

FARGO CITY COMMISSION AGENDA  
Monday, October 30, 2023 - 4:00 p.m.

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 with respect to the proposed agreement between the City and T&K Property Management LLC, the City Commission will meet in Executive Session to consult with the City's attorneys and the City's negotiators as well because there is a reasonable likelihood that civil litigation will occur relating to the project that is the subject of the proposed agreement and public discussion would have an adverse fiscal effect on the City's litigation and or bargaining position, this Executive Session is authorized by North Dakota Century Code 44-04-19.1 subsection 9.

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](http://www.FargoND.gov/Streaming). They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at [www.FargoND.gov/CityCommission](http://www.FargoND.gov/CityCommission).

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, October 16, 2023; Special Meeting, October 25, 2023).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

1. Amendment to Developer Agreement, Tax Increment Note (Tax Increment District 2021-02 Project) and Certificate of Completion with PS Holdings, LLC (Brewhalla).
2. Interest Buydown Agreement – PACE Program, Escrow Agreement – PACE Program and Community PACE – Interest Buydown Authorization with the Bank of ND to be received by PS Holdings, LLC from Bell Bank (Brewhalla).
3. Lease Agreement with Prairie Public Broadcasting, Inc.
4. Receive and file an Ordinance Amending Section 24-0102 of Article 24-01 of Chapter 24 of the Fargo Municipal Code Relating to the Franchise Granted to the St. Paul, Minneapolis and Manitoba Railroad Company and Its Successors.
5. 1st reading of an Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
6. 1st reading of an Ordinance Amending Section 13-1011 of Article 13-10 of Chapter 13 of the Fargo Municipal Code Relating to Recreational Aquatic Facilities.

7. 1st reading of an Ordinance Amending Article 13-14 of Chapter 13 of the Fargo Municipal Code Relating to Hotels & Motels.
8. 2nd reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Southwest Fargo Mission Second Addition to the City of Fargo, Cass County, North Dakota.
9. Findings of Fact, Conclusions and Order, and Notice of Entry of Order for property located at 924 7th Street North.
10. Applications for Games of Chance:
  - a. Oak Grove Lutheran School for a raffle board on 11/2/23.
  - b. Sts. Anne & Joachim Catholic Church for bingo on 11/12/23.
  - c. The Village Family Service Center for a raffle board on 11/17/23.
  - d. Bison Dance Team for a raffle on 12/8/23.
  - e. North Dakota State University Judging Club for a raffle on 3/4/24.
11. Receive and file the Amendment to the Franchise Agreement with Cass County Electric Cooperative adding the area annexed by the City of Fargo on 5/1/23.
12. Appointment of election workers and additional workers for the 12/5/23 Special Election as presented and the appointment of the Canvassing Board as presented.
13. Agreement for Special Improvements with County 20 Storage LLC (Improvement District No. BN-23-J1).
14. Notice of Grant Award from the ND Department of Emergency Services for the FY 2023 Homeland Security Program (CFDA #97.067).
15. Negative Final Balancing Change Order No. 1 in the amount of -\$33,791.72 for Project No. PR-23-C1.
16. Encroachment Agreement with J and R Ohnstad Family Limited Partnership (OK Tire) for property located at 2200 Main Avenue.
17. Purchase Agreement with Sanford North (Project No. FP-19-A).
18. Bid award to Dakota Underground Company in the amount of \$489,889.12 for Project No. SN-23-A1.
19. Incentive of \$150,000.00 (30 days at \$5,000.00 per day) for Improvement District No. BR-23-G1.
20. Change Order No. 3 in the amount of \$20,689.80 and 8-day time extension for Improvement District No. BR-23-F1.
21. Change Order No. 5 in the amount of \$39,858.72 for Improvement District No. BN-22-C1.
22. Change Order No. 1 in the amount of \$97,686.18 for Improvement District No. PR-23-E1.
23. Change Order No. 2 in the amount of \$26,718.14 for Improvement District No. UR-23-A1.
24. Easement (Temporary Construction Easement) and Permanent Easement (Lift Station) with Dakota Commerce Center 5 LLC (Improvement District No. BN-23-F1).

25. Bid award to KPH, Inc. in the amount of \$1,340,525.95 for Improvement District No. BR-24-E1.
26. Bid award to Master Construction Company, Inc. in the amount of \$4,897,816.25 for Improvement District No. BR-24-C1.
27. Create Improvement District No. PN-23-B.
28. Create Improvement District No. BR-24-B.
29. Bid award to Martinson Lot Maintenance and All Terrain for snow removal services from 11/1/23 through 4/30/24 (RFP23191).
30. Bid award to AP Signature Homes, LLC for the Newman Outdoor Field Exiting Improvements.
31. Contract extension with Vector Solutions until 12/31/24 (SSP17412).
32. Memorandum of Agreement with the ND Department of Emergency Services and the Fargo Fire Department for Regional Response for Hazardous Materials and Technical Rescue.
33. Notice of Grant Agreement Amendment with the ND Department of Health and Human Services for the PHEP – City Readiness Initiative (CFDA #93.069).
34. Notice of Grant Award from the ND Department of Emergency Services for the FY 2022 State and Local Cybersecurity Grant Program and related budget adjustments (CFDA #97.137).
35. Notice of Grant Award from the ND Department of Emergency Services for the FY 2023 State and Local Cybersecurity Grant Program and related budget adjustments (CFDA #97.137).
36. Piggyback purchase with Esri Small Municipal and County Government Enterprise Agreement from 1/26/24 to 1/26/27 (PBC24008).
37. Authorization for IS to hire a full-time Technical Support Desk Associate position in 2023.
38. Amendment to the Fiscal Project Sponsor Agreement - Badges of Unity with the Impact Foundation.
39. Two-Year Contract with All Terrain to provide lawn care and snow removal services at the Fargo Regional Training Center (RFQ23206).
40. Receive and file the Hate Crimes investigations for the 3rd quarter of 2023.
41. First Addendum to Landfill Use Agreement with the City of Valley City, ND.
42. Contract and bond with Excavating, Inc. for Cell 21 Waste Excavation and Construction Project No. SW 23-04 (ITB23160).
43. Bid award to GMV Syncromatics Corporation for fixed route software (RFP23214) and bid award to Via Mobility LLC for paratransit software and hardware (RFP23215).
44. Bills.

**REGULAR AGENDA:**

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

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

46. **PUBLIC HEARING** - Vacation Plat of portions of 3rd Avenue North and 3rd Street North, North Dakota R-1 Urban Renewal Addition (101, 207 and 225 4th Street North; 285 1st Avenue North; 200 and 334 4th Avenue North); approval recommended by the Planning Commission on 9/7/23.
47. **PUBLIC HEARING** – Hearing on a dangerous building located at 1710 1st Avenue South.
48. **PUBLIC HEARING** – Hearing on a dangerous building located at 1208 South University Drive.
49. **PUBLIC HEARING** – Application for a Class “FA” Alcoholic Beverage License for El Agave Mexican Restaurant, LLC d/b/a El Agave Mexican Restaurant to be located at 2581 45th Street South; continued from the 10/2/23 Regular Meeting.
50. **PUBLIC HEARING** – Transfer of a Class “FA” Alcoholic Beverage License from Prairie Pasta, Inc. d/b/a Johnny Carino’s to Summit Night Club d/b/a Cairo Restaurant and Nightclub to be located at 4554 7th Avenue South; continued from the 10/2/23 Regular Meeting.
51. **PUBLIC HEARING** – Transfer of a Class “ABH Limited” Alcoholic Beverage License from KLP Lodging LLC d/b/a AmericInn Fargo to Fargo Voyage Hotel LLC d/b/a AmericInn Fargo to be located at 4325 23rd Avenue North.
52. **PUBLIC HEARING** – Transfer and ownership change of a Class “A” Alcoholic Beverage License from Irish Hospitality, LLC d/b/a Hennessy’s Irish Pub to Irish Hospitality, LLC d/b/a Double Down to be located at 3165 33rd Street South, #101.
- a. Gaming Site Authorization for Games of Chance for Fargo Angels Hockey Club at Double Down.
53. Update on the Massage Therapy Establishment Program.
- a. Adopt Resolution Establishing Massage Therapy Establishment Requirements and Fees.
- b. 1st reading of an Ordinance Amending Sections 13-1801, 13-1802, 13-1806 of Article 13-18 of Chapter 13 of the Fargo Municipal Code Relating to Massage Therapy Establishments.
- c. 1st reading of an Ordinance Amending Section 1-0305 (A)(1) of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Classification of Ordinance Violations.
54. Update on the North Broadway Bridge Feasibility Study.
55. Recommendation to authorize staff to publish a Request for Proposals for a City of Fargo Advanced Metering Infrastructure Project.

56. Applications for Abatement or Refund of Taxes #4546 and #4547 for property located at 4773 32nd Street South requesting a reduction in value for 2022 from \$749,400.00 to \$650,000.00 and for 2023 from \$887,600.00 to \$660,000.00.
57. Recommendation to approve the Agreement to Grant Emergency Egress Easement and Grant Option for Parking Lease with T&K Property Management LLC, as presented.
58. Fargo-Moorhead Metropolitan Area Ending Homelessness Task Force Discussion.
59. Recommendation from Commissioner Preston for changes to the Liquor License Ordinance.
60. Recommendation for appointments to the Housing and Redevelopment Authority.
61. Applications for Property Tax Exemptions for Improvements Made to Buildings:
  - a. Molly Moore, 3601 Evergreen Road North (5 years).
  - b. Michelle Mehring, 1526 9th Street North (5 years).
  - c. Matthew Mazourek, 3419 19th Street South (5 years).
  - d. Janell Schmidt, 3526 29th Street South (5 years).
  - e. James and Sharon Puppe Rev Living Trust, 114 22nd Avenue North (5 years).
  - f. Jerome and Amy Noeske, 56 16th Avenue North (5 years).
62. Liaison Commissioner Assignment Updates.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310 at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo website at [www.FargoND.gov/CityCommission](http://www.FargoND.gov/CityCommission).

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	North Dakota R-1 Urban Renewal Addition	<b>Date:</b>	8/30/2023
		<b>Update:</b>	10/26/2023
<b>Location:</b>	Right of way between 101, 207 and 225 4th Street North; 285 1st Avenue North; 200 and 334 4th Avenue North	<b>Staff Contact:</b>	Donald Kress, current planning coordinator
<b>Legal Description</b>	Portions of 3 <sup>rd</sup> Avenue North and 3 <sup>rd</sup> Street North bounded by Blocks 2, 6, and 7, North Dakota R-1 Urban Renewal Addition		
<b>Owner(s)/Applicant:</b>	Northland Hospitality, LLC; City Centre Lofts Association; City of Fargo / City of Fargo	<b>Engineer:</b>	Houston Engineering for City of Fargo
<b>Reason for Request:</b>	Right of Way Vacation (a vacation plat of portions of 3 <sup>rd</sup> Avenue North and 3 <sup>rd</sup> Street North bounded by Blocks 2, 6, and 7, North Dakota R-1 Urban Renewal Addition)		
<b>Status:</b>	City Commission Public Hearing: October 30 <sup>th</sup> , 2023		

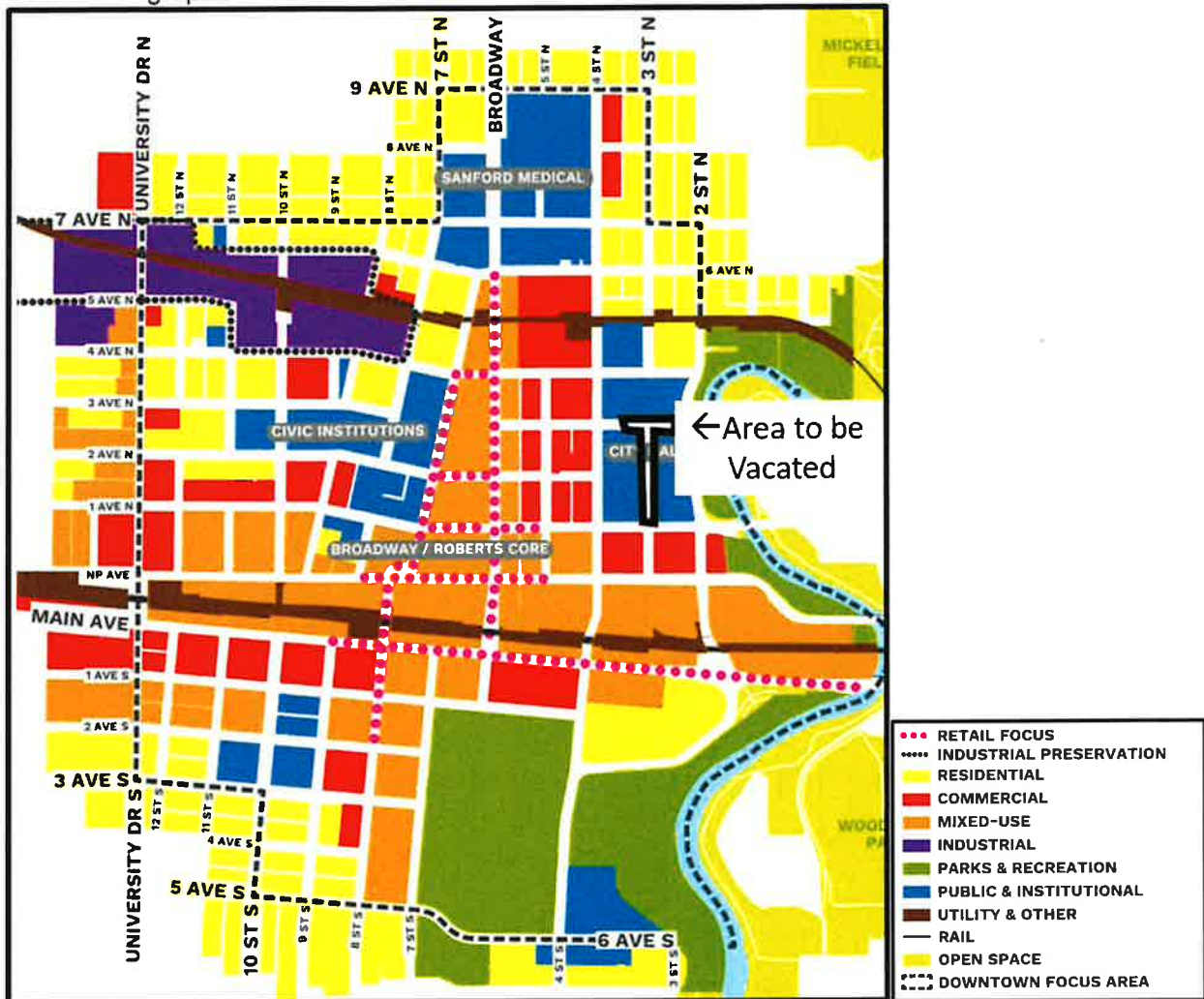
<b>Proposal:</b>
<p>The applicant is seeking approval of a vacation plat of a portions of 3<sup>rd</sup> Avenue North and 3<sup>rd</sup> Street North bounded by Blocks 2, 6, and 7, North Dakota R-1 Urban Renewal Addition. This right of way was originally dedicated by the Keeney &amp; Devitts Addition plat in 1877. It was shown in the North Dakota R-1 Urban Renewal Addition plat in 1960, which vacated a number of blocks of existing subdivisions in this area in preparation for urban renewal projects of that era. These portions of 3<sup>rd</sup> Street North and 3<sup>rd</sup> Avenue North are no longer used as roadways. The city hall and its related parking facilities occupy the area of these roadways now.</p> <p>The proposed street vacation encompasses approximately 1.54 acres of public right of way. The vacated area will be divided between the adjacent property owners as provided in North Dakota Century Code at the time of plat recordation. Agreements which have already been negotiated between the City and the two private adjacent owners—City Centre Lofts Association and Northland Hospitality, LLC—will enable the City to acquire all the property included in the vacation. Copies of the quit claim deeds from those owners to the City are attached for the Commission's reference. They will be recorded after the plat has been recorded. No Commission action is required on these deeds.</p> <p>By a separate document to be recorded after plat recordation, the City will grant an easement for building maintenance to City Centre Lofts Association. A copy of this easement is attached. Approval of this easement is included in the approval motion for this project.</p> <p>Access to the Fargo Public Library and City Hall by way of 3<sup>rd</sup> Street North from 1<sup>st</sup> Avenue North will remain unchanged. Though the right of way will have been vacated, the actual roadway as it exists today will remain. The property will be owned by the City.</p> <p>Staff has received and responded to one inquiry.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>(continued on next page)</p>

**Surrounding Land Uses and Zoning Districts:**

- North: DMU, Downtown Mixed Use with residential and parking lot uses
- East: DMU, public/institutional uses (city hall; parking lot; open space)
- South: DMU, across 1<sup>st</sup> Avenue North parking lot
- West: DMU, public/institutional uses (library; open space; Sky Commons / Civic Auditorium)

**Area Plans**

The area of right of way to be vacated is included in the Downtown In Focus Master Plan, as outlined in black in the graphic below.



**Context:**

**Schools:** The subject property is located within the Fargo School District including Horace Mann/Roosevelt Elementary, Ben Franklin Middle and North High School.

**Neighborhood:** The subject property is included in the Downtown neighborhood.

**Parks:** Oak Grove Park (170 Maple Street North) is located approximately 0.75 mile east of the subject property and provides disc golf, horseshoes, picnic table, playground, ages 5-12, recreational trails, restrooms, shelter, and tennis court amenities.

**Recreation Trails:** There are no recreational trails adjacent to the area to be vacated. Shared use paths are along 2nd Street and 4th Avenue.

**Transit:** MATBUS Routes 16 and 4 run along 1<sup>st</sup> Avenue North along the south side of the subject property, though only Route 16 has a stop, which is at the corner of 1<sup>st</sup> Avenue and 3<sup>rd</sup> Street North.

**Staff Analysis:**

**ROW Vacation Approval Criteria:** The City of Fargo does not currently have any adopted regulation dealing with the vacation of rights-of-way. However, city policy requires that any applicant wishing to vacate right-of-way must submit a Vacate Application—a one-page form wherein the petitioner provides: a description of the area to be vacated and signatures of all property owners adjoining the area to be vacated. In addition, the applicant must submit a vacation plat (a major subdivision). Notwithstanding the Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within Chapter 40-39 of the N.D.C.C.

***N.D.C.C. 40-39-04. Vacation of streets and alleys where sewers, water mains, pipes, and lines located – Conditions. No public grounds, streets, alleys, or parts thereof over, under, or through which have been constructed, lengthwise, any sewers, water mains, gas, or other pipes or telephone, electric, or cable television lines, of the municipality or the municipality's grantees of the right of way thereof, may be vacated unless the sewers, mains, pipes, or lines have been abandoned and are not in use, or unless the grantee consents, thereto, or unless perpetual easements for the maintenance of sewers, water mains, gas, or other pipes, or telephone, electric facilities, whether underground or aboveground, is subject to the continued right of location of such electric facilities in the vacated streets.***

City of Fargo water and sewer lines are in these rights of way and will remain, as the entire vacated area will be owned by the City. City staff has contacted utility providers and determined that any utilities that remain within the vacated area serve City of Fargo property and so no easement needs to be retained. **(Criteria Satisfied)**

***N.D.C.C. 40-39-05. Petition for vacation of streets, alleys, or public grounds – Contents – Verification. No public grounds, streets, alleys, or parts thereof within a municipality shall be vacated or discontinued by the governing body except on a petition signed by all of the owners of the property adjoining the plat to be vacated. Such petition shall set forth the facts and reasons for such vacation, shall be accompanied by a plat of such public grounds, streets, or alleys proposed to be vacated, and shall be verified by the oath of at least one petitioner.***

In accordance with the requirement of this section, a petition signed by all adjacent owners has been submitted for review and consideration, along with a plat of such public street. **(Criteria Satisfied)**

***N.D.C.C 40-39-06. Petition filed with city auditor – Notice published – Contents of notice. If the governing body finds that the petition for vacation is in proper form and contains the***



***requisite signatures, and if it deems it expedient to consider such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and considered by the governing body or a committee thereof on a certain specified day which shall not be less than thirty days after the first publication of the notice.***

The vacation plat has been advertised as required by this section prior to the hearing before the City Commission (the City's governing body). **(Criteria Satisfied)**

***N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.***

This action will be taken by the City Commission. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and approve the **North Dakota R-1 Urban Renewal Addition (portions of 3<sup>rd</sup> Street North / 3<sup>rd</sup> Avenue North)** right-of-way vacation plat and the maintenance easement as outlined in the staff report; as the proposal complies with the North Dakota Century Code Section 40-39: Opening and Vacating Streets, Alleys, and Public Places."

**Planning Commission Recommendation: September 7<sup>th</sup>, 2023**

At the September 7<sup>th</sup>, 2023 Planning Commission hearing, that Commission, by a vote of 8-0 with one Commissioner absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the **North Dakota R-1 Urban Renewal Addition (portions of 3<sup>rd</sup> Street North / 3<sup>rd</sup> Avenue North)** right-of-way vacation plat as outlined in the staff report; as the proposal complies with the North Dakota Century Code Section 40-39: Opening and Vacating Streets, Alleys, and Public Places." *(Note: The maintenance easement is not included in the Planning Commission motion as that Commission takes no action on that document.)*

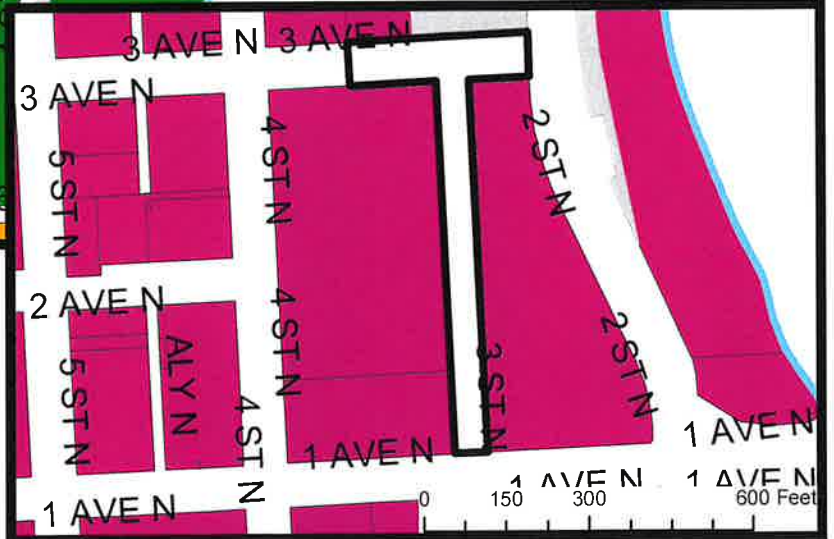
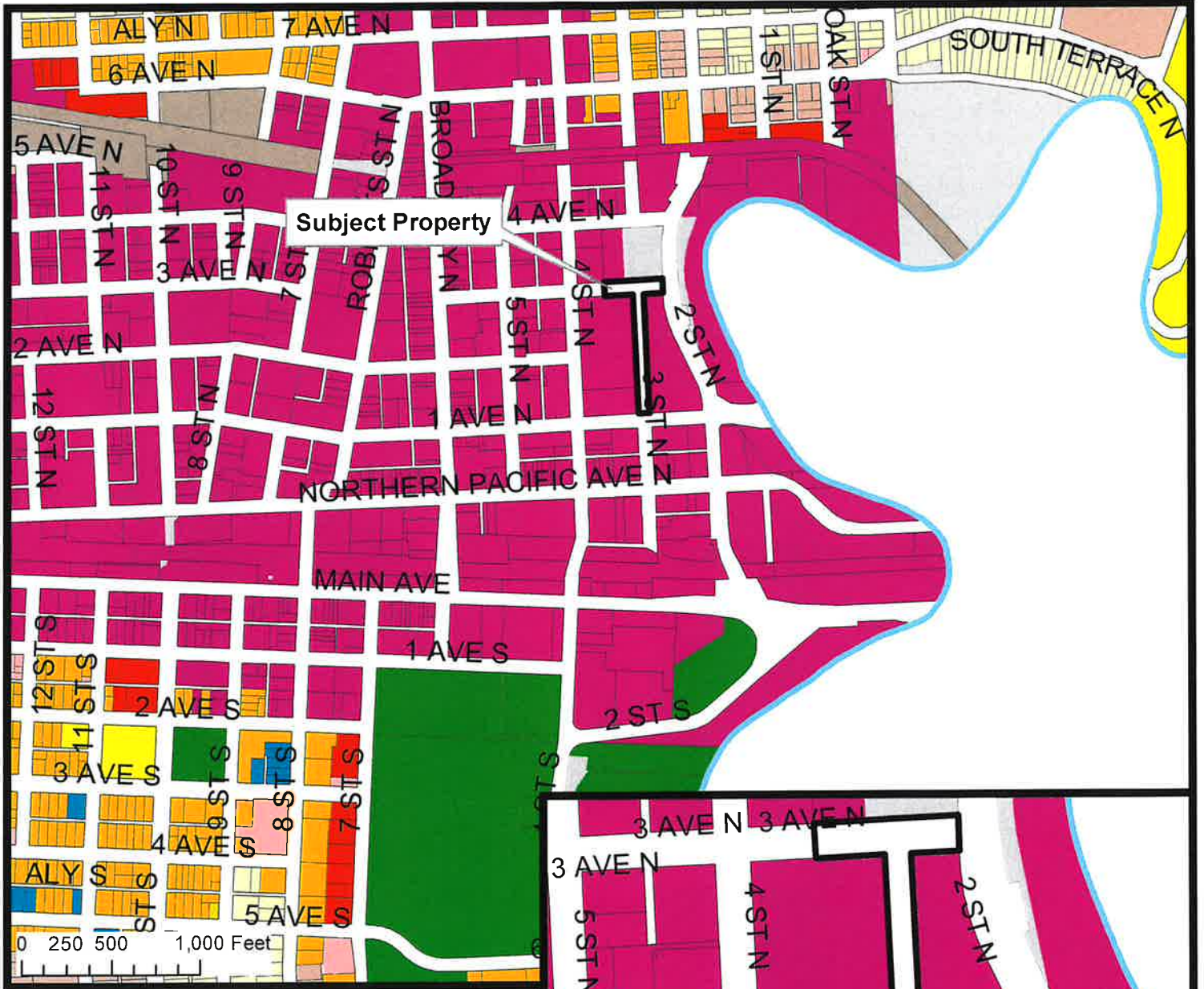
**Attachments:**

1. Zoning Map
2. Location Map
3. Vacation Plat
4. Quit claim deeds
5. Maintenance easement

### Vacation of Right-of-Way

101, 207, and 225 4th Street North;  
285 1st Avenue North;  
200 and 334 4th Avenue North

### North Dakota R-1 Urban Renewal Addition



**Legend**

AG	LC	MHP	SS-1
DMU	MR-1	PC	SS-2
GO	MR-2	UMU	SS-3
GO	MR-3		SS-4
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Fargo Planning Commission  
September 7, 2023

### Vacation of Right-of-Way

101, 207, and 225 4th Street North;  
285 1st Avenue North;  
200 and 334 4th Avenue North

### North Dakota R-1 Urban Renewal Addition



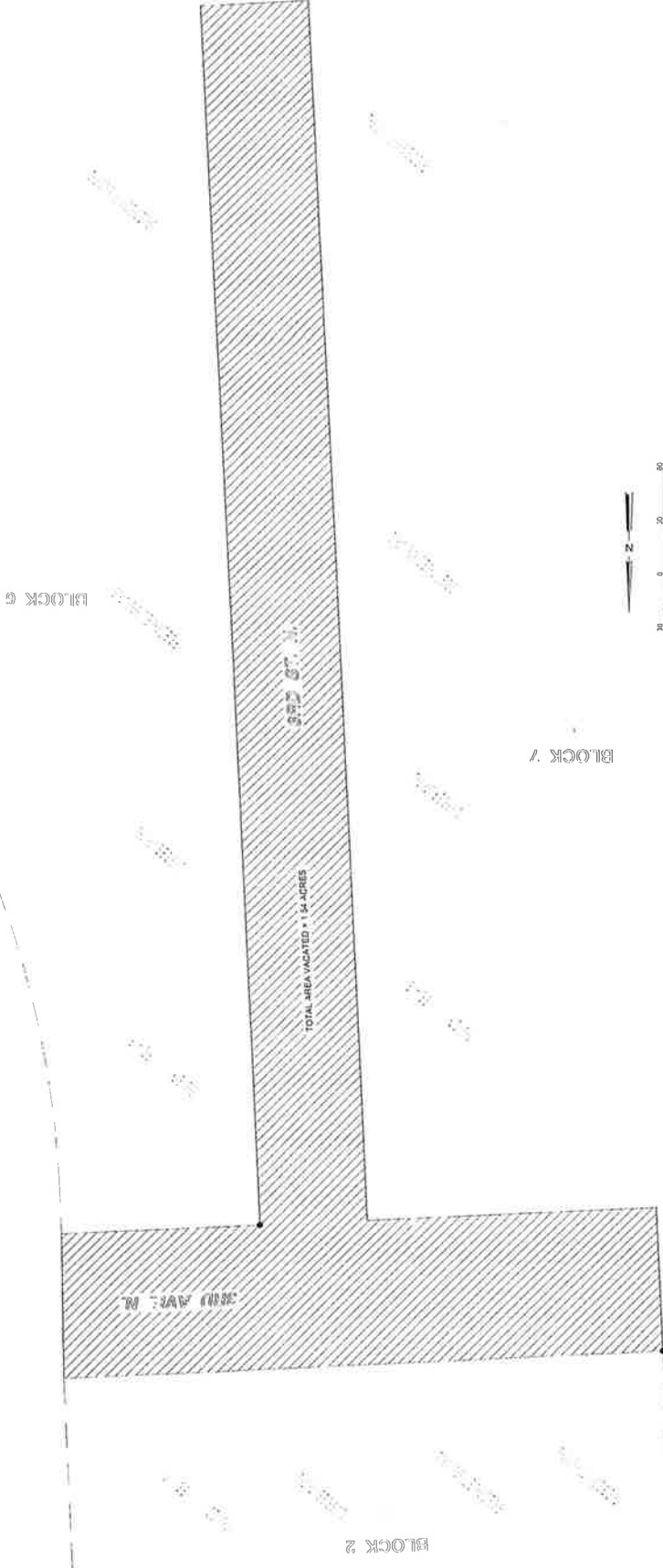
**Legend**  
City Limits



Fargo Planning Commission  
September 7, 2023

1ST AVENUE N

**VACATION PLAT**  
 OF PORTIONS OF 3RD STREET NORTH AND 3RD AVENUE NORTH  
 BETWEEN BLOCKS 2, 6 AND 7,  
 NORTH DAKOTA R-1 URBAN RENEWAL ADDITION  
 IN THE CITY OF FARGO,  
 CASS COUNTY, NORTH DAKOTA



HOUSTON  
ENGINEERS, INC.  
 Sheet 1 of 2  
 Project No. 6069-0185



**LEGEND**  
 IRON MONUMENT FOUND  
 UTI D POSE SET  
 AREA TO BE VACATED  
 WITH THIS DOCUMENT  
 BEARINGS SHOWN ARE BASED ON  
 FARGO GS HORIZONTAL DATUM

# VACATION PLAT

OF PORTIONS OF 3RD STREET NORTH AND 3RD AVENUE NORTH  
BETWEEN BLOCKS 2, 6 AND 7,  
NORTH DAKOTA R-1 URBAN RENEWAL ADDITION  
IN THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA

### FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

State of North Dakota )  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the Fargo Planning Commission.

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

### FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

State of North Dakota )  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

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

**DESCRIPTION- AREA TO BE VACATED:**  
That part of 3rd Street North, bounded on the south by the northern line of 1<sup>st</sup> Avenue North, and bounded on the north by the southern line of 3<sup>rd</sup> Avenue North, together with that part of 3<sup>rd</sup> Avenue North bounded on the east by the westerly line of 2<sup>nd</sup> Street North, and bounded on the west by the southerly extension of the westerly line of Lot 3, Block 2, N.D. R-1 Urban Renewal Addition, in the City of Fargo, Cass County, North Dakota.

**OWNERS/ CERTIFICATE:**  
The City of Fargo is North Dakota municipal corporation, City Centre Lots Association is North Dakota corporation, and Northland Hospitality, LLC is North Dakota limited liability company, certify that they are the owners of the property adjoining the area to be vacated and that this plat and description are correct.

### SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, James A. Schlemmer, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the area vacated.



Dated this 25<sup>th</sup> day of October, 2023.

James A. Schlemmer, Professional Land Surveyor No. 1184

State of North Dakota )  
County of Cass )

On this 25<sup>th</sup> day of October, 2023, before me personally appeared James A. Schlemmer, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that they executed the same as his free act and deed.



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

### CITY ENGINEERS' APPROVAL

Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

State of North Dakota )  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Tom Kraamuns, P.E., Fargo City Engineer, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

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

**OWNERS:**  
City of Fargo  
(Part of Block 6, North Dakota R-1 Urban Renewal Addition)  
(Lots 1, and 2, Block 7, North Dakota R-1 Urban Renewal Addition)

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

State of North Dakota )  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Timothy J. Mahoney, Mayor, City of Fargo, and Steven Sprague, City Auditor, City of Fargo, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

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

State of North Dakota )  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Steven B. DeWald, President of City Centre Lots Association, a North Dakota nonprofit corporation, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of said corporation.

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

State of North Dakota )  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Kevin J. Hall, President of Northland Hospitality, LLC, a North Dakota limited liability company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of said limited liability company.

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

State of North Dakota )  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

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



Sheet 2 of 2  
Project No. 8558-0785

**QUITCLAIM DEED**

**THIS INDENTURE** is made this 24 day of OCTOBER, 2023, between **Northland Hospitality, LLC**, a North Dakota limited liability company, 404 4th Avenue North Suite 201, Fargo, North Dakota, **Grantor**, and the **City of Fargo, Cass County, North Dakota**, a North Dakota municipal corporation, 225 4th Street North, Fargo, North Dakota, **Grantee**.

For and in consideration of sum of One Dollar (\$1.00) and other valuable consideration, Grantor does hereby QUITCLAIM to the Grantee, all of its interest in the following real property lying and being in the County of Cass, and State of North Dakota, and described as follows, to-wit:

A tract of land in NORTH DAKOTA R1 URBAN RENEWAL ADDITION to the City of Fargo, Cass County, North Dakota on file as document number 365634 at the Cass County Recorder's Office more particularly described as follows:

That part of the 3rd Avenue North right-of-way vacated by document number \_\_\_\_\_ on file at the Cass County Recorder's Office, originally dedicated by said NORTH DAKOTA R1 URBAN RENEWAL ADDITION, bounded on the east by the westerly line of 2nd Street North, bounded on the west by the southerly extension of the westerly line of Lot 3, Block 2 of said NORTH DAKOTA R1 URBAN RENEWAL ADDITION.


I certify that the requirement for a report or statement of full consideration paid does not apply because this deed is for one of the transactions exempted by subdivision (h) of subsection 6 of N.D.C.C. 11-18-02.2.

DATED: \_\_\_\_\_  
Grantee or Agent

TO HAVE AND TO HOLD, the above quitclaimed premises, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, its heirs and assigns, FOREVER.

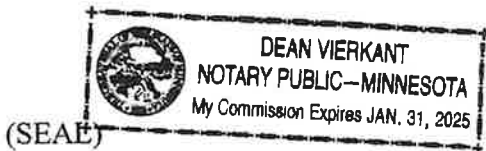
WITNESS, the hand of the Grantor:

**Northland Hospitality, LLC**  
a North Dakota limited liability company

  
\_\_\_\_\_  
Kevin J. Hall  
Member

STATE OF <sup>MINNESOTA</sup> ~~NORTH DAKOTA~~ )  
                  <sup>CLAY</sup> ) ss.  
COUNTY OF ~~CASS~~ )

On this 24 day of OCTOBER, 2023, before me, a notary public in and for said county and state, personally appeared **Kevin J. Hall**, to me known to be a Member of **Northland Hospitality, LLC**, a North Dakota limited liability company, described in and that executed the within and foregoing instrument, and acknowledged that said nonprofit corporation executed the same.



  
\_\_\_\_\_  
Notary Public  
~~Cass County, North Dakota~~  
<sup>CLAY</sup> <sup>MINNESOTA</sup>

The legal description was prepared by:  
City of Fargo, Engineering Department  
225 4th Street North,  
Fargo, ND 58102  
701-241-1545

This document was prepared by:  
Kasey D. McNary  
Assistant City Attorney  
Serkland Law Firm  
10 Roberts Street  
Fargo, ND 58102  
701-232-8957  
kmcnary@serklandlaw.com

**QUITCLAIM DEED**

**THIS INDENTURE** is made this 7<sup>TH</sup> day of August, 2023, between **City Centre Lofts Association**, a North Dakota nonprofit corporation, 200 4th Avenue North, Fargo, North Dakota, **Grantor**, and the **City of Fargo, Cass County, North Dakota**, a North Dakota municipal corporation, 225 4th Street North, Fargo, North Dakota, **Grantee**.

For and in consideration of sum of One Dollar (\$1.00) and other valuable consideration, Grantor does hereby QUITCLAIM to the Grantee, all of its interest in the following real property lying and being in the County of Cass, and State of North Dakota, and described as follows, to-wit:

A tract of land in NORTH DAKOTA R1 URBAN RENEWAL ADDITION to the City of Fargo, Cass County, North Dakota on file as document number 365634 at the Cass County Recorder's Office more particularly described as follows:

That part of the 3rd Avenue North right-of-way vacated by document number \_\_\_\_\_ on file at the Cass County Recorder's Office, originally dedicated by said NORTH DAKOTA R1 URBAN RENEWAL ADDITION, bounded on the east by the westerly line of 2nd Street North, bounded on the west by the southerly extension of the westerly line of Lot 3, Block 2 of said NORTH DAKOTA R1 URBAN RENEWAL ADDITION.





**EASEMENT**  
(Maintenance)

This EASEMENT is made this 7<sup>th</sup> day of August, 2023, by and between the **City of Fargo**, a North Dakota municipal corporation, 225 4th Street North, Fargo, ND 58102 (hereinafter "Grantor" or "City") and **City Centre Lofts Association**, a North Dakota nonprofit corporation, 200 4th Avenue North, Fargo, ND 58102 (hereinafter "Grantee" or "Association").

**RECITALS**

- A. WHEREAS, a Vacation Plat to vacate portions of the right-of-way of 3rd Street North and 3rd Avenue North between Blocks 2, 6, and 7, North Dakota R-1 Urban Renewal Addition in the City of Fargo, Cass County, North Dakota has recently been recorded or will be recorded.
- B. WHEREAS, upon vacation of the portion of the right-of-way of 3rd Avenue North bounded on the east by the westerly line of 2nd Street North and bounded on the west by the southerly extension of the westerly line of Lot 3, Block 2, North Dakota R-1 Urban Renewal Addition, City of Fargo, North Dakota (hereafter "Vacated ROW"), the Association agreed to convey the northerly half of the Vacated ROW to the City.
- C. WHEREAS, the City, in exchange for the Association's conveyance described above, agreed to grant unto the Association a 15 feet easement to allow the balconies constructed on the south side of the City Centre Lofts to remain in as-built locations and for the Association to perform repairs, maintenance, and replacement to the balconies, and also to allow for drainage from the south wall of the City Centre Lofts. The City has also agreed to allow the Association to install one dog waste system dispenser within the easement area.

In consideration of the mutual covenants contained in this Easement and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. **Grant of Easement.** Grantor hereby grants to Grantee, its successors and assigns, an easement in a portion of Grantor's property, the location of which easement is described in **Exhibit A** attached hereto and incorporated as if fully set forth herein (the "Easement Area"), the

easement to be a non-exclusive, perpetual maintenance easement for ingress and egress upon, over, in, above, across, and through, for purposes of the balconies constructed on the south side of the City Centre Lofts to remain in as-built locations and for the Association to perform repairs, maintenance, and replacement to the balconies, perform maintenance and repairs within the easement area necessary to maintain the condition of the condominium building, and for installation and maintenance of one dog waste system dispenser. The style and location of the dog waste system dispenser must be reviewed and approved by the City of Fargo Facilities Management Professional prior to installation within the Easement Area.

2. **Maintenance Obligations.** Grantee shall be responsible for maintaining and repairing its balconies, except for any maintenance or repairs resulting from or caused by Grantor's use of the Easement Area. Grantee shall assume full responsibility and pay for any damage to Grantor's property, including the shared use path located within the Easement Area, resulting from Grantee's repairs and maintenance performed within the Easement Area and after such repairs and maintenance shall restore the Easement Area to its original condition. Grantee shall also be solely responsible for the installation, upkeep, and maintenance of the dog waste system dispenser, including bearing all costs and expenses associated with installation, upkeep, and maintenance. Grantor shall have no responsibility for the dog waste system dispenser, financial or otherwise. Grantor will maintain its lawn north of City Hall, including mowing, edging, trimming, fertilizing and weed control as deemed necessary by Grantor.

3. **Easement Runs With the Property.** This Easement, and all covenants, terms, conditions, provisions, and undertakings created under this Easement, are perpetual and will be binding upon the heirs, successors, and assigns of Grantor and Grantee.

4. **Grantor's Use of the Easement Property.** Grantor maintains the right and privilege to use the Easement Area at any time, in any manner, and for any purpose. Grantor will not use, or permit use of, the Easement Area in any manner that disrupts or interferes with the purpose of the Easement or with Grantee's rights and privileges under this Easement.

5. **Indemnity.** Grantee will release, defend, indemnify, protect, and hold harmless Grantor and its agents, representatives, employees, consultants, and contractors from and against any and all claims, actions, administrative proceedings, judgments, damages, penalties, fines, costs, liabilities, interests, or losses, including costs, expenses, and attorneys' fees, together with all other costs and expenses of any kind or nature suffered by or asserted against Grantor as a result of or arising out of Grantee's actions related to the Easement Area; and including any costs, expenses, and attorneys' fees incurred in establishing the indemnification provided in this Easement.

6. **Term.** This Easement is permanent unless terminated by written agreement of the parties or their successors.

7. **Encumbrances.** Grantee is not Grantor's agent, and Grantee will not encumber the Easement Area or make any purchases or incur any obligations regarding the Easement Area on Grantor's behalf.

8. **Forbearance or Waiver.** The failure or delay of the parties to insist on the timely performance of any of the terms of this Easement, or the waiver of any particular breach of any of the terms of this Easement, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no forbearance or waiver had occurred.

9. **Governing Law.** This Easement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Easement will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

10. **Severability.** If any court of competent jurisdiction finds any provision or part of this Easement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Easement, and all remaining terms and provisions of this Easement will remain binding and enforceable; the parties will reconvene negotiations to arrive, in good faith, at an agreement as to matters remaining undetermined as a result of any finding by a court of competent jurisdiction that any provision or part of this Easement is invalid, illegal, or unenforceable.

11. **Modifications.** Any modifications or amendments to this Easement must be in writing and signed by Grantor and Grantee and must be recorded.

12. **Binding Effect.** This Easement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

(Signatures appear on the following pages.)





# EXHIBIT A

Easement Description:

A 15.00' wide strip of land in the vacated 3rd Avenue North right-of-way originally dedicated by NORTH DAKOTA R1 URBAN RENEWAL ADDITION to the City of Fargo, Cass County, North Dakota lying southerly of and coincident with the following described line:

Commencing at the northwest corner of Lot 3, Block 2 of said NORTH DAKOTA R1 URBAN RENEWAL ADDITION; thence North 87°04'06" East, assumed bearing, on the northerly line of said Lot 3, for a distance of 118.85 feet; thence South 02°57'06" East, on the westerly line of a parcel of land described by warranty deed document number 1546510 on file at the Cass County Recorder's Office, a distance of 300.05 feet to a point of intersection with the southerly line of said Lot 3, the point of beginning of the line to be described herein; thence North 87°04'06" East, on the southerly line of said Lot 3, for a distance of 212.05 feet to the westerly line of 2nd Street North and there terminating.

Sidelines of said strip shall be lengthened or shortened so as to terminate on the westerly line of said 2nd Street North on the east and so as to terminate on a line perpendicular to the southerly line of said Lot 3 passing through the point of beginning on the west.

Said strip contains 3,177 square feet, more or less.



ENGINEERING DEPT.

