and charge outs, and negotiations. Serkland will charge a retainer in the amount of \$337,500 for Legal services provided for the year 2022, which represents the estimated weekly average of 50 hours per week at a reduced rate of \$135 per hour.
3. City shall be responsible for any additional legal fees incurred in the event of an appeal to the North Dakota Supreme Court for actual time expended, at a reduced rate of \$160 per hour of legal services time.
4. Serkland will charge the City directly for any online research charges, as well as filing fees, if any.

F. RETAINER AGREEMENT

Serkland is proposing a retainer agreement as detailed above.

G. CONFLICT CHECKS

Serkland has a robust conflict check system and its attorneys have represented the City of Fargo in the recent past. Serkland does not practice criminal defense, hence does not represent any criminal defendants. As such, Serkland does not and will not have any potential conflicts with its prosecutorial services.

H. TERM

Serkland proposes a five-year term of service, and requests a termination provision of at least 180 days for the convenience of the parties, with a 30-day termination provision for cause by either Serkland or the City. Rate reviews shall be accomplished on a yearly basis and negotiated as necessary.

I. LICENSE REQUIREMENTS, DISCIPLINE AND INSURANCE

All lawyers providing service to the City of Fargo are licensed and in good standing in North Dakota. No disciplinary complaints have been sustained against any of the lawyers intended to provide service under this proposal. None of the attorneys providing services to the City of Fargo have been sued for malpractice. Serkland provides all insurance requirements for the provision of legal services.

Solberg Stewart Miller Prosecutorial Services Proposal



Solberg Stewart Miller respectfully submit this Proposal to provide Prosecutorial Services to the City of Fargo.

TITLE PAGE

Name of Firm – Solberg Stewart Miller

Address – 1123 5th Ave. South, Fargo ND

Telephone number – (701) 237-3166

Contact person – DAN PHILLIPS

Date of Submittal – November 2, 2021



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SOLBERG STEWART MILLER PROFILE

Solberg Stewart Miller law firm was founded in Fargo, North Dakota in 1969 by Wayne Solberg and Garylle Stewart. The home of the firm was located in the big gray house on University, at 1129 5th Ave. South in Fargo.

Over the years, the Solberg Stewart Miller (SSM) firm has been a full-service law firm, with special emphasis in municipal law, worker's compensation, labor law, personal injury, mass torts, class actions and insurance litigation. The largest client of the law firm was the City of Fargo. At various times, the firm has also acted as special Assistant Attorneys General for the State of North Dakota. The firm has represented the Fargo Dome Authority and Fargo Airport Authority. We have also been City Prosecutors for the Cities of Moorhead, and West Fargo.

Solberg Stewart became the City Attorneys for Fargo in 1970. For the next 37 years the firm handled all "City General" matters and "City Prosecution". In 2007, Erik Johnson, a partner in the Solberg Stewart law firm, started his own firm and the City of Fargo contracted with Erik to be City Attorney and also City Prosecutor. Recently Erik announced he will retire as the City Attorney and City Prosecutor at the end of this year.

For over 37 years (including 2015 when SSM assisted Erik Johnson's firm) SSM has provided prosecution of all municipal criminal matters on behalf of the City. Our attorneys have appeared before the Fargo Municipal Court; District Court and the ND Supreme Court. We have reviewed cases forwarded to the City Prosecutor for decision-making in consultation with the Fargo Police Department, State Attorney's office and outside investigatory agencies. SSM has assisted in all aspects of legal

and policy issues concerning prosecution of Fargo Municipal Code provisions. We provided legal research, training and assistance to the Fargo Police Department on criminal matters as needed.

Currently Solberg Stewart Miller has 3 attorneys and a support staff of two legal assistants and an office manager. The SSM attorneys are Dan Phillips, Todd Miller and Mike Miller. Our law office is located at 1123 5th Ave. South in Fargo. The SSM library is current and complete. Most of the library is now electronic, e.g. WestLaw and North Dakota Century Code. We also have some legal books including the Municipal ordinances. If we receive the City Prosecutor position, we will upgrade the library as we deem necessary to provide up to date legal services.

SCOPE OF WORK

The Solberg Stewart Miller firm hereby submits this Proposal to Provide Prosecutorial Services for the City of Fargo. Qualifications of individuals in Solberg Stewart Miller and also the intention to hire another attorney and two legal assistants are discussed below.

Dan Phillips was licensed to practice law in North Dakota and Minnesota in 1993. He joined the Solberg Stewart Miller firm in January 2004 and is currently the senior partner in the firm. Prior to joining the firm, Dan spent over 10 years in private practice in Fargo.

Dan's practice includes the representation of labor unions and injured persons in injury and death cases, employment-related disputes, workers compensation matters, and social security disability cases. Dan is past president of the North Dakota Association for Justice (formerly the North Dakota Trial Lawyers Association). Dan also has been named a number of times as a "Super Lawyer".

Dan graduated from the North Dakota School of Law "with distinction" in 1993. He was named to the "Order of Barristers" upon graduation. Dan is licensed in all state and federal courts in both North Dakota and Minnesota along with the Eighth Circuit Court of Appeals in St. Louis.

Dan has appeared many times before the North Dakota Supreme Court. Successful appellate decisions of Dan's include *Hysjulien v. Hill Top Home of Comfort*, 2013 ND 38, 827 N.W.2d 533 (Employment/Discrimination); *Olson v. Job Service*, 2013 ND 24, 827 N.W.2d 36 (Labor/Unemployment); *Morrison v. Apfel*, 146 F.3d 625 (8th Cir. 1998) (Social Security Disability); and *Blanchard v. ND Workers Comp. Bureau*, 1997 ND 118, 565 N.W.2d 485 (Workers Compensation).

Dan has a great deal of knowledge and experience in municipal prosecution stemming from over 15 years as an assistant City Prosecutor with SSM and also as an assistant City Prosecutor under an independent contract with Erik Johnson's firm.

Dan has regularly appeared before the City of Fargo municipal court and the district courts as an assistant Prosecutor. In addition to appearing in court, Dan has negotiated with defense attorneys and drafted appellate motions and briefs, including briefs to the Supreme Court. Dan also has met often with the police and has advised the police on municipal duties and the law. Dan has developed a strong relationship with the Fargo Police Department.

If Solberg Stewart Miller is accepted as the City Prosecutor, Dan will be the "lead counsel" for the prosecution services. He will supervise and assist the attorneys that handle day to day prosecution matters, court appearances, responses to defense motions, police matters including training in municipal law and Supreme Court appellate work.

Todd Miller is a native of Fargo. He graduated from the University of North Dakota School of Law and has been licensed to practice in North Dakota since 2009. He is licensed to practice law in state courts in North Dakota and also the federal courts in North Dakota. Todd is a member of the American Association of Justice and North Dakota Association of Justice. Todd joined the firm as an associate attorney in 2009 and is currently a partner in the firm. Todd primarily practices in the areas of mass tort litigation and personal injury. His mass tort work focuses on representing people who were injured by defective and unsafe pharmaceutical drugs and medical devices such as Hip Replacements, Hernia Mesh, Roundup, Zantac and Paraquat.

