

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at www.FargoND.gov/streaming. They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at www.FargoND.gov/citycommission.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, October 17, 2022).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. 2nd reading and final adoption of an Ordinance Relating to the International Building Code (Child Care Facility Bathtub/Shower Requirements); 1st reading, 10/17/22.
- 2. Findings of Fact, Conclusions and Order for property located at 714 12th Street North.
- 3. Request for Qualifications for Professional Consultant Services for Government Relations and Legislative Advocacy (RFP18327).
- 4. Extension of the Class “FA-Golf” Alcoholic Beverage License for Livin’ the Dream LLC d/b/a Legends Sports Bar and Grill at Rose Creek until April 2023.
- 5. Direct the City Attorney to prepare amendments to Fargo Municipal Code Article 25-15 - Alcoholic Beverages, as it relates to server training.
- 6. Applications for Games of Chance:
 - a. Shiloh Masonic Lodge No. 1 for a raffle on 5/6/23.
 - b. The Village Family Service Center for a raffle on 11/11/22.
 - c. Knights of Columbus for a raffle on 2/12/23.
 - d. Alpha Tau Omega for a raffle on 11/9/22.
 - e. Sts. Anne and Joachim Catholic Church for bingo on 11/13/22.
 - f. Fargo Angels Hockey Club for a raffle and raffle board on 12/3/22.
- 7. Change Order No. 1 in the amount of \$25,185.90 for the multimedia studio space (PBC22-PS20135).
- 8. Permanent Easement (Utility-Access) with Minnkota Power Cooperative, Inc. (Project No. FP-19-A1).
- 9. Change Order No. 6 in the amount of \$5,918.97 and time extension to 11/30/22 for Project No. FM-19-A3.
- 10. Change Order No. 1 for a 14-day time extension to 10/29/22 for Project No. HD-22-A1.
- 11. Change Order No. 1 for a 14-day time extension to 10/31/22 for Project No. SR-22-C1.
- 12. Change Order No. 3 in the amount of \$15,400.00 for Project No. UR-22-B1.

13. Right of Way Use Agreement with Great Plains Block 3 Holdings, LLC.
14. Agreement with R.L. Engebretson Architects Fargo LLC for improvements at Newman Outdoor Field (RFQ18084).
15. Bid award for Independent Audit Services (RFP22145).
16. Sole Source Procurement with Great Plains Fire Equipment for the purchase of Genesis 15C Eforce Combi tool (SSP22164).
17. Notice of Grant Award from the ND Department of Emergency Services – Division of Homeland Security for the FY 2022-2023 Hazardous Materials Emergency Preparedness Training Grant (CFDA #20.703).
18. Notice of Grant Award from the ND Department of Emergency Services – Division of Homeland Security for FY 2022 State Homeland Security Grant Program (CFDA #97.067).
19. Agreement for Services with Amanda Booher.
20. Grant Agreement with the ND Department of Health and Human Services, Office of Refugee Support Services for care coordination for tuberculosis treatment, education and outreach.
21. Change Order No. 1 in the amount of \$19,580.00 for Project No. SW 22-05.
22. Bid award for Project No. WA2152.
23. Change Order No. 2 in the amount of -\$702.84 for Project No. WA2012.
24. Ground Lease with Cass Rural Water Users District.
25. Bills.
26. Change Order No. 1 for a time extension to 10/20/22 for Improvement District No. BN-22-F1.
27. Negative Final Balancing Change Order No. 1 in the amount of -\$21,056.38 for Improvement District No. BR-21-E1.
28. Change Order No. 3 in the amount of \$11,039.07 for Improvement District No. PN-22-A1.
29. Change Order No. 2 in the amount of \$8,536.50 for Improvement District No. PR-22-G1.
30. Bid award for Improvement District No. BR-23-B1.
31. Create Improvement District No. BR-23-C.

REGULAR AGENDA:

32. **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).

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

- a. Chas A. Roberts Addition (700 and 701 7th Street South; 555 and 653 8th Avenue South; 800 6th Street South); approval recommended by the Planning Commission on 10/4/22:
 1. Zoning Change from SR-2, Single-Dwelling Residential, LC, Limited Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional to P/I, Public and Institutional and to repeal the existing C-O, Conditional Overlay.
 2. 1st reading of rezoning Ordinance.
 - b. Proposed Amendment to the 2022 HUD Action Plan.
 - c. Hearing on a dangerous building located at 509 21st Street North; continued from the 10/17/22 Regular Meeting.
 - d. Hearing on a dangerous building located at 812 7th Street North.
 - e. Hearing to consider a Development Agreement with Great Plains NP Holdings, LLC to build and operate a parking garage to be located at 602-636 Northern Pacific Avenue.
34. Recommendations for the City's priority projects to apply for Federal Highway Administration funds.
35. Recommendation for the sale of property at 234 Main Avenue.
36. Applications for Property Tax Exemptions for Improvements Made to Buildings:
- a. Steven and Debbie Dahl-Amundson, 1637 10th Street North (5 year).
 - b. Melissa and Jeffrey Bozovsky, 317 25th Avenue North (5 year).
 - c. Linda and William Dibrito, 1143 Oak Street North (5 year).
 - d. Scott Johnson and Suzanne Theil- Johnson, 3502 Longfellow Road North (5 year).
 - e. Barbara Lindberg, 1359 2nd Street North (5 year).
 - f. Magnifica Properties, LLC, 21 32nd Avenue South (5 year).
 - g. Nathan and Kimberly Rorvig, 1906 9th Street North (5 year).
 - h. Joseph and Ranelle Turman, 205 Prairiewood Drive South (5 year).
 - i. Gregory and Rebecca Walen, 108 North Woodcrest Drive North (5 year).
 - j. Jeffrey and Mary Jean Dehne, 3425 1st Street North (5 year).
 - k. Joan Fiechtner, 2418 27th Avenue South (5 year).
 - l. Al Dybing and Julie Anderson, 1246 5th Street North (5 year).
 - m. Robin Brophy and Jackie Kiels-Brophy, 2844 Westgate Drive South (5 year).
37. 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.

330a

City of Fargo Staff Report			
Title:	Chas A Roberts Addition	Date: Update:	9/28/2022 10/27/2022
Location:	700 and 701 7th Street South; 555 and 653 8th Avenue South; 800 6th Street South	Staff Contact:	Maegin Elshaug, planning coordinator
Legal Description:	Parts of Block G, H, Tt, and I, Chas A. Roberts Addition and parts of vacated 6th Street South, parts of vacated 8th Avenue South, and parts of vacated 9th Avenue South		
Owner(s)/Applicant:	Fargo Public Schools & Fargo Park District / KLJ	Engineer:	n/a
Entitlements Requested:	Zoning Change (from SR-2, Single-Dwelling Residential, LC, Limited Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional to P/I, Public and Institutional and to repeal the existing C-O, Conditional Overlay)		
Status:	City Commission Public Hearing: October 31, 2022		

Existing	Proposed
Land Use: School, Office (Fargo School District) and Parks and Open Space	Land Use: unchanged
Zoning: SR-2, LC w/ C-O, P/I	Zoning: P/I
<p>Uses Allowed: SR-2 allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities.</p> <p>LC allow colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, basic utilities, offices, off-premise advertising signs, commercial parking, retail sales and service, self-service storage, vehicle repair, limited vehicle service. With C-O (Ordinance 4276) that restricts uses to what is permitted in GO, General Office, with exception of retail sales and service.</p> <p>P/I allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, major entertainment events, basic utilities and some telecommunications facilities.</p>	<p>Uses Allowed: P/I allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events.</p>
Maximum Density Allowed: SR-2 allows 5.4 units per acre	Maximum Density Allowed: n/a
<p>Maximum Lot Coverage Allowed: LC allows maximum 55% building coverage</p> <p>P/I is Dimensional standards of adjacent zoning district</p>	<p>Maximum Lot Coverage Allowed: P/I is Dimensional standards of adjacent zoning district</p>

Proposal:

The applicant is proposing a zoning map amendment to change from SR-2, Single-Dwelling Residential, LC, Limited Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional to P/I, Public and Institutional and to repeal the existing C-O, Conditional Overlay.

The Fargo Public School District has plans to expand the Hawthorne Elementary School to house the District's Early Childhood Special Education program on the north side of the existing school building. The School District also owns the office building and parking lot at 701 7 Street South. The district has applied to rezone their property to P/I, Public & Institutional, as has the Fargo Park District for Dill Hill, which is a more appropriate zoning district. Section 20-0304 P/I, Public and Institutional District of the Land Development Code notes, in part, that this zoning district is intended to accommodate uses of a governmental, civic, public service, or quasi-public nature, including major public facilities, offering an alternative zoning classification for public and institutional uses, thereby increasing development predictability within residential neighborhoods. The Conditional Overlay (Ordinance 4276), which includes setback, driveway, and land use requirements, is requested to be extinguished by the applicant as part of the zoning application. The School District has no plans to further develop the property at this time, other than the school expansion. Any future plans to develop or redevelop the site privately will need zoning change approval first.

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

Surrounding Land Uses and Zoning Districts:

- North: Across 5th Avenue South is Island Park, zoned P/I;
- East: MR-3, Multi-Dwelling Residential and SR-2, Single-Family Residential with multi-dwelling units and detached homes;
- South: SR-2 with detached homes;
- West: SR-2 with detached homes.

Properties east, south and west of the subject property are also included in three Historic Overlay zoning districts: Island Park, Woodruffs Addition, and Chas A Roberts Historic Overlays.

Area Plans:

The Future Land Use Map of the Hawthorne Neighborhood implementation brief within the Core Neighborhoods Plan identifies several land uses for the subject properties, including Schools with Recreational Amenities and Park, Open Space and Trails for Hawthorne Elementary and Dill Hill. The office building and parking lot across 7th Street are identified as Mixed Use Neighborhood Commercial and Multi-Family Residential, respectively. P/I, Public & Institutional is an appropriate zoning district for property owned by the School and Park Districts, and future development would need to be rezoned. No amendment to this future land use plan is required.



Context:
<p>Neighborhood: Hawthorne</p> <p>Schools: The subject property is located within the bounds of the Fargo School District, more specifically Hawthorne and Clara Barton Elementary, Ben Franklin Middle, and North High schools.</p> <p>Parks: Dill Hill (652 6th Avenue South) and Island Park (302 7th Street South) are part of and located just north of the subject property, and includes amenities of a ball fields, basketball courts, trails, playgrounds, shelters, Island Park Pools, and other amenities.</p> <p>Pedestrian / Bicycle: On-street facilities are located on 7th and 9th Streets South, a buffered bike lane is located on 4th Street South, and Dill Hill includes a shared use path, all which connect to the metro area trail system.</p> <p>Transit: MATBus Routes 14 and 16 are located along 4th Street South, within a quarter-mile of the subject property. There are several stops and shelters located within a few blocks on 4th Street South directly east of the subject property.</p>
Staff Analysis:
<p><i>Note: The properties located at 700 and 701 7th Street South, 555 8th Avenue South, and 800 6th Street South were heard as separate items at the October 4, 2022 Planning Commission, including an application for a Minor Subdivision plat (entitled Hawthorne Elementary Addition) and for a Conditional Use Permit (CUP). The City Commission will review the plat at a later date after technical review is complete. The CUP has been approved and will be recorded pending approval of the plat.</i></p> <p>Zoning</p> <p>Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:</p> <ol style="list-style-type: none"> 1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map? Staff is unaware of any error in the zoning map as it relates to this property. The properties are currently zoned SR-2, Single-Dwelling Residential, LC, Limited Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional to P/I, Public and Institutional. The applicant is requesting to rezone the properties to a more appropriate zoning district to P/I, and to repeal the existing C-O, Conditional Overlay. (Criteria Satisfied) 2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed? City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property has direct access to several public rights-of-way. (Criteria Satisfied) 3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity? Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property, and staff also notified the Hawthorne Neighborhood Association. Additionally, prior to receiving the application, the applicant has been in contact with the

Hawthorne Neighborhood Association regarding the project, who noted no concern. To date, Planning staff has received and responded to five inquiries. The conditional overlay was approved at a time the site was privately owned, and provided some restrictions on development and land uses. Staff is supportive of the removal of the conditional overlay, as the P/I zoning district is intended for public ownership. If the property were sold and planned for private development, a zoning change would need to occur, which would notify surrounding owners, and any future proposed development would be reviewed in more detail. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**

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

The LDC states “This Land Development Code is intended to implement Fargo’s Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo.” The plan that applies to this property is the Hawthorne Future Land Use Plan, which designates the land use including Schools with Recreational Amenities and Park, Open Space and Trails, Mixed Use Neighborhood Commercial, and Multi-Family Residential. P/I, Public & Institutional is an appropriate zoning district for property owned by the School and Park Districts. P/I is intended to accommodate uses of a governmental, civic, public service, or quasi-public nature, including major public facilities, offering an alternative zoning classification for public and institutional uses, thereby increasing development predictability within residential neighborhoods, as any future private development would need to be rezoned. **(Criteria Satisfied)**

Update 10/27/2022: After the Planning Commission meeting, staff received and responded to one inquiry regarding parking and circulation, and the existing trees and open space south of the office building.

Staff Recommendation:

Suggested Motion: “To accept the findings and recommendations of the Planning Commission and staff, and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and approve the proposed zoning change from SR-2, Single-Dwelling Residential, LC, Limited Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional to P/I, Public and Institutional and to repeal the existing C-O, Conditional Overlay, as outlined in the staff report, on the basis that it satisfactorily complies with the Core Neighborhoods Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.”

Planning Commission Recommendation: October 4, 2022

At the October 4, 2022 Planning Commission hearing, by a vote of 6-0 with three Commissioners absent and two Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed zoning change from SR-2, Single-Dwelling Residential, LC, Limited Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional to P/I, Public and Institutional and to repeal the existing C-O, Conditional Overlay, as outlined in the staff report, on the basis that it satisfactorily complies with the Core Neighborhoods Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

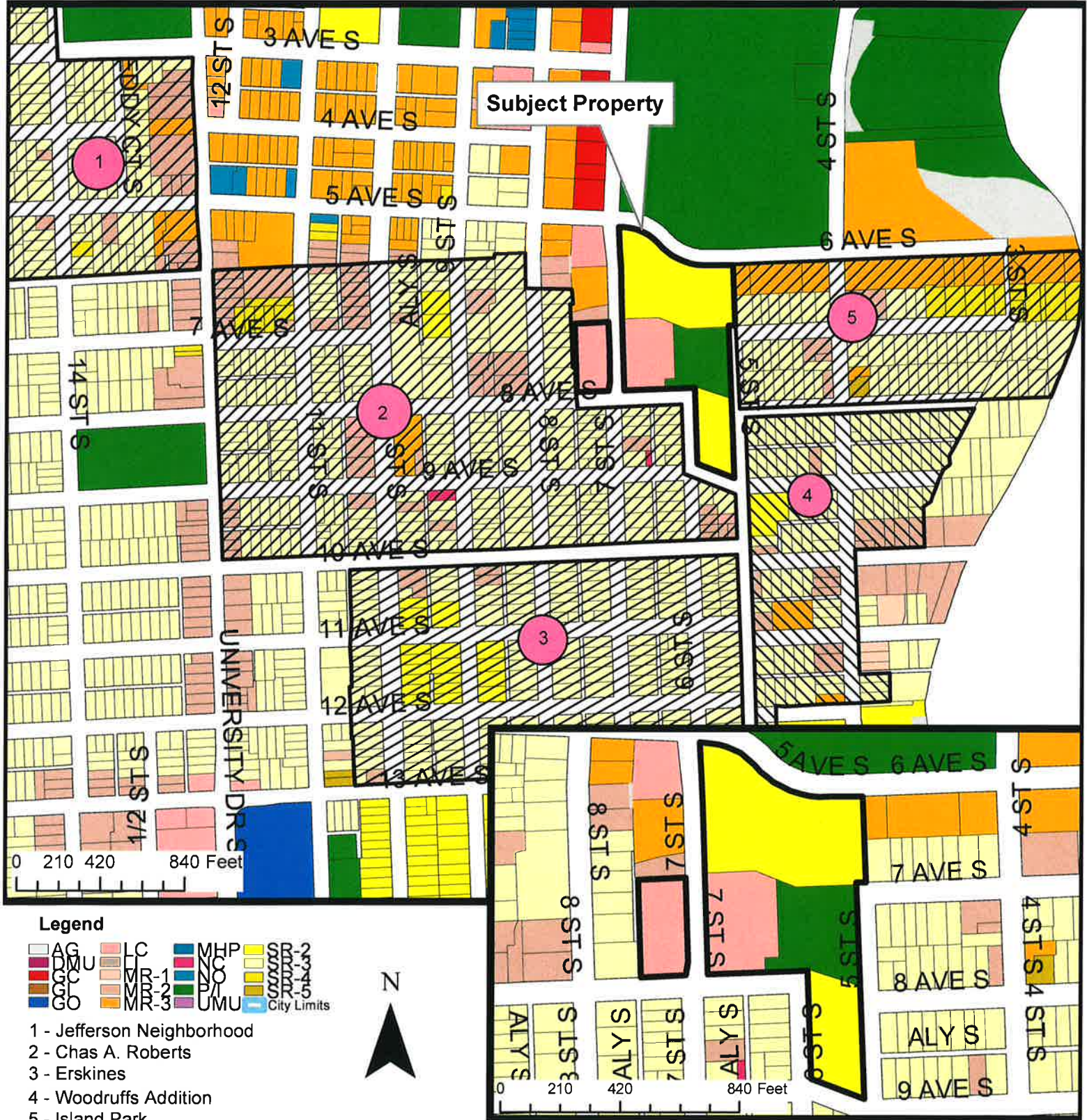
Attachments:

1. Zoning Map
2. Location Map

Zone Change from SR-2, LC with Conditional Overlay, and P/I to P/I and repeal the Conditional Overlay

Chas A. Roberts Addition

700 and 701 7 Street South, 555 and 653 8 Avenue South, and 800 6 Street South



Zone Change from SR-2, LC with Conditional Overlay, and P/I to P/I and repeal the Conditional Overlay

Chas A. Roberts Addition

700 and 701 7 Street South,
555 and 653 8 Avenue South, and 800 6 Street South



33a1

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN CHAS A. ROBERTS ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on October 4, 2022; and,

WHEREAS, the rezoning changes were approved by the City Commission on October 31, 2022,

NOW, THEREFORE,

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

Section 1. The following described properties:

PT BLK H DESC AS FOLL: BEG AT SW COR OF LT 14; THEN N ALG W LN OF BLK H TO PT 5 FT N OF THE SW COR OF LT 21; THEN S 89 DEG 56 MIN E 185.3 FT; THEN S 65 DEG 56 MIN E TO THE INTER WITH THE E LN OF THE W 100 FT OF LT 7; THEN S PARA TO & 100 FT E OF THE W LN OF LTS 7 - 13 TO THE S LN LT 12; THEN W ALG THE S LN OF LT 12 50 FT; THEN S TO THE S LN OF BLK H; THEN W ALG SD S LN TO THE PT OF BEG, BLOCK H, CHAS A ROBERTS ADDITION to the City of Fargo, Cass County, North Dakota;

and

S 16 FT OF LT 6 & ALL OF LTS 7 - 12 LESS W 12 FT OF S 25 FT OF LT 22 & LESS THE W 12 FT OF LT 12, BLOCK G, CHAS A ROBERTS ADDITION to the City of Fargo, Cass County, North Dakota;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 are hereby rezoned from "LC", Limited Commercial, District, repealing the existing "C-O",
2 Conditional Overlay, District, as established by Fargo Municipal Ordinance No. 4276, to "P/I",
3 Public and Institutional, District.

4 Section 2. The following described properties:

5 BEG AT A PT ON N & S 1/4 LN OF SEC 7, TWP 139N, RGE 48W WHICH IS 293 FT
6 N OF EXTENDED S LN OF BLK H, RUNNING W 246 FT ON A LN PARA TO SD S
7 LN OF BLK H, THEN TO W LN OF BLK H, THEN NLY ALG W LN OF SD BLK H
8 TO NW COR OF SD BLK H WHICH IS ON N LN OF SD SW 1/4 OF SD SEC 7,
9 THEN E ALG N LN OF SD SW 1/4 OF SEC 7, TO N-S 1/4 LN OF SD SEC, THEN S
10 ALG SD 1/4 SEC LN TO PT OF BEG, EXC THAT PT LYING IN NE COR OF SD
11 TRACT DED FOR PUBLIC RDWY INCL 6 AVE S, SD ABOVE TRACT DESC: ALL
12 THAT PT OF BLK H & TT & PT OF VAC 5 ST LYING BETWEEN BLKS TT & N-S
13 1/4 SEC LN OF SEC 7 & PT OF VAC 6 ST, BLOCK H, CHAS A ROBERTS
14 ADDITION to the City of Fargo, Cass County, North Dakota;

15 and

16 VAC 8 & 9 AVE S, BLOCK I, CHAS A ROBERTS ADDITION to the City of Fargo,
17 Cass County, North Dakota;

18 are hereby rezoned from "SR-2", Single-Dwelling Residential, District, to "P/I", Public and
19 Institutional, District.

20 Section. 3. The following described property:

21 BEG AT A PT 33 FT W OF N/S 1/4 LN OF SEC 7, TWP 139N, RGE 48W & 293 FT N
22 OF EXT S LN OF BLK H, THEN W 213 FT ON A LN PARA TO SUCH EXT S LN OF
23 BLK H RNG THEN NWLY 154.35 FT TO A PT 356 FT N & 50 FT E OF SW COR OF
13, BLK H, THEN S TO A PT 50 FT E OF SW COR OF 13, BLK H, THEN E 160 MIN
TO SW COR OF BLK TT, THEN IN A SELY DIR TO SE COR OF BLK TT, THEN N
ALG E LN OF BLK TT TO PT OF BEG, LESS THE FOLL: E 50 FT OF W 100 FT OF
8, 9, 10, 11 & 12 & ALSO LESS THAT PT OF 6 & 7 LYING WITH IN THE FOLL:
BEG AT A PT ON S BNDRY LN OF 7, 50 FT E OF SW COR OF 7, THEN N 00 DEG
00 MIN E FOR A DIST OF 54.3 FT, THEN S 65 DEG 56 MIN E FOR A DIST OF
54.76 FT, THEN S 00 DEG 00 MIN W FOR A DIST OF 31.97 FT TO A PT ON S
BNDRY LN OF 7, SD PT BG 100 FT E OF THE SW COR OF 7, THEN W ALG THE S

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

LN OF LT 7, 50 FT TO PT OF BEG, PT OF BLOCKS H & TT, CHAS A ROBERTS
ADDITION

that is currently zoned "P/I", Public and Institutional, District, will hereby retain the base zoning of
"P/I", Public and Institutional, District.

Section 4. The City Auditor is hereby directed to amend the zoning map now on file in his
office so as to conform with and carry out the provisions of this ordinance.

Section 5. This ordinance shall be in full force and effect from and after its passage and
approval.

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

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

336

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: TIA BRASETH, COMMUNITY DEVELOPMENT PLANNING COORDINATOR T.B.
NICOLE CRUTCHFIELD, PLANNING DIRECTOR

DATE: OCTOBER 27, 2022

RE: PUBLIC HEARING FOR PROPOSED AMENDMENTS TO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) / HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) 2022 HUD ACTION PLAN

Planning & Development Department staff are proposing an amendment to the 2022 HUD Action Plan, which was originally approved by the City Commission on May 2, 2022. The proposed amendment further defines details of a Core Neighborhood Affordable Housing Development project as outlined below:

Project Site, Activity, and Budget Identified under “Core Neighborhood Affordable Housing Development” Project: 3129 7 Avenue N and 802 32 Street North

The project sites of a housing development activity have been identified and are located at 3129 7 Avenue North and 802 32 Street North. The activity will include acquisition for the future construction of affordable housing.

The original allocation of \$237,876 in CDBG funds and \$85,249.75 in HOME funds is outlined within the 2022 Annual Action Plan. An additional \$500,000 in CDBG funds is proposed to be reallocated from the previously canceled 2021 Action Plan multi-family rental housing project at the former K-Mart site, for a total budget of \$823,125.75 (full amount to be used for acquisition). This activity addresses the 5-Year Plan goal of Affordable Housing for low-to-moderate income households.

Per the adopted Citizen Participation Plan, this proposal is being presented at the October 31st City Commission meeting as a Public Hearing with no action. Details of the proposed 2022 Action Plan Amendment timeline, including the 30-day public comment period, are outlined in the attached public notice (published in *The Forum* newspaper on October 19, 2022). Once approved by citizens and the City, the 2022 Action Plan amendment will be submitted to HUD for approval.

Attachment: Notice of Public Hearing & Public Comment Period

Recommended Motion: No action is required at this time; public hearing only. Final consideration of the 2022 Action Plan Amendment is scheduled for November 28, 2022.

City of Fargo
Notice of Public Hearing & Public Comment Period
Community Development Block Grant (CDBG) & HOME Programs

The City of Fargo is opening a 30-day public comment period starting October 20, 2022, including a public hearing on October 31, 2022 at the regular Fargo City Commission meeting. Final consideration will be at the November 28, 2022 Fargo City Commission meeting. The purpose for the public comment period is to consider a proposed amendment to the City's HUD programs, which is summarized in this notice.

Summary of Proposed Amendment to 2022 HUD Action Plan

1. 2022 Annual Action Plan – Project Site, Activity, and Budget Identified under “Core Neighborhood Affordable Housing Development” Project: 3129 7 Avenue N and 802 32 Street North

The project sites of a housing development activity have been identified and are located at 3129 7 Avenue North and 802 32 Street North. The activity will include acquisition for the future construction of affordable housing.

The original allocation of \$237,876 in CDBG funds and \$85,249.75 in HOME funds is outlined within the 2022 Annual Action Plan. An additional \$500,000 in CDBG funds is proposed to be reallocated from the previously canceled 2021 Action Plan multi-family rental housing project at the former K-Mart site, for a total budget of \$823,125.75. This activity addresses the 5-Year Plan goal of Affordable Housing for low-to-moderate income households. *National Objective, Eligibility, & Regulation Citation: Low-Mod Housing Benefit [24 CFR Part 570.208(a)(3)]. Associated CDBG Matrix Codes include: 01 Acquisition of Real Property - Eligibility 24 CFR Part 570.201(a); 02 Disposition of Real Property – Eligibility 24 CFR Part 570.201(b); 12 Construction of Housing - Eligibility 24 CFR Part 570.201(m); and HOME Eligible Activity under 92.205(a)(1).*

COMMENTS, ACCESSIBILITY, & SCHEDULE

Comments and suggestions from the public are encouraged through a public comment period and/or at the public hearing. Contact information and schedule are provided below:

30-DAY PUBLIC COMMENT PERIOD: October 20 – November 18, 2022

PUBLIC HEARING: Monday, October 31, 2022 - 5:15 pm
Fargo City Commission Chambers
225 4th Street North, Fargo, ND 58102

CITY COMMISSION VOTE: Monday, November 28, 2022 – 5:15 pm

CONTACT INFORMATION: City of Fargo
Planning and Development Department
Attn: Community Development Planning Coordinator
225 4th Street North, Fargo ND 58102
701.476.4144
Planning@FargoND.gov

DRAFT PLAN AVAILABLE AT: www.fargond.gov/planninganddevelopment/plansandstudies
OR request through Planning & Development Department

Non-Discrimination Notice – In accordance with Federal regulations and City of Fargo policies, services are provided without regard to race, color, religion, sex, disability, familial status, national origin, age, marital status, veteran status, sexual orientation, gender identity, public assistance, domestic violence, lawful activity, or condition protected by applicable federal and state laws. The City is an equal employment/equal housing opportunity agency.

Accessibility – Fargo City Hall is serviced by public transit, accessible and can accommodate persons who are disabled. Alternative formats of this information (e.g., Braille, American Sign Language, etc.) or reasonable accommodations for persons with hearing/vision impairments and/or other disabilities will be made upon request. The contact information to arrange for services (a 48 hour notice may be needed) is City of Fargo's Section 504/ADA Coordinator Bekki Majerus – 701.298.6966. To access TTY/ND Relay service – 800.366.6888 or 711.

Limited English – Reasonable steps will be taken to provide persons with limited English proficiency (LEP) meaningful access, including the availability of interpretation and translation services. If services are needed, the contact information is provided above.



Fargo Inspections

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

Memorandum

DATE: October 27, 2022
TO: Mayor Mahoney and Board of City Commissioners
FROM: Shawn Ouradnik, Inspections Director
SUBJECT: Dangerous Building Notice and Order at 509 21 St N, Fargo, ND 58102

The property owner of 509 21 St N, 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 31st, 2022.

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 by December 30th, 2022. Please direct the appropriate staff to secure the removal of this building at that time.**

Property Information: Building is currently uninhabited due to condition.

Location: 509 21st St N

Owner: Carrington Mortgage Services, LLC.

Description: 870 square foot single story wood framed structure with two stall detached garage. Structure was built in 1940.

Description of Damage:

- Plant overgrowth and un-kept vegetation around property.
- Harborage for vermin.
- Cracked and peeling paint compromising all-weather surfacing.
- Front steps and deck boards are loose or rotted to the point of shifting or lifting under foot.
- Broken glass / unsecure windows and glazing around the house structure and the detached garage structure on the property.
- Unsecure doors into home on the North side of the home and the West side garage.
- Missing garage door and window.
- Broken overhead garage door.
- No water service and marked vacant on 21st of June, 2022 by City of Fargo Assessors Office.
- Disassembled automobile located in unsecure garage.
- Evidence of squatter activity and interior lights on in a vacant home with listed owners deceased.
- Call to Fargo Police Department on the 24th of July, 2022 for suspicious activity around home.

TimeLine of Events:

- 7/25/2022 - Alerted by PD of possible Dangerous Building.
- 7/25/2022 - Inspection of exterior. Property posted as Dangerous Building notice sent to owner.
- 8/1/2022 - Building cleared by PD and secured by contractor after interior inspection.
- 9/14/2022 - Dangerous Building Appeal deadline
- 9/16/2022 - House re-secured and locks placed by owner.
- 9/24/2022- Dangerous Building Notice deadline

- 10/3/2022- Dangerous Building Hearing set by Commission for October 17th, 2022
- 10/11/2022 - Notice of Dangerous Building Hearing – Order to Show Cause sent to Property Owners
- 10/17/2022 - Hearing on a Dangerous Building located at 509 21st Street North continued to 10/31/22.
- 10/27/2022- Notice of Dangerous Building Hearing – Order to Show Cause sent to Property Owners
- 10/31/2022 - Dangerous Building hearing at commission.

Additional Information:

Received notice from Carrington Mortgage Services, LLC stating that reported conditions of the property cannot be remedied at this time by CMS because mortgage account is in good standing.

Police call history:

Report of suspicions active reported to PD. PD noted that the back door was forced open. The property appears to be abandoned. The house was ransacked and the vehicle in the garage was stripped. The names on the stacked up mail were ran (assumed to be the owners) and they are both deceased.

Incident Report

Print Date/Time: 07/25/2022 10:03
LogIn ID: cityoffargo\mhughes

FARGO POLICE DEPARTMENT
ORI Number: ND0090200

Incident: 2022-00051403

Incident Date/Time: 7/24/2022 1:29:14 PM
Location: 509 21ST ST N
 FARGO ND 58102
Phone Number: (701)730-3751
Report Required: No
Prior Hazards: No
LE Case Number:

Incident Type: Suspicious
Venue: FGO
Source: Telephone
Priority: 1
Status: In Progress
Nature of Call: SUSP

Unit/Personnel

Unit	Personnel
M212K	543-Miller

Person(s)

No.	Role	Name	Address	Phone	Race	Sex	DOB
1	Informational	NELSON, CARRIE		(701)730-3751			

Vehicle(s)

Role	Type	Year	Make	Model	Color	License	State
Plate Inquiry	Passenger Vehicle	2006	Buick		Blue	145CSC	ND

Disposition(s)

Disposition	Count	Date/Time
AC	1	07/24/2022 14:19

Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
------	------	------	------	-------	-------------	---------	----------

CAD Narrative

07/24/2022 : 14:18:57 default_nws Narrative: I arrived on scene to 509 21st St N and spoke with the complainant, Kari Nelson. Kari is a neighbor to his house. Kari said this home has not been lived in for at least a year and has been noticing windows are being opened and the garage door entrance has been broken. She said she believes people have been squatting in the home because it looks like the home has been ransacked from outside looking in the exterior windows. I observed that the grass is very long and has not been landscaped for a long time. I also observed that some windows were propped open in the home. The side storm door is not locked but I did not enter the home. I also observed the inside of the garage looking in from out of the open entrance door. ND/145CSC was parked in the garage and appeared to be stripped of its parts. I was able to get names off mail in the mailbox of Sylvia and Gary Borud who are in ND records as deceased. I contacted Sgt Anderson who said a plan will be made to contact City of Fargo inspections to check out the property as it is unknown who the current property owner is due to the last ones listed being deceased. Neighbors were advised to contact police of suspicious activity occurring at this residence. No report.

07/24/2022 : 13:33:08 cityoffargo\ptaylor Narrative: OWNER HAS NOT BEEN LIVING HER FOR QUITE SOME TIME

07/24/2022 : 13:32:03 cityoffargo\ptaylor Narrative: COMPL IS OUTSIDE MOWING RIGHT NOW OR CAN CALL HER IF NEEDED

07/24/2022 : 13:31:23 cityoffargo\ptaylor Narrative: UNKNW NAME OF THE OWNER OF THE HOUSE

07/24/2022 : 13:31:18 cityoffargo\ptaylor Narrative: COMPL WENT THRU THE HOUSE AND THE BATHROOM LIGHT WAS ON AND A FAN WAS ON, NO ONE IN THE HOUSE AT THIS TIME

07/24/2022 : 13:30:58 cityoffargo\ptaylor Narrative: COMPL LIVES NEXT DOOR AND COMPL BELIEVES THE F OWNER WENT INTO A NURSING HOME, COMPL NOTICED THE BACK DOOR OPEN TODAY AND WENT TO CLOSE IT AND NOTICED THAT IT WAS BROKEN, SAID THE F'S CAR HAS BEEN STRIPPED AND IT LOOKS LIKE SOMEONE HAS BEEN LIVING IN THE HOUSE

Fargo Inspections

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



NOTICE OF DANGEROUS BUILDING

TO: Sylvia A. Borud
509 21 ST N
Fargo, ND 58102

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 509 21 St N, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Lot: 13 Block: 4 TYLERS LOT 13 BLK 4

(hereinafter referred to as "the building")

3. That an inspection was made of the building on the 25th of July, 2022 by Gregory Conlin, Code Enforcement Inspector.

4. That the Code Enforcement Inspector for the City of Fargo has found the building, consisting of a single-story, wood-framed structure and it's detached 2 stall garage to be Dangerous Buildings 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 Code Enforcement 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 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 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 the 25 day of July, 2022.

11. Order to secure building. The undersigned Building Official has determined that the building must be secured by 1st day of August, 2022 and remain secure. Therefore, it is hereby ordered that all means of entering the building 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. Application for Appeal. Section 112.6&107.1 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 25th day of July, 2022.

Conditions Found Statement

On the 25th day of July, 2022, Code Enforcement Inspector Gregory Conlin, was present at 509 21 St N, Fargo, ND to address an Unsafe Building inspection. The following violations were found:

- Plant overgrowth and un-kept vegetation around property.
- Harborage for vermin.
- Cracked and peeling paint compromising all-weather surfacing.
- Front steps and deck boards are loose or rotted to the point of shifting or lifting under foot.
- Broken glass / unsecure windows and glazing around the house structure and the detached garage structure on the property.
- Unsecure doors into home on the North side of the home and the West side garage.
- Missing garage door and window.
- Broken overhead garage door.
- No water service and marked vacant on 21st of June, 2022 by City of Fargo Assessors Office.
- Disassembled automobile located in unsecure garage.
- Evidence of squatter activity and interior lights on in a vacant home with listed owners deceased.
- Call to Fargo Police Department on the 24th of July, 2022 for suspicious activity around home.

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.



Gregory Conlin
Code Enforcement Inspector
City of Fargo, ND



Shawn Ouradnik
Inspections Director
City of Fargo, ND



Date Signed

Fargo Inspections

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



NOTICE OF DANGEROUS BUILDING

TO: Carrington Mortgage Services LLC
2100 E 196th ST
Westerfield IN, 46074-9240

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 509 21 St N, and is located on that tract of land in the city of Fargo, more particularly described as follows:

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Gregory Conlin
Code Enforcement Inspector
City of Fargo, ND



Shawn Ouradnik
Inspections Director
City of Fargo, ND

7/25/2022

Date Signed

Fargo Inspections

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



NOTICE OF DANGEROUS BUILDING

TO: OCWEN
1661 Worthington RD, STE 100
West Palm Beach FL, 33409

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 509 21 St N, and is located on that tract of land in the city of Fargo, more particularly described as follows:

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5. This building has been found to be a dangerous building by the Code Enforcement 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.

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- Cracked and peeling paint compromising all-weather surfacing.
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- Missing garage door and window.
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Gregory Conlin
Code Enforcement Inspector
City of Fargo, ND



Shawn Ouradnik
Inspections Director
City of Fargo, ND

7/25/2022
Date Signed

AFFIDAVIT OF SERVICE

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

Re: Posting of Dangerous Building Notice – 509 21ST ST N., Fargo, ND 58102-4143

Greg Conlin, being first duly sworn and being of legal age, deposes and says that on the 25th day of July 2022, she posted the attached notice upon the front of the house and garage located at the following address:

509 21st St N
Fargo, ND 58102-4143

Greg Conlin

Greg Conlin

Subscribed and sworn to before me this 25th day of July, 2022.



(SEAL)

Jill Page

Notary Public
Cass County, North Dakota

AFFIDAVIT OF SERVICE BY REGULAR MAIL

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

Re: Notice of Dangerous Building

Kristi Stoffel, being first duly sworn and being of legal age, deposes and says that on the 25th day of July 2022, she served the attached notice, upon Sylvia Borud, by placing true and correct copies thereof in an envelope addressed as follows:

SYLVIA BORUD
509 21st ST N.
FARGO, ND 58102-4143

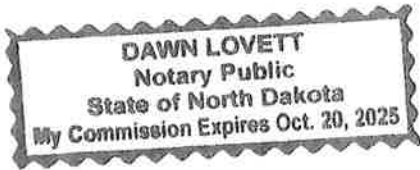
Carrington Mortgage Services LLC
2100 E. 196th St.
Westfield, IN 46074-9240

Ocwen Loan Servicing LLC
1661 Worthington Rd. Ste. 100
West Palm Beach, FL 33409

and deposited the same, with postage prepaid; in the United States mail at Fargo, North Dakota, regular mail.

[Handwritten signature of Kristi Stoffel]
Kristi Stoffel

Subscribed and sworn to before me this 25th day of July 2022.