## PERMANENT EASEMENT

VACATED 3RD AVENUE NORTH  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

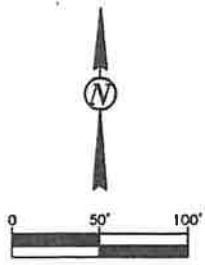
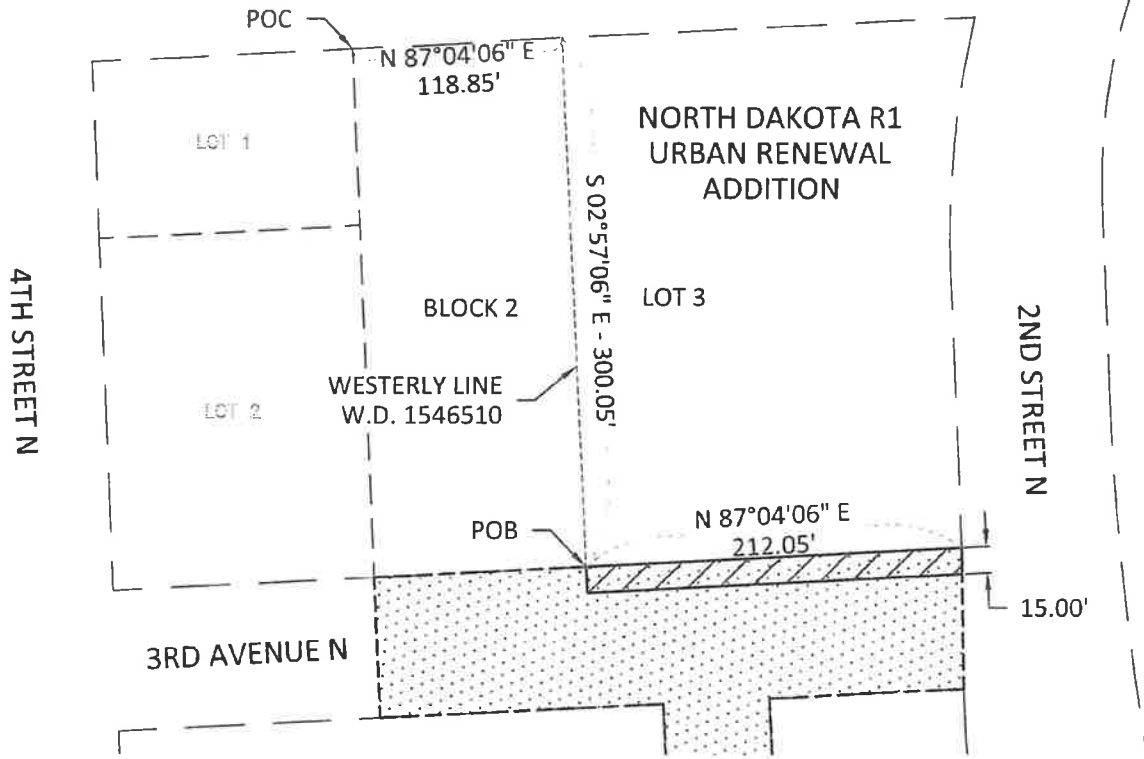
DRAWN BY: BWW

APPROVED BY: BWW

DATE: FEBRUARY 9, 2023







SHEET 1 OF 2

# EXHIBIT A



NORTH LINE OF LOT 3, BLOCK 2,  
NORTH DAKOTA R1 URBAN RENEWAL  
ADDITION IS ASSUMED TO BEAR  
NORTH 87°04'06" EAST

### LEGEND

-  NEW EASEMENT AREA
-  VACATED R/W
-  NEW EASEMENT - VACATED R/W OVERLAP
-  LOT BOUNDARY
-  R/W BOUNDARY
-  PARCEL BOUNDARY



## PERMANENT EASEMENT

VACATED 3RD AVENUE NORTH  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

ENGINEERING DEPT.	DRAWN BY: BWW	APPROVED BY: BWW	DATE: FEBRUARY 9, 2023	SHEET 2 OF 2
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## INSPECTIONS

**INSPECTIONS DEPARTMENT**  
Fargo City Hall 225 Fourth  
Street North Fargo, ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

47

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### Memorandum

DATE: October 30, 2023  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Shawn Ouradnik, Inspections Director  
SUBJECT: Dangerous Building Public Hearing at 1710 1 AVE S, FARGO ND 58103

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The property owner of 1710 1 AVE S, FARGO ND, has failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, a hearing date is scheduled for October 30, 2023.

Commission action requires a 10 day allowance for action per Article 21-0405.E.  
Article 21-0406 also allows court action if that is the course the commission chooses to take.  
Article 21-0412 is allowance for Owner appeal to City Commission action.

The recommendation is to **designate this a dangerous building, direct the City Attorney to prepare findings of fact in this matter, and order its removal on December 29, 2023. Please direct the appropriate staff to secure the removal of this building should the Owner fail to do so.**

**Property Information:** Building is currently uninhabitable due to condition.

**Location:** 1710 1 AVE S FARGO ND 58103

**Owner:** JAMIE S SWENSON

**Description:** 1636 square foot two story wood framed structure with detached garage. Structure was built in 1898. Being used as a three unit apartment.

**Description of Damage:**

- Horizontal cracking of foundation on East side and foundation caving into basement.
- Foundation failure.
- Lower level significant water damage.
- Water damage in wall cavities.
- Main level damaged from animal and garbage accumulation.
- Upper level water damage to ceiling of bathroom.
- Roof damage.
- Unstable wall in upper level south side pushing into structure and causing movement of floor and bathtub.
- Water damaged floor in upper level bathroom.
- Gaps around upper level door allowing outside elements to enter structure.
- Electrical systems compromised.
- Exterior siding damaged allowing outside elements to enter structure.
- Excessive junk and garbage accumulation on property.
- Siding missing/damaged on detached garage allowing outside elements to enter structure.
- Detached garage has missing weather barrier and detreated fascia boards.

**TimeLine of Events:**

- 05/09/2023 Condition of structures recorded with County.
- 06/01/2023 Notice of Dangerous Building posted and mailed.
- 09/08/2023 Structure cleared and secured by city of Fargo.
- 9/14/2023 Structure cleared and secured for second time due to squatter activity.
- 10/16/2023 Request for public hearing grated at Commission.
- 10/18/2023 Notice of Dangerous Building Hearing – Order to Show Cause mailed and posted on structure.

10/30/2023 Dangerous Building hearing at Commission

**Additional Information:**

The extended time line was due to a tenant in the building refusing to leave after the dangerous building was posted. Owner did get the tenant out and indicated that he would like to work on or demo structures himself. Owner had dumpster placed on property but did not clean up exterior junk and has not done any work with structures. Contact with owner started positively but had been limited the farther along in the process we have gotten.

Property has failed all rental inspections since it last passed in 2017. All inspection attempts have been ignored with no response to letters send from inspections department. Structure has 2 legal units and 1 bootlegged unit in the basement that the owner started working on and was cited for poor workmanship and non-code compliant during an inspection in 2009. We have been receiving building maintenance complaints since 2008 for an ongoing issue with garbage and junk accumulation on the property as well as building maintenance issues for broken windows and overall deterioration of the building. Property had major flooding issue when a squatter turned on the hot water in the basement and it ran for many days causing the severity of the water damage to the basement. The water was shut off temporarily by the COF but service was reestablished but there is currently a leak in the basement toilet that could pose additional threat to the structure.

Our department received a complaint from CSO officers for condition of interior after tenant on upper level called in for deceased cats. CSO officers removed 1 deceased and 9 live cats. The cats had burrowed tunnels through the garbage and it took multiple days of live trapping to remove them.



## INSPECTIONS

### INSPECTIONS DEPARTMENT

Fargo City  
Hall 225 Fourth  
Street North Fargo,  
ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

### NOTICE OF DANGEROUS BUILDING

TO: Jamie Swenson  
8922 N Shore Dr  
Spicer, MN 56288

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.
2. That the building with which this Notice is concerned is commonly known as 1710 1 Ave S, and is located on that tract of land in the city of Fargo, more particularly described as follows:  
  
Arnesons E30' Lot 3 & W30' Lot 4 Blk 4  
  
(hereinafter referred to as "the building")
3. That an inspection was made of the building on March 29, 2023 by Lynne Olson, Building Inspector of the City of Fargo.
4. That the building inspector for the City of Fargo has found the building, consisting of a 2 story wood frame structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 111 concerning Dangerous Structures.
5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.
6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.
7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and Section 116 of the International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Property Maintenance Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 111.8 of the International Property Maintenance Code, 2021 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 1<sup>st</sup> day of June, 2023.

11. Order to secure building. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance, by no later than July 7, 2023. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Application for Appeal. Section 108 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means

Dated this 1<sup>st</sup> of June, 2023.

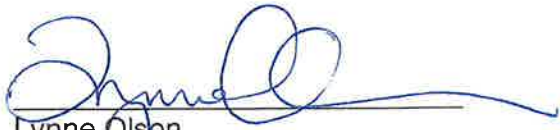
### Conditions Found Statement

On 3/29/2023, inspector, Lynne Olson, was present at 1710 1 Ave S, Fargo, ND to address a Rental inspection. The following violations were found:

- Horizontal cracking of foundation on entire E side and foundation caving into basement indicating foundation failure. Repair, bracing, and/or replacement required. Damage to foundation compromising structural integrity of house structure.
- Lower level has significant water damage. Removal and/or treatment of interior finishes, insulation, and damaged structural members required. Basement work requires a permit issued by the City of Fargo and all necessary inspections must be completed and passed for work to be considered complete and compliant to City and International Building Code.
- Water damage in wall cavities will require removal and replacement of electrical wiring and fixtures. All electrical work must be done by licensed contractor and with a permit issued by the City of Fargo. All necessary inspections must be completed and passed for work to be considered complete and compliant to City and International Building Code.
- Main level was unit damage from animal and garbage hoarding. Remove garbage and animal debris and dispose of in proper location. All surfaces must be cleanable and sanitary. Removal and replacement of surfaces not able to be cleaned required.
- Upper level unit has interior signs of water damage on ceiling and in bathroom. Roof damage leaking in to ceiling of upper unit. Repair roof
- Upper unit South wall in bathroom wall pushing into structure and caused movement of floor and bath tub. Repair wall and make tub structurally sound and installed as design intended.
- Upper unit bath floor soft between tub and toilet. Water leak in wall causing deterioration of subfloor and stability. Repair water leak and damage caused by leak.
- Upper unit exterior door missing trim, can see to exterior from interior of unit. Repair door, make weather tight.
- Siding damage on exterior of structure and interior signs of water damage on interior of those areas. Repair siding and interior water damage. Structure should be weather tight and free of leaks or defects.
- Excessive junk and garbage accumulation on property. Remove garbage and junk and dispose of in proper location.
- Detached garage has pieces of missing/loose siding and is not weather tight. Repair or replace missing/damaged pieces of siding and make structure weather tight.
- Detached garage has missing weather barrier and deteriorated fascia boards. Repair or replace damaged fascia.

The following action must be taken:

- Provide full engineering on all systems and structure to obtain a permit. The structure must be repaired according to the permit and within a timely manner.
- Or, the structure must be demolished within 30 days of this notice as noted on page one of this document.



Lynne Olson  
Rental Inspector II  
City of Fargo, ND



Shawn Ouradnik  
Building Official  
City of Fargo, ND

6/1/23  
6/1/2023



## INSPECTIONS

### INSPECTIONS DEPARTMENT

Fargo City  
Hall 225 Fourth  
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Dated this 1<sup>st</sup> of June, 2023.

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- Main level was unit damage from animal and garbage hoarding. Remove garbage and animal debris and dispose of in proper location. All surfaces must be cleanable and sanitary. Removal and replacement of surfaces not able to be cleaned required.
- Upper level unit has interior signs of water damage on ceiling and in bathroom. Roof damage leaking in to ceiling of upper unit. Repair roof
- Upper unit South wall in bathroom wall pushing into structure and caused movement of floor and bath tub. Repair wall and make tub structurally sound and installed as design intended.
- Upper unit bath floor soft between tub and toilet. Water leak in wall causing deterioration of subfloor and stability. Repair water leak and damage caused by leak.
- Upper unit exterior door missing trim, can see to exterior from interior of unit. Repair door, make weather tight.
- Siding damage on exterior of structure and interior signs of water damage on interior of those areas. Repair siding and interior water damage. Structure should be weather tight and free of leaks or defects.
- Excessive junk and garbage accumulation on property. Remove garbage and junk and dispose of in proper location.
- Detached garage has pieces of missing/loose siding and is not weather tight. Repair or replace missing/damaged pieces of siding and make structure weather tight.
- Detached garage has missing weather barrier and deteriorated fascia boards. Repair or replace damaged fascia.

The following action must be taken:

- Provide full engineering on all systems and structure to obtain a permit. The structure must be repaired according to the permit and within a timely manner.
- Or, the structure must be demolished within 30 days of this notice as noted on page one of this document.

  
\_\_\_\_\_  
Lynne Olson  
Rental Inspector II  
City of Fargo, ND

  
\_\_\_\_\_  
Shawn Ouradnik  
Building Official  
City of Fargo, ND

6/1/2023  
\_\_\_\_\_  
6/1/2023

City of Fargo  
225 4th St N  
Fargo ND 58102

---

USPS CERTIFIED MAIL



9214 8901 9403 8317 5328 69

---

JAMIE SWENSON  
8922 N SHORE DR  
SPICER MN 56288-9514



## Shipment Confirmation Acceptance Notice

### A. Mailer Action

**Note to Mailer:** The labels and volume associated to this form online, **must** match the labeled packages being presented to the USPS® employee with this form.

Shipment Date: 06/01/2023  
 Shipped From:  
 Name: CITY OF FARGO  
 Address: 225 4TH ST N  
 City: FARGO  
 State: ND ZIP+4® 58102

Type of Mail	Volume
Priority Mail Express®*	
Priority Mail®	0
First-Class Package Service®	
Returns	
International*	
Other	1
Total	1

\*Start time for products with service guarantees will begin when mail arrives at the local Post Office™ and items receive individual processing and acceptance scans.

### B. USPS Action

Note to RSS Clerk:

1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

USPS EMPLOYEE: Please scan upon pickup or receipt of mail.  
 Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0044 8026 90













## INSPECTIONS

### INSPECTIONS DEPARTMENT

Fargo City  
Hall 225 Fourth  
Street North Fargo,  
ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

### NOTICE OF DANGEROUS BUILDING

TO: Jamie Swenson  
9631 N Shore Dr  
Spicer, MN 56288

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.
2. That the building with which this Notice is concerned is commonly known as 1710 1 Ave S, and is located on that tract of land in the city of Fargo, more particularly described as follows:  
  
Arnesons E30' Lot 3 & W30' Lot 4 Blk 4  
  
(hereinafter referred to as "the building")
3. That an inspection was made of the building on March 29, 2023 by Lynne Olson, Building Inspector of the City of Fargo.
4. That the building inspector for the City of Fargo has found the building, consisting of a 2 story wood frame structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 111 concerning Dangerous Structures.
5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.
6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.
7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and Section 116 of the International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Property Maintenance Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 111.8 of the International Property Maintenance Code, 2021 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 1<sup>st</sup> day of June, 2023.

11. Order to secure building. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance, by no later than August 23, 2023. An inspector will continue to verify compliance. Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Application for Appeal. Section 108 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means

Dated this 16<sup>th</sup> of August, 2023.

### Conditions Found Statement

On 3/29/2023, inspector, Lynne Olson, was present at 1710 1 Ave S, Fargo, ND to address a Rental inspection. The following violations were found:

- Horizontal cracking of foundation on entire E side and foundation caving into basement indicating foundation failure. Repair, bracing, and/or replacement required. Damage to foundation compromising structural integrity of house structure.
- Lower level has significant water damage. Removal and/or treatment of interior finishes, insulation, and damaged structural members required. Basement work requires a permit issued by the City of Fargo and all necessary inspections must be completed and passed for work to be considered complete and compliant to City and International Building Code.
- Water damage in wall cavities will require removal and replacement of electrical wiring and fixtures. All electrical work must be done by licensed contractor and with a permit issued by the City of Fargo. All necessary inspections must be completed and passed for work to be considered complete and compliant to City and International Building Code.
- Main level was unit damage from animal and garbage hoarding. Remove garbage and animal debris and dispose of in proper location. All surfaces must be cleanable and sanitary. Removal and replacement of surfaces not able to be cleaned required.
- Upper level unit has interior signs of water damage on ceiling and in bathroom. Roof damage leaking in to ceiling of upper unit. Repair roof
- Upper unit South wall in bathroom wall pushing into structure and caused movement of floor and bath tub. Repair wall and make tub structurally sound and installed as design intended.
- Upper unit bath floor soft between tub and toilet. Water leak in wall causing deterioration of subfloor and stability. Repair water leak and damage caused by leak.
- Upper unit exterior door missing trim, can see to exterior from interior of unit. Repair door, make weather tight.
- Siding damage on exterior of structure and interior signs of water damage on interior of those areas. Repair siding and interior water damage. Structure should be weather tight and free of leaks or defects.
- Excessive junk and garbage accumulation on property. Remove garbage and junk and dispose of in proper location.
- Detached garage has pieces of missing/loose siding and is not weather tight. Repair or replace missing/damaged pieces of siding and make structure weather tight.
- Detached garage has missing weather barrier and deteriorated fascia boards. Repair or replace damaged fascia.

The following action must be taken:

- Owner must secure structure no later than 8/23/2023. The City of Fargo has contracted to have the building cleared and secured at the expense of the owner if not completed by date stated in this document.
- Provide full engineering on all systems and structure to obtain a permit. The structure must be repaired according to the permit and within a timely manner.
- Or, the structure must be demolished within 30 days of this notice as noted on page one of this document.



Lynne Olson  
Rental Inspector II  
City of Fargo, ND



Christine Rose  
Assistant Director  
City of Fargo, ND

---

8/16/2023

City of Fargo  
225 4th St N  
Fargo ND 58102

---

USPS CERTIFIED MAIL



9214 8901 9403 8318 6795 01

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JAMIE SWENSON  
9631 N SHORE DR  
SPICER MN 56288-9564



## INSPECTIONS

### INSPECTIONS DEPARTMENT

Fargo City  
Hall 225 Fourth  
Street North Fargo,  
ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

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Arnesons E30' Lot 3 & W30' Lot 4 Blk 4  
  
(hereinafter referred to as "the building")
3. That an inspection was made of the building on March 29, 2023 by Lynne Olson, Building Inspector of the City of Fargo.
4. That the building inspector for the City of Fargo has found the building, consisting of a 2 story wood frame structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 111 concerning Dangerous Structures.
5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.
6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.
7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

Conditions Found Statement

On 3/29/2023, inspector, Lynne Olson, was present at 1710 1 Ave S, Fargo, ND to address a Rental inspection. The following violations were found:

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- Water damage in wall cavities will require removal and replacement of electrical wiring and fixtures. All electrical work must be done by licensed contractor and with a permit issued by the City of Fargo. All necessary inspections must be completed and passed for work to be considered complete and compliant to City and International Building Code.
- Main level was unit damage from animal and garbage hoarding. Remove garbage and animal debris and dispose of in proper location. All surfaces must be cleanable and sanitary. Removal and replacement of surfaces not able to be cleaned required.
- Upper level unit has interior signs of water damage on ceiling and in bathroom. Roof damage leaking in to ceiling of upper unit. Repair roof
- Upper unit South wall in bathroom wall pushing into structure and caused movement of floor and bath tub. Repair wall and make tub structurally sound and installed as design intended.
- Upper unit bath floor soft between tub and toilet. Water leak in wall causing deterioration of subfloor and stability. Repair water leak and damage caused by leak.
- Upper unit exterior door missing trim, can see to exterior from interior of unit. Repair door, make weather tight.
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- Detached garage has missing weather barrier and deteriorated fascia boards. Repair or replace damaged fascia.



The following action must be taken:

- Provide full engineering on all systems and structure to obtain a permit. The structure must be repaired according to the permit and within a timely manner.
- Or, the structure must be demolished within 30 days of this notice as noted on page one of this document.

  
\_\_\_\_\_  
Lynne Olson  
Rental Inspector II  
City of Fargo, ND

  
\_\_\_\_\_  
Shawn Ouradnik  
Building Official  
City of Fargo, ND

6/1/2023  
6/1/2023







## Shipment Confirmation Acceptance Notice

### A. Mailer Action

**Note to Mailer:** The labels and volume associated to this form online, **must** match the labeled packages being presented to the USPS® employee with this form.

Shipment Date: 06/12/2023  
 Shipped From:  
 Name: CITY OF FARGO  
 Address: 225 4TH ST N  
 City: FARGO  
 State: ND ZIP+4® 58102

Type of Mail	Volume
Priority Mail Express®*	
Priority Mail®	0
First-Class Package Service®	
Returns	
International*	
Other	1
Total	1

\*Start time for products with service guarantees will begin when mail arrives at the local Post Office™ and items receive individual processing and acceptance scans.

### B. USPS Action

Note to RSS Clerk:

1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

USPS EMPLOYEE: Please scan upon pickup or receipt of mail.  
 Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0045 0159 07





# Confirmation Services Certification

## COMPANY INFORMATION

Company Name

City of Fargo

Mailer Identification (MID)\* \*MID is a unique 6- or 9-digit number that identifies the mailer or the mailer's client. A conforming MID is a six-digit MID beginning with 0-8 or a nine-digit MID beginning with 9.

Address (Number, street, suite no., city, state, and ZIP Code™)

225 4th St N  
Fargo ND 58102

## ELECTRONIC FILE

The electronic file submitted by the company shown above has been certified by the National Customer Support Center (NCSC) to be complete and accurate in both content and transmission and to meet the requirements as defined in Publication 199, *Intelligent Mail Package Barcode (IMpb) Implementation Guide for: Confirmation Services and Electronic Verification System (eVS) Mailers*.

Authorized NCSC Signature

Date Signed

## BARCODED LABELS

The barcoded labels printed and submitted by the company shown above have been certified by the NCSC to meet the standards and specifications as prescribed in Publication 199 and the appropriate ANSI or AIM published standards.

Authorized NCSC Signature

Date Signed

## INSTRUCTIONS FOR MAILER

Keep the original of this form in a safe place and provide a copy to your local USPS® facility if requested. Shipments included in Service Performance Measurement should submit a PS Form 3152 with each mailing. In the space below, place a GS1-128 barcode representing the Electronic File Number from the Header Record. If you cannot print the barcode, fill in the sequence numbers and check digit (the digits that follow the MID) from your Electronic File Number. This information is in the Header Record of the electronic file.

IMpb barcodes are required for all tracking numbers effective 1/27/2013. Valid Application Identifiers (AI): IMpb barcode AI "92" uses a 9-digit Mailer ID for commercial permit payment mailers. IMpb barcode "93" uses a 6-digit Mailer ID for commercial permit payment mailer. IMpb barcode "94" is used for online and meter mailers. Legacy barcode AI "91" will continue to be accepted for a limited time with an approved exception or waiver.

Place the barcode here or write the serial number and check digit of the electronic file in the spaces provided.



92750901193562000045015907

Confirmation Services Electronic File Number

\*\*92/93

750

901193562

00004501590

7

AI

STC

Mailer ID

Serial Number

Check Digit

94

AI

STC

Source Identifier

Mailer ID

Serial Number

Check Digit

\*\*91 can be used if approved for exception.

## INSTRUCTIONS FOR ACCEPTANCE EMPLOYEE

If mailings are presented under an authorized manifest mailing system, verify payment of postage and fees, where applicable, using standard sampling procedures for pieces with special services. In addition, check the barcode formatting for the following:

- Horizontal bars above and below the barcode.
- Human-readable numbers below the barcode.
- Depending on the product used, the words "USPS TRACKING #", "USPS SIGNATURE TRACKING #", "USPS CERTIFIED MAIL", or product specific found in Publication 199 based on the service type code.
- For Electronic Verification System, (eVS) or "e-VS" should be included either before or after the service banner text. For example: "eVS USPS TRACKING"; "USPS TRACKING eVS"; "e-VS USPS TRACKING", and "USPS TRACKING e-VS."

Date and Time of Verification

Date and Time of Mailing (if different from date of verification)

For information regarding our Privacy Policy, visit [usps.com](http://usps.com).

Handwritten initials: "D" and "K"

City of Fargo  
225 4th St N  
Fargo ND 58102

CERTIFIED MAIL

USPS CERTIFIED MAIL



9214 8901 9403 8317 5328 69

Handwritten notes: "RTS..." and "UTF"

JAMIE SWENSON  
8922 N SHORE DR  
SPICER MN 56288-9

56288-9403-9214 R002

NOV 11 10 58 AM '03  
RETURN TO SENDER  
UNDELIVERABLE AS ADDRESSEE  
NO POSTAGE TO BE PAID  
009570673  
001-47  
58102401723  
0235-05587

City of Fargo  
225 4th St N  
Fargo ND 58102

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USPS CERTIFIED MAIL



9214 8901 9403 8317 5328 69

---

JAMIE SWENSON  
8922 N SHORE DR  
SPICER MN 56288-9514





Inspections Department  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
(701) 241-1561

## **NOTICE OF INCOMPLETE INSPECTION**

Monday, October 23, 2023

D James & Cynthia A O'day  
2991 Peterson Pkwy N  
FARGO, ND 58102

Robert Gibb & Sons, Inc.  
2011 Great Northern Dr N  
Fargo, ND 58102

**ADDRESS OF PROPERTY IN VIOLATION: 2991 Peterson Pkwy N, 2206-0491-MEC**

---

This notice is a reminder that Fargo City Ordinance Article #21-01 adopted the 2021 International Residential Code as the city code. Section R105 of this code states that all inspections must be complete and a final building inspection shall be made after the permitted work is completed.

Our records show that the work at the above address is **missing the following inspections** to be complete:

**Rough Mechanical**  
**Final Mechanical**  
**Gas Piping**

We anticipate that you will contact us prior to **November 6<sup>th</sup>, 2023** on this matter. You may schedule appointments by contacting the Inspections Department at **701-241-1561** or through the online permit portal at [Permits.fargoND.gov](https://Permits.fargoND.gov).

If the work is not complete, please notify me that you are continuing the project so your permit is not filed as incomplete, which may affect insurance coverage or future deed transfers. We appreciate your prompt attention to this matter.

Sincerely,

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

Hanna Andersen  
Office Associate



Inspections Department  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
(701) 241-1561

## **NOTICE OF INCOMPLETE INSPECTION**

Monday, October 23, 2023

Frances D Stevens  
2555 W Country Club Dr S  
Fargo, ND 58103-5734

Robert Gibb & Sons, Inc.  
2011 Great Northern Dr N  
Fargo, ND 58102

**ADDRESS OF PROPERTY IN VIOLATION: 2555 West Country Club Dr S, 2205-0362-MEC**

---

This notice is a reminder that Fargo City Ordinance Article #21-01 adopted the 2021 International Residential Code as the city code. Section R105 of this code states that all inspections must be complete and a final building inspection shall be made after the permitted work is completed.

Our records show that the work at the above address is **missing the following inspections** to be complete:

### **Final Mechanical**

We anticipate that you will contact us prior to **November 6<sup>th</sup>**, on this matter. You may schedule appointments by contacting the Inspections Department at **701-241-1561** or through the online permit portal at **[Permits.fargoND.gov](https://permits.fargoND.gov)**.

If the work is not complete, please notify me that you are continuing the project so your permit is not filed as incomplete, which may affect insurance coverage or future deed transfers. We appreciate your prompt attention to this matter.

Sincerely,

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

Hanna Andersen  
Office Associate

City of Fargo  
225 4th St N  
Fargo ND 58102

---

USPS CERTIFIED MAIL



9214 8901 9403 8326 7685 56

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JAMIE SWENSON  
9631 N SHORE DR  
SPICER MN 56288-9564



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## Notice of Dangerous Building Hearing – Order to Show Cause

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Date: October 18, 2023

Location: 1710 1 AVE S FARGO ND 58103  
Property Owner: JAMIE S SWENSON  
Address of Property Owner: 9631 N SHORE DR SPICER MN 56288-9564

Inspector: Lynne Olson  
Date of Posting: 10/18/2023

Ordinance 21-0405 of the Fargo Municipal Code states:

The board of city commissioners shall:

A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F) give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building: should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).

B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the “dangerous building.”

A hearing regarding the dangerous building located at 1710 1 AVE S FARGO ND 58103 has been scheduled for, Monday October 30, 2023 at 5:15 PM. The hearing will take place in the City Commission Chambers, located at 225 4th Street N., Fargo, ND 58102.

Any interested person or party is encouraged to attend.

Dated on this October 18, 2023.

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Shawn Ouradnik  
Inspections Director



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## Memorandum

DATE: October 16, 2023  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Shawn Ouradnik, Inspections Director  
SUBJECT: Dangerous Building Public Hearing Request at 1710 1 AVE S FARGO ND 58103

---

The property owner of 1710 1 AVE S FARGO ND 58103 JAMIE S SWENSON, have failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-04, it will now be necessary for you to set a date for a hearing of this order at which time the property owner will be able to appear and show cause why the building should not be removed and the costs of that removal assessed against this property.

The recommendation is **to make a motion, in accordance with FMC Article 21-0405, to set 5:15 pm Monday, October 30, 2023 as the time and date for the hearing regarding the dangerous building order for the structure at 1710 1 AVE S FARGO ND 58103.**

CERTIFIED MAIL

8/19

TU

11.123

755 38 2 988 14 2

PLEASE DO NOT WRITE

OR SIGN OVER THIS

5626649564 R0102

5626649564 R0102



## INSPECTIONS

### INSPECTIONS DEPARTMENT

Fargo City  
Hall 225 Fourth  
Street North Fargo,  
ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

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9631 N Shore Dr  
Spicer, MN 56288

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Arnesons E30' Lot 3 & W30' Lot 4 Blk 4  
  
(hereinafter referred to as "the building")
3. That an inspection was made of the building on March 29, 2023 by Lynne Olson, Building Inspector of the City of Fargo.
4. That the building inspector for the City of Fargo has found the building, consisting of a 2 story wood frame structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 111 concerning Dangerous Structures.
5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.
6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.
7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

### Conditions Found Statement

On 3/29/2023, inspector, Lynne Olson, was present at 1710 1 Ave S, Fargo, ND to address a Rental inspection. The following violations were found:

- Horizontal cracking of foundation on entire E side and foundation caving into basement indicating foundation failure. Repair, bracing, and/or replacement required. Damage to foundation compromising structural integrity of house structure.
- Lower level has significant water damage. Removal and/or treatment of interior finishes, insulation, and damaged structural members required. Basement work requires a permit issued by the City of Fargo and all necessary inspections must be completed and passed for work to be considered complete and compliant to City and International Building Code.
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- Detached garage has missing weather barrier and deteriorated fascia boards. Repair or replace damaged fascia.



City of Fargo  
225 4th St N  
Fargo ND 58102

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USPS CERTIFIED MAIL



9214 8901 9403 8326 7685 56

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JAMIE SWENSON  
9631 N SHORE DR  
SPICER MN 56288-9564

Thank you!

# INVOICE

## Curt's Lock and Key Service

1102 Main Ave  
Fargo ND 58103-1755  
(701) 232-9440

Invoice Number 298495

Invoice Date 09/08/23

Page 1

SOLD FARGO AUDITOR  
TO 225 4TH ST N  
FARGO ND 58102

P.O. Number		Customer Code	F114
Note	BUILDING INSPECTION	Terms Code	Net 30
	1710 1ST AV S FARGO	Salesperson Descr.	GABE C
	LYNN 701-371-7668		

ITEM	ORDERED	SHIPPED	DESCRIPTION	PRICE	UOM	AMOUNT	TAX
FRSC	1.0	1.0	SERVICE CALL OPEN HOUSE @ 1710 1ST AVENUE SOUTH, FARGO ND	75.0000	Ea	75.00	

Subtotal	75.00
*Sales Tax	0.00
Invoice Total	75.00
Payments	0.00
Net Due	75.00

591833

<b>Invoice</b>		SHIP TO	
SOLO TO		ADDRESS	
CITY, STATE, ZIP		CITY, STATE, ZIP	
CUSTOMER ORDER NO.		DATE	
SOLD BY		F.O.B.	
TERMS			
9/18/83	1710	1 AUG 5	
		2 1/2 hours of labor @ 250.00	625.00
		15 sheets of OSB @ 20.00	300.00
		total	925.00

07-10

scanned 1/10/00

591836

<b>Invoice</b>		SHIP TO		L92255 cons to s.c.u	
SOLD TO		ADDRESS		7711 BRIDLE DR.	
CITY OF FARGO		CITY, STATE, ZIP		FARGO ND 58047	
ADDRESS		TERMS		F.O.B.	
CITY, STATE, ZIP		SOLD BY		DATE	
CUSTOMER ORDER NO		1710 1 Ave S			
9/14/23		Reboard of Due to			
		garage sq set up			
		1 hour @		250	

07-16

Estimate 15000



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PROOF OF ACCEPTANCE  
(ELECTRONIC)

PRODUCED DATE: 08/17/2023

CITY OF FARGO:

The following is information for Certified Mail™/RRE item number:  
9214 8901 9403 8326 7685 56

Our records indicate that this item was accepted by the USPS at:  
ORIGIN ACCEPTANCE FARGO,ND 58108 08/16/2023

ORIGINAL INTENDED RECIPIENT:  
JAMIE SWENSON  
9631 N SHORE DR  
SPICER MN 56288-9564



## INSPECTIONS

### INSPECTIONS DEPARTMENT

Fargo City  
Hall 225 Fourth  
Street North Fargo,  
ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

### NOTICE OF DANGEROUS BUILDING

TO: Jamie Swenson  
9631 N Shore Dr  
Spicer, MN 56288

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.
2. That the building with which this Notice is concerned is commonly known as 1710 1 Ave S, and is located on that tract of land in the city of Fargo, more particularly described as follows:  
  
Arnesons E30' Lot 3 & W30' Lot 4 Blk 4  
  
(hereinafter referred to as "the building")
3. That an inspection was made of the building on March 29, 2023 by Lynne Olson, Building Inspector of the City of Fargo.
4. That the building inspector for the City of Fargo has found the building, consisting of a 2 story wood frame structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 111 concerning Dangerous Structures.
5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.
6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.
7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and Section 116 of the International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Property Maintenance Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 111.8 of the International Property Maintenance Code, 2021 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 1<sup>st</sup> day of June, 2023.

11. Order to secure building. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance, by no later than August 23, 2023. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Application for Appeal. Section 108 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means

Dated this 16<sup>th</sup> of August, 2023.

### Conditions Found Statement

On 3/29/2023, inspector, Lynne Olson, was present at 1710 1 Ave S, Fargo, ND to address a Rental inspection. The following violations were found:

- Horizontal cracking of foundation on entire E side and foundation caving into basement indicating foundation failure. Repair, bracing, and/or replacement required. Damage to foundation compromising structural integrity of house structure.
- Lower level has significant water damage. Removal and/or treatment of interior finishes, insulation, and damaged structural members required. Basement work requires a permit issued by the City of Fargo and all necessary inspections must be completed and passed for work to be considered complete and compliant to City and International Building Code.
- Water damage in wall cavities will require removal and replacement of electrical wiring and fixtures. All electrical work must be done by licensed contractor and with a permit issued by the City of Fargo. All necessary inspections must be completed and passed for work to be considered complete and compliant to City and International Building Code.
- Main level was unit damage from animal and garbage hoarding. Remove garbage and animal debris and dispose of in proper location. All surfaces must be cleanable and sanitary. Removal and replacement of surfaces not able to be cleaned required.
- Upper level unit has interior signs of water damage on ceiling and in bathroom. Roof damage leaking in to ceiling of upper unit. Repair roof
- Upper unit South wall in bathroom wall pushing into structure and caused movement of floor and bath tub. Repair wall and make tub structurally sound and installed as design intended.
- Upper unit bath floor soft between tub and toilet. Water leak in wall causing deterioration of subfloor and stability. Repair water leak and damage caused by leak.
- Upper unit exterior door missing trim, can see to exterior from interior of unit. Repair door, make weather tight.
- Siding damage on exterior of structure and interior signs of water damage on interior of those areas. Repair siding and interior water damage. Structure should be weather tight and free of leaks or defects.
- Excessive junk and garbage accumulation on property. Remove garbage and junk and dispose of in proper location.
- Detached garage has pieces of missing/loose siding and is not weather tight. Repair or replace missing/damaged pieces of siding and make structure weather tight.
- Detached garage has missing weather barrier and deteriorated fascia boards. Repair or replace damaged fascia.



The following action must be taken:

- Owner must secure structure no later than 8/23/2023. The City of Fargo has contracted to have the building cleared and secured at the expense of the owner if not completed by date stated in this document.
- Provide full engineering on all systems and structure to obtain a permit. The structure must be repaired according to the permit and within a timely manner.
- Or, the structure must be demolished within 30 days of this notice as noted on page one of this document.



Lynne Olson  
Rental Inspector II  
City of Fargo, ND



Christine Rose  
Assistant Director  
City of Fargo, ND

---

8/16/2023

City of Fargo  
225 4th St N  
Fargo ND 58102

---

USPS CERTIFIED MAIL



9214 8901 9403 8326 7685 56

---

JAMIE SWENSON  
9631 N SHORE DR  
SPICER MN 56288-9564





## Shipment Confirmation Acceptance Notice

### A. Mailer Action

**Note to Mailer:** The labels and volume associated to this form online, **must** match the labeled packages being presented to the USPS® employee with this form.

Shipment Date: 08/16/2023  
 Shipped From:  
 Name: CITY OF FARGO  
 Address: 225 4TH ST N  
 City: FARGO  
 State: ND ZIP-4<sup>th</sup> 58102

Type of Mail	Volume
Priority Mail Express <sup>®</sup> *	
Priority Mail <sup>®</sup>	0
First-Class Package Service <sup>®</sup>	
Returns	
International <sup>*</sup>	
Other	1
Total	1

\*Start time for products with service guarantees will begin when mail arrives at the local Post Office™ and items receive individual processing and acceptance scans.

### B. USPS Action

Note to RSS Clerk:

1. Home screen > Mailing/Shipping > More
2. Select **Shipment Confirm**
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

USPS EMPLOYEE: Please scan upon pickup or receipt of mail.  
 Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0046 4753 73



# Confirmation Services Certification

## COMPANY INFORMATION

Company Name

City of Fargo

Mailer Identification (MID\*) \*MID is a unique 6- or 9-digit number that identifies the mailer or the mailer's client. A conforming MID is a six-digit MID beginning with 0-8 or a nine-digit MID beginning with 9.

Address (Number, street, suite no., city, state, and ZIP Code)\*\*

225 4th St N  
Fargo ND 58102

## ELECTRONIC FILE

The electronic file submitted by the company shown above has been certified by the National Customer Support Center (NCSC) to be complete and accurate in both content and transmission and to meet the requirements as defined in Publication 199, *Intelligent Mail Package Barcode (IMpb) Implementation Guide for: Confirmation Services and Electronic Verification System (eVS) Mailers*.

Authorized NCSC Signature

Date Signed

## BARCODED LABELS

The barcoded labels printed and submitted by the company shown above have been certified by the NCSC to meet the standards and specifications as prescribed in Publication 199 and the appropriate ANSI or AIM published standards.

Authorized NCSC Signature

Date Signed

## INSTRUCTIONS FOR MAILER

Keep the original of this form in a safe place and provide a copy to your local USPS® facility if requested. Shipments included in Service Performance Measurement should submit a PS Form 3152 with each mailing. In the space below, place a GS1-128 barcode representing the Electronic File Number from the Header Record. If you cannot print the barcode, fill in the sequence numbers and check digit (the digits that follow the MID) from your Electronic File Number. This information is in the Header Record of the electronic file.

IMpb barcodes are required for all tracking numbers effective 1/27/2013. Valid Application Identifiers (AI): IMpb barcode AI "92" uses a 9-digit Mailer ID for commercial permit payment mailers. IMpb barcode "93" uses a 6-digit Mailer ID for commercial permit payment mailer. IMpb barcode "94" is used for online and meter mailers. Legacy barcode AI "91" will continue to be accepted for a limited time with an approved exception or waiver.

Place the barcode here or write the serial number and check digit of the electronic file in the spaces provided.



92750901193562000046475373

### Confirmation Services Electronic File Number

**92/93	750	901193562	00004647537	3	
AI	STC	Mailer ID	Serial Number	Check Digit	
94					
AI	STC	Source Identifier	Mailer ID	Serial Number	Check Digit

\*\*91 can be used if approved for exception.

## INSTRUCTIONS FOR ACCEPTANCE EMPLOYEE

If mailings are presented under an authorized manifest mailing system, verify payment of postage and fees, where applicable, using standard sampling procedures for pieces with special services. In addition, check the barcode formatting for the following:

- Horizontal bars above and below the barcode.
- Human-readable numbers below the barcode.
- Depending on the product used, the words "USPS TRACKING #", "USPS SIGNATURE TRACKING #", "USPS CERTIFIED MAIL", or product specific found in Publication 199 based on the service type code.
- For Electronic Verification System, (eVS) or "e-VS" should be included either before or after the service banner text. For example: "eVS USPS TRACKING", "USPS TRACKING eVS", "e-VS USPS TRACKING", and "USPS TRACKING e-VS."

Date and Time of Verification

Date and Time of Mailing (if different from date of verification)











Mailer: City of Fargo

Date Produced: 06/21/2023

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8318 6795 01. Our records indicate that this item was delivered on 06/20/2023 at 02:40 p.m. in SPICER, MN 56288. The scanned image of the recipient information is provided below.

Signature of Recipient :

A handwritten signature in black ink, appearing to read "Jamie Swenson".

