

FARGO CITY COMMISSION AGENDA
Monday, August 5, 2024 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, July 22, 2024).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Resolution Establishing the Wildlife Management Program for the 2024-2025 season.
- 2. Receive and file an Ordinance Amending Section 23-0211 of Article 23-02 of Chapter 23 of the Fargo Municipal Code Relating to the Electrical Code.
- 3. Second Amendment to the Findings of Fact, Conclusions and Order regarding 1710 1st Avenue South, Fargo, North Dakota.
- 4. Direct the City Attorney to amend Fargo Municipal Code 25-1512(D) waiving compliance failure penalty if licensee agrees to use ID Scanner.
- 5. Extension of a Class “F” Alcoholic Beverage License for Mango’s, Inc. d/b/a/ Mango’s until building repairs are made.
- 6. Applications for Games of Chance:
 - a. HERO Healthcare Equipment Recycling Organization for a raffle and raffle board on 9/27/24.
 - b. Legacy Children’s Foundation for a raffle on 8/19/24.
 - c. Nativity Church of Fargo for bingo and a raffle on 11/3/24.
 - d. North Dakota Long Term Care Association for a raffle on 9/26/24.
 - e. United Republican Committee of Cass County for a raffle on 8/14/24.
- 7. Change Order No. 1 in the amount of \$66,647.96 for Improvement District No. PR-24-G1.
- 8. Utility Relocation Reimbursement in the amount of \$12,816.95 for Improvement District No. BN-23-A1.
- 9. Developer Agreement with 202 Flats, LLC for Cityside Addition.
- 10. Developer Agreement with ProCore Development, LLC for Legacy 1 Eighth Addition.
- 11. Memorandum of Understanding Regarding Storm Sewer and Street Maintenance, Repairs and Reconstruction with the City of Horace (Deer Creek Addition).

12. Easement (Temporary Construction Easement) with Global Development, LLC (Improvement District No. BR-25-F1).
13. Memorandum of Offer to Landowner for Permanent Easement (Street and Utility) and Permanent Easement (Utility) with JLB South, Inc. (Improvement District No. PR-24-A1).
14. Contract and bond for Improvement District No. BN-24-C1.
15. Change Order No. 4 in the amount of \$20,800.00 and time extensions to interim completion date 3 and interim completion date 4 for Project No. NR-23-A2.
16. Change Order No. 1 in the amount of \$4,085.00 for Project No. UR-24-H1.
17. Final Balancing Change Order No. 1 in the amount of \$0.00 for Project No. ER-24-A1.
18. Final Balancing Change Order No. 1 in the amount of \$0.00 for Project No. ER-24-B1.
19. Bid award to Industrial Builders Inc. in the amount of \$169,060.00 for Project No. DR-21-A1.
20. Bid award to Key Contracting Inc. in the amount of \$393,470.00 for Project No. UR-24-A1.
21. Contract and bond for Project No. PR-24-F2.
22. Contract and bond for Project No. WA2451 (ITB24209).
23. Master Service Agreements for HVAC and Plumbing Services, as presented (RFP24229).
24. Items from the FAHR Staff meeting:
 - a. Sales tax update.
 - b. NP Avenue/Red River tree removal.
25. Taxable Annual Appropriation Bond (NP Parking), Series 2024E (Infrastructure Revolving Loan Fund) Term Bond, Closing Certificate, Loan Agreement (Infrastructure Revolving Loan Fund) and Financing Resolution.
26. Agreement between Fargo Cass Public Health Department and Doyle's Yellow Checker Cab (RFP24232).
27. Application for Title V/Maternal and Child Health Program.
28. Addendum C to Cass Human Service Zone Agreement with Fargo Cass Public Health.
29. Purchase of the Phosphorus Unified xIoT Security Management Platform from Doosan Digital Innovation America, LLC.
30. Resolution approving Plat of University South Fifth Addition.
31. Bid award to RDO Equipment in the amount of \$25,000.00 for the 2024 rental wheel loader contract (RFP24268).
32. Bid award to RDO Equipment in the amount of \$65,000.00 for the 2024 rental wheel loaders contract (RFP24267).

33. Bid award to Butler Machinery Company in the amount of \$42,500.00 for the 2024 rental motor grader contract (RFP24266).
34. Bid award to Sanitation Products in the amount of \$612,298.00 for the purchase of two auto side load refuse trucks (RFP24269).
35. Joint Powers Agreement for School Resource Officers Amendment Number One.
36. Agreement for Transit Services and 2024-2025 Amendment to Joint Powers Agreement for Transit Support with North Dakota State University.
37. Change Order No. 4 from PKG Contracting, Inc. in the amount of \$127,486.00 for emergency repairs to West Side Interceptor Project WW1701 (Phase II B Improvements).
38. Bills.

REGULAR AGENDA:

39. Recommendation to adopt the Resolution Authorizing Sale of Property west of the landfill.

PUBLIC HEARINGS - 5:15 pm:

40. **PUBLIC HEARING** - Hearing to consider a Renewal Plan and Developer Agreement with JS2L Partners, LLP for the Tax Increment Financing District No. 2024-01 (600 Block of 4th Street North); continued from the 6/10/24, 6/24/24, 7/8/24 and 7/22/24 Regular Meetings.
41. **PUBLIC HEARING** – YWCA Addition and Presentation Addition (3000 University Drive South; 3014 12th Street South; 3000, 3001, 3003 and 3004 11th Street South; 1120 30th Avenue South; 1001 and 1101 32nd Avenue South); approval recommended by the Planning Commission on 7/2/24:
 - a. Zoning Change from MR-1, Multi-Dwelling Residential, MR-2, Multi-Dwelling Residential and SR-2, Single-Dwelling Residential to P/I, Public and Institutional.
 - b. 1st reading of rezoning Ordinance (YWCA Addition).
 - c. 1st reading of rezoning Ordinance (Presentation Addition).
42. FARGODOME Remodeling Project:
 - a. Letter of recommendation from the Fargo Dome Authority.
 - b. Recommendation to adopt a Resolution (Amendment of Home Rule Charter for Sales, Use and Gross Receipts Tax) and to approve ballot language for the November 5th election.
43. Recommendation to adopt a Resolution amending the Home Rule Charter to place a measure on the November 5th ballot to allow for an additional 3% City lodging tax.
44. Construction update.
45. Receive and file an Ordinance Enacting Article 10-14 of Chapter 10 of the Fargo Municipal Code Relating to Camping on Public Property.
46. Recommendation to approve the Mayor's 2025 Preliminary Budget and set the Public Hearing date for Monday, September 16, 2024 at 5:15 p.m.

47. Recommendation for appointments to the Human Rights Commission.
48. Liaison Commissioner Assignment Updates.
49. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).**


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

Minutes are available on the City of Fargo website at www.FargoND.gov/CityCommission.

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MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: July 31, 2024

SUBJECT: Sale of Landfill Property

This is a recommendation to begin the process to sell property west of the City of Fargo landfill. The property was acquired in 1995 as a future landfill site. However, the site is no longer suitable for a landfill. Portions of the site are used for landfill monitoring wells and a snow dump in the winter. The site is approximately 85 acres and located in the City of West Fargo.

The City of Fargo needs to retain a portion of the property for landfill monitoring wells and the snow dump. The snow dump property could be sold in the future after a new site is located. The balance of the property is no longer used by the City.

This recommendation is to use a non-exclusive listing agreement with commercial realtors to list the property and hire one commercial realtor as an adviser to recommend the listing price and assist in marketing the property and evaluating offers for the property.

Upon approval of a resolution authorizing the sale of the property, City staff would write a request for proposals for both the advisory services and commercial realtors.

A resolution is attached for your consideration. The resolution states that the property is no longer required for entirely a public purpose and directs staff to initiate a process for marketing and disposal of the property that is not used by the City.

Recommended Motion:

Approve the resolution authorizing the sale of property west of the landfill.

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION AUTHORIZING SALE OF PROPERTY

[Located generally at 9th Street NE and 12th Ave NE, West Fargo, ND]

WHEREAS, the city of Fargo is the owner of certain real property consisting of 61.846 acres, more or less, and generally located in the southeast corner of the intersection of 9th Street NE and 12th Avenue North in the City of West Fargo, North Dakota, the legal description for which is set forth on Exhibit "A", attached hereto [hereinafter the "Subject Property"]; and,

WHEREAS, the property is currently undeveloped property, acquired by the City of Fargo in 1995; and,

WHEREAS, it is the wish and desire of the Board of City Commissioners that the Subject Property be sold so that the property can be put into good use;

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Fargo, North Dakota, as follows:

1. The Subject Property is no longer required for entirely a public purpose and, therefore, should be offered for sale in one or more parcels, as may be determined by the board of city commissioners, by use of a non-exclusive listing agreement as authorized by Section 40-11-04.2 of the North Dakota Century Code, the commission to be paid to the broker that secures the ultimate purchaser for such parcel or parcels shall not exceed 3.0% (Three and no/100ths Percent) of the sales price thereof;

2. The Strategic Planning Director is hereby authorized to initiate the process for marketing and disposal of the Subject Property, including the advertisement of a request for proposals for real estate brokerage advisory services to be provided to the City, including market analysis and research relevant to commercial real estate in the City and to assist the City in identifying a marketing strategy for the Subject Property; advising the City with respect to property acquisition, disposition, leasing and development strategies that may be considered by prospective purchasers; assisting the City in negotiations with prospective purchasers, tenants and developers of the Subject Property, offering recommendations on property valuation, investment opportunities, and potential risks, marketing services including creation of marketing materials, advertising listings, organizing property showings, on-site signage and implementing digital marketing strategies; and other services as may be necessary or appropriate;

3. The City reserves the right to reject any and all offers determined to be insufficient;

4. The Strategic Planning Director shall report back to the City Commission with a plan for the procurement of such advisory services and, ultimately, for the engagement of licensed real

estate brokers to attempt to sell the Subject Property by use of said one or more non-exclusive listing agreements; and,

5. The City Commission may provide further authority and direction to the Strategic Planning Director by resolution or motion approved by the board of city commissioners pertaining to the disposal of the Subject Property.

Dr. Tim Mahoney, M.D., Mayor

Attest:

City Auditor

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

[EXHIBIT "A" TO FOLLOW THIS PAGE]

EXHIBIT "A"
TO RESOLUTION

That part of the Northwest Quarter of Section 4, Township 139 North, Range 49 West of the Fifth Principal Meridian, in the City of West Fargo, Cass County, North Dakota, described as follows:

Commencing at the northwest corner of said Northwest Quarter; thence North 87°39'19" East, along the northerly line of said Northwest Quarter, for a distance of 155.00 feet to the northeast corner of a tract described in Document No. 1439657, on file at the Cass County Recorder's Office; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 1439657, for a distance of 50.00 feet to a point of intersection with the southerly line of the North 50.00 feet of said Northwest Quarter and the True Point of Beginning; thence continue South 02°59'15" East, along the easterly line of a tract described in said Document No. 1439657, for a distance of 110.00 feet; thence South 87°39'19" West, along the southerly line of a tract described in said Document No. 1439657, for a distance of 155.00 feet to a point of intersection with the westerly line of said Northwest Quarter; thence South 02°59'15" East, along the westerly line of said Northwest Quarter, for a distance of 100.00 feet to the northwest corner of a tract described in Document No. 954625, on file at said Recorder's Office; thence North 87°39'19" East, along the northerly line of a tract described in said Document No. 954625, for a distance of 130.00 feet to the northeast corner of a tract described in said Document No. 954625; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 954625, for a distance of 35.00 feet to the southeast corner of said Document No. 954625; thence South 87°39'19" West, along the southerly line of a tract described in said Document No. 954625, for a distance of 130.00 feet to a point of intersection with the westerly line of said Northwest Quarter; thence South 02°59'15" East, along the westerly line of said Northwest Quarter, for a distance of 647.27 feet to the northwest corner of a tract described in Document No. 1648825, on file at said Recorder's Office; thence North 87°41'21" East, along the northerly line of a tract described in said Document No. 1648825, the northerly line of tract described in Book 292, Page 103, Book 290, Page 287, and Book 300, Page 641, all on file in said Recorder's Office, and along the northerly line of a tract described in Document No. 1641774, on file at said Recorder's Office, for a distance of 550.00 feet to the northeast corner of a tract described in said Document No. 1641774; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 1641774, for a distance of 150.00 feet to the southeast corner of a tract described in said Document No. 1641774; thence South 87°41'21" West, along the southerly line of the tracts described in said Document No. 164177, said Book 300, Page 641, said Book 290, Page 287, said Book 292, Page 103, and said Document No. 1648825, for a distance of 550.00 feet to a point of intersection with the westerly line of said Northwest Quarter; thence South 02°59'15" East, along the westerly line of said Northwest Quarter, for a distance of 50.00 feet to the northwest corner of a tract described in Document No. 1699553, on file at said Recorder's Office; thence North 87°41'21"


East, along the northerly line of a tract described in said Document No. 1699553, and along the northerly line of tracts described in Document Nos. 985739, 1456361, 925139, 1625673, 1356145, and 598509, all on file at said Recorder's Office, for a distance of 950.22 feet to the northeast corner of a tract described in said Document No. 598509; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 598509, for a distance of 218.63 feet to a point of intersection with the northerly line of Auditor's Lot No. 2 of the Northwest Quarter of said Section 4, on file at said Recorder's Office; thence North 87°44'23" East, along the northerly line of said Auditor's Lot No. 2, for a distance of 48.86 feet to the northeast corner of said Auditor's Lot No. 2; thence South 02°59'15" East, along the easterly line of said Auditor's Lot No. 2 and its southerly extension, for a distance of 199.96 feet to a point of intersection with the northerly line of a tract described in Document No. 1374936, on file at said Recorder's Office; thence North 87°44'23" East, along the northerly line of a tract described in said Document No. 1374936, for a distance of 1.68 feet; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 1374936, for a distance of 198.19 feet; thence North 87°42'51" East, along the northerly line of a tract described in said Document No. 1374936, for a distance of 326.04 feet to a point of intersection with the westerly line of a tract of land described in Document No. 1651350, on file at said Recorder's Office; thence North 03°00'57" West, along the westerly line of a tract described in said Document No. 1651350, for a distance of 36.65 feet to the northwest corner of a tract described in said Document No. 1651350; thence North 88°35'54" East, along the northerly line of a tract described in said Document No. 1651350, for a distance of 267.79 feet to the northwest corner of Auditor's Lot No. 1 of the Northwest Quarter of said Section 4, on file at said Recorder's Office; thence North 88°35'54" East, along the northerly line of said Auditor's Lot No. 1, for a distance of 264.98 feet to the northwest corner of Kautzman's First Addition, on file at said Recorder's Office; thence North 88°35'54" East, along the northerly line of said Kautzman's First Addition, for a distance of 480.00 feet; thence North 03°02'44" West, along the northerly line of said Kautzman's First Addition, for a distance of 228.86 feet; thence North 02°53'21" West for a distance of 757.83 feet; thence South 87°39'19" West for a distance of 806.14 feet; thence North 02°53'21" West for a distance of 703.32 feet to a point of intersection with the southerly line of the North 50.00 feet of said Northwest Quarter; thence South 87°39'19" West, along the southerly line of the North 50.00 feet of said Northwest Quarter, for a distance of 1379.73 feet to the True Point of Beginning.

Said tract contains 61.846 acres, more or less, and is subject to easements as may be of record.

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MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: July 30, 2024

SUBJECT: Renewal Plan for a block in the Downtown

I drafted a Renewal Plan for the redevelopment of a block on the northeast edge of the Downtown. The block is between 6th and 7th Avenue North and 3rd and 4th Street North. The entire block is vacant and buildings are blighted. The project would demolish and clean up the five residential buildings and two commercial buildings.

The future land use plan for the Downtown indicates housing for the block. The current and proposed zoning both allow housing on the block.

The developer is requesting up to \$1,706,500 million in Tax Increment Financing (TIF) to demolish the buildings, clean up the site and land write down allowed by city policy. The amount of new development could be between \$10 million and \$30 million. The annual TIF income is up to \$400,000 a year and the length of the TIF district would be 5 years following the completion of the project and expiration of any incentives.