[Handwritten signature of Dawn Lovett]
Notary Public
Cass County, North Dakota

(SEAL)

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of Dangerous Building– 509 21st St. N., Fargo, ND 58102-4143
(509 21st ST N) CM Receipt#: 9214 8901 9403 8383 9967 01
(2100 E 196th St) CM Receipt#: 9214 8901 9403 8384 0216 93
(1661 Worthington Rd.) CM Receipt#: 9214 8901 9403 8384 0218 84


Kristi Stoffel, being first duly sworn and being of legal age, deposes and says that on the 25th day of July, 2022, she served the attached notice, upon Sylvia Borud by placing true and correct copies thereof in an envelope addressed as follows:

Sylvia Borud
509 21st St. N.
Fargo, ND 58102-4143

Carrington Mortgage Services LLC
2100 E. 196th St.
Westfield, IN 46074-9240

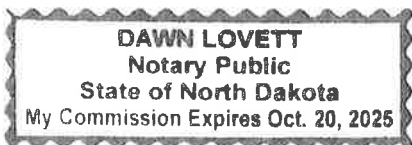
Ocwen Loan Servicing LLC
1661 Worthington Rd. Ste. 100
West Palm Beach, FL 33409

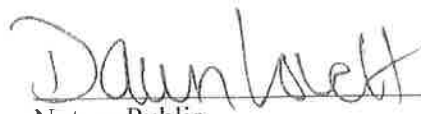
and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.



Kristi Stoffel

Subscribed and sworn to before me this 25th day of July, 2022.





Notary Public
Cass County, North Dakota
(SEAL)

AFFIDAVIT OF SERVICE BY REGULAR MAIL

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

Re: Notice of Dangerous Building

Kristi Stoffel, being first duly sworn and being of legal age, deposes and says that on the 25th day of July 2022, she served the attached notice, upon Sylvia Borud, by placing true and correct copies thereof in an envelope addressed as follows:

SYLVIA BORUD
509 21st ST N.
FARGO, ND 58102-4143

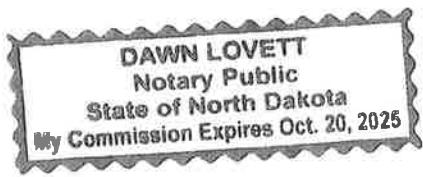
Carrington Mortgage Services LLC
2100 E. 196th St.
Westfield, IN 46074-9240

Ocwen Loan Servicing LLC
1661 Worthington Rd. Ste. 100
West Palm Beach, FL 33409

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, regular mail.

[Handwritten signature of Kristi Stoffel]
Kristi Stoffel

Subscribed and sworn to before me this 25th day of July 2022.



[Handwritten signature of Dawn Lovett]
Notary Public
Cass County, North Dakota

(SEAL)

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of Dangerous Building-- 509 21st St. N., Fargo, ND 58102-4143
(509 21st ST N) CM Receipt#: 9214 8901 9403 8383 9967 01
(2100 E 196th St) CM Receipt#: 9214 8901 9403 8384 0216 93
(1661 Worthington Rd.) CM Receipt#: 9214 8901 9403 8384 0218 84

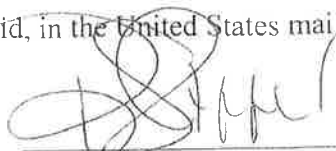
Kristi Stoffel, being first duly sworn and being of legal age, deposes and says that on the 25th day of July, 2022, she served the attached notice, upon Sylvia Borud by placing true and correct copies thereof in an envelope addressed as follows:

Sylvia Borud
509 21st St. N.
Fargo, ND 58102-4143

Carrington Mortgage Services LLC
2100 E. 196th St.
Westfield, IN 46074-9240

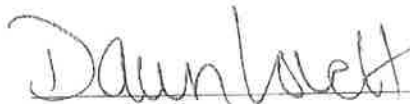
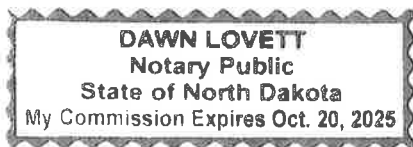
Ocwen Loan Servicing LLC
1661 Worthington Rd. Ste. 100
West Palm Beach, FL 33409

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.



Kristi Stoffel

Subscribed and sworn to before me this 25th day of July, 2022.



Notary Public
Cass County, North Dakota
(SEAL)

Incident Report

Print Date/Time: 10/13/2022 10:56
Login ID: cityoffargo\lgranberg

FARGO POLICE DEPARTMENT
ORI Number: ND0090200

Incident: 2022-00053492

Incident Date/Time: 8/1/2022 9:34:42 AM
Location: 509 21ST ST N
 FARGO ND 58102
Phone Number:
Report Required: No
Prior Hazards: No
LE Case Number:

Incident Type: COP
Venue: FGO
Source: Officer Initiated
Priority: 3
Status: Delayed Report
Nature of Call:

Unit/Personnel

Unit	Personnel
D54	222-Clower

Person(s)

No.	Role	Name	Address	Phone	Race	Sex	DOB
-----	------	------	---------	-------	------	-----	-----

Vehicle(s)

Role	Type	Year	Make	Model	Color	License	State
------	------	------	------	-------	-------	---------	-------

Disposition(s)

Disposition	Count	Date/Time
-------------	-------	-----------

Unit: D54

Disposition	Count	Date/Time
-------------	-------	-----------

AC	1	08/01/2022 09:47
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Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
------	------	------	------	-------	-------------	---------	----------

CAD Narrative

08/01/2022 : 09:34:42 default_nws Narrative: Meeting City of Fargo staff to board up this address.

THORSTEINSON & SONS CONSTRUCTION, LLP

4015 47TH STREET NORTH
 FARGO, ND 58102-6903
 (701) 282-0523 Fax 277-5793

Invoice

DATE	INVOICE #
8/25/2022	19213

BILL TO
Laura Langdahl City Codes Enforcement Inspector

Mastercard, Visa and Discover Accepted	509 21st St N Fargo, ND 58102 abatement
--	---

JOB NUMBER	TERMS
2022-02	Net 10

DATE	#	DESCRIPTION		AMOUNT
8/1/2022	1	NOTE: Hourly labor Rates. Labor rates per Hour include tools, equipment, Insurance, Overhead, Profit & 31% Labor benefits we must pay		
		As per Mike Job Report 6 Hrs @ 70	420	420.00
		11 sheets OSB @ 45 .00 each	495	495.00
		3# T-25 Torx Screws	11	11.00
		1pc plex glass	5	5.00

Thank you!	<i>Madeleine Thorstenson</i>	Total	\$931.00
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Interest charged at the rate of 1.5% per month(18%per annum)on balance of this account not paid in 30 days

Fargo City

JOB NO.

ADDRESS Jobsite 509 21st St. N
Fargo N.D.

SUPERVISOR Mike

1

DAILY JOB REPO.

Monday

DATE Aug 1 '22

WEATHER

TEMPERATURE

AM

PM

EMPLOYEES

EMPLOYEE / CLASSIFICATION	RATE	HRS.	WORK PERFORMED
Mike		2 1/2	9:00 - 11:30
Anthony		2 1/2	
Keith		1	10:30 - 11:30
			Load material at shop
			Drive to site
			Police inspection
			Install OSB over windows / doors

MATERIAL

QTY.	MATERIAL RECEIVED	QTY.	MATERIAL USED
			Drive to shop / unload debris
		11	4x8x 1/4 OSB
		3	lbs forx screws T-25
		1	8" x 12" plexiglass

EQUIPMENT

ON PROJECT	HRS.	RENTED	RATE	HRS.

SUBCONT.

NAME	WORK PERFORMED

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6779



Notice of Dangerous Building Hearing – Order to Show Cause

Date: October 11, 2022

Location: 509 21 St N., Fargo, ND 58102
Property Owner: Sylvia A. Borud
Address of Property Owner: 509 21 St N., Fargo, ND 58102
Inspector: Greg Conlin
Date of Posting: 7/25/22

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 509 21 St N., Fargo, ND has been scheduled for, Monday, October 17, 2022 at 5:00PM. 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 11th day of October, 2022.



Shawn Ouradnik
Inspections Director

CERTIFIED MAIL

USPS CERTIFIED MAIL



-R-T-S- 581024046-1N 009 10/14/22

9214 890

RETURN TO SENDER
UNABLE TO FORWARD
UNABLE TO FORWARD
RETURN TO SENDER

SYLVIA A BOR
509 21ST ST N
FARGO ND 58102

City of Fargo
225 4 St N
Fargo ND 58102

Handwritten signature



35 / 11234 / 43

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6779



Notice of Dangerous Building Hearing – Order to Show Cause

Date: October 27, 2022

Location: 509 21 ST N, FARGO, ND, 58102

Property Owner: SYLVIA A BORUD

Address of Property Owner: 509 21 ST N, FARGO, ND, 58102

Inspector: Gregory Conlin

Date of Posting: October 27, 2022

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 225 4th St. N., Fargo, ND has been scheduled for Monday, October 31, 2022 at 5:15PM. 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 27th day of October, 2022.



Shawn Ouradnik

Inspections Administrator



Fargo Inspections

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



Memorandum

DATE: October 27, 2022
TO: Mayor Mahoney and Board of City Commissioners
FROM: Shawn Ouradnik, Inspections Director
SUBJECT: Dangerous Building Notice and Order at 812 7 St N, Fargo, ND 58102

The property owner of 812 7 St N, 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 31st, 2022.

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 by December 30th, 2022. Please direct the appropriate staff to secure the removal of this building at that time.**

Property Information: Building is currently uninhabitable due to condition.

Location: 812 7th St N

Owner: Brigitte R Von Budde

Description: 1952 square foot two story wood framed structure with attached garage. Structure was built in 1900.

Description of Damage:

- Multiple attempts have been made to contact homeowner about exiting violation without return contact.
- Taxes have not been paid since 2019.
- No water use since 10/16/2020
- Neighbor reports squatter activity and service calls to Fargo PD.
- Items from the exterior of the home have been moved or are missing.
- Both sides and front door are left ajar and unsecured.
- Interior of home viewable from front door shows water damage to interior surfaces and smells of urine.
- Exterior surfaces are weather damaged and show signs of rotting.
- Multiple holes and missing siding on the exterior surfaces of the home allowing harborage and infestation.
- Window casings are damaged and have signs of decay.
- Front porch is rotting, roofline is leaning and sides are pulling away from structure.
- Garage door is damaged and not in track allowing harborage and infestation.
- Gutter system is damaged.
- Fence is damaged.
- Lot is overgrown with volunteer trees and weeds.

TimeLine of Events:

12/10/2021 - Alerted of possible Dangerous Building, exterior inspection done.

12/10/2021 - Notice of violation sent to owner.

12/10/2021 – 9/8/2022

Multiple attempts made to contact owner in nursing home. Process hindered by not being able to contact owner directly, had to use staff of nursing facility to relay information. Staff abruptly left positions without forwarding any contact information, and did not return any calls for questions.

- 9/9/2022 - Inspector noticed building was unsecure from street.
- 9/9/2022 - Notice of Dangerous Building posted and sent.
- 9/13/2022 - Exterior inspection of home.
- 9/15/2022 - PD cleared structure, interior inspection conducted and building was secured by contractor.
- 10/12/2022- Request for Dangerous Building hearing sent to Mayor and Commission.
- 10/26/2022 - Inspector and City Assessor accessed structure to determine cost to cure.
- 10/26/2022- City Assessor determined cost to cure exceeds 50%.
- 10/27/2022 - Notice of Dangerous Building Hearing and Order to Show Cause posted and sent certified mail
- 10/31/2022 - Dangerous Building hearing at commission.

Additional Information: There has been multiple signs of squatter activity. Extended timeline is the result of owner being in nursing home which made sending notices difficult. Worked with staff at nursing home to inform owner of activity at home. Was not able to make contact with someone in nursing home that was able to get information to owner. Staff changes at the nursing home further hindered the process.

To gain access to the structure authorization had to be given to individual that had a key from previously helping the owner when home was occupied. Front door had been left unsecured and rear door and locking mechanisms had damage from someone attempting to kick it in.

Police call history:

**NOTICE OF VIOLATION AND
ORDER OF THE BUILDING OFFICIAL TO
CORRECT A BUILDING CODE VIOLATION**



**225 4th Street North
Fargo ND 58102
701-241-1561**

Brigitte R Von Budde
1040 Lincoln Ave
Detroit Lakes, MN 56501

Friday, December 10, 2021

Filing 21-1009-CBM

ADDRESS OF PROPERTY IN VIOLATION: 812 7 St N

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:

Code Section	Description and Method of Correction	Comply By
IPMC 302.1 Vacant Structures and Land Must Be Maintained Safe and Sanitary	All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition so as not to cause a blighting problem or adversely affect the public health or safety.	1/10/2022
FLDC 11-0804 Harborage for vermin	It shall be unlawful for any person to accumulate on any premises, improved or vacant, or on any open lots and alleys in the city, any lumber, boxes, barrels, bricks, stones, or similar material that may be permitted to remain thereon, unless the same shall be placed on open racks that are elevated not less than 18 inches from the ground and evenly piled or stacked so that these materials will not afford harborage for vermin.	1/10/2022
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.	1/10/2022
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.	1/10/2022
IPMC 505.3 Water Supply	The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices, and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.	1/10/2022

IPMC 308.1 Infestation	All premises shall be kept free from insect and rodent infestation.	1/10/2022
IPMC 304.1 Stairways, Decks and Porches Must Be Maintained	Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.	1/10/2022
IPMC 304.2 Exterior Surfaces Must Be Maintained	All exterior surfaces, namely porches, shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment.	1/10/2022
IPMC 304.6 Exterior Walls Shall Be Maintained	One or more of the exterior walls on this premises, have holes, breaks, loose or rotting materials, or have not been maintained weatherproof or properly surface coated so as to prevent deterioration.	1/10/2022
FMC 18-0301 Ice on Sidewalk	As the owner or occupant of a building or grounds within the city fronting upon or adjoining any street, when a sidewalk exists, you have failed to clear the sidewalk in front of or adjoining such building and grounds or unoccupied lot or building, as the case may be, of snow and ice to the width of such sidewalk on or before nine o'clock p.m.	1/10/2022
IPMC 302.7 Accessory Structures	All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.	1/10/2022
IPMC 304.13.1 Glazing	All glazing materials shall be maintained free from cracks and holes.	1/10/2022
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.	1/10/2022
FMC 13-0903 Junk, Trash and Abandoned Vehicles in Yard	You have stored or permitted the storage or accumulation of rubbish 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.	1/10/2022

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.

You are further notified that the Code provides an appeal procedure. Any person aggrieved by any decision of any order, requirement, decision or determination made by any member of the staff of the city shall have the right to appeal to the board. Application forms for the Board of Appeals are available at the City Hall, 225 4th Street North.

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

Sincerely,

Laura A. Langdahl

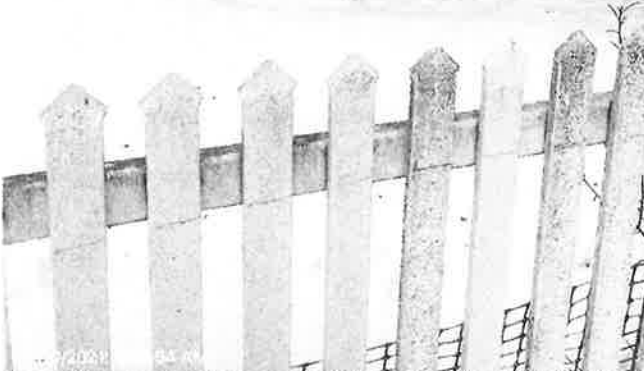
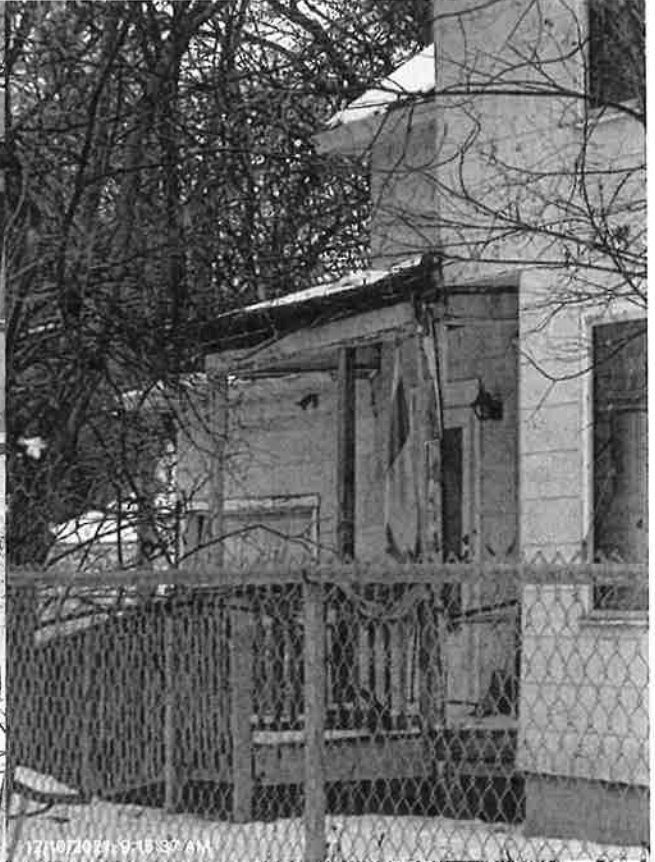
Laura Langdahl

Code Enforcement Inspector









Fargo Inspections

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



NOTICE OF DANGEROUS BUILDING

TO: Brigitte R Von Budde
1040 Lincoln Ave, Detroit Lakes, MN, 56501

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 812 7 St N, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Lot: 6 Block: 13 HARWOODS 2ND S 3' LOT 6 BLK 13 AN D N 47' LOT 5
(hereinafter referred to as "the building")
3. That an inspection was made of the building on the 8th day of September, 2022 by Greg Conlin, Code Enforcement Inspector.
4. That the inspector for the City of Fargo has found the building, consisting of a two-story, wood-framed, single family, 1952 square foot building built in 1900 with attached garage 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 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.


Conditions Found Statement

On the 8th day of September, 2022, Code Enforcement Inspector Greg Conlin, was present at 812 7 St N, Fargo, ND to address a vacant building inspection. The following violations were found:


- Multiple attempts have been made to contact the homeowner about an existing notice of violation without return contact.
- Taxes have been left unpaid since 2019.
- No water use since 10/16/2020.
- Neighbor reports squatter activity and service calls to the Fargo Police Department.
- Items from the exterior of the home have been moved or are missing.
- Both side and front door are left ajar and unsecured.
- Interior of home viewable from front door shows water damage to interior surfaces and smells of urine.
- Exterior surfaces are weather damaged and show signs of rotting.
- Multiple holes and missing siding on the exterior surfaces of the home allowing harborage and infestation.
- Window casings are damaged and have signs of decay.
- Front porch is rotting, roofline is leaning and sides are pulling away from structure.
- Garage door is damaged and not in track allowing harborage and infestation.
- Gutter system is damaged.
- Fence is damaged.
- Lot is overgrown with volunteer trees and weeds.

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.



Greg Conlin
Code Enforcement Inspector
City of Fargo, ND



Shawn Ouradnik
Inspections Director

9/9/2022
Date Signed

City of Fargo
225 4 Street N
Fargo ND 58102

USPS CERTIFIED MAIL

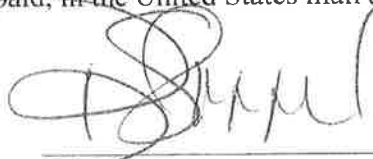


9214 8901 9403 8389 1703 89

BRIGITTE R VON BUDDE
1040 LINCOLN AVE
DETROIT LAKES MN 56501-3508

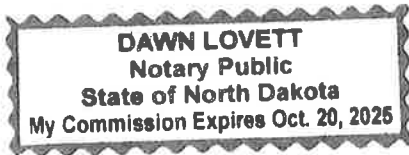
Brigitte K Von Budde
1040 Lincoln Ave.
Detroit Lakes, Mn 56501

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota,
Certified Mail.



Kristi Stoffel

Subscribed and sworn to before me this 9th day of September, 2022.



Notary Public
Cass County, North Dakota

(SEAL)

AFFIDAVIT OF SERVICE

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

Re: Posting of Substandard Building Notice – 812 7 St. N Fargo, ND 58103-2817

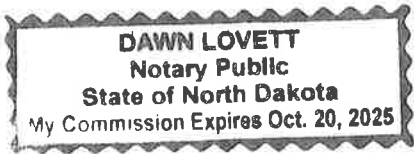
Greg Conlin, being first duly sworn and being of legal age, deposes and says that on the 9th day of September 2022, she posted the attached notice upon the front of both entries to the home and garage located at the following address:

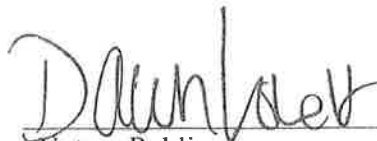
812 7 St N
Fargo, ND 58103



Greg Conlin

Subscribed and sworn to before me this 9th day of September, 2022.





Notary Public
Cass County, North Dakota

(SEAL)



Firm Mailing Book For Accountable Mail

Name and Address of Sender

CITY OF FARGO
225 4 STREET N
FARGO ND 58102

Check type of mail or service

- Adult Signature Required
- Priority Mail Express
- Adult Signature Restricted Delivery
- Registered Mail
- Certified Mail
- Return Receipt for Merchandise
- Certified Mail Restricted Delivery
- Signature Confirmation
- Collect on Delivery (COD)
- Signature Confirmation Restricted Delivery
- Insured Mail
- Priority Mail

USPS Tracking/Article Number

1. 9214 8901 9403 8389 1703 89

BRIGITTE R VON BUDDÉ
1040 LINCOLN AVE
DETROIT LAKES MN 56501-3508

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

Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
0.57	4.00								2.00			

Postmaster, Per (Name of receiving employee)

Total Number of Pieces Listed by Sender: 1

Complete in Ink

Privacy Notice: For more information on USPS privacy policies, visit usps.com/privacypolicy.



ASSESSOR'S OFFICE
Fargo City Hall
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1340 | Fax: 701.241.1339
www.FargoND.gov

MEMORANDUM:

DATE: 10/26/2022
TO: Shawn Ouradnik, Inspections Director
FROM: James Haley, Deputy City Assessor
SUBJECT: 812 7 St N

On 10/26/2022, I viewed the interior and exterior of 812 7 St N.

I calculated the cost to cure the damage indicated by my review and stated requirements of the City of Fargo Inspection Department. My calculations indicate that the cost to cure the deterioration of the subject building exceeds 50% of the most recent certified True & Full Improvement Value of the dwelling and attached garage.

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6779



Notice of Dangerous Building Hearing – Order to Show Cause

Date: October 27, 2022

Location: 812 7 ST N, Fargo, ND, 58102

Property Owner: BRIGITTE R VON BUDDE

Address of Property Owner: 1040 LINCOLN AVE, DETROIT LAKES, MN 56501-3508

Inspector: GREGORY CONLIN

Date of Posting: October 27, 2022

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 225 4th St. N., Fargo, ND has been scheduled for Monday, October 31, 2022 at 5:15PM. 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 27th day of October, 2022.

Shawn Ouradnik

Inspections Administrator



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

Forestry Report

812 7th St N - preserve 1 and 2

1:564

9/28/2022 10:51 AM


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



336

MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: October 24, 2022

SUBJECT: Public Private Partnership for NP Redevelopment Project

Background Information

In February, the City Commission authorized work on a redevelopment plan for the parking lots on NP Avenue between Broadway and 8th Street. The work included preparing a development agreement, work on a financial plan, and work on a Renewal Plan.

A development agreement has been prepared for your consideration. If the development agreement is approved, work on the Renewal Plan and financing plan should proceed.

Legal Authority

The ND Century Code authorizes public private partnerships with private operators.

NDCC section 48-02.1-03. Public authority may enter into development agreement. "A public authority may solicit or accept proposals from private operators for the constructing, improving, rehabilitating, operating, managing, and owning of a fee-based facility that will be situated in an area subject to the public authority's jurisdiction. After a hearing, the public authority may accept a proposal that it determines to be in the public interest. A public authority may negotiate and enter into a development agreement with any private operator." [Emphasis added.] N.D. Cent. Code, § 48-02.1-03.

Summary of Development

There will be four components to this development.

- Fargo Moorhead Community Theater (~420 seat theater, classrooms, and offices)
- City of Fargo Parking Garage (450 to 490 parking spaces)
- Apartments (~145 market rate apartments)
- Herbst Building (redevelopment of a 50,000 sf building on Broadway)

Terms of the Agreement

- Fargo to provide up to \$450,000 for design and other soft costs
- Fargo to pay cost of Parking Garage to be actual cost, not to exceed \$20 million
- Fargo and developer to combine two sites and alley access into single site, no payment to either party.
- Fargo and Developer review and approve a design by May 1, 2023.
- Fargo may opt out of agreement if cost of parking garage exceeds \$20 million, the City is unable to sell \$16 million in bonds at 7% interest or less, or if the Fargo Moorhead Theater decides not to be a part of the project.
- Fargo will reconstruct NP Avenue and 8th Street prior to the end of 2025.
- The Fargo Moorhead Community Theater will purchase space in the development of 25,000 to 30,000 sf for a theater, classrooms, and office space.
- Global Development will have access to 50 undesignated parking spaces in the parking garage at no cost and 15 surface parking spaces south of the garage.
- Global Development incentives will be limited to 5 year renaissance zone program, contingent to qualifying for that program.
- Parking will be free and open to the public after 5:00 pm weekdays and on weekends.
- Apartment/commercial developer incentives will be limited to 5 year renaissance zone program and up to a 5 years of a TIF note, contingent on qualifying for those programs.
- Each apartment will have the option to rent one parking space in the parking garage at the market rate determined by the City of Fargo.
- The development will conform to all City regulations, including zoning, engineering, and building codes.

Financing Plan

- \$4 million of parking funds
- \$16 million bond – to be paid with:
 - Parking income from new parking garage
 - Parking income from existing parking facilities (Civic Ramp, GTC Garage, 4th Street Lot, and 3rd Street Lot)
 - Parking income from an addition to Civic Ramp funding by Riverfront TIF
 - Parking fines of \$200,000 a year
 - Shift of Planning Department staff costs from Parking Fund to General Fund.
 - New Tax Increment Financing District to include development in the project area and sites in the project vicinity that could benefit from the parking in the future.
 - General fund shortfall, primarily in 2024 and 2025.

Baker Tilly reviewed parking income and TIF income estimates and estimated the shortfalls. The letter is attached for your review.

Next Steps in late 2022 and early 2023

If the attached agreement is approved. The following steps would be brought to the City Commission for action.

- Submit a subdivision application to plat the city parking lot and the adjacent parcel owned by Global Development.
- Hire a parking garage consultant as the city representative to review plans for the parking garage and shared spaces.
- Renewal Plan and TIF District approval.
- Renaissance Zone application from Global Development
- Renaissance Zone and TIF application from Kilbourne Group
- Baker Tilly to prepare for bond sale
- Addition to Civic Parking Ramp with Riverfront TIF funds

Recommended Motion

The City of Fargo finds that the NP Redevelopment Project is in the public interest and approves the development agreement with Great Plains NP Holdings, LLC.



October 25, 2022

City of Fargo City Commission
200 3rd St. N.
Fargo, ND, 58102

Re: NP Parking Garage Financing

Introduction

At the City's request, Baker Tilly Municipal Advisors has evaluated financing options for Fargo's proposed \$20 million NP Parking Garage. The scenario that is currently being considered assumes a \$4 million cash investment from the City's parking fund with the remainder of project costs financed with annual appropriation bonds.

The Bonds

For this evaluation, the bonds were assumed to be issued as taxable annual appropriation bonds with an A1 rating. Interest rates are as of 9/27/2022 plus a 0.75% cushion for potential rate increases. The bonds are assumed to be issued 7/1/23 with a first payment on 12/1/23 and a final maturity in 2045.

The City's Director of Strategic Planning and Research provided estimates of revenue (attached) that may be available to pay the debt service on the bonds from the following:

- Existing income from City parking facilities
- Existing TIF revenue identified by the City as ROCO TIF – Roberts, Dillard and Kesler and Mercantile TIF – Mercantile Building and GN Condos
- Revenue from the proposed NP garage
- New TIF revenue from projects identified by City as NP Avenue Apartments, 501 Main Avenue, Herbst , the JBC Site and the Barnick Site
- Parking ticket revenues that currently go the general fund
- A budget amendment that would end a budget allocation whereby the general fund receives \$81,000/year for the administration of the parking fund.

Revenue considerations

- In the event of a revenue shortfall, the City would be required to appropriate funds to avoid default on the bonds. The attached projections currently show a revenue shortfall of \$3.5 million in the years between 2023 and 2030. In the years between 2031 and 2045 the projections show a surplus of \$3.5 million.
- The projections include assumptions about future revenue which are uncertain. Actual revenues could be higher or lower than the estimates provided, and Baker Tilly has not independently verified amounts or availability of revenue included in the projections.
- Some of the revenue estimates may be considered conservative by some given that they do not include an annual growth assumption in parking or TIF Revenue.
- The Director of Strategic Planning and Research has identified \$200,000 of annual payments that are currently being set aside for a \$2,000,000 debt service payment in 2029 as a possible short-term solution to revenue shortfalls. If this revenue, which is not included in this revenue projection, is used for this purpose another source of funds would need to be identified to pay the \$2,000,000 balloon payment in 2029.
- The revenue estimates include an estimated \$6.2 million from parking ticket revenue and budget amendment that would otherwise go to the City's general fund between 2024 and 2045.

Summary

The projected revenues are not sufficient to cover the debt service on the bonds in the years 2023 through 2030. As a result, the City would have to appropriate approximately \$3.5 million between 2023 and 2030 from sources that have not been identified. Additionally, \$6.2 million of revenue is directed away from the general fund over the life of the bonds. In years 2031 to 2045 the bonds are projected to have approximately 1.08x coverage which would provide an aggregate surplus of approximately \$3.5 million if achieved.

City of Fargo, North Dakota
October 25, 2022
Page 3

Respectfully,

A handwritten signature in black ink, appearing to be 'BE', written in a cursive style.

Brad Elmer, Managing Director

Baker Tilly Municipal Advisors

cc: Michael Redlinger, Interim City Administrator
Terri Gayhart, Finance Director
Jim Gilmour, Director of Strategic Planning and Research
Terri Heaton, Baker Tilly Municipal Advisors
Steve Scharff, Baker Tilly Municipal Advisors

\$16,330,000

City of Fargo, North Dakota

Taxable Annual Appropriation Bonds, Series 2023

Parking Garage - Current A1 Rates Plus 75 Bps

Table of Contents

Report	
Sources & Uses	1
NET DEBT SERVICE SCHEDULE	2
Debt Service Schedule	3
Coverage Ratio	4
Aggregate Revenue Payments	5
Disclosure	6

As of 09/27/2022

\$16,330,000

City of Fargo, North Dakota

Taxable Annual Appropriation Bonds, Series 2023

Parking Garage - Current A1 Rates Plus 75 Bps

Sources & Uses

Dated 07/01/2023 | Delivered 07/01/2023

Sources Of Funds

Par Amount of Bonds	\$16,330,000.00
Planned Issuer Equity contribution	4,000,000.00
Total Sources	\$20,330,000.00

Uses Of Funds

Deposit to Project Construction Fund	20,000,000.00
Total Underwriter's Discount (1.200%)	195,960.00
Costs of Issuance	130,000.00
Rounding Amount	4,040.00
Total Uses	\$20,330,000.00

\$16,330,000

City of Fargo, North Dakota

Taxable Annual Appropriation Bonds, Series 2023

Parking Garage - Current A1 Rates Plus 75 Bps

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	Existing D/S	Net New D/S	Revenue	Surpl/(Deficit)
12/01/2023	-	-	463,501.04	463,501.04	1,126,877.00	1,590,378.04	1,246,516.00	(343,862.04)
12/01/2024	-	-	1,112,402.50	1,112,402.50	1,448,449.00	2,560,851.50	1,582,318.00	(978,533.50)
12/01/2025	-	-	1,112,402.50	1,112,402.50	1,451,919.00	2,564,321.50	1,835,318.00	(729,003.50)
12/01/2026	-	-	1,112,402.50	1,112,402.50	1,523,461.50	2,635,864.00	2,307,000.00	(328,864.00)
12/01/2027	-	-	1,112,402.50	1,112,402.50	1,571,466.50	2,683,869.00	2,297,000.00	(386,869.00)
12/01/2028	-	-	1,112,402.50	1,112,402.50	1,737,324.00	2,849,726.50	2,431,000.00	(418,726.50)
12/01/2029	-	-	1,112,402.50	1,112,402.50	1,736,317.50	2,848,720.00	2,598,000.00	(250,720.00)
12/01/2030	-	-	1,112,402.50	1,112,402.50	1,533,932.50	2,646,335.00	2,598,000.00	(48,335.00)
12/01/2031	260,000.00	5.950%	1,112,402.50	1,372,402.50	1,539,758.50	2,912,161.00	3,144,000.00	231,839.00
12/01/2032	350,000.00	6.050%	1,096,932.50	1,446,932.50	1,542,606.00	2,989,538.50	3,228,000.00	238,461.50
12/01/2033	435,000.00	6.250%	1,075,757.50	1,510,757.50	1,542,825.50	3,053,583.00	3,298,000.00	244,417.00
12/01/2034	465,000.00	6.350%	1,048,570.00	1,513,570.00	1,536,626.50	3,050,196.50	3,298,000.00	247,803.50
12/01/2035	490,000.00	6.450%	1,019,042.50	1,509,042.50	1,543,174.00	3,052,216.50	3,298,000.00	245,783.50
12/01/2036	1,050,000.00	6.550%	987,437.50	2,037,437.50	807,908.50	2,845,346.00	3,073,000.00	227,654.00
12/01/2037	1,120,000.00	6.650%	918,662.50	2,038,662.50	807,625.00	2,846,287.50	3,073,000.00	226,712.50
12/01/2038	1,195,000.00	6.750%	844,182.50	2,039,182.50	806,623.50	2,845,806.00	3,073,000.00	227,194.00
12/01/2039	1,275,000.00	6.800%	763,520.00	2,038,520.00	804,904.00	2,843,424.00	3,073,000.00	229,576.00
12/01/2040	1,360,000.00	6.850%	676,820.00	2,036,820.00	807,466.50	2,844,286.50	3,073,000.00	228,713.50
12/01/2041	1,450,000.00	6.900%	583,660.00	2,033,660.00	809,131.50	2,842,791.50	3,073,000.00	230,208.50
12/01/2042	1,550,000.00	6.950%	483,610.00	2,033,610.00	809,224.00	2,842,834.00	3,073,000.00	230,166.00
12/01/2043	1,660,000.00	7.000%	375,885.00	2,035,885.00	808,394.00	2,844,279.00	3,073,000.00	228,721.00
12/01/2044	1,770,000.00	7.050%	259,685.00	2,029,685.00	811,641.50	2,841,326.50	3,073,000.00	231,673.50
12/01/2045	1,900,000.00	7.100%	134,900.00	2,034,900.00	808,782.00	2,843,682.00	3,073,000.00	229,318.00
Total	\$16,330,000.00	-	\$19,631,386.04	\$35,961,386.04	\$27,916,438.00	\$63,877,824.04	\$63,891,152.00	\$13,327.96

SIGNIFICANT DATES

Dated	7/01/2023
Delivery Date	7/01/2023
First Coupon Date	12/01/2023

Yield Statistics

Bond Year Dollars	\$285,874.17
Average Life	17.506 Years
Average Coupon	6.8671424%

Net Interest Cost (NIC)	6.9356900%
True Interest Cost (TIC)	6.9669994%
Bond Yield for Arbitrage Purposes	6.8458070%
All Inclusive Cost (AIC)	7.0485733%

Net Interest Cost in Dollars	19,631,386.04
Weighted Average Maturity	17.506 Years

2023 Tax AA Bonds (Parkin | SINGLE PURPOSE | 9/27/2022 | 6:03 PM

\$16,330,000
City of Fargo, North Dakota
Taxable Annual Appropriation Bonds, Series 2023
Parking Garage - Current A1 Rates Plus 75 Bps

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
07/01/2023	-	-	-	-	-
12/01/2023	-	-	463,501.04	463,501.04	463,501.04
06/01/2024	-	-	556,201.25	556,201.25	-
12/01/2024	-	-	556,201.25	556,201.25	1,112,402.50
06/01/2025	-	-	556,201.25	556,201.25	-
12/01/2025	-	-	556,201.25	556,201.25	1,112,402.50
06/01/2026	-	-	556,201.25	556,201.25	-
12/01/2026	-	-	556,201.25	556,201.25	1,112,402.50
06/01/2027	-	-	556,201.25	556,201.25	-
12/01/2027	-	-	556,201.25	556,201.25	1,112,402.50
06/01/2028	-	-	556,201.25	556,201.25	-
12/01/2028	-	-	556,201.25	556,201.25	1,112,402.50
06/01/2029	-	-	556,201.25	556,201.25	-
12/01/2029	-	-	556,201.25	556,201.25	1,112,402.50
06/01/2030	-	-	556,201.25	556,201.25	-
12/01/2030	-	-	556,201.25	556,201.25	1,112,402.50
06/01/2031	-	-	556,201.25	556,201.25	-
12/01/2031	260,000.00	5.950%	556,201.25	816,201.25	1,372,402.50
06/01/2032	-	-	548,466.25	548,466.25	-
12/01/2032	350,000.00	6.050%	548,466.25	898,466.25	1,446,932.50
06/01/2033	-	-	537,878.75	537,878.75	-
12/01/2033	435,000.00	6.250%	537,878.75	972,878.75	1,510,757.50
06/01/2034	-	-	524,285.00	524,285.00	-
12/01/2034	465,000.00	6.350%	524,285.00	989,285.00	1,513,570.00
06/01/2035	-	-	509,521.25	509,521.25	-
12/01/2035	490,000.00	6.450%	509,521.25	999,521.25	1,509,042.50
06/01/2036	-	-	493,718.75	493,718.75	-
12/01/2036	1,050,000.00	6.550%	493,718.75	1,543,718.75	2,037,437.50
06/01/2037	-	-	459,331.25	459,331.25	-
12/01/2037	1,120,000.00	6.650%	459,331.25	1,579,331.25	2,038,662.50
06/01/2038	-	-	422,091.25	422,091.25	-
12/01/2038	1,195,000.00	6.750%	422,091.25	1,617,091.25	2,039,182.50
06/01/2039	-	-	381,760.00	381,760.00	-
12/01/2039	1,275,000.00	6.800%	381,760.00	1,656,760.00	2,038,520.00
06/01/2040	-	-	338,410.00	338,410.00	-
12/01/2040	1,360,000.00	6.850%	338,410.00	1,698,410.00	2,036,820.00
06/01/2041	-	-	291,830.00	291,830.00	-
12/01/2041	1,450,000.00	6.900%	291,830.00	1,741,830.00	2,033,660.00
06/01/2042	-	-	241,805.00	241,805.00	-
12/01/2042	1,550,000.00	6.950%	241,805.00	1,791,805.00	2,033,610.00
06/01/2043	-	-	187,942.50	187,942.50	-
12/01/2043	1,660,000.00	7.000%	187,942.50	1,847,942.50	2,035,885.00
06/01/2044	-	-	129,842.50	129,842.50	-
12/01/2044	1,770,000.00	7.050%	129,842.50	1,899,842.50	2,029,685.00
06/01/2045	-	-	67,450.00	67,450.00	-
12/01/2045	1,900,000.00	7.100%	67,450.00	1,967,450.00	2,034,900.00
Total	\$16,330,000.00	-	\$19,631,386.04	\$35,961,386.04	-