Todd worked as a backup assistant prosecuting attorney when Erik Johnson's firm needed back up attorneys for city prosecution. Todd appeared a number of times in Municipal Court. Under the Solberg Stewart Miller prosecution proposal, Todd will be the "primary back" up attorney when our everyday prosecutor has a conflict, is on vacation, out on sick leave or simply needs help because the main prosecutor cannot be in two places or cannot appear in two courts at once.

Mike Miller graduated with honors from UND Law school and joined the Solberg Stewart Boulger law firm in Fargo. He obtained his Bar license in North Dakota in 1977. Mike is admitted to practice in the State of North Dakota; United States District Courts in North Dakota and Minnesota; the Eighth Circuit Court of Appeals; the Tenth Circuit Court of Appeals. Mike is also licensed to appear before the United States Supreme Court. He has also been admitted *pro hac vice* in a number of federal courts including the United States District Court, Eastern District of Missouri, Eastern Division; in the United States District Court for the Middle District of Tennessee, Nashville Division; in the United States District Court, Northern District of Alabama, Southern Division; in the United States District Court for the District of Arizona and United States District Court for the District of Minnesota. He is a member of the North Dakota Association for Justice and has been named as one of the Great Plains Super Lawyers for a number of years.

Mike has been a partner in Solberg Stewart Miller for over 40 years. He has handled a myriad of different of cases from initial complaint through completion of trial. He has appeared before the ND Supreme Court and twice he argued cases before the 8th Circuit Court of Appeals in St. Louis. His two appearances before for the 8th Circuit of Appeals were both on behalf of the City of Fargo. One case involved alleged police brutality against a number of Fargo police officers and the second case involved damages arising from a rupture of a water line in Fargo.

During the 37 years that the Solberg Stewart Miller firm acted as City attorneys (including prosecution), Mike acquired a great deal of knowledge and information. He did appear in court as assistant prosecutor representing the City a half dozen times or more. Also, Mike was actively involved in hiring a dozen or more assistant city prosecutors, as well as staff to assist those attorneys. Mike will

continue to be actively involved in the hiring, training and supervision of city prosecutors and staff for those prosecutors.

Fulltime Prosecutor

If SSM is chosen to act as City Prosecutor, it is our intention to hire one full time attorney to be the primary City Prosecutor. This attorney will have an office at City municipal court building, as they are now.

The fulltime prosecutor will have the everyday assistance of Dan Phillips, Todd Miller and Mike Miller. These SSM attorneys will provide training and assistance for court appearances. They will assist the fulltime prosecutor in dealing with defense attorneys and individuals charged with municipal offenses. They will assist in making decisions on what cases to pursue as a city prosecutor, writing of memorandums of law and briefs, working with the Fargo Police Department and handling other duties as assigned.

Just as Solberg Stewart did for all those years, this fulltime prosecutor will professionally fulfill his or her responsibilities for the prosecution of all criminal matters and other offenses on behalf of the City. He or she will appear before Fargo Municipal Court; District Court and the ND Supreme Court. The full time Prosecutor will review cases forwarded to the City Prosecutor for decision-making in consultation with the Fargo Police Department, State Attorney's office and outside investigatory agencies. SSM's full time prosecutor will assist in all aspects of legal and policy issues concerning prosecution of Fargo Municipal Code provisions. The prosecutor will provide legal research, training and assistance to the Fargo Police Department.

Legal Assistants

Solberg Stewart Miller currently has two paralegals and an office manager. If we receive the contract to be City Prosecutor, we intend to hire two additional legal assistants to handle only City prosecution. Their offices will be in City municipal court building, as they are now.

These legal assistants will prepare files for court appearances and also trials, answer phones, set up meetings with police officers, defendants and defendant attorneys, prepare legal documents and handle day to day office work.

RATES, FEES AND CHARGES

Solberg Stewart Miller would agree to the use of a retainer to provide the services as the City Prosecutor. In fact, we believe this would be the best compensation method for those services. **Such retainer would be \$340,000 for the year 2022** and would cover all prosecutorial services rendered to the City of Fargo.

CONFLICT CHECK, INSURANCE, COMPLAINTS

SSM has no conflict of interest in representing the City of Fargo as City Prosecutor. In fact, for a number of years we have been very careful not to have conflicts of interest with the City because of all the past work we have done on behalf of the City. It is possible and occasionally occurs that an individual charged with a municipal offense will be associated with a member or members of the firm, such as a friend or relative. In such cases we would provide another prosecutor who does not have a similar potential problem. We do not represent any other government entity at this time.

SSM carries malpractice insurance -- \$1,000,000 / \$3,000,000 limits. In addition, the firm maintains general liability insurance, automobile insurance, worker's compensation, and errors and omissions insurance.

SSM has never been sued by cities or other clients for malpractice and had no disciplinary action against the firm by the State Bar Association. Dan and Mike had one complaint brought against them before the ND Bar Association in 2016. An individual who SSM represented settled a personal injury case but later felt the settlement was not enough. The complaint went nowhere before the Bar Association and was dismissed as unwarranted.

SSM attorneys are compliant with all State Bar Association continuing legal education requirements and Ethics education.

Solberg Stewart Miller respectfully submits this Proposal of \$340,000 to provide Prosecutorial Services to the City of Fargo for 2022.

SOLBERG STEWART MILLER



Dan Phillips

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Prosecutorial Legal Services Interview Questions



Request for Qualifications & Proposals – Prosecutorial Services

Interview Question Set

November 2021

Introduction: The City of Fargo thanks you for your response to the City’s Request for Qualifications & Proposals for Prosecutorial Services. The City of Fargo is interviewing two (2) law firms that submitted responsive prosecutorial services proposals.

Proposal Evaluation: The City will evaluate your firm’s written proposal, together with the oral interview, and create a compiled score consistent with the 100-point scale described in the “Evaluation Method” section of the RFP. Following completion of the evaluation process, a recommendation will be made to award the Prosecutorial Services scope of work at the November 29, 2021 City Commission meeting.

Questions:

1. **Relevant Experience.** Please describe the law firm’s previous experience with prosecutorial service.
 - a. Where did the firm practice? In what court venues did the firm appear?

2. **Primary Service Provider.** Please identify your primary service provider; that is, the attorney who will be tasked with leading the City’s prosecutorial services.
 - a. What qualifications does the primary service provider possess? Please expound on his/her qualifications.

3. **Accessibility.** Please describe your approach to managing simultaneous appearances in multiple court venues.
 - a. Will the firm utilize backup services?

4. **Investigating Agency Coordination.** Please describe your coordination and decision-making process with the Police Department or other investigatory agencies for prosecutorial matters.

a. How does your firm/staff communicate with law enforcement?

b. The Court?

5. **Cost Proposal.** Please expand on the cost proposal contained in your firm's RFP response.

Proposal ratings matrix attached to compile scores.

Prosecutorial Services Proposal Ratings



City of Fargo Prosecutorial Services RFP

Proposal Ratings

11/19/2021

	Question	Available Points	Solberg Stewart & Miller	Serkland Law Firm
1	Prior City Prosecutor or closely related/equivalent legal experience.	0-25	13.5	21
2	Qualifications of law firm selected to provide full-time City Prosecutor services.	0-25	12.5	21
3	Costs for City Prosecutor proposal.	0-25	15	21
4	Organization and structure of firm for delivery of full-time City Prosecutor services.	0-15	6.5	15
5	Firm's understand of City Prosecutor services to be provided.	0-10	4	10
	TOTAL POINTS		51.5	88

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

November 24th, 2021

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

RE: Massage Therapy Establishments Ordinance

Dear Commissioners,

Enclosed for your approval is an Ordinance pertaining to massage therapy establishments. You may recall, at your November 15th, 2021 meeting, the City Commission heard a presentation from Grant Larson on the program, but action was delayed on the matter, including this ordinance until the November 29th meeting. Frankly, during the final review of the draft ordinance placed on the November 15th agenda, I realized that some additional edits were necessary in order to make the ordinance as clearly worded as reasonably possible. It has been my intention to not make any substantive revisions to the document—only changes intended to offer clarity.