The Planning Commission indicated that the Renewal Plan is consistent with the GO2030 Comprehensive Plan.

The Economic Development Incentives Committee is recommending approval of the Renewal Plan and Developer Agreement.

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

Recommended Motion:

Approve the Resolution adopting the Renewal Plan and a Developer Agreement with JS2L Partners, LLP to provide TIF funds for the project.

Attachments

1. Resolution
2. Renewal Plan
3. Developer Agreement

RESOLUTION
BOARD OF CITY COMMISSIONERS OF THE
CITY OF FARGO

TAX INCREMENT FINANCING DISTRICT 2024-01

Commissioner _____ moved for approval of the following:

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

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

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

1. That one or more slum or blighted areas, or areas consisting of industrial or commercial property, or a combination of those areas of properties, exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment, or a combination thereof, of the area contained within the Renewal Plan for Tax Increment Financing District No. 2024-01, is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.
3. That there are blighted areas within the area contained within the Renewal Plan with deteriorated conditions that discourage redevelopment. The Renewal Area, as defined in the Renewal Plan, is blighted due to the presence of these conditions have substantially impaired the growth of the City, and have slowed the provision of appropriate redevelopment in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.
4. That the area designated as the Renewal Plan for Tax Increment Financing District No. 2024-01 is appropriate for a development project.
5. That such development, rehabilitation, conservation or redevelopment of the area contained in the Renewal Plan for Tax Increment Financing District No. 2024-01 requires the powers and authority granted in Chapter 40-58 NDCC.
6. That the Renewal Plan for Tax Increment Financing District No. 2024-01 is hereby officially adopted by the Board.

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

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

RENEWAL PLAN
TAX INCREMENT FINANCING DISTRICT NO. 2024-01
CITY OF FARGO, NORTH DAKOTA
MAY 2024

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RENEWAL PLAN FOR TAX INCREMENT DISTRICT NO. 2024-01

Subsection 1.1. Definitions.

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

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

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

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

"County" means Cass County, North Dakota.

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

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

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

"State" means the State of North Dakota.

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

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

"Tax Increment Financing District" or "TIF District" means Tax Increment Financing District No. 2024-01.

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

Subsection 1.2. Statutory Authority.

The creation of the Renewal Area and the establishment of Tax Increment Financing District No. 2024-01 are authorized by the Urban Renewal Law. Specifically the creation of the Renewal Area is authorized under North Dakota Century Code, Sections 40-58-01.1(7) and (14), which provide that the local governing body may designate industrial or commercial property, a slum or

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

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

Subsection 1.3. Statement of Public Purpose

In adopting the Renewal Plan for TIF District No. 2024-01, the City Commission intends to make the following findings:

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

Factual basis: This Renewal Area is blighted due to the presence of blighted commercial and residential structures. This substantially impairs the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use. Photos are included in Appendix C.

- (b) The Renewal Area has five residential buildings on the east side of the block, and two commercial buildings on the west side of the block. All the buildings are vacant.

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

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

Factual basis: The renewal area is zoned for downtown mixed use on the west side of the block, and for multi-family housing on the east side of the block.

- (d) The residential buildings on the block are vacant.

Factual basis: There is no occupied housing on the site because of the age and poor condition of the buildings. The redevelopment is expected to include new housing units.

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

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

Redevelopment of the site consistent with the Downtown Plan. The downtown future land use plan is for housing on the site. The present and proposed zoning would allow housing. Redevelopment will use existing infrastructure.

Subsection 1.4. Description of Renewal Area

The Renewal Area is located on the northeast edge of the downtown. The area is an entire city block between 6 Ave N and 7th Ave N., with 4th Street on the west and 3rd Street on the east. It is legally described in Appendix A. A map of the Renewal Area is attached as Appendix B.

Subsection 1.5. Structure Value, Demolition and Site Clearing.

The Development of the Renewal Area includes the following activities:

Land Acquisition/Land Write Down. – The developer would be provided with the value of the properties less the value of the land.

Building Demolition and Site Clearing – This estimate is for demolition of the buildings, surface parking and any environmental cleanup.

Administrative/TIF Fees – Other Tax Increment costs include the administrative costs.

Subsection 1.6. Land Use Attributes – TIF District

- (a) *Zoning or Planning Changes.*
The Developer has requested Downtown Mixed Use for the entire block, and vacation of the ally.
- (b) *Maximum Densities.*
Property within the TIF District will be developed in accordance with the applicable zoning district requirements.
- (c) *Building Requirements.*
All properties within this district are subject to the provisions of the City of Fargo Building Codes and the Land Development Code.
- (d) *Plan relationship to land use objectives (land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public imps.)*
The activities outlined in the plan are required for the redevelopment of this property. The first phase of the redevelopment is demolition of existing structures.

Future redevelopment will comply with the zoning district, the redevelopment goals of the Go2030 Comprehensive Plan, the Downtown Plan, the Renaissance Zone Plan, and the Core Neighborhood Plan. The future land use in the Core Neighborhood to the east is multi-family residential. The Planning Department will be reviewing the detailed plans when they are available in the future.

Subsection 1.7. Estimate of Development Costs

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

Value of the improvements removed	\$1,000,000
Demolition and Site Cleanup	\$500,000
Administration	\$50,000
TOTAL	\$1,550,000

These costs represent estimated costs for planning purposes, and may be different when this plan is implemented with a development agreement. The maximum allowed costs will be specified in the development agreement.

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

Subsection 1.8. Estimate of Bonded Indebtedness

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

Subsection 1.9. Tax Increment Financing

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

The original assessed value of the property within the Renewal Area, as last assessed and equalized before the base year of this Plan, is expected to be \$615,000 for the land value.

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

Subsection 1.10. Estimate of Tax Increment

It is anticipated the new Development will result in an increase in true and full value of the Renewal Area redevelopment site to over \$30 million. The value of the site within the TIF district is expected to initially decrease to \$614,000. The increase in value is expected to be over \$29 million. Under the mill rate in effect as of the date of this Plan, the Renewal Area is expected to generate tax increment each year in the estimated amount of \$400,000.

Subsection 1.11. Duration of the TIF District

The TIF District will continue until all development costs are reimbursed through the receipts of tax increment, or after a maximum of five property tax years after completion of the project and the expiration of any other incentives.

APPENDIX A
LEGAL DESCRIPTION OF PROPERTY

JS2L

<u>Address Number</u>	<u>Street</u>
601	4th Street North
617	4th Street North
602	3rd Street North
608	3rd Street North
612	3rd Street North
616	3rd Street North
304	7th Ave North
312	7th Ave North

There are 8 properties
Legal on next pages



Parcel Information Report

Parcel Number: 01-1540-02920-000

General Information

Segment Id: 1
 Owner 1: JS2L PARTNERS LLP
 Owner 2:
 Property Address: 601 4 ST N
 Mailing Address: 3050 SIENNA DR S FARGO, ND 58104-
 Addition Name: Keeney & Devitts 2nd
 Block: 37
 Lot: S 3.83 FT OF 9 & ALL OF 10 & 1

Additional Description:

Estimated Flood Stage Levels For River Flooding:

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

Property may be affected by an approximate flood stage of 42 or higher.

Structure may be affected by an approximate flood stage of 44 or higher.

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

District Information

Cass School District: 1
 Elem. School District: HoraceMann

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$153,000.00	\$33,700.00	\$186,700.00

Building Information

Year Built: 1959
 Total Building SqFt: 2345
 No. of Apartment Units:
 Residential Story Height: ()

Lot Size

Front Width: 103.83
 Back Width: 103.83
 Depth Side 1: 140.00
 Depth Side 2: 140.00
 Land Use: C (Commercial)
 Property Type: 78 (Service Station)
 Square Footage: 14536.00

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



Parcel Information Report
Parcel Number: 01-1540-02930-000

General Information

Segment Id: 1
 Owner 1: JS2L PARTNERS LLP
 Owner 2:
 Property Address: 617 4 ST N
 Mailing Address: 3050 SIENNA DR S FARGO, ND 58104-
 Addition Name: Keeney & Devitts 2nd
 Block: 37
 Lot: 7, 8 & N 46.17 FT OF 9

Additional Description:

Estimated Flood Stage Levels For River Flooding:

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

Property may be affected by an approximate flood stage of 42 or higher.
 Structure may be affected by an approximate flood stage of 42 or higher.

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

District Information

Cass School District: 1
 Elem. School District: HoraceMann

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$246,000.00	\$450,600.00	\$696,600.00

Building Information

Year Built: 1964
 Total Building SqFt: 11812
 No. of Apartment Units:
 Residential Story Height: ()

Lot Size

Front Width: 167.47
 Back Width: 165.87
 Depth Side 1: 140.00
 Depth Side 2: 140.00
 Land Use: C (Commercial)
 Property Type: 55 (Manufacturing)
 Square Footage: 23446.00

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Parcel Information Report
Parcel Number: 01-1540-02990-000

General Information

Segment Id: 1
 Owner 1: JS2L PARTNERS LLP
 Owner 2:
 Property Address: 312 7 AVE N
 Mailing Address: 3050 SIENNA DR S FARGO, ND 58104
 Addition Name: Keeney & Devitts 2nd
 Block: 37
 Lot: W 50 FT OF N 50 FT OF 6

Additional Description:

Estimated Flood Stage Levels For River Flooding:

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

Property may be affected by an approximate flood stage of 42 or higher.

Structure may be affected by an approximate flood stage of 42 or higher.

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

District Information

Cass School District: 1
 Elem. School District: HoraceMann

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$15,100.00	\$92,900.00	\$108,000.00

Building Information

Year Built: 1907
 Total Building SqFt: 1248
 No. of Apartment Units:
 Residential Story Height: 7 (2 Story)

Lot Size

Front Width: 50.00
 Back Width: 50.00
 Depth Side 1: 50.00
 Depth Side 2: 50.00
 Land Use: R (Residential)
 Property Type: 1 (Single Family)
 Square Footage: 2500.00

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Parcel Information Report
Parcel Number: 01-1540-02980-000

General Information

Segment Id: 2
 Owner 1: JS2L PARTNERS LLP
 Owner 2:
 Property Address: 304 7 AVE N
 Mailing Address: 3050 SIENNA DR FARGO, ND 58104
 Addition Name: Keeney & Devitts 2nd
 Block: 37
 Lot: E 90 FT OF N 50 FT OF 6

Additional Description:

Estimated Flood Stage Levels For River Flooding:

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

Property may be affected by an approximate flood stage of 42 or higher.
 Structure may be affected by an approximate flood stage of 42 or higher.

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

District Information

Cass School District: 1
 Elem. School District: HoraceMann

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$23,000.00	\$78,700.00	\$101,700.00

Building Information

Year Built: 1904
 Total Building SqFt: 1682
 No. of Apartment Units: 5
 Residential Story Height: ()

Lot Size

Front Width: 50.00
 Back Width: 50.00
 Depth Side 1: 90.00
 Depth Side 2: 90.00
 Land Use: P (Apartment)
 Property Type: 6 (Conversion)
 Square Footage: 4545.00

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Parcel Information Report

Parcel Number: 01-1540-02970-000

General Information

Segment Id: 1
 Owner 1: JS2L PARTNERS LLP
 Owner 2:
 Property Address: 616 3 ST N
 Mailing Address: 3050 SIENNA DR S FARGO, ND 58104-
 Addition Name: Keeney & Devitts 2nd
 Block: 37
 Lot: N 10 FT OF 4 & ALL OF 5 & S 18 FT OF 6

Additional Description:

Estimated Flood Stage Levels For River Flooding:

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

Property may be affected by an approximate flood stage of 41 or higher.

Structure may be affected by an approximate flood stage of 42 or higher.

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

District Information

Cass School District: 1
 Elem. School District: HoraceMann

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$66,000.00	\$107,400.00	\$173,400.00

Building Information

Year Built:	1908	No. of Apartment Units:	
Total Building SqFt:	1788	Residential Story Height:	()

Lot Size

Front Width:	78.00	Land Use:	C (Commercial)
Back Width:	78.00	Property Type:	72 (Retail)
Depth Side 1:	140.00		
Depth Side 2:	140.00	Square Footage:	10920.00

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Parcel Information Report

Parcel Number: 01-1540-02960-000

General Information

Segment Id: 1
 Owner 1: JS2L PARTNERS LLP
 Owner 2:
 Property Address: 612 3 ST N
 Mailing Address: 3050 SIENNA DR S FARGO, ND 58104-
 Addition Name: Keeney & Devitts 2nd
 Block: 37
 Lot: S 30 FT OF N 40 FT OF 4

Additional Description:

Estimated Flood Stage Levels For River Flooding:

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

Property may be affected by an approximate flood stage of 41 or higher.

Structure may be affected by an approximate flood stage of 41 or higher.

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

District Information

Cass School District: 1
 Elem. School District: HoraceMann

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$13,100.00	\$123,200.00	\$136,300.00

Building Information

Year Built:	1895	No. of Apartment Units:	
Total Building SqFt:	1440	Residential Story Height:	7 (2 Story)

Lot Size

Front Width:	30.00	Land Use:	R (Residential)
Back Width:	30.00	Property Type:	1 (Single Family)
Depth Side 1:	140.00		
Depth Side 2:	140.00	Square Footage:	4200.00

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Parcel Information Report

Parcel Number: 01-1540-02950-000

General Information

Segment Id: 2
 Owner 1: JS2L PARTNERS LLP
 Owner 2:
 Property Address: 608 3 ST N
 Mailing Address: 3050 SIENNA DR S FARGO, ND 58104
 Addition Name: Keeney & Devitts 2nd
 Block: 37
 Lot: 3 & S 10 FT OF 4

Additional Description:

Estimated Flood Stage Levels For River Flooding:

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

Property may be affected by an approximate flood stage of 41 or higher.

Structure may be affected by an approximate flood stage of 42 or higher.

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

District Information

Cass School District: 1
 Elem. School District: HoraceMann

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$42,000.00	\$104,600.00	\$146,600.00

Building Information

Year Built: 1890	No. of Apartment Units: 5
Total Building SqFt: 2216	Residential Story Height: ()

Lot Size

Front Width: 5.00	Land Use: P (Apartment)
Back Width: 0.00	Property Type: 6 (Conversion)
Depth Side 1: 0.00	
Depth Side 2: 0.00	Square Footage: 8400.00

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Parcel Information Report

Parcel Number: 01-1540-02940-000

General Information

Segment Id: 1
 Owner 1: JS2L PARTNERS LLP
 Owner 2:
 Property Address: 602 3 ST N
 Mailing Address: 3050 SIENNA DR S FARGO, ND 58104-
 Addition Name: Keeney & Devitts 2nd
 Block: 37
 Lot: 2
 Additional Description:

Estimated Flood Stage Levels For River Flooding:

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

Property may be affected by an approximate flood stage of 42 or higher.
 Structure may be affected by an approximate flood stage of N/A or higher.