Yield Statistics

Bond Year Dollars	\$285,874.17
Average Life	17.506 Years
Average Coupon	6.8671424%
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IRS Form 8038

Net Interest Cost	6.8671424%
Weighted Average Maturity	17.506 Years

2023 Tax AA Bonds (Parkin) | SINGLE PURPOSE | 9/27/2022 | 6:03 PM

\$16,330,000**City of Fargo, North Dakota****Taxable Annual Appropriation Bonds, Series 2023****Parking Garage - Current A1 Rates Plus 75 Bps****Coverage Ratio**

Date	Total Revenues	Total D/S	Coverage
12/01/2023	1,246,516.00	1,590,378.04	0.7837860x
12/01/2024	1,582,318.00	2,560,851.50	0.6178874x
12/01/2025	1,835,318.00	2,564,321.50	0.7157129x
12/01/2026	2,307,000.00	2,635,864.00	0.8752348x
12/01/2027	2,297,000.00	2,683,869.00	0.8558540x
12/01/2028	2,431,000.00	2,849,726.50	0.8530643x
12/01/2029	2,598,000.00	2,848,720.00	0.9119885x
12/01/2030	2,598,000.00	2,646,335.00	0.9817351x
12/01/2031	3,144,000.00	2,912,161.00	1.0796106x
12/01/2032	3,228,000.00	2,989,538.50	1.0797653x
12/01/2033	3,298,000.00	3,053,583.00	1.0800427x
12/01/2034	3,298,000.00	3,050,196.50	1.0812418x
12/01/2035	3,298,000.00	3,052,216.50	1.0805262x
12/01/2036	3,073,000.00	2,845,346.00	1.0800093x
12/01/2037	3,073,000.00	2,846,287.50	1.0796520x
12/01/2038	3,073,000.00	2,845,806.00	1.0798347x
12/01/2039	3,073,000.00	2,843,424.00	1.0807393x
12/01/2040	3,073,000.00	2,844,286.50	1.0804116x
12/01/2041	3,073,000.00	2,842,791.50	1.0809797x
12/01/2042	3,073,000.00	2,842,834.00	1.0809636x
12/01/2043	3,073,000.00	2,844,279.00	1.0804144x
12/01/2044	3,073,000.00	2,841,326.50	1.0815371x
12/01/2045	3,073,000.00	2,843,682.00	1.0806412x
Total	\$63,891,152.00	\$63,877,824.04	-

\$16,330,000**City of Fargo, North Dakota**

Taxable Annual Appropriation Bonds, Series 2023

Parking Garage - Current A1 Rates Plus 75 Bps

Aggregate Revenue Payments

DATE	Income from City Facilities	TIF Income	Income from NP Garage	Add'l TIF Income	Parking Ticket Revenue	Budget Amendments	TOTAL
12/01/2023	1,150,000.00	96,516.00	-	-	-	-	1,246,516.00
12/01/2024	1,150,000.00	151,318.00	-	-	200,000.00	81,000.00	1,582,318.00
12/01/2025	1,150,000.00	151,318.00	100,000.00	153,000.00	200,000.00	81,000.00	1,835,318.00
12/01/2026	1,300,000.00	386,000.00	300,000.00	40,000.00	200,000.00	81,000.00	2,307,000.00
12/01/2027	1,300,000.00	386,000.00	300,000.00	30,000.00	200,000.00	81,000.00	2,297,000.00
12/01/2028	1,300,000.00	550,000.00	300,000.00	-	200,000.00	81,000.00	2,431,000.00
12/01/2029	1,300,000.00	717,000.00	300,000.00	-	200,000.00	81,000.00	2,598,000.00
12/01/2030	1,300,000.00	717,000.00	300,000.00	-	200,000.00	81,000.00	2,598,000.00
12/01/2031	1,300,000.00	717,000.00	300,000.00	546,000.00	200,000.00	81,000.00	3,144,000.00
12/01/2032	1,300,000.00	717,000.00	300,000.00	630,000.00	200,000.00	81,000.00	3,228,000.00
12/01/2033	1,300,000.00	717,000.00	300,000.00	700,000.00	200,000.00	81,000.00	3,298,000.00
12/01/2034	1,300,000.00	717,000.00	300,000.00	700,000.00	200,000.00	81,000.00	3,298,000.00
12/01/2035	1,300,000.00	717,000.00	300,000.00	700,000.00	200,000.00	81,000.00	3,298,000.00
12/01/2036	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
12/01/2037	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
12/01/2038	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
12/01/2039	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
12/01/2040	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
12/01/2041	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
12/01/2042	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
12/01/2043	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
12/01/2044	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
12/01/2045	1,300,000.00	212,000.00	300,000.00	980,000.00	200,000.00	81,000.00	3,073,000.00
Total	\$29,450,000.00	\$8,860,152.00	\$6,100,000.00	\$13,299,000.00	\$4,400,000.00	\$1,782,000.00	\$63,891,152.00

\$16,330,000

City of Fargo, North Dakota

Taxable Annual Appropriation Bonds, Series 2023

Parking Garage - Current A1 Rates Plus 75 Bps

Disclosure

Baker Tilly Municipal Advisors, LLC is a registered municipal advisor and wholly-owned subsidiary of Baker Tilly US, LLP, an accounting firm. Baker Tilly US, LLP trading as Baker Tilly is a member of the global network of Baker Tilly International Ltd., the members of which are separate and independent legal entities. Copyright 2022 Baker Tilly Municipal Advisors, LLC

	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036-2045
Net Income - Operations														
Income from City Facilities	\$ 1,150,000.00	\$ 1,150,000.00	\$ 1,150,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00
TOTAL NET INCOME	\$ 1,150,000.00	\$ 1,150,000.00	\$ 1,150,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 1,300,000.00
TIF Income														
ROCO TIF - Roberts	\$ 1,181.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00
ROCO TIF - Dillard	\$ 1,335.00	\$ 1,318.00	\$ 1,318.00	\$ 236,000.00	\$ 236,000.00	\$ 236,000.00	\$ 236,000.00	\$ 236,000.00	\$ 236,000.00	\$ 236,000.00	\$ 236,000.00	\$ 236,000.00	\$ 236,000.00	\$ 236,000.00
ROCO TIF - Kesler	\$ 80,000.00	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ
Mercantile TIF - Mercantile Bldg.	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ
Mercantile TIF - GN Condos	\$ 34,000.00	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ	RZ
TOTAL TIF INCOME	\$ 96,516.00	\$ 151,318.00	\$ 151,318.00	\$ 386,000.00	\$ 386,000.00	\$ 386,000.00	\$ 717,000.00	\$ 717,000.00	\$ 717,000.00	\$ 717,000.00	\$ 717,000.00	\$ 717,000.00	\$ 717,000.00	\$ 717,000.00
TOTAL INCOME	\$ 1,246,516.00	\$ 1,301,318.00	\$ 1,301,318.00	\$ 1,686,000.00	\$ 1,686,000.00	\$ 1,686,000.00	\$ 2,017,000.00	\$ 2,017,000.00	\$ 2,017,000.00	\$ 2,017,000.00	\$ 2,017,000.00	\$ 2,017,000.00	\$ 2,017,000.00	\$ 2,017,000.00
Debt Payments														
Roberts Ramp	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)	\$ (734,000.00)
Mercantile Ramp debt	\$ (512,034.00)	\$ (514,209.00)	\$ (516,154.00)	\$ (587,845.50)	\$ (637,491.50)	\$ (800,469.00)	\$ (803,332.00)	\$ (800,327.50)	\$ (801,803.50)	\$ (806,176.00)	\$ (804,890.50)	\$ (803,111.50)	\$ (805,839.00)	\$ (807,908.50)
RZ Fund Debt	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)	\$ (200,000.00)
DEBT PAYMENTS	\$ (1,446,034.00)	\$ (1,448,209.00)	\$ (1,450,154.00)	\$ (1,521,846.50)	\$ (1,571,491.50)	\$ (1,734,469.00)	\$ (1,737,332.00)	\$ (1,534,327.50)	\$ (1,535,803.50)	\$ (1,540,176.00)	\$ (1,538,890.50)	\$ (1,537,111.50)	\$ (1,539,839.00)	\$ (1,539,839.00)
Net Income	\$ (199,518.00)	\$ (146,891.00)	\$ (148,836.00)	\$ 164,153.50	\$ 114,508.50	\$ 115,531.00	\$ 279,668.00	\$ 482,672.50	\$ 481,196.50	\$ 476,824.00	\$ 478,109.50	\$ 479,888.50	\$ 477,161.00	\$ 704,091.50

	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036-2045
Net Income - Operations														
Income from NP Garage	\$ -	\$ -	\$ 100,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00
OPERATING INCOME	\$ -	\$ -	\$ 100,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00
TIF Income														
NP Avenue Apartments	Pre-Project	Construction	\$ 75,000.00	RZ	RZ	RZ	RZ	RZ	TIF	TIF	TIF	TIF	TIF	\$ 280,000.00
Herbst	Pre-Project	Construction	\$ 28,000.00	RZ	RZ	RZ	RZ	RZ	\$ 56,000.00	\$ 56,000.00	\$ 56,000.00	\$ 56,000.00	\$ 56,000.00	\$ 56,000.00
501 Main Avenue	Pre-Project	Construction	\$ 50,000.00	RZ	RZ	RZ	RZ	RZ	\$ 210,000.00	\$ 210,000.00	\$ 210,000.00	\$ 210,000.00	\$ 210,000.00	\$ 210,000.00
Red Bank Retioides	Pre-Project	Construction	\$ 40,000.00	Remodel	Remodel	Remodel	Remodel	Remodel	\$ 280,000.00	\$ 280,000.00	\$ 280,000.00	\$ 280,000.00	\$ 280,000.00	\$ 280,000.00
JBC Site - 52 Broadway	NA	Construction	\$ 153,000.00	Construction	\$ 30,000.00	RZ	RZ	RZ	\$ 84,000.00	\$ 84,000.00	\$ 84,000.00	\$ 84,000.00	\$ 84,000.00	\$ 84,000.00
Barnick Site	NA	NA	\$ -	Construction	\$ 40,000.00	RZ	RZ	RZ	\$ 70,000.00	\$ 70,000.00	\$ 70,000.00	\$ 70,000.00	\$ 70,000.00	\$ 70,000.00
			\$ -		\$ 30,000.00				\$ 630,000.00	\$ 700,000.00	\$ 700,000.00	\$ 700,000.00	\$ 700,000.00	\$ 980,000.00
			\$ -		\$ -				\$ 546,000.00	\$ 630,000.00	\$ 700,000.00	\$ 700,000.00	\$ 700,000.00	\$ 980,000.00
			\$ -		\$ -				\$ 846,000.00	\$ 930,000.00	\$ 1,000,000.00	\$ 1,000,000.00	\$ 1,000,000.00	\$ 1,280,000.00
SUB-TOTAL INCOME	\$ -	\$ -	\$ 253,000.00	\$ 340,000.00	\$ 330,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 846,000.00	\$ 930,000.00	\$ 1,000,000.00	\$ 1,000,000.00	\$ 1,000,000.00	\$ 1,280,000.00
Add Parking Ticket Revenue	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00
Budget Amendments	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00	\$ 81,000.00
ADDITIONAL INCOME	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00	\$ 281,000.00
TOTAL ADDITIONAL INCOME	\$ 281,000.00	\$ 281,000.00	\$ 654,000.00	\$ 921,000.00	\$ 911,000.00	\$ 881,000.00	\$ 881,000.00	\$ 881,000.00	\$ 1,427,000.00	\$ 1,511,000.00	\$ 1,581,000.00	\$ 1,581,000.00	\$ 1,581,000.00	\$ 1,861,000.00

DEVELOPMENT AGREEMENT
BY AND BETWEEN
CITY OF FARGO, NORTH DAKOTA
AND
GREAT PLAINS NP HOLDINGS, LLC
DATED AS OF OCTOBER 31, 2022

TABLE OF CONTENTS

ARTICLE 1 DEFINITIONS.....1
 Section 1.1 Defined Terms1
 Section 1.2 Construction of Terms6

ARTICLE 2 PROJECT.....7
 Section 2.1 Project7
 Section 2.2 Project Representatives.....7
 Section 2.3 City Process7

ARTICLE 3 CITY PARCEL INITIAL TRANSFER.....8
 Section 3.1 City Parcel.....8
 Section 3.2 Title and Survey8
 Section 3.3 City Parcel Closing Documents8
 Section 3.4 Closing Costs and Prorations9
 Section 3.5 As Is10

ARTICLE 4 GARAGE CONSTRUCTION AND OPERATION.....10
 Section 4.1 Garage Construction10
 Section 4.2 Garage Operations/Temporary Use of a Portion14
 Section 4.3 Application of Other Law14

ARTICLE 5 CONDOMINIUM.....14
 Section 5.1 Creation of Condominium and Parking14
 Section 5.2 City and County Process15

ARTICLE 6 PURCHASE AND SALE OF GARAGE15
 Section 6.1 Sale and Purchase15
 Section 6.2 Title and Survey16
 Section 6.3 Garage Closing Documents16
 Section 6.4 Garage Closing Costs and Prorations17

ARTICLE 7 ADDITIONAL PROJECT FEATURES.....18
 Section 7.1.....18

ARTICLE 8 MIXED-USE CONSTRUCTION.....19
 Section 8.1 In General.....19
 Section 8.2 Interference19
 Section 8.3 Renaissance Program.....19
 Section 8.4 Tax Increment Financing19
 Section 8.5 Public Infrastructure.....20

ARTICLE 9 SCHEDULE.....20
 Section 9.1 Master Project Schedule20
 Section 9.2 Progress Notifications.....20

ARTICLE 10 CONTINGENCIES.....21
 Section 10.1 City Contingencies.....21
 Section 10.2 Unsatisfied Contingencies22
 Section 10.3 Developer Contingencies22
 Section 10.4 Soft Costs.....23

ARTICLE 11 REPRESENTATIONS AND WARRANTIES OF THE CITY23
 Section 11.1 Organization.....23
 Section 11.2 Authorization, Validity, and Enforceability.....23
 Section 11.3 No Conflicts.....23
 Section 11.4 No Violation of Laws.....23

ARTICLE 12 REPRESENTATIONS AND WARRANTIES OF DEVELOPER.....24
 Section 12.1 Organization.....24
 Section 12.2 Authorization, Validity, and Enforceability.....24
 Section 12.3 No Conflicts.....24
 Section 12.4 No Violations of Laws24
 Section 12.5 Litigation.....24

ARTICLE 13 DEFAULT AND REMEDIES.....25
 Section 13.1 Events of Default25
 Section 13.2 Remedies Upon Event of Default26
 Section 13.3 Injunctive Relief; Specific Performance26
 Section 13.4 Remedies Cumulative; Limitation on Remedies; Waiver26
 Section 13.5 Risk of Certain Losses; Force Majeure.....27
 Section 13.6 Limited Recourse Obligations; members and Officers Not Liable27

ARTICLE 14 MISCELLANEOUS27
 Section 14.1 Certificate of Completion27
 Section 14.2 hazardous Materials28
 Section 14.3 Insurance28
 Section 14.4 Survival of Covenants, Agreements, Representations, and Warranties.....29
 Section 14.5 Additional Documents and Approval29
 Section 14.6 Good Faith30
 Section 14.7 Assignment; Property Transfers30
 Section 14.8 Notice of Matters30
 Section 14.9 Form of Notices; Addresses.....31
 Section 14.10 Calculation of Time31
 Section 14.11 Time is of the Essence32
 Section 14.12 Incorporation by Reference.....32
 Section 14.13 Entire Agreement.....32
 Section 14.14 Amendment.....32
 Section 14.15 Binding Effect.....32
 Section 14.16 Headings32
 Section 14.17 No Presumption Against Drafter32

Section 14.18 Severability32
Section 14.19 Third Party Beneficiaries33
Section 14.20 Governing Law; Venue33
Section 14.21 Counterparts33
Section 14.22 Relationship of Parties33
Section 14.23 Approval by Parties33
Section 14.24 Run with the Land33

EXHIBITS

EXHIBIT A Legal Description of Portion of Project Parcel Owned by City
EXHIBIT B Legal Description of Portion of Project Parcel Owned by Global
EXHIBIT C Master Project Schedule
EXHIBIT D Assignment of Construction Contracts, Plans and Related Agreements
EXHIBIT E GPC Summary Template
EXHIBIT F Parking Agreement
EXHIBIT G Guaranty
EXHIBIT H Project Summary
EXHIBIT I Mortgage
EXHIBIT J Form of Certificate of Completion
EXHIBIT K Disbursing Agreement

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “Agreement”) is made as of the 31st day of October, 2022 (the “Effective Date”), by and among the City of Fargo, a North Dakota municipal corporation (the “City”) and Great Plains NP Holdings, LLC, a North Dakota limited liability company (“Developer”).

RECITALS:

WHEREAS, Developer approached the City with a proposal to develop the Project Parcel as mixed-use project that will include a parking garage, multi-family housing and commercial space;

WHEREAS, the proposal includes the construction and operation of a parking garage (the “Garage”) as a fee-based facility pursuant to the Infrastructure Development Act, which parking garage and other general features of the NP Avenue Project are described and depicted on the Project Summary.

WHEREAS, Developer constitutes a “private operator” under the Infrastructure Development Act.

WHEREAS, upon completion of the Garage, Developer has agreed to transfer ownership of the Garage to the City and to operate the Garage as more particularly described in this Agreement;

WHEREAS, the City has agreed to provide certain funding for the Garage, subject to the terms of this Agreement;

WHEREAS, this Agreement is executed to provide for the planning, design, financing, acquisition, development, and construction of the NP Avenue Project.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into this Agreement, and the mutual promises, undertakings and covenants hereinafter set forth, and intending to be legally bound hereby, the City and Developer covenant and agree as follows:

**ARTICLE 1
DEFINITIONS**

Section 1.1 Defined Terms

In addition to other terms defined herein, the following terms used in this Agreement shall have the meaning set forth below:

“Agreement” shall mean this Development Agreement by and among the City and Developer, as the same may be amended, modified or supplemented from time to time.

“Assignment of Construction Contracts” shall mean an Assignment of Construction Contracts, Plans and Related Agreements by and among the City and Developer in the form attached hereto as Exhibit D.

“Business Day” shall mean any day other than a Saturday, Sunday or other day on which banks are required or authorized to close in Fargo, North Dakota.

“Certificate of Completion” means a certificate in substantially the form of Exhibit J attached hereto.

“Change Order” means a written change order executed by both the City and Developer which must state agreement upon all of the following: (i) the change in the Garage Work; (ii) the amount of the adjustment to the Guaranteed Project Cost, if any; and (iii) the adjustment in the Master Project Schedule, if any.

“City” shall mean the City of Fargo, a North Dakota municipal corporation.

“City Representative” shall mean Jim Gilmour, his designee, or any successor to the foregoing Person designated by the City by written notice to Developer.

“City Contingency” shall mean the sum of \$100,000.00, and available when and for the purposes set out in this Agreement.

“Claim” shall mean any claim, demand or dispute between or among the Parties relating to this Agreement or the Project.

“Commitment” shall have the meaning assigned to such term in Section 6.2(a) below.

“Condominium Documents” shall have the meaning assigned to such term in Section 5.1 below.

“Construction Contract” shall have the meaning assigned to such term in Section 4.1(f)(i) below.

“Construction Manager” shall mean Kilbourne Construction Management, LLC, a North Dakota limited liability company.

“Contamination” shall mean the presence or release or threat of release of Regulated Substances in, on, under or emanating to or from the Project Parcel, which pursuant to Environmental Laws requires notification or reporting to any Governmental Authority, or which pursuant to Environmental Laws requires the identification, investigation, cleanup, removal, remediation, containment, control, abatement, monitoring of or other Response Action to such Regulated Substances, or which otherwise constitutes a violation of Environmental Laws.

“City Contingencies Deadline” shall have the meaning set forth in Section 10.1 hereof.

“County” shall mean Cass County, North Dakota.

“Day” or “days” shall have the meaning set forth in Section 14.10 hereof.

“Defaulting Party” shall have the meaning set forth in Section 13.1 hereof.

“Developer” shall mean Great Plains NP Holdings, LLC, a North Dakota limited liability company.

“Developer Step I Contingencies Deadline” and “Developer Step II Contingencies Deadline” shall have the meanings set forth in Section 10.3 hereof.

“Developer Fee” shall mean a sum of money equal to 3% of the sum of Sub-Total Hard and Soft Costs (as such items are identified and categorized in the GPC Summary, and tentatively shown on attached Exhibit E) within the Guaranteed Project Cost or Final Total Project Cost, as the case may be.

“Developer Representative” shall mean Mike Allmendinger, his/her designee, or any successor to the foregoing Person designated by Developer by written notice to the City.

“Disbursing Agreement” shall mean that Disbursing Agreement by and between the City, Developer and the Title Company in substantially the form attached hereto as Exhibit K.

“Environmental Laws” shall mean all Laws, including any consent decrees, settlement agreements, judgments, or orders, issued by or entered into with a Governmental Authority pertaining or relating to: (a) pollution or pollution control; (b) protection of human health or the environment; (c) the presence, use, management, generation, processing, treatment, recycling, transport, storage, collection, disposal or release or threat of release of Regulated Substances; (d) the presence of Contamination; or (e) the protection of endangered or threatened species.

“Event of Default” shall have the meaning set forth in Section 13.1 hereof.

“Final Total Project Cost” is the actual, total project costs incurred or earned by Developer in completing Garage Work.

“Force Majeure” shall mean acts of God, accidents, fire or other casualty, earthquake, hurricane, tornadoes, named storms, flood, war, riot, intervention by civil or military authorities of government, insurrection or other civil commotion, governmental action (excluding any governmental action or inaction with respect to the grant or withholding of any governmental approvals or permits needed for construction, commissioning, or other matters affecting this Agreement), material shortages, strikes, boycotts, lockouts or labor disputes, any other similar or like event or occurrence, or any other event or occurrence beyond the reasonable control of a Party hereto, that causes such Party to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder. Unavailability of funds, alone, shall not constitute Force Majeure.

“Garage” shall have the meaning assigned to such term in the second WHEREAS clause set forth above.

“Garage Closing” shall have the meaning assigned to such term in Section 6.1(b) below.

“Garage Plans” shall mean those certain construction ready documents for the Garage Work to be prepared by ESG Architecture & Design, Inc.

“Garage Unit” shall have the meaning set forth in Section 5.1 hereof.

“Garage Work” shall have the meaning assigned to such term in Section 4.1(a).

“Guaranteed Project Cost” is the sum of \$19,900,000.00, which, excluding Change Orders and City’s Contingency, is the estimated total cost to complete the Garage Work. If the GPC Summary reflects a Total Project Cost less than such sum, then the Guaranteed Project Cost for all purposes of this Agreement thereafter shall be a sum equal to the Total Project Costs shown in the GPC Summary.

“Governmental Authority” shall mean any federal, state, county, city, local or other government or political subdivision or any agency, authority, board, bureau, commission, department or instrumentality thereof having jurisdiction over the portion or characteristic of the Project being referenced.

“GPC Confirmation” shall mean the signed Construction Contract representing the full scope of the Garage Work, and the GPC Summary, both evidencing an aggregate guaranteed maximum cost for the Garage Work at a sum at or below the Guaranteed Project Cost.

“GPC Summary” shall mean a completed form identifying and quantifying various Guaranteed Project Cost component parts in substantially the form attached hereto as Exhibit E.

“Guarantor” shall mean Great Plains Opportunity Zone Fund II, LLC, a Delaware limited liability company, or such other person or entity reasonably acceptable to City.

“Guaranty” shall mean that certain Guaranty in the form attached hereto as Exhibit G executed by Guarantor in favor of City.

“Infrastructure Development Act” shall mean North Dakota Century Code Chapter 48-02.1, as amended.

“Law” or “Laws” shall mean any law, statute, code, ordinance, rule, regulation or constitutional or charter provision, duly enacted or adopted by any Governmental Authority.

“Legal Requirements” shall mean present and future Laws (including Environmental Laws) applicable to the design, development, construction, equipping, use, occupancy, possession, operation, maintenance and management of the Project.

“Master Project Schedule” shall mean the schedule attached hereto as Exhibit C and updated in accordance with this Agreement.

“Mortgage” shall mean that certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing Statement granted by Developer in favor of the City, in the form attached hereto as Exhibit I, encumbering the Garage.

“Non-defaulting Party” shall have the meaning set forth in Section 13.1(a) hereof.

“NP Avenue Project” shall have the meaning given to such term in Section 2.1(b) below.

“Parking Agreement” shall have the meaning set forth in Section 4.2 hereof.

“Party” or “Parties” shall mean one (1) or more of the City or Developer.

“Permits” shall mean any permit, license or approval to be issued by any Person, including Required Environmental Permits, required for demolition, construction, installation, alteration or repair of any improvements related in any manner to the Project.

“Person” shall mean any natural person, sole proprietorship, corporation, partnership, trust, limited liability company, limited liability association, unincorporated association, joint venture, joint-stock company, Governmental Authority, or any other entity.

“Pre-Approved Title Matters” shall have the meaning assigned to such term in Section 6.2 below.

“Primary Subcontract” shall have the meaning set forth in Section 4.1(f) hereof.

“Project” shall mean, collectively, the NP Avenue Project, and all activities relating to the planning, acquisition, design, financing, development, and construction thereof.

“Project Agreements” shall mean the Parking Agreement, the Mortgage, the Disbursing Agreement, Assignment of Construction Contracts, and the Guaranty, as the same may be amended from time to time.

“Project Parcel” shall mean the real estate upon which the Garage and the Wrap shall be constructed and more-specifically described on attached Exhibit A and Exhibit B.

“Project Summary” shall mean the broad, general description and depiction of the NP Avenue Project attached hereto as Exhibit H.

“Regulated Substances” shall mean any substance, material or waste, regardless of its form or nature, defined under Environmental Laws as a “hazardous substance,” “hazardous waste,” “toxic substance,” “extremely hazardous substance,” “toxic chemical,” “toxic waste,” “solid waste,” “industrial waste,” “residual waste,” “municipal waste,” “special handling waste,” “mixed waste,” “infectious waste,” “chemotherapeutic waste,” “medical waste,” “regulated

substance,” “pollutant” or “contaminant” or any other substance, material or waste, regardless of its form or nature that otherwise is regulated by Environmental Laws.

“Representative” or “Representatives” shall mean one (1) or more of the City Representative or the Developer Representative.

“Required Environmental Permits” shall mean Permits, licenses, bonds, consents, programs, approvals or authorizations required under Environmental Laws for the construction of the Project.

“Response Action” shall mean the investigation, cleanup, removal, remediation, containment, control, abatement, monitoring of or any other response action to the presence of Regulated Substances or Contamination in, on, at, under or emanating from the Project Parcel, including the correction or abatement of any violation required pursuant to Environmental Laws, Required Environmental Permits or by a Governmental Authority.

“State” shall mean the State of North Dakota.

“Statement of Costs” shall have the meaning set forth in Section 4.1(l) hereof.

“Soils Work” shall have the meaning set forth in Section 4.1(d) hereof.

“Survey” shall have the meaning given to such term in Section 6.2(b) below.

“Title Company” shall mean The Title Company, which will be the title company and disbursing agent in connection with the Project.

“Wrap” shall have the meaning given to such term in Section 2.1(b)(ii) below.

“Wrap Plans” shall have the meaning assigned to such term in Section 8.1 below.

“Wrap Unit” shall have the meaning set forth in Section 5.1 hereof.

Section 1.2 Construction of Terms

As the context of this Agreement may require, terms in the singular shall include the plural (and vice versa) and the use of feminine, masculine or neuter genders shall include each other. Wherever the word “including” or any variation thereof is used herein, it shall mean “including, without limitation” and shall be construed as a term of illustration, not a term of limitation. Wherever the word “or” is used herein, it shall mean “and/or.”

**ARTICLE 2
PROJECT**

Section 2.1 Project

(a) In General. Developer shall develop, design and construct the Project as set forth in this Agreement and the Project Agreements, as applicable. Developer agrees to meet, confer, and consult with the City throughout any design modification and construction process as required in this Agreement and in the Project Agreements, or upon request of the City following reasonable notice.

(b) Project Components. Developer shall own, develop, design and construct the Project to include: (i) the Garage consisting of at least 450 and not more than 490 parking spaces, and (ii) a residential and commercial development on two (2) sides of and partially vertically integrated with the Garage including at least 120 and not more than 200 residential living units, approximately 2,000 square feet of commercial space and a theater area comprising 25,000-35,000 square feet (the “Wrap”; collectively with the Garage, the “NP Avenue Project”).

Section 2.2 Project Representatives

(a) Developer Representative. Developer has designated the Developer Representative as its agent and representative authorized to act on behalf of Developer with respect to the Project. The Developer Representative is Developer’s exclusive representative insofar as this Agreement is concerned. All instructions from Developer to the City relating to this Agreement shall be issued or made in writing (or as otherwise agreed to by the Parties) through the Developer Representative. All communications and submittals from the City to Developer with respect to matters covered by this Agreement shall be issued or made through the Developer Representative, unless Developer or the Developer Representative shall otherwise direct in writing.

(b) City Representative. The City has designated the City Representative as its agent and representative authorized to act on the City’s behalf with respect to the Project. The City Representative is the City’s exclusive representative insofar as this Agreement is concerned. All instructions from the City to Developer relating to this Agreement shall be issued or made in writing (or as otherwise agreed to by the Parties) through the City Representative. All communications and submittals from Developer to the City with respect to matters covered by this Agreement shall be issued or made through the City Representative, unless the City or the City Representative shall otherwise direct in writing. Developer recognizes that the City may have additional representatives involved in the Project; however, official determinations by the City must be made through the City Representative.

Section 2.3 City Process

The Project is subject to normal City comprehensive plan, zoning, subdivision, environmental and historic approval processes, including traffic management plans, planned unit development, site plan and design reviews, conditional use permits, variances, and other applicable zoning and land use approvals.

**ARTICLE 3
CITY PARCEL INITIAL TRANSFER**

Section 3.1 City Parcel

(a) Property. The City currently owns that portion of the Project Parcel identified on attached Exhibit A (the “City Parcel”). Developer currently has rights to acquire the remainder of the Project Parcel, specifically the portion of the Project Parcel described on attached Exhibit B (the “Global Parcel”). Subject to the terms and conditions of this Agreement, City will convey to Developer, and Developer will purchase and accept from City the City Parcel. The City shall not be required to remove any improvements from the City Parcel and Developer takes the City Parcel in its as-is condition without any representation or warranty concerning the City Parcel (including, without limitation, the warranties of fitness for a particular purpose, tenantability, habitability and use). Promptly following the Effective Date, City shall, at its sole cost and expense, initiate a two-lot plat of the Project Parcel, one lot being the City Parcel and the other being the Global Parcel City shall diligently process such plat through the City staff and public hearing process and complete same, including the recordation thereof, not later than 180 days following the Effective Date.

(b) Closing. The closing of the sale by City and purchase by Developer of the City Parcel (the “City Parcel Closing”) will occur on or before 21 days following the Developer’s Step I Contingencies Deadline (the “City Parcel Closing Date”) but subject to the contingency for the benefit of the City that Developer has, in fact, acquired from Global, as explained in Section 10.3(b), below, that part of the Project Parcel currently owned by Global and more particularly described on attached Exhibit B, together and certain easement interests integral to the NP Avenue Project.

(c) Purchase Price. The purchase price for the City Parcel is \$10.00, which is payable by Developer to City at the City Parcel Closing. This purchase price has been determined by the City to be appropriate under the Infrastructure Development Act.

Section 3.2 Title and Survey

Developer shall be responsible for performing any and all title and survey examination or due diligence that Developer deems prudent, at Developer’s sole cost and expense. Developer acknowledges and agrees that the City is providing marketable title and otherwise is not providing any representations or warranties as to the condition of title and expressly waives any claims Developer may have against the City in connection with any title defects.

Section 3.3 City Parcel Closing Documents

(a) City Closing Documents. The City will deliver to Developer at the City Parcel Closing:

(i) a special warranty deed duly executed by the City conveying the City Parcel to Developer; and

(ii) any other items required by this Agreement or reasonably required by the Title Company for the City Parcel Closing.

(b) Developer Closing Documents. Developer will deliver to the City at the City Parcel Closing:

(i) the purchase price specified in Section 3.1(c);

(ii) the Mortgage; and

(iii) any other items required by this Agreement or reasonably required by the Title Company for the City Parcel Closing.

Section 3.4 Closing Costs and Prorations

(a) Closing Costs. The City and Developer will each be responsible for its respective legal, accounting and other expenses associated with the City Parcel transaction contemplated by this Article 3. City will be responsible for correction of title and any document recording fees required for correction of title. Developer will be responsible for the deed and the Mortgage recording fees, title examination costs and title insurance premiums, the cost of its ALTA survey, fees associated with the transfer or obtaining of licenses and permits required to operate the City Parcel, the closing fee and any escrow fees imposed by the Title Company in connection with this transaction.

(b) Taxes and Assessments. Real estate taxes and installments of special assessments for the year prior to the City Parcel Closing (payable the year of the City Parcel Closing) and prior years shall be the responsibility of City. Real estate taxes and installments of special assessments for the year of the City Parcel Closing (payable the year following the City Parcel Closing) shall be prorated between the parties to the City Parcel Closing date, based on the prior year's information if the tax statements for the current year are not yet available. Subject to other proration provisions set out in this Agreement, real estate taxes and installments of special assessments for the year following the City Parcel Closing (payable the second year following the City Parcel Closing) and subsequent years shall be the responsibility of Developer.

(c) Income and Expenses. All income and operating expenses relating to the City Parcel will be prorated as of the close of business of the day before the City Parcel Closing. The City will be responsible for the expenses and entitled to the revenues accrued or applicable to the period prior to the City Parcel Closing. Developer will be responsible for the expenses and entitled to the revenues accrued or applicable to the day of the City Parcel Closing and thereafter until the Garage Closing, subject to the Parking Agreement.

(d) Estimates. If any amount to be apportioned under (c) cannot be calculated with precision because any item included in such calculation is not then known, such calculation will be made on the basis of reasonable estimates of the City of the items in question. Promptly after any such item becomes known to either Party, such Party will so notify the other and will include in such notice the amount of any required adjustment. If such adjustment requires an additional payment by the City to Developer, the City will make such payment to Developer simultaneously with its giving or within twenty (20) days of its receipt of such notice, as the case

may be. If such adjustment requires a refund by Developer to the City, Developer will make such refund simultaneously with its giving or within twenty (20) days after its receipt of such notice, as the case may be.

Section 3.5 As Is

Except for those representations and warranties specifically included in this Section 3: (i) the City makes no representations or warranties regarding the City Parcel; (ii) the City hereby disclaims, and Developer hereby waives, any and all representations or warranties of any kind, express or implied, concerning the City Parcel or any portion thereof, as to its condition, value, compliance with laws, status of permits or approvals, existence or absence of hazardous materials on site, occupancy rate or any other matter of similar or dissimilar nature relating in any way to the City Parcel, including the warranties of fitness for a particular purpose, tenantability, habitability and use; and (iii) Developer otherwise takes the City Parcel “AS IS”, “WHERE IS” and “WITH ALL FAULTS.”

ARTICLE 4
GARAGE CONSTRUCTION AND OPERATION

Section 4.1 Garage Construction

(a) Garage Work. Developer is responsible for performing, or causing others to perform, all work (collectively, the “Garage Work”) required to design, develop and construct the Garage upon the Project Parcel and pursuant to the Garage Plans and in accordance with all Laws and all requirements of this Agreement.

(b) Garage Plans. Developer will deliver to City, on or before April 15, 2023, proposed Garage Plans for City’s review and approval. City shall promptly review the Garage Plans and timely communicate any proposed changes to same. City and Developer shall coordinate and cooperate with one another to agree upon and finalize a final set of Garage Plans not later than May 1, 2023, which if and when agreed upon, shall become the “Garage Plans” for all purposes under this Agreement.

(c) Change Orders. All Changes Orders must be accepted and executed by both Developer and the City. Developer’s approval to any City-requested Change Order shall not be unreasonably withheld, conditioned or delayed and City’s approval to any Developer-requested Change Order shall not be unreasonably withheld, conditioned or delayed provided such Developer-requested Change Order does not increase the Guaranteed Project Cost and/or delay the Master Project Schedule. Developer or the City, as the case may be, shall respond to a requested Change Order within ten (10) days of receipt. No changes may be made to the Garage Plans or the Guaranteed Project Cost except through a mutually accepted and executed Change Order.

(d) City Contingency. City and Developer acknowledge that Developer has conducted soils tests over parts, but not all, of the Project Parcel. City and Developer also acknowledge the Garage Work will commence on or about July 15, 2023, and proceed throughout the winter months and the Guaranteed Project Cost is calculated based upon typical

winter conditions. City shall make the City Contingency (limited to the amount set forth in Article 1, and no more) available to Developer for (“Special Conditions”): (i) 42% of the costs of Soils Work occurring throughout the NP Avenue Project (whether under the Garage or the Wrap); and/or (ii) increased costs of Garage Work resulting from harsher than typical winter conditions. Access to the City Contingency shall be subject to the approval of City, which approval City shall not unreasonably withhold or delay. Developer shall segregate and specifically identify any City Contingency requested in draw requests and shall provide reasonable supporting information documenting the Special Condition encountered and the amount requested. If approved, City shall pay directly to Developer, or provide to the Title Company to disburse to Developer, the City Contingency requested. From and after all draw requests for Garage Work completed after June 1, 2024, have been processed and paid, City may, subject to the normal Change Order process, utilize all remaining City Contingency for items other than Special Conditions. For purposes of this Section, “Soils Work” shall mean the costs of assessing, removing, transporting, disposing of and replacing contaminated soils and/or undocumented fill. Developer shall be under no obligation to first utilize the Developer Contingency for Special Conditions, the Parties acknowledging that the City Contingency is intended as the primary resource for funding Special Conditions; provided, however, Developer may utilize the Developer Contingency for Special Conditions if and when the City Contingency is exhausted.

(e) Selection of Contractors and Subcontractors. Developer shall be responsible for competitively bidding all aspects of the Garage Work. Developer shall, on or before March 15, 2023, submit to City for its approval a list of proposed bidders for each trade and portion of Garage Work. City shall promptly review such list and timely communicate any proposed additions or deletions to same. City and Developer shall coordinate and cooperate with one another to agree upon and finalize the bidders list not later than April 1, 2023. If any contractors or subcontractors are later substituted, City shall have the right to actively participate in the solicitation and selection of proposed contractors and subcontractors and the review of all bids. Notwithstanding any participation by the City, Developer shall be solely responsible to the City for the performance of all contractors and subcontractors.

(f) Construction Contract.