Jamie Swenson

Address of Recipient :

9631 N Shore Dr

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,  
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

JAMIE SWENSON  
9631 N SHORE DR  
SPICER MN 56288-9564

Customer Reference Number: C4253594.25419972

PROOF OF ACCEPTANCE  
(ELECTRONIC)

PRODUCED DATE: 06/13/2023

CITY OF FARGO:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8318 6795 01

Our records indicate that this item was accepted by the USPS at:

ORIGIN ACCEPTANCE FARGO,ND 58108 06/12/2023

ORIGINAL INTENDED RECIPIENT:

JAMIE SWENSON

9631 N SHORE DR

SPICER MN 56288-9564

PROOF OF ACCEPTANCE  
(ELECTRONIC)

PRODUCED DATE: 06/02/2023

CITY OF FARGO:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8317 5328 69

Our records indicate that this item was accepted by the USPS at:

ORIGIN ACCEPTANCE FARGO,ND 58108 06/01/2023

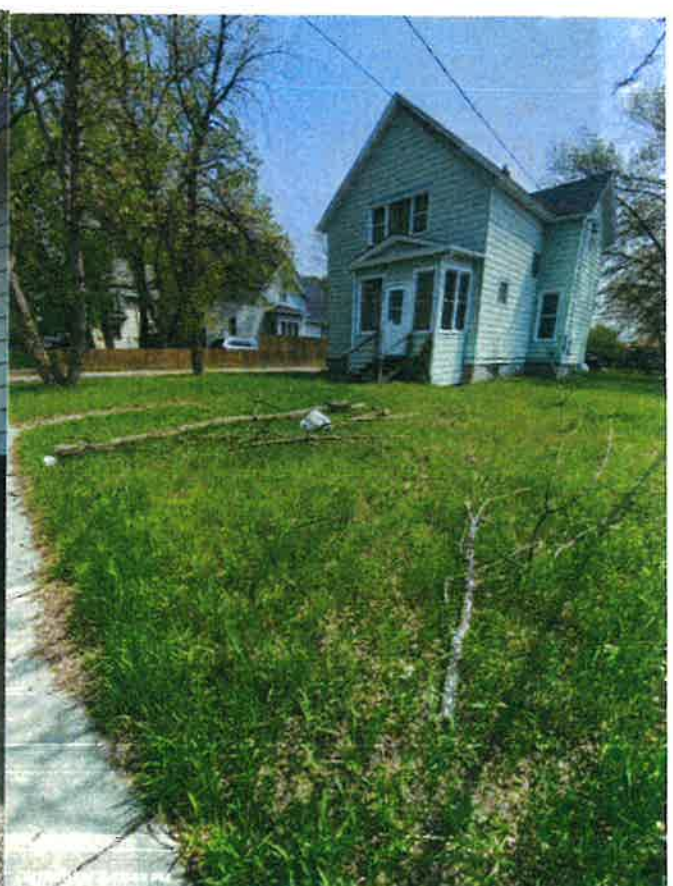
ORIGINAL INTENDED RECIPIENT:

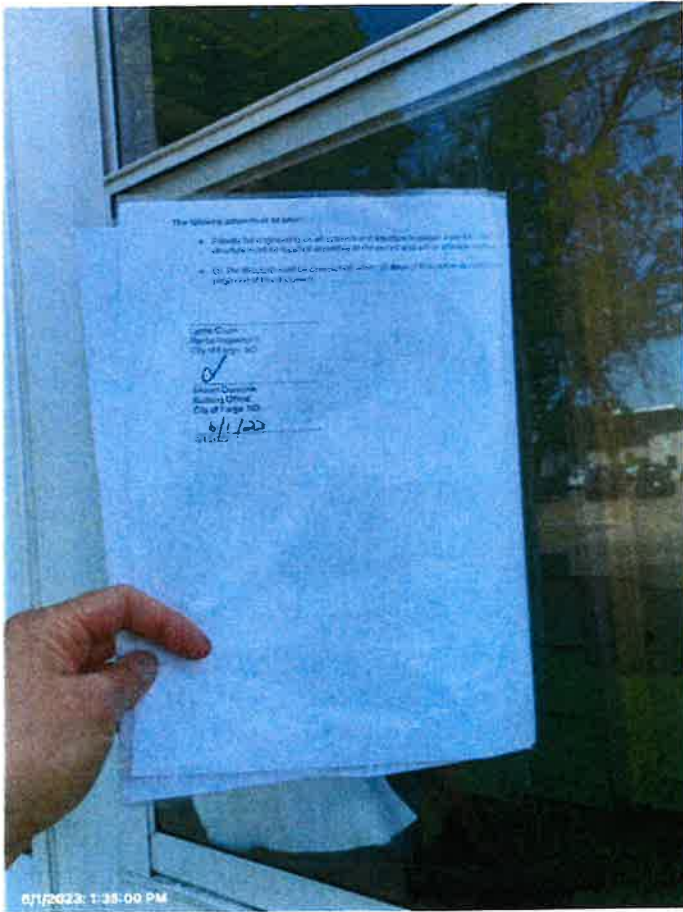
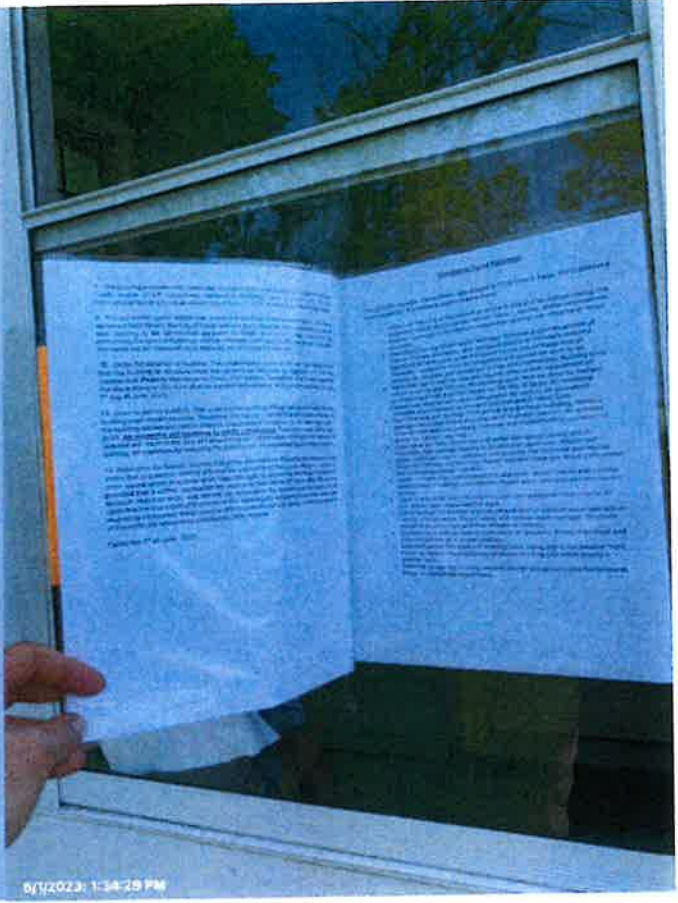
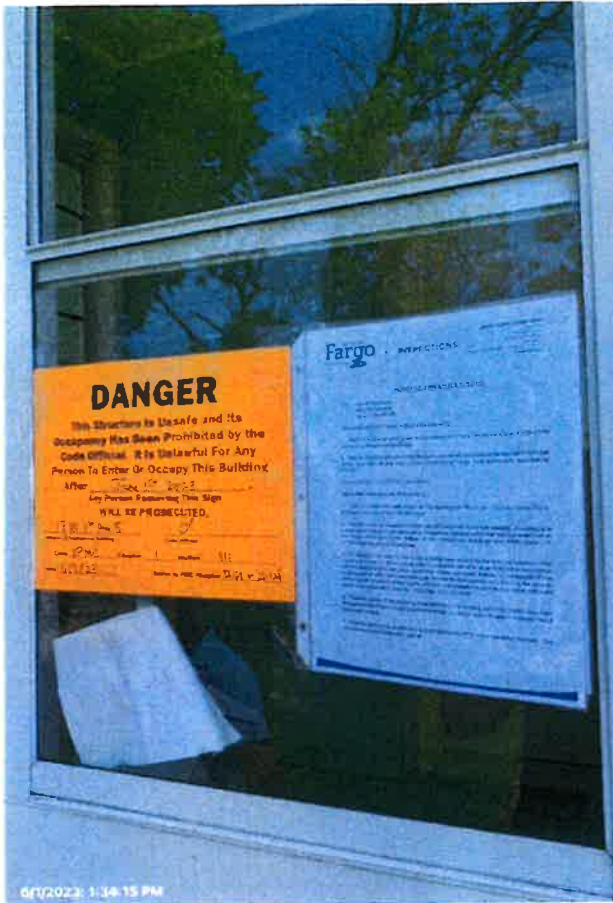
JAMIE SWENSON

8922 N SHORE DR

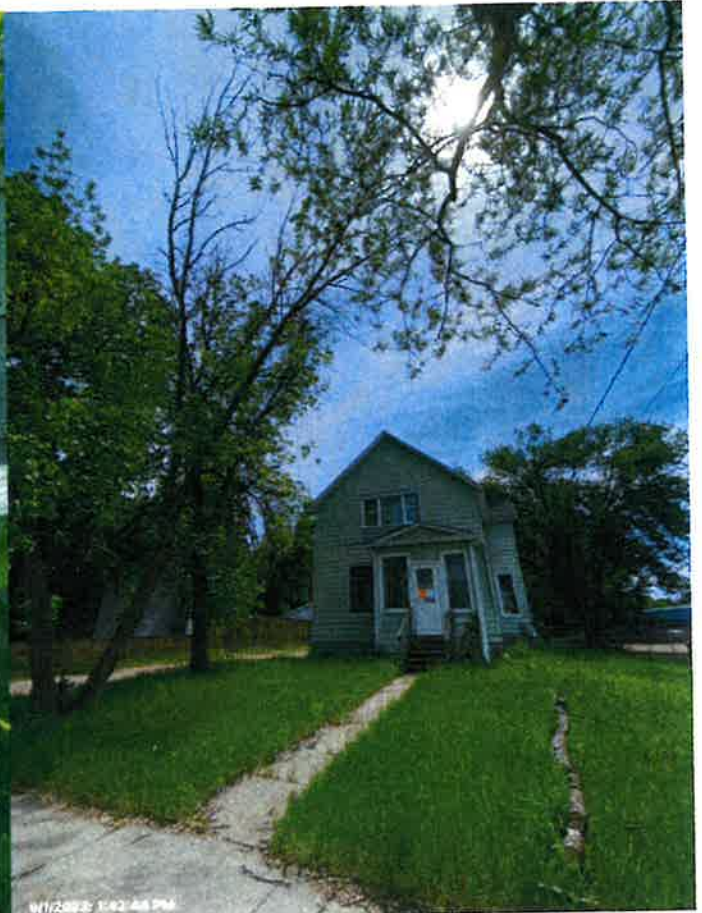
SPICER MN 56288-9514



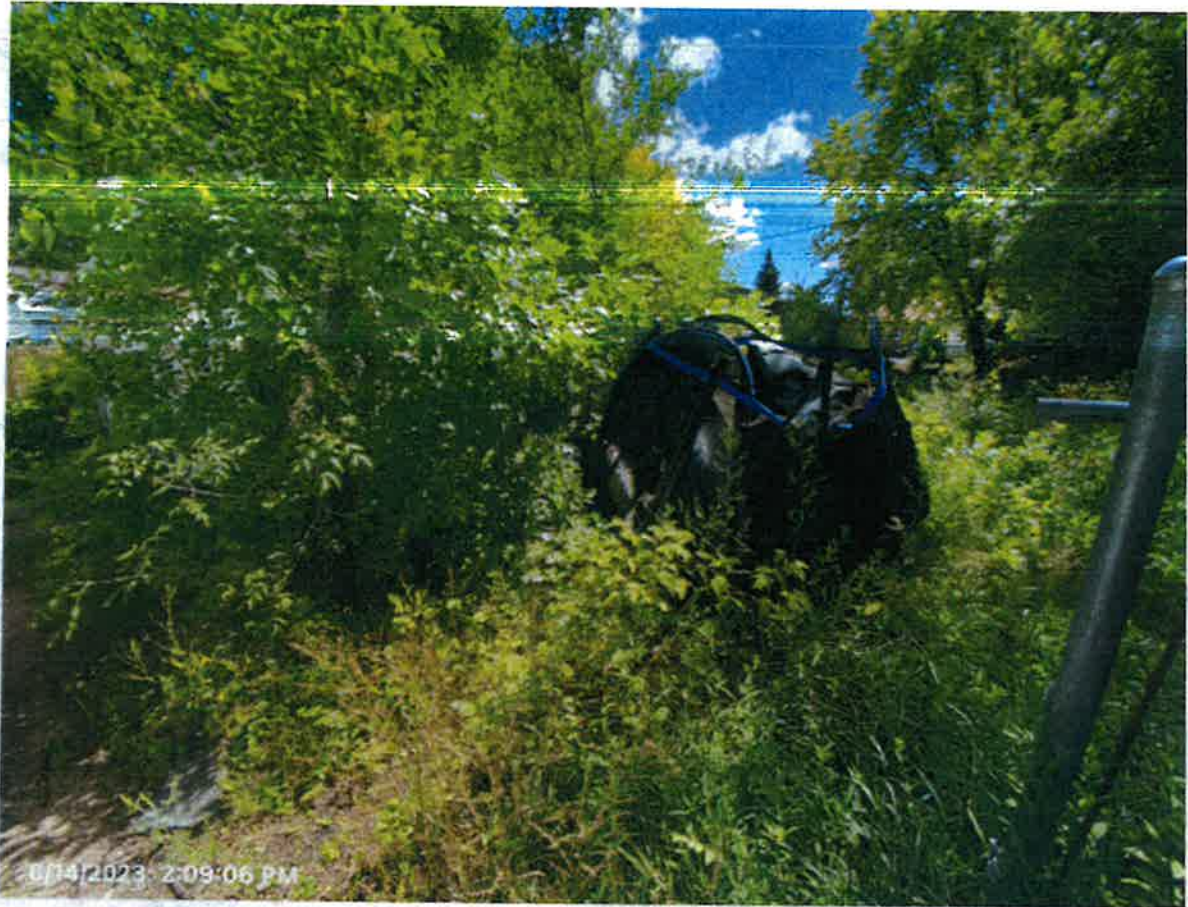


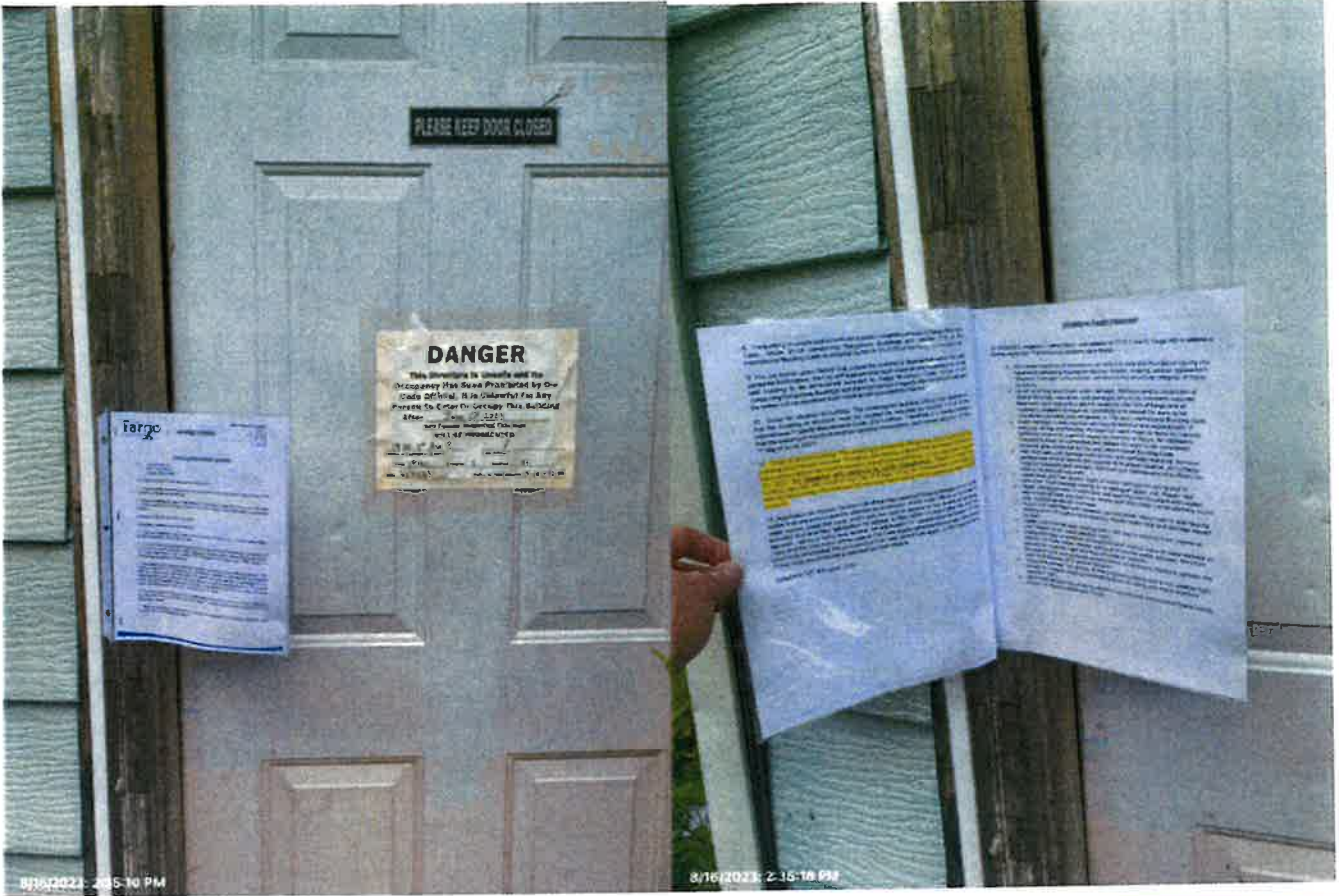


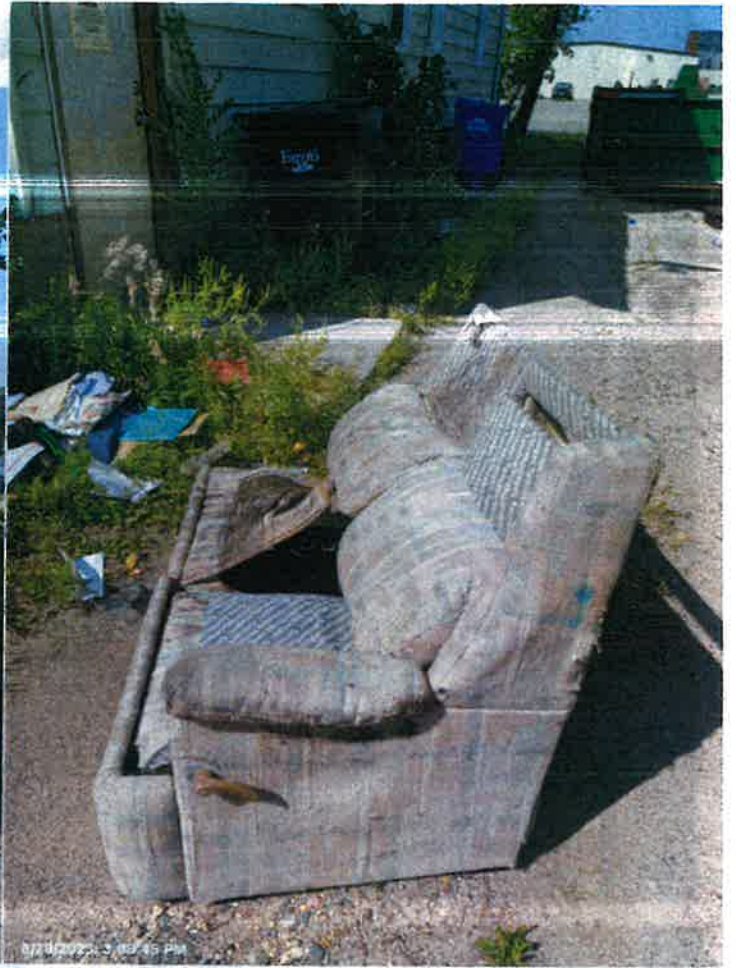














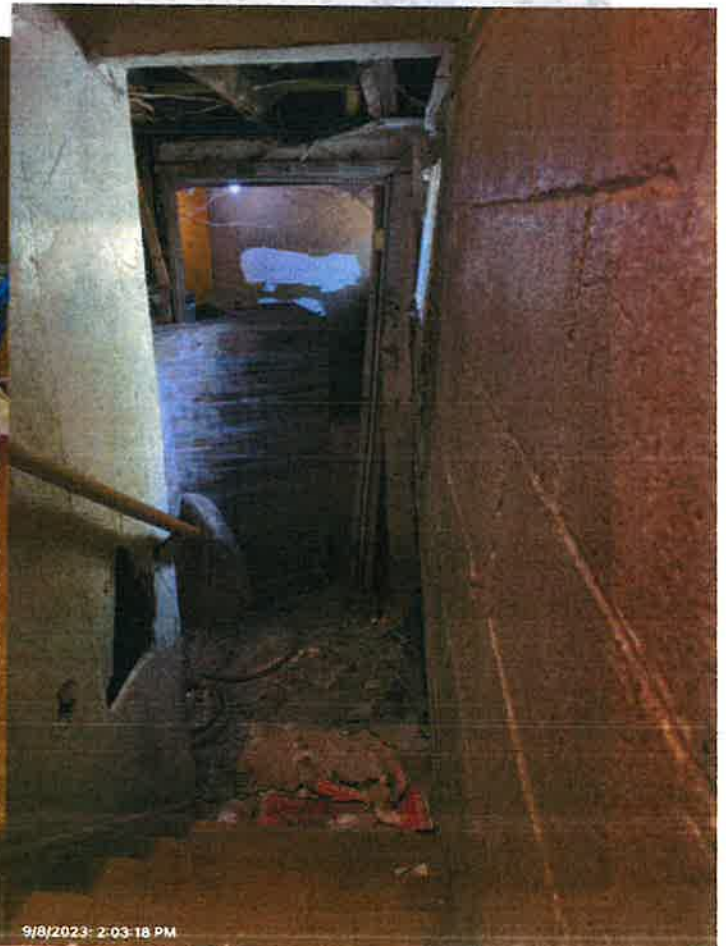
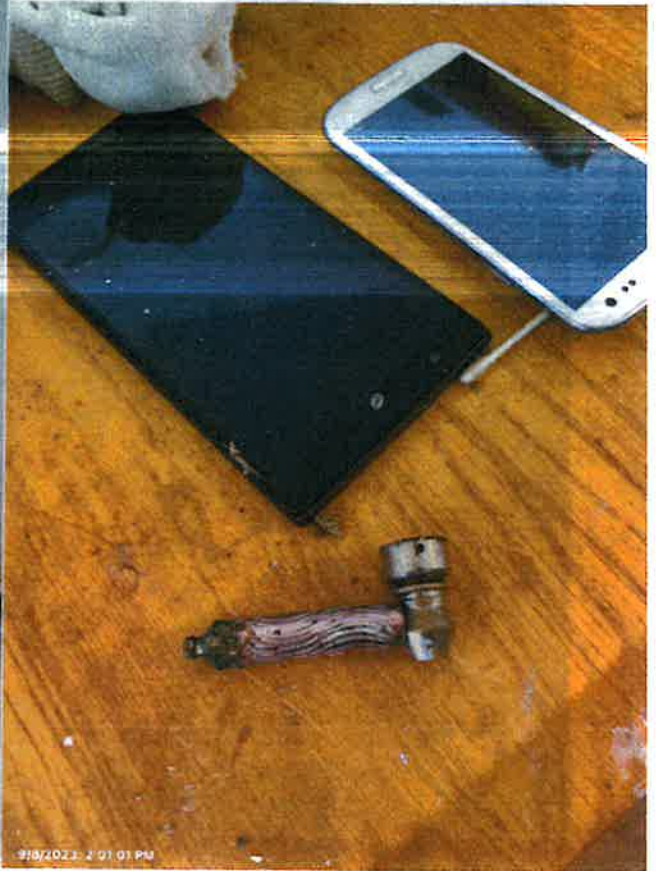




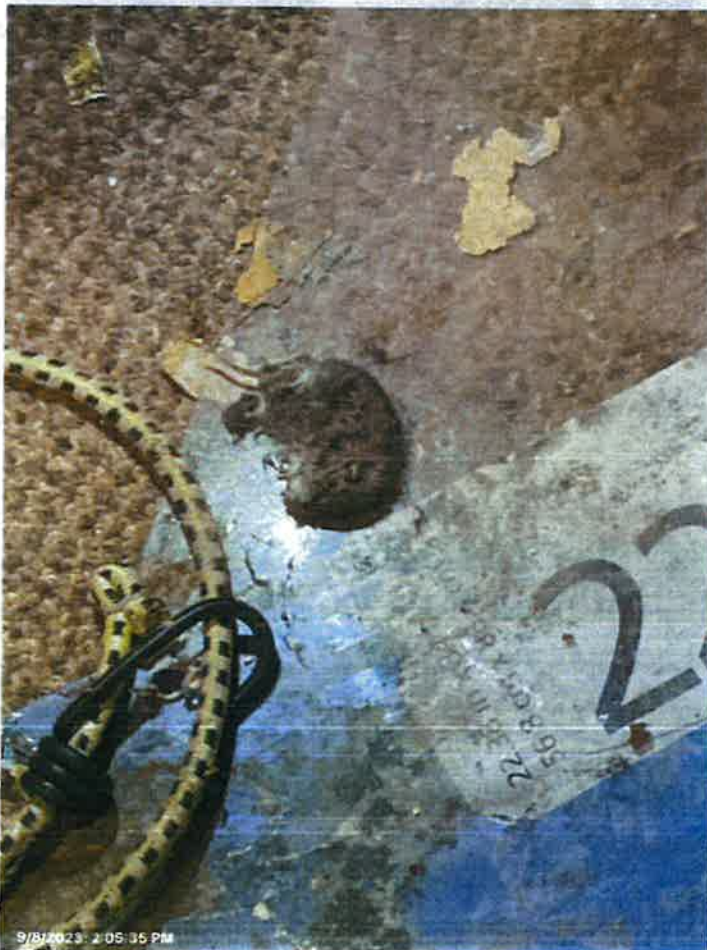








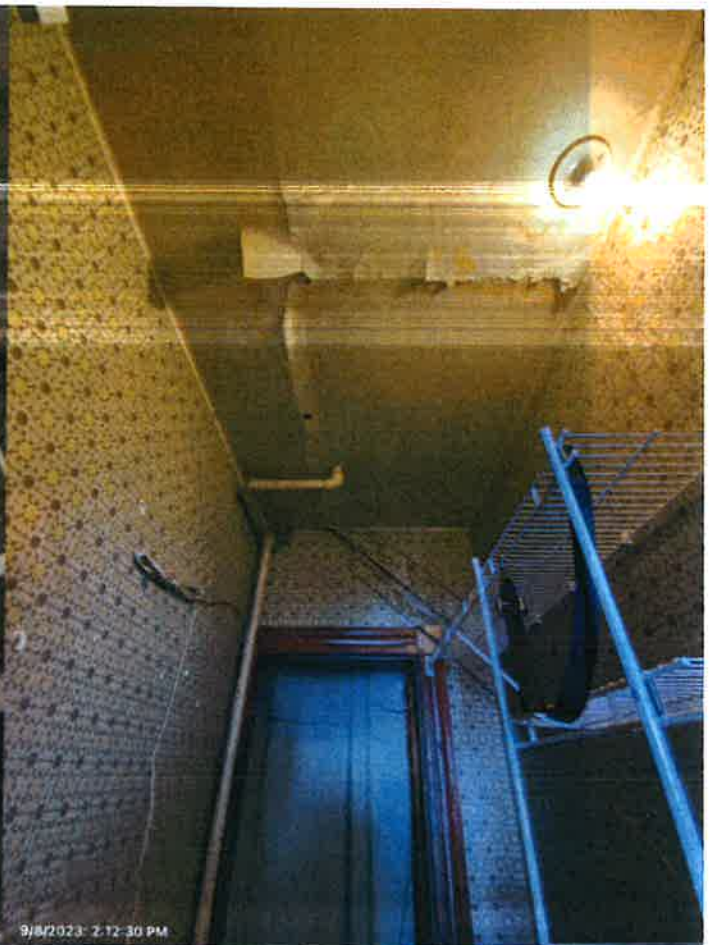












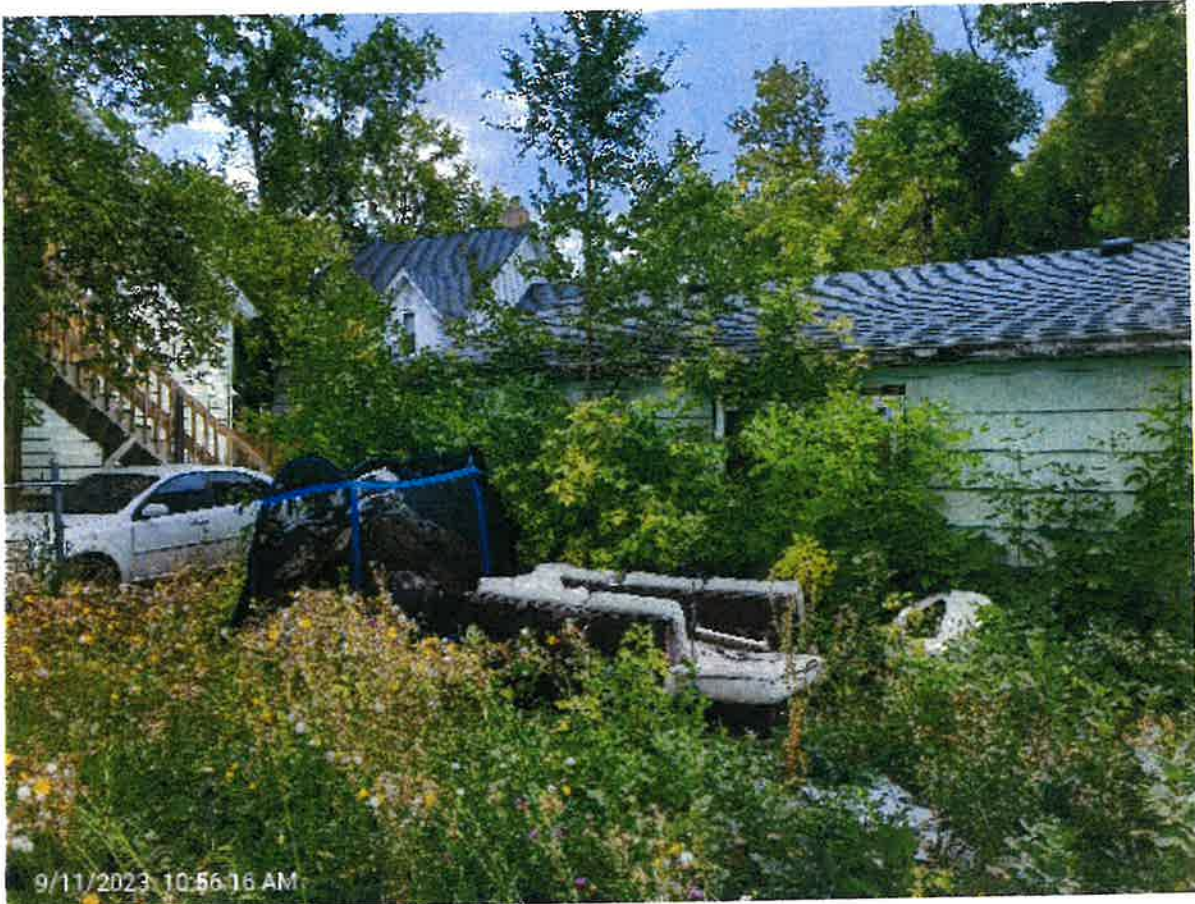






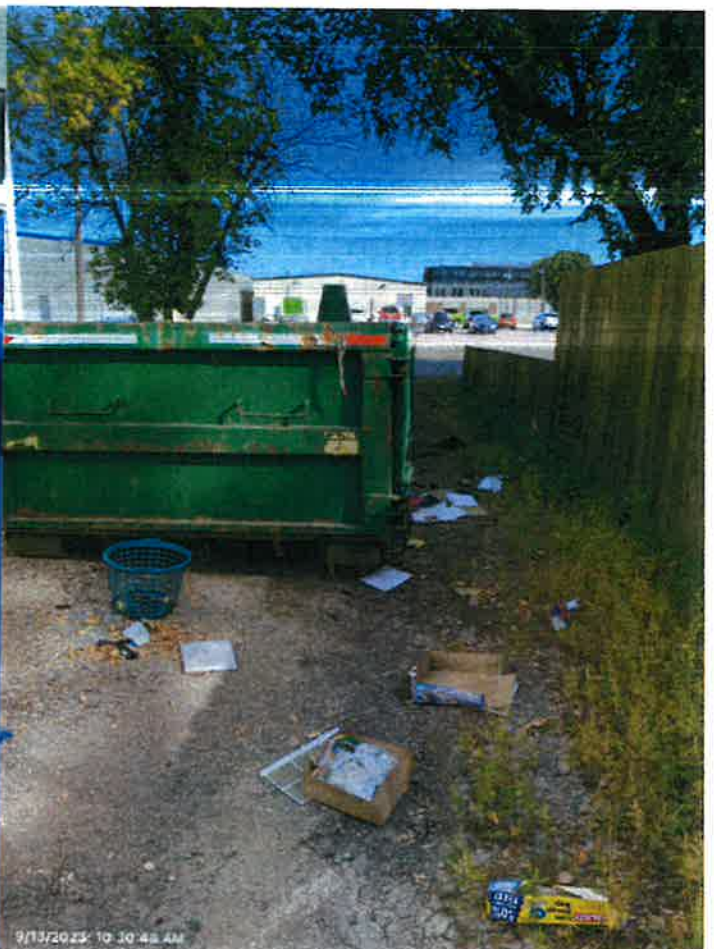






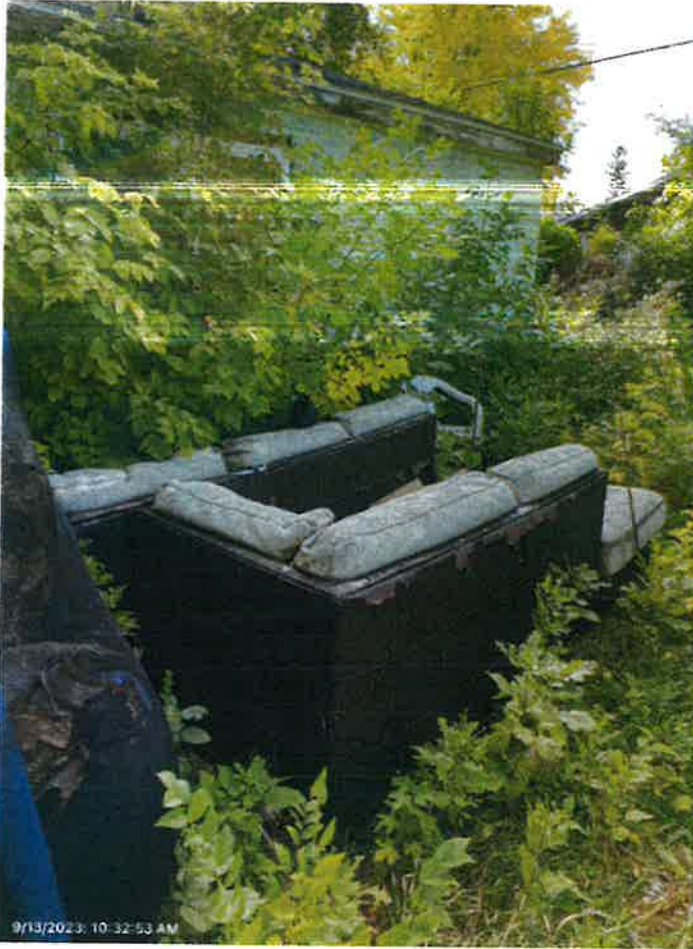
















# INSPECTIONS

**INSPECTIONS DEPARTMENT**  
Fargo City Hall 225 Fourth  
Street North Fargo, ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

---

## Memorandum

DATE: October 30, 2023  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Shawn Ouradnik, Inspections Director  
SUBJECT: Dangerous Building Public Hearing at 1208 UNIVERSITY DR S, FARGO ND 58103

---

The property owner of 1208 UNIVERSITY DR S, FARGO ND, has failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, a hearing date is scheduled for October 30, 2023.

Commission action requires a 10 day allowance for action per Article 21-0405.E.  
Article 21-0406 also allows court action if that is the course the commission chooses to take.  
Article 21-0412 is allowance for Owner appeal to City Commission action.

The recommendation is to **designate this a dangerous building, direct the City Attorney to prepare findings of fact in this matter, and order its removal on December 29, 2023. Please direct the appropriate staff to secure the removal of this building should the Owner fail to do so.**





**PROOF OF ACCEPTANCE  
(ELECTRONIC)**

PRODUCED DATE: 08/01/2023

CITY OF FARGO:

The following is information for Certified Mail™/RRE item number:  
9214 8901 9403 8324 5047 05

Our records indicate that this item was accepted by the USPS at:  
ORIGIN ACCEPTANCE FARGO,ND 58108 07/31/2023

ORIGINAL INTENDED RECIPIENT:  
BEVERLY J WOITZEL  
PO BOX 10294  
FARGO ND 58106-0294



Mailer: City of Fargo

Date Produced: 08/23/2023

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8324 5047 05. Our records indicate that this item was delivered on 08/22/2023 at 12:32 p.m. in FARGO, ND 58103. The scanned image of the recipient information is provided below.

Signature of Recipient :

Address of Recipient :

PO BOX 10294  
FARGO, ND 58106-0294

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,  
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

BEVERLY J WOITZEL  
PO BOX 10294  
FARGO ND 58106-0294

Customer Reference Number: C4360915.26053262



## INSPECTIONS

**INSPECTIONS DEPARTMENT**  
Fargo City Hall 225 Fourth  
Street North Fargo, ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

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The recommendation is to **designate this a dangerous building, direct the City Attorney to prepare findings of fact in this matter, and order its removal on December 29, 2023. Please direct the appropriate staff to secure the removal of this building should the Owner fail to do so.**



**Property Information:** Building is currently vacant and uninhabitable due to condition.  
**Location:** 1208 UNIVERSITY DR S FARGO ND 58103  
**Owner:** BEVERLY J WOITZEL  
**Description:** 780 square foot single story wood framed structure. Structure was built in 1923.

**Description of Damage:**

- Both front and rear door, and the stairs leading to them, have exterior junk accumulation limiting means of egress.
- Weatherproofing on all sides of the structure show damage from neglect, deterioration, and abandonment.
- Weatherproofing on the entire roof is rotten and has failed on both the north and south facing extensions resulting in holes through the soffit.
- Siding on south facing wall is separating along the seam and has holes large enough to admit vermin.
- Weatherproofing around the windows shows signs of rot which could allow water and other elements into the structure.
- Chimney finish is cracked and crumbling.
- Homeowner has self-reported the home is filled with hoarded items making it unsafe to occupy.
- Homeowner has self-reported trespassing and squatters in the home.
- Homeowner has self-reported vandalism and theft from the property.
- Multiple junk vehicles filled with items and parked on unapproved surfaces as well as the driveway. This includes two small RVs which are also considered attractive nuisances for children, vagrants, and vermin.
- Junk accumulation in multiple areas of the yard.
- Gutter system is overgrown with vegetation and not functional.

**TimeLine of Events:**

08/23/2022 Alerted of possible dangerous building. Investigation opened.  
08/30/2022 Exterior inspection done on property. Notice of Violation sent to owner.

- 09/15/2022 Second Notice of Violation letter sent to owner.
- 09/16/2022 Continued to monitor property and tried to work with owner to get property into compliance.
- 12/16/2023 Family member contacted the office to try and communicate with homeowner on process.
- 12/23 – 5/23 Continued to monitor property
- 05/31/2023 Established contact with social worker and was told homeowner was going to be tested for mental competency.
- 07/27/2023 Received competency results and conducted new exterior inspection.
- 07/31/2023 Notice of Dangerous Building letter sent and posted on structure.
- 08-10/2023 Inactive due to aggressive neighbors. Continued to monitor property.
- 10/18/2023 Secured exterior of property.
- 10/16/2023 Dangerous Building Public Hearing request approved at city commission.
- 10/30/2023 Dangerous Building Public hearing at city commission

**Additional Information:** The owner does not live in the property but has a large amount of things stored inside. Shoulder deep hoard without a path for egress has been observed on main level. She has given financial power of attorney to her sister in Florida. Her sister has worked with the department to try to remedy the situation. Owner has indicated she wants to sell the house and is in the process of hiring a company to help clear out house and do repairs.

Action was suspended on this property due to combative and aggressive nature of tenants in adjacent property for the safety of the inspectors. Action was resumed as soon as owner of adjacent property actively started process to remove the aggressive neighbors. The owner has complained multiple times of tenants from adjacent property breaking into her house.

Remaining junk has been pushed up against the property line with 1206 so we am unsure what junk belongs to which address. Water has been observed leaking inside the house on the main level. Multiple windows have been broken or damaged and could allow water and other elements. RVs and most of the junk vehicles with the exception of one van and one car have left the property. Owner alleges they have been stolen.





**Building Inspections Department**  
**Housing Inspections**  
**225 4<sup>th</sup> Street North**  
**Fargo, ND 58102**  
**(701) 476-6708**

Beverly J Woitzel  
 Box 10294  
 FARGO, ND 58106

Tuesday, August 30, 2022

Filing 22-1099-CUC

**ADDRESS OF PROPERTY IN VIOLATION: 1208 University Dr S**

This notice is to inform you that a violation of the Fargo Building Code exists at the above referenced property. The specific code section that has been violated, the items that constitute the violation and the method for correction of the violation are as follows:

<b>Code Section</b>	<b>Description and Method of Correction</b>	<b>Comply By</b>
IPMC 307.1 Rubbish and Garbage Not Allowed to Accumulate	All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.  Garbage to be disposed of properly.	9/14/2022
IPMC 307.2 Rubbish Must Be Properly Disposed OF	Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.	9/14/2022
IPMC 307.3 Garbage Must Be Properly Disposed Of	Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.	9/14/2022
IPMC 302.1 Sanitation	All exterior property and premises shall be maintained in a clean, safe and sanitary condition.	9/14/2022
FMC 13-0903 Junk, Trash and Abandoned Vehicles in Yard	You have stored or permitted the storage or accumulation of trash, rubbish, junk, junk automobiles and abandoned vehicles on private property in the city of Fargo other than in a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.	9/14/2022
IPMC 302.8 Inoperative or Unlicensed Motor Vehicles Not Allowed	A vehicle, being an inoperative, unlicensed motor vehicle, is being parked; kept or stored on the above premises.	9/14/2022

FLDC 20-0701.D.2.b Parking - All Weather Surface	All off-street parking spaces in front or side yard areas shall have an all-weather surface. Rear yard parking spaces may be surfaced with gravel.	9/14/2022
IPMC 304.13 Window, Skylight and Door Frames Must Be Maintained	Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.	9/30/2022
IPMC 304.2 Exterior Surfaces Must Be Maintained	All exterior surfaces, including but not limited to, doors, door and window frames, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting, other protective covering or other treatment.	9/30/2022
IPMC 304.7 Roofs and Flashing Must Be Maintained.	The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.	9/30/2022
IPMC 702.1 Means of Egress Must Be Provided	A safe, continuous and unobstructed path of travel has not been provided from the front entry, being a point in the structure, to the public way.	9/14/2022

You are responsible for the correction of this violation in the manner described. You are further notified that you may propose alternate methods of correction. These alternate methods must be approved by City staff and will not be allowed to extend the date for compliance.

Any person having any record, title, or legal interest in the building described above has the right to appeal this notice and order within 20 days by filing an appeal form with the Building Inspections office. This letter is a notice and order to the owner or persons responsible for the property. If you have any questions about this letter or the results of the inspection you may contact me at 701-241-1561.

Failure to comply may be construed as a violation of the above referenced Municipal Ordinance and punishable by a Municipal Infraction.

Sincerely,

  
\_\_\_\_\_  
Laura Langdahl  
Code Enforcement Inspector







**Building Inspections Department**  
**Housing Inspections**  
**225 4<sup>th</sup> Street North**  
**Fargo, ND 58102**  
**(701) 476-6708**

Beverly J Woitzel  
 Box 10294  
 FARGO, ND 58106

Thursday, September 15, 2022

Filing 22-1099-CUC

**ADDRESS OF PROPERTY IN VIOLATION: 1208 University Dr S SECOND NOTICE**

This notice is to inform you that a violation of the Fargo Building Code exists at the above referenced property. The specific code section that has been violated, the items that constitute the violation and the method for correction of the violation are as follows:

<b>Code Section</b>	<b>Description and Method of Correction</b>	<b>Comply By</b>
IPMC 307.1 Rubbish and Garbage Not Allowed to Accumulate	All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.  Garbage to be disposed of properly.	9/14/2022
IPMC 307.2 Rubbish Must Be Properly Disposed OF	Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.	9/14/2022
IPMC 307.3 Garbage Must Be Properly Disposed Of	Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.	9/14/2022
IPMC 302.1 Sanitation	All exterior property and premises shall be maintained in a clean, safe and sanitary condition.	9/14/2022
FMC 13-0903 Junk, Trash and Abandoned Vehicles in Yard	You have stored or permitted the storage or accumulation of trash, rubbish, junk, junk automobiles and abandoned vehicles on private property in the city of Fargo other than in a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.	9/14/2022
IPMC 302.8 Inoperative or Unlicensed Motor Vehicles Not Allowed	A vehicle, being an inoperative, unlicensed motor vehicle, is being parked; kept or stored on the above premises.	9/14/2022

FLDC 20-0701.D.2.b Parking - All Weather Surface	All off-street parking spaces in front or side yard areas shall have an all-weather surface. Rear yard parking spaces may be surfaced with gravel.	9/14/2022
IPMC 304.13 Window, Skylight and Door Frames Must Be Maintained	Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.	9/30/2022
IPMC 304.2 Exterior Surfaces Must Be Maintained	All exterior surfaces, including but not limited to, doors, door and window frames, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting, other protective covering or other treatment.	9/30/2022
IPMC 304.7 Roofs and Flashing Must Be Maintained.	The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.	9/30/2022
IPMC 702.1 Means of Egress Must Be Provided	A safe, continuous and unobstructed path of travel has not been provided from the front entry, being a point in the structure, to the public way.	9/14/2022

*A follow up inspection will be conducted on 10/3/2022 to confirm compliance.*

You are responsible for the correction of this violation in the manner described. You are further notified that you may propose alternate methods of correction. These alternate methods must be approved by City staff and will not be allowed to extend the date for compliance.

Any person having any record, title, or legal interest in the building described above has the right to appeal this notice and order within 20 days by filing an appeal form with the Building Inspections office. This letter is a notice and order to the owner or persons responsible for the property. If you have any questions about this letter or the results of the inspection you may contact me at 701-241-1561.

Failure to comply may be construed as a violation of the above referenced Municipal Ordinance and punishable by a Municipal Infraction.

Sincerely,



---

Laura Langdahl

Code Enforcement Inspector











City of Fargo  
225 4th St N  
Fargo ND 58102

---

USPS CERTIFIED MAIL



9214 8901 9403 8324 5047 05

---

BEVERLY J WOITZEL  
PO BOX 10294  
FARGO ND 58106-0294

# Fargo Inspections

City of Fargo  
225 4th Street North  
701-241-1561  
701-476-6779 fax



## NOTICE OF DANGEROUS BUILDING

TO: Beverly J Woitzel  
Box 10294  
Fargo ND 58106

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.

2. That the building with which this Notice is concerned is commonly known as 1208 University Dr S, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Lot: Q Block: 0 MACLARENS SUB OF ERSKINES LOT Q, A UDITORS PLAT OF MACLARENS SUB OF THE S 50' OF LTS 6-8 BLK 2 MONSONS SUB OF BLK 1 ERSKINES, THE REMAI NING UNPL PT OF AUDS BLK 4 SW1/4 OF 7-139-48 & PTS OF LTS 2 & 9 & ALL LTS 3-8 BLK 2 NORTHROPS \*\*2/10 /00 LEGAL DESC CORR

(hereinafter referred to as "the building")

3. That an inspection was made of the building on the 27<sup>th</sup> day of July, 2023 by Laura Langdahl, Code Enforcement Inspector.

4. That the code enforcement inspector for the City of Fargo has found the building, consisting of a single story, wood frame, single family home of approximately 780 square feet structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and the International Property Maintenance Code, Section 111.1.5 concerning Dangerous Structures.

5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with.  
Source: 1952 Rev. Ord. 21-0404.

6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice which is the 31<sup>st</sup> day of July, or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.

7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Property Maintenance Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Building Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 111.8 of the International Property Maintenance Code, 2021 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 31<sup>st</sup> day of July, 2023.

11. Order to secure building. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building be secured by the 7<sup>th</sup> day of August, 2023 and remain secured to prevent unauthorized entrance. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Means of Appeal. Section 107.1 of the International Property Maintenance Code states that In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals.

Dated this 31<sup>st</sup> day of July, 2023.

**Conditions Found Statement**

On the 27<sup>th</sup> day of July, Code Enforcement Inspector Laura Langdahl, was present at 1208 University Dr S, Fargo, ND to address a junk vehicle and building maintenance inspection. The following violations were found:


- Both front and rear door, and the stairs leading to them, have exterior junk accumulation limiting means of egress.
- Weatherproofing on all sides of the structure show damage from neglect, deterioration, and abandonment.
- Weatherproofing on the entire roof is rotten and has failed on both the north and south facing extensions resulting in holes through the soffit.
- Siding on south facing wall is separating along the seam and has holes large enough to admit vermin.
- Weatherproofing around the windows shows signs of rot which could allow water and other elements into the structure.
- Chimney finish is cracked and crumbling.
- Homeowner has self-reported the home is filled with hoarded items making it unsafe to occupy.
- Homeowner has self-reported trespassing and squatters in the home.
- Homeowner has self-reported vandalism and theft from the property.
- Multiple junk vehicles filled with items and parked on unapproved surfaces as well as the driveway. This includes two small RVs which are also considered attractive nuisances for children, vagrants, and vermin.
- Junk accumulation in multiple areas of the yard.
- Gutter system is overgrown with vegetation and not functional.

The following action must be taken:

- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline -or-
- Demolish the structure within the deadline provided in this notice.

  
\_\_\_\_\_  
Laura Langdahl  
Code Enforcement Inspector

\_\_\_\_\_  
Shawn Ouradnik  
Inspections Director

  
\_\_\_\_\_  
Date Signed



## Shipment Confirmation Acceptance Notice

### A. Mailer Action

**Note to Mailer:** The labels and volume associated to this form online, **must** match the labeled packages being presented to the USPS® employee with this form.