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

District Information

Cass School District: 1
 Elem. School District: HoraceMann

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	\$56,000.00	\$15,400.00	\$71,400.00

Building Information

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

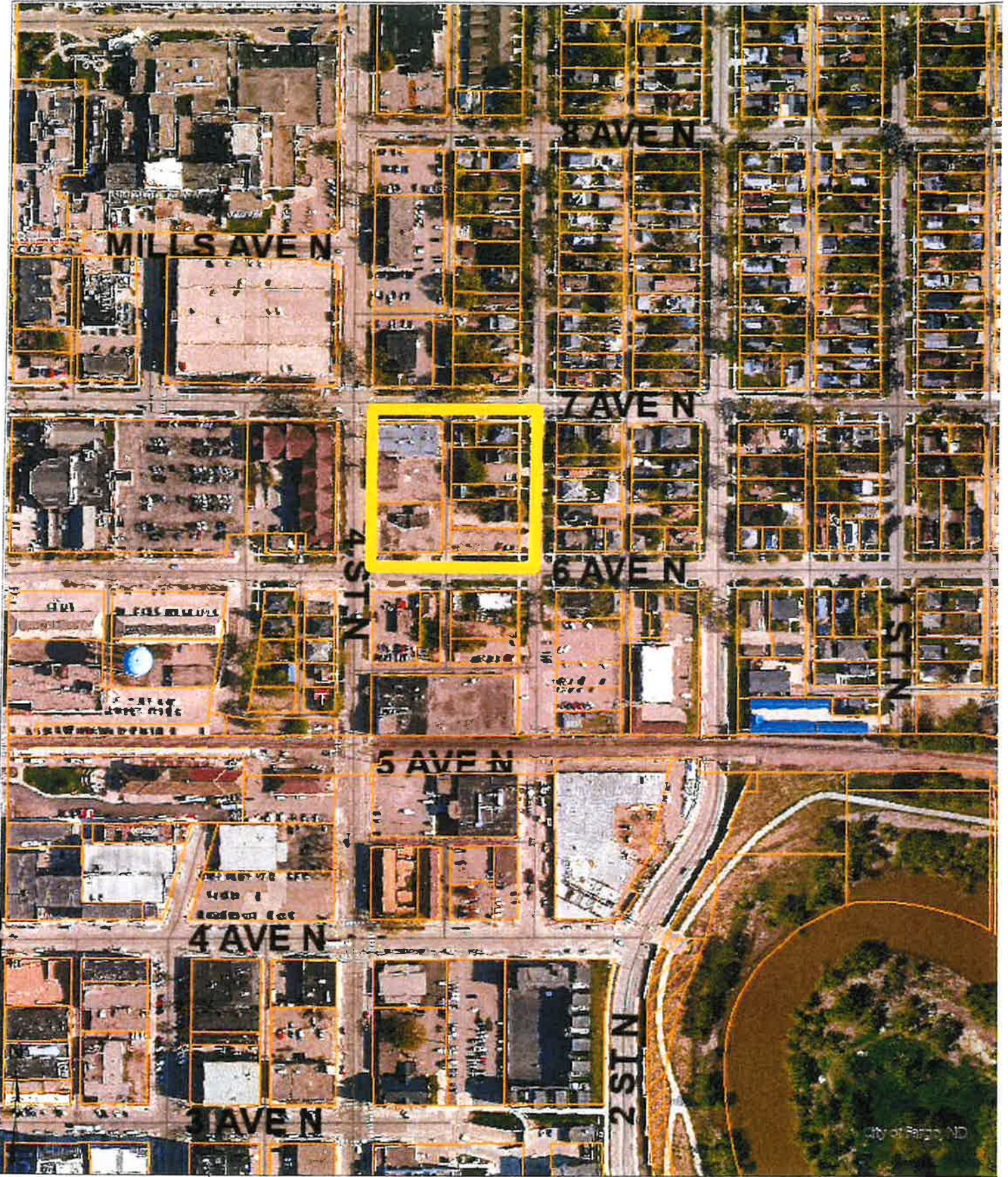
Lot Size

Front Width: 50.00	Land Use: C (Commercial)
Back Width: 50.00	Property Type: 62 (Parking Ramp/Lot)
Depth Side 1: 140.00	
Depth Side 2: 140.00	Square Footage: 7000.00

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APPENDIX B
MAP OF THE RENEWAL AREA/TIF DISTRICT



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.

Renewal Area 2024-01

1:4,514

5/8/2024 1:21 PM

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

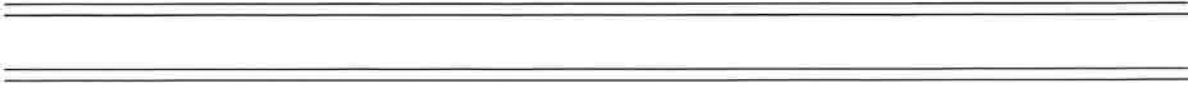


APPENDIX C
PHOTOS OF EXISTING CONDITIONS









DEVELOPER AGREEMENT

By and Between

CITY OF FARGO, NORTH DAKOTA

a North Dakota Municipal Corporation

and

JS2L Partners, LLP



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(Included for Convenience of Reference Only)

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DEVELOPER AGREEMENT
[Phase One TIF Project]
City of Fargo - JS2L Partners, LLP

THIS AGREEMENT, dated as of the ___ day of _____, 20__ (“Effective Date”), is by and between the City of Fargo, a North Dakota municipal corporation, and JS2L Partners, LLP, a North Dakota limited liability partnership; and provides as follows:

ARTICLE I

Definitions

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

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

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

"Certificate of Completion" means a certification in the form of the certificate attached hereto as Exhibit F and hereby made a part of this Agreement, provided to the Developer pursuant to Section 4.3 of this Agreement.

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

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

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

"Capitalized Interest" means the portion of the principal amount of the Tax Increment Note that represents the sum of the products of the various eligible expenses initially borne by Developer and the City that will be reimbursed by the Tax Increment Note multiplied by an interest rate of Six and no/100ths Percent (6.0%) per annum, simple interest, multiplied by the number of years, or fraction thereof, between the later of the Effective Date or the date such expense was incurred and the date of the Tax Increment Note.

"Developer" means JS2L Partners, LLP, a North Dakota limited liability partnership, or permitted successors or assigns.

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

"Developer's Taxes" means taxes paid with respect to the portions of the Development Property and improvements completed by the Developer for the fifth (5th) Tax Year and earlier Tax Years. Taxes for the sixth (6th) Tax Year, or for any subsequent year, are not included as Developer's Taxes.

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

"Development Plan" means the Developer's development or renewal plan for the Development Property approved by the City on June 24, 2024, including all exhibits thereto, as the same may be amended from time to time.

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

"Effective Date" means the date and year first above written or, if said date and year is not completed, the Effective Date means the date and year that this Agreement is last signed by one of the Parties.

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

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

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

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

"Minimum Improvements" means the improvements or other project work that is contemplated by and in accordance with this Agreement and described in Section 4.1.

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

"Party" means either the Developer or City.

"Parties" means the Developer and the City.

"Phase One Development" is development occurring on the Development Property that includes the Minimum Improvements and it is the first of two or more phases of development of the Development Property.

"Phase Two Improvements" means the improvements to the Development Property made or constructed after the Minimum Improvements are completed.

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

"Specified Event of Default" means an Event of Default for which the City may withhold payment on the Tax Increment Note. Such Event of Default consists of a default of the Developer after the issuance of the Tax Increment Note in the Developer's ongoing covenants set forth in Sections 3.6, 8.1, and 8.2.

"Tax Increment Note" means the City's Tax Increment Revenue Note in the initial principal amount of \$1,706,500.00 or in a lesser initial principal amount that represents reimbursement of eligible costs paid by the Developer as described in this agreement, plus Capitalized Interest at 6.0% per annum, the form of which is attached as Exhibit C to this Agreement, issued when conditions set forth in Sections 3.3, 4.3 and 4.4 are met.

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

"Tax Year" is one of a maximum of five (5) successive calendar years, with the first year being the year identified in the Tax Increment Note, pursuant to this Agreement, as being the first Tax Year and with the subsequent years being the four (4) subsequent calendar years. The fifth (5th) Tax Year, therefore, is the fourth (4th) calendar year following the first said year.

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

"TIF District" means the area identified as the "District" under the City's Development Plan approved by the Board of City Commissioners of the City of Fargo on June 24, 2024, as the same may be amended.

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

ARTICLE II

Representations, Warranties and Covenants

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

- (a) The City has received the approval of its Board of City Commissioners to enter into and perform its obligations under this Agreement.
- (b) The City herein makes no representation or warranty, either express or implied, as to the Development Property or its condition or the soil conditions thereon or that the Development Property shall be suitable for the Developer's purposes or needs.

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

- (a) The Developer is a limited liability partnership duly organized and in good standing under the laws of the State of North Dakota, is not in violation of any provisions of its operating agreement or articles of organization or the laws of the State of North Dakota and is authorized to enter into and perform its obligations under this Agreement.
- (b) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented or limited by and will not conflict with or result in a breach of any provision or requirement applicable to the Developer or of any provision of any evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound.
- (c) The Developer, with respect to its undertaking of the Minimum Improvements upon the Development Property, will cause the same to occur in accordance in all material respects with this Agreement and all local, state and federal laws and regulations (including without limitation environmental, zoning, building code and public health laws and regulations and including any relocation requirements under local, state or federal law).
- (d) The Developer has received no notice or communication from any local, state or federal official or body that any activities of the Developer respecting the Development Property contemplated by this Agreement, including the undertaking of the Minimum Improvements on the Development Property, may be or will be in violation of any law or regulation.
- (e) The Developer will use its reasonable efforts to obtain, in a timely manner, all required permits, licenses and approvals, and to meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully completed.
- (f) To the best knowledge and belief of the Developer, the undertaking of the Minimum Improvements on the Development Property at this this point in time, said point in time

occurring prior to Developer being ready to fully develop the Development Property, is conditioned on the assistance and benefit to the Developer provided for in this Agreement. The Developer would not undertake the Project at this point in time without the financing provided by the City pursuant to this Agreement.

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

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

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

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

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

(l) The Developer will spend enough in undertaking of the Phase Two Improvements, when combined with the value of the Development Property, to generate an estimated minimum market value of \$10,000,000.

(m) The Developer expects that, barring Unavoidable Delays, the Project will be substantially completed by August 6, 2031.

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

(o) As of the Effective Date, the Developer has marketable record title to Developer's Property free and clear of any encumbrances or lienholders except as provided in Article VII of this Agreement or, to the extent Developer does not have marketable record title, Developer has obtained from the person, firm or entity having such title an agreement [hereinafter referred to as

an “Agency Agreement”] authorizing Developer to develop Developer’s Property as contemplated by this agreement and authorizing Developer to enter into this Agreement, said Agency Agreement to be in a form approved by the City.

ARTICLE III

**Completion of Minimum Improvements; Future Requests for Public Assistance;
Reimbursement of Certain Costs**

Section 3.1. **Completion of Phase One Development Minimum Improvements by Developer.** Subject to Unavoidable Delays, as provided in Section 4.2, below, the Developer shall have substantially completed the Minimum Improvements for the Phase One Development by August 6, 2025. The Developer's use of the Development Property shall be subject to (a) all of the conditions, covenants, restrictions and limitations imposed by this Agreement and also to (b) building and zoning laws and ordinances and all other local, state and federal laws and regulations.

Section 3.2. **Future Requests for Public Assistance.** Developer may apply for additional public assistance for the Phase Two Improvements development, such as Renaissance Zone exemptions, a payment-in-lieu-of-taxes (PILOT) exemption or additional tax increment financing assistance with applications for such additional public assistance to be considered by the City according to the approval process and the decision-making criteria for those programs in effect at that time. In order for the Development Property to be eligible for such additional public assistance, the application therefor must provide for commencement of construction of the new development to occur within five (5) years from the date of approval of this Agreement with substantial completion occurring no later than the earlier of the following two dates: (a) the date being two years from the start of said construction or (b) seven (7) years from the date of approval of this Agreement. If Developer succeeds with such an application, then the payments on the TIF assistance can be coordinated or scheduled (i.e. by appropriately identifying the “first (1st) Tax Year”), in Developer’s sole discretion, to follow such other public assistance program(s) so as to complement each other.

. The Developer is not precluded from requesting public assistance in order to recoup or offset post Phase One Development to be constructed on the Development Property commencing after said five-year period; however, in such event the Developer will not be eligible to receive the Phase One TIF Note contemplated in this Agreement nor will Developer be eligible to recoup Phase One Development Costs as part of such application.

Section 3.3. **Reimbursement by City of Certain Costs; Terms of Tax Increment Note; Issuance of Note Following Phase Two Development Completion.** The Developer hereby represents to the City that the Developer has incurred and paid and it will incur and pay significant Development Costs. The reimbursements that establish the principal balance of the Tax Increment Note whose principal and interest are payable to the Developer shall be as follows. The City hereby agrees to defray a portion of the Development Costs up to \$1,706,500.00, comprised of three components:

First Component--Cost of Acquisition or Market Value: The sum of \$1,006,500 said amount constituting the market value of the buildings existing on the Development Property as of the Effective Date as determined by the City Assessor and agreed-upon by Developer;

Second Component--Demolition and Site Cleaning, Soil Correction and Remediation of Grading: The sum of \$650,000, which is the estimated cost, determined by the Developer and approved by the City, to demolish the said existing buildings and other improvements on the Development Property, to remove substandard soils and rubble, and to fill and grade the site that will be borne by the Developer;

Third Component--Advance Administrative TIF Fees: As an advance fee for the administration of this tax increment program project, the sum of \$50,000 to be borne by the Developer and paid to the City in two (2) installments.

The advance administrative TIF fee, set forth above, will be paid by Developer to the City in two installments as follows: (a) \$10,000 will be due and payable by Developer upon completion of the Minimum Improvements and the issuance by City of the Certificate of Completion for Phase One; and, (b) the balance of the advance administrative TIF fee in the amount of \$40,000 will be due and payable by Developer at the time of delivery by the City to Developer of the Tax Increment Note for the Phase One Minimum Improvements as described below. In addition, an annual administrative fee equal to five percent (5%) of the annual increment received from the County Auditor shall be retained by the City prior to remittance to developer of said increment as payment of the Tax Increment Note.

If there is a category of expense that is deemed ineligible under the Urban Renewal Law, but there are additional eligible expenses not otherwise reimbursed under this Agreement, then such otherwise non-reimbursed, but eligible, expenses may be recognized as an eligible expense under this Agreement. In addition to the foregoing costs, Developer shall be entitled to reimbursement over and above the foregoing eligible expenses an agreed upon interest rate of Six and no/100ths Percent (6.0%) Per Annum to be paid to Developer under the Tax Increment Note. All of the said costs, and interest, meet the representation set forth at Section 2.2(g) by issuing the Tax Increment Note, substantially in the form of Exhibit C to this Agreement, subject to the following conditions:

(a) With respect to this Phase One Development, there shall be one (1) Tax Increment Note. The amount of the Tax Increment Note shall be determined by adding the \$1,706,500.00 (or so much thereof as shall be demonstrated as set forth in Section 3.3(d)) plus a sum equal to Capitalized Interest. The Tax Increment Note shall provide for payments to be made by the City to Developer of Developer's Tax Increment received by the City from the County for the Project for the first Tax Year and for each of four (4) subsequent Tax Years, with payments to be made annually on the Payment Dates, it being further provided that Available Tax Increment exists pertaining to the fifth (5th) or earlier Tax Years. The Tax Increment Note shall continue to be payable on Payment Dates, as defined below, through the Maturity Date. The Tax Increment Note for this Phase One Development will be issued by the City and delivered to the Developer upon timely substantial completion of the Phase Two Improvements, more fully described and provided in Section 4.4, below. The first (1st) Tax Year under this Developer Agreement shall be identified in the Tax Increment Note, said "Tax Year" being a particular calendar year for which year the property taxes become due and payable on January 1st the following year and are therefore payable in said following year. The first (1st) Tax Year may be identified to follow a period when another public assistance program, such as the Renaissance Zone exemption for five

years, is in effect and the Parties will coordinate with each other and cooperate in establishing said first (1st) Tax Year.

(b) The Tax Increment Note shall be delivered only if no Event of Default shall have occurred and be at the time continuing.

(c) Reserved.