(i) All contracts entered into by Developer with design professionals and all contractors shall not conflict with Developer’s obligations under this Agreement. Developer shall deliver a copy of all such contracts to the City upon request and in any event prior to commencing construction. The general construction contract for the Garage Work (the “Construction Contract”) with the Construction Manager and the subcontracts entered into by the Construction Manager (the “Primary Subcontracts”) at a minimum must:

(A) be an AIA form construction contract with a guaranteed maximum price;

(B) with respect to the Construction Contract, provide for a Construction Manager’s fee (to be paid to Kilbourne Construction Management,

LLC, the Construction Manager) equal to 3% of the Base Construction Costs component of Hard Costs set out in the GPC Summary.

(C) identify the City as an express, intended third-party beneficiary;

(D) state that the City has the right to enforce all warranties and material and equipment guarantees as described herein;

(E) with respect to the Construction Contract, require payment and performance bonds in a form reasonably acceptable to the City, with a dual obligee rider in favor of both Developer and the City; and

(F) be reasonably acceptable to the City.

(ii) Developer shall not do any one or more of the following without the City's prior written consent: execute a letter of intent, or similar document, with respect to the Construction Contract or a Primary Subcontract or execute a Construction Contract or Primary Subcontract that is inconsistent with either the Master Project Schedule or the Guaranteed Project Cost; assign its rights under the Construction Contract; or execute either or both any change orders or any construction change directives.

(iii) Prior to the City Contingencies Deadline, Developer shall deliver to the City an Assignment of Construction Contracts in the form attached hereto as Exhibit D and prior to commencing any construction on the Garage, Developer shall deliver a consent to the Assignment of Construction Contracts from the Construction Manager in the form attached as Exhibit D.

(g) Warranties. Developer warrants to the City that: (a) materials and equipment used in connection with the Garage Work will be of good quality and new and (b) that the Garage Work will conform to the requirements of this Agreement, the Garage Plans and the Construction Contract. Prior to the Garage Closing, Developer shall require its contractors to promptly correct any of the Garage Work which fails to conform to the requirements of the Garage Plans and this Agreement, whether or not fabricated, installed or completed. At the Garage Closing, Developer shall assign all warranties for the Garage Work to City, and thereafter, Developer shall cooperate and take all necessary steps with City to require the contractors to promptly correct any of the Garage Work which fails to conform to the requirements of this Agreement, the Garage Plans or the Construction Contract, whether discovered before or after substantial completion (but only until and subject to required notices so as to be covered under a warranty in the Construction Contract) and whether or not fabricated, installed or completed.

(h) Intentionally Omitted.

(i) Developer Contingency Use. Developer must report in writing and on a monthly basis to the City (a) the then-current amount of the Construction Contingency component of Hard Costs provided in the GPS Summary, including all credits to, and deductions from, same shown in the GPC Summary (the "Developer Contingency"), and (b) the changes anticipated in

the following month in the amount of the Developer Contingency, including all credits to, and deductions from.

(j) Developer Fee. Developer shall receive the Developer Fee, an amount defined in Section 1.1 herein, as set forth in the Disbursing Agreement.

(k) Adjacent Infrastructure. The Parties acknowledge that certain utility, street and sidewalk replacement work in and to the NP Avenue right of way adjacent to the Project and in and to 8th St. N near the project is necessary to make the Wrap and Garage useable for their intended purposes and to satisfy other aspects of this Agreement (the "ROW Work") and the ROW Work is not part of the Garage Work or the Guaranteed Project Cost. City will (at its cost and expense, but subject to the City's normal special assessment policies and procedures) design, bid and complete the ROW Work. City recognizes and acknowledges that, in order to timely complete construction of the Project, Developer must have continuous access to the Project. Thus, City will (at its cost and expense, but subject to the City's normal special assessment policies and procedures) design, bid and complete the ROW in a manner to ensure at least one means of access to the Project at all times from either 8th St. or NP Avenue, and City and Developer will communicate, cooperate and coordinate with one another regarding such access and to facilitate timely and efficient completion of Developer's work at and related to the Project that ties into and must be coordinated with the ROW Work. City will substantially complete the ROW Work not later than October 15, 2025.

(l) Statement of Costs. Within fifteen (15) days following the substantial completion of the Garage Work, Developer shall submit to the City a statement (the "Statement of Costs"), prepared and certified by Developer, or an authorized agent thereof, setting forth Developer's calculation of the actual Final Total Project Cost. The Statement of Costs shall include reasonable supporting documentation of amounts paid (or to be paid) to various project vendors, and the nature of each item comprising of Developer's calculation of the Final Total Project Cost. The City shall have a period of thirty (30) days after receipt of the Statement of Costs to review the same and provide written objections, if any, to Developer together with an explanation and computation of the alleged discrepancies. The City may, upon reasonable prior written notice, audit Developer's books and records with respect to Final Total Project Cost and Garage Work at any time prior to the expiration of such thirty (30) day period.

(m) City Funding. The City's payment of the lesser of the Final Total Project Cost and the Guaranteed Project Cost shall be pursuant to the Disbursing Agreement.

(n) City Inspection Rights. The City shall have the right to supervise and inspect all aspects of the Garage Work and Developer shall cooperate with any representative or agent of the City undertaking such supervision or inspection.

(o) Compliance. No approval by the City shall relieve Developer of the obligation to comply with the terms of this Agreement, applicable federal, state and local laws, ordinances, rules and regulations, or to properly construct the Garage. No approval by the City shall constitute a waiver of an Event of Default. In accordance with the Infrastructure Development Act, the construction of the Garage must satisfy the City's standards of construction for infrastructure of the same functional classification.

Section 4.2 Garage Operations/Temporary Use of a Portion

The City and Developer will enter into a parking operations, maintenance and use agreement (the “Parking Agreement”) in substantially the form attached hereto as Exhibit F on or before the Garage Closing which sets forth the terms of the management and operation of the Garage as a fee-based facility consistent with the Infrastructure Development Act. Notwithstanding the foregoing, Developer shall have use, without charge of any kind, of the top level of the Garage for the staging of construction materials pertaining to the Wrap until August 15, 2025. Developer shall not exceed structural tolerances and shall, at its cost, restore any damage to the Garage resulting from such use.

Section 4.3 Application of Other Law

In accordance with the Infrastructure Development Act, Developer is not excused from the necessity of obtaining environmental, navigational, design or safety approvals that would be required if the Garage were constructed or operated by a public body. In accordance with the Infrastructure Development Act, to the extent the Garage will be incorporated into the existing infrastructure of the City, any applicable City department or other public authority may review and approve the Garage to the same extent as it would for a similar public constructed facility.

**ARTICLE 5
CONDOMINIUM**

Section 5.1 Creation of Condominium and Parking

(a) Condominium Documents. Developer shall be responsible for all property division and condominium creation necessary to divide the Project Parcel into separate units with separate parcel identification numbers, one such unit consisting of the Garage (the “Garage Unit”) and one or more such units consisting of the Wrap (the “Wrap Unit”). The parties acknowledge and recognize that the Project includes Northern Prairie Performing Arts, a North Dakota nonprofit corporation, a/k/a Fargo/Moorhead Community Theater (“FMCT”), purchasing a portion of the Project that would otherwise constitute a portion of the Wrap and the Condominium will include another, third unit (the “Theater Unit”). All property division documents (including, without limitation, plats, surveys, easements, association documents, etc.) are subject to the City’s prior approval. Within 180 days after the City Parcel Closing Date, Developer shall deliver to the City, for its review and approval, property division and condominium documentation, including a proposed survey map depicting the proposed units, condominium declaration, condominium association by laws and formation documentation, a declaration of covenants, conditions and restrictions and any other documentation required by applicable law for the property division and condominium creation (collectively, such documents, as approved by the City are the “Condominium Documents”). The Condominium Documents must include mutual easements or other rights relating to use and administration of common areas mutually benefiting each parcel, must provide that the condominium association shall consist of only three voting members, one member for each unit. The units include air rights above those parts of their units where no part of another unit is present. The City will not unreasonably withhold or delay approval of the Condominium Documents. The Condominium Documents shall provide that Developer can, at any time, create one or more sub-condominiums

for the Wrap Unit, but as pertains to the condominium created by the Condominium Documents, any/all units within the Wrap shall be entitled to only one vote and such sub-condominium(s) shall not reduce or alter the City's rights or obligations under the Condominium Documents.

(b) Parking Rights. The Parties acknowledge and recognize that, pursuant to the Condominium Documents and/or such other agreements that may be advisable parking rights in and to the Garage as further described below shall be established.

(i) Developer intends to incorporate not less than 120 and not more than 200 apartment style residential living units into the Wrap. The owner of the apartment style residential living units (or the association pertaining thereto if such living units are later sub-condominiumized) may obtain from City for use by Eligible Occupants up to one Full Time Parking Space for each apartment style residential living unit with such owner/association paying the Market Rate for such spaces.

(ii) "Full Time Parking Spaces" shall mean spaces available on a so-called "24/7/365" basis, without restrictions as to days or hours of use. "Market Rate" shall mean the rate charged by City for comparable parking spaces and rights at its downtown Fargo facilities. "Eligible Occupants" shall mean tenants or owners (in the event the Wrap Unit is later sub-condominiumized) of residential spaces within the Wrap Unit.

(iii) If at any time there are less than the maximum allocated Full Time Parking Spaces issued to Eligible Occupants and one or more Eligible Occupants wish to obtain a Full Time Parking Space, the Owner of the Garage shall promptly reduce the number of Full Time Parking Spaces issued to others, reduce the number of short-term parking spaces within the Garage Unit and/or undertake other actions as are necessary to provide up to maximum allocated Full Time Parking Spaces to Eligible Occupants.

Section 5.2 City and County Process

All property division and condominium creation are subject to normal City and County comprehensive plan, zoning, and subdivision approval processes.

ARTICLE 6 PURCHASE AND SALE OF GARAGE

Section 6.1 Sale and Purchase

(a) Property. Developer will sell and convey to the City, and the City will purchase and accept from Developer, the Garage Unit. Prior to the Garage Closing, the Garage Unit must be a separate, legal condominium unit with its own parcel identification number.

(b) Closing. The closing of the sale and purchase of the Garage Unit (the "Garage Closing") will occur on or before the first business day which is thirty (30) days after the date a Certificate of Occupancy is issued for the Garage or the date the Garage is fully operational (including all parking control equipment,), whichever occurs later.

(c) Purchase Price. The purchase price for the Garage Unit is \$10.00, which is payable by the City to Developer in cash at the Garage Closing. This purchase price has been determined by the City to be appropriate under the Infrastructure Development Act.

Section 6.2 Title and Survey

(a) Title. Title to the Garage Unit shall only be subject to those easements, restrictions, and other matters of record, the Condominium Documents and other instruments contemplated by this Agreement and approved by the City and the Mortgage (the "Pre-Approved Title Matters"). Developer shall furnish to the City at the City's request either a commitment for an owner's policy of title insurance or an updated abstract of title covering the Garage Unit (the "Commitment"), issued by the Title Company. The City shall be responsible for the cost of the Commitment and the premium for any policy issued pursuant to the Commitment and any desired endorsements thereto.

(b) Survey. The City shall have the right to obtain an ALTA as-built survey of the Garage Unit in form reasonably acceptable to the City (the "Survey"). Developer shall promptly deliver to the City all documents in its possession which will assist the City in having the Survey created (including constructions documents, plans, etc.).

(c) Corrections to Title. If any objections to Commitment or Survey are made (other than to the Pre-Approved Title Matters), Developer will correct such objections prior to the Garage Closing.

Section 6.3 Garage Closing Documents

(a) City Closing Documents. The City will deliver to Developer at the Garage Closing:

(i) the purchase price specified in Section 6.1(c);

(ii) Parking Agreement executed by the City; and

(iii) any other items required by this Agreement or reasonably required by the Title Company for the Garage Closing.

(b) Developer Closing Documents. Developer will deliver to the City at the Garage Closing:

(i) a warranty deed duly executed by Developer conveying the Garage Unit to the City;

(ii) an assignment of permits and warranties in form reasonably acceptable to the City;

(iii) Parking Agreement executed by Developer;

(iv) an affidavit satisfactory to the City that Developer is not a foreign person under Section 1445 of the United States Internal Revenue Code;

(v) an affidavit satisfactory to the City and the Title Company that at the Garage Closing there are no outstanding, unsatisfied judgments, tax liens, or bankruptcies against Developer, no labor, services, materials, or machinery furnished to the Garage Unit for which construction liens could be filed, and no unrecorded interests in the Garage Unit which have not been fully disclosed to the City;

(vi) a resolution of the manager of Developer authorizing and approving the transaction contemplated by this Agreement, certified as true and correct by an officer of Developer; and

(vii) any other items required by this Agreement or reasonably required by the Title Company for the Garage Closing.

Section 6.4 Garage Closing Costs and Prorations

(a) Closing Costs. The City and Developer will each be responsible for its legal, accounting and other expenses associated with the Garage Unit transaction contemplated by this Article 6 up to and including the date final adjustments are made pursuant hereto. Developer will be responsible for correction of title and any document recording fees required for correction of title. City will be responsible for document recording fees. City will pay the closing fee and any escrow fees imposed by the Title Company in connection with this transaction.

(b) Taxes and Assessments. Real estate taxes and installments of special assessments for the Garage Unit shall be prorated by the Parties to the City Parcel Closing Date, Developer responsible for those for the period of time prior to the City Parcel Closing Date and City responsible for those from and after the City Parcel Closing Date.

(c) Income and Expenses. All income and operating expenses relating to the Garage Unit will be prorated as of the close of business of the day before the Garage Closing. Developer will be responsible for the expenses and entitled to the revenues accrued or applicable to the period prior to the Garage Closing. The City will be responsible for the expenses and entitled to the revenues accrued or applicable to the day of the Garage Closing and thereafter, subject to the Parking Agreement.

(d) Estimates. If any amount to be apportioned under (b) or (c) cannot be calculated with precision because any item included in such calculation is not then known, such calculation will be made on the basis of reasonable estimates of Developer of the items in question. Promptly after any such item becomes known to either Party, such Party will so notify the other and will include in such notice the amount of any required adjustment. If such adjustment requires an additional payment by the City to Developer, the City will make such payment to Developer simultaneously with its giving or within twenty (20) days of its receipt of such notice, as the case may be. If such adjustment requires a refund by Developer to the City, Developer will make such refund simultaneously with its giving or within twenty (20) days after its receipt of such notice, as the case may be.

ARTICLE 7
ADDITIONAL PROJECT FEATURES

Section 7.1

Notwithstanding anything in this Agreement to the contrary, the parties acknowledge and agree and covenant to one another that the following features are incorporated into and/or will be completed in conjunction with the NP Avenue Project as the case may be.

(a) The Wrap shall include not less than 120 and not more than 200 apartments, approximately 2,000 square feet of commercial space and will include a theater area comprising 25,000-35,000 square feet.

(b) The Garage shall contain not less than 450 nor more than 490 parking spaces, the access to which shall be via a three-lane design entrance/exit on Northern Pacific Avenue.

(c) Subject to the provisions of Section 7.1(g), Global Development, L.L.C., a North Dakota limited liability company (“Global”) shall be entitled to the use of no less than 50 parking spaces within the Garage without charge or fee of any kind. These parking rights shall be personal to Global, shall be fully transferable by Global and shall remain the separate property of Global even in the event Global disposes of one or more of the properties it owns adjacent to the NP Avenue Project. Said parking rights shall have a term of not less than 40 years from and after the date the Ramp receives its initial Certificate of Occupancy and thereafter shall only end if the Ramp is permanently closed and no longer operated, is demolished or destroyed, or is deemed by City, in its sole discretion, to be no longer operational.

(d) Public parking with respect to the Uncommitted Spaces (as defined below) in the Garage during “Off-Peak Hours” shall be open to the public in perpetuity. For purposes of this Section 7.1(d): [a] the phrase “Off-Peak Hours” shall mean before 8 a.m. and after 5 p.m. Monday through Friday and all day on weekends and holidays; and [b] the phrase “Uncommitted Spaces” shall mean the total non-handicapped parking spaces located in the Garage less those designated for Global (as potentially increased pursuant to Section 7.1(g)) and Developer pursuant to this Agreement.

(e) The parties acknowledge the Garage Work shall include replacing the paving in the Alley, maintaining the current number of drains and installing an additional storm sewer drain midway in the Alley to as to provide proper drainage of the Alley.

(f) The Garage Work shall include new lighting on the Easterly face of the Garage to improve lighting in the Alley.

(g) The Burlington Northern and Santa Fe Railway Company (“BNSF”) owns two tracts of land immediately adjacent to and Southerly of the Project Parcel, currently being utilized for 15 total parking spaces (the “Parking Area”). BNSF has granted an easement to Global to utilize the Parking Area for parking. Global subsequently assigned certain rights under that easement to City, and Global and the City of Fargo have entered into a Parking Lot Agreement dated as of October 2016 governing their use of the Parking Area. City acknowledges

that, following construction of the Project, Global may use the Parking Area and shall have access to the Parking Area either through existing access points or points to be designated as part of the construction of the Project, and that the Parking Area shall be repaired as necessary if damaged during the construction process as part of the Garage Work. City and Developer acknowledge that ensuring access to a total of 65 parking spaces between the Garage and the Parking Area following construction of the Project is a matter of material importance to Global and agree that, to the extent the Parking Area will contain less than 15 usable parking spaces following construction of the Project, the number of spaces allocated to Global under and pursuant to the terms of Section 7.1(c) hereof shall be increased so that Global has an aggregate total of 65 spaces.

ARTICLE 8 MIXED-USE CONSTRUCTION

Section 8.1 In General

Developer will initially own, privately finance, develop, design and construct the Wrap. Developer shall develop plans and specifications, including site plans (the "Wrap Plans"), for each component of the Wrap. The Wrap Plans shall provide for construction of the Wrap generally consistent with material elements of the Project Summary and in conformity with this Agreement and all applicable state and local laws and regulations, and any deviation thereof shall require the written approval of City Representative.

Section 8.2 Interference

Developer acknowledges that portions of the construction of the Wrap may occur after the Garage Closing. Developer will use commercially reasonable and diligent efforts to minimize any interference, to the extent practicable, in the operation of the Garage in connection with its construction of the Wrap.

Section 8.3 Renaissance Program

Developer will seek approval for the Wrap to be part of the Renaissance Zone Program. Developer will not seek a payment in lieu of tax incentive. Any determination by the City with respect to the Renaissance Zone Program shall be subject to the City's standard application, review and approval process.

Section 8.4 Tax Increment Financing

Developer will seek Tax Increment Financing with respect to the Wrap that will provide for the payment to Developer of all tax increment, less a City administrative fee equal to the lesser of five percent of such increment or \$12,500.00, generated by the Wrap in the first five tax years following expiration of the Renaissance Zone Program, up to a maximum of eligible costs, the terms for which to be set forth in a separate TIF developer agreement to be entered into between the Developer and City.

Section 8.5 Public Infrastructure

Developer acknowledges that the City may perform work on the streets, sidewalks, alleys, electrical distribution systems, and other public infrastructure and utilities surrounding, or serving, the Project and may, in the City's discretion, except to the extent expressly provided otherwise in this Agreement, finance such work in accordance with applicable Law and City policy using tax increment financing, special assessments or any other financing method available to the City, to which the Project would be subject.

**ARTICLE 9
SCHEDULE**

Section 9.1 Master Project Schedule

The Master Project Schedule attached as Exhibit C to this Agreement sets forth the anticipated start, completion and duration dates for the various components of the Project and related facilities as set forth herein and Developer shall develop, design and construct the Project in accordance with such Master Project Schedule. In addition, the Parties agree as follows:

- (a) The anticipated date of substantial completion for the Garage is December 1, 2024.
- (b) The anticipated date of substantial completion of the Wrap is September 15, 2025.

Section 9.2 Progress Notifications

(a) Developer will periodically provide the City with written notification related to meeting the agreed upon construction benchmarks and the then current timing of delivery of the Project. The written notification shall be provided to the City on the following schedule:

- (i) At the start of construction of the Garage, Developer will provide notification to the City that construction has begun.
- (ii) Developer will provide an update of construction progress and confirmation of the ability of Developer to meet the anticipated dates of substantial completion set forth in Exhibit C, every month, thereafter.

(b) Subject to Section 13.5 below, if at any time written notification or observation of the City reasonably indicates any one or more of the Garage or the Wrap will not be completed by the anticipated dates of substantial completion set forth in Exhibit C, respectively, unless Developer is able to appropriately satisfy the City, within forty-five (45) days of written notice from the City with respect to the Garage and within ninety (90) days with respect to the Wrap, that construction will be completed by the applicable delivery date, or the Parties agree upon a later delivery date, the City will have the right to take over construction of the Garage or the Wrap (subject to the rights of any mortgagees of the Wrap, but with such rights shall come the obligations of such mortgagees to perform the obligations of Developer under this Agreement as to the Wrap), as applicable, to ensure the timely completion of the Garage or the Wrap, without

any increased cost to the City and Developer will reimburse the City for all costs incurred in connection therewith.

ARTICLE 10 CONTINGENCIES

Section 10.1 City Contingencies

The City's obligations under this Agreement are subject to satisfaction or waiver by the City of the following contingencies on or before seven days following the Developer's Step I Contingencies Deadline (the "City Contingencies Deadline"):

(a) City's ability to finance the Garage, in part, through the sale of taxable bonds in the principal amount of not less than \$16,330,000.00 with an amortization of not less than 25 years and an interest rate of not greater than seven percent.

(b) FMCT and Developer waiving all of their contingencies under the agreement(s) by which Developer will construct and FMCT will purchase the Theater Unit.

(c) execution and delivery to City, subject only to satisfaction of the Developer's Step II Contingencies, by the applicable parties of the following Project Agreements:

- (i) Mortgage;
- (ii) Disbursing Agreement;
- (iii) Assignment of Construction Contracts; and
- (iv) Guaranty.

(d) City's receipt of the GPC Confirmation.

(e) City's receipt of reasonable financial information for the Guarantor in form reasonably satisfactory to the City;

(f) no pending or threatened litigation or Legal Requirements, injunction or other order that prohibits the consummation of this Agreement; and

(g) all of the covenants and obligations that Developer is required to perform or to comply with pursuant to this Agreement, as applicable, including the delivery of all documents and notices provided for herein, have been performed and complied with in all material respects.

The contingencies set forth in this Section 10.1 are intended for the sole benefit of City and may be insisted upon or waived, in whole or in part, by the City in its sole discretion. City shall exercise reasonable diligence to satisfy its contingencies until and unless it exercises same.

Section 10.2 Unsatisfied Contingencies

If any contingency set out in Section 10.1 is unsatisfied as of the City Contingencies Deadline, the City may at its option:

- (a) waive the contingency and proceed to perform under this Agreement; or
- (b) terminate this Agreement.

If this Agreement is so terminated, no Party shall have the right to specific performance or damages for default of this Agreement. Notwithstanding anything herein to the contrary, waiver by the City of any contingencies in its favor shall not be deemed a waiver of any obligations of Developer expressly set forth in this Agreement.

Section 10.3 Developer Contingencies

Developer's obligations under this Agreement are subject to satisfaction or waiver by Developer of the following contingencies:

- (a) On or before June 15, 2023 (the "Developer's Step I Contingencies Deadline"):
 - (i) Developer receiving final approvals from all necessary governing bodies that the Wrap has been approved for the programs set forth in Section 8.3 and 8.4.
 - (ii) FMCT and Developer waiving all of their contingencies under the agreement(s) by which Developer will construct and FMCT will purchase the Theater Unit.
 - (iii) Developer, in its sole and absolute discretion, satisfying itself that Project construction, construction costs, financing, equity, returns and all other aspects of the Project are satisfactory and available to Developer on terms acceptable to Developer.

(b) On or Before 14 days following the Developer's Step I Contingencies Deadline ("Developer's Step II Contingencies Deadline") Developer acquiring from Global that part of the Project Parcel currently owned by Global and more particularly described on attached Exhibit B, together and certain easement interests integral to the NP Avenue Project.

(c) The contingencies set forth in this Section 10.3 are intended for the sole benefit of Developer and may be insisted upon or waived, in whole or in part, by Developer in its sole discretion. Developer shall exercise reasonable diligence to satisfy its contingencies until and unless it exercises same. If a contingency set out in Section 10.3 is unsatisfied as of the applicable contingency deadline, Developer may at its option waive the contingency and proceed to perform under this Agreement or terminate this Agreement. Notwithstanding anything herein to the contrary, waiver by Developer of any contingencies in its favor shall not be deemed a waiver of any obligations of the City expressly set forth in this Agreement. If this Agreement is so terminated, no Party shall have the right to specific performance or damages for default of this Agreement.

Section 10.4 Soft Costs

The parties acknowledge that Developer has and will continue to incur Soft Costs (as categorized on the CPC Summary form attached as Exhibit E) related to the Project. City will, promptly after billing by Developer, reimburse Developer for the Soft Costs attributable or allocable to the Garage Work even if, and accrued through the date, a party exercises a contingency pursuant to this Article 10. From and after the City Parcel Closing, said Soft Costs shall be billed with regular construction draws. Notwithstanding anything herein to the contrary, the maximum amount billed to City for Soft Costs prior to the City Parcel Closing shall be \$450,000.00.

**ARTICLE 11
REPRESENTATIONS AND WARRANTIES OF THE CITY**

The City hereby represents and warrants to Developer that, as of the date of execution of this Agreement:

Section 11.1 Organization

The City is a municipal corporation, duly organized, validly existing, and in good standing under the Laws of the State.

Section 11.2 Authorization, Validity, and Enforceability

The City has all requisite power and authority to enter into this Agreement and the Project Agreements to which it is a party and to carry out the actions contemplated hereby and thereby. The execution, delivery, and performance by the City of this Agreement and the Project Agreements to which it is a party have been duly authorized and approved by all necessary City action. This Agreement and the Project Agreements to which it is a party, when executed, shall constitute the valid and legally binding obligations of the City, enforceable against the City in accordance with their respective terms.

Section 11.3 No Conflicts

The execution, delivery, and performance of this Agreement and the Project Agreements to which it is a party shall not result in a violation of, in any material respect, any provision of any other agreements, charters, instruments, contracts, judgments, or decrees to which the City is a party or by which the City or its assets may be bound or affected.

Section 11.4 No Violation of Laws

The City has complied in all material respects with all Legal Requirements and is not in default with respect to any judgment, order, injunction, or decree of any court, administrative agency, or other Governmental Authority that is in any respect material to the transactions contemplated in and by this Agreement or the Project Agreements to which it is a party.

ARTICLE 12
REPRESENTATIONS AND WARRANTIES OF DEVELOPER

Developer hereby represents and warrants to the City that, as of the date of execution of this Agreement:

Section 12.1 Organization

Developer is a limited liability company duly organized, validly existing, and in good standing under the Laws of the State. This Agreement and all Project Agreements to which Developer is a party shall be binding upon and enforceable against Developer.

Section 12.2 Authorization, Validity and Enforceability

Developer has all requisite power and authority to enter into this Agreement and the Project Agreements to which it is a party and to carry out the actions contemplated hereby and thereby. The execution, delivery, and performance by Developer of this Agreement and the Project Agreements to which it is a party have been duly authorized and approved by all necessary Developer company action. This Agreement and the Project Agreements to which it is a party, when executed, shall constitute the valid and legally binding obligations of Developer, enforceable against Developer in accordance with their respective terms.

Section 12.3 No Conflicts

The execution, delivery, and performance of this Agreement and the Project Agreements to which it is a party shall not result in a violation of, in any material respect, any provision of any other agreements, charters, instruments, contracts, judgments, or decrees to which Developer is a party or by which Developer or its assets may be bound or affected.

Section 12.4 No Violations of Laws

Developer has complied in all material respects with all Legal Requirements and is not in default with respect to any judgment, order, injunction, or decree of any court, administrative agency, or other Governmental Authority that is in any respect material to the transactions contemplated in and by this Agreement or the Project Agreements to which it is a party.

Section 12.5 Litigation

To the actual knowledge of Developer, there is no action, suit, proceeding, or investigation at law or in equity or by or before any Governmental Authority now pending or threatened against Developer seeking to restrain or prohibit, or seeking damages or other relief in connection with, the execution of this Agreement or the Project Agreements to which it is a party and the performance of the transactions contemplated herein or therein or the performance of Developer hereunder or thereunder.

**ARTICLE 13
DEFAULT AND REMEDIES**

Section 13.1 Events of Default

Each of the following shall constitute a default by any Party (the “Defaulting Party”) under this Agreement (“Event of Default”), but further subject to Section 13.5 below:

(a) the failure to make any payment of any sums payable under this Agreement, which failure shall continue for ten (10) days after receipt of written notice to the Defaulting Party by either of the other Parties (the “Non-defaulting Party”);

(b) the Defaulting Party’s violation or failure to perform or observe any covenant or condition of this Agreement (other than as provided in (a) above), which failure or violation shall continue for thirty (30) days after receipt of written notice to the Defaulting Party by the Non-defaulting Party identifying with particularity the failure or violation; provided, however, that so long as such failure or violation is of a non-monetary nature susceptible to cure within a period of time that does not unreasonably cause risk to achieving the milestones contemplated by the Master Project Schedule, but is not reasonably capable of being cured within such thirty (30) day period, there shall exist no Event of Default if the Defaulting Party promptly advise the Non-defaulting Party of the Defaulting Party’s intention to duly institute all steps necessary to cure such default and the Defaulting Party promptly commences cure of such failure or violation within such thirty (30) day period and diligently pursues such cure to completion, but such additional time for cure shall not exceed ninety (90) days after receipt of the initial written notice to the Defaulting Party by the Non-defaulting Party;

(c) the Defaulting Party’s violation or failure to perform or observe any covenant or condition of any other Project Agreement beyond any applicable notice and cure period set forth in such Agreement, provided if no such notice and cure is set forth in such Project Agreement, then if such violation or failure shall continue for thirty (30) days after receipt of written notice to the Defaulting Party by the Non-defaulting Party identifying with particularity the failure or violation; provided, however, that so long as such failure or violation is of a non-monetary nature susceptible to cure within a period of time that does not unreasonably cause risk to achieving the milestones contemplated by the Master Project Schedule, but is not reasonably capable of being cured within such thirty (30) day period, there shall exist no Event of Default if the Defaulting Party promptly advise the Non-defaulting Party of the Defaulting Party’s intention to duly institute all steps necessary to cure such default and the Defaulting Party promptly commences cure of such failure or violation within such thirty (30) day period and diligently pursues such cure to completion, but such additional time for cure shall not exceed ninety (90) days after receipt of the initial written notice to the Defaulting Party by the Non-defaulting Party;

(d) (i) the Defaulting Party shall institute voluntary proceedings in bankruptcy, (ii) involuntary proceedings in bankruptcy shall be instituted against the Defaulting Party that are not discharged within sixty (60) days thereafter, (iii) any proceedings shall be instituted by or against the Defaulting Party under any Law relating to insolvency or bankruptcy reorganization, and in the case of an involuntary proceeding, that is not discharged within sixty (60) days after filing, (iv) a trustee or receiver shall be appointed for the Defaulting Party by any court of competent

jurisdiction, or (v) the Defaulting Party shall make a general assignment for the benefit of its creditors; or

(e) any representation or warranty made by the Defaulting Party herein shall prove to have been incorrect when made, in any material respect.

Section 13.2 Remedies Upon Event of Default

Upon the occurrence of an Event of Default, each Non-defaulting Party will have the right to exercise any of the following remedies:

- (a) exercise any remedy afforded hereunder;
- (b) seek specific performance or other equitable relief; or
- (c) sue for money damages.

Except as set forth in Article 10, no Party shall be entitled to terminate this Agreement.

Section 13.3 Injunctive Relief; Specific Performance

The Parties acknowledge that the rights conveyed by this Agreement and the covenants of the Parties are of a unique and special nature, and that a breach or violation of this Agreement shall result in immediate and irreparable harm. In the event of any such actual or threatened breach or violation of this Agreement caused by a Party, the Party or Parties so harmed shall be entitled as a matter of right to an injunction or a decree of specific performance from any equity court of competent jurisdiction without the posting of any bond. The Parties waive the right to assert the defense that a breach of this Agreement can be compensated adequately in damages in an action at law.

Section 13.4 Remedies Cumulative; Limitation on Remedies; Waiver

All rights and remedies set forth in this Agreement are cumulative and in addition to the Parties' rights and remedies at law or in equity, subject, however, to any limitation on damages, fees and costs as provided for in this Agreement. A Party's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. A Party's delay or failure to exercise or enforce any rights or remedies shall not constitute a waiver of any such rights, remedies, or obligations. No Party shall be deemed to have waived any default unless such waiver is expressly set forth in an instrument signed by such Party. If a Party waives in writing any default, then such waiver shall not be construed as a waiver of any covenant or condition set forth in this Agreement, except as to the specific circumstances described in such written waiver. Neither payment of a lesser amount than the sum due hereunder, nor endorsement or statement on any check or letter accompanying such payment shall be deemed an accord and satisfaction, and the other Party or Parties may accept the same without prejudice to the right to recover the balance of such sum or to pursue any other remedy.

Section 13.5 Risk of Certain Losses: Force Majeure

The non-occurrence of any condition under this Agreement shall not give rise to any right otherwise provided in this Agreement when such failure or non-occurrence is due to the occurrence of a Force Majeure event and without the fault of the Party claiming an extension of time to perform or excuse from performance. Without limitation of and in addition to the foregoing, if a Party hereto shall be delayed or hindered or prevented from the performance of any obligation required under this Agreement by reason of a Force Majeure event, then the performance of such obligation shall be excused for the period of delay and the period for performance of any such act shall be extended for a period equivalent to the period of such delay. An extension of time for any such cause, if any, shall be limited to the period of delay due to such cause, which period shall be deemed to commence from the time of the commencement of the cause; provided, however, that if notice by the Party claiming such extension is sent to the other Parties more than thirty (30) days after the commencement of the cause, the period shall be deemed to commence thirty (30) days prior to the giving of such notice. The Party claiming a Force Majeure event shall remedy the Force Majeure event with all reasonable dispatch, and shall make commercially reasonable efforts to avoid the adverse impacts thereof and to resolve the event or occurrence once it has occurred in order to resume performance. As soon as the Party claiming a Force Majeure event is able to resume performance of all or a portion of its obligations excused as a result of the occurrence of Force Majeure, such Party shall give prompt notice thereof to the other Parties. Times of performance under this Agreement also may be extended as mutually agreed upon in writing by the Parties. However, failure to agree to a proposed extension of time for performance shall not be deemed grounds for delay or failure to timely cure an Event of Default under this Agreement.

Section 13.6 Limited Recourse Obligations: Members and Officers Not Liable

(a) All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the City and not of any member, director, officer, employee, or agent of the City in his or her individual capacity, and no recourse shall be had for any Claim hereunder against any member, director, officer, employee, or agent of the City in such capacity.

(b) All covenants, stipulations, promises, agreements, and obligations of Developer contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of Developer and not of any shareholder, member, partner, owner, manager, officer, employee, or agent of Developer in his or her individual capacity, and no recourse shall be had for any Claim hereunder against any shareholder, member, partner, owner, manager, officer, employee, or agent of Developer in such capacity.

ARTICLE 14
MISCELLANEOUS

Section 14.1 Certificate of Completion

Developer will notify the City when it has fully completed construction of each of the Garage and the Wrap. The City will promptly inspect the Garage or the Wrap, as the case may

be, to determine whether the Garage or the Wrap has been constructed in substantial conformity with the approved plans. If the City determines that either the Garage or the Wrap have not been constructed in conformity with the approved plans, the City shall, within ten (10) days of its inspection, deliver a written statement to the Developer Representative indicating in adequate detail the specific respects in which the Garage or the Wrap have not been constructed in substantial conformity with the approved plans. At such time as the City determines that either the Garage or the Wrap have been fully completed in conformity with the approved plans, the City shall promptly deliver a Certificate of Completion to the Developer Representative. Delivery of a Certificate of Completion by the City does not constitute a representation or warranty by the City that the Wrap Plans or either the Garage or the Wrap comply with any applicable building code, health or safety regulation, zoning regulation, or other law or regulation, or that either the Garage or the Wrap will meet the qualifications for issuance of a certificate of occupancy, or that either the Garage or the Wrap will meet the requirements of users of the Garage, or the Wrap. The Certificate of Completion shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments. It will be the responsibility of Developer to provide for the prompt recording of the Certificate of Completion and the payment of any costs for such recording.

Section 14.2 Hazardous Materials

Except as set forth in Section 4.1(d), Developer agrees that the City will bear no responsibility or liability to Developer for any Regulated Substances, any Contamination or any violation of Environmental Laws in, on, under or around the Project Parcel, and Developer will indemnify and hold harmless the City against all claims, costs, judgments, liabilities and damages (including reasonable attorneys' fees) arising out of the presence or release of any Regulated Substances, any Contamination or any violation of Environmental Laws.

Section 14.3 Insurance

(a) Developer Required Insurance. Developer, and any successor in interest to Developer, shall obtain and continuously maintain on the portions of the Project so owned by such party the insurance coverages set forth below until a Certificate of Completion has been issued for the Garage and the Wrap, and, from time to time at the request of the City, furnish a certificate of insurance to the City evidencing that the premiums for such insurance have been paid and the insurance is in effect. The insurance coverage described below is the minimum insurance coverage that Developer must obtain and continuously maintain, provided that Developer shall obtain, or require its general contractor to obtain and provide, the insurance described in clause (i) below prior to the commencement of construction of any portion of the Project:

(i) Builder's risk insurance, written on the so-called "Builder's Risk—Completed Value Basis", in an amount equal to one hundred percent (100%) of the insurable value of the applicable portion of the Project at the date of completion. The Builder's risk insurance shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal

including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for contractor and architectural services and expenses required as a result of such insured loss.

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's/Contractor's Policy naming the City as an additional insured, with limits against bodily injury and property damage of not less than \$5,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used), written on an occurrence basis. Developer's policies shall be primary insurance to any other valid and collectible insurance available to the City with respect to any claim arising out of Developer's performance under this Agreement.

(iii) To the extent required by law, workers compensation insurance, with statutory coverage, and if available without additional costs, such policy shall include a waiver of subrogation clause or endorsement in favor of the City.

(iv) Business Automobile Liability Insurance with a minimum limit of \$2,000,000 per occurrence Combined Single Limit for Bodily Injury and Property Damage (to accomplish the above-required limits, an umbrella excess liability policy may be used). In addition, the following coverages should be included: Owned (if Developer in fact owns any vehicles), Hired, and Non-owned Automobiles.

(b) All insurance required in this Section shall be obtained and continuously maintained in responsible insurance companies authorized under the laws of the State of North Dakota to assume the risks covered by such policies.

Section 14.4 Survival of Covenants, Agreements, Representations, and Warranties

No action taken pursuant to or related to this Agreement, including any investigation by or on behalf of a Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, condition, or agreement in this Agreement.

Section 14.5 Additional Documents and Approval

The Parties, whenever and as often as any shall be reasonably requested to do so, shall execute or cause to be executed any further documents and take any further actions as may be reasonably necessary or expedient and within their lawful obligation in order to consummate the transactions provided for in, and to carry out the purpose and intent of, this Agreement. The Mayor of City is, on behalf of City, authorized to: (a) evaluate and confirm the satisfaction or waiver of City's contingencies set out in Article 10 and to execute any document, agreement or the like evidencing same; and (b) to extend the City Contingencies Deadline for up to 180 days following the original date, and execute an amendment to this Agreement with Developer limited to such purpose.