With that explanation as background, I have enclosed the formal Ordinance for your review. I would most notably call attention to the following clarifications:

- The list of criminal infractions for violations is clarified with the goal of making clear the distinction between acts which are criminal violations and other types of business operational defects by the massage therapy establishment that might give rise to action on the license of the massage therapy establishment which is, of course, a civil review process ultimately determined by the city commission.
- A process for licensing was clarified.
- It has been the intention that massage therapists operating as a home occupation would be exempt from the licensing requirement. This draft is designed to make clear that exemption from the licensing requirement.
- Other miscellaneous edits including definitions, just for purposes of clarity.

I trust you will find this draft to be suitable for action by the Commission.

Suggested Motion: I move to approve the Massage Therapy Establishment Requirements, as presented, and move to waive the receipt and filing of the enclosed Ordinance one week prior to first reading and that this be the first reading, by title, of An Ordinance Enacting Article 13-18 of Chapter 13 of the Fargo Municipal Code Relating to Massage Therapy Establishments.

Please feel free to contact Grant Larson or me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Alissa R. Farol". The signature is fluid and cursive, with the first name being the most prominent.

Alissa R. Farol
Assistant City Attorney

Enc.

cc: Grant Larson, Director of Environmental Health

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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AN ORDINANCE ENACTING ARTICLE 13-18 OF CHAPTER 13
OF THE FARGO MUNICIPAL CODE RELATING TO
MASSAGE THERAPY ESTABLISHMENTS

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

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

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

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

NOW, THEREFORE,

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

Section 1. Enactment.

Article 13-18 of Chapter 13 of the Fargo Municipal Code is hereby enacted as follows:

ARTICLE 13-18 – MASSAGE THERAPY ESTABLISHMENTS

Section 13-1801. Definitions.

As used in this ordinance, unless context otherwise indicates, the following definitions shall apply:

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1. “Massage” means the practice of massage therapy by the manual application of a system of structured touch to the soft tissues of the human body, including:

- a. Assessment, evaluation, or treatment;
- b. Pressure, friction, stroking, rocking, gliding, kneading, percussion, or vibration;
- c. Active or passive stretching of the body within the normal anatomical range of movement;
- d. Use of manual methods or mechanical or electrical devices or tools that mimic or enhance the action of human hands;
- e. Use of topical applications such as lubricants, scrubs, or herbal preparations; and
- f. Use of hot or cold applications.

Except as provided in this chapter, “massage” does not include diagnosis or other services that require a license to practice medicine or surgery, osteopathic medicine, chiropractic, occupational therapy, physical therapy, or podiatry and does not include services provided by professionals who act under their state-issued professional license, certification, or registration.

2. “Massage therapy establishment” means any person as defined in this article, holding itself out as providing massage therapy services to the public for a fee or other form of remuneration. The term shall not include the following activities:

- a. Any individual who provides massage therapy in the dwelling unit in which the individual resides, provided that all of the following conditions are met:
 - i. no more than 25 percent of the floor area of the dwelling unit is used as a place of work;
 - ii. no employees of the resident come to the dwelling unit site;
 - iii. no more than four (4) customers per day or more than twelve (12) customers per week come to the dwelling unit site;
 - iv. massage therapy services are limited to hours of 7:00 a.m. to 9:00 p.m.; and
 - v. no more than one (1) customer is permitted on the dwelling unit site at any given time.
- b. Schools that furnish massage services to their student athletes;

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- c. Any student of a school of massage who is practicing massage in the course of fulfilling a required massage therapy practicum under the direct supervision of a licensed massage therapist or in the course of participating in a school-supervised student massage clinic under the direct supervision of a licensed massage therapist, a school may charge a fee and students may accept tips under a policy set by the school. Students may practice homework unsupervised on other students, family or friends, but no fee or tip may be charged or accepted. These massages may only be performed at the school or at the residence of the student, family member, or friend;
- d. Any individual who is engaged in a profession or occupation for which the individual is licensed by this state, as long as the individual's activities are performed in the course of a bona fide practice of the individual's profession or occupation and as long as the individual does not represent to the public that the individual is a massage therapist or is engaged in the practice of massage and does not perform massage while working in a massage therapy establishment;
- e. A health spa or similar business to the extent the spa or business is performing superficial applications used for beautification or health of the skin, including salt glows and contouring;
- f. Any individual instructor demonstrating massage techniques as a component of a board-approved seminar; and
- g. Any individual practicing healing by manipulating the energy field or the flow of energy of the human body by means other than the manipulation of the soft tissues of the body, provided that the individual's services are not designated or implied to be massage or massage therapy. For purposes of this subsection, a light touch or tap is not a manipulation of the soft tissues of the human body.

- 3. "Person" means any individual, partnership, corporation or limited liability company or other lawful business entity.
- 4. "Massage therapist" means an individual licensed to practice massage by the board.
- 5. "Board" means the North Dakota Board of Massage Therapy.
- 6. "Public health department" means Fargo Cass Public Health or any representative thereof.

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Section 13-1802. License to operate massage therapy establishment issued annually—fee; application.

1 No person shall operate a massage therapy establishment without first applying for and
2 obtaining a license issued by the public health department. The license shall be subject to
3 all the terms and conditions of this article and any other approved regulations as provided
4 in this article. The initial application for a license shall extend from the date of issuance
5 until year-end. Thereafter, the massage therapy establishment license may be renewed
6 annually, January 1, by the director of public health. The fee for an initial license and any
7 renewal thereof shall be as established by resolution of the board of city commissioners,
8 and applicants shall complete an application form furnished by the public health
9 department. A license shall apply only to the premises described in the application, and in
10 the license issued thereon, and only one location shall be so described in each license.

Section 13-1803. Display of license—license non-transferable.

11 A license issued pursuant to this article shall be displayed in a conspicuous location in the
12 massage therapy establishment for which the license is issued. A license issued pursuant
13 to this article is non-transferable.

Section 13-1804. List of employees required.

14 The licensee shall maintain a written list of names and current addresses of all employees
15 and to supply the public health department with said list. Said list shall be shown to the
16 public health department or its designee, upon request. The licensee shall provide updated
17 such list on at least a monthly basis to keep the public health department apprised of any
18 changes in the list of current employees.

Section 13-1805. Regulation, inspection and enforcement.

19 In order to provide for the public health and safety, the public health department may
20 promulgate regulations creating minimum standards for massage therapy establishments,
21 which regulations may be enforced by the director of public health, chief of police, or any
22 officer of the health or police department. Said regulations shall be approved by resolution
23 of the board of city commissioners.