(d) If the conditions set forth in this Section are met, the Tax Increment Note shall be ready to be issued and delivered by the City when the Developer shall have demonstrated in writing to the reasonable satisfaction of the City that the Developer has incurred and paid eligible costs of the Minimum Improvements to be borne by Developer which will not be otherwise reimbursed or paid hereunder; provided, that the City will actually issue and deliver the Tax Increment Note only after the City has issued the certificate of completion for the Phase Two Improvements as described in subsection (a), above. The Tax Increment Note shall identify the first (1st) Tax Year of a series of five (5) such Tax Years and the Tax Increment Note shall, therefor, with the City's obligation under said Tax Increment Note to be limited to the Developer's Tax Increment from said first (1st) Tax Year received by the City from the County for the Project as set forth at Section 3.3(e), below. Demonstration of eligible costs of Minimum Improvements up to the maximum amount of the Tax Increment Note shall be made pursuant to one or more certifications in form and substance satisfactory to the City that all or a portion of the costs of the Minimum Improvements have been incurred, together with evidence satisfactory to the City of the nature and amount of the costs of the Minimum Improvements and of the costs incurred by the Developer. Each certification shall demonstrate the specific purpose and amount of the costs of the Minimum Improvements and their compliance with the representation set forth at Section 2.2(g). The City's determination of a cost's compliance with the representation set forth at Section 2.2(g) shall, if based on the advice of its city attorney after consultation with the Developer or its counsel, be conclusive. The delivery of the Tax Increment Note itself constitutes reimbursement of expenditures in an amount equal to the principal amount of the Tax Increment Note; there are no monetary proceeds received by Developer upon delivery of the Tax Increment Note.

(e) Subject to the provisions of the Tax Increment Note, the principal of and interest on the Tax Increment Note shall in the aggregate be payable on May 15th following the first (1st) Tax Year as identified in the Tax Increment Note and on or before May 15th of each year thereafter until the Maturity Date, said May 15th dates being referred to herein as the "Payment Date" or collectively as the "Payment Dates". The first payment on the Tax Increment Note, to become due and payable on or before the first Payment Date, shall be limited to all the Available Tax Increments received by the City from the first (1st) Tax Year. For all payments after said first payment on the Tax Increment Note, the amounts payable on the Tax Increment Note on each Payment Date shall be limited to the Available Tax Increments received by the City since the prior year's payment. All payments made on the Tax Increment Note shall be applied first to pay accrued and unpaid interest on the Tax Increment Note and second toward payment of principal. To the extent that the Available Tax Increments are insufficient, through the Maturity Date, to pay all accrued and unpaid interest on and the principal of the Tax Increment Note, said

unpaid amounts shall then cease to be any debt or obligation of the City or of the City whatsoever.

(f) The unpaid principal of the Tax Increment Note shall bear interest at Six and no/100ths Percent (6.0%) per annum from the date of issuance, compounded annually. Interest shall be computed on the basis of a 360-day year consisting of 12 months of 30 days each.

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

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

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

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

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

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

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

(b) Except for any willful misrepresentation or any willful or wanton misconduct or negligence of the Indemnified Parties, the Developer agrees to protect and defend the Indemnified

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

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

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

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

Section 3.5. Requests for Extensions.

Developer is authorized to make a written request for the extension of any of the Developer's deadlines for commencement or completion of work in advance of the deadline in question. Such request must be delivered to the City at least thirty (30) days in advance of the deadline unless the reason for the extension arose subsequent to such 30-day advance notice period. Requests for extension will be submitted to the board of city commissions for its consideration and the City Commission's decision on such request or requests shall be final.

Section 3.6. Use of Tax Increments.

The City receives the Tax Increments generated by the TIF District from the County. The City may use Tax Increments which are not Developer Tax Increments for any purpose permitted by law. Developer Tax Increments shall be used on any date of application for the following purposes in the following order of priority: to make payments on the Tax Increment Note; and, after payment of the City Development Costs and Tax Increment Note in full, to pay or reimburse redevelopment costs identified by the City and to pay other eligible expenses for other projects that may be approved for the TIF District, from time to time, by the governing body of the City.

ARTICLE IV

Completion Of Minimum Improvements

Section 4.1. **Completion of Minimum Improvements.** The Developer agrees that it will cause the Minimum Improvements on the Development Property to be completed. The Minimum Improvements shall consist of the demolition of the buildings existing on the Development Property as of the Effective Date and the removal of substandard soils and rubble, and the filling and grading of the site. The Minimum Improvements constitute the minimum extent of the project work required to be provided hereunder by the Developer.

Section 4.2. **Commencement and Completion of Minimum Improvements.** Subject to Unavoidable Delays, by October 31, 2024, the Developer shall have commenced the demolition work of the described Minimum Improvements, and by August 6, 2025, the Developer shall have completed the Minimum Improvements.

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

The Developer agrees for itself, and every successor in interest to the Development Property, or any part thereof, that the Developer, and such successors and assigns, shall cause to be promptly begun and diligently prosecuted to completion of the Minimum Improvements thereon, and that such work shall in any event be commenced and completed within the period specified in this Section 4.2. It is intended and agreed that such agreements and covenants shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be, to the fullest extent permitted at law and in equity, binding for the benefit of the City and enforceable by the City against the Developer and its successors and assigns. Until the Minimum Improvements has been completed, the Developer shall make reports to the City, in such detail and at such times as may reasonably be requested by the City, as to the actual progress of the Developer with respect to the Minimum Improvements.

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

Section 4.3. **Certificate of Completion-Phase One.** Promptly after completion of the Minimum Improvements in accordance with the provisions of this Agreement, the City will furnish the Developer with a Certificate of Completion pertaining to the Minimum Improvements, in substantially the form set forth in Exhibit F attached hereto. Such Certificate of Completion shall be a conclusive determination that the Developer has fulfilled the obligations of the Developer, and its successors and assigns, to complete the Minimum Improvements which determination shall be deemed to recognize, therefore, the City's

obligations under the terms of this Agreement to issue and deliver the Tax Increment Note for the Phase One Minimum Improvements promptly following the issuance and delivery of the Certificate of Completion for Phase Two Improvements, as provided in Section 4.4.

If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 4.3, the City shall, within twenty (20) days after written request by the Developer, provide the Developer with a written statement indicating in adequate detail in what respects the Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such Certificate of Completion.

Section 4.4. Certificate of Completion-Phase Two Improvements. The City's obligation to issue and deliver the Tax Increment Note for the Phase One Minimum Improvements shall require the Developer to have substantially completed construction of Phase Two Improvements with a project value that brings the assessed value of the Development Property to a minimum of \$10,000,000, as determined by the City Assessor; to have commenced construction of Phase Two Improvements within five (5) years from the date of approval of this Agreement; and to have substantial completion of construction occurring no later than the earlier of the following two dates: (a) the date being two years from the start of said construction or (b) seven (7) years from the date of approval of this Agreement. Promptly after said timely substantial completion of construction, the City will furnish the Developer with a Certificate of Completion pertaining to the Phase Two Improvements in substantially the form set forth in Exhibit G attached hereto. Such Certificate of Completion shall be a conclusive determination that the Developer has fulfilled the obligations of the Developer, and its successors and assigns, to commence and substantially complete the Phase Two Improvements. With respect to the minimum project value for the Phase Two Improvements, Developer may request the City to review and determine with a proposed Phase Two project will meet the required minimum value in advance of commencement of construction and, so long as the project is constructed substantially in conformance with the approved plans, such determination will be deemed to have satisfied the minimum valuation requirement.

If the City shall refuse or fail to provide a Certificate of Completion for Phase Two Improvements in accordance with the provisions of this Section 4.4, the City shall, within twenty (20) days after written request by the Developer, provide the Developer with a written statement indicating in adequate detail in what respects the Developer has failed to complete the Phase Two Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such Certificate of Completion.

ARTICLE V

Insurance And Condemnation

Section 5.1. **Insurance.**

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

(i) Reserved.

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

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

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

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

ARTICLE VI

Reserved.

ARTICLE VII

Mortgage Financing

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

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

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

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

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

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

- (a) the fact of the default;
- (b) the elements of the default; and

- (c) the actions required to cure the default.

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

ARTICLE VIII

Prohibitions Against Assignment And Transfer; Indemnification

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

Section 8.2. **Prohibition Against Transfer of Property and Assignment of Agreement.** The Developer represents and agrees that prior to the issuance of the Certificate of Completion-Phase One:

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

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

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the City, necessary and adequate to fulfill the remaining obligations undertaken in this Agreement by the Developer with respect to the relevant portion of the Development Property.

(ii) Any proposed transferee, by instrument in writing satisfactory to the City and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the City, have expressly assumed with respect to the relevant portion of the Development Property all of

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

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

(c) Upon the furnishing of a Certificate of Completion for Phase One Improvements pursuant to Section 4.4, notwithstanding any provisions to the contrary in this Article VIII, the Developer may make or create any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the relevant portion of the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, without any approval pursuant to Section 8.2(a) or (b).

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

likelihood of the Minimum Improvements being successfully completed pursuant to the terms of this Agreement, will be materially impaired by the action for which approval is sought.

ARTICLE IX

Events of Default

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

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

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

(c) If the Minimum Improvements are not substantially completed by August 6, 2025, as such time may be extended by Unavoidable Delays.

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

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

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

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

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

Section 9.2. **Remedies on Default.** Whenever any Event of Default occurs, in addition to all other remedies available to the City at law or in equity, the City (1) may without notice suspend its performance (other than the payment of the Tax Increment Note, except as provided below for a Specified Event of Default) under this Agreement until it receives assurances from the Developer, deemed adequate by the City, that the Developer has cured its default and will continue its performance under this Agreement, and (2) may, after provision of sixty (60) days written notice to the Developer of the Event of Default, but only if the Event of Default has not

been cured within said sixty (60) days, or, if the Event of Default cannot be cured within sixty (60) days, the Developer does not provide assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible, terminate this Agreement, without further obligation whatsoever hereunder to the Developer. Further, whenever an Event of Default occurs that is described in Section 9.1(c), then, after provision of fifteen (15) days written notice to the Developer of such Event of Default, the City shall have the right to enter and take possession of any or all of the Development Property for the purpose of completing the Minimum Improvements and, in the course of so doing, securing the Development Property from intruders and/or preventing uninvited or unwanted persons from, entering the Development Property as may be necessary and appropriate and to abate or mediate any fire hazards or other safety hazards that are reasonably determined to exist by the City. City may enter the property under the authority granted by this Agreement, by one or more ordinances enacted pursuant to Section 40-58-18 of the North Dakota Century Code, or by both such authority.

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

As a remedy for an Event of Default:

(a) The City may suspend or terminate payments on the Tax Increment Note, if the Event of Default is a Specified Event of Default.

(b) The City may withhold a Certificate of Completion.

(c) The City may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, to recover any damages or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

Section 9.3. Right to Enter Property Upon Certain Events to Abate Safety Hazard.

Subject to the limitation of remedies contained in Section 9.2, prior to receipt by the Developer of the Certificate of Completion for Phase One Minimum Improvements and subject to the terms of any Mortgage acquiesced in by the City pursuant to Section 7.6, if an Event of Default under Section 9.1(a) - (g) occurs and (except in the case of an Event of Default under subsection (f) of Section 9.1) is not cured within the times specified in Section 9.2, then the City shall have the right to enter and take possession of any or all of the Development Property for the purpose of securing the Development Property from intruders and/or preventing uninvited or unwanted persons from, entering the Development Property as may be necessary and appropriate and to abate or mediate any fire hazards or other safety hazards that are reasonably determined to exist

by the City. Such abatement or mediation action may, in the reasonable discretion of the City, include the entry by the City or a contractor engaged by the City upon the Development Property for the purpose of completing all or any portion of the Minimum Improvements. Developer agrees to this provision and authorizes such entry onto the Development Property under such circumstances. Further, in such event or events, the City shall be authorized to offset costs incurred by the City in furtherance of the actions authorized by this Section from Developer Tax Increment.

Section 9.4. **No Remedy Exclusive.** No remedy herein conferred upon or reserved to the either Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 9.5. **No Additional Waiver Implied by One Waiver.** If any agreement contained in this Agreement should be breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.6. **Agreement to Pay Attorneys' Fees and Expenses.** Whenever any Event of Default occurs and has not been cured within sixty (60) days and the City shall employ attorneys or incur other expenses for the enforcement, performance or observance of any obligations or agreement on the part of the Developer contained herein, or for the identification and/or pursuit of any remedies or possible workouts of such default, the Developer agrees that it shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other reasonable expenses so incurred by the City. If an Event of Default cannot be cured within sixty (60) days, but the Developer has provided assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible (as provided in Section 9.2), and the Developer does so cure said Event of Default in the manner as assured to the City, the Event of Default shall be deemed to have been cured within said sixty (60) days for purposes of this Section.

ARTICLE X

Additional Provisions

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

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

(a) in the case of the Developer, to JS2L Partners, LLP, _____, _____, ND 58 ____, Attention: _____; and,

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

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

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

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

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

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

Section 10.6. **Modification.** If the Developer is requested by the holder of a Mortgage or by a prospective holder of a prospective Mortgage to amend or supplement this Agreement in any manner whatsoever, the City will, in good faith, consider the request with a view to granting the same unless the City, in its reasonable judgment, concludes that such modification is not in the public interest, or will significantly and undesirably weaken the financial security provided to the interests of the City by the terms and provisions of this Agreement.

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

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

ARTICLE XI

Termination of Agreement; Expiration

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

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

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

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

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

Dated _____

CITY OF FARGO,
a North Dakota municipal corporation

(SEAL)

By _____
Dr. Tim Mahoney, its Mayor

ATTEST:

By _____
Steven Sprague, City Auditor

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

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Dr. Tim Mahoney and Steven Sprague, the Mayor and City Auditor, respectively, of the City of Fargo, North Dakota, on behalf of said City.

Notary Public

This document drafted by:

Erik R. Johnson
Assistant City Attorney
Fargo, ND
701-371-6850

Dated _____

JS2L Partners, LLP

By _____,
_____, its: _____

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

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the _____ of JS2L Partners, LLP, a North Dakota limited liability partnership, on behalf of said company.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

The Development Property consists of that certain real property situate in the City of Fargo, County of Cass and State of North Dakota, more fully described as:

Lots One (1) through Ten (10), Block Thirty-Seven (37), Keeney and Devitts 2nd Addition to the City of Fargo, County of Cass, State of North Dakota.

The individual street addresses for the various parcels comprising the said-described Block 37 are:

601 4th Street North
617 4th Street North
602 3rd Street North
608 3rd Street North
612 3rd Street North
616 3rd Street North
304 7th Ave North
312 7th Ave North

all in Fargo, North Dakota 58102

EXHIBIT B

RESERVED.

EXHIBIT C

FORM OF TAX INCREMENT NOTE

[Phase One Development]

No. R-__

\$ _____

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

\$ TAX INCREMENT
REVENUE NOTE OF 20__
(TAX INCREMENT DISTRICT 2024-01 PROJECT)

KNOW ALL PERSONS BY THESE PRESENTS that the City of Fargo, a North Dakota municipal corporation (the "City"), certifies that it is indebted and for value received promises to pay to JS2L Partners, LLP, a North Dakota limited liability partnership (the "Developer"), or the registered assign, the principal sum of _____ dollars and no/100 Dollars (\$ _____), an amount issued in reimbursement of eligible costs paid by the Developer, unless due sooner by redemption or early payment, on the Maturity Date defined below; but only in the manner, at the times, from the sources of revenue, and to the extent hereinafter provided; and to pay interest on the unpaid principal amount of this Note at the rate of interest of Six and no/100ths Percent (6.0%) per annum, compounded annually. Interest shall accrue from the date of this Note on the amount issued and shall be computed on the basis of a 360-day year consisting of 12 30-day months. This Note is the "Tax Increment Note" (the "Note") described and defined in that certain Developer Agreement, dated as of _____ **[[Expected: August 6, 2024]]** (as the same may be amended from time to time, the "Developer Agreement"), by and between the City and JS2L Partners, LLP, a North Dakota limited liability partnership, as the initial Developer under the Developer Agreement. Each capitalized term which is used but not otherwise defined in this Note shall have the meaning given to that term in the Developer Agreement or in the resolution authorizing the issuance of this Note. Principal and interest are payable at such address as shall be designated in writing by JS2L Partners, LLP, or other registered holder of this Note, in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

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

Payment Amounts. On each Payment Date (or, if not a business day of the City, the first business day thereafter) the City shall pay by check or draft mailed to the person that was the Registered Owner of the Note at the close of the last business day of the City preceding such Payment Date an amount as follows: (a) the first payment on the Tax Increment Note, to become due and payable on the first Payment Date, shall be limited to all the Available Tax Increments received by the City from the first (1st) Tax Year and (b) for all payments after said first payment on the Tax Increment Note, the amounts payable on the Tax Increment Note on each Payment Date shall be limited to the Available Tax Increments received by the City since the prior year's Payment Date. All payments made on the Tax Increment Note shall be applied first to pay accrued and unpaid interest on the Tax Increment Note and second toward payment of principal. To the extent that the Available Tax Increments are insufficient, through the Maturity Date, to pay all accrued and unpaid interest on and the principal of the Tax Increment Note, said unpaid amounts shall then cease to be any debt or obligation of the City or of the City whatsoever. In no event shall any City be obligated to remit payment of principal in excess of the aggregate amount of the unpaid principal of the Note. The City shall have the option at any time to prepay in whole or in part the principal amount of this Note at par plus accrued interest. All payments made by the City under this Note shall be applied first to pay accrued and unpaid interest on this Note and second toward payment of principal hereof.