Section 14.6 Good Faith

In exercising its rights and fulfilling its obligations under this Agreement, each of the Parties acknowledges that the other Parties have acted to date in good faith and each Party agrees to continue to act in good faith. Each Party acknowledges that in each instance under this Agreement where a Party is obligated to exercise good faith or to use good faith, diligent, or other similar efforts, such Party shall not be required to expend any funds or grant any other consideration of any kind in the performance of such undertaking, and each Party further acknowledges that the obligation of any Party to act in good faith or undertake good faith, diligent, or other similar efforts does not constitute a warranty, representation, or other guaranty that the result that the Parties are attempting to achieve shall be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

Section 14.7 Assignment; Property Transfers

Prior to the issuance of a Certificate of Completion for the entirety of the Project, except as otherwise contemplated in Article 6 above (with respect to transferring the Garage Unit to the City), Developer shall not make, or suffer to be made, any total or partial sale, assignment, conveyance, lease, or other transfer, with respect to this Agreement, the Project or the Project Parcel, or any part thereof or any interest therein, or enter into any contract or agreement to do any of the same, without the prior written approval of the City, which may be withheld in the City's sole discretion. No transfer of, or change with respect to, ownership in the Project, the Project Parcel or any part thereof, or any interest therein, however consummated or occurring and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Project Parcel and the completion of the Project that the City would have had, had there been no such transfer or change. No sale, assignment, conveyance, lease, or other transfer or approval by the City of the same shall be deemed to relieve Developer, or any other party bound in any way by this Agreement or otherwise with respect to the completion of the Project, from any of its obligations with respect thereto.

Notwithstanding the foregoing, Developer shall have the right to (without the consent of the City under this Section 14.7): (i) sell or transfer the Wrap to any entity controlling, controlled by or under common control with Developer; or (ii) after the Garage Closing, sell or transfer portions of the Wrap for which a certificate of occupancy has been issued or which has been completed to a "vanilla shell" level, ready for installation of electrical and mechanical distribution services and other interior finishes; provided in any such case Developer shall not be relieved of its obligations under this Agreement, including with respect to the completion of the Project.

Section 14.8 Notice of Matters

In the event that any Party receives knowledge about any matter that may constitute a breach of any of its warranties or covenants set forth in this Agreement that arises after the date of this Agreement, it shall promptly notify the other Party of the same in writing.

Section 14.9 Form of Notices; Addresses

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 Developer: Great Plains NP Holdings, LLC
ATTN: Mike Allmendinger, President
210 Broadway N., Suite 300
Fargo, ND 58102
- with a copy to: Dan Bueide
Bueide Law Firm
1 2nd St. N, Suite 100
Fargo, ND 58102
- To the City: City Auditor
Fargo City Hall
225 4th Street North
Fargo, ND 58102
- and to: Director of Strategic Planning and Development
ATTN: James Gilmour
Fargo City Hall
225 4th Street North
Fargo, ND 58102
- with copy to: Office of the Fargo City Attorney
Attn: Erik R. Johnson
608 24th Avenue S.
Fargo, ND 58103

Each notice shall be deemed given and received on the date delivered if served personally or, if sent by United States registered or certified mail or by overnight delivery service, then the day so sent to the address of the respective Party, as provided in this Article, postage pre-paid. Notices sent by a Party's counsel shall be deemed notices sent by such Party.

Section 14.10 Calculation of Time

Unless otherwise stated, all references to "day" or "days" shall mean calendar days. If any time period set forth in this Agreement expires on other than a Business Day, such period shall be extended to and through the next succeeding Business Day.

Section 14.11 Time is of the Essence

Time is of the essence of this Agreement. The Parties shall use good faith, diligent efforts to cause the work contemplated by this Agreement to meet the Master Project Schedule.

Section 14.12 Incorporation by Reference

All exhibits, schedules, or other attachments referenced in this Agreement are hereby incorporated into this Agreement by such reference and are deemed to be an integral part of this Agreement.

Section 14.13 Entire Agreement

Except as otherwise provided in this Agreement and the other written agreements contemplated hereby, this Agreement contains the sole and entire agreement among the Parties with respect to its subject matter and supersedes any and all other prior written or oral agreements among them with respect to such subject matter.

Section 14.14 Amendment

No amendment, modification, or termination of this Agreement shall be valid unless in writing and duly executed by the Parties.

Section 14.15 Binding Effect

This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the Parties.

Section 14.16 Headings

The headings contained in this Agreement are for convenience of reference only and shall not limit, extend, or otherwise affect the meaning hereof.

Section 14.17 No Presumption Against Drafter

This Agreement has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, this Agreement shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Agreement.

Section 14.18 Severability

If any term or provision of this Agreement or the application thereof to any Person or circumstance shall, to any extent, be inconsistent with, invalid, or unenforceable under any Laws or Legal Requirements, the remainder of this Agreement or the application of such term or provision to Persons or circumstances, other than those as to which it was held invalid or

unenforceable, shall not be affected thereby and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by any Laws or Legal Requirements.

Section 14.19 Third Party Beneficiaries

Nothing in this Agreement, express or implied, is intended to (a) confer upon any Person other than the Parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise, except as specifically provided in this Agreement; or (b) authorize anyone not a Party to this Agreement to maintain an action pursuant to or based upon this Agreement.

Section 14.20 Governing Law; Venue

This Agreement shall be governed by and construed in accordance with the Laws of the State, notwithstanding its conflicts of law or choice of law provisions. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement shall be controlled by and determined in accordance with the Laws of the State, and the Parties agree that all legal actions initiated with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued exclusively in the State, Cass County, District Court and shall not be removed therefrom to any other federal or state court.

Section 14.21 Counterparts

This Agreement may be executed and delivered in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall be deemed to be one agreement.

Section 14.22 Relationship of Parties

It is agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture among the Parties.

Section 14.23 Approval by Parties

In each instance where the approval or consent of any Party may be sought or is required, such approval or consent shall not be unreasonably withheld, conditioned or delayed.

Section 14.24 Run with the Land

The covenants and restrictions set forth in this Agreement shall run with the title to the Project Parcel and shall be binding upon all present and future owners and occupants of the Property; provided, however, that the covenants and restrictions set forth in the Agreement shall inure only to the benefit of the City and may be released or waived in whole or in part at any time, and from time to time, by the sole act of the City, and variances may be granted to the covenants and restrictions herein contained by the sole act of the City.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

Developer:

GREAT PLAINS NP HOLDINGS, LLC, a North Dakota limited liability company

By:  _____

Name: William Rothman

Title: CEO / VP

CITY:

CITY OF FARGO,
a North Dakota municipal corporation

By: _____

Name: _____

Title: Mayor

ATTEST:

By: _____

Name: _____

Title: City Auditor

EXHIBIT A

Legal Description of City Parcel

That part of the Northwest Quarter of Section Seven, in Township One Hundred Thirty-nine North of Range Forty-eight West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows: Commencing at the intersection of the Southerly Right-of-Way Line of Northern Pacific Avenue and the Westerly Right-of-Way Line of Broadway in the said City of Fargo; thence South $87^{\circ}47'33''$ West (assumed bearing), along the Southerly Right-of-Way Line of said Northern Pacific Avenue, for a distance of 205.00 feet; thence continue South $87^{\circ}47'33''$ West along the Southerly Right-of-Way Line of said Northern Pacific Avenue, for a distance of 119.69 feet to the true point of beginning; thence South $02^{\circ}33'41''$ West for a distance of 264.90 feet to a point of intersection with the Northerly Line of the BNSF Railway Company Right-of-Way; thence North $87^{\circ}30'57''$ West, along the Northerly Line of the said BNSF Railway Company Right-of-Way, for a distance of 174.33 feet; thence North $02^{\circ}29'00''$ East for a distance of 250.56 feet to a point of intersection with the Southerly Right-of-Way Line of said Northern Pacific Avenue; thence North $87^{\circ}47'33''$ East, along the Southerly Right-of-Way Line of said Northern Pacific Avenue, for a distance of 175.27 feet to the true point of beginning.

EXHIBIT B

Legal Description of Global Parcel

That part of the Northwest Quarter of Section Seven, Township One Hundred Thirty-nine North of Range Forty-eight West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows: Commencing at the intersection of the Southerly right-of-way line of Northern Pacific Avenue and the Westerly right-of-way line of Broadway in the said City of Fargo; thence South $87^{\circ}47'33''$ West (assumed bearing), along the Southerly right-of-way line of said Northern Pacific Avenue for a distance of 205.00 feet to the true point of beginning; thence continue South $87^{\circ}47'33''$ West along the Southerly right-of-way line of said Northern Pacific Avenue for a distance of 119.69 feet; thence South $02^{\circ}33'41''$ West for a distance of 264.90 feet to a point of intersection with the Northerly line of the BNSF Railway Company right-of-way; thence South $87^{\circ}30'57''$ East along the Northerly line of the said BNSF Railway Company right-of-way, for a distance of 122.40 feet; thence North $01^{\circ}54'31''$ East for a distance of 274.70 feet to the true point of beginning.

EXHIBIT C
Master Project Schedule

<u>Task Name</u>	<u>Start</u>	<u>Finish</u>
626 NP Project		
Ramp	7/15/2023	12/1/2024
Demo/Excavation/Piles	7/15/2023	11/27/2023
Foundations	11/30/2023	3/29/2024
Precast	4/8/2024	8/2/2024
MEP	8/3/2024	10/31/2024
Finishes	8/3/2024	11/31/2024
Certificate of Occupancy	12/1/2024	12/1/2024
Mixed-Use	7/17/2023	9/15/2025
Demo/Excavation/Piles	7/17/2023	9/25/2023
Foundations	9/26/2023	2/20/2024
Precast	2/14/2024	3/12/2024
Framing & Roofing	3/20/2024	11/12/2024
MEP/Rough-In	10/30/2024	2/21/2025
Exteriors	10/30/2024	7/16/2025
Finishes	11/20/2024	9/14/2025
Certificate of Occupancy	9/15/2025	9/15/2025

EXHIBIT D

Assignment of Construction Contracts, Plans and Related Agreements

THIS ASSIGNMENT OF CONTRACTS, PLANS AND RELATED AGREEMENTS is made and executed by GREAT PLAINS NP HOLDINGS, LLC, a North Dakota limited liability company (hereinafter referred to as the "Developer") to and for the benefit of the CITY OF FARGO, a North Dakota municipal corporation (hereinafter referred to as the "City"), as of the _____ day of _____, 20___. Capitalized terms used herein but not defined herein have the meanings assigned to such terms in the Loan Agreement (hereinafter defined).

WITNESSETH:

WHEREAS, Developer and the City have entered into a Development Agreement dated as of October 31, 2022 ("Development Agreement"); and

WHEREAS, Developer has or will enter into and execute certain contracts and agreements relating to the Garage (as defined in the Development Agreement) and/or the improvements to be constructed and installed thereon and therein, and receive certain plans relating to the Garage Work, as may be more particularly described on Exhibit A attached hereto and hereby made a part hereof (all collectively "Contracts" and each a "Contract"); and

WHEREAS, Developer desires to execute this Assignment, in accordance with the terms and provisions hereof, in order to induce the City to perform in accordance with the Development Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Developer, Developer hereby agrees that the foregoing recitals are true and correct and are by this reference hereby made a part hereof as if fully set forth below, and further covenants and agrees as follows:

1. Developer hereby assigns its rights, title and interests in, under and pursuant to the Contracts to the City, it being understood and agreed that, if an Event of Default (as that term is defined in the Development Agreement) does not occur, and the Garage is completed in accordance therewith, and all other obligations of Developer thereunder are fully performed, then this Assignment shall terminate. If the consent of any other party to any Contract is required to said assignment, Developer agrees to promptly obtain the same and to deliver the same to the City substantially in the form of consent attached to this Assignment.

2. If such an Event of Default does occur, without same being cured within applicable cure periods, then the City may, at its option, take over Developer's position under the Contracts, or any of them which the City may elect. In such event, the City shall have all of the

rights of Developer under said Contract(s). If the City does not expressly assume a Contract, in writing, the City shall have no obligation to perform any of Developer's obligations thereunder.

3. The City's taking over of Developer's position under any Contract shall be preceded by at least three (3) business prior written notice to Developer, such notice to persons and otherwise in accordance with the notice provisions of the Development Agreement.

4. In addition, Developer hereby grants to the City a security interest in Developer's rights, title and interests in, to and under each Contract, if and to the extent that a security interest may be granted therein under the North Dakota Uniform Commercial Code, and Developer acknowledges that the City shall have all of the rights and remedies with respect thereto provided for by the North Dakota Uniform Commercial Code, in addition to the other rights and remedies herein granted to the City, in the event of the occurrence of an Event of Default under the Development Agreement.

5. Developer hereby represents and warrants to the City no Contract constitutes or creates a lien, charge or encumbrance on the title of the Garage.

6. Subject to the provisions hereof, this Assignment shall be binding upon Developer and its successors and assigns, and shall inure to the benefit of the City and its successors and assigns. The City may assign its rights under this Assignment, without the consent of Developer, but Developer may not assign its rights or obligations under any of the Contracts or under this Assignment without the prior written consent of the City.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, Developer has caused this instrument to be executed as of the day and year first above written.

GREAT PLAINS NP HOLDINGS, LLC, a North
Dakota limited liability company

By: _____

Name: _____

Title: _____

EXHIBIT A
CONTRACTS

[Construction Contract]

[Garage Plans]

[Form of Third Party Consent]

CONSENT

The undersigned hereby consents to the foregoing Assignment, authorizes the City to rely upon and to utilize the Contract(s), without any payment by the City to the undersigned therefor, and agrees to cooperate with the City regarding the completion of construction of the Garage or the rights and obligations set forth in the Contract after any Event of Default under the above-mentioned Development Agreement; provided, however, that, if the City requires the undersigned to perform any work or obligations for which the undersigned has not already been paid, the City shall pay the undersigned for said work or obligation, but the City shall have no obligation to pay for any work or obligations already performed for which the City has paid Developer and for which Developer has failed to pay the undersigned.

Dated as of the _____ day of _____, 202__.

By: _____

Printed Name: _____

EXHIBIT E

Soft Costs		Phase I Garage Allocation
PARKING RAMP		
Phase I/II Environmental Site Assessment		<i>Included in Geotech</i>
Architectural	\$	90,000
Architectural Reimbursable expenses	\$	15,000
Structural, Mechanic and Electrical, Civil	\$	225,000
Landscape Design	\$	15,000
Precast Subcontractor Design Assist	\$	50,000
Topographic Survey, ALTA Survey	\$	8,000
Geotech Exploration	\$	17,500
Condo Association Agreement/Legal/Condo Docs	\$	80,000
ROW Use Fee	\$	20,000
Redesign Additional Services	\$	95,000
TOTAL PROJECT SOFT COSTS	\$	615,500
Hard Costs		
PARKING RAMP		
Base Construction Costs	\$	16,927,501
Design/Material Contingency (3.5%)	\$	592,463
Construction Contingency (4%)	\$	677,100
Construction Management Fee (3%)	\$	507,825
TOTAL PROJECT HARD COSTS (by-division summary included in EXHIBIT C)	\$	18,704,889
Sub-Total Hard and Soft Costs		
Kilbourne Group Development Fee (3%)	\$	579,612
City of Fargo Owner's held Contingency	\$	100,000
TOTAL PROJECT COSTS	\$	20,000,000

**EXHIBIT F
PARKING AGREEMENT**

THIS PARKING AGREEMENT, dated _____, 20__ (this “Agreement”), is entered into by and between the City of Fargo, North Dakota, a municipal corporation (together with its successors and assigns, the “City”) and the Great Plains NP Holdings, LLC, a North Dakota limited liability company (together with its successors and assigns, “Developer”).

RECITALS:

WHEREAS, the City and Developer have entered into that certain Development Agreement, dated as of October 31, 2022 (the “Development Agreement”) regarding the design, construction and ownership of certain improvements, including the Garage.

WHEREAS, the City owns, or will own, the Garage;

WHEREAS, the City desires Developer to operate the Garage for the period set forth herein, subject to the terms set forth in this Agreement;

WHEREAS, Developer desires to operate the Garage for the City for the period set forth herein, subject to the terms set forth in this Agreement; and

WHEREAS, Developer constitutes a “private operator” under the Infrastructure Development Act.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as set forth below.

AGREEMENT

Section 1. **Defined Terms.** In addition to other terms defined herein, the following terms used in this Agreement shall have the meanings set forth below:

“Accessible Spaces” shall mean parking spaces made available to eligible users and which comply with the requirements of the Americans with Disabilities Act (ADA), U.S. Department of Justice guidelines and applicable state and local accessibility requirements.

“Agreement” shall mean this Parking Agreement by and among the City and Developer, as the same may be amended, modified or supplemented from time to time.

“Annual Report” shall have the meaning set forth in Section 3.03 hereof.

“Applicable Law” shall mean any and all laws (including all statutory enactments and common law), ordinances, constitutions, regulations, treaties, rules, codes, standards, permits, requirements and Orders that (i) have been adopted, enacted, implemented, promulgated, ordered, issued, entered or deemed applicable by or under the authority of any Governmental

Authority or arbitrator having jurisdiction over a specified Person (or the properties or assets of such Person) and are (ii) applicable to this Agreement or the performance of the obligations of the Parties under this Agreement.

“Approved Budget” shall have the meaning set forth in Section 3.05 hereof.

“Business Day” shall mean any day other than a Saturday, Sunday or other day on which banks are required or authorized to close in Fargo, North Dakota.

“Calendar Year” shall mean a period of twelve (12) months commencing on January 1 and ending on December 31.

“Capital Expenditures” shall mean expenditures capitalized under GAAP, consistent with the City of Fargo capitalization policy.

“Casualty” shall have the meaning set forth in Section 6.02 hereof.

“City” shall have the meaning set forth in the first clause of this Agreement.

“Claims” shall have the meaning set forth in Section 7.4 hereof.

“Contamination” shall mean the presence or release or threat of release of Regulated Substances in, on, under or emanating to or from the Garage, which pursuant to Environmental Laws requires notification or reporting to any Governmental Authority, or which pursuant to Environmental Laws requires the identification, investigation, cleanup, removal, remediation, containment, control, abatement, monitoring of or other Response Action to such Regulated Substances, or which otherwise constitutes a violation of Environmental Laws.

“Defaulting Party” shall have the meaning set forth in Section 27.01 hereof.

“Early Termination Date” shall have the meaning assigned to such term in Section 2.05 hereof.

“Effective Date” shall mean the date of this Agreement as set forth in the introductory paragraph of this Agreement.

“Environmental Laws” shall mean all Laws, including any consent decrees, settlement agreements, judgments, or orders, issued by or entered into with a Governmental Authority pertaining or relating to: (a) pollution or pollution control; (b) protection of human health or the environment; (c) the presence, use, management, generation, processing, treatment, recycling, transport, storage, collection, disposal or release or threat of release of Regulated Substances; (d) the presence of Contamination; or (e) the protection of endangered or threatened species.

“Event of Default” shall have the meaning set forth in Section 27.01 hereof.

“Expiration Date” shall mean the earlier of (i) the Early Termination Date and (ii) the day immediately prior to the fifth (5th) anniversary of the date of the Garage Closing, unless extended pursuant to Section 2.04 below or earlier terminated in accordance with the terms of

this Agreement.

“Force Majeure” shall mean acts of God, accidents, fire or other casualty, earthquake, hurricane, tornadoes, named storms, flood, war, riot, intervention by civil or military authorities of government, insurrection or other civil commotion, governmental action (excluding any governmental action or inaction with respect to the grant or withholding of any governmental approvals or permits needed for construction, commissioning, or other matters affecting this Agreement), material shortages, strikes, boycotts, lockouts or labor disputes, or any other similar or like event or occurrence beyond the reasonable control of a Party hereto, that causes such Party to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder. Unavailability of funds, alone, shall not constitute Force Majeure.

“GAAP” shall mean Generally Accepted Accounting Principles.

“Garage Management Company Agreement” is the written agreement between Developer and the Garage Management Company.

“Governmental Authority” shall mean any federal, state, county, city, local or other government or political subdivision or any agency, authority, board, bureau, commission, department or instrumentality thereof having jurisdiction over a specified Person (or the properties or assets of such Person) as pertains to the subject matter of this Agreement.

“Infrastructure Development Act” shall mean North Dakota Century Code Chapter 48-02.1, as amended.

“Law” or “Laws” shall mean any law, statute, code, ordinance, rule, regulation or constitutional or charter provision, duly enacted or adopted by any Governmental Authority.

“Legal Requirements” shall mean present and future Laws (including Environmental Laws) applicable to the design, development, construction, equipping, use, occupancy, possession, operation, maintenance and management of the Garage.

“Management Company” is a reputable third party parking garage management company retained by Developer to manage the Garage on behalf of Developer during the Term.

“Garage” shall mean that certain parking facility, and the condominium unit for same, as described in the Development Agreement to be located on a portion of the real property legally described on **Exhibit A** attached hereto.

“Garage Closing” shall mean the date the City acquires fee title to the Garage.

“NOI” shall mean, for any period, the difference between Parking Revenues and Parking Expenses.

“Non-Defaulting Party” shall have the meaning set forth in Section 27.01 hereof.

“Parking Expenses” shall mean all expenses reasonably necessary to manage, maintain, operate, repair and restore the Garage, including, without limitation, the expenses set forth on

attached **Exhibit B**.

“Parking Revenue” shall mean, for any period, revenues or other consideration generated from short-term or long-term parking, including, without limitation, parking contracts, daily transient parking and event parking,

“Party” or “Parties” shall mean one (1) or more of the City or Developer.

“Permits” shall mean any permit, license or approval to be issued by any Person, including Required Environmental Permits, required for demolition, construction, installation, alteration or repair of any improvements related in any manner to the Garage.

“Person” shall mean any natural person, sole proprietorship, corporation, partnership, trust, limited liability company, limited liability association, unincorporated association, joint venture, joint-stock company, Governmental Authority, or any other entity.

“Proposed Budget” shall have the meaning set forth in Section 3.05 hereof.

“Qualified Capital Work” is any repair or replacement to the Garage required during the Term that meets all of the following:

- (i) is for any repair or replacement of the structural elements, footings, foundations, and the like;
- (ii) is not a routine or ordinary repair or replacement;
- (iii) is a Capital Expenditure;
- (iv) is not required because Developer has failed to otherwise satisfy its maintenance, repair and replacement obligations under this Agreement;
- (v) is not required because Developer has breached or defaulted under any of its obligations under the Development Agreement;
- (vi) is not required because of either or both a casualty or a condemnation; and
- (vii) is not subject to, or covered by, any warranty relating to the Garage.

“Qualified Capital Work Request” has the meaning set forth in Section 6.01(e) hereof.

“Regulated Substances” shall mean any substance, material or waste, regardless of its form or nature, defined under Environmental Laws as a “hazardous substance,” “hazardous waste,” “toxic substance,” “extremely hazardous substance,” “toxic chemical,” “toxic waste,” “solid waste,” “industrial waste,” “residual waste,” “municipal waste,” “special handling waste,” “mixed waste,” “infectious waste,” “chemotherapeutic waste,” “medical waste,” “regulated substance,” “pollutant” or “contaminant” or any other substance, material or waste, regardless of

its form or nature that otherwise is regulated by Environmental Laws.

“Required Environmental Permits” shall mean Permits, licenses, bonds, consents, programs, approvals or authorizations required under Environmental Laws for the construction and or operation of the Garage.

“Response Action” shall mean the investigation, cleanup, removal, remediation, containment, control, abatement, monitoring of or any other response action to the presence of Regulated Substances or Contamination in, on, at, under or emanating from the Garage, including the correction or abatement of any violation required pursuant to Environmental Laws, Required Environmental Permits or by a Governmental Authority.

“State” shall mean the State of North Dakota.

“Taking” shall have the meaning set forth in Section 6.03 hereof.

“Term” shall mean the term of this Agreement which commences on the date of the Garage Closing and expires on the Expiration Date.

Section 2. Ownership and Management of Garage; Retention of Garage Management Company; Term.

2.01. The City shall own the Garage from and after the Garage Closing.

2.02. Developer shall manage the Garage during the Term, subject to the terms and conditions of this Agreement. Developer shall manage the Garage in a commercially reasonable manner consistent with parking garages in downtown Fargo and in a manner, subject to the foregoing commercially reasonable management standard, that will maximize NOI of the Garage. Developer shall manage the Garage prior to the Term, as described herein, during the period between completion of construction of the Garage and issuance of a certificate of occupancy and the commencement of the Term herein—the period prior to the City’s acquiring of fee title to the Garage. The parking fees for the Garage shall be determined by Developer, subject to the prior approval of the City, which approval shall not be unreasonably withheld. Furthermore, with respect to the management of the Garage, Developer will be responsible for establishing priorities for hourly parking, parking for downtown residents and it shall establish a method for creating a waiting list for customers who desire to lease one or more spaces within the Garage, said matters being subject to the approval of the City, which approval shall not be unreasonably withheld.

2.03. Developer may, from time-to-time, retain the services of a Garage Management Company to perform some or all of the management duties of the Garage. The Garage Management Company, and the Garage Management Company Agreement, are both subject to the prior written approval of the City, which approval must not be unreasonably withheld, conditioned or delayed. The term of the Garage Management Company Agreement executed by Developer must not extend beyond the Term. Developer may, during the Term and upon notice to the City, terminate or replace the Garage Management Company from time-to-time; provided, however, that any replacement Garage Management Company must be approved in writing by the City in accordance with the terms of this Section 2.03.

Developer is solely responsible for compensating the Garage Management Company pursuant to the terms of the Garage Management Company Agreement.

2.04. The City and Developer may agree to extend the Term for two (2) additional periods of five (5) years each. Any such extension shall only be effective upon the execution of an appropriate extension amendment to this Agreement executed by both the City and Developer.

2.05. The City shall have the right to terminate this Agreement in its sole discretion by giving written notice to Developer setting forth an early termination date (the "Early Termination Date"), which Early Termination Date cannot be less than thirty (30) days after the date of such notice. If such notice is given, then the Term shall terminate on the Early Termination Date.

Section 3. Compensation, Reports And Budget.

3.01. All NOI generated during the Term belongs, and shall be paid, to the City, subject to the terms of this Agreement. Developer shall collect, or cause to be collected, all Parking Revenue from the operation and use of the Garage during the Term and shall deliver such Parking Revenue less the Parking Expenses to the City on a monthly basis, provided that in no event shall the City be responsible for any amount by which the Parking Expenses exceed the Parking Revenue. Developer shall timely pay all Parking Expenses during the Term. In accordance with the Infrastructure Development Act, Developer agrees that the anticipated fees, rental income and revenues from the operation of the Garage will be sufficient to pay the maintenance and operation costs for the Garage. Notwithstanding anything herein to the contrary, if NOI is a negative sum for any month, Developer may in subsequent months deduct from NOI otherwise payable to the City amounts sufficient to offset and compensate Developer for all cumulative prior-incurred negative NOI.

3.02. Developer shall utilize an appropriate and consistent accounting system to record all Parking Revenue and Parking Expenses. Upon the expiration or earlier termination of the Term, Developer must deliver to the City all records pertaining to Parking Revenue and Parking Expenses for the previous five (5) Calendar Years, including, without limitation, parking tickets, monthly parking records, coupon and validation stamp sales, redemption records, cashier reports, daily reports and deposit slips. Prior to the expiration or earlier termination of the Term, such information must be available for examination and audit by the City and their authorized representatives upon fifteen (15) Business Days' prior written notice to Developer.

3.03. By March 15 of each Calendar Year during the Term, Developer will provide an Annual Report to the City. An "Annual Report" is a written report, in form and substance reasonably acceptable to the City and submitted to the City that includes at least the following information:

(a) an annual certified statement of operations (which must include maintenance activities) for the Garage that documents the annual NOI, each on a cash basis for the immediately preceding Calendar Year;

(b) detail of expenditures categorized as operating expenses in accordance with GAAP and Capital Expenditures;

(c) a detailed calculation of Parking Revenues for the previous Calendar Year broken down by the following categories: monthly parking, charge accounts, cash parking and such other reports as requested by the City;

(d) cumulative vendor payment disbursement, detailing payments on a “by vendor by month” basis; and

(e) such other information as is reasonably requested in writing by the City.

3.04. The City has the right to audit the Annual Reports, which audit will be performed at the City’s cost unless a material deviation is identified, in which case Developer shall pay for the cost of the audit. For purposes of this Section 3.04, a “material deviation” is a deviation of five percent (5%) or more in overall underpaid NOI.

3.05. Not later than July 1 of each year, Developer shall provide to the City a proposed operating budget for the Garage for the following year (the “Proposed Budget”); provided, however, that the first Proposed Budget shall be prepared and submitted to the City prior to the commencement of the Term. The Proposed Budget shall include projected Parking Revenue (including, without limitation, detailed parking rates and usage assumptions) and all projected Parking Expenses to be paid in the operation of the Garage. Upon the approval of such Proposed Budget by the City (which approval may not be unreasonably withheld, conditioned or delayed), the same shall be the approved budget for such Calendar Year (once so approved, the “Approved Budget”). After the first budget is approved, in subsequent Calendar Years, until a new budget is approved, Developer shall be authorized to continue operations consistent with the previous Approved Budget.

Section 4. **Staff.**

4.01. Developer must employ or cause the Garage Management Company to employ at the Garage a sufficient number of personnel capable of managing and operating the Garage in accordance with the terms and conditions hereof such that the Garage shall be operated in a professional, businesslike and efficient manner, and in a manner comparable to other parking facilities of similar type in the Fargo metropolitan area. Developer must provide or cause the Garage Management Company to provide all necessary executive and supervisory personnel that are required for the proper management of the Garage, but such personnel are not required to work on location at the Garage. All Persons so employed shall have no authority to act as the agent of the City.

4.02. The Garage shall be open to the public for parking purposes 24 hours per day, 365 days per year, except for any periods of closure beyond Developer’s reasonable control, or as agreed to in writing by the City.

Section 5. **Compliance With Laws.**

5.01. During the Term, Developer must comply or cause the Garage Management Company to comply with all Laws and Legal Requirements pertaining to Developer’s or the Garage Management Company’s management and operation of the Garage and the business conducted therein by Developer or the Garage Management Company, including, without limitation, Laws relating to equal opportunity employment and federal,

state and municipal tax withholding with respect to Developer or the Garage Management Company's employees and the provision of an appropriate number of Accessible Spaces.

5.02. During the Term, Developer must prepare and file or cause the Garage Management Company to prepare and file all necessary returns, reports and forms required by law in connection with unemployment insurance, social security taxes, workers' compensation insurance, disability benefits, federal and state income tax withholding and other similar taxes and all other returns and reports required by any federal, state or municipal authority and pay or make all deposits required for such taxes.

5.03. In accordance with the Infrastructure Development Act, neither Developer, nor its Garage Management Company, is excused from the necessity of obtaining any environmental, navigational, design or safety approvals that would be required if the Garage were constructed or operated by a public body.

Section 6. **Maintenance; Casualty; Condemnation; Expiration of Term.**

6.01. Maintenance.

(a) During the Term, Developer must, or cause the Garage Management Company to, maintain the Garage in a commercially reasonable condition, which maintenance includes performing all repairs and replacements, and in a manner comparable to other public parking facilities of similar type in the downtown Fargo area. All costs reasonably incurred by Developer and the Garage Management Company in complying with the preceding sentence shall be Parking Expenses, subject to subparagraph (e) below. Developer's obligations under this Section 6.01 include, but are not limited to, maintaining the Garage in a clean, neat and orderly condition, and in a manner comparable to other public parking facilities of similar type in the downtown Fargo area. Developer's obligations in connection with the management, operation and promotion of the Garage, and employment of Persons in connection therewith, include the rendition of, or the contracting for the rendition of, service, supervision, or furnishing of personnel in connection with the personal safety and security of employees, tenants, customers, or other Persons within and about the Garage.

(b) Developer shall, or cause the Garage Management Company to, advise and cooperate with the City in the development and implementation of rules and regulations applicable to the Garage, and shall enforce such rules and regulations as the City shall adopt, and Developer and the Garage Management Company shall advise and consult with the City with respect to matters of potential changes to traffic control systems, safety and security matters, signage and/or any other matter that may substantially alter the use and operation of the Garage, the implementation of any of which shall require the City's written consent, which consent will not be unreasonably withheld, conditioned or delayed. Rules promulgated under this Agreement must be commercially reasonable and substantially similar to rules promulgated by other public parking facilities in downtown Fargo.

(c) The City shall have monthly inspection rights and an inspection right upon the expiration of the Term. If any such inspection indicates that the Garage is not being maintained in a commercially reasonable condition,

Developer shall have an obligation to create a restoration plan, which restoration plan is subject to the prior approval of the City.

(d) During the Term, except as set forth in subparagraph (e) below regarding payments to Developer, the City shall not have any obligations whatsoever with respect to maintenance, repairs, alterations, restorations or replacements relating to the Garage. However, during Term, no alterations or modifications shall be made to the Garage without the City's prior written consent.

(e) In the event during the Term Developer reasonably believes the Garage requires the performance of Qualified Capital Work, Developer shall submit a request in writing to the City specifying the Qualified Capital Work and the proposed cost of the Qualified Capital Work (the "Qualified Capital Work Request"). Within twenty (20) days after the City's receipt of the Qualified Capital Work Request, the City shall notify Developer whether it accepts the Qualified Capital Work Request or objects thereto. If the City accepts the Qualified Capital Work Request, (i) Developer shall promptly and in accordance with the terms of this Agreement perform, or cause to be performed, the Qualified Capital Work and upon completion of the Qualified Capital Work, submit to the City paid invoices and appropriate lien waivers from all contractors, suppliers and materialmen with a lienable interest in the Garage and (ii) the City shall reimburse Developer for the cost of the Qualified Capital Work as evidenced by the submitted invoices and lien waivers (which costs shall not be treated as Parking Expenses hereunder) and shall pay Developer a construction/supervision fee equal to 3% of the actual cost of the Qualified Capital Work. If the City objects to the Qualified Capital Work Request, the City and Developer shall meet and negotiate in good faith to come to resolution thereon.

6.02. Casualty. If the Garage is damaged by casualty, including, without limitation, fire (a "Casualty"), at the City's election, this Agreement will terminate. If this Agreement is not so terminated, then at the election of the City either (i) the City will repair and restore the Garage or (ii) Developer shall proceed, as soon as reasonably possible, to repair all damage, and shall diligently pursue such repairs to completion, subject to Developer's receipt of adequate insurance proceeds or other funds from the City for the cost of such repair and restoration (Developer will not be required to expend any amounts in excess of the amount of insurance proceeds or other funds received by Developer from any source), plus a construction/supervision fee equal to 3% of the actual cost of such repair and restoration. In the event the City elects to proceed under (ii) above, the Parties shall enter into a commercially reasonable disbursement agreement of the type typically used for the disbursement of proceeds for commercial construction projects. In the event of any Casualty loss, Developer shall give the City prompt written notice thereof.

6.03. Eminent Domain. If the Garage is taken by eminent domain or condemnation (a "Taking"), the Parties may terminate this Agreement upon mutual agreement. If this Agreement is not terminated, all damages awarded to any Party shall be turned over to Developer, and Developer shall proceed with due diligence to make all necessary repairs to

restore the Garage to substantially the same condition that it was in prior to the partial Taking; provided, however, that Developer will not be required to repair any damage in excess of the amount of condemnation proceeds received by Developer. Damages awarded for any Taking shall be payable to the City.

6.04. Expiration of Term. On the Expiration Date, Developer shall return the Garage to the City in the same condition as existing at the commencement of the Term, reasonable wear and tear, the effects of casualty (subject to Section 6.02 above) and eminent domain excepted, and with all Developer's repair, maintenance and replacement obligations under this Agreement fully performed.

Section 7. Insurance.

7.01. During the Term, Developer must obtain and maintain the following types of insurance for the Garage with companies authorized to do business in the State of North Dakota, and reasonably acceptable to the City:

(a) to the extent required by law, workers compensation insurance, with statutory coverage;

(b) Employers Liability Insurance with coverage limits of \$100,000 for bodily injury per accident limit, \$500,000 for bodily injury by disease policy limit and \$100,000 for bodily injury by disease per employee limit;

(c) commercial general liability (including bodily injury and property damage and contractual tort liability) insurance, Personal Injury Insurance with liability limits of \$1,000,000 per occurrence and \$2,000,000 in aggregate that names the City as an additional insured;

(d) garage keeper's legal liability insurance with minimum liability limits of \$500,000 and Automobile Liability insurance with minimum liability limits of \$1,000,000;

(e) umbrella coverage in the amount of not less than \$10,000,000 providing excess coverage over the following underlying liability policies: General Liability, Commercial Business Automobile and Employers Liability;

(f) fidelity (crime) insurance with respect to its employees who handle or are responsible for funds with liability limits of \$500,000, subject to availability of such limits, and, to the extent available, a Co-Obligee endorsement in favor of the City;

(g) twelve (12) months of Business Interruption Insurance insuring Developer (or the Garage Management Company) against an interruption in Developer (or the Garage Management Company's) business under this Agreement;

(h) "all-risk of direct physical loss" commercial property insurance for personal property and contents owned by Developer (or its agents or the Garage

Management Company) in the amount of the full replacement values thereof (as reasonably determined by Developer);

(i) Waiver of Subrogation in favor of the City on Workers Compensation Liability, Garage Keepers Legal Liability, Automobile Liability and “all-risk of direct physical loss” policies, to the extent available without material additional cost;

(j) Naming the City as Additional Insured on the Automobile Liability Insurance and Commercial General Liability Insurance policies.

7.02. Certificates evidencing such insurance shall be furnished by Developer to the City upon request and such certificates shall contain an endorsement requiring the insurance carrier to endeavor to provide thirty (30) days’ written notice in the event of cancellation. Premiums with respect to the policies which Developer must obtain shall be paid by Developer and shall constitute Parking Expenses. Such policies shall be subject to the reasonable approval of the City.

7.03. During the Term, the City must obtain and maintain the following types of insurance for the Garage with companies authorized to do business in the State of North Dakota:

(a) “all-risk of direct physical loss” commercial property insurance in the amount of the full replacement value of the Garage, and similar coverage insuring personal property and contents owned by the City in the Garage for the full replacement value thereof (as reasonably determined by the City), with a Waiver of Subrogation in favor of Developer, to the extent available without material additional cost. Certificates evidencing such insurance shall be furnished by Developer to the City upon request and such certificates shall contain an endorsement requiring the insurance carrier to endeavor to provide thirty (30) days’ written notice in the event of cancellation. Premiums with respect to the policies which City must obtain shall be paid by City.