The director of public health, chief of police, or any officer of the health or police
department may, at any time, enter upon any licensed premises for the purpose of a health
inspection or to determine whether the licensed premises are in compliance with any and

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1 all ordinances of the city. This section shall not restrict or limit the right of entry vested in
2 any law enforcement agency. In the event of a failure to comply with the provisions of this
3 article, after due notice thereof, the public health department shall have the power to abate
4 or cause a suspension of the use of the massage therapy establishment license until such
5 time as the same is, in the opinion of the director of public health, no longer a hazard to
6 public health or safety.

7 **Section 13-1806. Licenses—non-renewal, suspension, or revocation of license.**

8 All licenses issued under the provisions of this article, unless otherwise specifically
9 provided, shall terminate on December 31 following the date of issuance; provided,
10 however, that any license issued under the provisions of this article may, under certain
11 circumstances, be suspended, revoked, or not renewed by the director of public health.

12 A. The director of public health may suspend, revoke, or not renew a massage therapy
13 establishment license for any of the following reasons:

- 14 1. A violation related to fraud, misrepresentation, or false statement contained in
15 a license application or a renewal application;
- 16 2. A violation related to fraud, misrepresentation, or false statement made in the
17 course of carrying on the licensed occupation or business;
- 18 3. The licensee has been convicted of a felony under the laws of the United States
19 or any state;
- 20 4. Conducting the licensed business or occupation in an unlawful manner or in
21 such a manner as to constitute a breach of the peace or to constitute a menace
22 to the health, safety, or general welfare of the community;
- 23 5. If the owner, manager, lessee or any of the employees are found to be in control
or in possession of an alcoholic beverage, a narcotic drug or controlled
substance on the premises, other than drugs which may be purchased over the
counter without a prescription or those for which the individual has a
prescription;
6. If the licensee fails to maintain with the issued authority a current list of all
employees of such licensed premises or fails to produce the list upon request;
7. If the licensee refuses or restricts access to the massage therapy establishment
for purposes of an inspection; or

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8. If the licensee employs anyone other than a duly-licensed massage therapist to administer one or more massages on the licensed premises.

1 B. The grounds enumerated in this section shall not be deemed to be exclusive, and
2 any license issued under the provisions of this article may be suspended or revoked
3 for any other reason deemed to be sufficient in order to promote and protect the
4 public health, safety, morals and general welfare of the people of the city of Fargo.

5 C. No license under the provisions of this article shall be suspended or revoked for
6 cause by the director of public health without a public hearing. In the event that
7 the director of public health intends to consider the suspension or revocation of any
8 license for cause, it shall notify the licensee of its intention to consider the same.
9 The notice shall specify the time and place of the suspension or revocation hearing
10 and shall be served upon the licensee or its managing agent in the same manner as
11 provided by law for the service of a summons in a civil action. No suspension or
12 revocation hearing shall be held before the expiration of 10 days after the date of
13 the service of the notice upon the licensee.

14 If, upon such hearing, it appears to the director of public health that sufficient cause
15 exists for the suspension or revocation of a license issued pursuant to the provisions
16 of this article, the director of public health shall make its order suspending or
17 revoking said license.

18 D. An order suspending or revoking a license pursuant to the provisions of this article
19 may be appealed to the board of city commissioners. The licensee must give written
20 notice of its intent to appeal the order of suspension or revocation to the board of
21 city commissioners no later than 10 days of the date of the decision. The board of
22 city commissioners shall consider the appealed decision as a new matter in a public
23 hearing and, at the close of the public hearing, shall act to affirm or reverse the
original decision.

E. The director of public health or its designee may immediately suspend a license, if
the licensee, or any person working on behalf of the licensee, is determined to be
conducting business in an unlawful manner, any manner that constitutes a
substantial hazard to the health, safety, or general welfare of the public, or after
repeated complaints received regarding unlawful conduct of the business practices
or method of solicitation. The licensee will be given notice of the immediate
suspension on site, and the suspension will take place immediately. The licensee
may request a hearing within 10 days of notice of the suspension and the hearing
procedure will be the same as set forth in Subsection D, aforementioned.

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Section 13-1807. Operation of a massage therapy establishment—violations.

It shall be a violation of this ordinance for any person to:

1. Operate as a massage therapy establishment in the city of Fargo without a license issued by the public health department;
2. Employ, as a massage therapy establishment, anyone other than a duly-licensed massage therapist to administer one or more massages on the licensed premises;
3. Fail or refuse to a request by the public health department or its designee of the massage therapy establishment's list of names and current addresses of all employees;
4. Fail or refuse to grant access for purposes of inspection of the massage therapy establishment upon lawful request by the director of public health, chief of police, or any officer of the health or police department; or
5. Provide false information on a license or renewal application, knowing or having reason to believe that such information is false.

Section 2. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

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Section 3. Effective Date.

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

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Attest:

Timothy J. Mahoney, M.D., Mayor

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:



Requirements for Massage Therapy Establishments

**Fargo Cass Public Health
1240 25th Street South
Fargo, ND 58103-2367**

CITY OF FARGO REQUIREMENTS FOR MASSAGE THERAPY ESTABLISHMENTS

A. Purpose.

The purpose of the following requirements for massage therapy establishments is to ensure facilities are sanitary and well-maintained, and to protect the health, safety, and general welfare of the community pursuant to Article 13-18 of the Fargo Municipal Code.

B. Background.

The City of Fargo determined the need to implement requirements and licensing for massage therapy establishments based on the following:

- (1) North Dakota Administrative Code 49-03 defines the requirements for massage therapy establishments, located in North Dakota, but the governing body, the North Dakota Board of Massage Therapy (NDBMT), does not license individual massage therapy establishments;
- (2) The NDBMT directs any individual(s) wishing to start their own massage practice to contact local jurisdiction for ordinances and guidelines associated with a new massage therapy establishment;
- (3) Local implementation of these requirements will fulfill the “gap” in licensing requirements specifically for massage therapy establishments as well as provide a means to conduct annual sanitation inspections;
- (4) The NDBMT only has the ability to take action against licensed individuals, not establishments, and has limited jurisdiction or authority over unlicensed individuals;
- (5) Individual massage therapists licensed by the NDBMT have received standardized training in massage therapy, health, and hygiene, and are equipped to provide a legitimate service to the public;
- (6) Health and sanitation requirements governing massage therapy establishments are meant to reduce the possible spread of communicable diseases and promote overall health and sanitation; and
- (7) Communities who have implemented requirements for massage therapy establishments have addressed illicit activity through their licensing procedures.

C. Definitions.

The following terms used within these requirements shall be defined as follows:

- (1) “Massage” means the practice of massage therapy by the manual application of a system of structured touch to the soft tissues of the human body, including:
 - a. Assessment, evaluation, or treatment;
 - b. Pressure, friction, stroking, rocking, gliding, kneading, percussion, or vibration;
 - c. Active or passive stretching of the body within the normal anatomical range of movement;
 - d. Use of manual methods or mechanical or electrical devices or tools that mimic or enhance the action of human hands;
 - e. Use of topical applications such as lubricants, scrubs, or herbal preparations; and
 - f. Use of hot or cold applications.

Except as provided in this chapter, “massage” does not include diagnosis or other services that require a license to practice medicine or surgery, osteopathic medicine, chiropractic, occupational therapy, physical therapy, or podiatry and does not include services provided by professionals who act under their state-issued professional license, certification, or registration.