Shipment Date: 07/31/2023  
 Shipped From:  
 Name: CITY OF FARGO  
 Address: 225 4TH ST N  
 City: FARGO  
 State: ND ZIP+4® 58102

Type of Mail	Volume
Priority Mail Express®	
Priority Mail®	0
First-Class Package Service®	
Returns	
International*	
Other	1
Total	1

\*Start time for products with service guarantees will begin when mail arrives at the local Post Office™ and items receive individual processing and acceptance scans.

### B. USPS Action

Note to RSS Clerk:

1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

USPS EMPLOYEE: Please scan upon pickup or receipt of mail.  
 Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0046 0924 71







## Confirmation Services Certification

### COMPANY INFORMATION

Company Name

City of Fargo

Mailer Identification (MID) \*MID is a unique 6- or 9-digit number that identifies the mailer or the mailer's client. A conforming MID is a six-digit MID beginning with 0-8 or a nine-digit MID beginning with 9.

Address (Number, street, suite no., city, state, and ZIP Code™)

225 4th St N  
Fargo ND 58102

### ELECTRONIC FILE

The electronic file submitted by the company shown above has been certified by the National Customer Support Center (NCSC) to be complete and accurate in both content and transmission and to meet the requirements as defined in Publication 199, *Intelligent Mail Package Barcode (IMpb) Implementation Guide for: Confirmation Services and Electronic Verification System (eVS) Mailers*.

Authorized NCSC Signature

Date Signed

### BARCODED LABELS

The barcoded labels printed and submitted by the company shown above have been certified by the NCSC to meet the standards and specifications as prescribed in Publication 199 and the appropriate ANSI or AIM published standards.

Authorized NCSC Signature

Date Signed

### INSTRUCTIONS FOR MAILER

Keep the original of this form in a safe place and provide a copy to your local USPS® facility if requested. Shipments included in Service Performance Measurement should submit a PS Form 3152 with each mailing. In the space below, place a GS1-128 barcode representing the Electronic File Number from the Header Record. If you cannot print the barcode, fill in the sequence numbers and check digit (the digits that follow the MID) from your Electronic File Number. This information is in the Header Record of the electronic file.

IMpb barcodes are required for all tracking numbers effective 1/27/2013. Valid Application Identifiers (AI): IMpb barcode AI "92" uses a 9-digit Mailer ID for commercial permit payment mailers. IMpb barcode "93" uses a 6-digit Mailer ID for commercial permit payment mailer. IMpb barcode "94" is used for online and meter mailers. Legacy barcode AI "91" will continue to be accepted for a limited time with an approved exception or waiver.

Place the barcode here or write the serial number and check digit of the electronic file in the spaces provided.



92750901193562000046092471

#### Confirmation Services Electronic File Number

**92/93	750	901193562	00004609247	1	
AI	STC	Mailer ID	Serial Number	Check Digit	
94					
AI	STC	Source Identifier	Mailer ID	Serial Number	Check Digit

\*\*91 can be used if approved for exception.

### INSTRUCTIONS FOR ACCEPTANCE EMPLOYEE

If mailings are presented under an authorized manifest mailing system, verify payment of postage and fees, where applicable, using standard sampling procedures for pieces with special services. In addition, check the barcode formatting for the following:

- Horizontal bars above and below the barcode.
- Human-readable numbers below the barcode.
- Depending on the product used, the words "USPS TRACKING #", "USPS SIGNATURE TRACKING #", "USPS CERTIFIED MAIL", or product specific found in Publication 199 based on the service type code.
- For Electronic Verification System, (eVS) or "e-VS" should be included either before or after the service banner text. For example: "eVS USPS TRACKING", "USPS TRACKING eVS", "e-VS USPS TRACKING", and "USPS TRACKING e-VS."

Date and Time of Verification

Date and Time of Mailing (if different from date of verification)

# Fargo Inspections

City of Fargo  
225 4th Street North  
701-241-1561  
701-476-6779 fax



## NOTICE OF DANGEROUS BUILDING

TO: Beverly J Woitzel  
Box 10294  
Fargo ND 58106

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.
2. That the building with which this Notice is concerned is commonly known as 1208 University Dr S, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Lot: Q Block: 0 MACLARENS SUB OF ERSKINES LOT Q, A UDITORS PLAT OF MACLARENS SUB OF THE S 50' OF LTS 6-8 BLK 2 MONSONS SUB OF BLK 1 ERSKINES, THE REMAI NING UNPL PT OF AUDS BLK 4 SW1/4 OF 7-139-48 & PTS OF LTS 2 & 9 & ALL LTS 3-8 BLK 2 NORTHROPS \*\*2/10 /00 LEGAL DESC CORR

(hereinafter referred to as "the building")

3. That an inspection was made of the building on the 27<sup>th</sup> day of July, 2023 by Laura Langdahl, Code Enforcement Inspector.
4. That the code enforcement inspector for the City of Fargo has found the building, consisting of a single story, wood frame, single family home of approximately 780 square feet structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and the International Property Maintenance Code, Section 111.1.5 concerning Dangerous Structures.
5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.

6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice which is the 31<sup>st</sup> day of July, or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.

7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Property Maintenance Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Building Code and the owner will be assessed such costs as are provided for therein.

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Dated this 31<sup>st</sup> day of July, 2023.

Conditions Found Statement

On the 27<sup>th</sup> day of July, Code Enforcement Inspector Laura Langdahl, was present at 1208 University Dr S, Fargo, ND to address a junk vehicle and building maintenance inspection. The following violations were found:

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- Weatherproofing on the entire roof is rotten and has failed on both the north and south facing extensions resulting in holes through the soffit.
- Siding on south facing wall is separating along the seam and has holes large enough to admit vermin.
- Weatherproofing around the windows shows signs of rot which could allow water and other elements into the structure.
- Chimney finish is cracked and crumbling.
- Homeowner has self-reported the home is filled with hoarded items making it unsafe to occupy.
- Homeowner has self-reported trespassing and squatters in the home.
- Homeowner has self-reported vandalism and theft from the property.
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- Junk accumulation in multiple areas of the yard.
- Gutter system is overgrown with vegetation and not functional.

The following action must be taken:

- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline -or-
- Demolish the structure within the deadline provided in this notice.

  
\_\_\_\_\_  
Laura Langdahl  
Code Enforcement Inspector

  
\_\_\_\_\_  
Shawn Ouradnik  
Inspections Director

7/31/2023  
\_\_\_\_\_  
Date Signed

City of Fargo  
225 4th St N  
Fargo ND 58102

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USPS CERTIFIED MAIL



9214 8901 9403 8324 5047 05

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BEVERLY J WOITZEL  
PO BOX 10294  
FARGO ND 58106-0294



## Shipment Confirmation Acceptance Notice

### A. Mailer Action

**Note to Mailer:** The labels and volume associated to this form online, **must** match the labeled packages being presented to the USPS® employee with this form.

Shipment Date: 07/31/2023  
 Shipped From:  
 Name: CITY OF FARGO  
 Address: 225 4TH ST N  
 City: FARGO  
 State: ND ZIP+4\* 58102

Type of Mail	Volume
Priority Mail Express®*	
Priority Mail®	0
First-Class Package Service®	
Returns	
International*	
Other	1
Total	1

\*Start time for products with service guarantees will begin when mail arrives at the local Post Office™ and items receive individual processing and acceptance scans.

### B. USPS Action

Note to RSS Clerk:

1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

USPS EMPLOYEE: Please scan upon pickup or receipt of mail.  
 Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0046 0924 71



Firm Mailing Book For Accountable Mail

Name and Address of Sender  
**CITY OF FARGO**  
**225 4TH ST N**  
**FARGO ND 58102**

Check type of mail or service  
 Adult Signature Required  
 Adult Signature Restricted Delivery  
 Certified Mail  
 Certified Mail Restricted Delivery  
 Collect on Delivery (COD)  
 Insured Mail  
 Priority Mail  
 Priority Mail Express  
 Registered Mail  
 Return Receipt for Merchandise  
 Signature Confirmation  
 Signature Confirmation Restricted Delivery

Postage 0.63  
 (Extra Service) Fee 4.35  
 Handling Charge  
 Actual Value if Registered  
 Insured Value  
 Due Sender if COD  
 ASR Fee  
 ASRD Fee  
 RD Fee  
 RR Fee 2.20  
 SC Fee  
 SCRD Fee  
 SH Fee

Addresssee (Name, Street, City, State, & ZIP Code \*)  
 BEVERLY J WOITZEL  
 PO BOX 10294  
 FARGO ND 58106-0294

Affix Stamp Here  
 (for additional copies of this receipt)  
 Postmark with Date of Receipt.

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office: 1

Postmaster, Per (Name of receiving employee)

PS Form 3877, January 2017 (Page 1 of 1)

Jobid: 4360915

PSN 7530-02-000-9098

Complete in Ink

Privacy Notice: For more information on USPS privacy policies, visit [usps.com/privacypolicy](http://usps.com/privacypolicy).



# Confirmation Services Certification

## COMPANY INFORMATION

Company Name

City of Fargo

Mailer Identification (MID)\* MID is a unique 6- or 9-digit number that identifies the mailer or the mailer's client. A conforming MID is a six-digit MID beginning with 0-8 or a nine-digit MID beginning with 9.

Address (Number, street, suite no., city, state, and ZIP Code\*\*)

225 4th St N  
Fargo ND 58102

## ELECTRONIC FILE

The electronic file submitted by the company shown above has been certified by the National Customer Support Center (NCSC) to be complete and accurate in both content and transmission and to meet the requirements as defined in Publication 199, *Intelligent Mail Package Barcode (IMpb) Implementation Guide for Confirmation Services and Electronic Verification System (eVS) Mailers*.

Authorized NCSC Signature

Date Signed

## BARCODED LABELS

The barcoded labels printed and submitted by the company shown above have been certified by the NCSC to meet the standards and specifications as prescribed in Publication 199 and the appropriate ANSI or AIM published standards.

Authorized NCSC Signature

Date Signed

## INSTRUCTIONS FOR MAILER

Keep the original of this form in a safe place and provide a copy to your local USPS® facility if requested. Shipments included in Service Performance Measurement should submit a PS Form 3152 with each mailing. In the space below, place a GS1-128 barcode representing the Electronic File Number from the Header Record. If you cannot print the barcode, fill in the sequence numbers and check digit (the digits that follow the MID) from your Electronic File Number. This information is in the Header Record of the electronic file.

IMpb barcodes are required for all tracking numbers effective 1/27/2013. Valid Application Identifiers (AI): IMpb barcode AI "92" uses a 9-digit Mailer ID for commercial permit payment mailers. IMpb barcode "93" uses a 6-digit Mailer ID for commercial permit mailer. IMpb barcode "94" is used for online and meter mailers. Legacy barcode AI "91" will continue to be accepted for a limited time with an approved exception or waiver.

Place the barcode here or write the serial number and check digit of the electronic file in the spaces provided.



92750901193562000046092471

### Confirmation Services Electronic File Number

**92/93	750	901193562	00004609247	1
AI	STC	Mailer ID	Serial Number	Check Digit
94				
AI	STC	Source Identifier	Mailer ID	Serial Number
				Check Digit

\*\*91 can be used if approved for exception.

## INSTRUCTIONS FOR ACCEPTANCE EMPLOYEE

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- Horizontal bars above and below the barcode.
- Human-readable numbers below the barcode.
- Depending on the product used, the words "USPS TRACKING #", "USPS SIGNATURE TRACKING #", "USPS CERTIFIED MAIL", or product specific found in Publication 199 based on the service type code.
- For Electronic Verification System, (eVS) or "e-VS" should be included either before or after the service banner text. For example: "eVS USPS TRACKING", "USPS TRACKING eVS", "e-VS USPS TRACKING", and "USPS TRACKING e-VS."

Date and Time of Verification

Date and Time of Mailing (if different from date of verification)











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## Memorandum

DATE: October 16, 2023  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Shawn Ouradnik, Inspections Director  
SUBJECT: Dangerous Building Public Hearing Request for 1208 UNIVERSITY DR S, FARGO ND

---

The property owner of 1208 UNIVERSITY DR S, FARGO ND 58103 BEVERLY J WOITZEL, has failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-04, it will now be necessary for you to set a date for a hearing of this order at which time the property owner will be able to appear and show cause why the building should not be removed and the costs of that removal assessed against this property.

The recommendation is **to make a motion, in accordance with FMC Article 21-0405, to set 5:15 pm Monday, October 30, 2023 as the time and date for the hearing regarding the dangerous building order for the structure at 1208 UNIVERSITY DR S, FARGO ND 58103.**

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## Notice of Dangerous Building Hearing – Order to Show Cause

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Date: October 18, 2023

Location: 1208 UNIVERSITY DR S FARGO ND 58103  
Property Owner: BEVERLY J WOITZEL  
Address of Property Owner: PO BOX 10294 FARGO ND 58106-0294

Inspector: Laura Langdahl  
Date of Posting: 10/18/2023

Ordinance 21-0405 of the Fargo Municipal Code states:

The board of city commissioners shall:

A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F) give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building: should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).

B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the “dangerous building.”

A hearing regarding the dangerous building located at 1208 UNIVERSITY DR S FARGO ND 58103 has been scheduled for, Monday October 30, 2023 at 5:15 PM. The hearing will take place in the City Commission Chambers, located at 225 4th Street N., Fargo, ND 58102.

Any interested person or party is encouraged to attend.

Dated on this October 18, 2023.

---

Shawn Ouradnik  
Inspections Director



## INSPECTIONS

**INSPECTIONS DEPARTMENT**  
Fargo City Hall 225 Fourth  
Street North Fargo, ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

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### Memorandum

DATE: October 30, 2023  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Shawn Ouradnik, Inspections Director  
SUBJECT: Dangerous Building Public Hearing at 1208 UNIVERSITY DR S, FARGO ND 58103

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The property owner of 1208 UNIVERSITY DR S, FARGO ND, has failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, a hearing date is scheduled for October 30, 2023.

Commission action requires a 10 day allowance for action per Article 21-0405.E.  
Article 21-0406 also allows court action if that is the course the commission chooses to take.  
Article 21-0412 is allowance for Owner appeal to City Commission action.

The recommendation is to **designate this a dangerous building, direct the City Attorney to prepare findings of fact in this matter, and order its removal on December 29, 2023. Please direct the appropriate staff to secure the removal of this building should the Owner fail to do so.**





PROOF OF ACCEPTANCE  
(ELECTRONIC)

PRODUCED DATE: 08/01/2023

CITY OF FARGO:

The following is information for Certified Mail™/RRE item number:  
9214 8901 9403 8324 5047 05

Our records indicate that this item was accepted by the USPS at:  
ORIGIN ACCEPTANCE FARGO,ND 58108 07/31/2023

ORIGINAL INTENDED RECIPIENT:  
BEVERLY J WOITZEL  
PO BOX 10294  
FARGO ND 58106-0294



Mailer: City of Fargo

Date Produced: 08/23/2023

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8324 5047 05. Our records indicate that this item was delivered on 08/22/2023 at 12:32 p.m. in FARGO, ND 58103. The scanned image of the recipient information is provided below.

Signature of Recipient :

Address of Recipient :

**PO BOX 10294**  
**FARGO, ND 58106-0294**

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,  
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

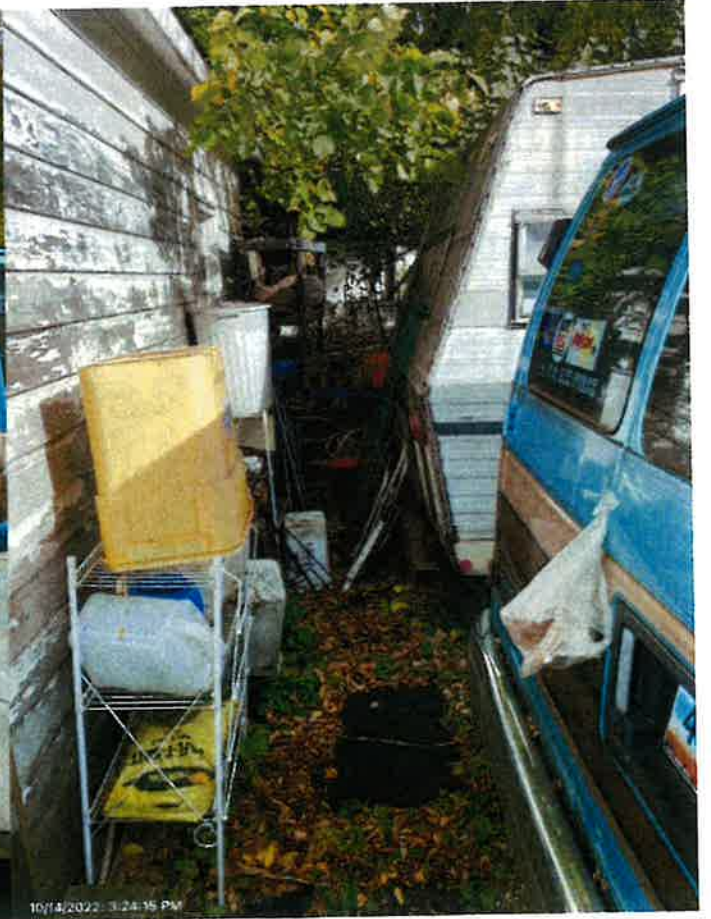
BEVERLY J WOITZEL  
PO BOX 10294  
FARGO ND 58106-0294

Customer Reference Number: C4360915.26053262



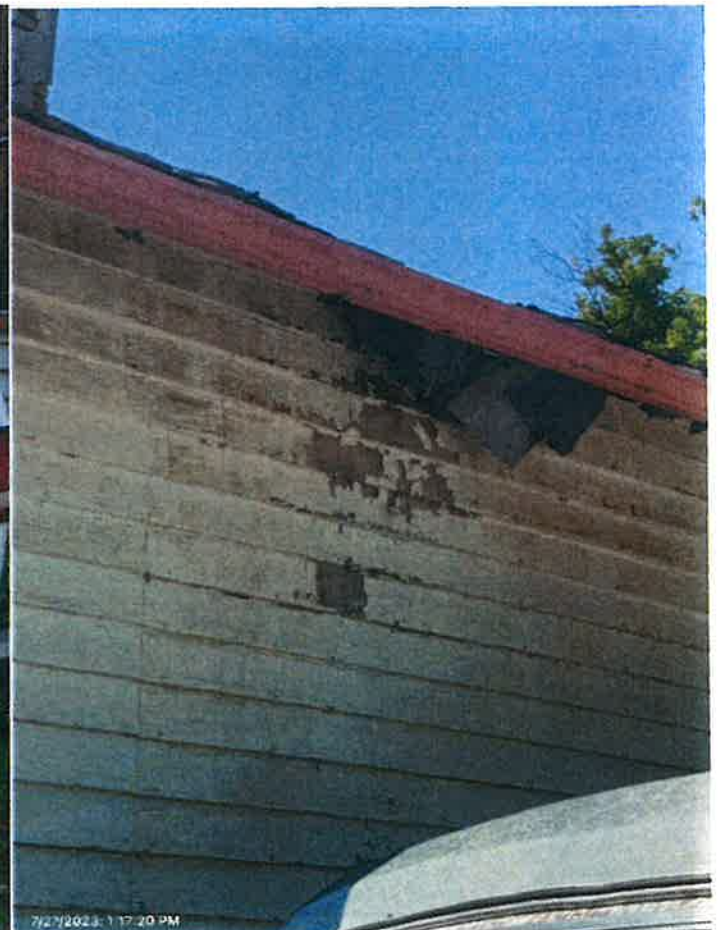


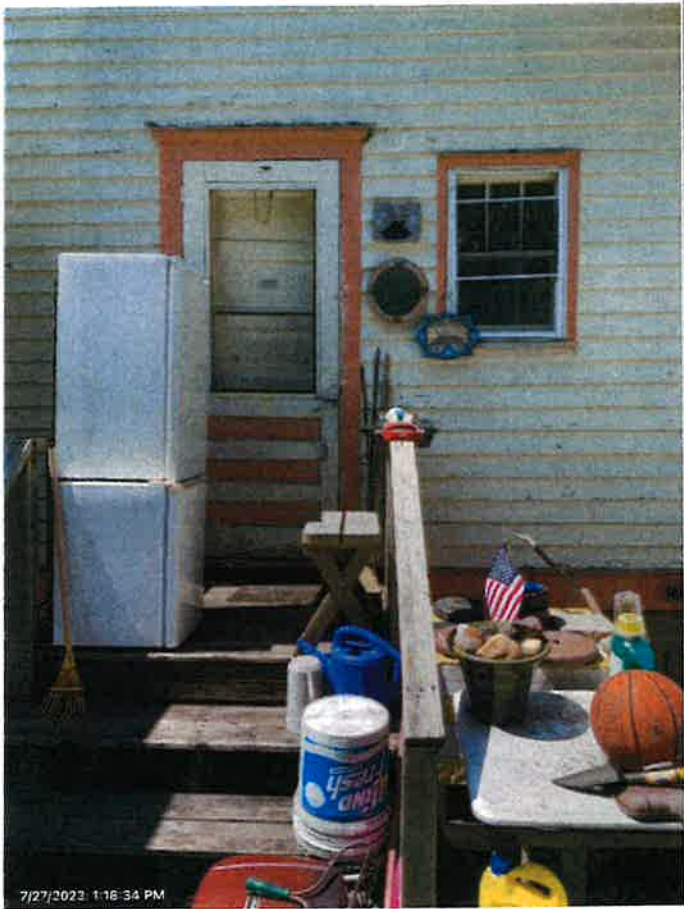


























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**MEMORANDUM**

TO: Liquor Control Board

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Application – El Agave

DATE: September 20, 2023

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

License Class: FA – Full service– bar allowed, food sales must exceed alcohol  
Business Name: El Agave Mexican Restaurant  
Location: 2581 45<sup>th</sup> Street South  
Applicants: Jose Perez, Felipe Mata, Jorge Manicillas and Jose Mata

This application is for the issuance of a Class FA liquor license. This facility will be a full service restaurant.

Due to a serving a minor violation of FMC 25-1509 B the Police Chief recommends DENIAL of the issuance of a Class FA alcoholic beverage license to El Agave Mexican Restaurant LLC d/b/a El Agave Mexican Restaurant. The complete application is available for review in the Auditor's Office.

After discussion regarding the application, the Liquor Control Board voted unanimously to approve issuing the liquor license to El Agave.

**Recommended Motion:**

**Move to APPROVE the issuance of a Class FA alcoholic beverage license to El Agave Mexican Restaurant, LLC d/b/a El Agave Mexican Restaurant.**



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Legal Company Name: EL AGAVE MEXICAN RESTAURANT, LLC (Must match State of North Dakota registration name)

DBA Name: EL AGAVE MEXICAN RESTAURANT

Is the establishment applying for (or has) a food license under the same name? Yes X No

Business location address: 2581 S 45TH ST. FARGO, ND 58104

Mailing address: 235 GREENCASTLE RD STE B. TYRONE, GA 30290

Business E-mail address: mbinns@esgaccounting.com

Local Manager E-mail address: josepmata95@gmail.com

Best Contact Phone number: ( 678 ) 364-9441

Anticipated Date of Opening: 07/15/2023

Please contact the Auditor's Office at 701-241-1301 or 241-8108 to determine the appropriate License Classification Type that would fit your business model.

The following section to be completed by City Staff:

Date Received: 8/3/23 Class of License: FA Transfer: Yes No X

Investigations Fee Paid (\$250) X Yes No Date Paid: CC 8/3/23

Police Department review completed by: Date:

(Attached recommendation report):

J. MATA, F. MATA, J. MANCILLAS X Approval Recommendation

JOSE PENEZ X Denial Recommendation

Chief of Police

09-12-23 Date



# FARGO POLICE DEPARTMENT

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

## CRIMINAL INVESTIGATIONS DIVISION

# MEMORANDUM

To: Chief David Zibolski

From: Sergeant Adam Melquist *AM*

Date: 9/5/2023

RE: Alcoholic Beverage License Application, Class "FA", El Agave Mexican Restaurant

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### Application for a class "FA" Alcoholic Beverage License from

El Agave Mexican Restaurant, LLC d/b/a El Agave Mexican Restaurant, Located at 2581 45<sup>th</sup> St S, 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 record criminal backgrounds.

The following information was discovered through this investigation:

#### Perez, Jose

##### Criminal History -

A search of Fargo Police Department criminal records, North Dakota public records ([publicsearch.ndcourts.gov](http://publicsearch.ndcourts.gov)) and Minnesota public records (<https://chs.state.mn.us>) showed Perez pled guilty to sell alcoholic beverage to minor in 2022 in Fargo. Perez's driver license was also suspended in 2017 for a DUI in Georgia. Perez disclosed both of these incidents on his application.

##### Credit History -

Perez's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections. Perez has three accounts that had been 30 days past due more than a year ago, but all accounts are now current.



**Mata, Felipe**

**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 history.

**Credit History -** Mata's credit history was reviewed. There are no prior bankruptcies or recent past due accounts. Mata has two collections accounts. One account has a note that says "account information disputed by consumer". The other account appears to be medical bills.

**Mancillas, Jorge**

**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 history.

**Credit History -** Mancillas' credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections

**Mata, Jose**

**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 history.

**Credit History -** Mata's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections

**Investigation Notes**

This application is for a class "FA" alcoholic beverage license (Authorizes the licensee to sell beer, wine, and spirits "on-sale" only. Bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages) for El Agave Mexican Restaurant, LLC d/b/a El Agave Mexican Restaurant.

I spoke with Jose Perez over the phone about his criminal history and credit report. Perez said his DUI arrest was about 7 years ago and he had been driving about one and a half miles home when he was stopped. Perez said he did not think he was intoxicated, but was over on the breathalyzer. Perez also explained the citation for selling alcohol to a minor. Perez said he was working at Plaza Azteca as a server. The bartender was very busy so he started helping with their tables. Perez said he served alcohol to a young female and thought she was 21 because she was with an adult. The table happened to be a compliance check by the police department and the female was a minor. Perez said he learned his lesson and owned the mistake.

I also mentioned the accounts that had been past due. Perez said all of his accounts should be current and if he had missed payments it would have been a while ago. The credit report said the missed payments were more than a year ago. Perez was cooperative during our conversations.

I called Felipe Mata about the collections accounts. Mata does not speak English so I had a North Dakota BCI Agent who is fluent in Spanish complete the interview for me. Mata explained that the account for \$770 was an issue with an apartment that he disputed. Mata said the account has been paid. Mata said he was unaware of the second account in collections, which appears to be medical bills.

**Business Location**

El Agave Mexican Restaurant is located at 2581 45<sup>th</sup> St S. Other businesses in the area with alcoholic beverage licenses are Sickies Garage, Applebee's, and Pizza Ranch.

**Conclusion**

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

RECEIVED  
FARGO POLICE DEPARTMENT  
  
SEP 06 2023  
  
MATT CHRISTENSEN  
LIEUTENANT  
REF: CAPT AHLFELDT

RECEIVED  
FARGO POLICE DEPARTMENT

SEP 08 2023

WILLIAM S AHLFELDT  
CAPTAIN

REF: AS. STEFONOWICZ  
- Forward

RECEIVED  
FARGO POLICE DEPARTMENT  
  
SEP 08 2023  
  
TRAVIS STEFONOWICZ  
ASSISTANT CHIEF OF POLICE  
REF: Chief Zubski -

RECEIVED  
FARGO POLICE DEPARTMENT  
  
SEP 12 2023  
  
DAVID S SPRAGUE  
CHIEF OF POLICE  
REF: J SPRAGUE OS

↓ LICENSE FOR JOSE  
PEREZ DENIED PURSUANT  
TO ARTICLE 25-15 B.B. (SALE  
OF ALCOHOL TO MINOR)

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**MEMORANDUM**

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TO: Liquor Control Board

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Application – Cairo Restaurant and Bar

DATE: September 20, 2023

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

License Class: FA – Full service– bar allowed, food sales must exceed alcohol  
Business Name: Cairo Restaurant and Bar  
Location: 4554 7<sup>th</sup> Avenue South  
Applicants: Heba Ismail

This application is for the issuance of a Class FA liquor license. This facility will be a full service restaurant.

Due to a misstatement on the application the Police Chief recommends DENIAL of the issuance of a Class FA alcoholic beverage license to Summit Night Club d/b/a Cairo Restaurant and Bar, following the resolution establishing license application qualification, guideline #7. The complete application is available for review in the Auditor's Office.

After discussion regarding the application, the Liquor Control Board voted unanimously to approve issuing the liquor license to Cairo Restaurant and Bar.

**Recommended Motion:**

**Move to APPROVE the transfer of a Class FA alcoholic beverage license from Johnny Carino's to Summit Night Club d/b/a Cairo Restaurant and Bar.**

20469



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Legal Company Name: Summit night club  
(Must match State of North Dakota registration name)

DBA Name: Cairo restaurant and night club

Is the establishment applying for (or has) a food license under the same name? Yes \_\_\_ No \_\_\_

Business location address: 4554 7th Ave S Fargo, ND 58103

Mailing address: 4554 7th Ave S Fargo, ND 58103

Business E-mail address: nooralanborsal@gmail.com

Local Manager E-mail address: \_\_\_\_\_

Best Contact Phone number: (701) 478-7716

Anticipated Date of Opening: 9-1-2023

*Please contact the Auditor's Office at 701-241-1301 or 241-8108 to determine the appropriate License Classification Type that would fit your business model.*

The following section to be completed by City Staff:

Date Received: 7/24/23 Class of License: FA Transfer: \_\_\_ Yes X No

Investigations Fee Paid (\$250) X Yes \_\_\_ No Date Paid: 7-24-23  
CK # 1662

Police Department review completed by: \_\_\_\_\_ Date: \_\_\_\_\_

(Attached recommendation report):

\_\_\_ Approval Recommendation  
Daniel O. Johnson  
Chief of Police

X Denial Recommendation  
09-12-23  
Date



# FARGO POLICE DEPARTMENT

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

## CRIMINAL INVESTIGATIONS DIVISION

### MEMORANDUM

To: Chief David Zibolski

From: Sergeant Adam Melquist *Am*

Date: 9/5/2023

RE: Alcoholic Beverage License Application, Class "FA", Cairo Restaurant and Nightclub

RECEIVED  
FARGO POLICE DEPARTMENT  
SEP 06 2023  
MATT CHRISTENSEN  
LIEUTENANT  
REF: *CAPT AHLFELDT*

RECEIVED  
FARGO POLICE DEPARTMENT

SEP 08 2023

WILLIAM S AHLFELDT  
CAPTAIN  
REF: *A.C. STEFONOWICZ*  
*- FORWARD*

Application for a class "FA" Alcoholic Beverage License from  
Summit Night Club d/b/a Cairo Restaurant and Nightclub, Located at 4554 7<sup>th</sup> Ave S, 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 record criminal backgrounds.

The following information was discovered through this investigation:

Ismail, Heba

**Criminal History -**

A search of Fargo Police Department criminal records, North Dakota public records ([publicsearch.ndcourts.gov](http://publicsearch.ndcourts.gov)) and Minnesota public records (<https://chs.state.mn.us>) showed Ismail was issued a citation for shoplifting in Moorhead in 2010. I was not able to find a record of the disposition of this charge. Ismail was also issued a citation for shoplifting in Fargo in 2019. Ismail pled guilty to the charge. Neither of these incidents were disclosed on the application.

RECEIVED  
FARGO POLICE DEPARTMENT  
SEP 08 2023  
TRAVIS STEFONOWICZ  
ASSISTANT CHIEF OF POLICE  
REF: *Chief Zibolski*

**Credit History -**

Ismail's credit history was reviewed. There are no prior bankruptcies. Ismail has two accounts that were delinquent 180 days and the accounts are listed as "CHARGOFF" (Unpaid balance reported as a loss). There is one account that was delinquent 150 days and is now listed as "CHARGOFF". Ismail has one account in collections for \$137. Ismail has one account that was delinquent for 30 days twice, but has since been paid off. Ismail has one open account that was delinquent 30 days but is now current. Ismail has one account that is delinquent 180 days.

**Investigation Notes**

This application is for a class "FA" alcoholic beverage license (Authorizes the licensee to sell beer, wine, and spirits "on-sale" only. Bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages) for Summit Nightclub d/b/a Cairo Restaurant and Nightclub.

I spoke with Ismail over the phone about the criminal history and credit report. I brought up the two shoplifting charges that were not disclosed on the application. Ismail admitted to the charges but explained she was told by Steve Sprague that these charges were not applicable to this application and did not need to be disclosed.

Following my conversation with Ismail, I sent Steve Sprague an email for some context on their conversation. Steve responded saying Ismail did disclose these charges to him, and he told Ismail to disclose everything on the application and let the police department decide if the information was material. Ismail mentioned the charges were related to her son and decided not to disclose them in the end.

I called Ismail back and asked her for any reasoning why she decided to keep the shoplifting charges from the application. I told her I spoke with Steve Sprague who said he told her to disclose everything on the application. Ismail seemed surprised when I said "everything" and added she misunderstood. Ismail said she was not trying to hide anything and said she knows what she did, with relation to the charges.

We also talked about the delinquent accounts in the credit report. Ismail said her husband was recently in the United States and was opening credit cards behind her back. Ismail seemed as if she did not know about the delinquent accounts and was concerned. She asked how she would be able to get a credit report to see for herself. Ismail was cooperative during our conversations.

**Business Location**

Cairo Restaurant and Nightclub will be located at 4554 7<sup>th</sup> Ave S. Other businesses in the area with alcoholic beverage licenses are Passage to India and Buffet Mongolian Grill.

**Conclusion**

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



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**AUDITOR'S OFFICE**

Fargo City Hall  
225 4th Street North  
PO Box 2471  
Fargo, ND 58108

Phone: 701.241.8108 | Fax: 701.241.8184  
[www.FargoND.gov](http://www.FargoND.gov)

**MEMORANDUM**

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TO: Liquor Control Board  
FROM: Steven Sprague, City Auditor  
SUBJECT: Liquor License Application – AmericInn Fargo  
DATE: February 15, 2023

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

License Class: ABH Limited – Limited Service Hotel  
Business Name: AmericInn Fargo  
Location: 4325 23<sup>rd</sup> Ave South  
Applicants: Mukesh Patel, Sanjir Patel, Sanjay Patel & Jignesh Patel

This application is for the transfer of a Class ABH Limited liquor license. This facility will continue to operate as a limited service hotel with a limited alcohol liquor license.

Being no significant concerns, staff & Liquor Control recommend approval of the issuance of a Class ABH Limited alcoholic beverage license to Fargo Voyage Hotel LLC d/b/a AmericInn Fargo. The complete application is available for review in the Auditor's Office.

**Recommended Motion:**

**Move to approve the issuance of a Class ABH Limited alcoholic beverage license to Fargo Voyage Hotel LLC d/b/a AmericInn Fargo.**



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Legal Company Name: Fargo Voyage Hotel LLC  
(Must match State of North Dakota registration name)

DBA Name: Americ Inn, Fargo

Is the establishment applying for (or has) a food license under the same name? Yes  No

Business location address: 4325 23rd Aves Fargo ND 58104

Mailing address: Same AS ABOVE

Business E-mail address: Americinn@fargohospitality.com

Local Manager E-mail address: Jignesh@fargohospitality.com

Best Contact Phone number: (312) 731 0909

Anticipated Date of Opening: 6/27/2023

Please contact the Auditor's Office at 701-241-1301 or 241-8108 to determine the appropriate License Classification Type that would fit your business model.

The following section to be completed by City Staff:

Date Received: 8/30/23 Class of License: ABH Limited Transfer:  Yes  No

Investigations Fee Paid (\$250)  Yes  No Date Paid: 8-30-23

Police Department review completed by: \_\_\_\_\_ Date: \_\_\_\_\_

(Attached recommendation report):

Approval Recommendation

Denial Recommendation

Daniel G. Jell  
Chief of Police

10-05-23  
Date





# FARGO POLICE DEPARTMENT

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

## CRIMINAL INVESTIGATIONS DIVISION

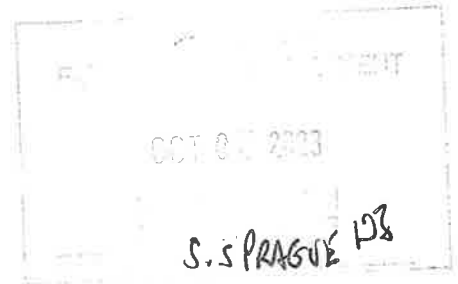
### MEMORANDUM

To: Chief David Zibolski

From: Sergeant Adam Melquist *Am*

Date: 9/29/2023

RE: Transfer of Alcoholic Beverage License Application, Class "ABH Limited", AmericInn, Fargo

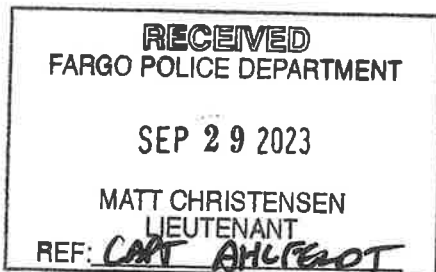


Application to transfer a class "ABH Limited" Alcoholic Beverage License from  
KLP Lodging LLC d/b/a AmericInn Fargo to  
Fargo Voyage Hotel LLC d/b/a AmericInn, Fargo, Located at 4325 23<sup>rd</sup> Ave S.

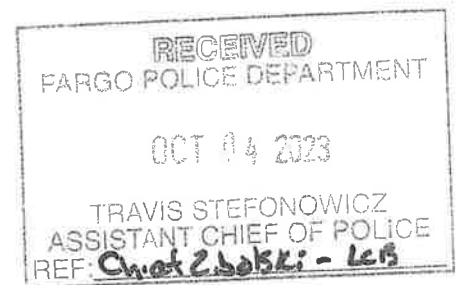
In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:



RECEIVED  
FARGO POLICE DEPARTMENT  
OCT 03 2023  
WILLIAM S AHLFELDT  
CAPTAIN  
REF: A.C. STEFONOWICZ  
- F.M.M.A



Patel, Jignesh

**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 history.

**Credit History -** Jignesh Patel's credit history was reviewed. There are no prior bankruptcies or debts turned over to collections. Jignesh did have two accounts that were 30 days past due about 7 months ago but both accounts are now current.

Patel, Mukesh

**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) and an Illinois public internet search showed no criminal history.

**Credit History -** Mukesh Patel's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections. Patel Mukesh has one account that is listed as "charge-off" from 2019 for \$209.

Patel, Sanjir

**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) and an Illinois public internet search showed no criminal history.

**Credit History -** Sanjir Patel's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Patel, Sanjay

**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) and an Indiana public internet search showed no criminal history.

**Credit History -** Sanjay Patel's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections

**Investigation Notes**

This application is for a class "ABH Limited" alcoholic beverage license (Authorizes the licensee to sell Beer, Wine, and Spirits "on-sale" and "off-sale" from a hotel or motel with 100 or more guest rooms. Bar is allowed) for Fargo Voyage Hotel LLC d/b/a AmericInn, Fargo.

**Business Location**

AmericInn, Fargo is located at 4325 23<sup>rd</sup> Ave S. Other businesses in the area with alcoholic beverage licenses are Applebee's and Pizza Ranch.

**Conclusion**

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



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**AUDITOR'S OFFICE**

Fargo City Hall  
225 4th Street North  
PO Box 2471  
Fargo, ND 58108

Phone: 701.241.8108 | Fax: 701.241.8184  
www.FargoND.gov

**MEMORANDUM**

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TO: Board of City Commissioners  
FROM: Steven Sprague, City Auditor  
SUBJECT: Liquor License Transfer Application – Hennessey’s to Double Down  
DATE: October 18, 2023

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

License Class: A  
Business Name: Hennessey’s transfer to Double Down  
Location: 3165 33<sup>rd</sup> Street South #101  
Applicants: Dave Erickson, Warren Schatz & Dave Grueneich

The request is to transfer a Class A license from Irish Hospitality LLC d/b/a Hennessey’s to Irish Hospitality LLC d/b/a Double Down. This will be a new operation at a new location.

Being no significant concerns, the Liquor Control Board voted to approve the transfer of a Class A alcoholic beverage license to Irish Hospitality LLC d/b/a Double Down. The complete application is available for review in the Auditor’s Office.

**Recommended Motion:**

**Move to approve the transfer of a Class A alcoholic beverage license to Irish Hospitality LLC d/b/a Double Down.**

23-1183



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Legal Company Name: Irish Hospitality, LLC  
(Must match State of North Dakota registration name)

DBA Name: Double Down

Is the establishment applying for (or has) a food license under the same name? Yes  No

Business location address: 3165 33rd St. S, #101

Mailing address: 4265 45th St. S, #165 Fargo, ND 58104

Business E-mail address: derichson@Bulldogtop.com

Local Manager E-mail address: derichson@Bulldogtop.com

Best Contact Phone number: (701) 866-2124

Anticipated Date of Opening: 10/15/2023

Please contact the Auditor's Office at 701-241-1301 or 241-8108 to determine the appropriate License Classification Type that would fit your business model.

The following section to be completed by City Staff:

Date Received: 8/31/23 Class of License: A Transfer:  Yes  No

Investigations Fee Paid (\$250)  Yes  No Date Paid: 8/31/23

Police Department review completed by: Sgt Adam Melquist Date: 10.13.2023

(Attached recommendation report):

Approval Recommendation

Denial Recommendation

[Signature]  
For Chief of Police

10.16.2023  
Date

*OWNER SIGNATURE*  
*CHG*



# FARGO POLICE DEPARTMENT

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

## CRIMINAL INVESTIGATIONS DIVISION

### MEMORANDUM

To: Chief David Zibolski

From: Sergeant Adam Melquist *Am*

Date: 9/29/2023

RE: Transfer of Alcoholic Beverage License Application, Class "A", Double Down

RECEIVED  
FARGO POLICE DEPARTMENT  
SEP 29 2023  
MATT CHRISTENSEN  
LIEUTENANT  
REF: CAPT AHLFELDT

RECEIVED  
FARGO POLICE DEPARTMENT

OCT 13 2023

WILLIAM S AHLFELDT  
CAPTAIN

REF: A.C. STEFANOWICZ  
FARGO POLICE DEPARTMENT  
OCT 10 2023  
JOE ANTHONY  
DEPUTY CHIEF  
REF: STEVE Sprague  
*For Chief Zibolski*

Application to transfer a class "A" Alcoholic Beverage License from

Irish Hospitality, LLC d/b/a Hennessy's Irish Pub to

Irish Hospitality, LLC d/b/a Double Down, Located at 3165 33<sup>rd</sup> St S #101, 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 record criminal backgrounds.

The following information was discovered through this investigation:

Erickson, David

**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 history.

**Credit History -**

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

**Schatz, Warren**

**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 history.

**Credit History -** Schatz's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

**Grueneich, David**

**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 Grueneich pled guilty to operating a vehicle under the influence in 2011 in Cass County. Grueneich disclosed this charge on the application.

**Credit History -** Grueneich's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

**Investigation Notes**

This application is for a class "A" alcoholic beverage license (Authorizes the licensee to sell Beer, Wine, and Spirits "on-sale" only. Bar is allowed) for Irish Hospitality, LLC d/b/a Double Down.

I spoke with David Grueneich over the phone with regards to the DUI arrest in 2011. Grueneich explained it was one of the first times drinking hard alcohol and thought he had waited enough time before driving. Grueneich admitted he had made a terrible mistake that he learned from. Grueneich was cooperative during our conversation.

**Business Location**

Double Down will be located at 3165 33<sup>rd</sup> St S #101. There are no other establishments with alcoholic beverage licenses in the immediate area.

**Conclusion**

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



✓  
 (5200)

G - \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
 Site License Number  
 (Attorney General Use Only)

Full, Legal Name of Gaming Organization  
 Fargo Angels Hockey Club

This organization is authorized to conduct games of chance under the license granted by the North Dakota Attorney General at the following location

Name of Location Double Down Bar-Grill-Casino			
Street 3165 33rd St. S. #101	City Fargo	ZIP Code 58104	County Cass
Beginning Date(s) Authorized		Ending Date(s) Authorized 10-30-2024	Number of Twenty-One tables, if zero, enter "0" 3
Specific location where games of chance will be conducted and played at the site (required) Between kitchen/storage/office space and outdoor patio (Please see attached map)			
If conducting Raffle or Poker activity provide date(s) or month(s) of the event(s) if known			

**RESTRICTIONS FOR CITY/COUNTY USE ONLY**

The organization **must** provide the City/County a list of game types included in their Internal Control Manual and have the manual available upon request. The manual must thoroughly explain each game type to be conducted. The City/County can only approve these games at the site.

**ACTIVITY TO BE CONDUCTED** Please check all applicable games to be conducted at site (required)

<input type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> ELECTRONIC Quick Shot Bingo	<input type="checkbox"/> Tip Board	<input checked="" type="checkbox"/> Twenty-One
<input checked="" type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> ELECTRONIC 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input checked="" type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheel with Tickets
<input type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table
<input checked="" type="checkbox"/> ELECTRONIC Pull Tab Device		

Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)
---	---------------------------------

If any information above is false, it is subject to administrative action on behalf of the State of North Dakota Office of Attorney General

**APPROVALS**

Attorney General	Date
Signature of City/County Official	Date 10/30/23
PRINT Name and official position of person signing on behalf of city/county above Steven Sprague/City Auditor	

**INSTRUCTIONS:**

1. City/County - Retain a **copy** of the Site Authorization for your files.
2. City/County - Return the **original** Site Authorization form to the Organization.
3. Organizations - Send the **original, signed**, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval

**RETURN ALL DOCUMENTS TO:**

Office of Attorney General  
 Licensing Section  
 600 E Boulevard Ave, Dept. 125  
 Bismarck, ND 58505-0040  
 Telephone: 701-328-2329 OR 800-326-9240

23-1185



53

**M E M O R A N D U M**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: GRANT LARSON <sup>GL</sup>**  
**DIRECTOR OF ENVIRONMENTAL HEALTH**

**DATE: OCTOBER 26, 2023**

**RE: MASSAGE THERAPY ESTABLISHMENT PROGRAM UPDATE**

Staff at Fargo Cass Public Health and the Fargo Police Department request the opportunity to provide an update on the Massage Therapy Establishment Program associated with Chapter 13-18 of the Fargo Municipal Code.