7.04. Developer shall indemnify and hold the City harmless from any and all claims, demands and actions, and all costs and expenses relating thereto (including reasonable attorneys’ fees) (collectively, “Claims”), for damage, injury, death, disability or illness of or to any Persons or property that occur during the Term, arising out of, or as a result of, either or both Developer’s negligent management of the Garage or Developer’s default under this Agreement. Developer shall require its Garage Management Company to indemnify and hold the City harmless from any and all Claims for damage, injury, death, disability or illness of or to any Persons or property, arising out of, or as a result of, either or both the Garage Management Company’s negligent management of the Garage or the Garage Management Company’s default under its Garage Management Company Agreement.

Section 8. **Assignment.** No Party hereto shall assign its rights hereunder without the prior written consent of the other Party to this Agreement.

Section 9. **Permits and Licenses.** During the Term, Developer must apply for, secure (or cause to be applied for and secured) and maintain, in its own name, all municipal

permits and licenses required for the Garage and carry out the responsibilities under all such permits and licenses to the public and to the agencies having jurisdiction.

Section 10. **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 Developer: Great Plains NP Holdings, LLC
ATTN: Mike Allmendinger, President
210 Broadway N., Suite 300
Fargo, ND 58102

with a copy to: Dan Bueide
Bueide Law Firm
1 2nd St. N, Suite 100
Fargo, ND 58102

To the City: City Auditor
Fargo City Hall
225 4th Street North
Fargo, ND 58102

and to: Director of Strategic Planning
ATTN: James Gilmour
Fargo City Hall
225 4th Street North
Fargo, ND 58102

and to: Director of Planning and Development
ATTN: Nicole Crutchfield
Fargo City Hall
225 4th Street North
Fargo, ND 58102

with copy to: Erik R. Johnson
Fargo City Attorney
608 24th Avenue S.
Fargo, ND 58103

Each notice shall be deemed given and received on the date delivered if served personally or, if sent by United States registered or certified mail or by overnight delivery service, then the day so sent to the address of the respective Party, as provided in this Section, postage pre-paid. Notices sent by a Party's counsel shall be deemed notices sent by such Party.

Section 11. **Estoppel.** Each Party, respectively, agrees that at any time and from time to time within ten (10) Business Days after receipt of a written request by a Party, to execute, acknowledge and deliver to such Party a statement in writing certifying: (a) that this Agreement is unmodified and in full force and effect or, if there have been modifications, that the same are in full force and effect as modified and identifying the modifications; (b) that no Party is in default under any provisions of this Agreement or, if there has been a default, the nature of such default; and (c) as to any other matter that the requesting Party or a prospective mortgagee or other lender shall reasonably request. It is intended that any such statement may be relied upon by any Person, prospective mortgagee of, or assignee of any mortgage, upon such interest. Developer agrees to include in its Garage Management Company Agreement provisions similar to those set forth in this Section 11.

Section 12. **Survival of Covenants, Agreements, Representations, and Warranties.** No action taken pursuant to or related to this Agreement, including any investigation by or on behalf of a Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, condition, or agreement in this Agreement.

Section 13. **Additional Documents and Approval.** The Parties, whenever and as often as any shall be reasonably requested to do so, shall execute or cause to be executed any further documents and take any further actions as may be reasonably necessary or expedient and within their lawful obligation in order to consummate the transactions provided for in, and to carry out the purpose and intent of, this Agreement.

Section 14. **Good Faith.** In exercising its rights and fulfilling its obligations under this Agreement, each of the Parties acknowledges that the other has acted to date in good faith and each Party agrees to continue to act in good faith. Each Party acknowledges that in each instance under this Agreement where a Party is obligated to exercise good faith or to use good faith, diligent, or other similar efforts, such Party shall not be required to expend any funds or grant any other consideration of any kind in the performance of such undertaking, and each Party further acknowledges that the obligation of any Party to act in good faith or undertake good faith, diligent, or other similar efforts does not constitute a warranty, representation, or other guaranty that the result that the Parties are attempting to achieve shall be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

Section 15. **Calculation of Time.** Unless otherwise stated, all references to “day” or “days” shall mean calendar days. If any time period set forth in this Agreement expires on other than a Business Day, such period shall be extended to and through the next succeeding Business Day.

Section 16. **Time is of the Essence.** Time is of the essence of this Agreement.

Section 17. **Entire Agreement.** Except as otherwise provided in this Agreement and the other written agreements contemplated hereby, this Agreement contains the sole and entire agreement among the Parties with respect to its subject matter and supersedes any and all other prior written or oral agreements among them with respect to such subject matter.

Section 18. **Amendment.** No amendment, modification, or termination of this Agreement shall be valid unless in writing and duly executed by the Parties.

Section 19. **No Presumption Against Drafter.** This Agreement has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, this Agreement shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Agreement.

Section 20. **Severability.** If any term or provision of this Agreement or the application thereof to any Person or circumstance shall, to any extent, be inconsistent with, invalid, or unenforceable under any laws, the remainder of this Agreement or the application of such term or provision to Persons or circumstances, other than those as to which it was held invalid or unenforceable, shall not be affected thereby and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by any laws.

Section 21. **Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to (a) confer upon any Person other than the Parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise, except as specifically provided in this Agreement; or (b) authorize anyone not a Party to this Agreement to maintain an action pursuant to or based upon this Agreement.

Section 22. **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota, notwithstanding its conflicts of law or choice of law provisions. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement shall be controlled by and determined in accordance with the Laws of the State, and the Parties agree that all legal actions initiated with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued exclusively in the State, Cass County, District Court and shall not be removed therefrom to any other federal or state court. The parties hereby waive personal jurisdiction and venue for all claims and defenses.

Section 23. **Counterparts.** This Agreement may be executed and delivered in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall be deemed to be one agreement.

Section 24. **Relationship of Parties.** It is agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture among the Parties.

Section 25. **Approval by Parties.** In each instance where the approval or consent of any Party may be sought or is required, such approval or consent shall not be unreasonably withheld, conditioned or delayed.

Section 26. **Injunctive Relief; Specific Performance.** The Parties acknowledge that the rights conveyed by this Agreement and the covenants of the Parties are of a unique and

special nature, and that a breach or violation of this Agreement shall result in immediate and irreparable harm. In the event of any such actual or threatened breach or violation of this Agreement caused by a Party, the Party so harmed shall be entitled as a matter of right to an injunction or a decree of specific performance from any equity court of competent jurisdiction without the posting of any bond. The Parties waive the right to assert the defense that a breach of this Agreement can be compensated adequately in damages in an action at law.

Section 27. Default; Remedies Cumulative; Limitation on Remedies; Waiver.

27.01. Each of the following shall constitute a default by any Party (the “Defaulting Party”) under this Agreement (“Event of Default”), but further subject to Section 28 below:

(a) the failure to make any payment of any sums payable under this Agreement, which failure shall continue for ten (10) days after receipt of written notice to the Defaulting Party by the other Party (the “Non-Defaulting Party”);

(b) the Defaulting Party’s violation or failure to perform or observe any covenant or condition of this Agreement other than a failure under Section 27.01(a), which failure or violation shall continue for 30 days after receipt of written notice to the Defaulting Party by the Non-Defaulting Party identifying with particularity the failure or violation; provided, however, if such violation or failure reasonably cannot be cured within such 30 day period, then a reasonably longer period of time provided that the Defaulting Party commences to cure such violation or failure within such 30 day period and diligently pursues the same to completion; or

(c) (i) the Defaulting Party shall institute voluntary proceedings in bankruptcy, (ii) involuntary proceedings in bankruptcy shall be instituted against the Defaulting Party that are not discharged within ninety (90) days thereafter, (iii) any proceedings shall be instituted by or against the Defaulting Party under any Law relating to insolvency or bankruptcy reorganization, and in the case of an involuntary proceeding, that is not discharged within ninety (90) days after filing, (iv) a trustee or receiver shall be appointed for the Defaulting Party by any court of competent jurisdiction, or (v) the Defaulting Party shall make a general assignment for the benefit of its creditors.

(d) in the case of Developer, a default or breach of the Development Agreement by Developer beyond the applicable notice and cure period set forth in such Development Agreement.

27.02. Upon the occurrence of an Event of Default, the Non-Defaulting Party will have the right to exercise any of the following remedies:

(a) exercise any remedy afforded hereunder;

(b) seek specific performance or other equitable relief;

(c) sue for money damages; or

(d) in the case of an Event of Default by Developer, terminate this Agreement. Except as expressly set forth in this Agreement, Developer shall not be entitled to terminate this Agreement.

All rights and remedies set forth in this Agreement are cumulative and in addition to the Parties' rights and remedies at law or in equity, subject, however, to any limitation on damages, fees and costs as provided for in this Agreement. A Party's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. A Party's delay or failure to exercise or enforce any rights or remedies shall not constitute a waiver of any such rights, remedies, or obligations. No Party shall be deemed to have waived any default unless such waiver is expressly set forth in an instrument signed by such Party. If a Party waives in writing any default, then such waiver shall not be construed as a waiver of any covenant or condition set forth in this Agreement, except as to the specific circumstances described in such written waiver. Neither payment of a lesser amount than the sum due hereunder, nor endorsement or statement on any check or letter accompanying such payment shall be deemed an accord and satisfaction, and the other Party or Parties may accept the same without prejudice to the right to recover the balance of such sum or to pursue any other remedy.

27.03. No Party shall suspend its performance under this Agreement pending the resolution of any Event of Default.

27.04. No Party shall interfere with Garage operations pending the resolution of any Event of Default.

Section 28. **Risk of Certain Losses; Force Majeure.** The non-occurrence of any condition under this Agreement shall not give rise to any right otherwise provided in this Agreement when such failure or non-occurrence is due to the occurrence of a Force Majeure condition and without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause, if any, shall be limited to the period of delay due to such cause, which period shall be deemed to commence from the time of the commencement of the cause; provided, however, that if notice by the Party claiming such extension is sent to the other Party more than thirty (30) days after the commencement of the cause, the period shall be deemed to commence thirty (30) days prior to the giving of such notice. Times of performance under this Agreement also may be extended as mutually agreed upon in writing by the Parties. However, failure to agree to a proposed extension of time for performance shall not be deemed grounds for delay or failure to timely cure an Event of Default under this Agreement. Unavailability of funds shall not constitute Force Majeure.

Section 29. **Limited Recourse Obligations; Members and Officers Not Liable.** All covenants, stipulations, promises, agreements, and obligations of Developer contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of Developer and not of any shareholder, member, partner, owner, manager, officer, employee, or agent of Developer in his or her individual capacity, and no recourse shall be had for any claim hereunder against any shareholder, member, partner, owner, manager, officer, employee, or agent of Developer in such capacity. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the City and not of any commissioner, member, director, officer, employee, or agent of the City in his or her individual capacity, and no recourse shall be had for

any claim hereunder against any commissioner, member, director, officer, employee, or agent of the City in such capacity.

Section 30. **Inclusion in Management Agreement.** Developer shall include in its Garage Management Company Agreement, or make the same expressly subject to, the terms and provisions of this Agreement to the extent required to require the Garage Management Company to perform those obligations allocated thereto in this Agreement.

Section 31. **Binding Covenants.** The provisions herein shall be deemed covenants that run with the land, and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

Section 32. **Recording of Parking Agreement.** This Agreement shall not be recorded, but at the request of any Party, the Parties shall promptly execute, acknowledge and deliver to each other a Memorandum of Parking Agreement in form reasonably acceptable to the Parties (and a memorandum of modification of parking agreement in respect of any modification of this Agreement) sufficient for recording. Such memoranda shall not be deemed to change or otherwise affect any obligations or provisions of this Agreement.

[The balance of this page is intentionally left blank.]

IN WITNESS WHEREOF, Developer and the City have caused this Agreement to be executed as of the date first set forth above.

Developer:

GREAT PLAINS NP HOLDINGS, LLC,
a North Dakota limited liability company

By: _____

Name: _____

Title: _____

CITY:

CITY OF FARGO,
a North Dakota municipal corporation

By: _____

Name: _____

Title: Mayor

ATTEST:

By: _____

Name: _____

Title: City Auditor

EXHIBIT A

Legal Description of Real Property, on a portion of which the Garage will be located

[use applicable condominium unit description prior to execution]

EXHIBIT B

Parking Expenses

- (i) Wages of on-site supervisory personnel, attendants and cashiers, clerical and audit staff assigned to the Garage, and a charge from Developer for employee benefits including, but not limited to, monetary fringe benefits such as workers' compensation insurance, unemployment insurance, social security, group health and dental insurance, retirement benefits; provided, however, in the event an employee does not devote his or her full working time to the Garage, then all of the foregoing charges pertaining to such employee shall be appropriately prorated to the Garage in a manner reasonably acceptable to the City; provided further, in no event shall the compensation (direct or indirect) of any off-site management personnel be included in Parking Expenses, the same being borne solely by Developer.
- (ii) (a) Ad valorem taxes and special assessments levied against real property; (b) sales taxes imposed by the various jurisdictions in which the Garage is located; (c) any other taxes generated by the presence or operation of the Garage, except income taxes incurred by Developer or the Garage Management Company; and (d) the cost of Permits.
- (iii) Expenses for the Garage management office including, but not limited to, telephone, postage, office supplies, computer and software expenses, subject to an equitable proration if the management office services other facilities in addition to the Garage.
- (iv) General repair and maintenance of the Garage, including signs and electrical, mechanical and parking equipment, incurred in the ordinary course of business.
- (v) The costs of printing parking tickets and related forms, cards, decals, invoices and stationary for use exclusively at the Garage.
- (vi) Power and hand sweeping and cleaning, and line painting, as required at the Garage.
- (vii) Insurance premiums, including business interruption insurance and property and casualty insurance.
- (viii) Business license, business taxes, license fees and permits.
- (ix) Costs of advertising and promoting the Garage incurred by Developer or its Garage Management Company.
- (x) The costs of towing vehicles or otherwise enforcing parking restrictions, replacing or changing access devices and similar costs related to users of the Garage.
- (xi) Uniforms and janitorial supplies.
- (xii) Snow clearance where required to be performed by Developer.

- (xiii) Bank charges associated with the maintenance of bank accounts for the Garage.
- (xiv) Gas, electric, water, telecommunications and any other utility charges.
- (xv) Fees payable to a Garage Management Company pursuant to an approved Garage Management Company Agreement.
- (xvi) Amounts expended from time to time used by the Developer to pay extraordinary maintenance and replacement costs, including costs periodically incurred to repair or cure defects (excluding construction defects covered by a construction warranty) or conditions in order to maintain or restore the Garage to a commercially reasonable condition, and as shall be used for improvements required as a result of a City inspection as described in Section 6.01. Such expenditures may include operating expenditures or Capital Expenditures.
- (xvii) Cost for preparing any required operational, maintenance and financial records as required under this Agreement.

EXHIBIT G

Guaranty

This Guaranty is made by Great Plains Opportunity Zone Fund II, LLC, a Delaware limited liability company, (“Guarantor”), in favor of the City of Fargo, North Dakota, a municipal corporation (the “City”), to induce the City to enter into that certain Development Agreement of substantially even date herewith, with Great Plains NP Holdings, LLC, a North Dakota limited liability company (“Developer”) for the for the planning, design, financing, acquisition, development, and construction of the NP Avenue Project (as defined in the Development Agreement) in Fargo, North Dakota (as amended, supplemented or otherwise modified from time to time, the “Development Agreement”) and in consideration of the City entering into the Development Agreement.

Developer is an affiliate of Guarantor and Guarantor will derive benefit from the making of the Guaranty.

NOW, THEREFORE, for good and valuable consideration, Guarantor hereby covenants and agrees as follows:

1. Guarantor hereby unconditionally guarantees the full and timely payment and performance by Developer of all of its obligations under the Development Agreement, as it from time to time may be amended, and hereby undertakes that if Developer shall in any respect fail to perform and observe all of the terms, provisions, conditions, and stipulations of the Development Agreement, Guarantor warrants the faithful payment and performance of all of such terms and conditions and will fully indemnify and keep indemnified the City against all claims, losses, damages, costs and expenses whatsoever which the City may incur by reason of Developer’s failure to perform and observe any of the terms, provisions, conditions, and stipulations of the Development Agreement and in addition against all claims, losses, damages, costs and expenses which the City may incur by reason of Developer’s breach of any other duty to the City, (collectively the “Guaranteed Obligations”). THE OBLIGATIONS OF THE GUARANTOR HEREUNDER SHALL NOT BE REDUCED, LIMITED OR TERMINATED, NOR SHALL THE GUARANTOR BE DISCHARGED FROM ANY THEREOF, FOR ANY REASON WHATSOEVER, including (and whether or not the same shall have occurred or failed to occur once or more than once and whether or not Guarantor shall have received notice thereof):
 - (a) (i) any increase in, (ii) any extension of the time of payment, observance or performance of, (iii) any other amendment or modification of any of the other

terms and provisions of, (iv) any release, composition or settlement (whether by way of acceptance of a plan of reorganization or otherwise) of, (v) any subordination (whether present or future or contractual or otherwise) of, or (vi) any discharge, disallowance, invalidity, illegality, voidness or other unenforceability of, the Guaranteed Obligations;

- (b) (i) any failure to obtain, (ii) any release, composition or settlement of, (iii) any amendment or modification of any of the terms and provisions of, (iv) any subordination of, or (v) any discharge, disallowance, invalidity, illegality, voidness or other enforceability of, any other guaranties of the Guaranteed Obligations;
- (c) any termination of or change in any relationship between Guarantor and Developer, including any such termination or change resulting from a change in the ownership of Guarantor or from the cessation of any commercial relationship between the Guarantor and Developer;
- (d) any exercise of, or any election not or failure to exercise, delay in the exercise of, waiver of, or forbearance or other indulgence with respect to, any right, remedy or power available to the City, including (i) any election not or failure to exercise any right of set-off, recoupment or counterclaim, and (ii) any election of remedies effected by the City, and
- (e) ANY OTHER ACT OR FAILURE TO ACT OR ANY OTHER EVENT OR CIRCUMSTANCE THAT (i) VARIES THE RISK OF THE GUARANTOR HEREUNDER OR (ii) BUT FOR THE PROVISIONS HEREOF, WOULD, AS A MATTER OF STATUTE OR RULE OF LAW OR EQUITY, OPERATE TO REDUCE, LIMIT OR TERMINATE THE OBLIGATIONS OF THE GUARANTOR HEREUNDER OR DISCHARGE GUARANTOR FROM ANY THEREOF.

2. Guarantor represents and warrants to the City that:

- (a) Guarantor is a duly organized and validly existing limited liability company organized in the State of Delaware;
- (b) Guarantor directly or indirectly owns all of the ownership interests of Developer;
- (c) Guarantor is authorized and has all necessary power and authority, corporate and other, to execute and deliver this Guaranty and to perform the obligations of Guarantor, including all obligations of Developer pursuant to the Development Agreement. This Guaranty reasonably may be expected to benefit directly or indirectly, Guarantor, and this Guaranty has been duly executed and delivered by Guarantor and is the valid, binding, and enforceable contract of Guarantor, and;

- (d) The execution and delivery of this Guaranty by Guarantor and its performance of its obligations under the Guaranty, do not (and, to the best of Guarantor's knowledge, will not) conflict with any law, rule or regulation, or any agreement, instrument, indenture, deed or any other restriction, to which Guarantor is subject or a party, or accelerate or affect any of its obligations under any thereof.
- 3. Guarantor shall cause Developer to duly and timely perform all of the Guaranteed Obligations including the obligations of Developer under the Development Agreement, as it may from time to time be amended.
- 4. The obligations of the Guarantor hereunder include, without limitation, all liabilities for liquidated or similar damages and warranty obligations of Developer.
- 5. The City may enforce against Guarantor any and all of the rights of the City under this Guaranty without having instituted or completed any legal, arbitration or other proceedings against Developer.
- 6. This Guaranty shall be governed by and construed according to the laws of the State of North Dakota.
- 7. Guarantor waives: (a) any requirement, and any right to require, that any right or power be exercised or any action be taken against Developer; (b) (i) notice of acceptance of and intention to rely on this Guaranty, and (ii) all other notices that may be required by applicable law or otherwise to preserve any rights against Guarantor under this Guaranty, including any notice of default, demand, dishonor, presentment and protest; and, (c) diligence.
- 8. Guarantor shall not assert any right to set off against claims by the City hereunder other than claims which Developer has a right to set off under the Development Agreement.
- 9. Guarantor's obligations hereunder (a) are absolute and unconditional, (b) are unlimited in amount, (c) constitute a guaranty of payment and performance and not a guaranty of collection, (d) are as primary obligor and not as a surety only (e) shall be a continuing guaranty of all present and future Guaranteed Obligations and (f) shall be irrevocable.
- 10. 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 Guarantor: Great Plains Opportunity Zone Fund II, LLC
Attn: Mike Almendinger, President
210 Broadway N., Suite 300
Fargo, ND 58102

with a copy to: Dan Bueide
Bueide Law Firm
1 2nd St. N, Suite 100
Fargo, ND 58102

To the City: City Auditor
Fargo City Hall
225 4th Street North
Fargo, ND 58102

and to: Director of Strategic Planning and Development
Attn: James Gilmour
Fargo City Hall
225 4th Street North
Fargo, ND 58102

with copy to: Office of the Fargo City Attorney
Attn: Erik R. Johnson
608 24th Avenue S.
Fargo, ND 58103

Each notice shall be deemed given and received on the date delivered if served personally or, if sent by United States registered or certified mail or by overnight delivery service, then the day so sent to the address of the respective party, as provided in this section, postage pre-paid. Notices sent by a party's counsel shall be deemed notices sent by such party.

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be executed and delivered to the City in the name and on behalf of Guarantor by one of its officers who is duly authorized to do so, for the benefit of the City, as of this ___ day of _____, 202__.

[Remainder of page left blank – signatue page follows]

GUARANTOR:

GREAT PLAINS OPPORTUNITY ZONE
FUND II, LLC

By: _____

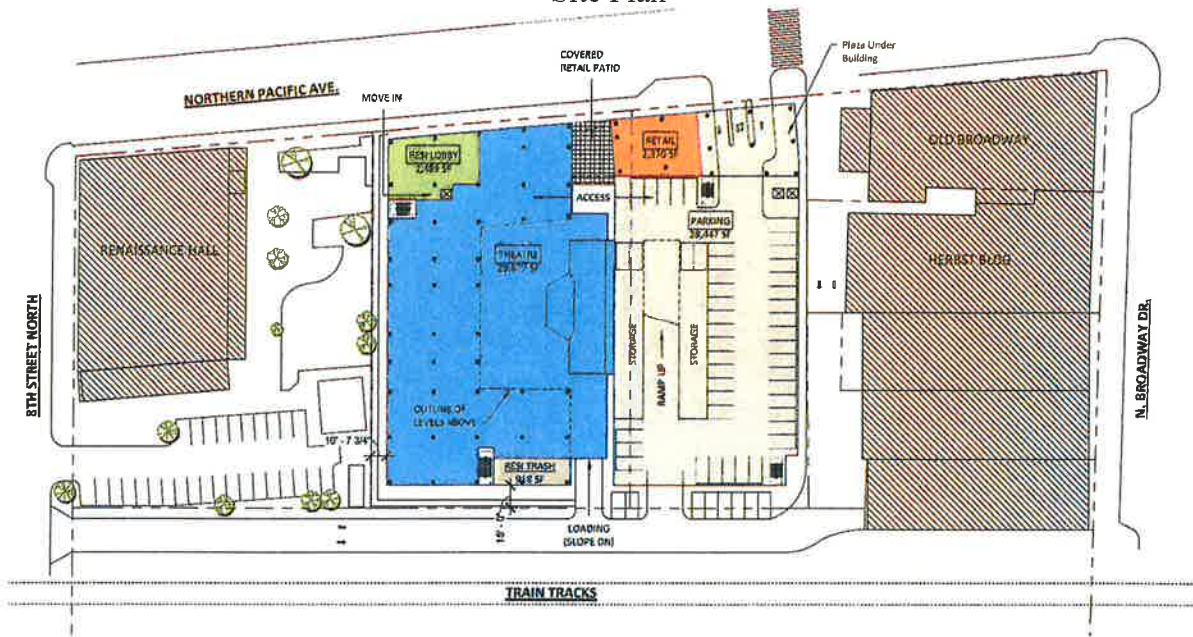
Name: _____

Its: _____

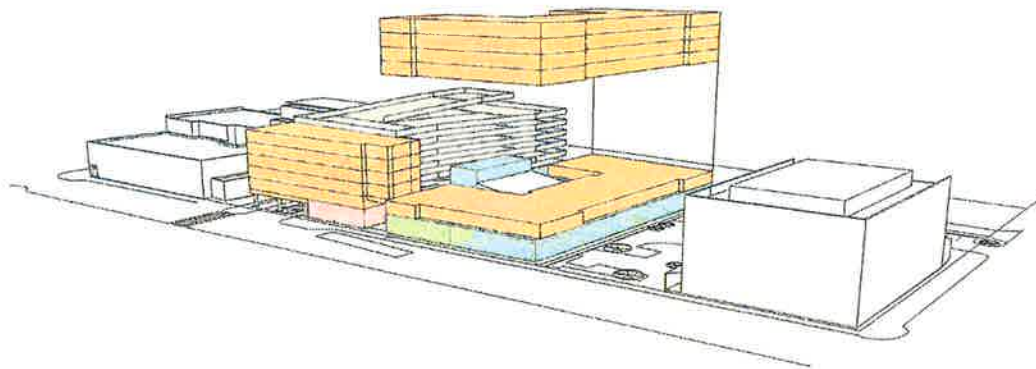
EXHIBIT H Project Summary

Type of Property	Commercial Parking Garage & Mixed Use
Townhomes & Apartment Units	120-200
Floors	6
Garage Stalls	450-490
Approximate Residential SF	150,000
Approximate Retail SF	±2,000
Approximate Theater SF	±25,000-35,000

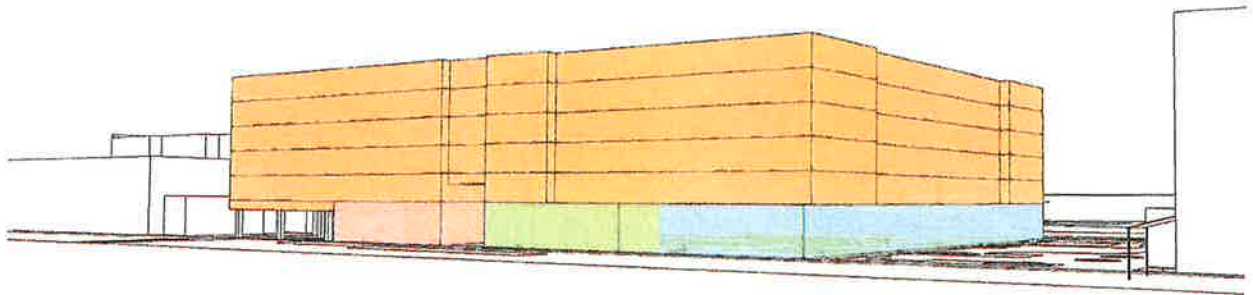
Site Plan



Massing Model



Northwest Perspective



Northeast Perspective

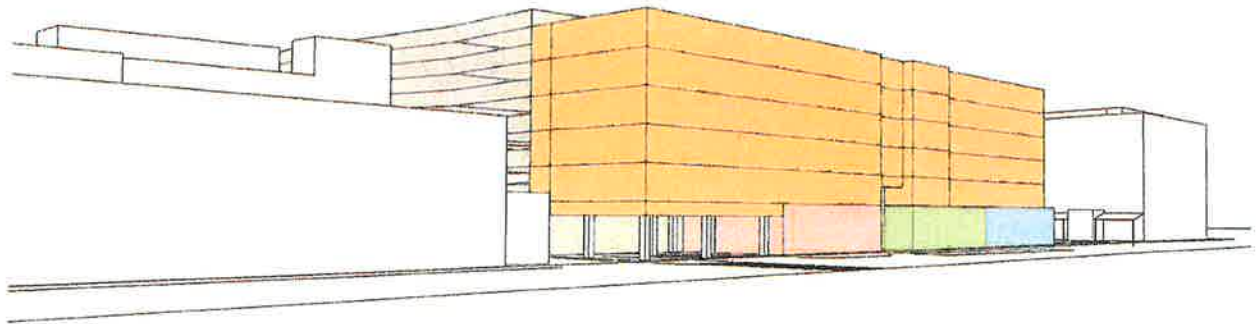


EXHIBIT I
Mortgage

THIS INSTRUMENT WAS DRAFTED BY,
AND WHEN RECORDED SHOULD BE
RETURNED TO:

Fargo City Attorney
Attn: Erik R. Johnson
608 24th Avenue S.
Fargo, ND 58103

**MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT OF LEASES AND RENTS
AND FIXTURE FILING STATEMENT**

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING STATEMENT (this "Mortgage") is made as of _____, 2023, by GREAT PLAINS NP HOLDINGS, LLC, a North Dakota limited liability company ("Mortgagor"), having its mailing address at 210 Broadway N., Suite 300, Fargo, ND 58102, in favor of CITY OF FARGO, a North Dakota municipal corporation, having its principal office at 225 4th Street North, Fargo, ND 58102 ("Mortgagee").

RECITALS

A. Mortgagor and Mortgagee are parties to that certain Development Agreement dated as of October 31, 2022 (as amended, restated, modified, supplemented, increased, or extended from time to time, the "Development Agreement"). All capitalized terms used herein and not otherwise defined have the meanings assigned to such terms in the Lease.

B. The obligations secured by this Mortgage (the "Obligations") are prompt payment and/or performance of all performance and payment obligations of Mortgagor under or in connection with the Development Agreement.

NOW, THEREFORE, Mortgagor, in consideration of the foregoing recitals, which are hereby incorporated herein by reference and which are true and correct on the date hereof, and of the City entering into the Development Agreement and performing thereunder, and to secure the payment and performance of the Obligations, hereby grants, bargains, sells, conveys, mortgages and warrants to Mortgagee, its successors and assigns, forever, with power of sale, and grants to Mortgagee, its successors and assigns, a security interest in Mortgagor's right, title and interest in the following, all of which is collectively called the "Mortgaged Property":

A. LAND AND IMPROVEMENTS

The land described in **Exhibit A** attached hereto and all mineral rights, hereditaments, easements and appurtenances thereto (collectively the "Land"), and all improvements and structures thereon (the "Improvements"); and

B. FIXTURES AND PERSONAL PROPERTY

All fixtures (the "Fixtures"), and all machinery, equipment and personal property (collectively, the "Personal Property") now or hereafter located on, in or under the Land and the Improvements and necessary for the operation of the Land or the Improvements, and which are owned by Mortgagor or in which Mortgagor has an ownership interest, including any construction and building materials stored on and to be included in the Improvements, plus any repairs, replacements and betterments to any of the foregoing and the proceeds and products thereof; and

C. LEASES AND RENTS

Subject to the revocable license granted to Mortgagor under this Mortgage, all rights of Mortgagor with respect to tenants or occupants now or hereafter occupying any part of the Land or the Improvements, if any, including all leases and licenses and rights in connection therewith, whether oral or written (collectively, the "Leases"), and all rents, income, both from services and occupation, royalties, revenues and payments, including prepayments and security deposits (collectively, the "Rents"), which are now or hereafter due or to be paid in connection with the Land, the Improvements, the Fixtures or the Personal Property; and

D. GENERAL INTANGIBLES

All general intangibles of Mortgagor which relate to any of the Land, the Improvements, the Fixtures, the Personal Property, the Leases or the Rents, including proceeds of insurance and condemnation or conveyance of the Land and the Improvements, accounts, trade names, contract rights, accounts receivable and bank accounts relating to the Land, the Improvements, the Fixtures, the Personal Property, the Leases and the Rents; and

E. AFTER ACQUIRED PROPERTY AND PROCEEDS

All after acquired property similar to the property herein described and conveyed which may be subsequently acquired by Mortgagor and used in connection with the Land, the Improvements, the Fixtures, the Personal Property and other property; and all cash and non-cash proceeds and products of all of the foregoing property.

TO HAVE AND TO HOLD the same, and all estate therein, together with all the rights, privileges and appurtenances thereunto belonging, to the use and benefit of Mortgagee, its successors and assigns, forever.

PROVIDED NEVERTHELESS, should Mortgagor pay and perform all the Obligations, and should Mortgagee perform and observe all the terms, covenants and conditions in this Mortgage, then these presents will be of no further force and effect, and this Mortgage shall be satisfied by Mortgagee, at the expense of Mortgagor.

This Mortgage also constitutes a security agreement within the meaning of the Uniform Commercial Code as in effect in the State of North Dakota (the "UCC"), with respect to all property described herein as to which a security interest may be granted and/or perfected pursuant to the UCC, and is intended to afford Mortgagee, to the fullest extent allowed by law, the rights and remedies of a secured party under the UCC.

MORTGAGOR FURTHER covenants, warrants and agrees as follows:

ARTICLE 2

AGREEMENTS

Performance of Obligations; Incorporation by Reference. Mortgagor shall perform, observe and comply with all provisions hereof and of the Development Agreement required to be performed, observed and complied with by Mortgagor, including without limitation the Obligations, and will duly and punctually pay to Mortgagee all sums required to be paid by Mortgagor pursuant to the provisions of this Mortgage, all without any deductions or credit for taxes or other similar charges paid by Mortgagor. Time is of the essence hereof. All of the covenants, obligations, agreements, warranties and representations of Mortgagor contained in the Development Agreement and all of the terms and provisions thereof, are hereby incorporated herein and made a part hereof by reference as if fully set forth herein.

Further Assurances. If Mortgagee requests, Mortgagor shall sign and deliver and cause to be recorded and hereby authorizes Mortgagee to record any further mortgages, instruments of further assurance, certificates, financing statements, continuation statements and other documents (without the consent of Mortgagor) as Mortgagee reasonably may consider necessary or desirable in order to perfect, continue and preserve the Obligations and Mortgagee's rights, title, estate, liens, security interests and interests under the Development Agreement.

Sale, Transfer, Encumbrance. Except as otherwise expressly permitted by the Development Agreement, if Mortgagor sells, conveys, transfers or otherwise disposes of, or encumbers, any part of its interest in the Mortgaged Property, whether voluntarily, involuntarily or by operation of law, without the prior written consent of Mortgagee, Mortgagee shall have the option to declare the Obligations immediately due and payable without notice. Mortgagor shall give

notice of any proposed action to Mortgagee at least thirty (30) days prior to taking such action. Mortgagor shall pay all reasonable costs and expenses incurred by Mortgagee in evaluating any such action. No such action shall relieve Mortgagor from liability for the Obligations. The consent by Mortgagee to any action shall not constitute a waiver of the necessity of such consent to any subsequent action.

Insurance. Mortgagor shall obtain, maintain and keep in full force and effect (and upon request of Mortgagee shall furnish to Mortgagee copies of) policies of insurance required of Mortgagor as described in, and meeting the requirements set forth in, the Development Agreement.

Taxes, Liens and Claims, Utilities. Subject to reimbursement rights set out in the Development Agreement, Mortgagor, at least fifteen (15) days before any penalty attaches thereto, shall pay and discharge, or cause to be paid and discharged, all taxes, assessments and governmental charges and levies (collectively, "Impositions") imposed upon or against the Mortgaged Property or the Rents, or upon or against the Obligations, or upon or against the interest of Mortgagee in the Mortgaged Property or the Obligations, except Impositions measured by the income of Mortgagee. Mortgagor shall provide evidence of such payment at Mortgagee's request. Mortgagor shall keep the Mortgaged Property free and clear of all liens, encumbrances, easements, covenants, conditions, restrictions and reservations (collectively, "Liens") except for the permitted encumbrances specifically listed in Mortgagee's loan policy of title insurance covering this Mortgage, except for those encumbrances otherwise permitted by the Development Agreement and except for any of the same caused, or consented to in writing, by Mortgagee. Mortgagor shall pay or cause to be paid when due all charges or fees for utilities and services supplied to the Mortgaged Property. Notwithstanding anything to the contrary contained in this Section, Mortgagor shall not be required to pay or discharge any Imposition or Lien so long as Mortgagor shall in good faith, and after giving notice to Mortgagee, contest the same by appropriate legal proceedings. If Mortgagor contests any Imposition or Lien against the Mortgaged Property, Mortgagor shall provide such security to Mortgagee as Mortgagee shall reasonably require against loss or impairment of Mortgagor's ownership of or Mortgagee's lien on the Mortgaged Property and shall in any event pay such Imposition or Lien before loss or impairment occurs.

Leases. Mortgagor shall not enter into or amend any Lease without Mortgagee's prior written consent.

Indemnity. Mortgagor shall indemnify Mortgagee and its respective successors and assigns and their directors, officers, agents and employees (collectively the "Indemnified Parties") against, and hold the Indemnified Parties harmless from, all losses, damages, suits, claims, judgments, penalties, fines, liabilities, costs and expenses by reason of, or on account of, or in connection with the construction, reconstruction or alteration of the Mortgaged Property, or any accident, injury, death or damage to any person or property occurring in, on or about the Mortgaged Property. The indemnity contained in this Section shall include reasonable costs of defense of any such claim asserted against an Indemnified Party, including reasonable attorneys' fees. The indemnity contained in this Section shall exclude any liability for claims or losses arising out of any Indemnified Party's gross negligence or willful misconduct. The indemnity contained in this Section shall survive payment and performance of the Obligations and satisfaction and release of this Mortgage and any foreclosure thereof or acquisition of title by deed in lieu of foreclosure,

but only to the extent that the events giving rise to a matter covered by the indemnity occurred prior thereto.

Release. Mortgagee acknowledges that it will release this Mortgage as to all of the Project other than the Garage once the Condominium Documents have been recorded. Further, upon the occurrence of the Garage Closing, Mortgagee shall record a satisfaction of this Mortgage acknowledging Mortgagee has fully satisfied all of its obligations under this Mortgage and the Mortgage is terminated and of no further force or effect.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES

Mortgagor makes the following representations and warranties:

Ownership, Liens, Compliance with Laws. Mortgagor owns the Mortgaged Property free from all Liens, except for the permitted encumbrances specifically listed in Mortgagee's loan policy of title insurance covering this Mortgage and except for those encumbrances otherwise permitted by the Development Agreement.

Use. The Mortgaged Property is not homestead property, agricultural property or in agricultural use, or owner-occupied residential property containing four units or less.

ARTICLE 4

DEFAULTS AND REMEDIES

Events of Default. An Event of Default, as such term is defined in the Development Agreement, shall constitute an "Event of Default" hereunder. In addition, the following shall be an Event of Default: any failure to comply with, or breach of, any term of this Mortgage, which is not cured (i) within thirty (30) days following Mortgagor obtaining knowledge of such failure, or (ii) if such failure cannot be cured within thirty (30) days, such reasonable amount of time necessary for Mortgagor to cure such failure, provided that Mortgagor is diligently pursuing such cure, but in no event shall such amount of time exceed ninety (90) days following Mortgagor obtaining knowledge of such failure. Mortgagor covenants and agrees to provide Mortgagee with written notice promptly, and in any event, within five (5) business days of obtaining knowledge of any failure to comply with, or breach of, any term of this Mortgage.