- (2) “Massage therapy establishment” means any person as defined in this article, holding itself out as providing massage therapy services to the public for a fee or other form of remuneration. The term shall not include the following activities:
 - a. Any individual who provides massage therapy in the dwelling unit in which the individual resides, provided that all of the following conditions are met:
 - i. no more than 25 percent of the floor area of the dwelling unit is used as a place of work;
 - ii. no employees of the resident come to the dwelling unit site;
 - iii. no more than four (4) customers per day or more than twelve (12) customers per week come to the dwelling unit site;
 - iv. massage therapy services are limited to hours of 7:00 a.m. to 9:00 p.m.; and
 - v. no more than one (1) customer is permitted on the dwelling unit site at any given time.
 - b. Schools that furnish massage services to their student athletes;
 - c. Any student of a school of massage who is practicing massage in the course of fulfilling a required massage therapy practicum under the direct supervision of a licensed massage therapist or in the course of participating

in a school-supervised student massage clinic under the direct supervision of a licensed massage therapist, a school may charge a fee and students may accept tips under a policy set by the school. Students may practice homework unsupervised on other students, family or friends, but no fee or tip may be charged or accepted. These massages may only be performed at the school or at the residence of the student, family member, or friend;

- d. Any individual who is engaged in a profession or occupation for which the individual is licensed by this state, as long as the individual's activities are performed in the course of a bona fide practice of the individual's profession or occupation and as long as the individual does not represent to the public that the individual is a massage therapist or is engaged in the practice of massage and does not perform massage while working in a massage therapy establishment;
 - e. A health spa or similar business to the extent the spa or business is performing superficial applications used for beautification or health of the skin, including salt glows and contouring;
 - f. Any individual instructor demonstrating massage techniques as a component of a board-approved seminar; and
 - g. Any individual practicing healing by manipulating the energy field or the flow of energy of the human body by means other than the manipulation of the soft tissues of the body, provided that the individual's services are not designated or implied to be massage or massage therapy. For purposes of this subsection, a light touch or tap is not a manipulation of the soft tissues of the human body.
- (3) "Person" means any individual, partnership, corporation or limited liability company or other lawful business entity.
 - (4) "Massage therapist" means an individual licensed to practice massage by the board.
 - (5) "Board" means the North Dakota Board of Massage Therapy.
 - (6) "Public health department" means Fargo Cass Public Health or any representative thereof.

D. Licensure Qualifications.

The following are licensing requirements pursuant to Article 13-18 of the Fargo Municipal Code:

- (1) Massage therapy establishment license – No person shall operate a massage therapy establishment without first applying for and obtaining a license issued by the public health department. The applicant does not need to be licensed as a massage therapist if they do not administer massage services to the public.
- (2) Massage therapist license - It shall be unlawful for any massage therapy establishment to employ anyone other than a duly-licensed massage therapist to administer one or more massages on the licensed premises. It shall be the responsibility of the massage therapy establishment to provide proof of each massage therapist's licensure from the Board, upon request.

E. Application for Massage Therapy Establishment License.

A massage therapy establishment shall submit an application for a license to the public health department on a form provided by the public health department, along with payment of a required license fee.

F. Issuance of Massage Therapy Establishment License.

- (1) License Periodicity – The license hereof shall be issued annually, January 1, by the director of public health. All licenses issued under Article 13-18 of the Fargo Municipal Code, unless otherwise specifically provided, shall terminate on December 31 following the date of issuance.
- (2) License Fee – There will be a fee associated with the massage therapy establishment license. License fees and fees for renewal thereof shall be established by resolution of the board of city commissioners.
- (3) License Display – A license issued pursuant to Article 13-18 of the Fargo Municipal Code shall be displayed in a conspicuous location in the massage therapy establishment for which the license is issued.
- (4) Non-transferrable – Each license will only be issued to the approved applicant and is non-transferrable.
- (5) Inability to reapply for licensure after revocation – If the holder of a massage therapy establishment license has the license revoked, they may not reapply for a new license.

G. General License Restrictions.

Each license issued pursuant to Article 13-18 of the Fargo Municipal Code will include the following restrictions:

- (1) Prohibited massages – A massage therapist must not intentionally massage or offer to massage the penis, scrotum, mon veneris, vulva, or vaginal area of an individual.
- (2) Business hours – No customers or patrons are allowed to enter the licensed facility before 5:00 am or after 10:00 pm daily. Additional hours may be allowed if they are coordinated and approved by the public health department.
- (3) Advertising – Any advertising by a licensee, or representative of the licensee, displaying potentially unlawful, misleading, sexually explicit, obscene, or erotic conduct associated with the massage therapy establishment shall be prohibited.
- (4) Responsible for conduct – A licensee shall be responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.

H. Individuals Ineligible for Massage Therapy Establishment Licensure.

Applicants for a massage therapy establishment license may be denied a license based on any of the following circumstances:

- (1) The applicant is not 18 years of age or older;
- (2) The applicant has been convicted of a crime directly related to the occupation;
- (3) The applicant has been associated with a massage license that was denied;
- (4) The applicant is not a citizen of the United States or resident alien, or is legally prohibited from working in the United States;
- (5) The facility described in the application does not meet the definition of a massage therapy establishment as defined in in these requirements and Article 13-18 of the Fargo Municipal Code;
- (6) The location and proposed use of the massage therapy establishment is in conflict with the City of Fargo's Land Development Code;
- (7) The proposed use of the massage therapy establishment is in conflict with the Fargo Municipal Code or the laws of North Dakota;

- (8) The applicant is the spouse or close relative of a person whose massage-related license has been denied, suspended or revoked at any time;
- (9) The applicant has allowed a massage therapy establishment license to expire or has surrendered a massage therapy establishment license. In that case, the application shall be treated the same, at the sole discretion of the director of public health as an application for a new license, subject to all ordinance regulations and review processes.

I. Inspections of Massage Therapy Establishments.

The director of public health, chief of police, or any officer of the health or police department may, at any time, enter upon any licensed premises for the purpose of a health inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the city. Any attempt to restrict or refuse access to the director of public health, chief of police, or any officer of the health or police department from conducting an inspection may lead to suspension, revocation, or a nonrenewal of said license in addition to criminal penalties provided by law. Inspections and/or investigations may be conducted in a manner authorized by law, when necessary, to determine if the applicant or licensee meets the qualifications pursuant to Article 13-18 of the Fargo Municipal Code. Massage therapy establishments must comply with the following requirements:

- (1) The portion of a massage therapy establishment in which a massage is provided, and any waiting room and hallway leading to that area, must be in a safe, clean, and sanitary condition;
- (2) A valid massage therapy establishment license, issued by the public health department, shall be prominently displayed in the facility;
- (3) The massage therapy establishment licensee shall identify themselves, along with each massage therapist offering procedures within the facility, by providing a current and valid ID;
- (4) A valid and current license for each massage therapist shall be located on-site and available for review;
- (5) Walls, floors, and ceilings shall be maintained in a clean condition;
- (6) Any mirrors and windows in the massage therapy establishment will be positioned or covered in a manner to maintain the privacy of the person receiving the massage at all time during the massage and while the client is dressing and undressing;
- (7) Massage therapists must provide draping and treatment in a way that ensures the personal safety, comfort, and privacy of the client;