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

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

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

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

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

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

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

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

“Developer's Taxes’ means taxes paid with respect to the portions of the Development Property and improvements completed by the Developer for the fifth (5th) Tax Year and earlier Tax Years. Taxes for the sixth (6th) Tax Year, or for any subsequent year, are not included as Developer’s Taxes.”

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

“Tax Year” is one of a maximum of five (5) successive calendar years, with the first year being the year identified in the Tax Increment Note, pursuant to this Agreement, as being the first Tax Year and with the subsequent years being the four (4) subsequent calendar years. The fifth (5th) Tax Year, therefore, is the fourth (4th) calendar year following the first said year.

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

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

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

“The City receives the Tax Increments generated by the TIF District from the County. The City may use Tax Increments which are not Developer Tax Increments for any purpose permitted by law. Developer Tax Increments shall be used on any date of application for the following purposes in the following order of priority: to make payments on the Tax Increment Note; and, after payment of the City Development Costs and Tax Increment Note in full, to pay or reimburse redevelopment costs identified by the City and to pay other eligible expenses for other projects that may be approved for the TIF District, from time to time, by the governing body of the City.”

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

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

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

Issuance; Purpose; Special Limited Obligation. This Note is in the aggregate principal amount of \$ _____ (the "Note"), which Note has been issued pursuant to and in full conformity with the Constitution and laws of the State of North Dakota including North Dakota Century Code Chapter 40-58, for the purpose of providing money to finance certain eligible costs within the City's Urban Renewal District 2024-01, specifically the costs identified in Section 3.3 of the Developer Agreement. The Notes are payable out of the Tax Increment Revenue Note of 2024-01 Fund of the City, to which have been pledged amounts representing Available Tax Increments to be received by the City from the City's 2024-01 Tax Increment District in the City. This Note is not any obligation of any kind whatsoever of any public body, except that this Note is a special and limited revenue obligation but not a general obligation of the City and is payable by the City only from the sources and subject to the qualifications and limitations stated or referenced herein. Neither the full faith and credit nor the taxing powers of the City or of the City are pledged to or available for the payment of the principal of or interest on this Note, and no property or other asset of the City or of the City, save and except the above referenced Available Tax Increments, is or shall constitute a source of payment of the City's obligations hereunder.

Limitation on Transfer. This Note may only be transferred to a person who is (1) a successor of JS2L Partners, LLP, by reorganization, merger or acquisition, (2) a member of JS2L Partners, LLP, (3) a related person to such member or successor, (4) a "qualified institutional buyer" as defined in Rule 144A promulgated under the federal Securities Act of 1933, or (5) an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) promulgated under the federal Securities Act of 1933. The City shall not register any transfer of this Note unless (i) a registered owner's prospective transferee delivers a representation letter in form satisfactory to the City verifying that the transferee is a "qualified institutional buyer"; or (ii) such transferee is an "accredited investor" which has delivered a representation letter in form satisfactory to the City; or (iii) the prospective transferee demonstrates to the satisfaction of the City that it is the successor, partner or related person to JS2L Partners, LLP, noted above.

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

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

Developer Agreement. The terms and conditions of the Developer Agreement are incorporated herein by reference and made a part hereof. The Developer Agreement may be attached to this Note, and shall be attached to this Note if the holder of this Note is any person other than JS2L Partners, LLP. No payments will be made on this Note during such time as there is a Specified Event of Default under the Developer Agreement which has not been cured by the Developer.

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

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

IN WITNESS WHEREOF, the City of Fargo, a North Dakota municipal corporation, by its Board of City Commissioners has caused this Note to be executed on its behalf by the signature of its Mayor and attested by the signature of the City Auditor, all as of _____, 20__.

CITY OF FARGO

By: _____
_____, its Mayor

ATTEST:

_____, City Auditor

(SEAL)

CERTIFICATE OF REGISTRATION

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

DATE OF
REGISTRATION

REGISTERED OWNER

SIGNATURE OF
AUTHORITY'S TREASURER

JS2L Partners, LLP

_____, 20XX

EXHIBIT D

RESERVED

EXHIBIT E

RESERVED.

EXHIBIT F

CERTIFICATE OF COMPLETION

[Phase One Minimum Improvements]

WHEREAS, the City of Fargo, North Dakota, a municipal corporation, (the "City") and JS2L Partners, LLP, a North Dakota limited liability partnership (the "Developer") have entered into an agreement dated as of the ____ day of _____, 20__; and

WHEREAS, pursuant to said agreement, the Developer was obligated to undertake and substantially complete certain Minimum Improvements as described in said agreement that pertain to Phase One of the redevelopment of the Development Property; and,

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

NOW, THEREFORE, this is to certify that all the Phase Two Improvements specified to be done and made by the Developer have been completed, and the above covenants and conditions in said Developer Agreement have been performed by the Developer therein, and that the Developer has fulfilled the obligations of the Developer, and its successors and assigns, for the Phase One Minimum Improvements.

CITY OF FARGO,
a North Dakota municipal corporation

By: _____,
_____, Mayor

Attest:

_____, City Auditor

EXHIBIT G

CERTIFICATE OF COMPLETION—PHASE TWO IMPROVEMENTS

WHEREAS, the City of Fargo, North Dakota, a municipal corporation, (the "City") and JS2L Partners, LLP, a North Dakota limited liability partnership (the "Developer") have entered into an agreement dated as of the ____ day of _____, 20__; and

WHEREAS, pursuant to said agreement, the Developer was obligated to undertake and substantially complete in a timely manner certain Minimum Improvements as described in said agreement that pertain to Phase One of the redevelopment of the Development Property and the Developer did so in a timely and acceptable manner, whereupon the City did then issue a Certificate of Completion as to said Phase One Minimum Improvements on the ____ day of _____, 20__; and,

WHEREAS, pursuant to said agreement, the Developer was further obligated to undertake, commence and substantially complete in a timely manner certain Phase Two Improvements as described in the agreement and the Developer did so in a timely and acceptable manner; and,

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

NOW, THEREFORE, this is to certify that all the Phase Two Improvements specified to be done and made by the Developer have been completed, and the above covenants and conditions in said Developer Agreement have been performed by the Developer and that the Developer has fulfilled the obligations of the Developer, and its successors and assigns, for the Phase Two Improvements.

CITY OF FARGO,
a North Dakota municipal corporation

By: _____
_____, Mayor

Attest:

_____, City Auditor

**EXHIBIT H
RESERVED.**

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City of Fargo Staff Report			
Title:	YWCA Addition and Presentation Addition	Date: Update:	6/26/2024 7/30/2024
Location:	3000 University Drive South; 3014 12th Street South; 3000, 3001, 3003, and 3004 11th Street South; 1120 30th Avenue South; 1001 and 1101 32nd Avenue South	Staff Contact:	Maegin Elshaug, planning coordinator
Legal Description:	Lot 1, Block 1, YWCA Addition; Lots 1-3, Block 1, Presentation Addition		
Owner(s)/Applicant:	YWCA of Fargo-Moorhead/Sisters of the Presentation/Lantern Light, LLC/Cove Lane, LLC/City of Fargo	Engineer:	N/A
Entitlements Requested:	Zoning Change from MR-1, Multi-Dwelling Residential, MR-2, Multi-Dwelling Residential, and SR-2, Single-Dwelling Residential to P/I, Public and Institutional on portions of YWCA Addition and Presentation Addition		
Status:	City Commission Public Hearing: August 5, 2024		

Existing	Proposed
Land Use: Community Service Use	Land Use: Community Service Use and City infrastructure
Zoning: MR-1, MR-2 and SR-2	Zoning: P/I
Uses Allowed: MR-1 Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities MR-2 Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities SR-2 Allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities	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, major entertainment events, basic utilities and some telecommunications facilities. Use is limited to community service through the Institutional Master Plan
Maximum Density Allowed: MR-1 allows 16 units per acre, MR-2 allows 20 units per acre, and SR-2 allows 5.4 units per acre	Maximum Lot Coverage Allowed: P/I is based on the dimensional standards of adjacent zoning district and/or an Institutional Master Plan.

Proposal:
<p>The applicants are seeking one entitlement:</p> <ol style="list-style-type: none"> 1) Zoning Change from MR-1, Multi-Dwelling Residential, MR-2, Multi-Dwelling Residential, and SR-2, Single-Dwelling Residential to P/I, Public and Institutional <p>Note that on July 2, 2024, the Planning Commission approved an Institutional Master Plan, contingent on City Commission approval of the zoning change. The Planning Commission is the decision making body for Institutional Master Plans and the staff report and recommended motion has been updated for the zoning change.</p>

Application Information

The application is joint between the YWCA and associated entities, Sisters of the Presentation, and the City of Fargo. Ultimately, the ownership of the subject properties will be the YWCA and associated entities and the City of Fargo. The City has planned infrastructure projects on a portion of the property at 3000/3004 11th Street South, which are described in more detail below. The remainder of the property is intended to go to the YWCA to use for parking, as it exists today. For reference, this area is included in the Institutional Master Plan, and indicated by the blue hatch on the image to the right.



Zoning Change

The application requests to rezone all the properties to the P/I, Public and Institutional zoning district. This is necessary for the YWCA for the Institutional Master Plan, as they must be within the P/I zoning district, and it is a more appropriate zoning district for City-owned property. The area of the rezone is the full boundary indicated by the black line on the image above.

City Projects

The information below is provided by Nathan Boerboom, Assistant City Engineer.

The City of Fargo has two flood risk management projects planned for the area adjacent to the YWCA facilities. The first project is under contract, with construction scheduled to be completed by the end of 2025. This project includes the reconstruction of storm sewer lift station #27, which is directly adjacent to 32nd Avenue South and the Red River. It also involves extending a line of flood protection from the Fargo Park District's Lemke Park to the southern boundary of 3000 11th Street South. Similar to the first project, the second project also consists of the reconstruction of a storm sewer lift station, specifically lift station #66. This lift station will be reconstructed on 3000 11th Street South, for which the City has a fully executed purchase agreement. Construction for this project is anticipated to occur in either 2025 or 2026 and will continue the extension of the line of flood protection from the first project to the southern edge of the Southwood Addition.

Institutional Master Plan Information

The Institutional Master Plan is not part of City Commission review and approval of the zoning, but the information is provided for context. The Institutional Master Plan is specific to the P/I zoning district and is intended to accommodate larger public/semi-public institutions that have unique development needs when compared to typical building construction. These institutions undergo continuous incremental development and change over time. The Institutional Master Plan is intended to better accommodate these unique development characteristics of institutions. The YWCA has requested an Institutional Master Plan, and future phases are intended to accommodate demolition and construction of a new building on the property at 3001/3003.

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

<p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: LC, Limited Commercial and SR-2, Single-Family Residential, with commercial uses, detached homes and City of Fargo lift station; • East: Red River • South: MR-1, Multi-Dwelling Residential with group living and across 32 Avenue South is P/I, Public and Institutional and SR-2 with a park and detached home; • West: MR-1, Multi-Dwelling Residential with group living and across University Drive South is LC, Limited Commercial use with medical research.
<p>Area Plans:</p> <p>No growth or area plan exists for this area.</p>
<p>Context:</p> <p>Neighborhood: Lincoln</p> <p>Schools: The subject property is located within the Fargo Public School District, specifically Lincoln elementary, Carl Ben middle and South High schools.</p> <p>Parks: Lemke Park (1000 32 Avenue South) is located just south of the subject property. Amenities include outdoor skating and hockey rink, warming house, picnic tables, indoor shelter, playground and recreational trails.</p> <p>Pedestrian / Bicycle: A shared use path is located on the east side of University Drive South. The City also continues to work on path infrastructure along the River, and has several projects intended to be constructed in the future. The paths connect to the metro area system.</p> <p>Transit: Route 14 is along University Drive South, with a stop and shelter location at the intersection of 30th Avenue South, adjacent to the subject property.</p>
<p>Staff Analysis:</p> <p>Zoning 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 MR-1, Multi-Dwelling Residential, MR-2, Multi-Dwelling Residential, and SR-2, Single-Dwelling Residential. The applicants are requesting to rezone the properties to a more appropriate zoning district of P/I, Public and Institutional for uses such as community service and public and land owned by public agencies, such as the City of Fargo. The P/I zoning district is necessary for an Institutional Master Plan. (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. To date, Planning staff has received and

responded to two inquiries, with no noted concern. 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." P/I, Public and Institutional is intended to accommodate uses of a governmental, civic, public service, or quasi-public nature, including major public facilities and institutions with campus-like settings, 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)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the proposed zoning change as presented, from MR-1, Multi-Dwelling Residential, MR-2, Multi-Dwelling Residential, and SR-2, Single-Dwelling Residential to P/I, Public and Institutional, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

Planning Commission Recommendation:

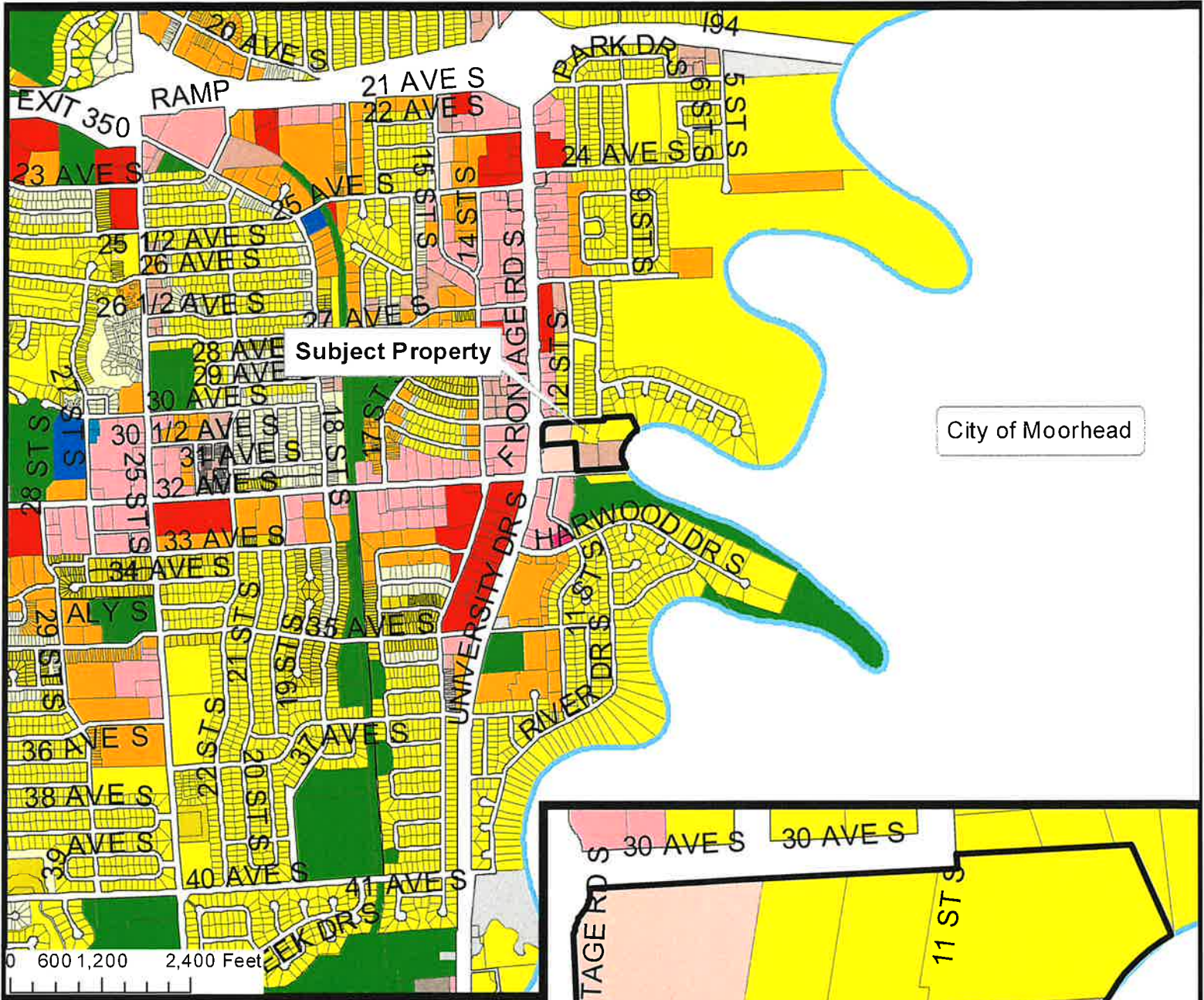
At the July 2, 2024 Planning Commission public hearing, that Commission, by a vote of 9-0 with one Commissioner absent and one Commission seat vacant, moved to accept the findings and recommendations of staff and recommended approval of the proposed zoning change as presented, from MR-1, Multi-Dwelling Residential, MR-2, Multi-Dwelling Residential, and SR-2, Single-Dwelling Residential to P/I, Public and Institutional, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Attachments:

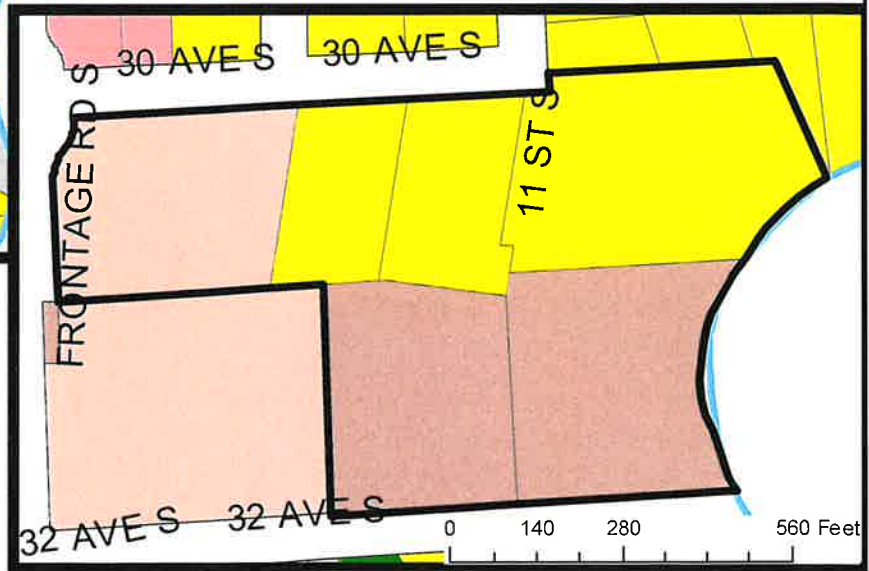
- 1. Zoning Map
- 2. Location Map

Zone Change from MR-1, Multi-Dwelling Residential, MR-2, Multi-Dwelling Residential, and SR-2, Single Dwelling Residential to P/I, Public/Institutional

3000, 3001, 3003, and 3004 11th Street South; 1001 and 1101 32nd Avenue South
YWCA and Presentation Additions 3000 University Drive South; 3014 12th Street South; 1120 30th Avenue South



City of Moorhead

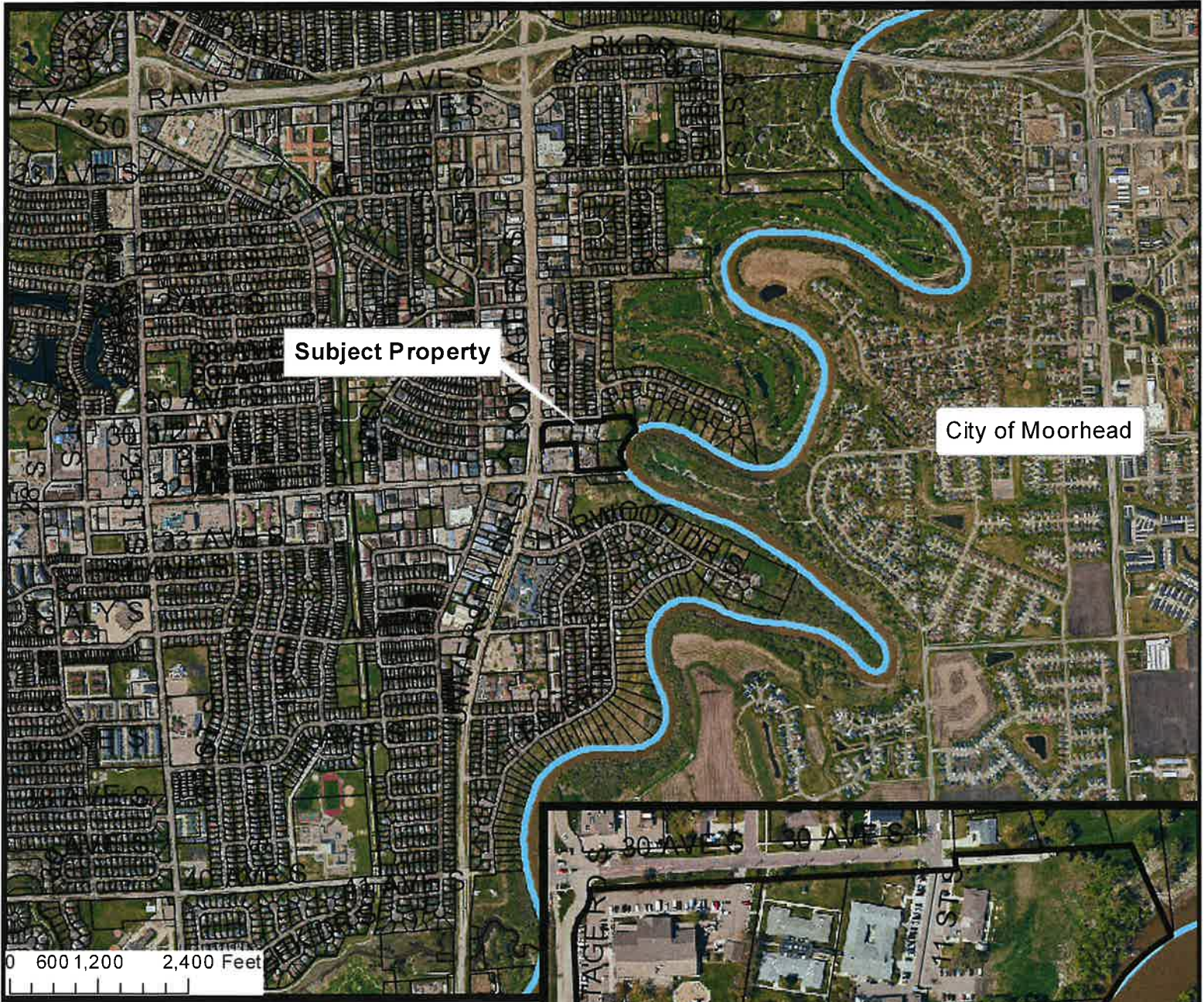


Legend

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

Zone Change from MR-1, Multi-Dwelling Residential, MR-2, Multi-Dwelling Residential, and SR-2, Single Dwelling Residential to P/I, Public/Institutional

3000, 3001, 3003, and 3004 11th Street South; 1001 and 1101 32nd Avenue South
YWCA and Presentation Additions 3000 University Drive South; 3014 12th Street South; 1120 30th Avenue South



Legend

 City Limits

41b

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING A CERTAIN PARCEL
OF LAND LYING IN YWCA 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 YWCA Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on July 2, 2024; and,

WHEREAS, the rezoning changes were approved by the City Commission on August 5, 2024,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block One (1) of YWCA Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "MR-1", Multi-Dwelling Residential, District to "P/I", Public and Institutional, District;

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

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

41c

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING A CERTAIN PARCEL
OF LAND LYING IN PRESENTATION 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 Presentation Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on July 2, 2024; and,

WHEREAS, the rezoning changes were approved by the City Commission on August 5, 2024,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot Ones (1) through Three (3), Block One (1) of Presentation Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "MR-2", Multi-Dwelling Residential, District and "SR-2", Single-Dwelling Residential, District, to "P/I", Public and Institutional, District.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:



42a

July 30, 2024

Fargo City Commission
225 4th Street N.
Fargo, ND 58102

RE: FARGODOME Remodel and Expansion

Commissioners:

The Fargo Dome Authority (FDA) requests your approval of our plans regarding a FARGODOME remodel and expansion.

The FDA continues to recognize and acknowledge the success and contributions of FARGODOME since its opening in December, 1992. While the FDA acknowledges that less than the required sixty-percent (60%) voter approval was received on the question to add a one quarter of one percent (1/4%) general sales, use, and gross receipts tax and a three percent (3%) lodging tax to be used to fund the remodel and expansion of FARGODOME, along with the addition of a conference center, during the special election held on December 5, 2023, the FDA would like to build on the momentum created by receiving nearly fifty-two (52%) voter approval during that special election.

Since the December 5, 2023 special election, the FDA, and others, have received feedback from the public indicating that there may have been more support than the sixty percent (60%) required if the only ballot question was for the one quarter of one percent (1/4%) general sales, use, and gross receipts tax to fund the remodel and expansion at FARGODOME at this time. Additional feedback indicates that voters may prefer to have the two questions – the remodel and expansion of FARGODOME, and the construction of a conference center – be separated. The FDA continues to believe the addition of a conference center to the City of Fargo is vital to increasing the economic impact to the region by hosting the multitude of events that prefer to hold their meetings and events in Fargo.

At their meeting on Tuesday, July 30, 2024, the Fargo Dome Authority unanimously approved the following motion regarding FARGODOME and our desire for the future:

In consideration of the December 5, 2023 election results, subsequent feedback and polling results received from constituents, and the immediate needs for remodeling and expansion of FARGODOME, the FDA recommends that the Fargo

City Commission approve the following step toward a FARGODOME Remodel and Expansion.

1. Approve suggested funding for this project to be a combination of funds from the existing FARGODOME Permanent Fund, up to \$30 Million, and proceeds from a 20-year bond issue. Said bond issue to be retired through a new 20-year, one quarter of one percent ($\frac{1}{4}$ %) City-wide general sales, use, and gross receipts tax. Implementation of the proposed sales tax requires a change to the City of Fargo Home Rule Charter. This question should be posed to the citizens of Fargo via a ballot question during the City of Fargo Election held in conjunction with the Cass County General Election scheduled for Tuesday, November 5, 2024, such election to be administered by the Cass County Auditor's office.

SUGGESTED MOTION:

Approve the Fargo Dome Authority's concept for a FARGODOME Remodel and Expansion without the conference center addition and to approve the initial steps toward funding and construction of the FARGODOME Remodel by authorizing City of Fargo staff to move forward with placing language to amend the Home Rule Charter to allow for a 20-year, one quarter of one percent (1/4%) City-wide general sales, use, and gross receipts tax on the City of Fargo's Election ballot held in conjunction with the Cass County General Election scheduled for November 5, 2024.

Thank you for your consideration of our motion.

Sincerely,

A handwritten signature in blue ink, appearing to read 'David Suppes', with a long horizontal flourish extending to the right.

David Suppes
President, Fargo Dome Authority

42b

August 1, 2024

Fargo City Commission
225 Fourth Street North
Fargo, ND 58102

Re: Proposed city-wide vote on Home Rule Charter Amendment: Sales, Use, and Gross Receipts Tax for Fargodome Remodeling Project – adopt resolution

Dear Commissioners:

Enclosed for your approval and adoption is a Resolution that will start the process of amending the City's home rule charter authorizing a one quarter of one percent sales, use, and gross receipts tax (e.g. 25 cents sale tax on a \$100 purchase). Assuming the City Commission approves the Resolution, the question will be placed before the Fargo city voters on November 5, 2024, as to whether the City's home rule charter should be amended as such.

The terms of the proposed sales, use, and gross receipts tax are as follows:

- A 20-year term for collection – starting April 1, 2025, and ending March 31, 2045.
- Funds collected from the tax will be used for the following purposes:
 - Proceedings to be utilized for costs associated with the remodeling of the Fargodome and with ongoing capital improvements, maintenance, and operations of the Fargodome.
- Proceeds will be placed initially in the Fargodome improvement capital construction fund.
- Proceeds may be used to make direct payment of the costs for such construction, maintenance, and operations or may be pledged, applied, or directed to amortize bonds or other obligations which may be sold to finance such costs.
- Funds remaining after completion of the remodel and payment of related obligations will be placed in a special escrow fund to be utilized by the Fargodome Authority, with the concurrence of the governing body of the city, to provide for future capital improvements, maintenance, and operation of the Fargodome.
- All proceeds of the tax shall be utilized for the authorized purposes “...as the governing body of the city may select” and the Fargodome Authority is authorized and encouraged to provide recommendations to the governing body of the city.

60% Majority Vote. Since the Fargo Home Rule Charter requires all “sales taxes” to receive a sixty percent (60%) majority city-wide vote, the question must receive favorable votes by 60% of the voters.

Minimum Sales Tax – Exemptions. There is six dollars and twenty-five cents (\$6.25) cap on the sales tax charged on any single transaction of one or more items. This limits the ¼% sales tax to the first \$2,500 of larger transactions. The sales tax recognizes the same exemptions as the 5% state sales tax. For example, most grocery store food items are exempt from the sales tax.

November 5, 2024, Vote. The sales tax will be placed on the scheduled November 5, 2024, election which will be held in conjunction with the Cass County General Election and is administered by the Cass County Auditor’s office.

Ballot Language. The City Attorney’s Office has worked with the City Auditor to prepare proposed ballot language as follows:

Shall the city of Fargo’s Home Rule Charter be amended to establish a one-quarter of one percent (1/4%) sales, use, and gross receipts tax to extend for twenty (20) years with the funds collected from said tax to be utilized for costs associated with the remodeling of the Fargodome and with ongoing capital improvements, maintenance, and operation of the Fargodome, as provided in the Notice of Proposed Fargo Home Rule Charter Amendment as published in THE FORUM on the ___th day of August, 2024?

SHALL SUCH AMENDMENT BE APPROVED?

() YES

() NO

Post-Election Process. Following the November 5, 2024, election, the results of the election must be formally determined with a sequence of events as follows:

- By state law, results of the election are to be “canvassed” thirteen (13) days following the election, Monday November 18, and the results then certified by the City Auditor. By Fargo Home Rule Charter provision, a home rule charter amendment takes effect ten (10) days following certification of the election results and, therefore, if approved by voters, we expect the Home Rule Charter Amendment to take effect on or about November 28, 2024.
- The earliest the sales, use, and gross receipts tax may commence is April 1, 2025. sales taxes must be collected by the North Dakota Tax Commissioner and in order for the Tax Commissioner to have time to provide notice to all retailers within the City (as well as internet sales retailers) and to establish the proper administrative protocols for a new sales tax, the City must deliver the enacted sales tax ordinance to the tax Commissioner by December 31, 2024.