Along with the presentation, and enclosed for your consideration and approval is an Ordinance amending Sections 13-1801, 13-1802, and 13-1806 of Article 13-18 of Chapter 13 of the Fargo Municipal Code, an Ordinance amending Section 1-0305(A)(1) of Article 1-03 of Chapter 1 of the Fargo Municipal Code relating to Classification of Ordinance Violations, along with a Resolution establishing Massage Therapy Establishment Requirements (hereinafter "Requirements") and an associated license fee for such establishments.

Sections 13-1802 and 13-1805 of the Fargo Municipal Code authorize the Board of City Commissioners to adopt certain regulations creating minimum standards for massage therapy establishments as well as the amount of an initial license fee. At its October 2, 2023, meeting, the Board of City Commissioners directed the City Attorneys to work with the Environmental Health Division of Fargo Cass Public Health to review and update Article 13-18. As such, these items are presented to you for your consideration and approval after the presentation and program update.

If you have any questions, please contact me at 241-1380.

**Suggested Motions:**

1. I move to receive and file an Ordinance amending Sections 13-1801, 13-1802, and 13-1806 of Article 13-18 of Chapter 13 of the Fargo Municipal Code relating to Massage Therapy Establishments and to place the Ordinance on for first reading at the next regularly scheduled City Commission meeting.
2. I move to receive and file an Ordinance amending Section 1-0305(A)(1) of Article 1-03 of Chapter 1 of the Fargo Municipal Code relating to Classification of Ordinance Violations and to place the Ordinance on for first reading at the next regularly scheduled City Commission meeting.
3. I move to receive, approve, and file the Resolution relating to Massage Therapy Establishments, which adopts certain requirements and sets the annual license fee.

GL

53a

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

**RESOLUTION**

**WHEREAS**, the Board of City Commissioners of the city of Fargo have deemed it necessary and appropriate to approve and adopt an ordinance regulating massage therapy establishments, codified in Article 13-18 of the Fargo Municipal Code; and

**WHEREAS**, Sections 13-1802 and 13-1805 of the Fargo Municipal Code authorize the Board of City Commissioners to adopt certain regulations creating minimum standards for massage therapy establishments as well as the amount of an initial license fee; and

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF CITY COMMISSIONERS,**

1. The attached Massage Therapy Establishment Requirements are hereby adopted by reference and fully incorporated herein; and
2. The Massage Therapy Establishment Fee shall be in the amount of \$50.00 per year.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2023.

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

ATTEST:

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

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



# **Requirements for Massage Therapy Establishments**

**Fargo Cass Public Health  
1240 25<sup>th</sup> 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 relating to massage therapy establishments. The following requirements in this document are not exclusive. Please refer to Article 13-18 of the Fargo Municipal Code for further applicable rules and regulations.

### **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 touch;
  - 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 or designee 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 under Section 13-1806 of the Fargo Municipal Code, they are not eligible to apply 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) 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.
- (3) 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 was the previous holder of a massage therapy establishment license which was revoked;
- (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 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 massage therapy establishment 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, upon request;
- (4) A valid and current license for each massage therapist shall be located on-site and available for review at any time;
- (5) Massage therapists are responsible for maintaining all equipment and supplies in good working order in accordance with the manufacturer's instruction;
- (6) Furniture, equipment, and tools utilized for massage must be properly stored, cleaned, and sanitized after each client;
- (7) Restrooms must include hot and cold running water, hand soap, hand drying provisions, and a covered waste receptacle.
- (8) Sanitizing agents shall be made available and used properly according to the manufacturer's guidelines.

- (9) Clean linens shall be available for each client;
- (10) 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
- (11) 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.

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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

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AN ORDINANCE AMENDING SECTIONS 13-1801, 13-1802, 13-1806 OF 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. Amendment

Section 13-1801 of Article 13-18 of Chapter 13 of the Fargo Municipal Code is hereby amended to read as follows:

**Section 13-1801. Definitions.**

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

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:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

- 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 touch;
- e. Use of topical applications such as lubricants, scrubs, or herbal preparations; and
- f. Use of hot or cold applications.

\* \* \*

6. "Public health department" means Fargo Cass Public Health or any representative or designee thereof.

Section 2. Amendment

Section 13-1802 of Article 13-18 of Chapter 13 of the Fargo Municipal Code is hereby amended to read as follows:

**Section 13-1802. License to operate massage therapy establishment issued annually – fee; application, investigation.**

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

The chief of police or their designee shall investigate the facts stated in the application and shall report the results of the investigation to the public health department prior to the issuance of a license. Said investigation shall include the character, reputation, and fitness of the applicant to hold a license, or any other pertinent information as to whether such license should be granted. Upon satisfaction of compliance with all license requirements, the massage therapy establishment license shall be issued.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 3. Amendment

Article 13-1806 of Chapter 13 of the Fargo Municipal Code is hereby amended as follows:

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

\* \* \*

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

\* \* \*

Section 4. Penalty.

A person, firm, or corporation violating the provisions of this article shall, upon conviction thereof, be guilty of a Class B misdemeanor, and shall be punished by a fine not to exceed \$1,500.00 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.

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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 5. 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:

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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING SECTION 1-0305(A)(1)  
OF ARTICLE 1-03 OF CHAPTER 1 OF THE FARGO MUNICIPAL CODE  
RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS

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 purpose; and

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance to increase the penalty for massage therapy establishment violations from an Infraction to a Class B misdemeanor;

NOW, THEREFORE,

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

Section 1. Amendment.

Section 1-0305(A)(1) of Article 1-03 of Chapter 1 of the Fargo Municipal Code is hereby amended to read as follows:

1-0305. Classification of ordinance violations.—

A. Violations of the following ordinances are Class B misdemeanors, subject to punishment as provided in this article:

1. Section 1-0306(D) (failure to appear or post bond on a non-criminal, non-traffic offense), section 8-0305(A)(2) (fictitious registration), section 8-0305(A)(3) (lending registration plates), section 8-0308 (reproducing operator's or driver's license or permit), section 8-0309 (driving under suspension), section 8-0310 (driving under the influence),



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 section 8-0314 (reckless driving), section 8-0320(D) (failure to deliver plates) section 8-  
 2 0803 (accidents involving damage to vehicle), section 8-0804 (duty to give information  
 3 and render aid), section 8-0805 (duty upon striking fixture or other property), section 8-  
 4 0809 (false reports), section 10-0104 (curfew), section 10-0201 (indecent exposure),  
 5 section 10-0301 (disorderly conduct), section 10-0201 (indecent exposure), section 10-  
 6 0301 (disorderly conduct), section 10-0317 (resisting police officer), section 10-0319  
 7 (incendiary devices), section 10-0320 (registration in schools), section 10-0321 (criminal  
 8 mischief), section 10-0321.1 (criminal mischief-hate crime), section 10-0322 (harassment),  
 9 section 10-0322.1 (harassment-hate crime), section 10-0323 (simple assault), section 10-  
 10 0323.1 (simple assault-hate crime), section 10-0324 (aiding and abetting), section 10-0601  
 11 (shoplifting), section 10-0602 (theft), section 10-0702 (order to disperse), section 10-0703  
 12 (tenant/owner cooperation required), section 10-1202(2) ( $\geq \frac{1}{2}$  oz. marijuana) and 10-  
 13 1202(3) (under 21 in possession of marijuana), section 12-0117(C) and 12-0117(G)  
 14 (potentially dangerous and dangerous dogs), section 13-0511 (removal of wastes), section  
 15 13-0513 (fee/permit for hauling waste), section 13-0529 (misuse of compost sites), article  
 16 13-13 (drug lab cleanup), article 13-18 (massage therapy establishments), chapter 17  
 17 (sewers and sewerage), article 18-09 (excavation code), section 25-0412 (unlicensed  
 18 taxicab or vehicle for hire), section 25-1509(A) (selling alcoholic beverage to minor),  
 19 section 25-1518(C) (minor misrepresenting age), and section 25-1518(D) (delivery of  
 20 alcoholic beverage to minor), article 25-33 (tattoos, body art and body piercing), article 25-  
 21 36 (tanning facilities).

\* \* \*

Section 2. Effective Date.

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

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

(SEAL)

Attest:

First Reading:  
Second Reading:  
Final Passage:



October 25, 2023

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

Re: North Broadway Bridge Feasibility Study Update  
City of Fargo Project No. QR-23-A0  
INFORMATIONAL ITEM

Staff and the consultant team will be providing an informational update on this important project. This discussion will be informative in nature and will bring you up to speed on the study, with no decisions expected at this meeting.

Early last summer we hired Houston Engineering to complete a feasibility study for the potential bridge crossing on North Broadway over the Red River. A bridge replacement project is currently included in our 2026 Capital Improvement Plan and it has \$5.4M in Federal Highway funds programmed for it. Houston has examined 3 options for the crossing; do nothing, replace bridge at the current elevation, and replace bridge to clear the 100-year flood elevation post FM Diversion Project. Our goal of the feasibility study was to have a solid understanding of what each option means in terms of outcomes, and the estimated cost to complete each one.


Houston is in the final stages of the study and we would like to bring this in front of you twice; once now as an informational session for you to see what Houston has done to date, and then again on Monday, November 27 for a final decision on whether or not we move forward with a bridge project. We plan to also bring our annual federal aid project applications to you for approval that night as well, as Metro COG would like them by the end of November.

I look forward to the discussion on Monday.

**Recommended Motion**

None anticipated.

Respectfully,



Jeremy M. Gorden, PE, PTOE  
Transportation Division Engineer



October 26, 2023

55

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

**Subject:** Request for Proposals (RFP) for Advanced Metering Infrastructure (AMI)

Dear Commissioners:

Water Utility staff is seeking approval to publish a Request for Proposals (RFP) for an Advanced Metering Infrastructure (AMI) project to support City of Fargo (CoF) operations. The AMI project is a collaboration between several CoF departments, including Finance Department, Public Works, Auditor's Office, and Water Utility.

The AMI project will modernize metering capabilities to water customers served by the City of Fargo. AMI has been on the Water Utility Capital Improvement Plan (CIP) for over a decade with a feasibility study completed in 2010 and is programmed for funding in the Water Utility financial model. Since AMI is classified as a water conservation project by regulators, a low-interest Clean Water State Revolving Fund (CWSRF) loan will be used for project funding. As with other drinking water projects, AMI should serve multiple generations.

There will be many benefits from the AMI system once installed, including:

- **Customer Benefits:** real-time water use information, bill transparency, leak detection
- **City of Fargo Benefits:** enhanced customer service, improved metering data, operational efficiency
- **Water Utility Benefits:** support Red River Valley Water Supply Project (RRVWSP), drought operations

The AMI system will require a few years to install after the RFPs are evaluated and vendor selected. Several other cities in the region have implemented AMI or are in various stages of system AMI selection and implementation.

Your consideration is greatly appreciated in this matter.

Sincerely,

Troy B. Hall  
Water Utility Director

**RECOMMENDED MOTION: To Authorize Staff to Publish Request for Proposals (RFP) for the City of Fargo AMI Project.**



56

**ASSESSOR'S OFFICE**  
Fargo City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: 701.241.1340 | Fax: 701.241.1339  
[www.FargoND.gov](http://www.FargoND.gov)

**October 24, 2023**

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Attached are the Applications for Abatement or Refund of Taxes #4546 and #4547. The applications are for a residence located at 4773 32 St S. The applications request the following:

#4546 – for 2022, a reduction from \$749,400 to \$650,000

#4547 – for 2023, a reduction from \$887,600 to \$660,000

We have provided information regarding the valuation of this property and the reasons for a value adjustment. With the information provided by the owner, our review included sales and assessment information and we recommend value adjustments as provided below.

**SUGGESTED MOTION:**

**Adjust the property values at 4773 32 St S in the following manner:**

**#4546 – retain the 2022 certified value of \$749,400**

**#4547 – reduce the 2023 certified value to \$784,000**

Sincerely,

*Michael Splonskowski*

Michael Splonskowski  
Fargo City Assessor

### Application For Abatement Or Refund Of Taxes North Dakota Century Code § 57-23-04

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

State of North Dakota Assessment District Cass County  
County of Cass Property I.D. No. 01-8536-00610-000  
Name Michelle and Tom Strinden Telephone No. [REDACTED]  
Address 4773 32nd St. S., Fargo, ND 58104

Legal description of the property involved in this application:  
Lot: 1 Block: 3 TIMBER CREEK 1ST LT 1 BLK 3

Total true and full value of the property described above for the year 2022 is:  
Land \$ 79,600  
Improvements \$ 669,800  
Total \$ 749,400  
(1)

Total true and full value of the property described above for the year 2022 should be:  
Land \$ 79,600  
Improvements \$ 570,400  
Total \$ 650,000  
(2)

The difference of \$ 99,400.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

1. Purchase price of property: \$ 590,000 Date of purchase: 9/23/2019  
 Terms: Cash  Contract \_\_\_\_\_ Trade \_\_\_\_\_ Other (explain) \_\_\_\_\_  
 Was there personal property involved in the purchase price? no Estimated value: \$ \_\_\_\_\_  
 yes/no

2. Has the property been offered for sale on the open market? yes If yes, how long? 3 months  
 yes/no  
 Asking price: \$ \$679,900 Terms of sale: Traditional listing

3. The property was independently appraised: \_\_\_\_\_ Purpose of appraisal: \_\_\_\_\_  
 yes/no  
 Market value estimate: \$ \_\_\_\_\_  
 Appraisal was made by whom? \_\_\_\_\_

4. The applicant's estimate of market value of the property involved in this application is \$ \_\_\_\_\_

5. The estimated agricultural productive value of this property is excessive because of the following condition(s): \_\_\_\_\_

Applicant asks that Cass County refund the additional amount of property taxes paid, as well as reduce the assessed value to its actual value in recognition that when it was listed in 2021 for \$680k there was only one showing, and no offers in three months at that price. Further, the assessed value is not backed by comps.

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

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

[Signature] Date 9/15/23 Signature of Applicant Date \_\_\_\_\_  
Signature of Preparer (if other than applicant)

**Recommendation of the Governing Body of the City or Township**

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

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

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

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

**Action by the Board of County Commissioners**

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

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

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

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

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

**Certification of County Auditor**

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

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

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

Year	Reduction in Taxable Valuation	Reduction in Taxes

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

**Application For Abatement  
 Or Refund Of Taxes**

Michelle Tom  
 Strieder

Name of Applicant

4546

County Auditor's File No.

9/19/23

Date Application Was Filed With The County Auditor

9/19/23

Date County Auditor Mailed Application to Township Clerk or City Auditor

(must be within five business days of filing date)

### Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

State of North Dakota Cass County Assessment District Cass County  
 County of Cass Property I.D. No. 01-8536-00610-000  
 Name Michelle and Tom Strinden Telephone No. [REDACTED]  
 Address 4773 32nd St. S., Fargo, ND 58104

Legal description of the property involved in this application:  
 Lot: 1 Block: 3 TIMBER CREEK 1ST LT 1 BLK 3

Total true and full value of the property described above for the year 2023 is:  
 Land \$ 92,800  
 Improvements \$ 794,800  
 Total \$ 887,600  
 (1)

Total true and full value of the property described above for the year 2023 should be:  
 Land \$ 85,000  
 Improvements \$ 575,000  
 Total \$ 660,000  
 (2)

The difference of \$ 227,600.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

1. Purchase price of property: \$ 590,000 Date of purchase: 9/23/2019  
 Terms: Cash  Contract \_\_\_\_\_ Trade \_\_\_\_\_ Other (explain) \_\_\_\_\_  
 Was there personal property involved in the purchase price? no Estimated value: \$ \_\_\_\_\_  
 yes/no

2. Has the property been offered for sale on the open market? yes If yes, how long? 3 months  
 yes/no  
 Asking price: \$ \$679,900 Terms of sale: Traditional listing

3. The property was independently appraised? \_\_\_\_\_ Purpose of appraisal: \_\_\_\_\_  
 yes/no  
 Market value estimate: \$ \_\_\_\_\_  
 Appraisal was made by whom? \_\_\_\_\_

4. The applicant's estimate of market value of the property involved in this application is \$ \_\_\_\_\_

5. The estimated agricultural productive value of this property is excessive because of the following condition(s): \_\_\_\_\_

Applicant asks that Cass County abate the additional amount of taxes assessed, and reduce the assessed value to its actual value in recognition that when it was listed in 2021 for \$680k there was only one showing and no offers in three months at that price. Further, the assessed value is not supported by its lot or comps.

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

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

[Signature] 9/15/23 \_\_\_\_\_  
 Signature of Preparer (if other than applicant) Date Signature of Applicant Date

**Recommendation of the Governing Body of the City or Township**

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

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

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

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

**Action by the Board of County Commissioners**

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

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

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

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

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

**Certification of County Auditor**

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

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

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

Year	Reduction in Taxable Valuation	Reduction in Taxes

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

**Application For Abatement  
 Or Refund Of Taxes**

*Michelle : Tom  
 Strinden*

Name of Applicant

*4547*

County Auditor's File No.

*9/19/23*

Date Application Was Filed With The County Auditor

*9/19/23*

Date County Auditor Mailed Application to Township Clerk or City Auditor

(must be within the business days of filing date)



### Appeal of Assessment for Year: 2022 & 2023

Name of Applicant: Jacob Strinden

**Assessed Value(s)**

2022	749,400	\$328/SF
2023	887,600	\$388/SF

**Applicants Requested Value(s)**

2022	650,000	-13.26%
2023	660,000	-25.64%

**General Property Information**

Property Type	Residential	
Year Built	2016	
Building Area (Total Above Grade)	2,286 sf	388.28 / sf
Land Area	13,535 sf	8.14 / sf

Last Sale: 09/20/2019                      640,900    \$280/SF



**Summary**

The appeal contends that the values are overstated and cites as evidence the listing of the property for three months in 2021, during which one showing took place and no offers were made. A search of the listings showed that the property was listed from 6/23/2021 to 8/25/2021. The appeal also states that the value is not backed by comparable sales. Attempts to contact the appellants were never returned, and no further evidence in support of a reduced value was submitted.

The subject property is located in a developing area, and there are not a lot of sales of comparable properties directly adjacent to it. It was also difficult to find sales of homes that are comparable in size to the subject, since it is larger than normal.

**2022 Values**

The sales presented below are comparable to the subject. For the 2022 value, we feel the sales support the assessed value of \$328/SF. When the subject value was examined for equalization purposes, the comparable properties were valued between \$269/SF and \$348/SF. This supports the assessed value of \$328/SF.

**Comparable Sales for 2022 Value**

Address	Sale Date	Yr Built	Size	Baths	Bsmt Fin	Garage	Sale Price	Total \$/ SF
6051 Osgood Pkwy S	3/18/2021	2012	1651	3	Full	3	\$50,500	\$333
6776 Crofton Ln S	8/20/2021	2020	2055	3	75%	3	\$755,100	\$367
7235 15 ST S	5/14/2021	2014	1741	3	Full	3	\$639,900	\$368
7365 15 ST S	7/31/2020	2018	2169	3	None	3	\$625,800	\$289
7470 Claire Dr S	11/26/2019	2018	2133	3	Full	3	\$661,300	\$310
<b>Average Price</b>								<b>\$333</b>
<b>Median Price</b>								<b>\$333</b>
<b>Subject</b>		<b>2016</b>	<b>2286</b>	<b>3</b>	<b>Full</b>	<b>3</b>	<b>\$749,400</b>	<b>\$328</b>

**4773 32 St S**

Parcel Number: 01-8536-00610-000

Owner: Tom &amp; Michelle Strinden

**2023 Valuation**

For the 2023 tax year, we believe that the value is overstated and that a reduction is warranted. We believe the subject value should be reduced to \$343/SF for 2023, based on the sales below. When the subject value was examined for equalization purposes, the comparable properties were valued between \$320/SF and \$363/SF. This supports the reduction of value and puts the new value of \$343/SF very near the median.

**Comparable Sales for 2023 Value**

Address	Sale Date	Yr Built	Size	Baths	Bsmt Fin	Garage	Sale Price	Total \$/ SF
7416 16 ST S	7/1/2022	2017	2169	3	Full	3	\$743,000	\$343
6142 27 ST S	6/10/2022	2012	2122	3	Full	3	\$829,100	\$391
6776 Crofton Ln S	8/20/2021	2020	2055	3	75%	3	\$755,100	\$367
5921 Osgood Pkwy S	1/29/2021	2013	1862	3	Full	3	\$489,900	\$263
7235 15 ST S	5/14/2021	2014	1741	3	Full	3	\$639,900	\$368
<b>Average Price</b>								<b>\$346</b>
<b>Median Price</b>								<b>\$367</b>
<b>Subject</b>		<b>2016</b>	<b>2286</b>	<b>3</b>	<b>Full</b>	<b>3</b>	<b>\$784,000</b>	<b>\$343</b>

**Recommended Action(s):**

Retain the value of \$ 749,400 for the 2022 tax year

Reduce the value to \$ 784,000 for the 2023 tax year



(57)

City Administration  
225 4th Street North  
Fargo, ND 58102

## MEMORANDUM

**TO:** Fargo City Commission

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

**DATE:** October 26, 2023

**SUBJECT:** Mercantile Parking Garage – Parking for Great Northern Condos

When the Mercantile Parking Garage was approved, the City Commission also approved an option for leasing space for garages to serve a planned condominium building that would connect to the parking garage. The agreement was approved subject to legal review.

It later became apparent that in order for the garages to meet the building code, there needed to be limits on what could be stored in the garage, and language in the lease needed to change. The number and approximate location of the garages did not change. Vehicle storage is to be the use of the garage.

Attached for your consideration is an agreement that will provide an easement for emergency egress needed for the condominiums to be eligible for a Certificate of Occupancy, and an updated option to lease space for parking garages.

### Recommended Motion

Approve an Agreement to Grant Emergency Egress Easement and to Grant Option for Parking Lease with T&K Property Management, as presented.

**AGREEMENT TO GRANT EMERGENCY EGRESS EASEMENT  
AND TO GRANT OPTION  
FOR PARKING LEASE**

This Agreement ("Agreement") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **CITY OF FARGO**, a North Dakota municipal corporation ("CITY") and **T&K PROPERTY MANAGEMENT LLC**, a North Dakota Limited Liability Company ("T&K PROPERTY MANAGEMENT").

**RECITALS:**

**WHEREAS**, T&K PROPERTY MANAGEMENT is the owner of certain real property situate in the COUNTY OF CASS and STATE OF NORTH DAKOTA, described as follows:

THAT PART OF LOT 5, THAT PART OF THE VACATED ALLEY IN BLOCK 21, AND THAT PART OF THE VACATED PORTION OF 5<sup>TH</sup> STREET NORTH ADJACENT TO THE EAST LINE OF SAID BLOCK 21, ALL IN KEENEY AND DEVITT'S SECOND ADDITION, AND THAT PART OF LOT B, BLOCK 1, GREAT NORTHERN DEPOT ADDITION, ALL IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID BLOCK 21; THENCE NORTH 02°50'50" WEST (ASSUMED BEARING), ALONG THE WEST LINE OF SAID BLOCK 21, FOR A DISTANCE OF 199.96 FEET TO THE NORTHWEST CORNER OF LOT 10, SAID BLOCK 21; THENCE NORTH 87°04'26" EAST, ALONG THE NORTH LINE AND THE NORTH LINE AS EXTENDED EAST OF SAID LOT 10, FOR A DISTANCE OF 182.51 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUE NORTH 87°04'26" EAST, ALONG THE NORTH LINE AS EXTENDED EAST OF SAID LOT 10, FOR A DISTANCE OF 201.57 FEET TO THE POINT OF INTERSECTION OF THE SOUTH LINE OF GREAT NORTHERN DEPOT ADDITION AND THE EASTERLY LINE OF VACATED 5TH STREET NORTH AS DEPICTED ON DOCUMENT NO 1577224, ON FILE AND OF RECORD AT THE CASS COUNTY RECORDER'S OFFICE; THENCE SOUTH 12°48'06" WEST, ALONG THE EASTERLY LINE OF SAID VACATED 5TH STREET NORTH, FOR A DISTANCE OF 43.81 FEET; THENCE SOUTH 87°06'54" WEST FOR A DISTANCE OF 189.72 FEET; THENCE NORTH 02°53'06" WEST FOR A DISTANCE OF 42.03 FEET TO THE TRUE POINT OF BEGINNING.

[the "T&K PROPERTY"]; and,

**WHEREAS**, the CITY entered into a development agreement with a developer for the construction of a project known as the “Mercantile Project” consisting of a CITY-owned parking garage [the “CITY PARKING GARAGE”] with a multi-use building integrated into the same project, said multi-use building including office and retail uses as well as residential uses with the construction of the CITY PARKING GARAGE being completed in the fall of the year 2020, said project having been constructed upon that certain real property situate in the County of Cass and state of North Dakota more fully described as set forth in the attached **Exhibit “A”**; and

**WHEREAS**, pursuant to the terms of the development agreement for the Mercantile Project, a condominium was established by which the CITY PARKING GARAGE became Unit Two of the condominium, as set forth in the Declaration Establishing a Plan of Condominium Ownership for the “Mercantile Condominium” dated February 17, 2023, and recorded March 3, 2023, at the Office of the Recorder, Cass County, North Dakota, as Document Number 1685230 [the “Declaration”]; and

**WHEREAS**, T&K PROPERTY MANAGEMENT has constructed a multi-unit residential dwelling structure upon the T&K PROPERTY which dwelling structure is intended to be condominiumized for sale of individual residential units to third parties (referred to herein as the “T&K Project”); and

**WHEREAS**, T&K PROPERTY MANAGEMENT has requested that an easement be granted for the benefit of the T&K PROPERTY for purposes of emergency egress onto the CITY PARKING GARAGE and the CITY is willing to grant such an easement; and

**WHEREAS**, T&K PROPERTY MANAGEMENT wishes to enter into an agreement with the CITY that would permit T&K PROPERTY MANAGEMENT to construct certain residential garage structures (each referred to as a “Enclosed Garage” and cumulatively as the “Enclosed Garages”) and a storage area (the “Tenant’s Level Four Storage Area”) within and upon various floors of the City-owned parking garage and would provide for rental by T&K PROPERTY MANAGEMENT of the parking spaces within the CITY PARKING GARAGE, and other floor space, necessary to accommodate said residential structures and the CITY is willing to enter into such agreement;

**NOW, THEREFORE**, in consideration of the foregoing, the mutual agreements hereinafter said forth, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, **IT IS HEREBY AGREED:**

**ARTICLE I—GRANT OF EASEMENT FOR INGRESS-EGRESS.**

Subject to the conditions set forth below in this ARTICLE I, the CITY will grant an easement to T&K PROPERTY MANAGEMENT for the benefit of the T&K Property for purposes of allowing emergency egress from the T&K PROPERTY onto the CITY PARKING GARAGE property, said easement to be in a form substantially similar to Exhibit “B” hereto (the “Easement for Emergency Egress”) and T&K PROPERTY MANAGEMENT will execute the First Amendment to Easement and Restrictions Agreement, attached as Exhibit “C”, hereto, and T&K PROPERTY MANAGEMENT will execute the Building Encroachment Easement Agreement, Exhibit “D” and, further, T&K PROPERTY MANAGEMENT will arrange for the execution of the Easement for Emergency Egress by the Mercantile Condominium Association providing consent to said easement, which association is established via the bylaws of the Mercantile Condominium as set forth in the Declaration. T&K PROPERTY MANAGEMENT will also arrange for the execution by the mortgagee of T&K PROPERTY MANAGEMENT to said instruments. The CITY’s obligation to grant said easement, by execution and delivery thereof, are subject to, and contingent upon, the following:

- A. The execution of the First Amendment to Easement and Restrictions Agreement, attached as Exhibit “C”, hereto, by T&K PROPERTY MANAGEMENT and of a consent by the mortgagee of T&K PROPERTY MANAGEMENT; and,
- B. The execution of the Building Encroachment Easement Agreement, Exhibit “D”, hereto, by T&K PROPERTY MANAGEMENT and by the mortgagee of T&K PROPERTY MANAGEMENT; and,
- C. T&K PROPERTY MANAGEMENT having secured the signature and execution of the consent to the Easement for Emergency Egress by the Mercantile Condominium Association;
- D. The City being satisfied, in its reasonable discretion, that there is no pending or threatened litigation, injunction or other order that prohibits consummation of the terms of this Article I;

said contingencies are for the benefit of the CITY and may be waived by the CITY in the sole discretion of the CITY. Upon said contingencies being satisfied, the CITY agrees to also execute the Amendment of the ERA and the Building Encroachment Easement Agreement as well as the Easement for Emergency Egress, itself, and deliver said instruments to T&K PROPERTY MANAGEMENT. Said instruments described in this Article I are to be recorded at the Office of the Recorder for Cass County, North Dakota. The City shall be authorized to record said instruments. The CITY and T&K PROPERTY

MANAGEMENT shall share equally in the cost of recording of said instruments. The parties shall, by agreement, determine a time and place for a closing to occur for exchange or delivery of said instruments, as the case may be, and to arrange for the recording thereof. In the event said contingencies have not been satisfied by the date one (1) year following the Effective Date, the CITY's obligations under this ARTICLE I shall expire, terminate and be of no further force or effect.

**ARTICLE II—GRANT OF OPTION FOR PARKING LEASE AND EASEMENT.**

1. **GRANT OF OPTION:** In consideration of the sum of One Dollar (\$1.00) and other valuable consideration the receipt of which is hereby acknowledged the City does hereby grant to T&K PROPERTY MANAGEMENT an option to enter into a written lease agreement for a certain number of specified parking spaces and other available space within the CITY PARKING GARAGE, the terms of which are described in paragraph 3, below and a related Easement for Access to Parking Garage Enclosures as set forth below.

The option may be exercised by T&K PROPERTY MANAGEMENT in the manner of, and as stated in, paragraph 3, below, at any time between the following dates:

1.1. The Effective Date; and,

1.2. The date one (1) year following the Effective Date; and,

if the T&K OPTION is not exercised within said time period, it shall lapse and thereafter be of no further force or effect. The above-described option period shall be construed to include the two said dates that define the time period.

The number of parking spaces and the additional floor space for which this option may be exercised shall be as follows:

Parking Lower Level – 6 parking spaces

Parking Level 1 – 5 parking spaces

Parking Level 2 – 3 parking spaces

Parking Level 3 -- 280 square feet, approximately, for Tenant's Level Four Storage Area.

It is understood that the Tenant's Level Four Storage Area services the "Fourth Level" of the T&K Project, which corresponds to the level of the Third Parking Level (a/k/a Parking Level 3) of the CITY PARKING GARAGE.

2. **CONSIDERATION:** The consideration for this option shall be the mutual promise contained herein, including the obligations borne by the parties should the option be exercised, the sufficiency and adequacy of such consideration is agreed.

3. **EXERCISE OF OPTION:**

- 3.1. The form of Parking Lease Agreement, attached hereto as Exhibit "E" shall constitute the terms of an offer by the CITY, the terms of which may be accepted by the timely exercise of the option, as follows.
- 3.2. The option may be exercised by delivering to the CITY a NOTICE, delivered to CITY by certified mail, return receipt requested.
- 3.3. The NOTICE shall constitute the acceptance by T&K PROPERTY MANAGEMENT of the CITY's offer.
- 3.4. The NOTICE shall contain certain essential terms to complete the Parking Lease Agreement, Exhibit "E", as follows:
  - 3.4.1. 3.4.1. The proposed final copy of the floor plan outlining Tenant's Parking Spaces must be attached to the NOTICE, which floor plan must be substantially in conformance with that which attached to the form of Parking Lease Agreement (Exhibit "E", hereto), all as provided in Section 1.1 of the Parking Lease Agreement.
  - 3.4.2. The proposed fit-up, to be appended to the Parking Lease Agreement as Exhibit "E", thereto, must be attached to the NOTICE. Said proposed fit-up shall be subject to review by the CITY and to CITY approval, in its reasonable discretion. The parties recognize and acknowledge that the City intends to use the services of a parking garage consultant to assist the CITY in the CITY's review of the proposed fit-up. The approval by the CITY of the proposed fit-up does not constitute a representation or warranty by the City that the proposed fit-up complies with any applicable building code, health or safety regulation, zoning regulation, or other law or regulation, or that either the resulting garage or storage enclosures as fit-up will meet the qualifications for issuance of a certificate of occupancy, or that such enclosures will meet the requirements of users thereof.
  - 3.4.3. The proposed Fit-up for Enclosed Garages must provide spacing from the opposite wall of no less than 40 feet (allowing 18 feet for parking space opposite from the Enclosed Garage and an additional 22 feet for the drive aisle). No portion of any Enclosed Garage may encroach upon such minimum spacing.
  - 3.4.4. Restrictions on Use. As is provided in the form of Parking Lease Agreement attached hereto as Exhibit "E" and in addition to any other provisions contained therein, lease of the parking spaces to be enclosed and the Tenant's Level Four Storage Area to be enclosed shall be subject to the use requirements and restrictions as set forth in the said form of Parking Lease Agreement.



3.4.5. Electrical Service in Proposed Fit-up. To the extent that T&K PROPERTY MANAGEMENT intends for the proposed fit-up to include electrical service for the Parking Garage Enclosures, the Tenant's Level Four Storage Area, said proposed fit-up plans must include the necessary plans to accomplish the same. Further, the proposed fit-up plans must be sufficient to reflect that electrical code standards will be met. Tenant will be responsible for obtaining any easements or other consent from third parties as may be necessary in order to secure such electrical service, such third parties to include the Mercantile Condominium Association and/or the owner of Unit One of the Mercantile Condominium as may be necessary or appropriate. The parties recognize that the installation of electrical service may require occupancy or encroachment upon, or may affect, the Common Area or Limited Common Area of the Mercantile Condominium. The CITY will cooperate with T&K PROPERTY MANAGEMENT with respect to the efforts of T&K PROPERTY MANAGEMENT seeking such easements or other consent, once the CITY has given its consent to the proposed fit-up plan or plans.

4. **EXAMINATION OF ABSTRACT:** CITY shall provide T&K PROPERTY MANAGEMENT an abstract of title or a title insurance commitment to the CITY PARKING GARAGE (or relevant condominium unit). T&K PROPERTY MANAGEMENT shall have the abstract of title examined prior to closing as provided herein, and complete said examination 14 days prior to such closing date but no later than 45 days after the NOTICE. If title to the property is unmarketable, CITY shall have a period of 180 days in which to correct the title and make it marketable.
5. **CLOSING - CONTINGENCIES:** Upon the exercise of this option by T&K PROPERTY MANAGEMENT, the closing shall occur within 90 days of the NOTICE unless such time shall be extended by the mutual consent of the parties or to allow title defects to be cured as provided in the preceding paragraph. At the closing, CITY and T&K PROPERTY MANAGEMENT shall enter into the Parking Lease Agreement, marked up appropriately to conform to the terms expressed in the NOTICE and the CITY shall grant an easement for the benefit of the T&K Property in a form substantially in conformance with the Easement for Access to Parking Garage Enclosures, Exhibit "F". The CITY's obligations under this Article II are subject to, and contingent upon, the City being satisfied, in its reasonable discretion, that there is no pending or threatened litigation, injunction or other order that prohibits consummation of the terms of this Article II. Said contingency is for the benefit of the CITY and may be waived by the CITY in the sole discretion of the CITY. Upon said contingency being satisfied, the CITY agrees to also execute the Parking Lease Agreement, as described and deliver said instrument to T&K PROPERTY MANAGEMENT. Said instrument described in this Article II, or a Memorandum of Parking Lease to be prepared by the parties, is to be recorded at the Office of the Recorder for Cass County, North Dakota. The CITY shall be authorized to record said instrument. The CITY and T&K PROPERTY MANAGEMENT shall share equally in the cost of recording of said instrument. The parties shall, by agreement, determine a time and place for a

closing to occur for exchange or delivery of said instruments, as the case may be, and to arrange for the recording thereof. In the event said contingencies have not been satisfied by the date one (1) year following the later of the date that Notice, as provided in paragraph 3 of this Article II, has been delivered or the date that the City has corrected title and rendered it marketable as described in paragraph 4 of this Article II, at which time the CITY's obligations under this ARTICLE II and under this Agreement shall expire, terminate and be of no further force or effect.

6. **CLOSING COSTS:** It is specifically acknowledged and agreed that T&K PROPERTY MANAGEMENT shall pay the following costs connected with the closing of this transaction should the Option be exercised:
  - a. The abstract continuation cost for the initial title examination and any costs for the review of said abstract by its attorney; and,
  - b. The costs for the closing agent.
  
7. **TIME OF THE ESSENCE:** T&K PROPERTY MANAGEMENT acknowledges and agrees that time shall be strictly of the essence in the performance of T&K PROPERTY MANAGEMENT'S obligations under this agreement. The failure of T&K PROPERTY MANAGEMENT to exercise its rights in the time and manner specified by this agreement shall release CITY from any further obligation under this agreement.
  
8. **BINDING EFFECT:** This agreement shall inure to and be binding upon the parties hereto, their respective heirs, administrators, executors, personal representatives, successors and assigns.
  
9. **AMENDMENT:** This Agreement may be amended from time to time by the parties only by written agreement signed by T&K PROPERTY MANAGEMENT and City.
  
10. **NOTICES:** All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by certified mail, postage prepaid, return-receipt requested, addressed as follows:

(A) if to T&K PROPERTY MANAGEMENT:

**T&K PROPERTY MANAGEMENT LLC**  
ATTN: Thomas Smith  
425 Broadway  
Fargo, ND 58102

(B) if to City:

City of Fargo  
ATTN: Steven Sprague, City Auditor  
225 4<sup>th</sup> Street North  
Fargo, N D 58102

AND

City of Fargo  
ATTN: James Gilmour, Director of Strategic Planning  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

11. **Additional Covenants.** CITY covenants to maintain the CITY PARKING GARAGE in such a manner that the CITY PARKING GARAGE is suitable for its current use and to be responsible for all costs related thereto, including costs of insurance and taxes. Without limiting the foregoing, the City shall, at its expense, maintain the CITY PARKING GARAGE, and all improvements thereon other than to the DEMISED PREMISES, as set forth herein, in clean, neat and good working order, condition and repair, reasonable wear and tear excepted. City shall also be responsible for, at its cost and expense, arranging janitorial and snow removal services for the CITY PARKING GARAGE.
12. **Severability of Provisions.** If anyone or more of the covenants, agreements, provisions or terms of this Agreement shall be held invalid for any reason whatsoever, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement.
13. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of T&K PROPERTY MANAGEMENT and City, and their respective successors in interest. The Agreement contained herein and other provisions of this Agreement shall run with the land benefitted and burdened thereby. T&K PROPERTY MANAGEMENT and City may assign their respective rights and obligations under this Agreement, but only in connection with a transfer of ownership to such assignee of the T&K PROPERTY or the CITY PARKING GARAGE, respectively. Any obligations arising under this Agreement following any such assignment shall be the sole responsibility of the assignee, and the assignor shall have no obligations under this Agreement for matters arising after any such assignment.

14. Mutual Release of Claims. The City and T&K Property Management, for themselves, their owners, representatives, agents, officials, employees, successors, attorneys in fact, attorneys, and assigns, hereby release and forever discharge each other from and against any and all claims, demands, obligations, actions, causes of action, rights, damages, costs, expenses, and compensation of any nature whatsoever, whether based in tort, contract, or other theory of recovery, which they had or now have on account of claims which in any way relate to the T&K Project which is the subject of this Agreement and the Exhibits including but not limited to any alleged actions or omissions taken by the City. This Mutual Release in no way affects the City's ability in the future to inspect the T&K Project and does not waive any future claim regarding failure to comply with any city building code, Fargo Municipal Code, or like-kind regulations.
15. Entire Agreement. This Agreement sets forth all the covenants, promises, agreements, conditions and understandings between City and T&K PROPERTY MANAGEMENT concerning the CITY PARKING GARAGE project, the T&K Project described herein, and matters related thereto, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth.
16. Effective Date. This Agreement shall be deemed effective on the date last signed by the CITY and T&K PROPERTY MANAGEMENT [the "Effective Date"].

**[Execution pages to follow]**

**IN WITNESS WHEREOF**, T&K PROPERTY MANAGEMENT and CITY have executed this Agreement, effective as of the date and year first above written.

Date: \_\_\_\_\_

T&K PROPERTY MANAGEMENT LLC,  
a North Dakota limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

CITY OF FARGO,  
a North Dakota municipal corporation

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

ATTEST:

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

**Exhibit "A" to Agreement**

**Legal Description for Mercantile Project**

Unit Two (2) of Mercantile Condominium, a condominium created under a Declaration Establishing a Plan of Condominium Ownership dated effective February 17, 2023 and recorded in the office of the Recorder for Cass County, North Dakota on May 3, 2023, as Doc. No. 1685230.

(the "Declaration")

Legal description obtained from previously recorded instrument.

**Exhibit "B" to Agreement**

**EASEMENT FOR EMERGENCY EGRESS**

**(attached)**



**EXHIBIT "B" TO AGREEMENT**

**EASEMENT FOR EMERGENCY EGRESS**

THIS AGREEMENT (the "Agreement") is entered into and effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between City of Fargo, a North Dakota municipal corporation ("City"), whose address is 225 North 4th Street, Fargo, ND 58102, and T&K Property Management LLC, a North Dakota limited liability company ("T&K Property Management"), whose address is 425 Broadway, Fargo, ND 58102.

RECITALS

A. City owns Unit Two (2), Mercantile Condominium, a condominium created under a Declaration Establishing a Plan of Condominium Ownership (the "Declaration") dated effective February 17, 2023 and recorded in the office of the Recorder for Cass County, North Dakota on Mary 3, 2023, as Doc. No. 1685230, and the legal description for said Unit Two, is as follows:

Unit Two (2) of Mercantile Condominium, a condominium created under a Declaration Establishing a Plan of Condominium Ownership dated effective February 17, 2023 and recorded in the office of the Recorder for Cass County, North Dakota on Mary 3, 2023, as Doc. No. 1685230;

(the "Garage Unit").

B. T&K Property Management owns certain real estate lying contiguous to and North of the Garage Unit, and more particularly described in attached Exhibit A (the "T&K Property").

C. In order to provide the occupants of the improvements constructed upon the T&K Property with a means of egress from said property onto the Garage Unit in the event of a fire or other emergency, T&K Property Management has requested an easement onto the Garage Unit for the benefit of the T&K Property for such purposes and the City is willing to grant an easement for such purposes.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals, the mutual agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby declare, grant, covenant, and agree to the following:

A. **Grant of Easement.** City hereby grants to T&K Property Management, for the benefit of the T&K Property, an exclusive, appurtenant and perpetual easement over, upon and across certain parts of the Garage Unit for the purpose of allowing the occupants of the T&K Property, including the improvements constructed thereon, to enter upon the Garage Unit in the event of an emergency such as a fire, explosion, tornado, or other unexpected occurrence that places the personal safety of said occupants to be in danger and to utilize two (2) openings in the north wall of the Garage Unit and in the south wall of the multi-unit structure on the T&K Property to exit the T&K Property, to descend from the threshold of said openings down a pedestrian ramp to the corresponding level of the Garage Unit, and then to use the publicly available spaces of the Garage Unit to seek safety [the "Easement Area"]. The said two openings in the north wall are (a) the opening onto the Lower Level of the Garage Unit as said level is depicted on the Declaration, at Exhibit A, Sheet 1 of 10, thereof that serves and opens to the center staircase, located a distance of \_\_\_\_ feet, more or less, along the north wall of the Garage Unit from the easternmost edge of said north wall and that is the westernmost opening of four openings in the north wall, at the said Lower Level; and (b) the westernmost opening of two openings in the north wall of the Third Level of the Garage Unit as said level is depicted on the Declaration, at Exhibit A, Sheet 1 of 10, thereof. This easement also shall encompass an area sufficient to accommodate a handicap-accessible ramp at a slope suitable for such purpose.

B. **Installation and Maintenance of Access Doors and Pedestrian Access Ramps.** T&K Property Management shall be responsible for and shall bear all costs to install a commercially reasonable access door in each of the two said openings in the said north wall described herein (the "Access Door" and cumulatively, the "Access Doors") and the accessible pedestrian ramp for each Access Door, as described, and to operate, repair, maintain and replace the Access doors and the ramps, or any portions thereof. Upon reasonable advance notice to T&K Property Management, City shall be entitled to inspect the Access Doors and the accessible pedestrian ramps and undertake work in and around the area of same necessary for maintenance or repairs to the Garage Unit. T&K Property Management is authorized to include appropriate mechanism, such as an emergency fire-bar on each Access Door, to permit emergency egress from the T&K Property as the same may be required by the appropriate building or fire code.

C. **Relocation.** If the Garage Unit, or parts thereof burdened by any of the easement granted in this instrument are damaged, destroyed or redeveloped, the owner thereof shall have the right to modify the location of the easement granted herein and record an instrument reflecting new locations for same; provided, however, the functionality of the

new locations for the benefit of the T&K Property shall be substantially the same as existed prior thereto.