- (8) Massage therapists are responsible for maintaining all equipment and supplies in good working order in accordance with manufacturer's instruction;
- (9) Toilet rooms for employees and patrons must be convenient, accessible, include hot and cold running water, hand soap, and disposable hand towels. Toilet rooms must include clean fixtures and at least one covered waste receptacle;
- (10) Massage therapists must wash their hands and arms with soap and water, antibacterial scrubs, alcohol, or other disinfectants prior to and following each massage service;
- (11) All tools, instruments, implements, and equipment must be clean and disinfected before use on a client;
- (12) Cabinets, drawers, and containers used for storage of tools, equipment, instruments, and towels/linens must be clean;
- (13) Massage tables, chairs, or other furniture where massages are performed shall be non-absorbent, disinfected after each massage, and covered by either clean linens or single service paper;
- (14) All linens, coverings, sheets, towels, and pillow casings must be properly cleaned before coming into contact with a client;
- (15) All liquids, creams, and other products must be kept in clean, closed containers. Original product bottles and containers must have an original manufacturer label disclosing its contents. All products used on a client must be dispensed by a spatula, scoop, spoon, squeeze bottle, pump, dropper, or similar dispenser, so the remaining product is not contaminated. Unused products applied to one client must be disposed of and not used on another client;
- (16) The massage therapy establishment shall be maintained in good repair and in a sanitary condition, and steps must be taken to prevent the spread of infections and communicable diseases;
- (17) Premises shall be free of litter, insects, rodents, animals, unnecessary articles, and unauthorized personnel;
- (18) No tobacco or smoking, which includes the use of e-cigarettes or any electronic smoking or vaping devices, shall be allowed inside the Massage Therapy Establishment or within 20 feet of all entrances;

- (19) It is unlawful for a massage therapy establishment, unless properly licensed by the city of Fargo, to provide alcohol to a client and neither the owner, operator, massage therapist, or patrons shall be under the influence of illegal drugs; and
- (20) The massage therapy establishment shall not contain or allow the use of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots, or mattresses.

J. Non-renewal, Suspension, or Revocation of License, Immediate Suspension of License and Appeal Process.

Please refer to Article 13-18 of the Fargo Municipal Code for the processes associated with the non-renewal, suspension, and/or revocation of a license, immediate suspension of a license, and the appeal process.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

42

ORDINANCE NO. _____

1 AN ORDINANCE REPEALING ARTICLE 12-04 OF CHAPTER 12
2 OF THE FARGO MUNICIPAL CODE RELATING TO WILDLIFE
3 MANAGEMENT PROGRAM-REGULATIONS

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

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

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

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

13 NOW, THEREFORE,

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

15 Section 1. Repeal.

16 Article 12-04 of Chapter 12 of the Fargo Municipal Code is hereby repealed in its
17 entirety.
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Effective Date.

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

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Reading:

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA



ORDINANCE NO. _____

AN ORDINANCE ENACTING SECTIONS 5-0400 THROUGH 5-0411
OF ARTICLE 5-04 OF CHAPTER 5 OF THE FARGO MUNICIPAL
CODE RELATING TO THE CITY OF FARGO POLICE ADVISORY
AND OVERSIGHT BOARD

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

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

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

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

NOW, THEREFORE,

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

Section 1. Enactment.

Section 5-0401 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

Sec. 5-0401. Establishment of the Fargo Police Advisory and Oversight Board.

The Fargo Police Advisory and Oversight Board is hereby established.

Section 2. Enactment.

Section 5-0402 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

5-0402. Purpose of the Fargo Police Advisory and Oversight Board.

The purpose of the Fargo Police Advisory and Oversight Board (hereafter "Board") is to

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 advise and assist the City of Fargo and the Fargo Police Department (hereafter
2 “Department”) in policy development specific to police-community relations, education,
3 outreach, and other areas of concern to the community. The Board will be tasked with
4 providing review and input in the following areas of community concern:

- 5 1. Data evaluation relative to community issues and/or concerns, such as
6 traffic stop and use of force (UOF) demographics.;
- 7 2. Technology impacts on the community, such as body-worn cameras, facial
8 recognition;
- 9 3. Review of completed personnel investigations in accordance with section
10 5-0409, and/or use of force encounters;
- 11 4. Police response to mental health and community impacts;
- 12 5. Community training/education topics;
- 13 6. Department training topics that would benefit police-community
14 relationships; and
- 15 7. Other items identified by the Board and approved by the Chief of Police and
16 Board Chair.

17 The Board will work to create a dialogue between community representatives and the
18 Department. The Board will work to improve relations between law enforcement and the
19 community, assist with recruitment of diverse candidates, and provide community
20 perspective on policy, programs, and priorities of the Department.

21 Section 3. Enactment.

22 Section 5-0403 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby
23 enacted to read as follows:

5-0403. Specific duties of the Fargo Police Advisory and Oversight Board.

The Fargo Police Advisory and Oversight Board shall:

1. Be invited to assist the Department with community outreach opportunities

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

as well as suggest community events that through Department participation would benefit community relationships;

2. Advise the Department about community concerns, provide input, and work collaboratively with the Department to address them;
3. Review quarterly and/or annual reports from the Department regarding policies of concern to the community;
4. Review existing Department policies, procedures, and practices related to community concerns and provide feedback; and
5. Review post discipline findings of formal Professional Standards Division Investigations of misconduct by Department members.

Section 4. Enactment.

Section 5-0404 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

5-0404. Membership.

The membership of the Fargo Police Advisory and Oversight Board shall be as follows:

1. The Board shall consist of no more than seven (7) members appointed by the board of city commissioners. No more than one (1) member may have served in a former law enforcement role at any time;
2. Membership of the Board will reflect the diversity of the residents of the city of Fargo, including but not limited to ethnicity, race, gender, religion, sexual orientation, disability, socio-economic, and age; and
3. Board members selected shall be individuals with an interest in police and/or community relations.

Section 5. Enactment.

Section 5-0405 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

5-0405. Qualifications.

Members of the Fargo Police Advisory and Oversight Board shall serve at the pleasure of the board of city commissioners and shall possess the following qualifications to be appointed to the Board:

1. Be at least twenty-one (21) years of age;
2. Be a resident of the city of Fargo;
3. Not be employed by the city of Fargo or be the immediate family member of an employee of the city of Fargo;
4. Not be a member of or the immediate family member of any member of the Fargo board of city commissioners;
5. Be a citizen of the United States;
6. Have no pending criminal charges in any local, state, or federal jurisdiction or court of law;
7. May not have a conviction for any of the following offenses:
 - a. Possession of controlled substances;
 - b. Battery or resist of a law enforcement officer;
 - c. Crimes of dishonesty or false statements; or
 - d. Crimes of moral turpitude, which include charges of prostitution, patronizing a prostitute, promoting prostitution, sale of sexual relations, buying sexual relations, soliciting for immoral purposes, indecent exposure, lewd and lascivious behavior, sodomy, promoting sodomy for hire, patronizing a person offering sodomy for hire, sexual battery, loitering for the purposes of solicitation, indecent liberties with a child, incest, adultery, bigamy, promoting obscenity, promoting obscenity to minors, displaying material

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

harmful to minors, and possession, sale or distribution of any illegal drug;

1
2 e. May not have been convicted of any felony; and

3 f. May not have been convicted if a misdemeanor domestic violence
4 offense.