Remedies. Upon the occurrence of one or more other Events of Default, all of the Obligations, at the option of Mortgagee, shall be accelerated and become immediately due and payable upon notice to Mortgagor. In either event, the Obligations shall be due and payable without presentment, demand or further notice of any kind. Mortgagee shall have the right to proceed to protect and enforce its rights by one or more of the following remedies:

(a) MORTGAGEE SHALL HAVE THE RIGHT TO BRING SUIT either for damages, for specific performance of any agreement contained in the Development Agreement, for the foreclosure of this Mortgage, or for the enforcement of any other appropriate legal or equitable remedy.

(b) MORTGAGEE SHALL HAVE THE RIGHT TO SELL THE MORTGAGED PROPERTY AT PUBLIC AUCTION AND CONVEY THE SAME TO THE PURCHASER IN FEE SIMPLE, as provided or required by law, Mortgagor to remain liable for any deficiency. Said sale may be as one tract or otherwise, at the sole option of Mortgagee. In the event of any sale of the Mortgaged Property pursuant to any judgment or decree of any court or at public auction or otherwise in connection with the enforcement of any of the terms of this Mortgage, Mortgagee, its successors or assigns, may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to deliver over and use the Development Agreement and any claims for interest accrued and unpaid thereon, together with all other sums, with interest, advanced or secured hereby and unpaid hereunder, in order that there may be credited as paid on the purchase price the total amount of the Obligations then due, advanced or secured hereby and unpaid hereunder or under the Development Agreement.

(c) MORTGAGEE SHALL HAVE THE RIGHT TO OBTAIN THE APPOINTMENT OF A RECEIVER at any time after the occurrence of an Event of Default. Mortgagee may apply for the appointment of a receiver to the district court for the county where the Mortgaged Property or any part thereof is located, by an action separate from any foreclosure of this Mortgage pursuant to applicable law, or as a part of the foreclosure action. Mortgagee shall be entitled to the appointment of a receiver without regard to waste, adequacy of the security or solvency of Mortgagor. The receiver, who shall be an experienced property manager, shall collect (until the Obligations are fully paid and satisfied and, in the case of a foreclosure sale, during the entire redemption period) the Rents, and shall manage the Mortgaged Property, execute Leases within or beyond the period of the receivership if approved by the court and apply all rents, profits and other income collected by him in accordance with applicable law and otherwise in his sole discretion.

Mortgagee shall have the right, at any time and without limitation to advance money to the receiver to pay any part or all of the items which the receiver should otherwise pay if cash were available from the Mortgaged Property and sums so advanced, shall be secured hereby, or if advanced during the period of redemption shall be part of the sum required to be paid to redeem from the sale.

(d) MORTGAGEE SHALL HAVE THE RIGHT TO COLLECT THE RENTS from the Mortgaged Property and apply the same in the manner hereinbefore provided with respect to a receiver. For that purpose, Mortgagee may enter and take possession of the Mortgaged Property and manage and operate the same and take any action which, in Mortgagee's judgment, is necessary or proper to collect the Rents and to conserve the value of the Mortgaged Property. Mortgagee may also take possession of, and for these purposes use, any and all of the Personal Property. The expense (including any receiver's fees, attorneys' fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured by this Mortgage. Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any Rents actually received by Mortgagee. Enforcement hereof shall not cause Mortgagee to be deemed a mortgagee in possession unless Mortgagee elects in writing to be a mortgagee in possession.

(e) MORTGAGEE SHALL HAVE THE RIGHT TO ENTER AND TAKE POSSESSION of the Mortgaged Property and manage and operate the same in conformity with

all applicable laws and take any action which, in Mortgagee's judgment, is necessary or proper to conserve the value of the Mortgaged Property.

(f) MORTGAGEE SHALL HAVE ALL OF THE RIGHTS AND REMEDIES PROVIDED IN THE UCC, including the right to proceed under the UCC provisions governing default as to any Personal Property separately from the real estate included within the Mortgaged Property, or to proceed as to all of the Mortgaged Property in accordance with its rights and remedies in respect of said real estate. If Mortgagee should elect to proceed separately as to such Personal Property, Mortgagor agrees to make such Personal Property available to Mortgagee at a place or places acceptable to Mortgagee, and if any notification of intended disposition of any of such Personal Property is required by law, such notification shall be deemed reasonable and properly given if given at least ten (10) days before such disposition in the manner hereinafter provided.

(g) MORTGAGEE SHALL HAVE THE RIGHT TO FILE PROOF OF CLAIM and other documents as may be necessary or advisable in order to have its claims allowed in any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting Mortgagor, its creditors or its property, for the entire amount due and payable by Mortgagor in respect of the Obligations at the date of the institution of such proceedings, and for any additional amounts which may become due and payable by Mortgagor after such date.

Each remedy herein specifically given shall be in addition to every other right now or hereafter given or existing at law or in equity, and each and every right may be exercised from time to time and as often and in such order as may be deemed expedient by Mortgagee and the exercise or the beginning of the exercise of one right shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right. Mortgagee shall have all rights and remedies available under the law in effect now and/or at the time such rights and remedies are sought to be enforced, whether or not they are available under the law in effect on the date hereof.

Expenses of Exercising Rights Powers and Remedies. The reasonable expenses (including any receiver's fees, attorneys' fees, appraisers' fees, environmental engineers' and/or consultants' fees, costs incurred for documentary and expert evidence, stenographers' charges, publication costs, costs (which may be estimated as to items to be expended after entry of the decree of foreclosure) of procuring all abstracts of title, continuations of abstracts of title, title searches and examinations, title insurance policies and commitments and extensions therefor and endorsements thereto, UCC and chattel lien searches, and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary either to prosecute any foreclosure action or to evidence to bidders at any sale which may be had pursuant to any foreclosure decree the true condition of the title to or the value of the Mortgaged Property, and agent's compensation) incurred by Mortgagee after the occurrence of any Event of Default and/or in pursuing the rights, powers and remedies contained in this Mortgage shall be immediately due and payable by Mortgagor and shall be added to the indebtedness secured by this Mortgage.

Restoration of Position. In case Mortgagee shall have proceeded to enforce any right under this Mortgage by foreclosure, sale, entry or otherwise, and such proceedings shall have been

discontinued or abandoned for any reason or shall have been determined adversely, then, and in every such case, Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder with respect to the Mortgaged Property subject to the lien hereof.

Marshalling. Mortgagor, for itself and on behalf of all persons and entities which may claim under Mortgagor, hereby waives all requirements of law relating to the marshalling of assets, if any, which would be applicable in connection with the enforcement by Mortgagee of its remedies for an Event of Default hereunder, absent this waiver. Mortgagee shall not be required to sell or realize upon any portion of the Mortgaged Property before selling or realizing upon any other portion thereof.

Waivers. No waiver of any provision hereof shall be implied from the conduct of the parties. Any such waiver must be in writing and must be signed by the party against which such waiver is sought to be enforced. The waiver or release of any breach of the provisions set forth herein to be kept and performed shall not be a waiver or release of any preceding or subsequent breach of the same or any other provision. No receipt of partial payment after acceleration of any of the Obligations shall waive the acceleration. No payment by Mortgagor or receipt by Mortgagee of a lesser amount than the full amount secured hereby shall be deemed to be other than on account of the sums due and payable hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Mortgagee may accept any check or payment without prejudice to Mortgagee's right to recover the balance of such sums or to pursue any other remedy provided in this Mortgage. The consent by Mortgagee to any matter or event requiring such consent shall not constitute a waiver of the necessity for such consent to any subsequent matter or event.

Mortgagee's Right to Cure Defaults. If Mortgagor shall fail to comply with any of the terms of the Development Agreement with respect to the procuring of insurance, the payment of taxes, assessments and other charges, the keeping of the Mortgaged Property in repair, or any other term contained herein, in the Development Agreement, Mortgagee may make advances to perform the same without releasing Mortgagor from any of the Obligations. Mortgagor agrees to repay upon demand all sums so advanced and all sums expended by Mortgagee in connection with such performance, including without limitation attorneys' fees, interest, and all sums so advanced and/or expenses incurred, with interest, shall be secured hereby, but no such advance and/or incurring of expense by Mortgagee, shall be deemed to relieve Mortgagor from any default hereunder, in the Development Agreement, or to release Mortgagor from any of the Obligations.

Suits and Proceedings. Mortgagee shall have the power and authority, upon prior notice to Mortgagor, to institute and maintain any suits and proceedings as Mortgagee may deem advisable to (i) prevent any impairment of the Mortgaged Property by any act which may be unlawful or by any violation of this Mortgage, (ii) preserve or protect its interest in the Mortgaged Property, or (iii) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if, in the sole opinion of Mortgagee, the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Mortgagee's interest.

ARTICLE 5
MISCELLANEOUS

Binding Effect; Survival; Number; Gender. This Mortgage shall be binding on and inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors and assigns. All agreements, representations and warranties contained herein or otherwise heretofore made by Mortgagor to Mortgagee shall survive the execution, delivery and foreclosure hereof. The singular of all terms used herein shall include the plural, the plural shall include the singular, and the use of any gender herein shall include all other genders, where the context so requires or permits.

Severability. The unenforceability or invalidity of any provision of this Mortgage as to any person or circumstance shall not render that provision unenforceable or invalid as to any other person or circumstance.

Notices. Any notice or other communication to any party in connection with this Mortgage shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail addressed to such party at the address specified below. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received.

To Mortgagor: Great Plains NP Holdings, LLC
 ATTN: Mike Allmendinger, President
 210 Broadway N., Suite 300
 Fargo, ND 58102

with a copy to: Dan Bueide
 Bueide Law Firm
 1 2nd St. N, Suite 100
 Fargo, ND 58102

To Mortgagee: City Auditor
 Fargo City Hall
 225 4th Street North
 Fargo, ND 58102

and to: Director of Strategic Planning
 ATTN: James Gilmour
 Fargo City Hall
 225 4th Street North
 Fargo, ND 58102

with copy to: Erik R. Johnson
 608 24th Avenue S.
 Fargo, ND 58103

Either party may change its address for notices by a notice given not less than ten (10) Business Days prior to the effective date of the change.

Applicable Law. This Mortgage shall be construed and enforceable in accordance with, and be governed by, the laws of the State of North Dakota, without giving effect to conflict of laws or principles thereof. Whenever possible, each provision of this Mortgage and any other statement, instrument or transaction contemplated hereby or relating hereto, shall be interpreted in such manner as to be effective and valid under such applicable law, but, if any provision of this Mortgage or any other statement, instrument or transaction contemplated hereby or relating hereto shall be held to be prohibited or invalid under such applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage or any other statement, instrument or transaction contemplated hereby or relating hereto.

Waiver of Jury Trial. MORTGAGOR AND MORTGAGEE BY ACCEPTANCE HEREOF EACH IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCÉEDING ARISING OUT OF OR RELATING TO THIS MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Effect. This Mortgage is in addition and not in substitution for any other guarantees, covenants, obligations or other rights now or hereafter held by Mortgagee from any other person or entity in connection with the Obligations.

Assignability. Mortgagee shall have the right to assign this Mortgage, in whole or in part, or sell participation interests herein, to any person obtaining an interest in the Obligations.

Headings. Headings of the Sections of this Mortgage are inserted for convenience only and shall not be deemed to constitute a part hereof.

Section 4.9 Fixture Filing. This Mortgage shall be deemed to be a fixture financing statement within the meaning of the UCC and for such purpose, the following information is given with respect to Mortgagor as fee owner of the Land:

Name and address of Debtor:	Great Plains NP Holdings, LLC ATTN: Mike Allmendinger, 210 Broadway N., Suite 300 Fargo, ND 58102
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Type of organization:	limited liability company
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Jurisdiction of organization:	_____
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Organization ID No.:	_____
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Name and address of Secured Party:	City of Fargo, North Dakota City Auditor Fargo City Hall
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225 4th Street North
Fargo, ND 58102

Description of the types (or items)
of property covered by this
Financing Statement:

See Granting Clauses on pages 2-3 above

Description of real estate to
which the collateral is attached or
upon which it is or will be located:

See Exhibit A hereto

Record owner of real estate to
which the collateral is attached or
upon which it is or will be located:

Great Plains NP Holdings, LLC

Some of the above-described collateral is or is to become fixtures upon the above-described real estate and this Financing Statement is to be filed for record in the public real estate records

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first written above.

MORTGAGOR:

GREAT PLAINS NP HOLDINGS, LLC

By: _____
Name: _____
Title: _____

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

On this ___ day of _____, 2023, before me, personally appeared, _____ known to me to be the _____ of the limited liability company that is described in and that executed the foregoing instrument, and acknowledged that such limited liability company executed the same.

(Seal)

Notary Public

_____ County
State of _____

My commission expires:

_____, 20__

[Signature page to Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing Statement]

EXHIBIT A

Legal Description of Garage

[Note: Insert Garage condo unit description, if available. Otherwise, use the full Project legal description, in which case the portions of the Project other than the Garage will be released from the Mortgage when the Condominium documents are recorded]

EXHIBIT J

Form of Certificate of Completion

CERTIFICATE OF COMPLETION

A. GREAT PLAINS NP HOLDINGS, LLC (“Developer”), pursuant to the Development Agreement with the CITY OF FARGO, A NORTH DAKOTA MUNICIPAL CORPORATION (the “City”), dated as of October 31, 2022 (the “Agreement”), has agreed to plan, design, finance, acquire, develop, and construct the NP Avenue Project.

B. The Developer has substantially completed construction of the [Garage/Wrap] as required under the Agreement, which project is legally described on Schedule I attached hereto.

C. The issuance of this Certificate of Completion by the City is not intended nor shall it be construed to be a warranty or representation by the City as to the structural soundness of the [Garage/Wrap], including, but not limited to, the quality of materials, workmanship or the fitness of the Garage/Wrap] for its proposed use.

NOW THEREFORE, this is to certify that all construction and other physical improvements specified to be done and made by Developer with regard to the [Garage/Wrap] have been substantially completed, and the provisions of the Agreement imposing obligations on the Developer to construct the [Garage/Wrap] as required under the Agreement, are hereby satisfied and terminated, and the Recorder in and for Cass County, North Dakota is hereby authorized to record this instrument, to be a conclusive determination of the satisfactory termination or said provisions of the Agreement.

[Remainder of page intentionally blank.]

Dated: _____, 20__

CITY:

CITY OF FARGO, NORTH DAKOTA

By _____
Its Mayor

By _____
Its City Auditor

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

On this ___ day of _____, 202__, before me, personally appeared,
_____ and _____ known to me to be the
_____ and _____ of the municipal corporation that is
described in and that executed the foregoing instrument, and acknowledged that such municipal
corporation executed the same.

(Seal)

Notary Public

_____ County
State of _____

My commission expires:

_____, 20__

SCHEDULE I
Legal Description

EXHIBIT K -

Disbursing Agreement

THIS DISBURSING AGREEMENT (the "Agreement"), is made an entered into as of the _____, 2023, by and among Great Plains NP Holdings, LLC, a North Dakota limited liability company ("Developer"), City of Fargo, a North Dakota municipal corporation (the "City"); and The Title Company, as title and escrow agent ("Title Company").

WITNESSETH:

A. Developer and the City entered into a Development Agreement dated of substantially even date hereof (the "Development Agreement"). Undefined capitalization terms used herein are used with the same meanings assigned such terms in the Development Agreement. Pursuant to the Development Agreement, Developer will construct the Garage pursuant to the terms of such Development Agreement and the City will reimburse the Developer for the Final Total Project Cost up to the Guaranteed Project Cost.

B. Pursuant to the Development Agreement, the parties agreed to execute this Agreement concurrently with the execution of the Development Agreement to provide a mechanism for the disbursement of funds to Developer in connection with the Garage Work in accordance with the Development Agreement and this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, it is agreed by and among the parties hereto as follows:

SECTION 1. DISBURSEMENT OF FUNDS.

1.01 Conditions for Disbursements to Developer. Developer has certified to the City that all of Developer's representations and warranties under the Development Agreement remain true and correct as if made on the date of such request.

(b) No Event of Default by Developer remains uncured under the Development Agreement and no event or condition exists that with the giving of notice and opportunity to cure would be an Event of Default under the Development Agreement.

(c) No construction lien or other encumbrance shall have been filed and remain in effect against the Garage, or if there has been such a lien, Developer shall have agreed to indemnify Title Company from and against any loss arising therefrom in a form reasonably acceptable to Title Company.

(d) Developer has submitted a duly and properly authorized draw request (in form reasonably acceptable to the City and the Title Company) evidencing through attached invoices, receipts, cancelled checks, or other

evidence, reasonably acceptable to the Title Company and the City that the costs have been incurred and relate to work incorporated into the Garage (a "Draw Request").

(e) Developer has submitted to the Title Company and the City, or the Title Company shall obtain as a precondition of payment, where applicable, a partial and conditional (subject only to payment) waiver of mechanic's lien and/or materialmen's lien, executed by all contractors to be paid out of the Draw Request in the amount of the lienable costs payable from the Draw Request, in the form reasonably required by the Title Company.

(f) The City and Title Company have approved Developer's Draw Request.

(g) The Title Company has unconditionally agreed to issue an appropriate date down endorsement to the City's title policy relating to the Garage providing acceptable coverage over mechanic's lien and/or materialmen's lien, which must be acceptable to the City.

(h) Developer has delivered to the Title Company all other items reasonably requested in connection with the Draw Request.

(i) All terms and conditions of this Agreement have been satisfied with respect to each disbursement.

1.02 Draw Procedure. Developer shall not be permitted to submit more than one (1) Draw Request per month. Upon satisfaction of the conditions set forth in Section 1.01 above, the Title Company shall notify the City that all requirements for the payment of the Draw Request have been met. The City shall, subject to Section 1.04 below, within five (5) Business Days thereafter deposit the amount of such approved Draw Request less a 5% retainage with the Title Company and the Title Company shall pay such approved amounts to each contractor and other person identified in the relevant Draw Request, less the 5% retainage. Garage hard construction costs shall include a Construction Manager's fee of 3% of certain construction costs paid to the Construction Manager, Kilbourne Construction Management, LLC, all as more-fully described in the Development Agreement. Soft costs incurred by Developer in connection with the Garage Work may be included in any Draw Request, provided all the conditions of Section 1.01 and this Section 1.02 are met, and there shall be no 5% retainage on the incurred soft costs.

1.03 Developer's Fee. Developer shall not be entitled to the 5% retainage on the Garage Work except pursuant to this Section 1.03. Upon the issuance of a Certificate of Completion, satisfaction of the conditions set forth in Section 1.01 above, and agreement by the parties on the Final Total Project Cost, the Title Company shall notify the City that all requirements for the payment under this Section 1.03 have been met. The City shall, subject to Section 1.04 below, within five (5) Business Days thereafter deposit the amount of the 5% retainage and the Title Company shall pay such amounts to Developer. The Developer Fee under the Development Agreement will be paid at the agreed-upon rate (3%) applied to and paid with each Draw Request (and will not be subject to the 5% retainage).

1.05 Maximum City Payment. The City shall not be required to pay any amounts to Developer in excess of the lesser of the Final Total Project Cost and the Guaranteed Project Cost.

SECTION 2. RECORDS. The Title Company shall keep records showing the names of all Applicants to whom disbursements are made by the Title Company, the date, the amount and purpose of such disbursement, which records may be inspected by Developer and the City.

SECTION 3. INSUFFICIENT DOCUMENTATION. If the Title Company shall determine in its reasonable judgment that proper documentation to support a given disbursement as required by this Agreement has not been furnished, the Title Company shall withhold payment of all or such portion of such disbursement as shall not be so supported by proper documentation, and shall promptly notify Developer and the City of the discrepancy in or omission of such documentation. Until such time as such discrepancy or omission is corrected to the satisfaction of the Title Company and the City, it shall withhold such amount, unless otherwise directed in writing by the City.

SECTION 4. NOTICE. Any notice required or permitted to be given by any party hereto to any other party hereto under the terms of this Agreement shall be deemed to have been given as and when provided for in the Development Agreement, addressed to the party to which the notice is to be given at the address set forth in the Development Agreement, or to any other address in the United States of America specified in a notice given by such party to the others not less than three (3) business days prior to the effective date of the address change.

SECTION 5. COMPENSATION. The Title Company costs and fees in connection with making disbursements in accordance with the terms of this Agreement shall be split equally between Developer and the City. Developer's share of such costs shall not be included in the Total Project Cost.

SECTION 6. MISCELLANEOUS. This Agreement shall be binding upon the parties hereto and their respective successors and assigns; provided, however, that the Title Company may not delegate its duties hereunder. This Agreement is made solely by the signatory parties hereto, and no other persons (except the successors and assigns of the signatory parties) shall have any right to rely on or enforce or have the benefit of any provision of this Agreement. This Agreement shall be governed by the laws of the State of North Dakota. This Agreement can be amended or modified only by a writing signed by the parties hereto.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day and year first above written.

CITY OF FARGO, a North Dakota
municipal corporation

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

ATTEST:

By: _____
Steve Sprague, City Auditor

GREAT PLAINS NP HOLDINGS, LLC

By: _____
Name: _____
Its: _____

THE TITLE COMPANY

By: _____
Name: _____
Title: _____

[Signature page to Disbursing Agreement]

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

34

Type: Federal Aid Transportation Project Applications

Location: Citywide

Date of Hearing: 10/10/2022

<u>Routing</u>	<u>Date</u>
City Commission	10/31/2022
PWPEC File	X
Project File	<u>Jeremy Gorden</u>

The Committee reviewed a communication from Transportation Division Engineer, Jeremy Gorden, regarding Federal Aid Transportation Project Applications.

FM Metro COG is currently soliciting project applications for the 'Transportation Alternatives Program' for projects in 2024 and 2025. They have an estimated \$825,000 in Federal Funds in 2024 and an estimated \$844,000 in 2025. All projects need at least a 20% local match.

The current programmed TAP projects in Fargo for 2023 are as follows:

Bison Village area – 10th Street alignment – 32nd Avenue N to 37th Avenue N (Attachment #1)
\$329,000 total (\$266,000 Federal/\$85,000 Park District/Balance City)

Red River Trail S – Hackberry Drive Area - Harwood Drive to 35th Avenue S (Attachment #2)
\$200,000 total (\$144,756 Federal/\$55,244 Local)

Metro GOG, Engineering, Planning, and Park Distric staff met recently and discussed the needs and the projects to apply for and they are as follows:

2024

Priority #1 - Oakcreek/Timberline Drain 27 Crossing (Attachment #3)
This project would connect the Milwaukee Trail/25th Street system to the Timberline/Drain 53 Path System.
\$875,045 (\$700,036 Federal/\$175,009 Local)

Priority #2 – Red River Trail S – From Hackberry Area south to 40th Avenue S (Attachment #2 again)
This project is phase 1 of a three-phase plan to connect 32nd Avenue S to 40th Avenue S with an alignment along the river. \$739,941 Total (\$591,952 Federal/\$147,988 Local)

2025

Priority #3 – Red River Trail – VA area – VA south Property Line to Park Lane N (Woodcrest Addition) (Attachment #4) \$840,508 Total (\$672,406 Federal/\$168,102 Local)

Priority #4 – Drain 27 – 52nd Avenue S to Veterans Boulevard, then west to 63rd Street (in Deer Creek subdivision) (Attachment #5) \$1,023,166 total (\$818,533 Federal/\$204,633 Local)

Future TAP Project List

Red River Trail N – 15th Avenue N to south VA Property Line (Attachment #4 again)
Along east side of Drain 53 – 64th Avenue S to 73rd Avenue S (Attachment #6)
Red River Trail S – Remaining portion between 32nd Avenue S to Hackberry Drive

Future Potential Carbon Reduction Grant projects

47th Ave S Bridge over I-29 to connect Milwaukee Trail/Drain 53 Paths to Microsoft Paths (Attachment #7)
28th Avenue S Bridge over I-29 to connect Bluemont Lakes area to Anderson Park area (Attachment #8)

On a motion by Tim Mahoney, seconded by Michael Redlinger, the Committee voted to recommend approval of the projects listed above as the City of Fargo's priorities for projects to apply for Federal Highway Administration funds, working through the FM Metro Council of Governments.

PWPEC 10/10/2022
Federal Aid Transportation Applications
Page 2

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the projects listed above as the City of Fargo's priorities for projects to apply for Federal Highway Administration funds, working through the FM Metro Council of Governments.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: _____

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

Yes	No
	<u>N/A</u>
	<u>N/A</u>
	<u>N/A</u>

COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Michael Redlinger, Interim City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Brenda Derrig, City Engineer
 Terri Gayhart, Finance Director

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



 Brenda E. Derrig, P.E.
 City Engineer

Memorandum

To: Members of PWPEC
From: Jeremy M. Gorden, PE PTOE
Division Engineer - Transportation
Date: October 6, 2022
Re: Federal Aid Project Applications for Transportation Alternative Programs for years 2024 & 2025

Background:

FM Metro COG is currently soliciting project applications for the 'Transportation Alternatives Program' for projects in 2024 & 2025. They have an estimated \$825,000 in Federal Funds in 2024 and an estimated \$844,000 in 2025. All projects need at least a 20% local match.

The current programmed TAP projects in Fargo for **2023** are as follows:

Bison Village area – 10th Street alignment – 32nd Avenue N to 37th Avenue N (Attachment #1)
\$329,000 total (\$266,000 Federal/\$85,000 Park District/Balance City)

Red River Trail S – Hackberry Drive Area - Harwood Drive to 35th Avenue S (Attachment #2)
\$200,000 total (\$144,756 Federal/\$55,244 Local)

Metro COG, Engineering, Planning and Park District staff met recently and discussed the projects to apply for and they are as follows:

2024

Priority #1 - Oakcreek/Timberline Drain 27 Crossing (Attachment #3)

This project would connect the Milwaukee Trail/25th Street system to the Timberline/Drain 53 Path System.
\$875,045 (\$700,036 Federal/\$175,009 Local)

Priority #2 – Red River Trail S – From Hackberry Area south to 40th Avenue S (Attachment #2 again)

This project is phase 1 of a three-phase plan to connect 32nd Avenue S to 40th Avenue S with an alignment along the river. \$739,941 Total (\$591,952 Federal/\$147,988 Local)

2025

Priority #3 – Red River Trail – VA area – VA south Property Line to Park Lane N (Woodcrest Addition) (Attachment #4) \$840,508 Total (\$672,406 Federal/\$168,102 Local)

Priority #4 – Drain 27 – 52nd Avenue S to Veterans Boulevard, then west to 63rd Street (in Deer Creek subdivision) (Attachment #5) \$1,023,166 total (\$818,533 Federal/\$204,633 Local)

Future TAP Project List

Red River Trail N – 15th Avenue N to south VA Property Line (Attachment #4 again)

Along east side of Drain 53 – 64th Avenue S to 73rd Avenue S (Attachment #6)

Red River Trail S – Remaining portion between 32nd Avenue S to Hackberry Drive

Future Potential Carbon Reduction Grant projects

47th Ave S Bridge over I-29 to connect Milwaukee Trail/Drain 53 Paths to Microsoft Paths (Attachment #7)

28th Avenue S Bridge over I-29 to connect Bluemont Lakes area to Anderson Park area (Attachment #8)

Recommended Motion:

Approve the projects listed above as the City of Fargo's priorities for projects to apply for Federal Highway Administration Funds, working through the FM Metro Council of Governments.

JMG/klb
Attachments



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

<h3>Attachment #1 Bison Village</h3>	
1:4,514	5/17/2022 9:45 AM
<small>This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.</small>	





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

Attachment #2 River Drive

1:9,028

5/17/2022 9:41 AM

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





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

<h3>Oakcreek/Timberline Path</h3>	
1:4,514	11/3/2021 1:22 PM
<small>This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.</small>	





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

Attachment #4 Red River Trail N

1:9,028

10/6/2022 11:28 AM

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





Attachment #5 Drain 27/Deer Creek

10/6/2022 11:55 AM

1:9,028

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

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

Attachment #6 Drain 53

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





Attachment #7 I-29 at 47th Ave S

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

1.4.514

10/6/2022 12:10 PM

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





Attachment #8 - I-29 at 28th Ave S

10/6/2022 12:19 PM

1:9,028


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

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

35

MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: October 21, 2022

SUBJECT: Sale Agreement for 234 Main Avenue

The City Commission voted to select EPIC Companies to purchase and redevelop a site on the southwest corner of Main Avenue and 2nd Street South. City staff was directed to plat the property to be sold and draft an agreement consistent with the offer from the developer. The plat process was completed this summer and a purchase agreement is ready for your approval.

The terms of the purchase agreement include:

- The purchase price is \$1,188,000. The Diversion agreement requires this be paid to the Diversion Authority less any administrative costs.
- The developer will construct a building with 7 stories. There will be parking and commercial on a below grade level and on levels 1 through 3. Residential units for rent will be on levels 4 and 5. Residential units for sale will be on levels 6 and 7.
- The development will include an outdoor plaza area that will be open to the public with some exceptions.
- The sale will be completed prior to 11/30/2022, construction will start prior to 12/31/2023 and construction will be completed prior to 12/31/2025.
- The developer shall receive approval of Renaissance Zone benefits.

The agreement for the sale of the property is attached.

Recommended Motion:

Approve the agreement for sale of property with EPIC UNITE REAL ESTATE HOLDINGS, LLC to sell property at 234 Main Avenue.

AGREEMENT FOR SALE OF REAL PROPERTY

CITY OF FARGO/EPIC Unite Real Estate Holdings, LLC

THIS PURCHASE AGREEMENT ("Agreement") is made as of _____, 2022 between **City of Fargo**, a North Dakota municipal corporation, 225 Fourth Street North, Fargo, North Dakota 58102 ("SELLER"), and the **EPIC Unite Real Estate Holdings, LLC**, a North Dakota limited liability company, ("BUYER") whose address is 745 31st Avenue South, Suite 105, West Fargo, North Dakota 58078. SELLER and BUYER may also be referred to herein as "party" or together as "parties".

RECITALS:

WHEREAS, SELLER publicly solicited proposals for purchase and development of the subject property, said solicitation including certain minimum conditions to be included in an acceptable proposal, BUYER has submitted its proposal which has been approved by SELLER; and,

WHEREAS, the parties wish to memorialize the terms for the purchase of the subject property by BUYER by this written Agreement;

NOW, THEREFORE, in consideration of the recitals and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Sale of Property. SELLER agrees to sell to BUYER, and BUYER agrees to buy from SELLER, that certain real property situate in the County of Cass and State of North Dakota, the legal description for which is attached hereto as **EXHIBIT "A"**, (the "Subject Property") said conveyance to BUYER to include any interest SELLER has, if any, in any improvements and fixtures located on the SUBJECT PROPERTY (collectively, the "Improvements"); subject to any easements and rights benefiting or appurtenant to the SUBJECT PROPERTY ("Intangible Property") and subject to an option to repurchase the Subject Property that has been reserved by, or granted to, the SELLER, as described more fully below.

2. Purchase Price and Manner of Payment. BUYER shall pay SELLER the sum of **ONE MILLION ONE HUNDRED EIGHTY-EIGHT THOUSAND and no/100 DOLLARS (\$1,188,000.00)**, which amount shall be referred to herein as the **“PURCHASE PRICE”**. The PURCHASE PRICE shall be payable as follows:

a. The PURCHASE PRICE shall be paid by wire transfer of immediately available United States funds, to be received by SELLER from the Title Company on the Closing Date pursuant to written wiring instructions to be delivered by SELLER to the Title Company prior to the Closing Date.

3. Minimum Improvements, Construction Commencement Deadline, Option to Repurchase. BUYER shall grant to SELLER the option to repurchase the Subject Property the terms of which will provide for the following:

a. Prior to commencement of construction, BUYER must submit to SELLER the BUYER's plans for construction of the project consistent with BUYER's approved proposal, said plans to include the following minimum improvements:

(1) Developer will be responsible for the construction of a building of at least seven stories with a minimum of 90,000 square feet of floor space above-grade.

(2) Levels 1 through 3 of said 7 stories shall be constructed for indoor parking and commercial uses, with a lower level (level 0) of below-grade parking.

(3) Levels 4 and 5 shall be constructed as residential units available for rent.

(4) Levels 6 and 7 shall be constructed as residential units to be sold as owner-occupied condominiums.

(5) The development shall include an outdoor plaza area that is depicted as set forth on **EXHIBIT “B”** hereto (the “Outdoor Plaza”) and be made available for use by the public according to the following minimum standards:

(i) The Outdoor Plaza shall remain as an outdoor plaza for a minimum period of twenty-five (25) years, said period commencing January 1, 2026.

(ii) During said 25-year period, no residential or commercial structures shall be constructed or erected upon said Outdoor Plaza that are not consistent with the use of such area as a publicly-available plaza.

(iii) The Outdoor Plaza shall be open to the public from sunrise until 10 p.m., except as follows:

(a) The property owner may exclude food carts, commercial sales and all solicitation, panhandling, protests, musicians, entertainers as well as amplified music or sound.

(b) The property owner may close the space to the public for up to ten (10) days each month for private events. Closure by the property owner of the space for a period of one hour or more in

any single calendar day shall be treated as a closure of the space of one of said ten maximum days.

(6) The construction of the development as described herein and conforming with the Minimum Improvements shall be completed on or before December 31, 2025.

The aforesaid description is referred to herein as the "Minimum Improvements". So long as BUYER's submitted plans for construction meet the above-described minimum improvement standards, SELLER may not unreasonably withhold such approval.

b. BUYER shall commence construction of the approved project on or before December 31, 2023, said date to be referred to herein as the "Construction Commencement Deadline". Commencement of construction shall be deemed to have occurred when (1) BUYER, or BUYER's authorized contractor, has obtained a building permit for commencement of excavation of the project and (2) excavation has actually been commenced on said project. The parties agree that if economic or other conditions in the marketplace are present that impair the Developer's ability to commence construction by the Construction Commencement Deadline, Developer is authorized to make a written request to the City for an extension of said deadline based upon reasonable grounds, such request to be considered and decided by the board of city commissioners of the city of Fargo in its sole discretion. The request must be submitted in advance of the Construction Commencement Deadline. If said request is granted, the extension date shall thereafter be deemed to be the applicable Construction Commencement Deadline."

c. SELLER Option to Repurchase. SELLER shall have the option to purchase the Subject Property for the same Purchase Price originally paid by BUYER to SELLER, as defined herein, in the event that commencement of construction has not occurred on or before the Construction Commencement Deadline, all in accordance with an Option to Purchase instrument form substantially in conformance with **Exhibit "D"**, hereto. [the "Option to Purchase"]

d. The provisions of this section 3 shall survive the execution and delivery of the Special Warranty Deed and the closing of the transactions contemplated hereby.

4. **Approvals; Officer Action.** Wherever in this Agreement the consent or approval of the City or Developer is required or requested, such consent or approval shall not be unreasonably withheld or unduly delayed (except to the extent that, as a remedy upon the occurrence of an Event of Default, the non-defaulting party is entitled to withhold its performance). Any approval, execution of documents, or other action to be taken by the City pursuant to this Agreement or for the purpose of determining sufficient performance by the Developer under this Agreement may be made, executed or taken by the mayor of the City without further approval by the Board of City Commissioners of the City, to the extent permitted by law, including the authority to approve the submitted plans for construction and to determine whether the Contingencies of

the City are fully satisfied, as referenced above. The mayor may, but shall not be required to, consult with other City staff with respect to such matters.

5. Title. The BUYER wishes to take title to the Subject Property as follows:

EPIC Unite Real Estate Holdings, LLC, a North Dakota limited liability company

Conveyance of the SUBJECT PROPERTY shall be by Special Warranty Deed in the usual form used in North Dakota:

6. Title Examination. Title Examination will be conducted as follows:

a. Title Abstract — Attorney Examination. SELLER will provide BUYER with an updated Title Abstract for BUYER's attorney's examination.

b. Abstract of Title and Survey and Assurance of Title. The BUYER shall be responsible for performing any and all title and survey examination or due diligence that BUYER deems appropriate, at BUYER's sole cost and expense.

(1) The Title Abstract must show good and marketable title in SELLER. Any mortgages must be satisfied by SELLER or the SUBJECT PROPERTY released from the mortgage or mortgages prior to or at Closing.

(2) Liens and Encumbrances. The SUBJECT PROPERTY shall be conveyed to BUYER free and clear of all liens and encumbrances except special assessments, and subject, however, to all easements or covenants of record, if any.

c. BUYER's Objections. Within 14 days after delivery to BUYER of said updated abstract, if any, or, in the case of the delivery of multiple abstracts, within 14 days of the delivery of the last abstract being delivered to BUYER, including any abstract that must be created at the request of BUYER at BUYER's sole expense, BUYER may make written objections to any matters shown thereon (the "Objections"). BUYER's failure to make Objections within such time period will constitute waiver of Objections. SELLER shall have the right, but not the obligation, to cure any of the Objections within 30 days after receipt of the Objections, during which period the Closing will be postponed if necessary. If SELLER is unable to cure any Objections within said 30-day period, or if SELLER gives BUYER written notice at any time during said 30-day period stating that SELLER declines to attempt to cure any of the Objections, then BUYER will have the option, within five business days after the earlier of (a) the expiration of said 30-day period or (b) receiving said written notice from SELLER (the "Title Contingency Termination Date"), as the case may be, to do either of the following, as its sole right and remedy:

(1) Terminate this Agreement; or

(2) Waive the Objections and proceed to close.

7. Closing. Unless a title defect is identified that is unable to be cured within such time, the closing of the transaction contemplated by this Agreement (the "Closing") shall occur on or before the 30th day of November, 2022 (the "Closing Date").

a. SELLER's Closing Documents. On the Closing Date, SELLER shall execute and/or deliver to the Title Company the following (collectively, "SELLER's Closing Documents"):

(1) One Special Warranty Deed ("Special Warranty Deed") from SELLER to BUYER conveying the SUBJECT PROPERTY, subject to the reservation of interests as described herein.

(2) One Option Agreement granting SELLER the option to repurchase, as described herein.

(3) SELLER's Affidavit. An Affidavit of SELLER in the form of **Exhibit "C"** attached hereto and made a part hereto.

(4) FIRPTA Affidavit. A non-foreign affidavit, properly executed, containing such information as is required by Internal Revenue Code Section 1445(b)(2) and its regulations.

(6) any other items required by this Agreement or reasonably required by the closing company for the Closing.

b. BUYER Closing Documents. The BUYER will deliver to SELLER at the Closing:

(1) the PURCHASE PRICE, together with applicable closing costs attributable to BUYER;

(2) any other items required by this Agreement or reasonably required by the closing company for the Closing.

(3) Statement of Real Estate Full Consideration. A North Dakota State Board of Equalization Statement of Real Estate Full Consideration ("Statement of Consideration").

c. Closing Costs and Prorations.

(1) Closing Costs. The BUYER and SELLER will each be responsible for its respective legal, accounting and other expenses. The SELLER will be responsible for the preparation of the deed and any recording fees of instruments necessary to cure any defect in title. The SELLER will be responsible for the recording fees of the deed, of any purchase money or other mortgage pertaining to BUYER's financing of the acquisition, of title examination costs and title insurance premiums. The BUYER and SELLER will each be responsible in one-half of the closing fee imposed by the Title Company in connection with this transaction.