Suggested Motions:

- I hereby introduce the Resolution, proposing to amend the City's Home Rule Charter authorizing the sales, use, and gross receipts tax, as presented and move for its adoption.
- I hereby move to approve the following ballot language to be presented to voters at the scheduled November 5, 2024, election which is held in conjunction with the Cass County General Election and administered by the Cass County Auditor's office:

Shall the city of Fargo's Home Rule Charter be amended to establish a one-quarter of one percent (1/4%) sales, use, and gross receipts tax to extend for twenty (20) years with the funds collected from said tax to be utilized for costs associated with the remodeling of the Fargodome and with ongoing capital improvements, maintenance, and operation of the Fargodome, as provided in the Notice of Proposed Fargo Home Rule Charter Amendment as published in THE FORUM on the ___th day of August 2024?

SHALL SUCH AMENDMENT BE APPROVED?

() YES

() NO

Sincerely,



Ian R. McLean
Assistant City Attorney
imclean@serklandlaw.com
Encl.

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION

[Amendment of Home Rule Charter – Sales, Use, and Gross Receipts Taxes]

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the City of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, which has adopted a Home Rule Charter, pursuant to the authority of N.D.C.C. Chapter 40-05.1; and,

WHEREAS, pursuant to Chapter 34 of the Fargo Municipal Code, implementing Article 3(P)(5) of the Fargo Home Rule Charter, the City has created the Fargo Dome Authority (the “Fargodome Authority”), the members of which are appointed by the City Commission as prescribed in said Chapter, to construct, maintain and operate the multi-purpose dome facility known as the Fargodome; (the “Fargodome”); and

WHEREAS, pursuant to the authority of N.D.C.C. §40-05.1-07 and Article 5 of the Fargo Home Rule Charter, the Board of City Commissioners wish to propose an amendment to the Home Rule Charter of the city which would authorize the implementation of a sales, use, and gross receipts tax for a period of twenty (20) years. Said tax would generate proceeds to be utilized to pay or finance costs associated with the remodeling of the Fargodome and with ongoing capital improvements, maintenance, and operation of the Fargodome; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of City Commissioners of the City of Fargo, North Dakota, as follows:

SECTION ONE. That Article 3 of the Home Rule Charter of the City of Fargo, pertaining to the list of home rule powers of the city, be amended to add paragraph V, to read as follows:

V. To impose a retail sales, use, and gross receipts tax to be implemented by ordinance and subject to the following limitations:

1. Sales, use, and gross receipts taxed shall be limited to those which are taxed by the State of North Dakota pursuant to Chapters 57-39.2, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code.

2. The amount of the tax shall not exceed a quarter of one percent (0.25%) of the gross receipts and purchases which are taxed by the State of North Dakota pursuant to Chapters 57-39.2 and 57-40.2, of the North Dakota Century Code. Any patron or user paying said tax in excess of six and 25/100ths dollars (\$6.25) on any single transaction of one or more items may obtain a credit or refund of the excess tax at the time of purchase from the vendor or request a refund of the excess tax payment by filing a request for refund, as provided by the North Dakota Century Code, upon forms

provided by the North Dakota State Tax Commissioner. The tax imposed shall be computed and collected in the same manner provided by law for the collection of the state sales, gross receipts and use tax as provided in Chapters 57-39.2, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code. All references to the North Dakota Century Code include amendments adopted by the North Dakota Legislative Assembly.

3. A sales, use and gross receipts tax which is imposed pursuant to the authority granted herein shall extend for a period not exceeding twenty (20) years, said period to be established by the implementing ordinance.

4. Proceeds of a sales, use and gross receipts tax which is imposed pursuant to the authority granted herein shall be utilized for costs associated with the remodeling of the Fargodome and with ongoing capital improvements, maintenance, and operation of the Fargodome, said proceeds to be placed initially in a Fargodome improvement capital construction fund of the city of Fargo which, together with interest and other authorized investment earnings, shall be utilized by the city of Fargo for such purposes. Proceeds from such tax may be used to make direct payment of the costs for such construction, maintenance, and operation or may be pledged, applied or directed to amortize bonds or other obligations which may be sold to finance such costs. Interest earnings, earnings from authorized investments, or both such interest and investment earnings, on such proceeds may also be utilized for such purposes. Any funds remaining after completion of the remodel and payment of related obligations will be placed in a special escrow fund which, together with interest earnings and investment earnings, shall be utilized by the Fargodome Authority, with the concurrence of the governing body of the city, to provide for future capital improvements, maintenance, and operation of the Fargodome. All such proceeds of a sales, use and gross receipts tax which is imposed pursuant to the authority granted herein shall be utilized for the purposes authorized herein as the governing body of the city may select. The Fargodome Authority is hereby authorized and encouraged to provide recommendations to the governing body of the city.

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that the question of whether to amend the City's Home Rule Charter to impose the sales, use, and gross receipts tax be presented to the voters of the City of Fargo at the November 5, 2024, election. The City Auditor is authorized to take necessary steps to place the matter on the ballot for November 5, 2024, and to work with the Cass County Auditors office.

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that this Resolution be published in the official newspaper for the City of Fargo (1) within thirty (30) days of the approval hereof or (2) prior to sixty (60) days prior to the next city election, whichever is earlier.

Mayor

Attest:

City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by
COMMISSIONER _____, and upon roll call vote, the following voted in favor thereof:
COMMISSIONERS _____.

The following were absent and not voting: _____,
and the following voted against the same: _____,
whereupon the resolution was declared duly passed and adopted.

(TO BE PUBLISHED ONCE IN THE FORUM AT LEAST SIXTY (60) DAYS PRIOR TO
THE CITY ELECTION ON NOVEMBER 5, 2024, AND NO LATER THAN 30 DAYS FROM
APPROVAL OF RESOLUTION: PUBLISH WEDNESDAY, AUGUST __, 2024)

CERTIFICATE OF CITY AUDITOR

The undersigned City Auditor of the City of Fargo DOES HEREBY CERTIFY that the foregoing pages constitute a true and correct copy of the resolution of the Board of Commissioners of the City of Fargo at an open public meeting at which a quorum was present, duly called and lawfully assembled at _____ o'clock __.m. on the ____ day of _____, 2024, and as follows:

COMMISSIONER _____ introduced the foregoing resolution and moved its adoption. The motion for the adoption of the foregoing resolution was duly seconded by COMMISSIONER _____, and upon roll call vote, the following voted in favor thereof: COMMISSIONERS _____ and _____. The following were absent and not voting: _____, and the following voted against the same: _____, whereupon the resolution was declared duly passed and adopted the ____ day of _____, 2024.

WITNESS my hand this _____ day of _____, 2024.

City Auditor

Steve Sprague

43



July 31, 2024

The Honorable Tim Mahoney, Mayor, and City Commissioners
City of Fargo

Mayor Mahoney & Commissioners:

I'm writing to request that the attached resolution be considered at the August 5, 2024, meeting of the Fargo City Commission.

The resolution, if approved, would put a measure on the November 5, 2024 election ballot that would amend the Home Rule Charter to establish an additional three percent (3%) city lodging tax for the purpose of constructing a conference space somewhere within the city. The exact location would be determined through a Request for Proposal (RFP) process that would seek proposals for a public-private partnership project. The tax would stay in place for 25 years after its implementation.

I will also be bringing three (3) representatives of the Fargo hospitality community to provide brief comments in support of the plan.

Please let me know if you have any questions or need any further information from me before the meeting.

Sincerely,

A handwritten signature in black ink that reads "Charley Johnson".

Charley Johnson
President/CEO
701-371-9911

**Fargo-Moorhead
Convention & Visitors Bureau**

2001 44th St S
Fargo ND 58103

800 • 235 • 7654

701 • 282 • 3653

(fax) 701 • 282 • 4366

info@fargomoorhead.org

www.fargomoorhead.org

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION
[Amendment of Home Rule Charter – Lodging Tax]

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the City of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, which has adopted a Home Rule Charter, pursuant to the authority of N.D.C.C. Chapter 40-05.1; and,

WHEREAS, pursuant to the authority of N.D.C.C. §40-05.1-07 and Article 5 of the Fargo Home Rule Charter, the board of city commissioners of the City of Fargo wish to propose an amendment to the Home Rule Charter of the city which would authorize the implementation of a lodging tax on hotel and motel room rentals for a period of twenty-five (25) years, which tax would generate proceeds to be utilized to pay or finance costs associated with the construction of a conference center at a location within the city of Fargo to be determined by a request-for-proposal process identified by an implementing ordinance, and with ongoing capital projects, maintenance, and operation of the conference center;

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Fargo, North Dakota, as follows:

That Article 3 of the Home Rule Charter of the City of Fargo, pertaining to the list of home rule powers of the city, be amended to add an enumerated section to read as follows:

___ To establish a city lodging tax of three percent (3%) in addition to the existing three percent (3%) city lodging tax, subject to the following limitations:

1. Said lodging tax is hereby imposed upon gross receipts as defined herein, which tax shall be computed on a monthly basis by each and every hotel, motel or other accommodations located within the corporate limits of the city of Fargo. Said tax must be in addition to the state sales tax on rental accommodations provided in chapter 57-39.2 N.D.C.C.

2. The lodging tax hereby imposed shall be computed by every retailer and paid to the City of Fargo. Such computation shall be on a monthly basis and payment for each month shall be made to the city on or before the 10th day of the following month. The payment shall be accompanied by a report indicating the amount of gross receipts for the reporting period and shall be certified by a certified public accountant or by the retailer, or managing officer thereof. The city may retain up to 3% of the total amount collected for administrative costs.

3. A lodging tax which is imposed pursuant to the authority granted herein shall extend for a period not exceeding twenty-five (25) years, said period to be established by the implementing

ordinance. The collection of said lodging tax shall not be commenced until the governing body of the city has identified a specific project, based on requirements in subsection 4, below. If no project is identified, and collection of the tax not implemented by December 31, 2028, authorization of the tax shall expire.

4. The lodging taxes collected pursuant hereto, less costs of administration as provided herein, which is imposed pursuant to the authority granted herein shall be utilized for costs associated with construction of a conference center, at a location within the city of Fargo to be determined through a request for proposal process to be established by the governing body of the city, and with ongoing capital projects, maintenance, operation and functionally-related facilities (the "Projects"), said proceeds to be placed initially in an improvement capital construction fund of the city of Fargo which, together with interest and other authorized investment earnings, shall be utilized by the city of Fargo for such purposes. Proceeds from such tax may be used to make direct payment of the costs for such construction, maintenance, and operation or may be pledged, applied or directed to amortize bonds or other obligations which may be sold to finance such costs. Interest earnings, earnings from authorized investments, or both such interest and investment earnings, on such proceeds may also be utilized for such purposes. Any funds remaining after completion of the construction of the conference center and payment of related obligations will be placed in a special escrow fund which, together with interest earnings and investment earnings, shall be utilized by the designated operating authority, with the concurrence of the governing body of the city, to provide for future capital improvements, maintenance, and operation of the conference center.

All proceeds of a lodging tax which is imposed pursuant to the authority granted herein shall be utilized for the purposes authorized herein as the governing body of the city may select.

The commencement of the lodging tax, including the commencement and duration of collection thereof, along with any other matters related to the Projects as deemed necessary or appropriate shall be established by the implementing ordinance.

5. The three percent (3%) lodging tax authorized hereby shall be imposed and collected in addition to an existing three percent (3%) city of Fargo lodging tax set forth in Article 3-13 of the Fargo Municipal Code, said existing tax having been (a) initially imposed by city ordinance as a two percent lodging tax (City of Fargo Ord. No. 2014 (June 1981)) under city home rule authority at a time when North Dakota non-home-rule cities were empowered by state statute to enact lodging taxes using state statutory authority (N.D.S.L. Ch. 429 (1981), Sec. 1 – 4) and, therefore by exclusion, the City of Fargo and other home rule charter cities could utilize home rule city powers to enact lodging taxes, and (b) subsequently expanded to the existing three percent lodging tax (City of Fargo Ord No. 2595 (1991)) also by said home rule authority.

BE IT FURTHER RESOLVED, that the above-recited proposal is hereby acknowledged and deemed to be a lodging tax and not a sales tax and, therefore, that proposal for the amendment of the Fargo Home Rule Charter shall not be deemed approved unless said proposed amendment has been approved by a simple majority of the qualified electors voting on the question and not by

approval of a sixty percent (60%) super-majority of said electors as would be required by initiated amendment Number Two to the Fargo Home Rule Charter for approval of a sales tax;

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that this Resolution be published in the official newspaper for the City of Fargo (1) within thirty (30) days of the approval hereof or (2) prior to sixty (60) days prior to the next city election, whichever is earlier.

Mayor

Attest:

City Auditor

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

(TO BE PUBLISHED ONCE IN THE FORUM AT LEAST SIXTY (60) DAYS PRIOR TO THE CITY-WIDE ELECTION ON NOVEMBER 5, 2024, AND NO LATER THAN 30 DAYS FROM APPROVAL OF RESOLUTION: PUBLISH WEDNESDAY, _____, 2024)

CERTIFICATE OF CITY AUDITOR

The undersigned City Auditor of the City of Fargo DOES HEREBY CERTIFY that the foregoing pages constitute a true and correct copy of the resolution of the Board of Commissioners of the City of Fargo at an open public meeting at which a quorum was present, duly called and lawfully assembled at _____ o'clock __.m. on the ___ day of _____, 2024, and as follows:

COMMISSIONER _____ introduced the foregoing resolution and moved its adoption. The motion for the adoption of the foregoing resolution was duly seconded by COMMISSIONER _____, and upon roll call vote, the following voted in favor thereof: COMMISSIONERS _____ and _____. The following were absent and not voting: _____, and the following voted against the same: _____, whereupon the resolution was declared duly passed and adopted the __ day of _____, 2024.

WITNESS my hand this _____ day of _____, 2024.

City Auditor

Steve Sprague

CITY ATTORNEY

Nancy J. Morris

ASSISTANT CITY ATTORNEYS

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

August 1, 2024

45

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

Re: Fargo Municipal Code Article 10-14 Enactment and Resolution

Mayor and Commissioners,

Presented for your consideration, please find an ordinance addressing camping on public property, including rights of way. The direction of the commission on June 24, 2024, was to pursue an ordinance not allowing camping on public property except by resolution, which would address the issue of homelessness while pursuing a Housing First Philosophy. After extensive and numerous staff meetings, including Public Health, Police, Fire, Public Works, Solid Waste and Administration, along with representatives of the Fargo Park District, Article 10-14 in Chapter 10- Public Safety, Morals and Welfare was developed collaboratively. The proposed ordinance recognizes the enforcement tool provided by the Supreme Court's decision in Grant's Pass allowing jurisdictions to impose a penalty for persons not abiding by the ordinance and resolution, while also taking into account ordinances recently proposed and passed in several Minnesota cities addressing the needs of the community to protect critical infrastructure while also taking steps to manage homeless camps for the safety of all until adequate housing becomes available.

Brenda Derrig, Assistant City Administrator, has diligently guided the effort to move this Ordinance and Resolution development process forward. The joint session of the City Commission and Park District will provide insight and information to help guide your policy decisions that will be addressed in the Resolution accompanying the Ordinance. We have attached a draft Resolution with the Ordinance that can be modified until it is ready for adoption at the time of the second reading of the ordinance and be immediately in effect at the time of publication of the ordinance.

I believe it is the Park District's intent to consider simultaneous action to treat Park District property the same, offering uniform enforcement throughout the City on all City and Park District property.

Board of City Commissioners

Page 2

August 1, 2024

Suggested Motion: I move to receive and file An Ordinance Enacting Article 10-14 of Chapter 10 of the Fargo Municipal Code Relating to Camping on Public Property, and place the ordinance on for First Reading at the next regularly-scheduled city commission meeting.

Please feel free to contact me or Brenda Derrig if you have any questions, comments or concerns. I look forward to continuing to work with you and your dedicated staff to arrive at terms for the final resolution prior to second reading and adoption of the Ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy J. Morris". The signature is fluid and cursive, with a prominent flourish at the end.