5 8. Is not registered as a sex offender with any state, county, or local
6 government;

7 9. Is not an elected local, state, or federal public official or a candidate for any
8 such office;

9 10. Is not a party or representative of a party presently making a claim against
10 the city of Fargo for any action or inaction of an employee of the city of
11 Fargo;

12 11. Is not a present law enforcement officer or the immediate family member
13 of any such law enforcement officer;

14 12. Has not served in a law enforcement role in the 5 years proceeding
15 appointment to the Board;

16 13. Has not expressed views or acted in such a manner as to demonstrate bias
17 clearly offensive or antithetical to the mission of the Board; and

18 14. Is not in arrears on any amounts due and owing the city of Fargo, or has not
19 otherwise defaulted on an obligation due the city of Fargo.

20 All applicants for the Board shall be required to submit to a criminal background check in
21 order to verify qualifications are met prior to appointment to the Board.

22 In addition to the above qualifications, all applicants (or members, where applicable) for
23 appointment and continued membership on the Board must participate in Department
provided training of up to 40 hours upon appointment or within three (3) months of
appointment by the board of city commissioners, and on an as-needed basis while serving
on the Board.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 6. Enactment.

Section 5-0406 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

5-0406. Terms of office.

Members of the Fargo Police Advisory and Oversight Board shall serve four-year terms.

1. Members of the Board shall serve a term of four years. In order to establish staggered terms, appointments shall begin upon Ordinance adoption and formation and will include four (4) members for a four-year term, and three (3) members for a three-year term. Thereafter, all members shall be appointed for a four-year term. No member shall serve more than three terms, or 12 years, whether or not consecutive.
2. In the event a vacancy occurs or the individual no longer meets the eligibility requirements during the term of any member, the board of city commissioners may appoint a successor to serve the unexpired term. A successor appointed to complete an unexpired term shall be eligible to serve up to two consecutive terms in addition to the unexpired term. Notwithstanding the expiration of a member's term, such member may serve until his or her successor has been appointed and qualified.
3. A member may be removed by the board of city commissioners from the Board for the following reasons:
 - a. No longer meets the eligibility requirements described in Section 5-0405;
 - b. Misses more than two consecutive (2) Board meetings or fifty percent of Board meetings in a twelve (12) month period;
 - c. Fails to attend or complete assigned training within the times specified in section 5-0405;
 - d. Does not pass the criminal background check in accordance with the criteria set forth in section 5-0405;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- e. Commences and action or makes a claim against the city of Fargo for any action or inaction of an employee of the city of Fargo;
- f. Makes any false statement in the application to serve on the Board;
- g. For such other and further reasons as determined necessary and appropriate by the board of city commissioners.

Section 7. Enactment.

Section 5-0407 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

Section 5-0407. Meetings and officers.

The Board shall hold regular meetings and minutes shall be kept in accordance with the following:

- 1. The Board shall meet at least once monthly at the times and places established by the Department. The meetings shall be subject to all applicable provisions of the North Dakota Open Meetings laws. The Department may call additional meetings if necessary to address significant or time sensitive issues.
- 2. On or before July 1 of each year, the Board shall meet and organize its membership by electing a chairperson and vice-chairperson. The terms of such offices shall be for a period not to exceed two years.
- 3. An executive member of the Department shall attend all meetings and ensure minutes are kept and presented for approval by the Board at the next meeting.
- 4. Notice of all meetings shall be issued by the Department.
- 5. The Director of Equity and Inclusion shall be an Ex Officio non-voting member of the Board.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 6. The Board shall abide by the North Dakota Open Meetings and the North
2 Dakota Open Records statutes- North Dakota Century Code §44-04, et. seq.

3 Section 8. Enactment.

4 Section 5-0408 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby
5 enacted to read as follows:

6 5-0408. Recommendations and Operations of the Board.

- 7 1. Recommendations of the Board shall be approved by majority vote of the
8 members present and voting. The quorum required for the Board to conduct
9 business shall be the number of members representing at least one half of
10 the total number of members duly appointed to the Board.
- 11 2. The Board may adopt lawful rules, regulations, and by-laws, consistent with
12 the provisions of this chapter as it deems necessary for its operation.

13 Section 9. Enactment.

14 Section 5-0409 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby
15 enacted to read as follows:

16 5-0409. Review of post discipline, administrative matters and citizen concerns.

- 17 1. In addition to the responsibilities set forth in this Chapter, the Board may
18 review cases of misconduct by Department personnel investigated by the
19 Professional Standards Division (PSD). Only cases which are post
20 discipline may be reviewed. Review shall not be heard until all pending
21 case(s) and any applicable appeals, grievances or other review of the
22 incident have been concluded. A request by the Board to review post
23 discipline findings must be made no later than one year from the date the
 discipline was imposed or completion of the investigation by the
 Professional Standards Division.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

2. The Department shall establish all necessary procedures to implement the review of post discipline matters brought before them. Included within these procedures will be notification to applicable police personnel involved in the review in accordance with Department policy. All police reports, videos, interviews or other investigative files submitted to the Board for review shall have the personal identifiers of all involved citizens, witnesses and officers redacted in accordance with North Dakota Open Records provisions.

3. The Board's review will be for the purpose of reviewing and advising the Chief of Police on suggested practices and training relevant to issues or concerns uncovered as part of the investigation.

The Chief of Police shall provide written information to the City Administrator or designee and any involved personnel of the Board's suggestions and recommendations.

Section 10. Effective Date

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

(SEAL)

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

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:



November 8, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1338 3 St N as submitted by Gary & Margaret Stende. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$305 with the City of Fargo's share being \$50.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lt 23, Blk 3, Holes 1st

2. Address of Property 1338 3 St N

3. Parcel Number 01-1360-00800-000

4. Name of Property Owner Gary & Margaret Stende Phone No. 701-866-5277

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Full kitchen remodel & update electrical

7. Building permit No. 2011-0723 8. Year built (residential property) 1929

9. Date of commencement of making the improvements 01/04/2021

10. Estimated market value of property before the improvements \$ 225,600.00

11. Cost of making the improvement (all labor, material and overhead) \$ 15,000.00

12. Estimated market value of property after the improvements \$ 248,800.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant X *Margaret Stende* Date 11-7-21

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization *Walter J. ...* Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20___, 20___, 20___, 20___, 20___.

Chairperson _____ Date _____



November 8, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2311 Lilac Ln N as submitted by Derek & Kellie Hanson. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$280 with the City of Fargo's share being \$50.

Sincerely,

A handwritten signature in cursive script, which appears to read "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lt 1, Blk 12 Woodcrest 2nd

2. Address of Property 2311 Lilac Ln N

3. Parcel Number 01-4050-00870-000

4. Name of Property Owner Derek & Kellie Hanson Phone No. 701-730-3961

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Kitchen remodel, 2 new windows & repair siding

7. Building permit No. 2011-0874 8. Year built (residential property) 1970

9. Date of commencement of making the improvements 12/01/2020

10. Estimated market value of property before the improvements \$ 312,600.00

11. Cost of making the improvement (all labor, material and overhead) \$ 10,000.00

12. Estimated market value of property after the improvements \$ 334,000

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant *Derek Hanson* Date 11-5-2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization *Walter Slomberg* Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20____, 20____, 20____, 20____, 20____.

Chairperson _____ Date _____



November 8, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3105 9 St N as submitted by James & Patricia Deutsch. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$195 with the City of Fargo's share being \$35.