D. Non-Disturbance. The owner of the T&K Property shall exercise its rights as to this easement in such a manner that causes the least interference and disturbance to the owner and occupants of the Garage Unit as is commercially reasonable under the circumstances.

E. Alterations/Improvements. Any alterations or improvements (as contrasted with repair and maintenance, which shall not require the prior approval of the owner of the Garage Unit) to the openings or the Access Doors desired by T&K Property Management must be approved in writing by the Owner of the Garage Unit and shall be subject to the reasonable discretion and approval of the Owner of the Garage Unit. T&K Property Management shall pay the entire cost of any and all authorized alterations or improvements. T&K Property Management shall not permit or suffer any construction liens against the Garage Unit, and if any arise, T&K Property Management shall undertake such actions as are necessary to cause the same to be fully discharged within 15 days after notice by the Owner of the Garage Unit.

F. Insurance. With respect to the Easement Area, T&K Property Management shall keep in full force and effect, at its expense, a policy or policies of insurance with companies licensed to do business in North Dakota and reasonably acceptable to the Owner of the Garage Unit with the following coverages: (1) public liability and property damage insurance and automobile liability insurance with respect to the Easement Areas and the business of T&K Property Management, with a minimum coverage of \$2,000,000 per occurrence and not less than \$4,000,000 annual aggregate for this location; (2) if the nature of T&K Property Management's operation is such as to place any or all of its employees under the coverage of Workers' Compensation or similar statutes, T&K Property Management shall also keep in force, at its expense, Workers' Compensation or similar insurance affording statutory coverage and containing statutory limits; (3) any other special insurance coverages associated with T&K Property Management's use of the Easement Area and reasonably requested by the Owner of the Garage Unit; and (4) insurance for fire and extended coverage, insuring for the full replacement cost, the Access Doors. Such policies, where applicable and to the maximum extent possible, shall name the Owner of the Garage Unit as an additional insured. Upon such Owner's written request, T&K Property Management shall furnish certificates evidencing any such insurance required of T&K Property Management is in effect and, if available, stating that such Owner shall be notified in writing 10 days prior to cancellation, material change or nonrenewal of insurance. T&K Property Management shall carry additional coverages and/or increased coverage limits, in amounts as the Owner of the Garage Unit may reasonably request from time to time.

G. Governmental Regulations. T&K Property Management shall, at T&K Property Management's sole cost and expense, comply with and faithfully observe all statutes, ordinances, rules, regulations, orders, laws and the like of all local, state and Federal and other applicable governmental authorities, present or future, having jurisdiction over the project and related to exercising its rights under this Agreement.

H. Indemnification. T&K Property Management shall indemnify, defend, and hold harmless the Owner of the Garage Unit and its officers, agents, representatives, employees, contractors, guests and the like (collectively, the "Indemnified Parties") from and against any claims, liens, liabilities, lawsuits, costs, expenses, damages and/or the like (including reasonable attorneys' fees) (collectively, "Claims") including, but not limited to, Claims for personal injury, wrongful death or property damage, resulting from, arising out of, or in any way related to exercising its rights as to the easement. Without limiting the foregoing, T&K Property Management shall indemnify, defend, and hold harmless the Indemnified Parties from and against all violations of Environmental Laws resulting from, arising out of, or in any way related to exercising its rights as to the easement. The City will indemnify T&K Property Management from loss, cost or expense including reasonable attorneys' fees incurred by reason of the negligent or willful acts or omissions of those for whom in the circumstances the City is responsible in law. These indemnities are limited to the indemnitor's equitable share of the losses, costs or expenses based on the relative culpability of each person whose negligent or willful acts or omissions contributed to the loss.

I. Scope/Binding Effect. The rights and obligations herein provided shall inure to the benefit of and be binding upon the parties hereto, their successors, assigns, heirs, and legal representatives, and shall run with, benefit and burden the Garage Unit and the T&K Property.

J. Waiver. No waiver of any breach of the easements or of any rights, obligations, covenants, and/or provisions herein contained shall be construed as, or constitute, a waiver of any breach or a waiver, acquiescence in, or consent to any further or succeeding breach of the same or any other such easements, rights, obligations, covenants, and/or other provisions.

K. Recording. This Agreement shall be recorded against the Garage Unit and the T&K Property in the office of the County Recorder for Cass County, North Dakota.

L. Severability. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remaining terms or provisions of this Agreement shall not be affected thereby, but such remaining terms and provisions shall be valid and enforceable to the fullest extent permitted by law.

M. Governing Law. This document shall be construed and enforced in accordance with the laws of the State of North Dakota.

*[The remainder of this page intentionally left blank – signature pages follow]*



**T&K Property Management LLC**

By: \_\_\_\_\_  
Thomas Smith, President

STATE OF NORTH DAKOTA        )  
  ) SS  
COUNTY OF CASS                )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by THOMAS SMITH, the President of T&K Property Management LLC, a North Dakota limited liability company, on behalf of the limited liability company.

\_\_\_\_\_  
Notary Public  
State of North Dakota

**CONSENT**

If and to the extent necessary pursuant to the Declaration, the undersigned hereby consents to this Agreement.

**MERCANTILE CONDOMINIUM ASSOCIATION, an  
unincorporated association**

By: \_\_\_\_\_

\_\_\_\_\_

Its: \_\_\_\_\_

STATE OF NORTH DAKOTA    )

) ss.

COUNTY OF CASS            )

)

The foregoing instrument was acknowledged before me this \_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of Mercantile Condominium Association, an unincorporated association, on behalf of the association.

\_\_\_\_\_

Notary Public

Cass County, ND

(SEAL)



**EXHIBIT A to EASEMENT**  
**Description of T&K Property**

That certain real property situate in the COUNTY OF CASS and STATE OF NORTH DAKOTA, described as follows:

THAT PART OF LOT 5, THAT PART OF THE VACATED ALLEY IN BLOCK 21, AND THAT PART OF THE VACATED PORTION OF 5<sup>TH</sup> STREET NORTH ADJACENT TO THE EAST LINE OF SAID BLOCK 21, ALL IN KEENEY AND DEVITT'S SECOND ADDITION, AND THAT PART OF LOT B, BLOCK 1, GREAT NORTHERN DEPOT ADDITION, ALL IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID BLOCK 21; THENCE NORTH 02°50'50" WEST (ASSUMED BEARING), ALONG THE WEST LINE OF SAID BLOCK 21, FOR A DISTANCE OF 199.96 FEET TO THE NORTHWEST CORNER OF LOT 10, SAID BLOCK 21; THENCE NORTH 87°04'26" EAST, ALONG THE NORTH LINE AND THE NORTH LINE AS EXTENDED EAST OF SAID LOT 10, FOR A DISTANCE OF 182.51 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUE NORTH 87°04'26" EAST, ALONG THE NORTH LINE AS EXTENDED EAST OF SAID LOT 10, FOR A DISTANCE OF 201.57 FEET TO THE POINT OF INTERSECTION OF THE SOUTH LINE OF GREAT NORTHERN DEPOT ADDITION AND THE EASTERLY LINE OF VACATED 5TH STREET NORTH AS DEPICTED ON DOCUMENT NO 1577224, ON FILE AND OF RECORD AT THE CASS COUNTY RECORDER'S OFFICE; THENCE SOUTH 12°48'06" WEST, ALONG THE EASTERLY LINE OF SAID VACATED 5TH STREET NORTH, FOR A DISTANCE OF 43.81 FEET; THENCE SOUTH 87°06'54" WEST FOR A DISTANCE OF 189.72 FEET; THENCE NORTH 02°53'06" WEST FOR A DISTANCE OF 42.03 FEET TO THE TRUE POINT OF BEGINNING.

Legal description obtained from previously recorded instrument.

**Exhibit "C" to Agreement**

**FIRST AMENDMENT TO EASEMENT AND RESTRICTIONS AGREEMENT**

**(attached)**

**FIRST AMENDMENT TO  
EASEMENT AND RESTRICTIONS AGREEMENT**

THIS FIRST AMENDMENT TO EASEMENT AND RESTRICTIONS AGREEMENT (this "**Amendment**") is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2023 (the "**Effective Date**"), by and among Great Plains Mercantile Holdings, LLC, a North Dakota limited liability company ("**GPMH**"), whose address is Attn: Bill Rothman, Vice President, 210 Broadway N., Suite 300, Fargo, ND 58102, the City of Fargo, a North Dakota municipal corporation ("**City**"), whose post office address is 225 4th Street North, Fargo, ND 58102, 5<sup>th</sup> Floor Apartments LLC, a North Dakota limited liability company ("**5<sup>th</sup> Floor**"), whose address is Attn: Anthony Coronato, Manager, 6301 15th St N, Fargo, ND 58102-6018, T & K Property Management LLC, a North Dakota limited liability company ("**T&K**"), whose address is 425 Broadway North, Fargo ND 58102, and Thomas K. Smith and Kari D. Smith, husband and wife (collectively "**Smith**"), whose address is 425 Broadway North, Fargo ND 58102.

**RECITALS**

A. The parties or their predecessors entered into an Easement and Restrictions Agreement dated December 4, 2019, recorded in the Cass County, North Dakota Recorder's Office on December 5, 2019, as Document No. 1578617 (the "**ERA**").

B. GPMH is the owner of a certain tract of land legally described on Exhibit A (the "**Wrap Tract**"), upon which a multi-use building has been constructed.

C. City is the owner of a certain tract of land legally described on Exhibit B (the "**Garage Tract**"), upon which a Parking Garage has been constructed.

D. T&K is the owner of a certain tract of land legally described on Exhibit C (the "**North Residential Tract**"), upon which a multi-family residential project is being constructed.

E. 5<sup>th</sup> Floor is the owner of a certain tract of land adjacent to the Wrap Tract, the Garage Tract and legally described on Exhibit E (the "**5<sup>th</sup> Floor Tract**"), upon which a multi-family residential building is currently constructed.

F. Smith is also the owner of a certain tract of land adjacent to the 5<sup>th</sup> Floor Tract, the Garage Tract and the North Residential Tract and legally described on Exhibit F (the “**Smith Tract**”).

G. As a result of certain modifications to construction affecting all of the above-described tracts, the parties wish to amend certain provisions of the ERA.

#### AGREEMENTS

NOW, THEREFORE, in consideration of the Recitals and the following mutual agreements, the parties agree to amend the ERA as follows:

1. Section 2.2.2. The following is added to the end of Section 2.2.2 of the ERA:

The Owner of the Smith Tract hereby establishes, declares, grants and conveys to the Owners of the Wrap Tract, the Garage Tract, the North Residential Tract and the 5<sup>th</sup> Floor Tract for the benefit of the Wrap Tract, the Garage Tract, the North Residential Tract and the 5<sup>th</sup> Floor Tract, for their use and for the use of by any public utility Occupant of such Owners, a Permanent Easement for the installation, maintenance, repair and replacement of an underground water line and an above ground hydrant at the Northly terminus of such water line in that part of the Exhibit Z Area depicted on Exhibit Z. The waterline originates in the 4<sup>th</sup> Avenue right of way, passes through the Exhibit V Area and the Exhibit W-1 Area, terminates at the hydrant and serves the Wrap Tract, the Garage Tract, the North Residential Tract and the 5<sup>th</sup> Floor Tract. An underground storm sewer line originates in the 4<sup>th</sup> Avenue right of way, passes through the Exhibit V Area terminates in the Exhibit W-1 Area and serves the Wrap Tract, the Garage Tract, the North Residential Tract and the 5<sup>th</sup> Floor Tract. An underground sanitary sewer line originates in the 4<sup>th</sup> Avenue right of way, passes through and terminates in the Exhibit V Area and serves the Wrap Tract and the Garage Tract. The Owner of the Wrap Tract shall be primarily responsible, at its cost, for the installation, maintenance, repair and replacement of such underground water line and above ground hydrant, such underground storm sewer line and associated inlets and such underground sanitary sewer line unless the need for maintenance, repair and/or replacement is the result of the negligence or willful misconduct by one or more other Owner or Owners, in which case such the Owner or all Owners causing same shall be responsible therefore. Further, notwithstanding anything herein to the contrary, the Owners of the Garage Tract, the North Residential Tract and the 5<sup>th</sup> Floor Tract shall be responsible for all maintenance, repair and replacement of their respective stub-ins to all such lines and any portions of such systems lying between such stub-ins and their respective properties.

2. Exhibit Z. Exhibit Z attached to the ERA is deleted in its entirety and replaced with Exhibit Z attached hereto.

3. Effect/Further Modification. The ERA, except as expressly hereby amended, remains unmodified and in full force and effect. The ERA shall not be further amended, except in the manner set forth in the ERA.

IN WITNESS WHEREOF, the parties have hereunto executed this Amendment as of the date first set forth above.

*[Remainder of page intentionally left blank]*















SIGNATURE PAGE  
FOR  
FIRST AMENDMENT TO  
EASEMENT AND RESTRICTION AGREEMENT

IN WITNESS WHEREOF, the Owners have caused this Agreement to be executed effective as of the day and year first above written.

CITY OF FARGO,  
a North Dakota municipal corporation

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

ATTEST:

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

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

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me personally appeared Timothy J. Mahoney and Steven Sprague, to me known to be the Mayor and City Auditor of the City of Fargo, a North Dakota municipal corporation, and that they executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of said municipal corporation.

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



**EXHIBIT A**

**LEGAL DESCRIPTION OF WRAP TRACT**

Unit 1, Mercantile Condominium, a condominium created pursuant to Declaration Establishing a Plan of Condominium Ownership recorded as Document No. 1685230, in the Cass County, North Dakota Recorder's Office.

**EXHIBIT B**

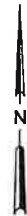
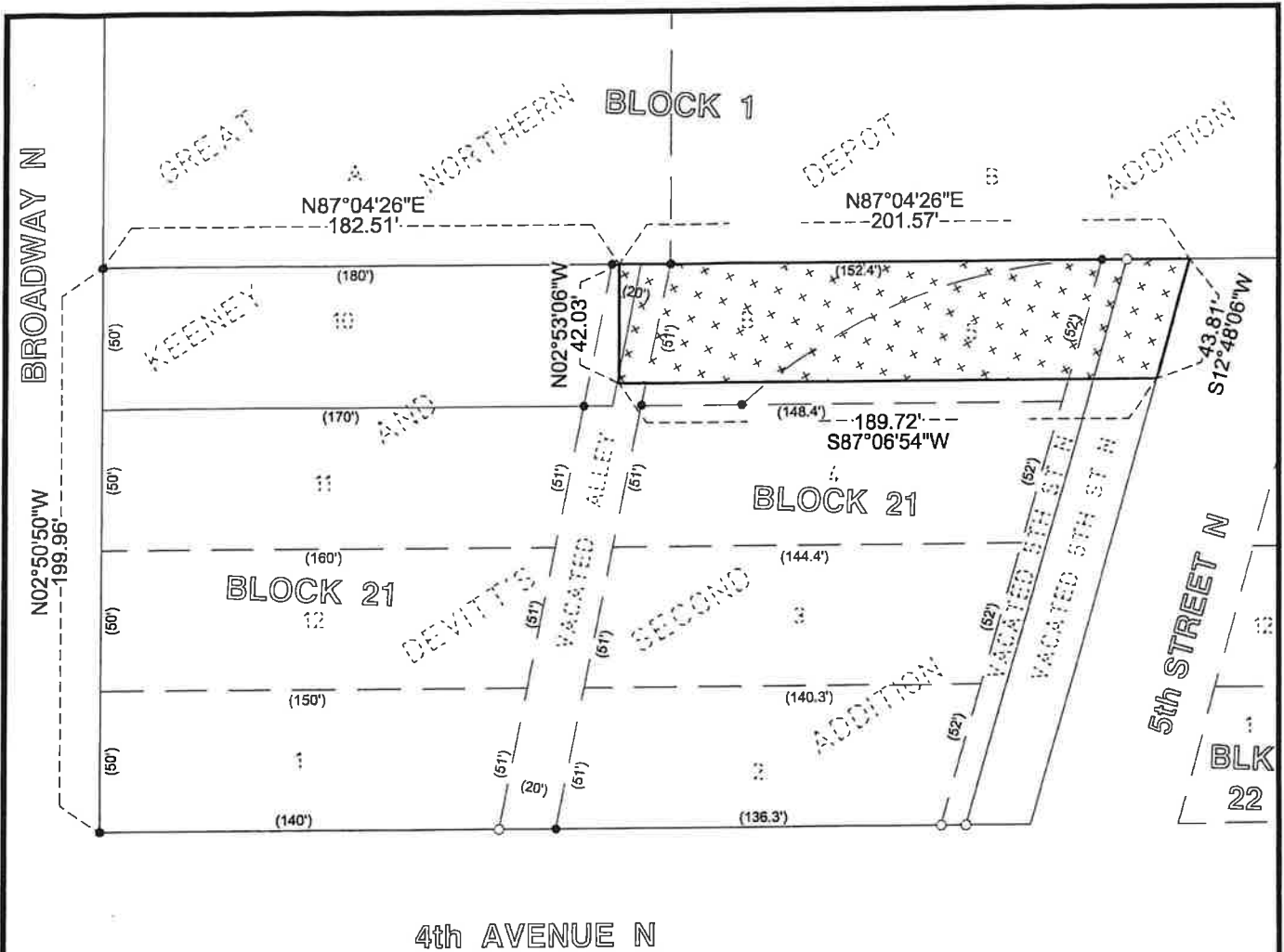
**LEGAL DESCRIPTION OF GARAGE TRACT**

Unit 2, Mercantile Condominium, a condominium created pursuant to Declaration Establishing a Plan of Condominium Ownership recorded as Document No. 1685230, in the Cass County, North Dakota Recorder's Office.

**EXHIBIT C**

**LEGAL DESCRIPTION AND DEPICTION OF NORTH RESIDENTIAL TRACT**





Scale: 1"= 60'

**FEE PARCEL - EXHIBIT C**

H:\Fargo\JBN\7800\7862\7862\_0008\CAD\Easements\Exhibit\_C\_Fee Parcel.dwg



Fargo	Drawn by KNS	Date 11-21-19
P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale AS SHOWN

KILBOURNE GROUP  
 BLOCK 21, KEENEY & DEVITT'S SECOND ADDITION  
 CITY OF FARGO, CASS COUNTY, NORTH DAKOTA  
 PROJECT NO. 7862-0008

SHEET  
1 of 2

DESCRIPTION - FEE PARCEL EXHIBIT C:

That part of Lot 5, that part of the vacated alley in Block 21, and that part of the vacated portion of 5<sup>th</sup> Street North adjacent to the east line of said Block 21, all in Keeney and Devitt's Second Addition, and that part of Lot B, Block 1, Great Northern Depot Addition, all in the City of Fargo, Cass County, North Dakota, all being more particularly described as follows:

COMMENCING at the Southwest Corner of said Block 21; thence North 02°50'50" West (assumed bearing), along the west line of said Block 21, for a distance of 199.96 feet to the Northwest Corner of Lot 10, said Block 21; thence North 87°04'26" East, along the north line and the north line as extended east of said Lot 10, for a distance of 182.51 feet to the TRUE POINT OF BEGINNING; thence continue North 87°04'26" East, along the north line as extended east of said Lot 10, for a distance of 201.57 feet to the point of intersection of the south line of Great Northern Depot Addition and the easterly line of Vacated 5<sup>th</sup> Street North as depicted on Document No. 1577224, on file and of record at the Cass County Recorder's Office; thence South 12°48'06" West, along the easterly line of said Vacated 5<sup>th</sup> Street North, for a distance of 43.81 feet; thence South 87°06'54" West for a distance of 189.72 feet; thence North 02°53'06" West for a distance of 42.03 feet to the TRUE POINT OF BEGINNING.

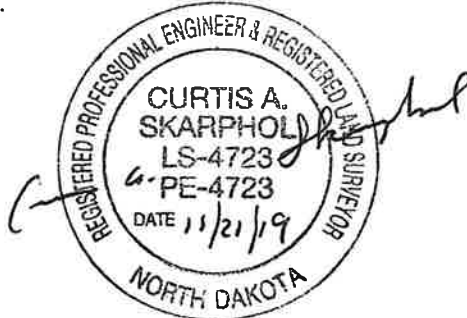
Said tract contains 8,238 square feet, more or less.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Curtis A. Skarphol, hereby certify that this survey, plan, or report was prepared by me or under my direct supervision, and that I am a duly Registered Land Surveyor under the laws of the state of North Dakota.

Dated this 21<sup>ST</sup> day of NOVEMBER, 20 19.

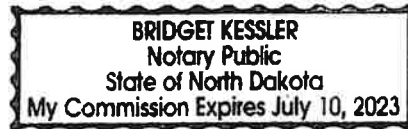
Curtis A. Skarphol  
Curtis A. Skarphol  
Registered Land Surveyor No. 4723



STATE OF NORTH DAKOTA            )  
  ) SS  
COUNTY OF CASS                    )

On this 21<sup>ST</sup> day of November, 20 19, before me, a notary public, personally appeared Curtis A. Skarphol, Registered Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public: Bridget Kessler



**FEE PARCEL - EXHIBIT C**

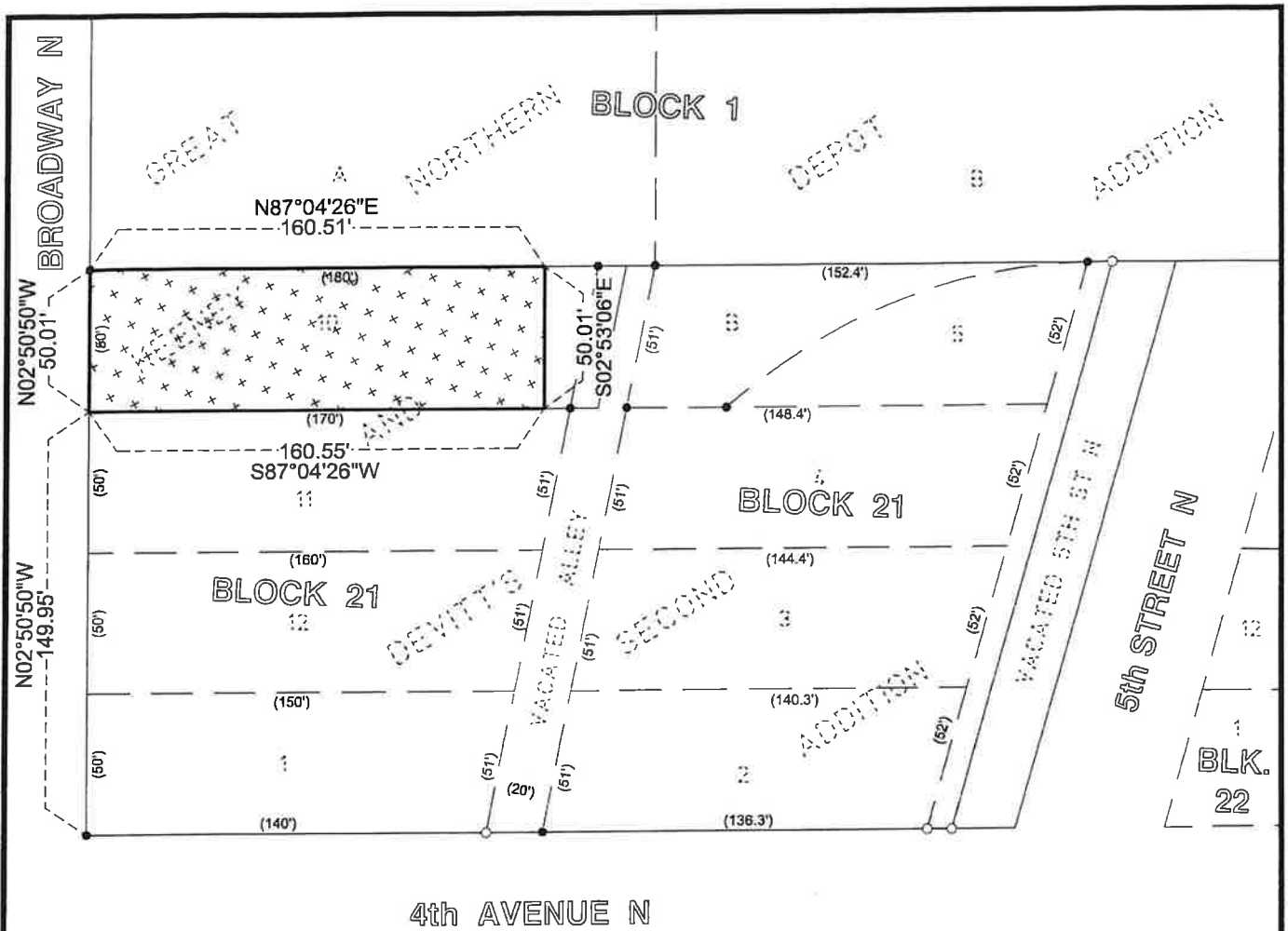
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Fargo	Drawn by KNS	Date 11-21-19	KILBOURNE GROUP BLOCK 21, KEENEY & DEVITT'S SECOND ADDITION CITY OF FARGO, CASS COUNTY, NORTH DAKOTA PROJECT NO. 7862-0008	SHEET 2 of 2
P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale -		

**EXHIBIT D**

**[NOT USED]**



Scale: 1" = 60'

**FEE PARCEL - EXHIBIT E**

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Fargo	Drawn by KNS	Date 11-21-19
P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale AS SHOWN

**KILBOURNE GROUP**  
**BLOCK 21, KEENEY & DEVITT'S SECOND ADDITION**  
**CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**  
 PROJECT NO. 7862-0008

**SHEET**  
1 of 2

DESCRIPTION - FEE PARCEL EXHIBIT E:

That part of Lot 10, Block 21, Keeney and Devitt's Second Addition, City of Fargo, Cass County, North Dakota, described as follows:

COMMENCING at the Southwest Corner of said Block 21; thence North 02°50'50" West (assumed bearing), along the west line of said Block 21, for a distance of 149.95 feet to the Southwest Corner of said Lot 10 and the TRUE POINT OF BEGINNING; thence continue North 02°50'50" West, along the west line of said Block 21, for a distance of 50.01 feet to the Northwest Corner of said Lot 10; thence North 87°04'26" East, along the north line of said Lot 10, for a distance of 160.51 feet; thence South 02°53'06" East for a distance of 50.01 feet to a point of intersection with the south line of said Lot 10; thence South 87°04'26" West, along the south line of said Lot 10, for a distance of 160.55 feet to the TRUE POINT OF BEGINNING.

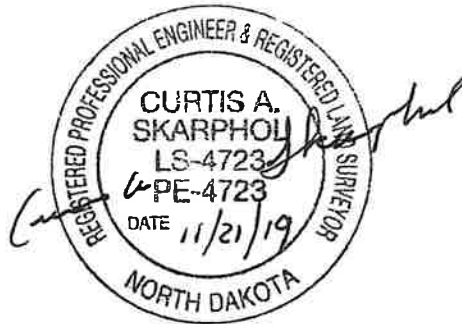
Said tract contains 8,028 square feet, more or less.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Curtis A. Skarphol, hereby certify that this survey, plan, or report was prepared by me or under my direct supervision, and that I am a duly Registered Land Surveyor under the laws of the state of North Dakota.

Dated this 21<sup>st</sup> day of NOVEMBER, 20 19.

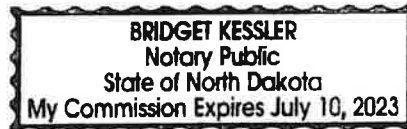
Curtis A. Skarphol  
 \_\_\_\_\_  
 Curtis A. Skarphol  
 Registered Land Surveyor No. 4723



STATE OF NORTH DAKOTA        )  
   ) SS  
 COUNTY OF CASS                    )


On this 21<sup>st</sup> day of November, 20 19, before me, a notary public, personally appeared Curtis A. Skarphol, Registered Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

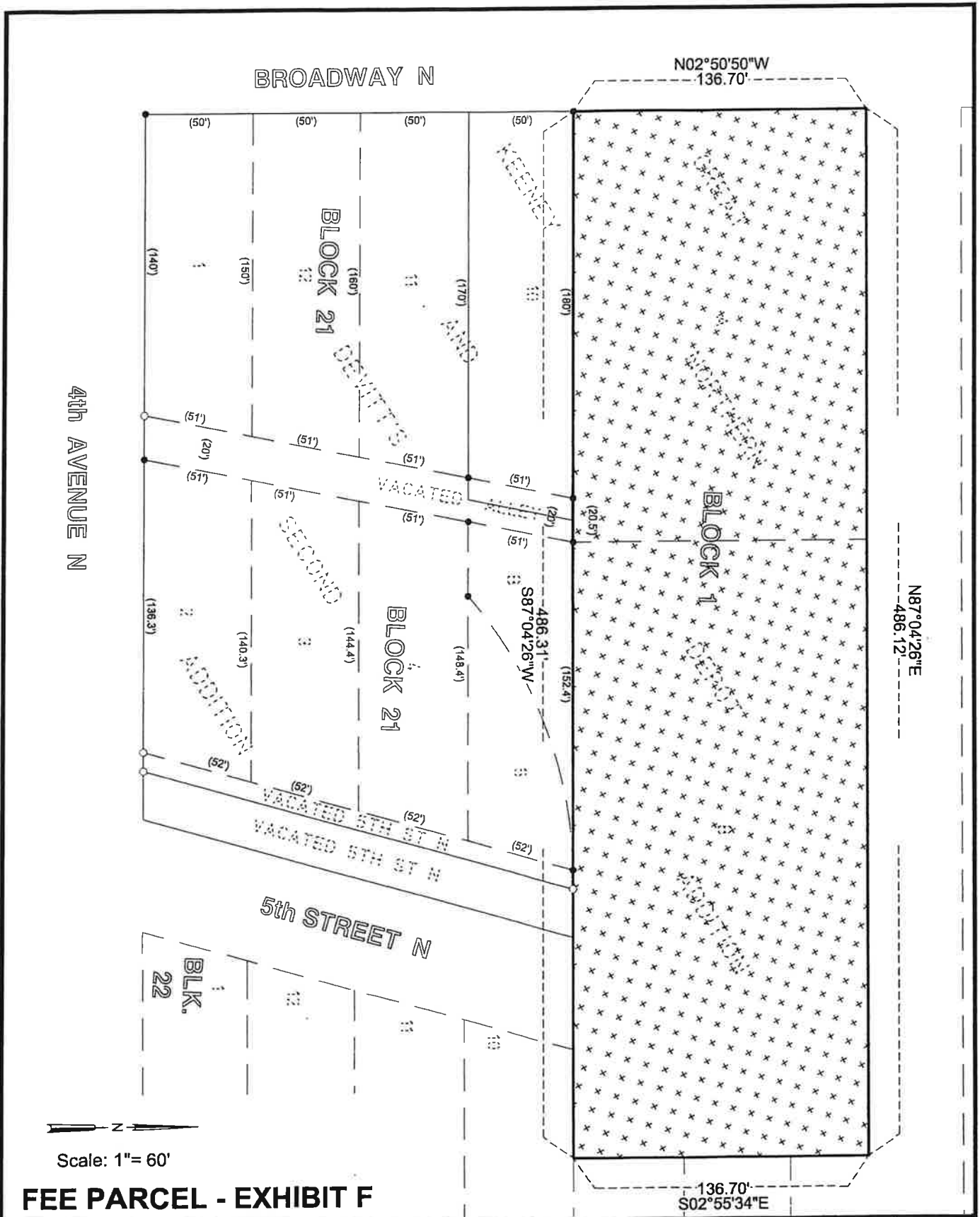
Notary Public: Bridget Kessler  
 \_\_\_\_\_



**FEE PARCEL - EXHIBIT E**

H:\Fargo\JBN\7800\7862\7862\_0008\CAD\Easements\ExhibitE\_Fee Parcel.dwg

 <b>Houston Engineering Inc.</b>	Fargo	Drawn by KNS	Date 11-21-19	KILBOURNE GROUP BLOCK 21, KEENEY & DEVITT'S SECOND ADDITION CITY OF FARGO, CASS COUNTY, NORTH DAKOTA PROJECT NO. 7862-0008	SHEET 2 of 2
	P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale -		



**FEE PARCEL - EXHIBIT F**

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Fargo	Drawn by KNS	Date 11-21-19
P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale AS SHOWN

**KILBOURNE GROUP**  
**BLOCK 1, GREAT NORTHERN DEPOT ADDITION**  
**CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**  
 PROJECT NO. 7862-0008

**SHEET**  
 1 of 2

DESCRIPTION - FEE PARCEL EXHIBIT F:

Lot A and Lot B, Block 1, Great Northern Depot Addition, City of Fargo, Cass County, North Dakota, LESS that part of said Lot B described as follows:

Beginning at the Southwest corner of said Lot B; thence North 11°23'24" East on an assumed bearing, on the West line of said Lot B a distance of 51.00 feet; thence North 90°00'00" East a distance of 152.40 feet to the Southerly line of said Lot B; thence Southwesterly on the Southerly line of said Lot B, on a curve concave to the Southeast a distance of 140.05 feet, having a radius of 196.70 feet, a central angle of 40°47'42" and a chord which bears South 68°36'54" West a distance of 137.11 feet; thence North 90°00'00" West on said South line a distance of 34.80 feet to the point of beginning

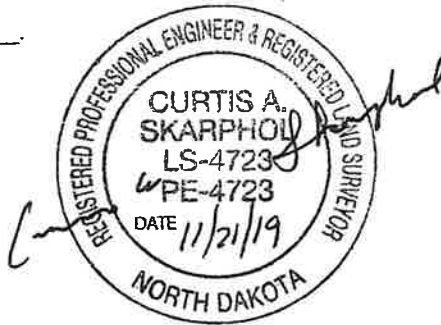
Said tract contains 66,465 square feet, more or less.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Curtis A. Skarphol, hereby certify that this survey, plan, or report was prepared by me or under my direct supervision, and that I am a duly Registered Land Surveyor under the laws of the state of North Dakota.

Dated this 21<sup>ST</sup> day of NOVEMBER, 2019.

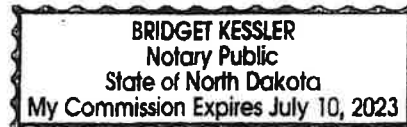
Curtis A. Skarphol  
 \_\_\_\_\_  
 Curtis A. Skarphol  
 Registered Land Surveyor No. 4723



STATE OF NORTH DAKOTA            )  
   ) SS  
 COUNTY OF CASS

On this 21<sup>st</sup> day of November, 2019, before me, a notary public, personally appeared Curtis A. Skarphol, Registered Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

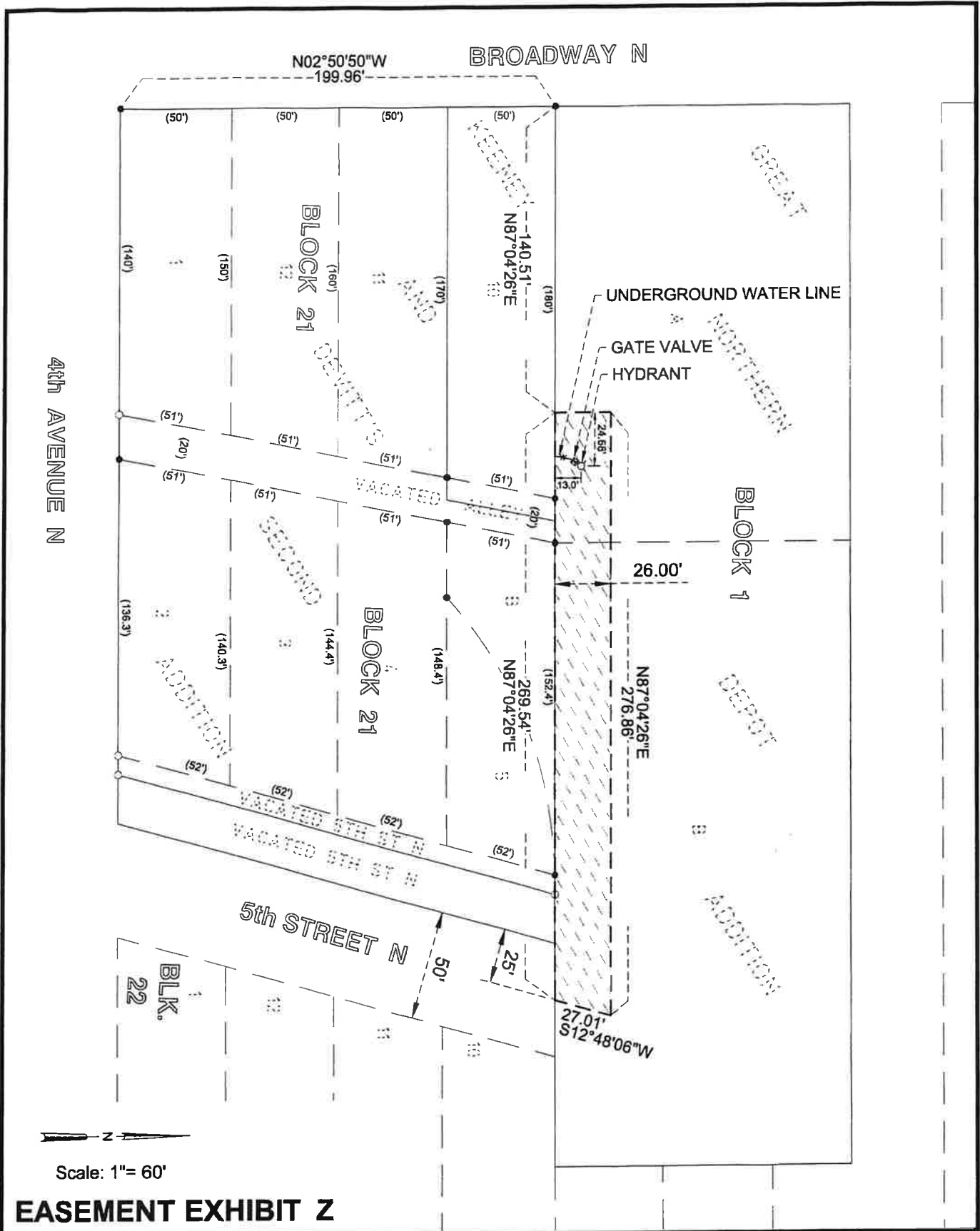
Notary Public: Bridget Kessler  
 \_\_\_\_\_



**FEE PARCEL - EXHIBIT F**

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	Fargo	Drawn by KNS	Date 11-21-19	KILBOURNE GROUP BLOCK 1, GREAT NORTHERN DEPOT ADDITION CITY OF FARGO, CASS COUNTY, NORTH DAKOTA PROJECT NO. 7862-0008	SHEET 2 of 2
	P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale -		



**EASEMENT EXHIBIT Z**

**Houston Engineering Inc.**

Fargo	Drawn by KNS	Date 5-12-21
P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale AS SHOWN

**KILBOURNE GROUP**  
**BLOCK 1, GREAT NORTHERN DEPOT ADDITION**  
**CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**  
 PROJECT NO. 7862-0008

**SHEET**  
 1 of 2

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DESCRIPTION - EASEMENT EXHIBIT Z:

That part of Lot A and Lot B, Block 1, Great Northern Depot Addition, City of Fargo, Cass County, North Dakota, described as follows:

A strip of land, 26.00 feet wide, lying northerly of and being coincident with the following described line:

COMMENCING at the Southwest Corner of said Lot A; thence North 87°04'26" East (assumed bearing), along the south line of said Lot A, for a distance of 140.51 feet to the TRUE POINT OF BEGINNING of said line; thence continue North 87°04'26" East, along the south line and the south line as extended east of said Lot A, for a distance of 269.54 feet and there terminating said line.

The north sideline of said strip shall be lengthened or shortened as necessary to intersect a line bearing South 12°48'06" West passing through the point of termination at the east end.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Curtis A. Skarphol, hereby certify that this survey, plan, or report was prepared by me or under my direct supervision, and that I am a duly Registered Land Surveyor under the laws of the state of North Dakota.

Dated this 12<sup>TH</sup> day of MAY, 2021.

Curtis A. Skarphol  
 Curtis A. Skarphol  
 Registered Land Surveyor No. 4723



STATE OF NORTH DAKOTA )  
 ) SS  
 COUNTY OF CASS )

On this 12 day of May, 2021, before me, a notary public, personally appeared Curtis A. Skarphol, Registered Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public: Bridget Kessler



**EASEMENT EXHIBIT Z**

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	Fargo	Drawn by KNS	Date 5-12-21	KILBOURNE GROUP BLOCK 1, GREAT NORTHERN DEPOT ADDITION CITY OF FARGO, CASS COUNTY, NORTH DAKOTA PROJECT NO. 7862-0008	SHEET 2 of 2
	P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale AS SHOWN		

**Exhibit "D" to Agreement**

**BUILDING ENCROACHMENT EASEMENT AGREEMENT**

**(attached)**

## BUILDING ENCROACHMENT EASEMENT AGREEMENT

THIS BUILDING ENCROACHMENT EASEMENT AGREEMENT (the "Agreement") is entered into and effective as of the \_\_\_ day of \_\_\_\_\_, 2023 (the "Effective Date"), by and between T & K Property Management LLC, a North Dakota limited liability company ("T&K"), whose address is 425 North Broadway, Fargo, ND 58102, and the City of Fargo, a North Dakota municipal corporation ("City"), whose post office address is 225 4th Street North, Fargo, ND 58102 .

### RECITALS

A. T&K owns the following described real property situate in the City of Fargo, Cass County, North Dakota ("T&K Property"):

That part of Lot 5, that part of the vacated alley in Block 21, and that part of the vacated portion of 5<sup>th</sup> Street North adjacent to the east line of said Block 21, all in Keeney and Devitt's Second Addition, and that part of Lot B, Block 1, Great Northern Depot Addition, all in the City of Fargo, Cass County, North Dakota, all being more particularly described as follows:

COMMENCING at the Southwest Corner of said Block 21; thence North 02°50'50" West (assumed bearing), along the west line of said Block 21, for a distance of 199.96 feet to the Northwest Corner of Lot 10, said Block 21; thence North 87°04'26" East, along the north line and the north line as extended east of said Lot 10, for a distance of 182.51 feet to the TRUE POINT OF BEGINNING; thence continue North 87°04'26" East, along the north line as extended east of said Lot 10, for a distance of 201.57 feet to the point of intersection of the south line of Great Northern Depot Addition and the easterly line of Vacated 5<sup>th</sup> Street North as depicted on Document No. 1577224, on file and of record at the Cass County Recorder's Office; thence South 12°48'06" West, along the easterly line of said Vacated 5<sup>th</sup> Street North, for a distance of 43.81 feet; thence South 87°06'54" West for a distance of 189.72 feet; thence North 02°53'06" West for a distance of 42.03 feet to the TRUE POINT OF BEGINNING.

THE ABOVE LEGAL DESCRIPTION WAS OBTAINED FROM A PREVIOUSLY RECORDED INSTRUMENT.

B. City owns the following described real property situate in the City of Fargo, Cass County, North Dakota (the "Garage Unit"):

Unit 2, Mercantile Condominium, a condominium created pursuant to Declaration Establishing a Plan of Condominium Ownership recorded as Document No. 1685230, in the Cass County, North Dakota Recorder's Office.

C. City's predecessor constructed a parking garage located on the Garage Unit (the "Garage"), that encroaches slightly upon the T&K Property, and T&K is willing to grant an easement to City for the encroachment, subject to all terms and conditions contained in this Agreement.

### AGREEMENTS

NOW, THEREFORE, in consideration of the recitals, the mutual agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby declare, grant, covenant, and agree to the following:

1. Grant of Easement. T&K hereby grants to City, for the benefit of the Garage Unit, an exclusive, appurtenant and perpetual easement under, over, upon and across the that part of the T&K Property described and depicted on Exhibit A attached hereto and made a part hereof (the "Easement Area") to install, maintain, repair and replace a wall comprising a portion of a wall of the Garage and the associated footings and foundations for same (collectively, the "Encroaching Wall").
2. Maintenance. City shall be responsible for and shall bear all costs to install, operate, repair, maintain and replace all portions of the Encroaching Wall.
3. Non-Disturbance. The owner of the Garage Unit shall exercise its rights as to the Easement Area in such a manner that causes the least interference and disturbance to the owner and occupants of the T&K Property as is practicable and commercially reasonable under the circumstances.
4. Liens. City shall not cause or permit any construction liens against the Easement Area, and if any arise, City shall undertake such actions as are necessary to cause the same to be fully discharged within 15 days after notice by the owner of the T&K Property.
5. Governmental Regulations. City shall, at City's sole cost and expense, comply with and faithfully observe all statutes, ordinances, rules, regulations, orders, laws and the like of all local, state and Federal and other applicable governmental authorities, present or future, having jurisdiction over the Encroaching Wall and related to exercising its rights under this Agreement.
6. Indemnification. City shall, to the maximum extent permitted by law, indemnify, defend, and hold harmless the owner of the T&K Property, their agents, representatives, employees, contractors, guests and the like (collectively, the "Indemnified Parties") from and against any claims, liens, liabilities, lawsuits, costs, expenses, damages and/or the like (including

reasonable attorneys' fees) (collectively, "Claims") including, but not limited to, Claims for personal injury, wrongful death or property damage, resulting from, arising out of, or in any way related to exercising its rights as to the Easement Area.

7. Scope/Binding Effect. The rights and obligations herein provided shall inure to the benefit of and be binding upon the parties hereto, their successors, assigns, heirs, and legal representatives, and shall run with, benefit and burden the T&K Property and the Garage Unit.

8. Waiver. No waiver of any breach of the easements or of any rights, obligations, covenants, and/or provisions herein contained shall be construed as, or constitute, a waiver of any breach or a waiver, acquiescence in, or consent to any further or succeeding breach of the same or any other such easements, rights, obligations, covenants, and/or other provisions.