(2) Taxes and Assessments. SELLER shall be responsible for payment of real estate taxes and installments of special assessments for the year prior to the year of the Closing and prior years. The real estate taxes and installments of special assessments for the year of the Closing, payable in the year following the year of the Closing, shall be prorated to the date of Closing with real estate taxes and installments of special assessments for all subsequent years shall be the responsibility of BUYER.

(3) Title Abstract costs, Attorney's Title Opinion fees and Escrow Fee—Surveying Cost. SELLER shall pay the cost of updating any Title Abstract. BUYER shall pay the costs associated with review of the abstract by BUYER's attorneys and issuance of a title opinion. BUYER shall pay for any title endorsements requested by BUYER. SELLER and BUYER shall each pay one-half of any reasonable and customary closing fee or charge imposed by the Title Company. Surveying work performed by BUYER's surveyor shall be performed at BUYER's sole expense.

(4) Recording Costs. BUYER shall pay the cost of recording the Deed, the Option to Repurchase and all other documents, if any, recorded pursuant to the terms of this Agreement. SELLER, or either of them, shall pay the cost of recording any satisfactions or releases of mortgages.

(5) Attorneys' Fees. Each of the parties will pay its own attorneys' fees.

7. Contingencies. The obligations of BUYER under this Agreement are contingent upon each of the following (each called a "Contingency," and collectively called the "Contingencies"):

a. Title. The abstract of title or other evidence of title must show good and marketable title in SELLER. Any mortgages must be satisfied by SELLER prior to or at Closing.

b. Financing. BUYER shall have received approval for financing of the BUYER's intended project on terms acceptable to BUYER.

c. Renaissance Zone Approval. BUYER shall have received approval in such form as acceptable to BUYER that BUYER's intended project will receive Renaissance Zone benefits as the same are described in N.D.C.C. Chapter 40-63.

8. Representations and Warranties by SELLER. SELLER has the requisite power and authority to enter into and perform this Agreement and SELLER's closing documents signed by it; such documents have been duly authorized by all necessary corporate action on the part of SELLER and have been duly executed and delivered; such execution, delivery and performance by SELLER of such documents does not conflict with or result in a violation of said SELLER's Articles of Organization, Operating Agreement, or Bylaws, or any judgment, order, or decree of any court or arbiter to which SELLER is a party; such documents are valid and binding obligations of SELLER, and are enforceable in accordance with their terms.

9. Representations, Warranties and Covenant by BUYER.

a. Authority. BUYER represents and warrants to SELLER that BUYER has the requisite power and authority to enter into and perform this Agreement and those BUYER's Closing Documents signed by it; such documents have been duly authorized by all necessary action on the part of BUYER and have been duly executed and delivered; such execution, delivery and performance by BUYER of such documents does not conflict with or result in a violation of BUYER's ordinances or any judgment, order, or decree of any court or arbiter to which BUYER is a party; such documents are valid and binding obligations of BUYER, and are enforceable in accordance with their terms.

b. Public Assistance. BUYER covenants and agrees that, with the exception of Renaissance Zone benefits proscribed by N.D.C.C. Ch. 40-63, BUYER will not request or apply for the approval of public assistance from the City of Fargo in any form including, without limitation, tax increment financing benefits under N.D.C.C. Ch. 40-58 or payment-in-lieu-of-tax benefits under N.D.C.C. Ch. 40-57.1. This covenant shall survive the closing of this transaction.

10. "AS IS" Sale. Except as otherwise expressly set forth in this Agreement, neither SELLER nor its parent, directors, officers, employees, agents, representatives, attorneys or contractors (collectively, the "SELLER Parties") have made any representations, guaranties, promises, statements, assurances or warranties, express or implied, to BUYER including, without limitation, any pertaining to the suitability of the SUBJECT PROPERTY for any purpose, the profitability of owning or operating the SUBJECT PROPERTY, the physical or environmental condition thereof, the suitability, habitability or merchantability or fitness of the SUBJECT PROPERTY for BUYER's intended use or for any use whatsoever, the rentals, income or expenses thereof, the net or gross acreage contained therein, the zoning thereof, the condition of title thereto, the existence or satisfaction of any local, state or federal approvals or permits for the development or use thereof, the availability or existence of water, sewer or other utilities, the existence or nonexistence of any hazardous substances or materials in, on or under the SUBJECT PROPERTY, or as to any other past, present or future matter whatsoever. BUYER acknowledges and agrees that with the aid of independent expert advice it has satisfied itself regarding the condition of the SUBJECT PROPERTY, and that the SUBJECT PROPERTY will be purchased "AS IS AND WITH ALL FAULTS." BUYER further acknowledges that it is not relying on any representations, guaranties, promises, statements, assurances or warranties, express or implied, by SELLER or anyone acting or claiming to act on SELLER's behalf concerning the SUBJECT PROPERTY or the transaction contemplated hereunder, and that BUYER is instead relying solely on its own inspections and investigations and the advice of its own advisors. BUYER shall assume the responsibility and risk of all defects to and conditions of the SUBJECT PROPERTY, including such defects and conditions, if any, that cannot be observed by casual inspection. SELLER and BUYER acknowledge and agree that this disclaimer has been specifically negotiated, and that the SUBJECT PROPERTY will be sold in its then-present condition. Except to the extent of any express representations

contained in this Agreement, BUYER hereby releases the SELLER Parties from any and all amounts, actions, demands, claims, costs, expenses, damages and liabilities (including, without limitation, attorneys' fees and costs) (collectively, the "Liabilities") relating to or arising from the condition or status of, or any other matter in any way pertaining to, the SUBJECT PROPERTY.

The provisions of this section 10 shall survive the execution and delivery of the Special Warranty Deed and the closing of the transactions contemplated hereby.

11. Captions. The Section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement and are not to be considered in interpreting this Agreement.
12. Entire Agreement; Modification. This Agreement constitute the complete agreement between the parties regarding the subject matter hereof, and supersede any prior oral or written agreements between the parties regarding the SUBJECT PROPERTY. There are no verbal agreements that change this Agreement and no waiver of any of their respective terms will be effective, unless in a writing executed by the parties.
13. Assignment. As security for the obligations of the BUYER under this Agreement, the BUYER represents and agrees that prior to the Construction Commencement Deadline, as the same may be extended by the terms hereof, the BUYER will maintain its existence as a North Dakota limited liability company and maintain its authority to conduct business in the State of North Dakota and shall not consolidate with or merge into another entity and shall not dissolve or otherwise dispose of all or substantially all of its assets; provided that the BUYER may consolidate with or merge into another entity or sell or otherwise transfer to a partnership, limited liability partnership or corporation organized under the laws of one of the United States, or an individual, all or substantially all of its assets as an entirety and thereafter dissolve and be discharged from liability hereunder if (i) the transferee partnership, corporation or individual assumes in writing all of the obligations of the BUYER under this Agreement; and (ii) the SELLER receives such new security from the successor BUYER to assure completion of the Project and the fulfillment of the remaining obligations of this Agreement as the SELLER deems necessary or desirable.
 - a. Prohibition Against Transfer of Property and Assignment of Agreement. The BUYER represents and agrees that prior to the Construction Commencement Deadline including any extensions thereof:

Subject to subparagraphs b and c of this paragraph 13, except (i) only by way of security for, and only for, the purpose of obtaining financing (including construction loans secured by the Project) necessary to enable the BUYER or any successor in interest to the SUBJECT PROPERTY, or any part thereof, to perform its obligations with respect to making the Minimum Improvements under this Agreement, (ii) for a transfer of a portion of the SUBJECT PROPERTY to a separate

entity that controls, is controlled by, or is under common control with, BUYER, or (iii) for any other purpose authorized by this Agreement, the BUYER has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the relevant portion of the SUBJECT PROPERTY or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the SELLER.

b. Subject to subparagraphs c, d, e and f, of this paragraph 13, the SELLER shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such approval that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the SELLER, necessary and adequate to fulfill the remaining obligations undertaken in this Agreement by the BUYER with respect to the relevant portion of the SUBJECT PROPERTY.

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

in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements, from any of its obligations with respect thereto.

(iii) There shall be submitted to the SELLER for review and prior written approval all pertinent instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the SUBJECT PROPERTY governed by this paragraph 13.

c. Upon the expiration of the SELLER's rights to exercise SELLER's Option to Purchase, as described herein, notwithstanding any provisions to the contrary in this paragraph 13, the BUYER may sell or transfer such property or a portion thereof without any approval pursuant to subparagraphs (a) or (b).

d. Nothing in subparagraphs (a) or (b), above, is intended to limit the BUYER's authority and right to rent or lease space in the SUBJECT PROPERTY to tenants.

e. The sale or transfer of ownership of a maximum partial interest not exceeding fifteen percent (15%) interest, as tenants in common, in the SUBJECT PROPERTY by BUYER to Craig Runck, to Leon Vandenberg and to Janell Vandenberg, or to any one or more of them [hereinafter collectively referred to as "Transferees", whether one or more] is hereby authorized without further approval of the SELLER, so long as the BUYER and said Transferees, by instrument in writing satisfactory to the SELLER and in form recordable with the Office of the Recorder of Cass County, North Dakota, have mutually agreed that BUYER will continue to fulfill all the obligations set forth in this Agreement and Transferees agree that Transferees shall not deprive the SELLER (i) of any rights or remedies or controls (i) with respect to the SUBJECT PROPERTY or any part thereof, (ii) of the authority to require the construction of the Minimum Improvements, and (iii) of any rights of the SELLER under the Option to Purchase. In the event BUYER makes such assignment to Transferee's, or one or more of them, such assignment shall be in a form substantially in conformance with **Exhibit "E"** attached hereto. The parties agree that—to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement—no transfer of, or change with respect to, ownership in the SUBJECT PROPERTY or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the SELLER of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Minimum Improvements including the SELLER's option right to purchase that the SELLER would have had, had there been no such transfer or change. In the absence of specific written approval by the SELLER to the contrary, no such transfer or approval by the SELLER thereof shall be deemed to relieve the BUYER, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements including the SELLER's option right to purchase, from any of its obligations with respect thereto. In a similar manner, a conveyance of all of the Transferees' interests in the SUBJECT PROPERTY;

unencumbered by any liens, claims or other obligations; back to the BUYER is also authorized without further approval of the SELLER so long as the interests and authority of the SELLER to enforce SELLER's rights under this Agreement are not impaired or deprived, it being understood that such conveyance by Transferee's back to the BUYER is intended to occur in exchange for said Transferees receiving an ownership interest of not more than said 15% share, as members of the limited liability company, in BUYER.

14. Binding Effect. This Agreement binds and benefits the parties and their successors and assigns, subject to the restrictions set forth in following paragraph (entitled "Controlling Law") of this Agreement.
15. Controlling Law. This Agreement has been made under the laws of the State in which the SUBJECT PROPERTY is located and such laws will control its interpretation.
16. Confidentiality and Publicity. The parties recognize that this Agreement is subject to the requirements of North Dakota open records law (N.D.C.C. Chapter 44-04).
17. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one, complete Agreement. A copy of this Agreement delivered as or by .pdf, facsimile or other electronic means containing a party's signature shall be deemed such party's original, binding signature.

IN WITNESS WHEREOF, SELLER and BUYER have caused this Agreement to be executed and delivered as of the date and year first above written.

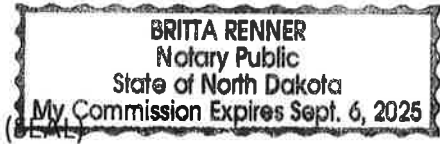
[Remainder of page intentionally left blank]


EPIC Unite Real Estate Holdings, LLC,
a North Dakota limited liability company

By: 
Todd Berning
Its: President

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

On this 18th day of October , 2022, before me, a notary public within and for said county and state, personally appeared TODD BERNING, the President of EPIC Unite Real Estate Holdings, LLC, a North Dakota limited liability company, to me known to be the person described in, and who executed the foregoing instrument, and acknowledged that the company executed the same.




Notary Public
County: Cass State: North Dakota

By: Britta Renner
Its: witness

CITY OF FARGO,
a North Dakota municipal corporation

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

ATTEST:

Steven Sprague, City Auditor

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

On this ____ day of _____, 2022, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the CITY OF FARGO, a North Dakota municipal corporation, described in and that executed the within and foregoing instrument, and acknowledged that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, ND

EXHIBIT "A"

Legal Description of Subject Property

**Lot One (1), Block One (1), of MHB Guardian Addition to the City of
Fargo, Cass County, North Dakota**

EXHIBIT "B"

OUTDOOR PLAZA AREA

(See attached)

ZB!
ZERRIBERG
CONSTRUCTION SERVICES

gehrtz
CONSTRUCTION SERVICES

SITE HATCH PATTERNS

	ASPHALT - EXISTING
	CONCRETE - EXISTING
	NEW CONSTRUCTION CONCRETE
	NEW CONSTRUCTION ASPHALT

REVISION SCHEDULE

NO.	DATE	DESCRIPTION

SCHEMATIC DESIGN

Professional Seal:

Project No. **13011**
Date: **10/20/11**

EPIC COMPANIES
CONSTRUCTION MANAGEMENT

EPIC MANAGEMENT
UNITE
UNITE LLC

ARCHITECTURAL SITE PLAN

Scale: **1/8" = 1'-0"**
Drawing No. **A1.00**



① ARCHITECTURAL SITE PLAN



EXHIBIT "C"

See attached.

AFFIDAVIT

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

_____ , being first duly sworn, on oath says that:

1. He/she is the _____ for the City of Fargo, a North Dakota municipal corporation ("Company").
2. There have been no:
 - a. Bankruptcy proceedings involving the Company or dissolution proceeding involving the Company during the time the Company had any interest in the premises described in the above document ("Land");
 - b. Tax liens filed against the Company;
 - c. Unsatisfied judgments of record against the Company, nor any actions pending in any courts, which affect the Land.
3. Any bankruptcy proceedings or dissolution proceedings of record against entities with the same or similar names, during the time period in which the Company had any interest in the Land, are not against the Company.
4. Any judgments or tax liens of record against entities with the same or similar names are not against the Company.
5. There has been no labor or materials furnished to the Land in the past 180 days at the request of the Company, except as follows: None
6. To the best knowledge of the undersigned there are no unrecorded contracts, leases, easements or other agreements or interest relating to the Land. Furthermore, none of the parties stated herein, if any, holds a right of first refusal, option or other right to purchase the Land.
7. To the best knowledge of the undersigned there are no persons in possession of any portion of the Land other than pursuant to a recorded document except as stated herein.
8. There are no encroachments or boundary line questions affecting the Land of which the undersigned has knowledge.
9. To the best knowledge of the undersigned there are no defects, liens, encumbrances, adverse claims or other matters first appearing in the public records or attaching subsequent to the effective search date of the commitment of title insurance for the Land but prior to the date and time the proposed insured acquires for value of record the estate or interest covered by the commitment for the Land. The undersigned indemnifies and holds harmless The Title Company and Old Republic by reason of any inaccuracy of this statement. Affiant knows the matters herein stated are true and

makes this Affidavit for the purpose of inducing The Title Company as agent for Old Republic to issue its policy of title insurance to _____.

City of Fargo,
a North Dakota municipal corporation

Subscribed and sworn to before me
this__ day _____, 20__.

Signature of Notary Public or Other Official
Notarial Stamp or Seal (or other Title or
Rank)

Drafted by:
The Title Company
35 4th St. N., Suite 102
Fargo, North Dakota
58102

Exhibit A to Affidavit

EXHIBIT "D"

OPTION TO PURCHASE

See attached.

OPTION TO PURCHASE

THIS OPTION TO PURCHASE ("Option Agreement") is made as of _____, 2022 between **EPIC Unite Real Estate Holdings, LLC**, a North Dakota limited liability company, ("EPIC") whose address is 745 31st Avenue South, Suite 105, West Fargo, North Dakota 58078, Craig Runck ["RUNCK"], whose address is _____, North Dakota and Leon Vandeberg and Janell Vandeberg, husband and wife, whose address is _____, North Dakota (collectively referred to as "GRANTORS" and individually as a "GRANTOR") and **City of Fargo**, a North Dakota municipal corporation, 225 Fourth Street North, Fargo, North Dakota 58102 ("GRANTEE"). GRANTOR and GRANTEE may also be referred to herein as "party" or together as "parties".

RECITALS:

WHEREAS, this Option to Purchase was part of a Purchase Agreement (the "Purchase Agreement"), the effective date of which was the ___ day of October, 2022, between EPIC and GRANTEE in which the subject property, described below, was sold and conveyed by GRANTEE subject to certain conditions being met which, if not met, would provide the GRANTEE with this option to purchase back the subject property; and,

WHEREAS, certain undivided interests in EPIC's rights, as the buyer under the Purchase Agreement, were assigned to Craig Runck, Leon Vandeberg and Janell Vandeberg, by that certain Assignment of Purchase Agreement dated the ___ day of _____, 2022, which assignment expressly provided that it would not deprive the GRANTEE (i) of any rights or remedies or controls (i) with respect to the Subject Property or any part thereof, (ii) of the authority to require the construction of the Minimum Improvements, and (iii) of any rights of the GRANTEE under this Option to Purchase; and,

WHEREAS, the parties are desirous of setting forth the terms of said purchase option;

NOW, THEREFORE, it is hereby stipulated and agreed:

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, GRANTORS hereby grants

and conveys unto GRANTEE the option to purchase that certain real property situate in the County of Cass and State of North Dakota legally described as:

[Legal description attached hereto as Appendix "A"]

the "Subject Property".

2. **Exercise of Option – Notice.** GRANTEE shall be authorized to exercise said option in the event that on or before December 31, 2023, unless otherwise extended pursuant to Paragraph 3(b) of the Purchase Agreement in which case the deadline contemplated by this Paragraph shall coincide with such extension (the "Performance Deadline"), EPIC has failed or refused to meet both of the following conditions:

A. EPIC must submit to GRANTEE the EPIC's plans for construction of the project that is the subject of the Purchase Agreement, to include certain minimum improvements described in the Purchase Agreement, and EPIC must have received the written approval of the GRANTEE.

B. EPIC must have commenced construction of the said approved project, said commencement having been deemed to occur when (1) BUYER, or BUYER's authorized contractor, has obtained a building permit for commencement of excavation of the project and (2) excavation has actually been commenced on said project. Such notice option must be exercised in writing with closing to occur within 90 days of such notice date.

Upon the failure or refusal of EPIC to meet both of said conditions by said Performance Deadline, GRANTEE shall have the right to exercise its option to purchase the Subject Property by delivery to EPIC of written notice, delivered to EPIC on or before **April 30, 2024**.

3. **Purchase Price.** In the event GRANTEE exercises its option, as provided herein, GRANTEE shall pay to EPIC the sum of **ONE MILLION ONE HUNDRED EIGHTY-EIGHT THOUSAND and no/100 DOLLARS (\$1,188,000.00)**, which amount shall be referred to herein as the "Purchase Price". The Purchase Price shall be payable as follows:

a. The PURCHASE PRICE shall be paid by wire transfer of immediately available United States funds, to be received by SELLER from the Title Company on the Closing Date pursuant to written wiring instructions to be delivered by SELLER to the Title Company prior to the Closing Date.

4. **Title.** If title to the property is unmarketable, GRANTORS shall have a period of 90 days in which to correct the title and make it marketable.

5. **Terms of Sale and Closing.** Upon the exercise of the option by GRANTEE, 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, GRANTORS shall deliver to GRANTEE a Special Warranty Deed free and clear of all encumbrances, other easements of record, restrictive covenants, and mineral grants and reservations of record, if any, and building and zoning laws, ordinances and state and federal regulations and GRANTEE shall pay to EPIC the balance of the purchase price after receiving all due credits for pro-rated taxes and special assessments and any other credit due to EPIC.

6. **Closing Costs.** It is specifically acknowledged and agreed that EPIC shall pay the following costs connected with closing of this transaction should this option be exercised:

- a. The preparation of the warranty, deed; and,
- b. The recordation of any instruments required to clear title including but not limited to satisfactions of all prior liens and real estate to be paid upon the purchase price of the property.

7. **Taxes and Special Assessments.** Real estate taxes and installments for special assessments for the year prior to the year of closing and all and prior years shall be paid by EPIC. For the year in which the closing occurs, real estate taxes and installments of special assessments shall be pro rated to the date of closing. In all events GRANTEE, if Option is exercised, shall pay the real estate taxes and installments of special assessments for the year subsequent to the year of closing.

8. **Possession.** Possession shall be delivered to GRANTEE on the date of closing.

9. **Amendment.** No amendment or modification of this agreement, including extension of the time for the exercise of any option granted hereunder shall be effective unless reduced to writing and subscribed by each of the parties hereto.

10. Form of Notices; Addresses.

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 EPIC: EPIC Unite Real Estate Holdings, LLC
ATTN: Amy Hass
745 31st Avenue South
Suite 105
West Fargo, ND 58078

with a copy to:

Craig Runck

_____; and,

Leon Vandeberg

_____; and,

Janelle Vandeberg

_____;

with a copy to: Montgomery & Pender, P.C.
ATTN: Kyle Pender 5630 34th Avenue South, Suite 120
Fargo, ND 58104

To the City: City Auditor
Fargo City Hall
225 N. 4th Street
Fargo, ND 58102

and to: Director of Strategic Planning and Research
ATTN: James Gilmour
Fargo City Hall
225 N. 4th Street
Fargo, ND 58102

Each notice shall be deemed given and received on the date delivered if served personally or, if sent by United States registered or certified mail or by overnight delivery service, then the day so sent to the address of the respective party, as provided in this Article, postage pre-paid. Notices sent by a party's counsel shall be deemed notices sent by such party.

11. **Binding Effect.** This shall inure to and be binding upon the parties hereto, their respective heirs, administrators, executors' personal representatives' successors and assigns. GRANTEE has the right to assign this purchase option.

12. **Memorandum of Option Right of Grantee.** GRANTEE shall be authorized to record with the Office of the Recorder, County of Cass, State of North Dakota a memorandum of this purchase option, in such form as to establish notice of the purchase rights of the GRANTEE in the Subject Property and the Easement Property. GRANTORS shall, in good faith, execute such memorandum of this purchase option. In the alternative, at the sole discretion of the GRANTEE, GRANTEE may record this Option Agreement.

12. In all respects other than as set forth in this addendum and/or any other addendum, the Purchase Agreement between EPIC and GRANTEE shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, have signed this purchase option this _____ day of _____, 2022.

[Remainder of page intentionally blank – execution pages to follow]

EPIC:

EPIC Unite Real Estate Holdings, LLC,
a North Dakota limited liability company

By: _____
AMY HASS, Vice President

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by AMY HASS, the Vice President of EPIC Unite Real Estate Holdings, LLC, a North Dakota limited liability company, on behalf of said company.

Notary Public

[[INSERT SIGNATURE BLOCKS WITH NOTARY ACKNOWLEDGEMENTS FOR RUNCK AND FOR THE VANDEBERGS HERE.]]

GRANTEE:

CITY OF FARGO,
a North Dakota Municipal Corporation

(SEAL)

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

ATTEST:

By _____
Steven Sprague, City Auditor

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

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

Notary Public

Legal description obtained from previously recorded instrument.

This document drafted by:

Erik R. Johnson
Fargo Assistant City Attorney
(701) 371-6850
ejohnson@lawfargo.com

APPENDIX "A"
TO OPTION TO PURCHASE

Legal Description of Subject Property

Lot One (1), Block One (1), of MHB Guardian Addition to the City of Fargo, Cass County, North Dakota

APPENDIX "B"
TO OPTION TO PURCHASE

[[RESERVED]]

EXHIBIT "E"

ASSIGNMENT OF PURCHASE AGREEMENT

See attached.

ASSIGNMENT OF PURCHASE AGREEMENT

This Assignment of Purchase Agreement is entered into on _____, 2022 between EPIC Unite Real Estate Holdings, LLC, the "Assignor" and party of the first part and the parties of the second part and, collectively, the "Assignees", namely Craig Runck, whose address is _____, North Dakota ("Runck") and Leon Vandenberg and Janell Vandenberg, husband and wife, whose address is _____, North Dakota:

1. Recitals. The parties make the following declarations:

- a. Assignor is the Buyer under the terms of a Purchase Agreement with the City of Fargo, a North Dakota municipal corporation, as the Seller, dated _____, 2022 (the "Purchase Agreement") pertaining to the sale and transfer of the following described property situate in the County of Cass and State of North Dakota, to-wit:

Lot One (1), Block One (1), of MHB Guardian Addition to the City of Fargo

[the "Subject Property"].

- b. Assignor wishes assign an undivided interest of Assignor's rights in the Purchase Agreement to Assignees, with each individual Assignee taking a specified share thereof, and Assignees wish to accept such assignment; provided that such assignment shall not reduce in any manner all of the obligations of performance and otherwise, of Assignor as required by the Purchase Agreement.

2. Assignment of Purchase Agreement. For good and valuable consideration, the receipt of which is hereby acknowledged, Assignor hereby transfers and assigns as tenants in common to the Assignees the Assignor's right, title and interest in the Purchase Agreement in the following proportion of the Assignor's current full interests:

- a. to Craig Runck, an undivided Three and 20/100ths Percent (3.20%) as a tenant in common; and,

b. to Leon Vandeberg, an undivided Five and no/100ths Percent (5.00%)
as a tenant in common; and,

c. to Janell Vandeberg, an undivided Five and no/100ths Percent (5.00%)
as a tenant in common;

which shall leave Assignor with an undivided Eighty-six and 80/100ths Percent (86.80%)
as a tenant in common. By such assignment and transfer, the Assignees will acquire the
Subject Property as tenants in common with Assignor in such proportionate shares.

3. ASSIGNOR SHALL REMAIN FULLY OBLIGATED TO SELLER UNDER
THE TERMS OF THE PURCHASE AGREEMENT.

4. The Assignees hereby acknowledge that this assignment is subject to, and
Assignees hereby accept, the terms of the Purchase Agreement and Assignees hereby
acknowledge and agree that this assignment shall not be interpreted or construed to
deprive the Seller (i) of any rights or remedies or controls (i) with respect to the Subject
Property or any part thereof, (ii) of the authority to require the construction of the Minimum
Improvements, and (iii) of any rights of the Seller under the Option to Purchase, as
described in the Purchase Agreement.

5. The execution of this instrument by the City of Fargo, being the Seller under
the Purchase Agreement, is solely to acknowledge the City's consent to this assignment.

[Remainder of page intentionally blank—execution page to follow]

WHEREFORE, the parties have executed this Instrument as of the date herein first above written.

ASSIGNOR:

EPIC Unite Real Estate Holdings, LLC,
Assignor

By: _____
Amy Hass, Vice President

[[[INSERT NOTARY ACKNOWLEDGEMENT FOR ASSIGNOR]]]

ASSIGNEES:

Craig Runck, Assignee as to undivided
3.20% interest as tenant in common

[[[INSERT NOTARY ACKNOWLEDGEMENT FOR ASSIGNEE]]]

Leon Vandenberg, Assignee as to
undivided 5.00% interest as tenant in
common

[[[INSERT NOTARY ACKNOWLEDGEMENT FOR ASSIGNEE]]]

Janell Vandenberg, Assignee as to
undivided 5.00% interest as tenant in
common

[[[INSERT NOTARY ACKNOWLEDGEMENT FOR ASSIGNEE]]]

Assignment – Execution Page: Assignor/Assignees



37a

October 6, 2022

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 1637 10 St N as submitted by Steven Amundson and Debbie Dahl-Amundson. 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 \$28 with the City of Fargo's share being \$5.

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 Blk 11, Lot 15, Chandlers Broadway

2. Address of Property 1637 10 St N

3. Parcel Number 01-0380-02480-000

4. Name of Property Owner Steve Amundson & Debbie Dahl Amundson Phone No. 206-420-9506

5. Mailing Address of Property Owner 1637 10 St N

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). Basement Remodel

7. Building permit No. 2202-0504 8. Year built (residential property) 1950

9. Date of commencement of making the improvements FEB 2022

10. Estimated market value of property before the improvements \$ 171,200.00

11. Cost of making the improvement (all labor, material and overhead) \$ 19,041

12. Estimated market value of property after the improvements \$ 190,241

Applicant's Certification And Signature

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

Applicant *Steve Amundson* Date 10/3/2022

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 *Chitra Splumboudi* Date 10-19-2022

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 _____



376

October 3, 2022

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 317 25 Ave N as submitted by Melissa and Jeffrey Bozovsky. 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 \$60 with the City of Fargo's share being \$10.

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 Blk 4, Lot 5, Oral A Holm

2. Address of Property 317 25 Ave N

3. Parcel Number 01-1380-00430-000

4. Name of Property Owner Melissa & Jeffrey Bozovsky Phone No. 507-276-9756

5. Mailing Address of Property Owner 317 25 Ave N

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). Add bath to unfinished portion of lower level

7. Building permit No. 2206-0387 8. Year built (residential property) 1956

9. Date of commencement of making the improvements 6/7/22

10. Estimated market value of property before the improvements \$ 225,700.00

11. Cost of making the improvement (all labor, material and overhead) \$ \$15000

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 [Signature] Date 9/28/22

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 10-19-2022

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 _____



37c

October 6, 2022

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 1143 Oak St N as submitted by Linda and William Dibrito. 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 \$85 with the City of Fargo's share being \$15.

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 Blk 7, Lot 1 & N 9.65 FT of 2, Hectors

2. Address of Property 1143 Oak St N

3. Parcel Number 01-1160-01350-000

4. Name of Property Owner Linda & William Dibrito Phone No. 701-371-0484

5. Mailing Address of Property Owner 1143 Oak St N

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). Bath Remodel

7. Building permit No. 2202-0350 8. Year built (residential property) 1939

9. Date of commencement of making the improvements April 1, 2022

10. Estimated market value of property before the improvements \$ 235,300.00

11. Cost of making the improvement (all labor, material and overhead) \$ \$36,000

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 William Dibrito Date 10-6-22

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. Houshander Date 10-19-2022

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 _____



37d

October 12, 2022

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 3502 Longfellow Rd N as submitted by Scott Johnson and Suzanne Johnson-Theil. 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 \$60 with the City of Fargo's share being \$10.

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 Blk 4, Lot 7, Golf Course 2nd

2. Address of Property 3502 Longfellow Rd N

3. Parcel Number 01-1002-00210-000

4. Name of Property Owner Scott Johnson & Suzanne Thiel-Johnson Phone No. 701-388-3285

5. Mailing Address of Property Owner 3502 Longfellow Rd N

Description Of Improvements For Exemption

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

7. Building permit No. 2202-0101 8. Year built (residential property) 1974

9. Date of commencement of making the improvements _____

10. Estimated market value of property before the improvements \$ 280,300.00

11. Cost of making the improvement (all labor, material and overhead) \$ 50,000.00

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

Applicant's Certification And Signature

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

Applicant Scott Johnson Date 11/7/22

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 10-19-2022

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 _____



37e

October 4, 2022

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 1359 2 St N as submitted by Barbara Lindberg. 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 \$11.

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 Blk 7, Lot 15, Holes 1st

2. Address of Property 1359 2 St N

3. Parcel Number 01-1360-01980-000

4. Name of Property Owner Barbara Lindberg Phone No. 701-866-7904

5. Mailing Address of Property Owner 1359 2 St N

Description Of Improvements For Exemption

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

7. Building permit No. 2110-0929 8. Year built (residential property) 1939

9. Date of commencement of making the improvements October 2021

10. Estimated market value of property before the improvements \$ 293,900.00

11. Cost of making the improvement (all labor, material and overhead) \$ 14,000

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 Barbara Lindberg Date 09-30-2022

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 Clifford J. Combs Date 10-19-2022

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 _____



37f

October 17, 2022

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 21 32nd Ave S as submitted by Magnifica Properties LLC. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

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

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$276 with the City of Fargo's share being \$47.

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>Block A, Lot 3, Longfellow Park</u>	
2. Address of Property	<u>21 32 Ave NE</u>	
3. Parcel Number	<u>01-1790-00920-000</u>	
4. Name of Property Owner	<u>Magnifica Properties LLC</u>	Phone No. <u>701-566-3087</u>
5. Mailing Address of Property Owner	<u>21 32 Ave NE</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>Finish Basement</u>	
7. Building permit No.	<u>2203-0683</u>	8. Year built (residential property) <u>1987</u>
9. Date of commencement of making the improvements	_____	
10. Estimated market value of property before the improvements	\$	<u>372,400.00</u>
11. Cost of making the improvement (all labor, material and overhead)	\$	<u>21,000</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><i>Mark Anderson</i></u> Date <u>10/19/2022</u>

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do <input checked="" type="checkbox"/> do not <input type="checkbox"/> meet the qualifications for exemption for the following reason(s): _____
Assessor/Director of Tax Equalization <u><i>Walter J. Lombardi</i></u> Date <u>10-19-2022</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 _____



3709

October 3, 2022

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 1906 9 St N as submitted by Nathan and Kimberly Rorvig. 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 \$208 with the City of Fargo's share being \$35.

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 Blk 2, Lot 12, Peter Sway 4th

2. Address of Property 1906 9 St N

3. Parcel Number 01-3080-00250-000

4. Name of Property Owner Nathan & Kimberly Rorvig Phone No. 701-552-3126

5. Mailing Address of Property Owner 1906 9 St N

Description Of Improvements For Exemption

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

7. Building permit No. 2203-0055 8. Year built (residential property) 1955

9. Date of commencement of making the improvements 3-15-2022

10. Estimated market value of property before the improvements \$ 197,500.00

11. Cost of making the improvement (all labor, material and overhead) \$ 17,000

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 [Signature] Date 9-28-2022

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 10-19-2022

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 _____



37h

October 12, 2022

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 205 Prairiewood Dr. S as submitted by Joseph and Ranelle Turman. 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 \$376 with the City of Fargo's share being \$10.

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 LOT 2 BLOCK 13 Prairiewood Addition

2. Address of Property 205 Prairiewood Dr. S., Fargo

3. Parcel Number 01-2330-01290-000

4. Name of Property Owner Joseph-Ranelle TURMAW Phone No. 701-261-6719

5. Mailing Address of Property Owner 205 Prairiewood Dr. S., Fargo, ND 58103

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). 24 X 20 Addition
new windows

7. Building permit No. 20051022 8. Year built (residential property) ~~2020~~ 1979

9. Date of commencement of making the improvements may 2020

10. Estimated market value of property before the improvements \$ 307,000

11. Cost of making the improvement (all labor, material and overhead) \$ 225,000

12. Estimated market value of property after the improvements \$ 428,000

Applicant's Certification And Signature

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

Applicant Joseph A. Turmaw Date 10/2/2022

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 Selverstone Date 10-19-2022

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 _____



376

October 12, 2022

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 108 North Woodcrest Dr. N as submitted by Gregory and Rebecca Walen. 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 \$1,038 with the City of Fargo's share being \$177.

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 Blk 18, Lot 8, Woodcrest Park

2. Address of Property 108 North Woodcrest Dr N

3. Parcel Number 01-4080-00080-000

4. Name of Property Owner Gregory & Rebecca Walen Phone No. 701-866-9192

5. Mailing Address of Property Owner 108 North Woodcrest Dr N

Description Of Improvements For Exemption

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

7. Building permit No. 2202-0384 8. Year built (residential property) 1975

9. Date of commencement of making the improvements March 2022

10. Estimated market value of property before the improvements \$ 417,800.00

11. Cost of making the improvement (all labor, material and overhead) \$ 79,000

12. Estimated market value of property after the improvements \$ 467,000

Applicant's Certification And Signature

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

Applicant [Signature] Rebecca Walen Date 10-7-22

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 10-19-2022

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 _____



37j

October 25, 2022

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 3425 1 St N as submitted by Jeffrey and Mary Jean Dehne. 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 \$2,108 with the City of Fargo's share being \$358.

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 Blk 3, Lot 2 & S 2 FT of 1, Van Radens
2nd

2. Address of Property 3425 1 ST N

3. Parcel Number 01-3560-00410-000

4. Name of Property Owner Jeffrey & Mary Jean Dehne Phone No. 701-793-7600

5. Mailing Address of Property Owner 3425 1 ST N

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). 15X56 Addition

7. Building permit No. 2111-0367 8. Year built (residential property) 1972

9. Date of commencement of making the improvements May 2022

10. Estimated market value of property before the improvements \$ 238,600.00

11. Cost of making the improvement (all labor, material and overhead) \$ 400,000

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 Mary Jean Dehne Date 10/24/22

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 Thibe Glouventhal Date 10-26-2022

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 _____



37K

October 20, 2022

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 2418 27 Ave S as submitted by Joan Fiechtner. 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 \$131 with the City of Fargo's share being \$22.

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 REPLAT OF PT OF 8, LOT 13 & W 90 FT OF 12

2. Address of Property 2418 27 AVE S

3. Parcel Number 01-0505-010394-000

4. Name of Property Owner FIECHTNER, JOAN E Phone No. 701-318-8558

5. Mailing Address of Property Owner SAME

Description Of Improvements For Exemption

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

7. Building permit No. 22030122 8. Year built (residential property) 1983

9. Date of commencement of making the improvements 04/07/2022

10. Estimated market value of property before the improvements \$ 256,500.00

11. Cost of making the improvement (all labor, material and overhead) \$ \$ 81,844.⁰⁰

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

Applicant's Certification And Signature

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

Applicant Joan E. Fiechtner Date 10/18/22

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 Wibe S. [Signature] Date 10-26-2022

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 _____



378

October 20, 2022

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 1246 5 St N as submitted by Al Dybing and Julie Anderson. 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 \$657 with the City of Fargo's share being \$112.

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 _____
Lot N 1/2 OF E 1/2 OF 3 Block 3 Addition Name James Holes

2. Address of Property 1246 5th St N

3. Parcel Number 01-1370-00290-000

4. Name of Property Owner Alan Dybing Phone No. 701-361-7521

5. Mailing Address of Property Owner 1246 5th St N, Fargo

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). Basement remodel, insulation

7. Building permit No. 2205-0216-REN 8. Year built (residential property) 1947

9. Date of commencement of making the improvements 05/15/2022


10. Estimated market value of property before the improvements \$ 216,700.00

11. Cost of making the improvement (all labor, material and overhead) \$ 50,000.00

12. Estimated market value of property after the improvements \$ 254,000.00


Applicant's Certification And Signature

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

Applicant  Date 9/26/2022

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization  Date 10-26-2022

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 _____



37m

October 20, 2022

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 2844 Westgate Dr S as submitted by Robin Brophy and Jackie Kiels-Brophy. 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 \$131 with the City of Fargo's share being \$22.

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 Blk 5, Lot 14, Westgate Village

2. Address of Property 2844 Westgate Dr S

3. Parcel Number 01-4000-00700-000

4. Name of Property Owner Robin Brophy & Jacke Kiels-Brophy Phone No. 701-371-0926

5. Mailing Address of Property Owner 2844 Westgate Dr 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). Remodel Bathroom

7. Building permit No. 2205-0002 8. Year built (residential property) 1974

9. Date of commencement of making the improvements July 1, 2022

10. Estimated market value of property before the improvements \$ 251,100.00

11. Cost of making the improvement (all labor, material and overhead) \$ 5000

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 *Robin Brophy* Date 10-19-22

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 *Mike Selman* Date 10-26-2022

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 _____