Sincerely,

Handwritten signature of Mike Splonskowski in cursive.

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed N 65' of Lt 10, Blk 7 Knollbrook

2. Address of Property 3105 9 St N

3. Parcel Number 01-1660-00930-000

4. Name of Property Owner James & Patricia Deutsch Phone No. 701-371-1736

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Finish lower level

7. Building permit No. 2106-0373 8. Year built (residential property) 1964

9. Date of commencement of making the improvements 06/10/2021

10. Estimated market value of property before the improvements \$ 215,600.00

11. Cost of making the improvement (all labor, material and overhead) \$ 20,000.00

12. Estimated market value of property after the improvements \$ 230,500

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant _____ Date _____

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

James P. Deutsch
Assessor/Director of Tax Equalization

Walter J. ... Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____



November 8, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2124 10 St S as submitted by Michael & Lesa Lemoine. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$1100 with the City of Fargo's share being \$190.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lt 11, Blk 3, Schonbergs

2. Address of Property 2124 10 St S

3. Parcel Number 01-2710-00620-000

4. Name of Property Owner Michael & Lisa Lemoine Phone No. _____

5. Mailing Address of Property Owner 559-544-7840

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Full dwelling remodel before purchased

7. Building permit No. None 8. Year built (residential property) 1964

9. Date of commencement of making the improvements _____

10. Estimated market value of property before the improvements \$ 141,000.00

11. Cost of making the improvement (all labor, material and overhead) \$ _____

12. Estimated market value of property after the improvements \$ 225,000

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Michael Lemoine Date 11/8/2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization [Signature] Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____



November 10, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2850 Hickory St N as submitted by Stephen Illing. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$140 with the City of Fargo's share being \$25.

Sincerely,

A handwritten signature in cursive script that reads "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lt 3, Blk 7, Elm Tree Park 2nd

2. Address of Property 2850 Hickory St N

3. Parcel Number 01-0751-00080-000

4. Name of Property Owner Stephen E Illing Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Vinyl siding

7. Building permit No. 2105-0771 8. Year built (residential property) 1970

9. Date of commencement of making the improvements 05/20/2021

10. Estimated market value of property before the improvements \$ 249,500.00

11. Cost of making the improvement (all labor, material and overhead) \$ 11,000.00

12. Estimated market value of property after the improvements \$ _____

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Stephen Illing Date 11-9-2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization Wanda Johnson Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 , 20 , 20 , 20 , 20 .

Chairperson _____ Date _____



November 10, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 230 Prairiewood Dr S as submitted by Troy & Syndey Knutson. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$820 with the City of Fargo's share being \$140.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lt 9, Blk 14, Prairiewood

2. Address of Property 230 Prairiewood Dr S

3. Parcel Number 01-2330-01500-000

4. Name of Property Owner Troy & Sydney Knutson Phone No. 701-212-8266

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Remodel bath, master closet & replace windows

7. Building permit No. 2104-0087 8. Year built (residential property) 1977

9. Date of commencement of making the improvements 04/05/2021

10. Estimated market value of property before the improvements \$ 303,400.00

11. Cost of making the improvement (all labor, material and overhead) \$ 70,185.⁸²

12. Estimated market value of property after the improvements \$ 365,800.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Troy Knutson Date 11/2/21

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization Willa Johnson Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20___, 20___, 20___, 20___, 20___.

Chairperson _____ Date _____



November 10, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1720 Whitestone Cir S as submitted by Gregory & Gretchen Byer. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$115 with the City of Fargo's share being \$70.

Sincerely,

A handwritten signature in cursive script, which appears to read "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lot 31, Block 8, South View Villages

2. Address of Property 1720 Whitestone Cir S

3. Parcel Number 01-2840-01510-000

4. Name of Property Owner Gregory & Gretchen Byer Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Steel siding, soffit, fascia, gutters, downspouts

7. Building permit No. 21080968 8. Year built (residential property) 1975

9. Date of commencement of making the improvements 08/27/2021

10. Estimated market value of property before the improvements \$ 217,900.00

11. Cost of making the improvement (all labor, material and overhead) \$ 19,600.00

12. Estimated market value of property after the improvements \$ 226,700.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant *Gregory P. Byer* Date Nov 5, 2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization *Walter J. ...* Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20___, 20___, 20___, 20___, 20___.

Chairperson _____ Date _____



November 12, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2541 Par St N as submitted by Melissa Bossman & Steven Tedford. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$135 with the City of Fargo's share being \$20.

Sincerely,

A handwritten signature in cursive script, which appears to read "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed S 77' of Lt 25, Blk 1 Golf Course 3rd

2. Address of Property 3541 Par St N

3. Parcel Number 01-1003-00250-000

4. Name of Property Owner Melissa Bossman & Steven Tedford Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). New siding

7. Building permit No. 2108-0244 8. Year built (residential property) 1975

9. Date of commencement of making the improvements 08/06/2021

10. Estimated market value of property before the improvements \$ 245,900.00

11. Cost of making the improvement (all labor, material and overhead) \$ 26,800.00

12. Estimated market value of property after the improvements \$ 256,100.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant [Signature] Date 11/5/21

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization [Signature] Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20____, 20____, 20____, 20____, 20____.

Chairperson _____ Date _____



November 12, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2509 10 St N as submitted by Karl & Carol Berg. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$115 with the City of Fargo's share being \$20.

Sincerely,

A handwritten signature in cursive script that reads "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Pt of lts 14 & 15, Blk 9, Peter Sway 5th

2. Address of Property 2509 10 St N

3. Parcel Number 01-3100-01360-000

4. Name of Property Owner Karl & Carol Berg Phone No. _____

5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). New siding

7. Building permit No. 2101-0314 8. Year built (residential property) 1958

9. Date of commencement of making the improvements 01/29/2021

10. Estimated market value of property before the improvements \$ 196,700.00

11. Cost of making the improvement (all labor, material and overhead) \$ 16,640.00

12. Estimated market value of property after the improvements \$ 205,300.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge. 11-1-2021 *CWB*

Applicant Carol J Berg Date 11-1-2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization *Walter Lamb* Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20___, 20___, 20___, 20___, 20___.

Chairperson _____ Date _____



November 12, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1929 17 St S as submitted by Angela Rockwell. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$165 with the City of Fargo's share being \$30.

Sincerely,

A handwritten signature in cursive script that reads "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lt 19, Blk 1, Harold A Johnson 1st

2. Address of Property 1929 17 ST S

3. Parcel Number 01-1460-00200-000

4. Name of Property Owner ANGELA ROCKWELL & Jonathan Knecht Phone No. 701-388-7106
Angie - 701-491-3109

5. Mailing Address of Property Owner SAME

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). STEEL SIDING & FASCIA, Windows, Gutters

7. Building permit No. 2105-0106 8. Year built (residential property) 1968

9. Date of commencement of making the improvements 05/04/2021

10. Estimated market value of property before the improvements \$ 268,400.00 - 242,000 *BANK APPRAISED*

11. Cost of making the improvement (all labor, material and overhead) \$ 12,985.00 - 30,000

12. Estimated market value of property after the improvements \$ 280,800.00 *EST-272,000*

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant Jonathan Knecht, Angela Rockwell Date 11-7-21

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do do not meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization [Signature] Date 11-15-2021

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved Denied

Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____ Date _____