9. Recording. This Agreement shall be recorded against the T&K Property and the Garage Unit in the office of the County Recorder for Cass County, North Dakota.

10. Severability. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remaining terms or provisions of this Agreement shall not be affected thereby, but such remaining terms and provisions shall be valid and enforceable to the fullest extent permitted by law.

11. Governing Law. This document shall be construed and enforced in accordance with the laws of the State of North Dakota.

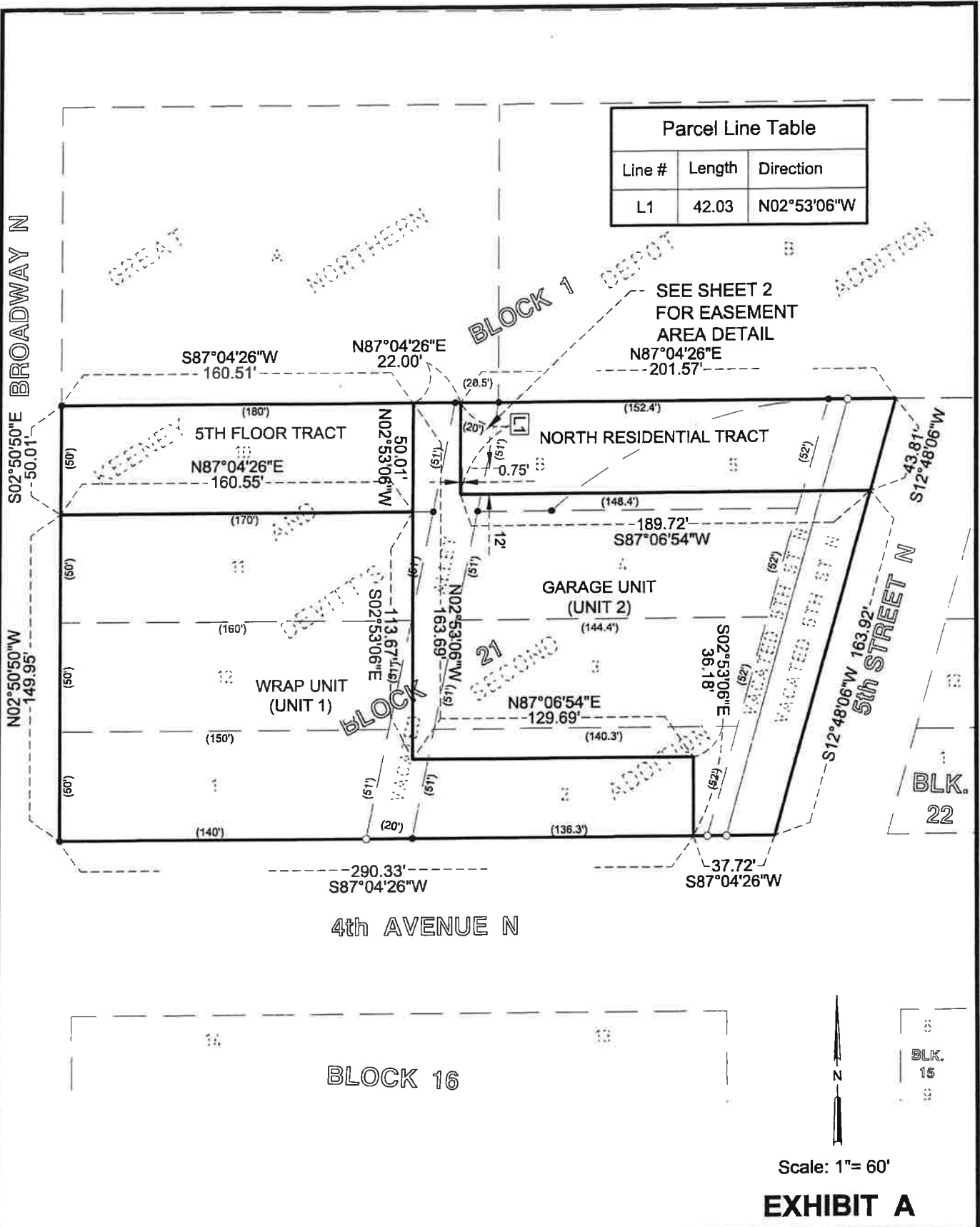
*[The remainder of this page intentionally left blank – signature pages follow]*











Parcel Line Table		
Line #	Length	Direction
L1	42.03	N02°53'06"W

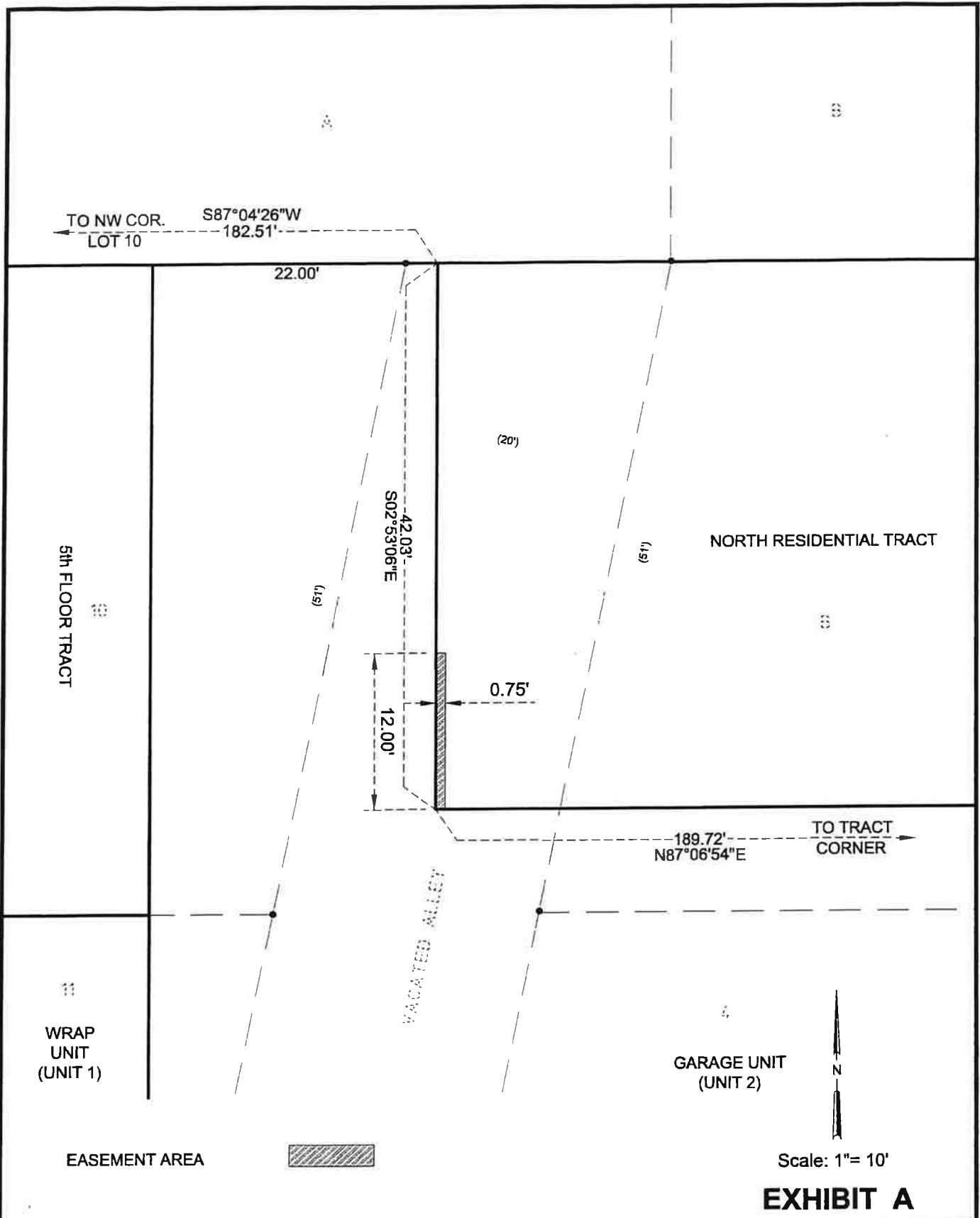
SEE SHEET 2  
FOR EASEMENT  
AREA DETAIL  
N87°04'26"E  
201.57'

Scale: 1" = 60'


**EXHIBIT A**

H:\\_BKV\7800\7862\7862\_0008\_CAD\Easements\Levels\EncroachmentExhibit.dwg

<p><b>Houston Engineering Inc.</b></p>	Fargo	Drawn by KNS	Date 4-20-20	MERCANTILE MIXED USE RAMP BLOCK 21, KEENEY & DEVITT'S SECOND ADDITION CITY OF FARGO, CASS COUNTY, NORTH DAKOTA PROJECT NO. 7862-0008	SHEET 1 of 3
	P: 701.237.5065	Checked by CAS	Scale AS SHOWN		
	F: 701.237.5101				



H:\BNA\7800\7862\0008\CAD\Easements\Levels\Encroachment\Exhibit\_A\_zoomed.in.dwg

 <b>Houston Engineering Inc.</b>	Fargo	Drawn by KNS	Date 4-20-20	<b>MERCANTILE MIXED USE RAMP BLOCK 21, KEENEY &amp; DEVITT'S SECOND ADDITION CITY OF FARGO, CASS COUNTY, NORTH DAKOTA PROJECT NO. 7862-0008</b>	<b>SHEET 2 of 3</b>
	P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale AS SHOWN		

DESCRIPTION - EASEMENT AREA:

That part of the vacated alley in Block 21, Keeney and Devitt's Second Addition, described as follows:

A 0.75-foot wide strip of land lying easterly of and being coincident with the following described line:

COMMENCING at the Southwest Corner of said Block 21; thence North 02°50'50" West (assumed bearing), along the west line of said Block 21, for a distance of 199.96 feet to the Northwest Corner of Lot 10, said Block 21; thence North 87°04'26" East, along the north line and the north line as extended east of said Lot 10, for a distance of 182.51 feet; thence South 02°53'06" East for a distance of 42.03 feet to the TRUE POINT OF BEGINNING of said line; thence North 02°53'06" West for a distance of 12.00 feet and there terminating said line.

Said strip contains nine square feet, more or less.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Curtis A. Skarphol, hereby certify that this survey, plan, or report was prepared by me or under my direct supervision, and that I am a duly Registered Land Surveyor under the laws of the state of North Dakota.

Dated this 20<sup>th</sup> day of APRIL, 2020.

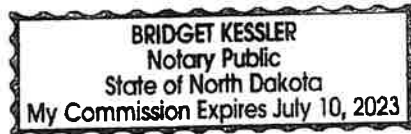
Curtis A. Skarphol  
 Curtis A. Skarphol  
 Registered Land Surveyor No. 4723



STATE OF NORTH DAKOTA     )  
   ) SS  
 COUNTY OF CASS                    )

On this 20<sup>th</sup> day of April, 2020, before me, a notary public, personally appeared Curtis A. Skarphol, Registered Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public: Bridget Kessler



**EXHIBIT A**

H:\JBN\7800\7862\7862\_0008\CAD\Easements\Leviss\Encroachment\Exhibit.dwg

	Fargo	Drawn by KNS	Date 4-20-20	MERCANTILE MIXED USE RAMP BLOCK 21, KEENEY & DEVITT'S SECOND ADDITION CITY OF FARGO, CASS COUNTY, NORTH DAKOTA PROJECT NO. 7862-0008	SHEET 3 of 3
	P: 701.237.5065 F: 701.237.5101	Checked by CAS	Scale AS SHOWN		

**Exhibit "E" to Agreement**

**PARKING LEASE AGREEMENT**

**(attached)**

[EXHIBIT "E" TO AGREEMENT]

**PARKING LEASE AGREEMENT**

This Parking Lease Agreement ("Lease") is made and effective as of the date last signed by the parties hereto, by and between the **CITY OF FARGO**, a North Dakota municipal corporation ("CITY" or "Landlord") and **T&K PROPERTY MANAGEMENT LLC**, a North Dakota Limited Liability Company ("T&K PROPERTY MANAGEMENT" or "Tenant").

**WHEREAS**, T&K PROPERTY MANAGEMENT is the owner of certain real property situate in the COUNTY OF CASS and STATE OF NORTH DAKOTA, described as follows:

That certain real property situate in the COUNTY OF CASS and STATE OF NORTH DAKOTA, described as follows:

A PORTION OF LOT FIVE (5), BLOCK TWENTY-ONE (21), KEENEY & DEVITTS 2ND ADDITION TO THE CITY OF FARGO, DESCRIBED MORE FULLY AS:  
THAT PART OF LOT 5, THAT PART OF THE VACATED ALLEY IN BLOCK 21, AND THAT PART OF THE VACATED PORTION OF 5TH STREET NORTH ADJACENT TO THE EAST LINE OF SAID BLOCK 21, ALL IN KEENEY AND DEVITT'S SECOND ADDITION, AND THAT PART OF LOT B, BLOCK 1, GREAT NORTHERN DEPOT ADDITION, ALL IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID BLOCK 21; THENCE NORTH 02°50'50" WEST (ASSUMED BEARING), ALONG THE WEST LINE OF SAID BLOCK 21, FOR A DISTANCE OF 199.96 FEET TO THE NORTHWEST CORNER OF LOT 10, SAID BLOCK 21; THENCE NORTH 87°04'26" EAST, ALONG THE NORTH LINE AND THE NORTH LINE AS EXTENDED EAST OF SAID LOT 10, FOR A DISTANCE OF 182.51 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUE NORTH 87°04'26" EAST, ALONG THE NORTH LINE AS EXTENDED EAST OF SAID LOT 10, FOR A DISTANCE OF 201.57 FEET TO THE POINT OF INTERSECTION OF THE SOUTH LINE OF GREAT NORTHERN DEPOT ADDITION AND THE EASTERLY LINE OF VACATED 5TH STREET NORTH AS DEPICTED ON DOCUMENT NO 1577224, ON FILE AND OF RECORD AT THE CASS COUNTY RECORDER'S OFFICE; THENCE SOUTH 12°48'06" WEST, ALONG THE EASTERLY LINE OF SAID VACATED 5TH STREET NORTH, FOR A DISTANCE OF 43.81 FEET; THENCE SOUTH 87°06'54" WEST FOR A DISTANCE OF 189.72 FEET; THENCE NORTH 02°53'06" WEST FOR A DISTANCE OF 42.03 FEET TO THE TRUE POINT OF BEGINNING.

[the "T&K PROPERTY"]; and,

**WHEREAS**, T&K PROPERTY MANAGEMENT is constructing a multi-unit residential dwelling structure upon the T&K PROPERTY which dwelling structure is intended to be condominiumized for sale of individual residential units to third parties (referred to herein as the "T&K Project"); and

**WHEREAS**, the CITY is the owner of one of two units in the Mercantile Condominium, which consists of two units, the first unit—UNIT ONE—being a multi-use commercial and residential improvement and the second unit—UNIT TWO—being owned by the CITY and being operated as a public parking garage structure, said UNIT TWO, being more fully described as:

Unit Two (2) of Mercantile Condominium, a condominium created under a Declaration Establishing a Plan of Condominium Ownership (the "Declaration") dated effective February 17, 2023 and recorded in the office of the Recorder for Cass County, North Dakota on March 3, 2023, as Doc. No. 1685230;

[the "CITY PARKING GARAGE"]; and,

**WHEREAS**, T&K PROPERTY MANAGEMENT wishes to lease certain parking spaces within the CITY PARKING GARAGE from the CITY that would permit T&K PROPERTY MANAGEMENT to construct certain residential garage structures (each referred to as an "Enclosed Garage" and cumulatively as the "Enclosed Garages") and a storage area for certain permitted items (the "Tenants' Level Four Storage Area") within and upon various floors of the CITY PARKING GARAGE" and would provide for rental by T&K PROPERTY MANAGEMENT of the parking spaces within the CITY PARKING GARAGE and to then allow such Enclosed Garages, the Tenants' Level Four Storage Area and the rented parking spaces to be used by authorized users associated with the T&K Project condominium; and,

**WHEREAS**, the CITY and T & K PROPERTY MANAGEMENT wish to enter into a lease setting forth the terms thereof;

**NOW, THEREFORE, the above-named parties agree as follows:**

## **ARTICLE ONE – PREMISES**

**Section 1.1. Leased Premises.** Landlord does hereby lease unto Tenant the premises described as follows:

1.1.1. Six (6) parking spaces on the Lower Level of the Garage Unit; Five (5) parking spaces on Level One (1) of the Garage Unit, and three (3) parking spaces on Level Two (2) of the Garage Unit (cumulatively referred to herein as "Tenant's Parking Spaces"); and,

1.1.2. In addition, certain floor space on Level Three (3) of the Garage Unit, which corresponds to the fourth level of the T&K Project, to be enclosed for tenant's storage of permitted items, as described more fully below, (referred to herein as "Tenant's Level Four Storage Area");

said Levels being the decks or floors of the CITY PARKING GARAGE as constructed, said premises to be referred to herein as the "DEMISED PREMISES". A copy of the floor plan outlining Tenant's Parking Spaces and the Tenant's Level Four Storage Area is attached hereto as Exhibit A and incorporated herein by reference.

**Section 1.3. Term of Lease.** This Lease shall be for a term ending on the later of the following dates:

1.1. The date of the fortieth (40<sup>th</sup>) yearly anniversary of the commencement date of this Lease; and,

1.2. A date occurring after said 40<sup>th</sup> anniversary on which date the CITY PARKING GARAGE is permanently closed and no longer operational, is demolished or destroyed;

unless this Lease is earlier terminated, whether by default of a party or other reason, as set forth herein. The CITY PARKING GARAGE shall be deemed to be permanently closed and no longer operational at such time as its use as a parking garage has been discontinued for a period of at least six months and the City, in its sole discretion, has determined that it does not intend to reopen it. In such event, for purposes of payment of rent, the term of this Lease shall be deemed to have ended at the beginning of the said six-month minimum closure period. Furthermore, once the residential garage enclosures and storage enclosure structures are complete, this Lease may be terminated by Tenant, in its sole discretion, upon sixty (60) days' notice to Landlord, at which time the DEMISED PREMISES shall be surrendered to the Landlord as set forth in Section 11.1, below.

**Section 1.4. Commencement Date:** The term of this Lease and the payment of rent hereunder shall commence on the first day of the month following the date this Lease is last signed by the parties, below.

**Section 1.5. Fit-up of Premises – Tenant.** Tenant shall be responsible for providing all fit-up of DEMISED PREMISES ("Fit-up") as set forth in Exhibit B, all at Tenant's sole expense. All fit-up shall be the responsibility of the Tenant and be performed and installed in a manner that will not place the CITY PARKING GARAGE out of compliance with applicable building code, fire code or other codes applicable in the City of Fargo. Further, all of the fit-up shall be installed by Tenant's contractor and said contractor must at all times be a holder in good standing of a Class A, B or C contractor's license issued by the State of North Dakota. In particular, the design and construction of such fit-up of enclosed areas shall not be such that it would trigger the requirement of a fire-retardant sprinkler system in the CITY PARKING GARAGE.

1.5.1. Minimum Requirements for Fit-up. In addition to any other provisions contained herein, fit-up and use of the DEMISED PREMISES shall be subject to the following requirements:

1.5.1.1. The design and fit-up for Enclosed Garages shall provide spacing from the opposite wall of no less than 40 feet (allowing 18 feet for parking space opposite from the Enclosed Garage and an additional 22 feet for the drive aisle). No portion of any Enclosed Garage may encroach upon such minimum spacing.

1.5.1.2. The fit-up of the Enclosed Garages must include garage doors suitable for Type II-B, non-flammable construction (i.e. the overhead door) and such garage doors must include at least two glass window openings each of which is at least one-square foot in area, that permit view of the interior of each Enclosed Garage from the exterior of the Enclosed Garage.

1.5.1.3. The fit-up of the Level Four Storage Area (on the third level of the CITY PARKING GARAGE) must include a pedestrian service door that permits ingress and egress onto the Parking Garage and the door must contain at least one glass window opening of at least one-square foot in area with one side of the window opening not less than six inches in length.

1.5.1.4. The pane of any required glass window opening must be fitted with either glass or plexi-glass that is clear (i.e. not frosted) and permits clear viewing of the interior of the space from outside the space.

1.5.1.5. The fit-up of the Enclosed Garages and the Level Four Storage Area must contain secured pedestrian service doors configured in such manner that the CITY can obtain access to such areas for inspection, maintenance or repairs as provided herein.

1.5.1.6. Tenant's proposed fit-up shall not include the installation of any shelving, drawers, wall-hooks or any other wall or ceiling fasteners for storing personal property. Upon request of Tenant, Landlord will provide and install wall-hooks or other wall fasteners and a single shelf in each of the Enclosed Garages and in the Level Four Storage Area as set forth in Section 3.4 of this Lease. In no event shall any wall-hooks, wall-fasteners or shelves be installed without prior approval of the Landlord on precast structural portions of the CITY PARKING GARAGE including, in particular, any portion of the ceilings, the T-members in the ceilings, the floors or the walls of the CITY PARKING GARAGE structure. With the permission of the Landlord, Tenant may be authorized, upon written request, to install light fixtures and electrical conduit at precise locations of the ceilings and/or walls of the CITY PARKING GARAGE structure.

1.5.1.7. Maintenance, Repair, Replacement. All maintenance, repair and replacement of materials for the Enclosed Garages and Level Four Storage Area, whether performed by Tenant, as is required by this Lease, or by Landlord must continue to meet these required minimum fit-up standards including, for example, the glass or plexiglass viewing windows in doors.



Section 406.5.11 of the IBC states: "Prohibitions. The following uses and alterations are not permitted: 1. Vehicle repair work. 2. Parking of buses, trucks and similar vehicles. 3. Partial or complete closing of required openings in...walls by tarpaulins or any other means."

1.5.1.7. Installation of Service Doors for Enclosed Spaces. The fit-up is to include certain service doors—nine in number--installed into the existing openings in the north wall of the CITY PARKING GARAGE to provide access by the authorized occupants and users from the T&K Property to the Enclosed Garages and another service door installed into the existing opening in said north wall at the said Third Level of the CITY PARKING GARAGE to provide access by said occupants and users to the Enclosed Level Four Storage Area, said service doors cumulatively referred to as the "Service Doors". The "Service Doors" may, at T&K Management's discretion include and utilize a security system whereby entry to and from CITY PARKING GARAGE to and from the T&K Property shall be controlled and limited at all times via key, fob, card reader or the like. T&K Management shall be responsible for maintenance, repair and replacement of such doors. T&K Property Management shall be responsible for and shall bear all costs to install, operate, repair, maintain and replace all portions of the Service Doors. Upon reasonable advance notice to T&K Property Management, as provided in this Agreement, City shall be entitled to inspect the Service Doors and undertake work in and around the area of same necessary for maintenance or repairs to the CITY PARKING GARAGE.

1.5.2. Fit-up for Electrical Service Allowable. City and Tenant agree that Tenant's proposed fit-up may include the following electrical service:

- 1.5.2.1. One electrical wall-receptacle (dual-plug-in) with a maximum of 120 volts and 20 amps.
- 1.5.2.2. One ceiling-mounted electrical receptacle to accommodate a single light bulb with a maximum of 120 volts and 20 amps.
- 1.5.2.3. An electric garage-door opener (remote-controlled) for each overhead garage door also with a maximum of 120 volts and 20 amps.
- 1.5.2.4. One electric motor vehicle Level II charger. A Level II charger shall be a hard-wired electric motor vehicle charger with a maximum of 208 volts and 16 amps. A wall-receptacle of 208 or 220 volts shall not be permitted. The electric motor vehicle charging facility must be a hard-wired charger with said "Level II" capacity to be in compliance with this limitation.

1.5.3. Tenant will be responsible for obtaining any easements or other consent from third parties as may be necessary in order to secure such electrical service, such third parties to include the Mercantile Condominium Association and/or the owner of Unit One of the Mercantile Condominium as may be necessary or appropriate. The parties recognize that the installation of electrical service may require occupancy or encroachment upon, or

may affect, the Common Area or Limited Common Area of the Mercantile Condominium. The CITY will cooperate with T&K PROPERTY MANAGEMENT with respect to the efforts of T&K PROPERTY MANAGEMENT seeking such easements or other consent, once the CITY has given its consent to the proposed fit-up plan or plans.

1.5.4. Tenant shall be permitted to install "Private Parking" signage and security cameras outside of the demised space. Such cameras will be installed on each level and shall be directed toward the overhead doors, the service doors, as well as the primary horizontal egress door located on the ground level. These cameras shall be installed so as to not interfere with normal operation of the parking garage including, in particular, clearance height within the parking garage. Also, such installation must be in conformance with applicable building, electrical or other code requirements including any applicable restrictions limiting the crossing of property boundaries by electrical service or connection.

**Section 1.6. Mercantile Project Condominium.** T&K Property Management recognizes that CITY intends that a condominium organization will be established for the ownership of the Mercantile Project by which the CITY PARKING GARAGE will become identified as a single "unit" within the condominium and the mixed-use portion of the project will be identified as one or more other "units" within the condominium to be owned by the developer, or its successors in interest, and T&K Property Management recognizes and agrees that this Parking Lease is intended to be applicable to the CITY PARKING GARAGE, and to the condominium unit that is established therefore, and agrees that to the extent that it becomes necessary or appropriate in order to confine the application of this Lease to the CITY PARKING GARAGE portion of the Mercantile Project and to release any interest T&K Property Management may have in portions of the Mercantile Project other than the condominium unit associated with the CITY PARKING GARAGE, T&K Property Management agrees to execute such document or documents for such recording.

**Section 1.7. T&K Project Condominium.** The CITY recognizes that T&K Property Management intends that a condominium organization will be established for the ownership of the T&K Project by which condominium, the T&K Property may be identified as one or more "units" within the condominium with certain common elements to be governed by a condominium board or association and the CITY recognizes and agrees that this Parking Lease, being applicable to the successors in interest of T&K Property Management in the T&K Property, as set forth in Article 11, Section 11.2, below, and agrees that , so long as the successor in interest of this Lease is the governing board or association of the said T&K Property condominium, the CITY agrees to execute such document or documents for such recording; provided said condominium association or board is responsible for the obligations to the CITY under this Lease and the associated Easement and provided that said condominium association or board attorns to the CITY as the successor Tenant.

**ARTICLE TWO – RENT, SERVICES AND ADDITIONAL PARKING SPACES TO BE AVAILABLE**

**Section 2.1. Rent.** Tenant shall pay by the first of each month, without demand, rent for the DEMISED PREMISES. **Monthly rent shall be in the sum of One Thousand Eight Hundred Twenty and no/100 Dollars (\$1820.00) for the DEMISED PREMISES** as described in Section 1.1, above.

The rent shall be adjusted annually, effective as of the anniversary of the Effective Date hereof. The adjustment for any particular year shall be calculated as follows:

**2.1.2. Annual Rent Adjustment—Consumer Price Index.** The adjustment shall be automatically increased by two percent (2%) over the previous year's rent; unless either party provides notice to the other of a different rent adjustment based upon a "consumer price index" calculation, determined as follows:

2.1.2.1. Computation. Within 30 days after its publication and issuance, by the Bureau of Labor Statistics of the United States Department of Labor, a party may deliver to the other party suitable evidence as to the Revised Consumer Price Index-Cities (1967=100) (the Index) for the city of Minneapolis, Minnesota for "all items" for the first full calendar month immediately following the "Commencement Date" ("base month") and for the corresponding month of each year thereafter. [The "Index" may be obtained from the Bureau of Labor Statistics website: [https://www.bls.gov/regions/midwest/news-release/consumerpriceindex\\_minneapolis.htm](https://www.bls.gov/regions/midwest/news-release/consumerpriceindex_minneapolis.htm).] If the Index for each corresponding month in each subsequent lease year shows a decrease in the purchasing power of the annual base rent as compared, in each such year, to the Index for the base month, the notifying party, as soon as possible after delivery of each Index subsequent to the Index for the base month, shall furnish the other party with the computation of any adjusted (increased or decreased) amount to be paid by Tenant for the following year of this Lease. Such additional amount shall be divided into and paid in 12 equal monthly installments during each year of this Lease. Pending the determination of any adjustment to the rent amount to be paid by it, Tenant shall continue to pay such rent amount, adjusted by the above-stated two percent (2%) per year annual increase in base rent in monthly installments. The parties shall, in good faith, coordinate with each other to true-up any deficiency or surplus in rent that has been previously paid. Neither party shall be entitled under this Lease to look back farther than a single annual increase for any adjustment in other than the presumed two percent (2%) annual increase.

2.1.2.2. Substitution. If at the time required for the determination of the additional rent, the Index is no longer published or issued, or either the Landlord or the Tenant believes that the Index does not accurately reflect a relationship to the base data an increase in the cost of living, the parties shall use any other Index that is generally recognized and accepted for similar determinations of purchasing power.

**Section 2.2. Security Deposit.** None required.

**Section 2.3. Utilities, Taxes and Common Area Maintenance (CAM) Expenses.** Costs for utilities and expenses shall be as follows (“N.A.” means not applicable):

	<u>Landlord</u>	<u>Tenant</u>
Heating & A/C	N.A.	N.A.
Electricity for City Parking Garage	X	
Electricity for Tenant’s Parking Spaces and Tenant’s Storage Area*		X
Water/Sewer/Garbage	N.A.	N.A.
Grounds Maintenance/Repairs	X	
Snow Removal from City Parking Garage	X	
Taxes - leasehold interest in Demised Premises		X
Taxes other than leasehold interest, above	X	
Common Areas-		
Maintenance/Janitorial	X	
DEMISED PREMISES – Cleaning/Janitorial		X
Window Cleaning –		
Exterior Surfaces	N.A.	
Interior Surfaces	N.A.	X
Real Property Insurance	X	
Personal Property Insurance		X

The Landlord, at Landlord’s expense, will be responsible for payment of all common charges and condominium assessments associated with the condominium established for the Mercantile Project Condominium.

\* Installation of such separate electrical service and the costs for utilities and expenses related to such electrical service for Tenant’s Parking Spaces and Storage Area must be covered by separate arrangement or agreement with the condominium association for the Mercantile Condominium and/or the separate owners of the units of said condominium.

Landlord agrees to coordinate with, and cooperate with, Tenant in seeking suitable arrangements for such separate electrical service with the Mercantile Condominium Association or separate condominium unit owners. The parties recognize that such separate electrical service will likely need to be metered separately to identify the electrical costs to be borne by Tenant. The parties acknowledge and agree that to the extent that approval or agreement may be needed from the City of Fargo, as a condominium owner, such approval or agreement will require the approval of the board of city commissioners of the City of Fargo.

**Section 2.4. Place of Payment.** Rent shall be paid to Landlord at Landlord's address, stated above, or such other address as Landlord may require upon written notice to Tenant.

**Section 2.5. Additional Parking Spaces Available for Rental.** In addition to the lease of the DEMISED PREMISES as set forth herein and during the term hereof, the CITY grants to Tenant a non-exclusive right for the residential occupants of the T&K Property to enter into individual or separate leases—one for each occupant or one for each residential unit within the T&K Property, as the case may be, which grant is in the form of the CITY providing to T&K Property Management for such purposes the availability of sufficient parking spaces to accommodate such parking space needs of T&K Property Management, and its successors in interest, a maximum of five (5) parking spaces per day on a 24/7 basis (24 hours per day, seven days per week) for parking purposes in, over and on the CITY PARKING GARAGE, more fully described below. For purposes of the Lease, CITY will make said five (5) spaces available and grants T&K Property Management access to said five (5) spaces for said residential occupants of the T&K Property. The parties recognize that the CITY will have parking space rental agreements with multiple other users of the CITY PARKING GARAGE during daytime business hours and other times of the day; provided, however, that the CITY PARKING GARAGE will be operated in a manner consistent with other public parking garages wherein a significant portion of the available parking spaces are leased to businesses or individuals for parking during customary office hours; a portion are available for daily and hourly parking during customary office hours by general members of the public and, as part of the management approach, no single parking spaces reserved to any single individual or business but, rather, collectively parking spaces are leased and rented to a number that will utilize the parking to a maximum capacity.

**2.5.1. T&K Property Management Users Parking Fee.** With respect to the said maximum of five (5) parking spaces to be made available for lease by the said residential occupants of the T&K Property, said parking space rental leases will include the payment to the CITY of a fee of \$53 per month for each of said spaces that are leased, said fee applicable for said 24/7 availability as described above. This rate shall remain fixed for a period of five years from the date of opening of the CITY PARKING GARAGE said opening date deemed, hereby, to have occurred on November 1, 2020. Said lease, including said monthly rental rate, shall not be assignable by the said residential occupants. The CITY agrees to reserve a maximum of five (5) spaces, of all of the parking spaces that are to be leased or available for public parking, for lease to the said commercial tenants, including employees of commercial tenants working in the T&K Property, and residential tenants of the T&K Property. Said Eligible Lessees may contact the CITY, or its designated CITY PARKING GARAGE facility manager to determine whether any of the said maximum five (5) total available parking spaces are, in fact, available for lease. From and after the expiration of the initial said five-year period after the opening of the parking garage, for an additional period ending on the Termination Date above-defined, the same arrangements shall continue provided, however,

that the monthly parking fee for said lease shall be at the rate established by the City for parking that is charged to other monthly parkers.

**2.5.2.** The City will install, control and validate equipment that is adequate and sufficient to monitor parking as required for purposes of controlling access to parking. The City shall be responsible for maintenance and repair of such equipment.

### **ARTICLE THREE – USE OF DEMISED PREMISES AND SIGNAGE**

**Section 3.1. Use of Demised Premises, Inspections and Remedies for Violation.** Use of the DEMISED PREMISES shall be in accordance with the terms hereof.

**Section 3.2. Definitions.** The following definitions shall apply to this Lease (unless the context suggests otherwise):

**3.2.1.** "Association" means the condominium board or association established by the declaration establishing the condominium for the T&K Property which serves as the governing board for the common elements of the condominium.

**3.2.2.** "Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels or two parallel wheels and one forward or rearward wheel. The term includes an electric bicycle.

**3.2.3.** "Company vehicle" means the motor vehicle that is owned or leased by the business of the Owner or Occupant or by the employer of the Owner or Occupant and the vehicle is used by an Owner or Occupant by permission of said business owner of such vehicle and said business owner allows the vehicle to be used to travel to and from such Owner's or Occupant's home, said home being one of the Units, overnight or over the weekend or over any other non-work period or periods.

**3.2.4.** "Electric bicycle" means a bicycle equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of seven hundred fifty or fewer watts which meets the requirements of one of the following three classes:

3.2.4.1. A class 1 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.

3.2.4.2. A class 2 electric bicycle if the motor is capable of propelling the bicycle without the individual pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.

3.2.4.3. A class 3 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty-eight miles [45 kilometers] per hour is achieved.

**3.2.5.** “Motor vehicle” includes automobiles, motorcycles and every vehicle that is self-propelled, and, for purposes of motor vehicle registration, title registration, and operator’s licenses, motorized bicycles. The term does not include a snowmobile, an electric bicycle, a boat or a trailer.

**3.2.6.** “Motorcycle” means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry. The term does not include an electric bicycle.

**3.2.7.** “Motorized bicycle” means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion or footrests for use by the operator, a power source providing up to a maximum of two brake horsepower having a maximum piston or rotor displacement of 3.05 cubic inches [49.98 milliliters] if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles [48.28 kilometers] per hour on a level road surface, and a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged, and the vehicle may not have a width greater than thirty-two inches [81.28 centimeters]. The term does not include an electric bicycle.

**3.2.8.** “Occupant” means any person or persons, other than an Owner, in possession of or residing in a Unit.

**3.2.9.** “Owner” means a Person who owns a Unit, but excluding contract for deed vendors, mortgagees, holders of reversionary interests in life estates and other secured parties within the meaning of North Dakota law. The term “Owner” includes, without limitation, contract for deed vendees and holders of a life estate.

**3.2.10.** “Permitted Garage Accessory Items” means the items as described in Subparagraph 3.4.1.2 of Section 3.4.

**3.2.11.** “Person” means a natural individual, corporation, limited liability company, partnership, limited liability partnership, trustee, or other legal entity capable of holding title to real property.

**3.2.12.** “Personal Motor Vehicle” is a motor vehicle that is used by an Owner or Occupant for personal travel, not for commercial or for-profit purposes. A Company vehicle shall be deemed to be a personal motor vehicle even though the vehicle is owned by such business.

**3.2.13.** “President” means the executive officer of the Association, whether said officer’s title is “president” or “chair” or such other title.

**3.2.14.** "Unit" means one of the nine (9) residential condominium units established by, or to be established by, T&K Property Management in the declaration establishing the condominium for the T&K Property.

**Section 3.3. Permitted Users of Enclosed Garages.**

Assignment by Association of Enclosed Garages. The Association will be responsible for the assignment to applicable Units an Enclosed Garage. Such assignments will be made in the form of a license issued to the Unit's Owner. Until such time as a declaration establishing a condominium for the T&K Property is executed and such condominium form of ownership is thereby established, the role of the Association shall be performed by T&K Property Management, Tenant herein. Each of the Enclosed Garages shall be licensed and assigned to a Unit and said Enclosed Garages shall be assigned subject to the terms and conditions set forth in this Lease and the Association shall be responsible for all recordkeeping as to the names and contact information (i.e. addresses, telephone numbers and email addresses) of each Owner and Occupant and for the administration related to the use of the Enclosed Garages by Owners and Occupants thereof in accordance herewith. The following conditions and restrictions shall govern the assignment, use and transfer of the Enclosed Garages:

3.3.1. Upon and following the initial assignment of an Enclosed Garage to a Unit, the use rights with respect to the Enclosed Garage shall be deemed to be licensed by the Association exclusively to the Owner of the Unit to which the Enclosed Garage is assigned. The Association shall maintain records identifying the Enclosed Garages, the Units to which they are licensed, the names and contact information of the Owners of the Units and, if applicable the Occupants thereof if the Unit is not owner-occupied, and the dates of any assignment and licensing in accordance with the terms of this Article.

3.3.2. Subject to subsection 3.3.1, an Enclosed Garage license may be assigned to another Owner, but only by first delivering to the Association a written assignment, in form approved by the Association, signed by the assignor and the assignee. The Association shall review the proposed reassignment for compliance with this Article 3, and if the reassignment complies, the Association shall transfer the license on its records to the Unit owned by the assignee and issue a new Enclosed Garage license to the assignee. The license to use the Garage or Stall shall remain with the Unit to which it is assigned until the license is reassigned in accordance with this Article. In the absence of a proper reassignment to the contrary, a license assigned to a Unit at the time of such Unit's conveyance shall be automatically reassigned to the new Unit Owner with the conveyance of title for such Unit to the new Unit Owner.

3.3.4 Other than such assignment by an Owner to another Owner the license for an Enclosed Garage, no Owner shall rent or allow use of such Owner's licensed Enclosed Garage.



3.3.5 No secured party may hold any privileges for use of an Enclosed Garage unless such secured party is either an Owner or Occupant of such Enclosed Garage and such secured party has registered itself as an authorized licensee with the Association.

3.3.6 The Association may establish certain rules and regulations for the use of the Enclosed Garages and the administration of such assignment, licensing and use; provided, however, that the Association is not authorized to waive any restrictions on use or requirements for such use established by this Lease and any rule or regulation in conflict with such restrictions or requirements shall be invalid and void. The Association shall provide the City with up-to-date copies of any such rules and regulations as they are established and amended from time to time.

3.3.7 Any license, lease, rental, use, assignment, transfer or purported transfer of any interest in an Enclosed Garage in violation of this Article shall be null, void and of no force or effect.

3.3.8. The City and the Association will coordinate as to the issuance of pass-cards, transponder devices, card-control keys, access codes or the like as may be necessary or appropriate so that authorized Owners and Occupants may gain entrance to the City Parking Garage and, in addition, so that such authorized Owners and Occupants may gain access to their assigned Enclosed Garages. The Association will be responsible for administration of such matters and for assisting and coordination between Owners and Occupants and the City, acting through its staff and/or parking manager.

#### **Section 3.4. Permitted Uses of Enclosed Garages – Prohibited Uses.**

3.4.1. The Enclosed Garages are to be used solely for storage of Personal Motor Vehicles, Bicycles (including electric bicycles as provided by the definitions above), and Permitted Garage Accessory Items, as defined below and may not be used for storage of any other personal property of any kind nor for use of the Enclosed Garage space for any purposes other than such storage and the following provisions shall also apply:

3.4.1.1. Tenant may request that the Landlord install and/or fasten upon an inside wall of each Enclosed Garage no more than three (3) hooks or other wall-fasteners for personal attire such as a bicycle helmet or jacket or for light-weight equipment accessory to motor vehicle use or bicycle use, such as a portable air pump for filling pneumatic tires or a snow-shovel for a motor vehicle and, in addition thereto, Bicycles may be hung on wall-hooks or wall-fasteners, said hooks or other wall-fasteners to be installed in view of one of the glass windows in said Enclosed Garage. Tenant shall communicate Tenant's request to Landlord and Tenant shall supply the proposed hooks or

other wall-fasteners being requested. Landlord is solely responsible for, and authorized to, install and fasten said hooks or fasteners and Landlord shall undertake such installation within a reasonable time. Landlord shall have the discretion to position said hooks or wall fasteners so that they are within view of one of the said glass windows. In no event shall any wall-hooks, wall-fasteners or shelves be installed on precast structural portions of the CITY PARKING GARAGE including, in particular, any portion of the ceilings, the T-members in the ceilings, the floors or the walls of the CITY PARKING GARAGE structure. (See Subparagraph 1.5.1.6, above, regarding any written request by Tenant for authority to install light fixtures and electrical conduit at precise locations of the ceilings and/or walls of the CITY PARKING GARAGE structure.)

3.4.1.2. Tenant may request that the Landlord install in each of the Enclosed Garages and in the Level Four Storage Area a single shelf no larger than 3' x 1' in dimension for assembly or storage of acceptable items, as described in this Lease. Said shelf must be located at least 5 feet from the floor and must be installed in such location as to be in view of a person looking through at least one of the glass window openings described in the description of fit-up set forth in Section 1.5 of this Lease. Landlord is solely responsible for, and authorized to, install said shelves and Landlord shall undertake such installation within a reasonable time. Landlord shall have the discretion to position each of said shelves so that it is within view of one of the said glass windows. The Landlord-installed shelf may be used by Owners or Occupants, as the case may be, to whom an Enclosed Garage has been assigned for the storage of items that are accessory to the use of Personal Motor Vehicles and Bicycles but not for the repair of motor vehicles or Bicycles. No fire hazard shall be allowed to exist in an Enclosed Garage nor in the Level Four Storage Area, as proscribed by Article 9-05 of the Fargo Municipal Code as amended from time to time. In addition, no hazardous materials may be stored. No hazardous materials, as defined by the Fargo Fire Code, said Code currently being the International Fire Code that is adopted by reference in Article 9-07 of the Fargo Municipal Code Article 9-07, as amended from time to time. Such described and acceptable items for storage shall be referred to herein as "Permitted Garage Accessory Items". Said single shelf shall be the only permissible location for storage of Permitted Garage Accessory Items and no items of any kind may be stored in said Enclosed Garages nor in the Level Four Storage Area other than on the single shelf for each Enclosed Garage nor may any items of any type, other than permitted motor vehicles and Bicycles be stored on the floor of an Enclosed Garage or a Level Four Storage Area. In no event shall any wall-hooks, wall-fasteners or shelves be installed, without prior approval of the Landlord, on precast structural portions of the CITY PARKING GARAGE including, in particular, any portion of the ceilings, the T-members in the ceilings, the floors or the walls of the CITY PARKING GARAGE structure. (See Subparagraph 1.5.1.6, above, regarding any written request by Tenant for

authority to install light fixtures and electrical conduit at precise locations of the ceilings and/or walls of the CITY PARKING GARAGE structure.)

3.4.1.3. All glass windows in garage doors for the Enclosed Garages and in the pedestrian service door of the Level Four Storage Area must be kept clean and unobstructed.

3.4.1.4. No vehicle maintenance may be performed in an Enclosed Garage and no commercial activities may be conducted in the Enclosed Garages.

3.4.1.5. With respect to the Enclosed Garages, a sign must be displayed in a sufficiently-prominent location stating, "For personal vehicle and bicycle storage only. No other storage, vehicle maintenance, or commercial activities may be conducted in garages. All glass windows must be kept clean and unobstructed." Said sign must also state, "Screws, nails or other punctures prohibited. No person shall puncture any part of the precast structure, or any part thereof, of the CITY PARKING GARAGE including, in particular, any portion of the ceilings, the T-members in the ceilings, the floors or the walls of the CITY PARKING GARAGE structure."

3.4.1.6. With respect to storage within the Level Four Storage Area other than on the authorized shelf as described in this Lease, the Level Four Storage Area may not be used for storage of any objects other than Bicycles, Permitted Garage Accessory Items and/or non-flammable and non-combustible metal items. Further, a sign must be displayed in a sufficiently-prominent location stating, "Screws, nails or other punctures prohibited. No person shall puncture any part of the precast structure, or any part thereof, of the CITY PARKING GARAGE including, in particular, any portion of the ceilings, the T-members in the ceilings, the floors or the walls of the CITY PARKING GARAGE structure."

3.4.1.7. Use of Enclosed Garages and of Tenant's Level Four Storage Area must be related to, and accessory to, occupation of the adjacent condominium or townhome units and the use and occupancy of such parking and storage enclosures must be consistent with residential, not commercial, use.

3.4.1.8. Regulations promulgated by the City or by the parking manager of the CITY PARKING GARAGE that are generally applicable to users of the City Parking Garage shall be applicable to Owners and Occupants of the Enclosed Garages.