Nancy J. Morris

NJM/lmw

Enclosures

Cc: Brenda Derrig, Assistant City Administrator

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE ENACTING ARTICLE 10-14 OF
CHAPTER 10 OF THE FARGO
MUNICIPAL CODE RELATING TO CAMPING ON
PUBLIC PROPERTY

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

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

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

10 WHEREAS, the Board of City Commissioners deems it necessary and appropriate to
11 implement revisions to the city of Fargo Municipal Code addressing camping and campsites in
12 the city of Fargo on public property by the adoption of this Ordinance and Resolution; and

13 WHEREAS, the Board of City Commissioners of the city of Fargo deems camping or
14 establishing a campsite on public property to be a public health and safety risk to both the
15 housed and unhoused and intends, through the adoption of this Ordinance and Resolution, to
16 create enforcement tools to prevent camping or the establishment of campsites on public
17 property, and to establish a program for the removal of the camping and campsite materials and
18 personal property associated with camping on public property; and

19 WHEREAS, the Board of City Commissioners of the city of Fargo intends to address the
20 social, public safety and health hazards, environmental issues, physical safety and property risks
21 of those persons experiencing homelessness and camping on public property, in a manner that is
22 compatible with the needs of everyone in Fargo to be healthy, safe, and have access to public
23 places, in an objectively reasonable time, place, and manner process; and

24 WHEREAS, the Board of City Commissioners of the city of Fargo intends to adopt by
25 Resolution reasonable policies related to the enforcement of this Ordinance prohibiting camping
26 on public property and the removal of prohibited and non-compliant camping sites.

27 NOW, THEREFORE, Be It Ordained by the Board of City Commissioners of the city of Fargo

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 1. Enactment.

10-1401. Definitions.

For the purpose of this Article, the following definitions will apply:

- 1 1. "City" means the city of Fargo, North Dakota.
- 2 2. "Camp" means to set up or to remain in a campsite.
- 3 3. "Campsite" means to pitch, erect, create, use, or occupy camp facilities for the purposes
4 of habitation or maintaining a temporary place to live, as evidenced by the use of camp
5 paraphernalia.
- 6 4. "Camp facilities" include, but are not limited to, lean-to, shacks, tents, huts, temporary
7 shelters, or vehicles.
- 8 5. "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags,
9 pallets, mattresses, hammocks, stoves or fires, outdoor cooking devices or utensils and
10 similar equipment.
- 11 6. "Enforcement officer" means a sworn law enforcement officer employed by the city of
12 Fargo.
- 13 7. "Park areas" or "Park property" means those parks and recreation facilities identified in
14 the city of Fargo owned and maintained by the Park District of the city of Fargo.
- 15 8. "Public property" means vacant or occupied lands that are owned, possessed or under the
16 control of the city of Fargo, open to the public, premises, and buildings, including but
17 not limited to any building used in connection with the transaction of public business and
18 includes public rights-of-way. Public property as used in this Article shall include Park
19 areas and Park property designated by the Park District of the city of Fargo for inclusion
20 in this Article and corresponding Resolution, as the same shall be adopted from time to
21 time.
- 22 9. "Public rights of way" means the area between boundary lines of a public street or other
23 public easement that is reserved, used, or to be used for a public street, alley, or pathway.
10. "Store" or "storage" means to put aside or accumulate for use when needed, to put for
safekeeping, to place or leave in a location.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

11. "Unsanitary" means a hazard to the health and safety of the public, to include but not limited to human waste, bodily fluids, or chemical contamination.

1 10-1402. Prohibited Camping.

2 No person may camp or establish any campsite in or upon any public property except as
3 expressly authorized by this Article 10-14 or by Resolution of the Board of City Commissioners
4 of the city of Fargo.

4 10-1403. Removal of a Campsite.

5 1. Any person camping unlawfully shall vacate and remove all belongings from the public
6 property within forty-eight (48) hours of receiving notice to vacate from an enforcement
7 officer.

8 2. After notice has been given to vacate a campsite and the allotted time has expired, the
9 City or its contractor shall remove the campsite, all camp facilities and camp
10 paraphernalia as the same has been deemed a public nuisance.

11 (a) All unclaimed personal property with apparent value or utility will be stored for
12 60 days as required by Fargo Municipal Code § 28-0101.

13 (b) All unclaimed items that have no apparent utility or value, are in an unsanitary
14 condition, or present an immediate hazard or danger, may be immediately
15 discarded upon removal of individuals from the campsite.

16 (c) Any personal property that remains unclaimed for 60 days after the campsite
17 cleanup may be disposed of in accordance with Fargo Municipal Code § 28-0101.

18 (d) Weapons, drug paraphernalia, and items which reasonably appear to be evidence
19 of a crime may be retained and/or disposed of by the police department in
20 accordance with the department's written policies and procedures.

21 10-1404. Penalties and Enforcement.

22 1. Violations of any provision of this Article is an infraction and may result in additional
23 violations of Fargo Municipal Code or North Dakota Century Code.

2. In addition to any other penalties that may be imposed, any campsite used in a manner
not authorized by this Article, or other provisions of this code shall constitute a public
nuisance and may be abated as such.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3. The remedies described in this Article shall not be the exclusive remedies of the City for violations of this Article.

Section 2. Penalty.

A person who willfully violates this Ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$1,000.00; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 3. Effective Date.

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

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

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COMMISSIONER _____ introduced the following resolution and moved its adoption:

Resolution Regarding Ordinance Prohibiting Camping on Public Property and Rights of Way in the city of Fargo

WHEREAS, the city of Fargo has adopted an Ordinance prohibiting camping on public property and on the public rights of way except pursuant to Resolution; and

WHEREAS, the city of Fargo wishes to prioritize enforcement of Fargo Municipal Code Article 10-14 to address the City resources needed to remove all campsites and in recognition of the need to address the housing needs of persons camping on public property and public rights of way; and

WHEREAS, the City recognizes that permitting camping in compliance with approved rules and expectations may be necessary for a limited duration, until such time as alternative housing resources become available; and

WHEREAS, in accordance with Fargo Municipal Code Article 10-14, the Board of City Commissioners of the city of Fargo approves the following enforcement priorities, rules and expectations for camping on public property and public rights of way.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the city of Fargo:

1. Camping adjacent to and within critical infrastructure (bridges, lift stations, outfalls, water intake and pump house), within 100 feet of a bridge embankment, and within 30 feet adjacent to public bike paths is strictly prohibited. An enforcement officer shall provide notice as provided by Fargo Municipal Code § 10-1403 and immediately cite persons in violation of the

removal notice. Appropriate steps will then be taken to remove the unlawful campsite.

2. Campsites within the service area of the Downtown Engagement Center in compliance with all Camp Protocols and Expectations, attached hereto as Exhibits A & B, and not located in a priority enforcement area, shall be monitored and persons occupying such camps shall be expected to engage in such services available.
3. Persons who have been warned that their conduct is not in compliance with the approved Camp Protocols and Expectations will be subject to citation and Notice of Camp Removal in accordance with Article 10-14.

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

Dated this ____ day of _____, 2024.

Timothy J. Mahoney, M.D., Mayor

ATTEST:

Steve Sprague, City Auditor

Exhibit "A"



Homeless Camp Expectations

Although camping along the Red River is not permitted, The City of Fargo and area service providers recognize that due to the lack of available shelter and housing options, many people who find themselves without a home have no other option besides sleeping outside.

Until additional shelter or housing options become available, and to minimize the likelihood of your camp being removed, the following expectations have been developed to ensure the peace and safety of the campsite, campers, and community members.

- Keep camps away from public paths. The visibility of camps is a main driver of public complaints.
- Camps must remain peaceful and safe. There can be no violence or threats of violence to fellow campers or passersby. Inability to maintain a peaceful and safe environment may result in camp removal.
- Camp size should be kept to no more than 3 people in one camp. Camps must also maintain a distance of at least 30 yards (90 feet) between other camps. This is to ensure camps are discreet, quiet and cleanliness is easier to maintain.
- All camps must be within one-half mile north or south of the Downtown Engagement Center (DEC) along the Red River. All people in camps must be willing to engage with DEC services and staff. Not doing so may result in the removal of your camp.
- Keep your camp tidy. You will be provided with garbage bags and sharps containers which will be collected once per week by the Outreach Team. This helps to minimize negative impacts on the local environment, decrease the likelihood of a fire in your camp, and prevent biohazard concerns.
- All City policies regulating recreational fires apply to camp fires. All open burning, including recreational fires, is banned when the fire index is at the high, very high or extreme level and any time during a red flag warning. This information, including red flag days, will be made available at the DEC and provided by the Outreach Team when possible.

If the above expectations are not met, or you are unable to get your camp into compliance in a timely manner, your camp may be subject to removal. A written notice will be provided to you at least 48 hours in advance of a planned camp removal.

Outreach Team Expectations

You can expect certain predictable supports from our local Outreach Team in order to be successful in meeting the above expectations.

- The Outreach Team will visit camps often, no less than once per week, to collect garbage, sharps containers, and address any concerns that may arise.
- If and when shelter space or housing options become available, the Outreach Team will notify you and can assist in creating a plan to store your belongings and move into shelter or housing.
- Connection to staff and services at the DEC is required to keep your camp in good standing. A variety of area service providers are on-site at the DEC each week day to connect you to the services you may need.
- The DEC is open daily from 8:00am-5:00pm to assist in additional needs that may come up. Showers, lockers, food, and connection to resources are available daily.
 - Homeless Healthcare is provided at the DEC on a first-come-first-serve basis from 8:00am-12:00pm Monday-Friday to assist in addressing any physical or mental health concerns you may have.
 - Often bug spray, sun screen, hand warmers, and other necessities are available at the DEC if you need them.
 - If you have questions, stop by the DEC or call us at 701-476-6723.

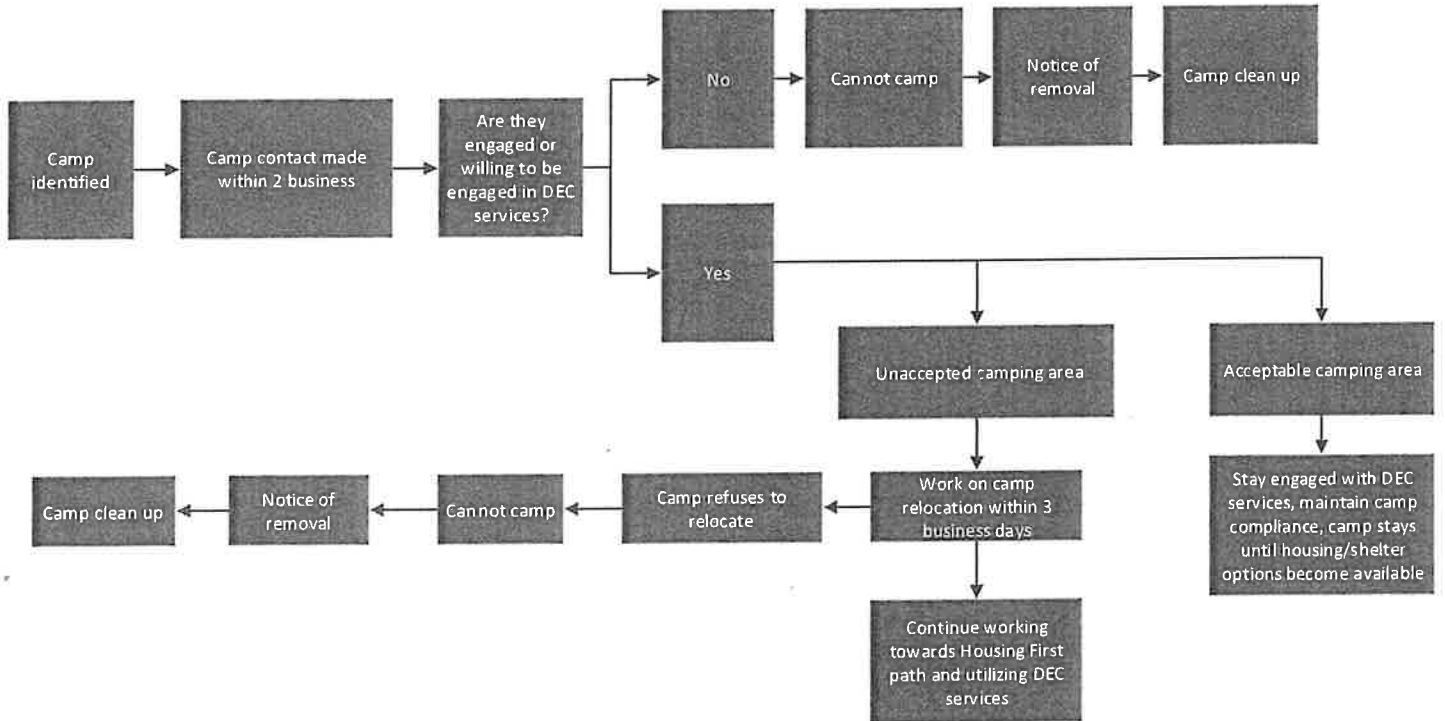
**Downtown Engagement Center:
222 4th St. N. Fargo, ND 58102
701-476-6723**

Exhibit "B"

When a homeless camp is reported in FargoOne:




When camp contact is made:



46

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: MAYOR TIMOTHY J. MAHONEY 
DATE: AUGUST 5, 2024
RE: 2025 PRELIMINARY BUDGET APPROVAL

I presented the 2025 Preliminary Budget recommendations on July 25, 2024

The next step in the budget approval process is to discuss and approve the Preliminary Budget and schedule a Public Hearing as is required by North Dakota State budget law. The Cass County Auditor's Office is required by law to send a consolidated notice to taxpayers notifying them of the dates, times and locations for all taxing entities public hearings. The City of Fargo mill levy in the Preliminary Budget establishes the maximum mill levy for the City of Fargo in 2025.

The City of Fargo's budget hearing is tentatively scheduled for Monday, September 16, 2024. The final budget adoptions are due no later than October 7, 2024.

Suggested Motion: To approve the 2025 Preliminary Budget as presented this evening and to schedule the Public Hearing for the final budget for Monday, September 16, 2024 at 5:15 p.m.

47

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY

DATE: AUGUST 5, 2024

SUBJECT: HUMAN RIGHTS COMMISSION APPOINTMENTS

The terms of Cheryl Schaeffe, Zoey Absey and Tambah Saah on the Human Rights Commission expired on July 1, 2024. Ms. Absey and Mr. Saah would like to continue their service on the Board; however, Ms. Schaeffe no longer wishes to serve.

I am recommending the reappointment of Ms. Absey and Mr. Saah. Courtney Kronback has expressed interest in serving on the Human Rights Commission; therefore, I am recommending that they be appointed for three-year terms ending July 1, 2027. A web application for Ms. Kronback is attached for your reference.

Your favorable consideration of these recommendations is greatly appreciated.

RECOMMENDED MOTION: To approve the reappointment of Zoey Absey and Tambah Saah and the appointment of Courtney Kronback to the Human Rights Commission for three-year terms ending July 1, 2027.

Attachments
mmappts24hrc

Kember Anderson

From: noreply@cityoffargo.com
Sent: Thursday, January 11, 2024 9:34 AM
To: Commissions Applications
Subject: New Form Submission: Getting involved in government
Attachments: Courtney Kronback Cover 2024.pdf

Name:
[Courtney Kronback]

Mailing Address:
[REDACTED]

City:
[Fargo]

State:
[North Dakota]

Zip:
[58102]

Work Phone:
[REDACTED]

Home Phone:
[REDACTED]

E-mail:
[REDACTED]

Which boards or commissions would you like to be considered for?
[Airport Authority, Board of Health, Community Development Committee, Economic Development Incentives Committee, FARGODOME Authority, Human Relations Commission]

Briefly state why you would like to be on this panel:
[I have been living in the FM community for over 15 years. I am a mom of two boys, a home owner, a business professional and a nurse. I feel I would provide unique insight into areas that impact our community.]

How many hours per month could you volunteer as a panel member?
[4 to 6]

Please list any past experience you have with city government here or in other cities:
[I do not have city government experience.]

Please describe any professional experience you have related to the responsibilities of the panel you are interested in:
[Please see my attached resume for professional accomplishments. I am a well-versed business professional and nurse, and I have also been a volunteer within our community for the past 10 years.]

We will retain your application for three years and consider you for the board you have indicated interest in when a vacancy arises.