3.4.2. Upon reasonable notice as provided in Article 8, below, the Enclosed Garages and the Tenant's Level Four Storage Area shall be made available for inspection by the Fargo Fire Department, by the parking manager of the CITY PARKING GARAGE, and

by any other person or entity authorized by the CITY. Such inspections shall not interfere with the quiet enjoyment of the leased premises.

3.4.3. Violation of any of the requirements set forth in this Section or failure by the Tenant to make the Enclosed Garages and Tenant's Level Four Storage Area shall give rise to the following:

3.4.3.1. For an initial violation, the issuance by Landlord to Tenant of a written notice of violation issued to the Tenant, as provided in subparagraph 3.4.5, below, no penalty fee shall be payable so long as the violation is cured by the abatement thereof within thirty (30) days from Tenant's receipt of said notice. If the violation is not cured by such abatement within said thirty days, then a penalty fee shall be payable by Tenant of \$100. In the event Tenant cures said initial violation by abatement thereof within three (3) business days of Tenant's receipt of written notice, then such violation shall be treated as a non-occurrence. With respect to said initial violation being treated as a non-occurrence, such non-occurrence treatment shall mean that the next subsequent violation would, therefor, be treated as an initial violation.

3.4.3.2. For a 2<sup>nd</sup> violation within the same enclosure within six (6) months of the initial violation in the same Enclosed Garage or Level Four Storage Area, Landlord shall issue a notice of violation and levy a \$200 penalty fee against the Tenant payable to the Landlord.

3.4.3.3. For a 3<sup>rd</sup> violation within the same Enclosed Garage within 6 months of the 2<sup>nd</sup> violation:

- (a) deactivate the parking garage access issued for such Enclosed Garage issued by city for 30-90 days for garage unit in violation (but not other, compliant Enclosed Garages),
- (b) said Enclosed Garage licensee shall be prohibited from storing, or from allowing storage of, anything other than motor vehicles or Bicycles for a period of two years commencing from the date of the Landlord's order for the removal of hooks, wall-fasteners and storage.
- (c) levy of a \$500 penalty fee to the Tenant payable to the Landlord.

3.4.3.4. In the event of one or more subsequent violations pertaining to the same Enclosed Garage within 6 months of a prior violation or in the event of three (3) violations pertaining to the same Enclosed Garage occurring within any three-year period will result in the following consequences:

- (a) deactivate all access issued for such Enclosed Garage by City,
- (b) a three-year prohibition from storage of any items other than motor vehicles or Bicycles,
- (c) levy of a \$500 penalty fee to the Tenant payable to the Landlord in addition to reimbursement to City of the reasonable costs incurred by city.

3.4.3.5. Licensee shall be responsible for all costs and expenses relating to deactivating and reactivating access and storage of any contents of Enclosed Garage during any accompanying penalty period upon the expiration of any such penalty period at Tenant's sole expense, whether by the lapse of time or by conveyance to a bona fide new Owner as provided below.

3.4.3.6. In the event that a Unit is conveyed to a bona fide new Owner, any penalty period initiated against the Enclosed Garage assigned to such Unit will be reset and violations occurring during such penalty period shall not be held against such bona fide new Owner. A bona fide new Owner is the grantee of fee title to a Unit in a transaction involving, in good faith, the exchange of valuable consideration, between the grantor Owner and a new, grantee, Owner who is not related with the grantor Owner by blood or marriage and, in the case of a grant of fee title to or from a closely-held corporation, limited liability company, partnership or other form of business entity, the grantor and grantee Owners are not affiliated by one or more common shareholders, member interest or other equitable ownership in such business entity. The burden shall be upon the grantee Owner to establish that said Owner is a bona fide new Owner, with the decision to be made by the City Facilities Director.

**3.4.4.** With respect to a failure by the Tenant to make the Enclosed Garages and Tenant's Level Four Storage Area, or any of said spaces, available for inspection after reasonable notice as provided in the preceding subparagraph (3.4.2) shall give rise to a penalty to be imposed upon, and paid by, the Tenant in the sum of \$100, with the penalty to increase to \$250 for a second failure within any one-year period. In the event of a third failure within three years of an initial failure, the Landlord shall be authorized to deactivate all access for such all Enclosed Garages and the Level Four Storage Area with re-activation only occurring when Tenant and Landlord have reasonably agreed upon suitable measures to ensure future compliance. With respect to four or more such failures by the Tenant to make the Enclosed Garages and Tenant's Level Four Storage Area, or any of said spaces, available for inspection after reasonable notice, nothing in this subparagraph shall be construed to limit the Landlord's authority to claim a material breach of this Lease for such failure or failures.

**3.4.5. Procedure for finding violations – City Director of Facilities.** The Director of Facilities of the City of Fargo, or equivalent position within the City, shall be the decision maker, relative to the requirements and prohibitions as to storage in the Enclosed Garages or the Level Four Storage Area set forth in this Lease. Said decision shall be based upon credible evidence reported to the Landlord and after written notice is given to the Tenant as to the alleged violation and after the Tenant has been given a reasonable opportunity to respond. Decisions of the Director of Facilities, including decisions that an alleged violation has not been

cured, may be appealed to the board of city commissioners of the City of Fargo within thirty (30) days by written notice of appeal filed with the City Auditor with copies provided to the Director of Facilities. The board of city commissioners shall undertake a de novo review of the evidence and its decision shall be final. The Director of Facilities of the City of Fargo shall not be authorized to determine whether any violation of this Parking Lease by Tenant constitutes a material breach of this Lease but, rather, such determination shall remain with the board of city commissioners.

**3.4.6. Association Powers Subrogated to City: Termination of License for Enclosed Garage and Assessment for Penalty Fees.** Tenant hereby subrogates to the city of Fargo any and all powers provided by any declaration establishing condominium or any covenants and restrictions that have been, or will be, GRANTED to the Tenant to terminate any license issued to a Unit Owner and/or Unit Occupant for use of an Enclosed Garage and to assess the Unit Owners for any penalties or fees assessed by the City for violations, as provided herein, for costs incurred by the Landlord as contemplated in this Lease, or for costs incurred by the City for of abatement of nuisance as described in City ordinance and/or North Dakota state law, as applicable.

#### **ARTICLE FOUR – PROPERTY TAXES**

**Section 4.1. Real Estate Taxes.** Landlord shall be responsible for payment of real estate taxes and installments of special assessments against the property with the exception of any real estate taxes levied upon the Tenant's leasehold interest in the DEMISED PREMISES the payment of which shall be the responsibility of the Tenant.

#### **ARTICLE FIVE – RISK MANAGEMENT PROVISIONS**

**Section 5.1. Indemnity.** Tenant will indemnify the Landlord from loss, cost or expense including reasonable attorneys' fees incurred by reason of the negligent or willful acts or omissions of those for whom in the circumstances Tenant is responsible in law which also arise from Tenant's use or occupancy of the DEMISED PREMISES or that of the lawful owners of the T & K PROPERTY, of any condominium unit established upon the T & K PROPERTY, or of any lawful tenant of either the T & K PROPERTY or such condominium unit. Landlord will indemnify Tenant from loss, cost or expense including reasonable attorneys' fees incurred by reason of the negligent or willful acts or omissions of those for whom in the circumstances Landlord is responsible in law. These indemnities are limited (i) by the waivers set forth below, (ii) to the indemnitor's equitable share of the losses, costs or expenses based on the relative culpability of each person whose negligent or willful acts or omissions contributed to the loss, and; (iii) to direct, proximately caused damages as opposed to consequential or indirect damages or business interruption. Except for the foregoing limitations, neither party's right to damages or other relief for breach of this Lease or in negligence is limited. Landlord will not be responsible for damage caused to the Enclosed Garages or the Tenant's Level Four Storage Area caused by guests, invitees, or licensees of the

CITY PARKING GARAGE or any other members of the public using or occupying the CITY PARKING GARAGE. Tenant shall be solely responsible for repairs of any such damage at Tenant's sole expense. This section shall not be interpreted to prevent Tenant from seeking damages or compensation from said guests, invitees or licensees of the CITY PARKING GARAGE nor from other members of the public using or occupying the CITY PARKING GARAGE.

**Section 5.2. Landlord's Insurance.** The Landlord will provide commercial general liability insurance including standard form contractual liability coverage in amounts equal to those customarily carried by (and with no exclusions or limitations not generally accepted by) institutional owners of first-class office buildings in the area of the CITY PARKING GARAGE, for no less than \$2,000,000 combined single limit.

**Section 5.3. Tenant's Insurance.** Tenant will provide including standard form contractual liability coverage and commercial general liability insurance with a single limit of liability combined for bodily injury and property damage of \$2,000,000 which in accordance with its terms, will add Landlord as an additional insured with respect to vicarious liability for covered claims arising from Tenant's use, occupancy or maintenance of the DEMISED PREMISES.

**Section 5.4. Waiver of Claim.** Each party releases the other and the officers, directors, employees, and agents of the other (collectively, "Releasees") with respect to any claim the other party itself against any claim in tort or contract for direct or indirect loss, damage or destruction with respect to its property (including rental value or business interruption) resulting from the negligence of any Releasee or from any tortious act or breach of contract in the case of the other party itself. These releases are not conditioned on the terms of the insurance policies, if any, that each party obtains or the receipt of the proceeds thereof by a party.

**Section 5.5. Limitation of Landlord's Liability.** Transfer of DEMISED PREMISES. If the CITY PARKING GARAGE is sold or transferred, voluntarily or involuntarily, Landlord's lease obligations and liabilities accruing after the transfer shall be the sole responsibility of the new owner if: (i) the new owner expressly agrees in writing to assume Landlord's obligations; (ii) any funds of Tenant that the Landlord is holding are given to the new owner who acknowledges receipt in writing, and; (iii) copies of the writings referred to in (i) and (ii) above are delivered to Tenant.

## **ARTICLE SIX – BUILDING DESTRUCTION**

**Section 6.1. Total or Partial Destruction.** In the event of any damage or destruction to the DEMISED PREMISES by fire or other cause during the term hereof, the following provisions shall apply:

- 6.1.1 If the building is damaged by fire or any other cause to such extent that the cost of restoration, as reasonably estimated by an independent appraiser, will equal or exceed thirty percent (30%) of the replacement value of the building

(exclusive of foundations) just prior to the occurrence of the damage, then Landlord may, no later than the 60<sup>th</sup> day following the damage, give Tenant written notice of Landlord's election to terminate this Lease.

- 6.1.2 If the cost of restoration as estimated by an independent appraiser shall amount to less than thirty percent (30%) of said replacement value of the building, or if, despite the cost, Landlord does not elect to terminate this Lease, Landlord shall restore the building and the DEMISED PREMISES with reasonable promptness, subject to delays beyond Landlord's controls and delays in making of insurance adjustments by Landlord; and Tenant shall have no right to terminate this Lease except as herein provided.
- 6.1.3 In any case where damage to the building shall materially affect the DEMISED PREMISES so as to render them unsuitable in whole or in part for the purposes for which they are demised hereunder, then, unless such destruction was wholly or partially caused by the negligence or breach of the terms of this Lease by Tenant, its employees, contractors or licensees, a portion of the rent based upon the amount of the extent to which the DEMISED PREMISES are rendered unsuitable shall be abated until repaired or restored. If the destruction or damage was wholly or partially caused by negligence or breach of the terms of this Lease by Tenant as aforesaid and if Landlord shall elect to rebuild, the rent shall not abate and the Tenant shall remain liable for the same.

## **ARTICLE SEVEN – CONDEMNATION**

**Section 7.1. Eminent Domain.** In the event of any eminent domain or condemnation proceeding or private sale in lieu thereof in respect to the DEMISED PREMISES during this Lease, the following provisions shall apply.

**Section 7.2. Total Condemnation.** If the whole of the DEMISED PREMISES or the whole of the parking area shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the term of this Lease shall cease and terminate as of the date possession shall be taken in such proceeding and all rentals shall be paid up to that date, and Tenant shall have no claim against the Landlord for any unexpired term of this Lease.

**Section 7.3. Partial Condemnation.** If any part constituting less than the whole of the DEMISED PREMISES shall be acquired or condemned as aforesaid, and in the event that such partial taking or condemnation shall materially affect the DEMISED PREMISES so as to render the DEMISED PREMISES unsuitable for the business of the Tenant then the term of this Lease shall cease and terminate as of the date possession shall be taken by the condemning authority and rent shall be paid to the date of such termination. If Landlord and Tenant are unable to agree as to whether such partial taking or condemnation shall materially affect the DEMISED



PREMISES so as to render the DEMISED PREMISES unsuitable for the business of the Tenant then the matter shall be submitted to a judge for declaratory judgment on the issue.

**Section 7.4. Landlord's Damages.** In the event of any condemnation or taking as aforesaid, whether whole or partial, the Tenant shall not be entitled to any part of the award paid for such condemnation and Landlord is to receive the full amount of such award, the Tenant hereby expressly waiving any right to claim any part thereof.

**Section 7.5. Tenant's Damages.** Although all damages in the event of any condemnation shall belong to the Landlord whether such damages are awarded as compensation for diminution in value of the leasehold to the fee of the DEMISED PREMISES, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recovered by Tenant's own right on account of any and all damages to Tenant's business by reason of the condemnation and for or on account of any cost or loss to which Tenant might be put in removing Tenant's merchandise, furniture, fixtures, leasehold improvements and equipment.

#### **ARTICLE EIGHT – LANDLORD'S ACCESS**

**Section 8.1. Landlord's Access to DEMISED PREMISES.** In addition to the Tenant providing access for inspections as described in Section 1.5, above, and in accordance with parts 8.1.1 and 8.1.2 below, the Tenant agrees to permit the Landlord and the authorized representatives of the Landlord to enter the DEMISED PREMISES at all times during usual business hours for the purpose of inspection of the same and making any necessary repairs to the DEMISED PREMISES and performing any work therein that may be necessary to comply with any laws, ordinances, rules, regulations or requirements of any public authority or of the Board of Fire Underwriters or any similar body that the Landlord may deem necessary to prevent waste or deterioration in connection with the DEMISED PREMISES. Nothing herein shall imply any duty upon the part of the Landlord to do any such work which, under any provision of this Lease, the Tenant may be required to perform and the performance thereof by the Landlord shall not constitute a waiver of the Tenant's default in failing to perform the same. Unless resulting from negligence or intentional acts, the Landlord shall not in any event be liable for inconvenience, annoyance, disturbance, loss of business or other damage of the Tenant by reason of making repairs or the performance of any work in the DEMISED PREMISES or on account of bringing materials, supplies and equipment into or through the DEMISED PREMISES during the course thereof and the obligations of the Tenant under this Lease shall not thereby be affected in any manner whatsoever provided that Landlord minimizes inconvenience or disruption to Tenant to the extent commercially reasonable to do so.

Landlord may enter the DEMISED PREMISES, or any portion thereof:

- 8.1.1. At any time in case of emergency or if the Landlord reasonably believes the tenant has abandoned the premises.

8.1.2. Only during reasonable hours, and in a reasonable manner, for the purpose of inspecting the premises; for making necessary or agreed repairs, decorations, alterations, or improvements; for supplying necessary or agreed services; or for exhibiting the DEMISED PREMISES to actual or potential purchasers, insurers, mortgagees, real estate agents, tenants, workmen, or contractors. Unless it is impractical to do so, the Landlord shall first notify and receive the consent of the Tenant which shall not be unreasonably withheld, which consent shall identify a time certain. Landlord shall not abuse the right of access or use it to harass or intimidate the tenant. For the purposes of this section, consent shall be presumed from failure to object to access after notice of intent to enter at a time certain has been given. Notice may be given by personal service upon the president of the Association or by any other method which results in actual notice to the Tenant.

**Section 8.2. Demised Premises Not Dwelling Occupancy.** The Landlord and Tenant acknowledge, understand and agree that the permitted uses of the DEMISED PREMISES do not include dwelling occupancy by any person or persons and, therefore, the DEMISED PREMISES is hereby deemed to not be part of a dwelling unit under North Dakota landlord/tenant law, including N.D.C.C. §47-16-07.3 (entitled, "When Landlord May Enter Apartment"). Nothing in this Lease shall limit any homestead rights described in North Dakota Century Code Chapter 47-18 to the extent such rights may be applicable.

#### **ARTICLE NINE – DEFAULT**

**Section 9.1.** In the event of any failure of Tenant to pay any rent due to Landlord within 45 days after the same shall be due, or any failure to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by Tenant for more than 60 days after written notice of such failure have been given to Tenant, or if Tenant or an agent of Tenant shall falsify any report required to be furnished to Landlord pursuant to the terms of this Lease, or if Tenant of this Lease shall become bankrupt or insolvent, or file any debtor proceedings or any person shall take or have against Tenant of this Lease in any court pursuant to any statute either of the United States or of any state a petition in bankruptcy or insolvency for the reorganization or for the appointment of a receiver or trustee of all or a portion of Tenant's property, or if Tenant makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement, or if Tenant shall abandon the DEMISED PREMISES or suffer this Lease to be taken under any writ of execution, then in any such event Tenant shall be in default hereunder, and Landlord in addition to other rights of remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the DEMISED PREMISES and such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of Tenant, all without service of notice or resort to legal process without being guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby. In addition to the foregoing, in the event that Tenant has become in arrears on unpaid rent for longer than 45 days more than three (3) times in any three (3) year period, upon the third such event, Tenant shall be deemed to have defaulted in the same

manner as if Tenant had failed to pay any rent due to Landlord within 45 days, as set forth above.

9.1.1 Should Landlord elect to re-enter the DEMISED PREMISES, as herein provided, or should it take possession of the DEMISED PREMISES pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this Lease or it may from time to time, without terminating this Lease, make such alterations and repairs as may be necessary in order to re-let the DEMISED PREMISES or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such terms and conditions as Landlord in its sole discretion may deem advisable. Upon each subletting all rentals received by the Landlord from such reletting shall be applied first to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorney's fees and of costs of such alterations and repairs; third, to the payment of residue and unpaid hereunder, and the rent due, if any, shall be held by Tenant and applied in payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month be less than that to be paid during that month by Tenant hereunder, Tenant, upon demand shall pay any such deficiency to Landlord. No such re-entry or taking possession of the DEMISED PREMISES by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention is given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time after such re-entry and reletting elect to terminate this Lease for such previous breach. Should Landlord at any time terminate this Lease for any such breach, in addition to any other remedies it may have, it may recover from Tenant all damages it may incur by reason of such breach, including the cost of recovering the DEMISED PREMISES, reasonable attorneys' fees, and including the worth at the time of such termination the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the stated term over the then reasonable rental value of the DEMISED PREMISES for the remainder of the stated term, all of which amounts shall be immediately due and payable from Tenant to Landlord.

9.1.2 Landlord may, at its option, instead of exercising any other rights or remedies available to it in this Lease or otherwise by law, statute or equity, spend such money as is reasonably necessary to cure any default of Tenant herein and the amount so spent, and costs incurred, including attorney fees in curing such default, shall be paid by Tenant, as additional rent, upon demand.

9.1.3 In the event suit shall be brought for recovery of possession of the DEMISED PREMISES, for the recovery of rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant herein

contained on the part of Landlord or Tenant to be kept or performed, and a breach shall be established, the prevailing party in the suit shall be entitled to recover reasonable attorney's fees and costs incurred as a result of the litigation in addition to any amounts recoverable under this Lease. The prevailing party in the suit shall be entitled to recover interest on all damages, other than such reasonable attorney's fees and costs awarded by the court, shall accrue interest at the then current legal rate for interest on judgments under North Dakota law from the date of entry of judgment (hereinafter the "Contract Interest Rate").

9.1.4 No remedy herein or elsewhere in this Lease or otherwise by law, statute or equity, conferred upon or reserved to Landlord or Tenant shall be exclusive of any other remedy, but shall be cumulative, and may be exercised from time to time and as often as the occasion may arise.

**Section 9.2. Overdue Payments.** Monthly rent shall be due and payable, in advance, on the first date of each month. Additional rent shall be due thirty (30) days after the invoice is received by Tenant. Any rent not paid when due, shall be subject to an automatic penalty of \$100 per occurrence and bear interest at the rate of eight percent (8%) per annum, or the highest rate of interest permitted by law, whichever rate is less.

## **ARTICLE TEN**

**Section 10.1. Certificate of Estoppel.** The Tenant agrees at any time and from time to time upon not less than twenty (20) days' prior written request by the Landlord to execute, acknowledge and deliver to the Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect, or if modified, in full force and effect, and stating the modifications, and the dates to which the basic rent and other charges have been paid in advance, if any, it being intended that any such statement delivered pursuant to this paragraph may be relied upon by any prospective purchaser of the fee or mortgage or assignee of any mortgage upon the fee of the DEMISED PREMISES.

**Section 10.2. Subordination.** Upon request of Landlord, Tenant will subordinate this Lease and its rights hereunder to the lien of any mortgage, trust deed or other instrument resulting from any method of finance and refinancing, now or hereafter in force against the land and buildings which constitute the DEMISED PREMISES, and to all advances made or hereafter to be made upon the security thereof, provided, however, that such mortgage or instrument of finance will agree that, in the event any action is taken to foreclose the lien of the mortgage, this Lease and all rights of the Tenant under its terms to use and quiet possession of the DEMISED PREMISES shall not be disturbed and shall continue in full force and effect so long as Tenant shall faithfully discharge each and every obligation on its part to be kept and performed under the terms of this Lease.

**Section 10.3. Event of Sale.** In the event of the sale of the DEMISED PREMISES, Landlord shall be and hereby is relieved of all of the covenants and obligations created hereby accruing from

and after the date of sale, and such sale shall result automatically in the purchaser assuming and agreeing to carry out all the covenants and obligations of Landlord herein. Notwithstanding the foregoing provisions of this section, Landlord, in the event of a sale of the DEMISED PREMISES, shall cause to be included in the agreement of purchase and sale a covenant whereby the purchaser of the DEMISED PREMISES assumes and agrees to carry out all of the covenants and obligations of Landlord herein.

**ARTICLE ELEVEN – SURRENDER AND SUCCESSORS IN INTEREST.**

**Section 11.1. Surrender.** On the expiration date or upon the termination hereof upon a day other than the expiration date, Tenant shall peaceably surrender the DEMISED PREMISES broom-clean in good order, condition and repair, reasonable wear and tear and damage by fire or other casualty excepted. On or before the expiration date or upon termination of this Lease on a day other than the expiration date, Tenant shall, at its expense, remove all trade fixtures, personal property and equipment and signs from the DEMISED PREMISES and any property not removed shall be deemed to have been abandoned. Any damage caused in the removal of such items shall be repaired by Tenant at its own expense. All alterations, additions, improvements and fixtures (other than trade fixtures) which shall have been made or installed by Landlord or Tenant upon the DEMISED PREMISES shall remain upon and be surrendered with the DEMISED PREMISES as a part thereof, without disturbance, molestation or injury, and without charge, at the expiration or termination of this Lease. Tenant shall also be responsible for removal of the Service Doors and for closing, in a commercially-reasonable manner, the openings in the north wall of the Garage Unit that served the Enclosed Garages and the Level Four Storage Area. Upon request by Tenant, Landlord and Tenant shall identify and designate such fixtures as “trade fixtures” from time to time, as such trade fixtures are installed which designation by Landlord shall not be unreasonably withheld. If the DEMISED PREMISES are not surrendered on the expiration date or the date of termination, Tenant shall indemnify Landlord against loss or liability, claims, without limitation, made by any succeeding Tenant founded on such delay. Tenant shall promptly surrender all keys for the DEMISED PREMISES to Landlord at the place then fixed for payment of rent and shall inform Landlord of combinations of any locks and safes on the DEMISED PREMISES.

**Section 11.2. Successors in Interest.** Subject to the obligations of the Tenant and Landlord with respect to the establishment of a condominium form of ownership for the T&K PRPROPERTY as set forth in Section 1.7, above, this Lease shall run with the land and shall inure to the benefit of the assigns and successors in interest of Tenant as to ownership of the T&K PROPERTY and of Landlord, as to ownership of the CITY PARKING GARAGE.

**ARTICLE TWELVE – RESERVED**

**ARTICLE THIRTEEN – LIENS**

**Section 13.1. Mechanics' Liens.** Tenant will not permit to be created or to remain undischarged in any lien, encumbrance or charge (arising out of any work done or materials or supplies furnished by any contractor, subcontractor, mechanic, laborer or materialmen, or any mortgage, conditional sale, security agreement or chattel mortgage, or otherwise by or for Tenant which might be or become a lien or encumbrance or charge upon the subject DEMISED PREMISES or any portion thereof or the income and interest of Landlord in the DEMISED PREMISES or any portion thereof that might be impaired. Any amount so paid by Landlord and all costs and expenses, including attorney's fees, incurred by Landlord in connection with discharge and/or removal of such lien, encumbrance or charge shall constitute additional rent payable by Tenant under the Lease and shall be paid by Tenant to Landlord on demand. Nothing herein contained shall obligate Landlord to pay or discharge any lien created by Tenant.

13.1.1 The provisions of this section shall apply with respect to Tenant's work or any other work performed on the DEMISED PREMISES at any time during the term hereof.

#### **ARTICLE FOURTEEN – GARBAGE REMOVAL**

**Section 14.1. Garbage and Rubbish Removal.** Tenant shall be responsible for the removal of all garbage and rubbish generated from DEMISED PREMISES.

#### **ARTICLE FIFTEEN – NOTICES & CONSENTS**

**Section 15.1. Notices.** All notices, requests, consents, or other communications required under this Agreement shall be in writing and shall be deemed to have been properly given if served personally or if sent by United States registered or certified mail or overnight delivery service to the parties as follows (or at such other address as a party may from time to time designate by notice given pursuant to this Section):

To Tenant:                      T&K Property Management LLC  
   425 Broadway N.  
   Fargo, ND 58102

To the City:                      City Auditor  
   Fargo City Hall  
   225 North 4<sup>th</sup> Street  
   Fargo, ND 58102



Interest Rate from the date of payment, incurred by Tenant to complete performance of the Landlord's covenants and obligations under the Lease.

**Section 15.3. Consents by Landlord.**

15.3.1 Whenever provision is made under this Lease for Tenant securing the consent or approval by Landlord, such consent or approval shall only be in writing.

15.3.2 The following persons are authorized to act on behalf of Landlord/Tenant:

As to Landlord, any one or more of the following are authorized to act or make decisions:

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

or, in lieu thereof, such other person or persons authorized in writing by the Mayor with the consent of the board of city commissioners of the city of Fargo.

As to Tenant, any one or more of the following are authorized to make decisions:  
Thomas Smith, Kari Smith

**Section 15.4. No Agency Relationship.** The Lease does not create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, the sole relationship between the parties being that of Landlord and Tenant.

**Section 15.5. Governmental Regulations.** Nothing in this Lease shall be interpreted or construed to constitute a waiver of existing local, state or federal law and, therefore, Tenant shall at Tenant's sole cost and expense comply with all of the requirements of all county, municipal, state, federal and other applicable governmental authorities, now in force or which may hereafter be in force, pertaining to the said DEMISED PREMISES and shall faithfully observe in the use of the DEMISED PREMISES all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force.

**Section 15.6. Waiver.** The waiver by the Landlord of any breach or default of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach of the Tenant of any term, covenant or condition of this Lease, regardless of Landlord's knowledge of said preceding breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing by Landlord.



**Section 15.7. Force Majeure.** In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive government laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required during the term of this Lease, the performance of such act shall be excused for the period of the delay. The provisions of this section shall not operate to excuse Tenant from the prompt payment of rent, additional rent or any other payments required by this Lease.

**Section 15.8. Mutual Release of Claims.** The City and T&K Property Management, for themselves, their owners, representatives, agents, officials, employees, successors, attorneys in fact, attorneys, and assigns, hereby release and forever discharge each other from and against any and all claims, demands, obligations, actions, causes of action, rights, damages, costs, expenses, and compensation of any nature whatsoever, whether based in tort, contract, or other theory of recovery, which they had or now have on account of claims which in any way relate to the project which is the subject of this Lease including but not limited to any alleged actions or omissions taken by the City. This Mutual Release in no way affects the City's ability in the future to inspect the subject property and does not waive any future claim regarding failure to comply with any city building code, Fargo Municipal Code, or like-kind regulations.

#### **ARTICLE SIXTEEN – HAZARDOUS WASTE**

**Section 16.1. Hazardous Waste.** During the term of this Lease, including any extensions hereof, and until Tenant surrenders possession of the lease DEMISED PREMISES, Tenant covenants that it shall not violate any present and future environmental laws, ordinances, rules or regulations, and that Tenant shall not permit the generation, creation, treatment, incorporation, discharge, disposal, escape, release or threat of release of any contaminant above, upon, under, within or from the lease DEMISED PREMISES.

## ARTICLE SEVENTEEN – NOISE, QUIET ENJOYMENT

**Section 17.1. Nuisance, Noise or Disturbance.** Tenant recognizes that downtown Fargo, where the DEMISED PREMISES is located, is a mixed-use area and also recognizes the proximity of the railroad to the DEMISED PREMISES and waives any nuisance or other claim related to the noise, vibration, or other effect related to the use of, or proximity to, the railroad and or related to other noises or uses of other property nearby, including heating, air conditioning or other mechanical equipment.

**Section 17.2 Quiet Enjoyment:** Notwithstanding the above, Landlord covenants and agrees that so long as Tenant is not in default under the terms of this Lease, Tenant shall have quiet and peaceful possession of the DEMISED PREMISES and shall enjoy all the rights granted herein without interference.

**Section 17.3. Non-Disturbance Agreement.** With respect to any first lien mortgages, deeds of trust or other liens entered into by and between landlord and any such mortgage and/or any beneficiary of any deed of trust or other such lien granted by landlord, or lessor under any ground lease (collectively as "Landlord's Mortgagee"), at or prior to the time the lease is entered into, or thereafter, landlord shall secure and deliver to Tenant, at or prior to the time the lease is entered into, or as of the date of any subsequent first lien mortgages, deeds of trust or other liens, or ground lease, as the case may be, a non-disturbance agreement executed by Landlord's Mortgagee for the benefit of Tenant whereby, as a condition to any attornment or subordination by Tenant to Landlord's Mortgagee, Tenant shall not be disturbed in its possession of the DEMISED PREMISES throughout the term or its rights under the Lease terminated by Landlord's Mortgagee so long as Tenant is not in material default (to be defined in the Lease) beyond a reasonable notice and cure period. The Landlord's Mortgagee must (a) agree to apply the proceeds of casualty insurance or condemnation awards to the restoration of the improvements unless the Lease is cancelled and (b) not require exculpations different in scope or nature from those granted to Landlord under the Lease.

## ARTICLE EIGHTEEN – GENERAL PROVISIONS

**Construction.** If any portion of this Lease is, or becomes, invalid or unenforceable, the remainder of this Lease shall be valid and be enforced to the fullest extent permitted by law.

**Captions.** The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or described the scope of this Lease nor the intent of any provision thereof.

**Memorandum of Parking Lease for Recording.** A memorandum of this Lease may be prepared by either of the parties which, upon agreement of the parties as to form, may then be recorded against both the T&K Property and the CITY PARKING GARAGE property at the Office of the Recorder for Cass County, North Dakota. Either party shall be authorized to record said memorandum.

**Counterparts.** This Lease may be executed in several facsimile or scanned counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument.

[Remainder of page intentionally left blank]

**LANDLORD:**

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

CITY OF FARGO,  
a North Dakota municipal corporation

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

**ATTEST:**

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

**TENANT:**

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

T&K Property Management LLC

By: \_\_\_\_\_  
Name: Thomas Smith  
Title: Managing member

[IMPORTANT NOTICE: Commencement date of this Parking Lease will be the first of the month following the date this Lease is last signed by the parties, above. See Section 1.4, above.]

**EXHIBIT "A"**  
**TO PARKING LEASE AGREEMENT**  
**FLOOR PLAN -- DEMISED PREMISES**

**(attached)**

**EXHIBIT "B"**  
**TO PARKING LEASE AGREEMENT**

**FIT-UP**

**(attached)**



October 30, 2023

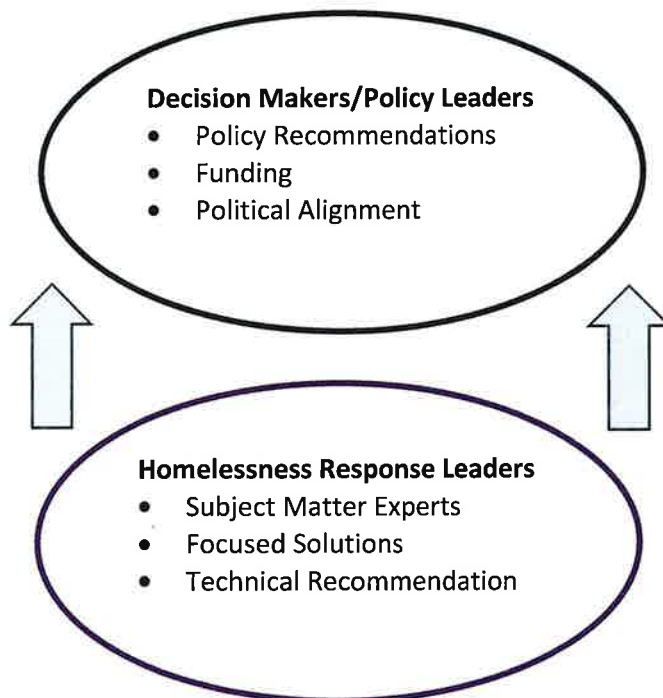
**To:** Board of City Commissioners  
**Fr:** Michael Redlinger, City Administrator  
**Re:** Discuss a Fargo-Moorhead Metropolitan Area Ending Homelessness Task Force

**Background:** At the October 16, 2023 City Commission Governance Workshop, City Administration was directed to establish a task force related to homelessness in the Fargo-Moorhead metropolitan area. At present, Mayor Mahoney is organizing an initial meeting with the Mayors of West Fargo and Moorhead, as well as elected leaders from Cass County and Clay County, to discuss homelessness and potential collaborative strategies to be considered by the local government entities. Following this organizational meeting with the other jurisdictions, City Administration will assist in the coordination of the FM Metropolitan Area Ending Homelessness Task Force, as outlined below.

*Proposed FM Area Ending Homelessness Task Force*

City Administration, in conjunction with Fargo Cass Public Health, has developed a proposed framework to organize future policy, operational, and programmatic discussions surrounding the topic of homelessness in Fargo-Moorhead. This proposed framework is intended to efficiently align subject matter experts and policy leaders to strategize and advance policies and programs to house the chronically homeless in our community. Housing the most vulnerable individuals will be the core focus of the Task Force.

The Ending Homelessness Task Force graphic below illustrates the proposed organization of the Task Force approach that will be launched following the Mayor’s meeting with other local leaders. The purpose of this model is to align subject matter expertise with local elected officials in a coherent, evidence-based approach, resulting in a community strategic plan. City Administration will provide a brief summary of this proposed strategy at the October 30, 2023 City Commission meeting.



**Recommended Action:** There is no action requested of the City Commission at this time. A report from City Administration will be provided at the October 30, 2023 City Commission meeting regarding the establishment of the Ending Homelessness Task Force, and future reports will be distributed to the City Commission on a regular basis as the Response Leaders and Decision Makers of the Task Force initiate their study work.





Arlette Preston, City Commissioner  
Fargo City Hall  
225 4th Street North  
Fargo, ND 58102-4817  
[www.FargoND.gov](http://www.FargoND.gov)

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**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: CITY COMMISSIONER ARLETTE PRESTON**

**DATE: OCTOBER 30, 2023**

**SUBJECT: LIQUOR LICENSE ORDINANCE**

With the recent hearing on a liquor license violation, a discussion occurred on the need for requiring scanners to be used by license holders. There was general agreement that the City should move forward with that requirement.

In addition, there has been discussion in the past year to require all licensees and managers to submit an annual criminal background check prior to the renewal of the establishment's license. A request has been made by the Police Chief to incorporate this into our ordinance. A second request has been made to require a liquor license holder to notify the City within a prescribed timeframe of any change to the manager of a licensed liquor establishment.

None of these requested changes have moved forward. There may be other needed changes, but to ensure there is follow through on at least these, the following motion is suggested:

**RECOMMENDED MOTION:** To direct the City Auditor, in conjunction with the Police Chief and City Attorney to present Ordinance revisions, incorporating at least these three changes:

1. Requirement for the use of scanners.
2. Annual background checks as a requirement for the renewal of a liquor license.
3. Requirement for license holders to notify the City of any change to the manager in a liquor establishment.

And to direct the City Auditor to provide a report to the Liquor Control Board and the City Commission on the progress in one month.

MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: MAYOR TIMOTHY J. MAHONEY**

**DATE: OCTOBER 30, 2023**

**SUBJECT: APPOINTMENTS TO THE HOUSING AND REDEVELOPMENT AUTHORITY**

Salma Ahmed, who serves on the Housing and Redevelopment Authority has resigned effective immediately. Her term would have expired on September 30, 2025.

In addition, the term of Cody Schuler expired on September 30, 2023. Mr. Schuler is willing to continue his service on the Board and I am, therefore, recommending his reappointment.

The Fargo Housing and Redevelopment Authority is required by HUD to have a Resident Board Member on its Board. The Resident Board would like to recommend Kathleen Steffan as a resident member for that appointment. I have attached a copy of Ms. Steffan's application for your information.

Your favorable consideration of these recommendations is greatly appreciated.

**RECOMMENDED MOTION:** To approve the appointment of Kathleen Steffan to fill the unexpired term of Salma Ahmed to the Housing and Redevelopment Authority for a term ending September 30, 2025 and the reappointment of Cody Schuler for a three-year term ending September 30, 2026.

mmappt23hra

**Kember Anderson**

---

**From:** noreply@cityoffargo.com  
**Sent:** Friday, October 06, 2023 3:07 PM  
**To:** Commissions Applications  
**Subject:** New Form Submission: Getting involved in government

**Name:**  
[Kathleen Jane Steffan]

**Mailing Address:**  
[REDACTED]

**City:**  
[Fargo]

**State:**  
[North Dakota]

**Zip:**  
[58104]

**Work Phone:**  
[REDACTED]

**Home Phone:**  
[REDACTED]

**E-mail:**  
[REDACTED]

**Which boards or commissions would you like to be considered for?**  
[Housing & Redevelopment Authority]

**Briefly state why you would like to be on this panel:**  
[I have been a recipient of section 8/voucher living for 15 years, most of the time was spent living in The Lashkowitz High Rise, prior to implosion. i served on the resident board for several years, there. I also serve on RAB currently.]

**How many hours per month could you volunteer as a panel member?**  
[ 8 or more per month]

**Please list any past experience you have with city government here or in other cities:**  
[ Was a presenter at city commission meetings]

**Please describe any professional experience you have related to the responsibilities of the panel you are interested in:**  
[Editorial Board of the Devils Lake Daily Journal. served as resident activity board at Lashkowitz, organized and developed ideas for the FHRA 's floats in the Excel Energy Parade for three years. Planned events for every month including August -- which is a toughie.]

**We will retain your application for three years and consider you for the board you have indicated interest in when a vacancy arises.**



A handwritten signature or set of initials, possibly "W/ce", enclosed within a hand-drawn oval.

September 27, 2023

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 3601 Evergreen Rd N as submitted by Molly Moore. 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 \$408 with the City of Fargo's share being \$123.

Sincerely,

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

Mike Spionskowski  
City Assessor

nib  
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 4, Golf Course 2nd

2. Address of Property 3601 Evergreen Rd N

3. Parcel Number 01-1002-00170-000

4. Name of Property Owner Molly N Moore RLT 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). Replace siding & shingles

7. Building permit No. 2305-1010 8. Year built (residential property) 1974

9. Date of commencement of making the improvements June 2023

10. Estimated market value of property before the improvements \$ 385,600

11. Cost of making the improvement (all labor, material and overhead) \$ 53,365

12. Estimated market value of property after the improvements \$ 412,100

#### Applicant's Certification And Signature

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

Applicant Molly N Moore RLT, POA Date 9/23/23

#### 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 9-29-2023

#### 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 \_\_\_\_\_



nlb

September 27, 2023

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1526 9 St. N as submitted by Michelle Mehring. 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 \$66 with the City of Fargo's share being \$20.

Sincerely,

A handwritten signature in black ink that reads "Mike Spłonskowski".

Mike Spłonskowski  
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 7, Block 4, Chandlers Broadway

2. Address of Property 1526 9 St N

3. Parcel Number 01-0380-00770-000

4. Name of Property Owner Michelle Mehring Phone No. 701 307 0173

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). Replace siding

7. Building permit No. 2306-0149 8. Year built (residential property) 1946

9. Date of commencement of making the improvements June 2023

10. Estimated market value of property before the improvements \$ 185,100

11. Cost of making the improvement (all labor, material and overhead) \$ 25,010

12. Estimated market value of property after the improvements \$ 193,800

#### Applicant's Certification And Signature

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

Applicant Michelle Mehring Date 9/22/23

#### 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 9-29-2023

#### 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 \_\_\_\_\_



September 26, 2023

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 3419 19 St S as submitted by Matthew Mazourek. 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 \$50 with the City of Fargo's share being \$15.

Sincerely,

A handwritten signature in black ink, 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 Lot 9, Block 2 South Pointe 4th

2. Address of Property 3419 19 St S

3. Parcel Number 01-2833-00290-000

4. Name of Property Owner Matthew Mazourek Phone No. 605-214-6043

5. Mailing Address of Property Owner 3419 19 St S

**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). Bathroom remodel

7. Building permit No. 22040964 8. Year built (residential property) 1991

9. Date of commencement of making the improvements 05/13/2022

10. Estimated market value of property before the improvements \$ \_\_\_\_\_

11. Cost of making the improvement (all labor, material and overhead) \$ 10,600

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 *Matthew Mazourek* Date 9/25/23

**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 9-29-2023

**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 \_\_\_\_\_



ASSESSMENT DEPARTMENT

(old)

October 5, 2023

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 3526 29<sup>th</sup> St S as submitted by Janell Schmidt. 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 \$138 with the City of Fargo's share being \$42.

Sincerely,

A handwritten signature in black ink 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 <u>Part of Lot 8, Block 4</u>
<u>Hunters Prairie</u>
2. Address of Property <u>3526 29 St S</u>
3. Parcel Number <u>01-1395-00652-000</u>
4. Name of Property Owner <u>Janell Schmidt</u> Phone No. <u>701-412-5817</u>
5. Mailing Address of Property Owner <u>3526 29 St S</u>

#### Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). <u>Bathroom &amp; kitchen remodel</u>	
7. Building permit No. <u>23050340</u>	8. Year built (residential property) <u>1995</u>
9. Date of commencement of making the improvements <u>05/11/2023</u>	
10. Estimated market value of property before the improvements	\$ _____
11. Cost of making the improvement (all labor, material and overhead)	\$ <u>125,000</u>
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 <u>Janell Schmidt</u>	Date <u>10/2/2023</u>

#### Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do <input checked="" type="checkbox"/> do not <input type="checkbox"/> meet the qualifications for exemption for the following reason(s): _____	
Assessor/Director of Tax Equalization <u>[Signature]</u>	Date <u>10-9-2023</u>

#### Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved <input type="checkbox"/> Denied <input type="checkbox"/>	
Approval is subject to the following conditions: _____	
Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.	
Chairperson _____	Date _____



File

October 5, 2023

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 114 22<sup>nd</sup> Ave N as submitted by James and Sharon Puppe Rev Living Trust. 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 \$117 with the City of Fargo's share being \$36.

Sincerely,

A handwritten signature in black ink that reads "Mike Splonskowski".

Mike Splonskowski  
City Assessor

nib  
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: 13, Block: 1, Addition Name: North Park

2. Address of Property 114 22 Ave N, Fargo, ND 58102

3. Parcel Number 01-2120-00130-000

4. Name of Property Owner James L & Sharon L Puppe Rev Living Trust Phone No. (701) 388-2106

5. Mailing Address of Property Owner 114 22 Ave N, Fargo, ND 58102

#### 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). Restore drywall, electric and insulation

7. Building permit No. 2305-0494-REN 8. Year built (residential property) 1960

9. Date of commencement of making the improvements July 5th, 2023

10. Estimated market value of property before the improvements \$ 249,700

11. Cost of making the improvement (all labor, material and overhead) \$ 76,307

12. Estimated market value of property after the improvements \$ 326,007

#### Applicant's Certification And Signature

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

Applicant Sharon Puppe Date 10/4/2023

#### 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. [Signature] Date 10-9-2023

#### 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 \_\_\_\_\_



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October 5, 2023

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 56 16<sup>th</sup> Ave N as submitted by Jerome and Amy Noeske. 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 \$46 with the City of Fargo's share being \$14.

Sincerely,

A handwritten signature in black ink that reads "Mike Splonskowski".

Mike Splonskowski  
City Assessor

nib  
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: 16, Block: 6, Addition: McDermotts, (REPLAT (07/18/1948 B-D, P-80 & 81))

2. Address of Property 56 16 Ave N, Fargo, ND 58102

3. Parcel Number 01-1890-01270-000

4. Name of Property Owner Noeske, Jerome & Amy Phone No. (701) 840-1810

5. Mailing Address of Property Owner 56 16 Ave N, Fargo, ND 58102

#### 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). Adding Bathroom to basement, work includes plumbing, electrical, addition of a non-load bearing wall, and finish

7. Building permit No. 2304-0283-REN 8. Year built (residential property) 1950

9. Date of commencement of making the improvements April 21st, 2023

10. Estimated market value of property before the improvements \$ 198,900

11. Cost of making the improvement (all labor, material and overhead) \$ 15,000

12. Estimated market value of property after the improvements \$ 213,900

#### 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 9-29-2023

#### 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 10-9-2023

#### 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 \_\_\_\_\_