

FARGO CITY COMMISSION AGENDA  
Monday, February 26, 2018 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, February 12, 2018).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Receive and file an Ordinance Amending Section 25-1509, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 2. Receive and file and Ordinance Amending Section 18-0202, of Article 18-02 of Chapter 18 of the Fargo Municipal Code Relating to Public Ways and Places.
- 3. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 2/12/18:
  - a. Amending Section 25-1506, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
  - b. Amending Section 10-0304, of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to Public Safety, Morals and Welfare.
- 4. Resolution Establishing License Application Qualification Guidelines.
- 5. Appointment of Alissa R. Olson as an Assistant City Attorney.
- 6. Applications for Games of Chance:
  - a. Davies Young Guns for a raffle on 5/31/18.
  - b. Fargo South High for a raffle on 4/14/18.
  - c. USA Wrestling of North Dakota for a raffle on 7/19/18.
  - d. Wellspring for the World for a raffle on 3/1/18.
- 7. Tax exemptions for improvements made to buildings:
  - a. Chad R. Justesen, 2304 Centennial Rose Drive South (3 year).
  - b. Ace Group LLP, 3344 18th Street South (3 year).
  - c. Peter W. Zuger and Aubrey Fiebelkor-Zuger, 178 Prairiewood Drive South (3 year).
  - d. Michael S. Dawson, 614 8th Street South (5 year).
  - e. Ida M. Scherr, 1614 29th Avenue South (5 year).
  - f. Gregory C. Harness, 1139 5th Street North (5 year).
  - g. Gregory C. Harness, 1139 5th Street North (5 year).
  - h. Cupertino Cottages LLC, 1022 1st Street North (5 year).
  - i. Karen D. Drager, 1026 1st Street North (5 year).

- j. James R. Williams, 1115 7th Avenue North (5 year).
  - k. Charles F. Schmidt and Shawn L. Wing Schmidt, 1307 Oak Street North (5 year).
  - l. Richard G. and Kathleen Zaylskie, 415 7th Avenue South (5 year).
  - m. Melanie I. and Troy T. Rudnick, 1918 17th Street South (5 year).
- 
- 8. 3-year extension to the Agreement with Paymentus Corporation to provide IVR and web payment services.
  - 9. 6-month extension of the Class "A" Alcoholic Beverage License for the Firebox.
  - 10. Amendment to Agreement with Community Medical Services Montana-Private, LLC to provide medication assisted treatment and counseling (SSP17270).
  - 11. Amended Notice of Grant Award with the ND Department of Health for family planning depression screening.
  - 12. Online Services Agreement with GovernmentJobs.com, Inc. d/b/a NEOGOV to provide an applicant tracking system.
  - 13. Agreement with Carl Walker to provide professional engineering services for repairs to city parking structures.
  - 14. Resolution approving Plat of Edition Second Addition.
  - 15. Community Housing Development Organization (CHDO) Sponsor Agreement with Beyond Shelter, Inc. and HomeField 2, LLLP to undertake certain activities with HOME grant funds and Declaration of Access Easement (Autumn Fields Second Addition).
  - 16. Certificates of Substantial Completion for the Police Department Remodeling Project at the Border States Electric Building.
  - 17. Authorization of the Fargo Police Department Summer Camp Program as well as a temporary/seasonal positions specific to the camp, funded through grants and charitable donations.
  - 18. Authorization Application for Airborne Custom Spraying to provide FAA Aerial Mosquito spraying.
  - 19. Bid awards for 2018 forestry services.
  - 20. Purchase of one crawler crane from Spyder Crane in the amount of \$62,300.00.
  - 21. Purchase of one articulated wheel loader from Titan Machinery in the amount of \$223,388.00.
  - 22. Agreement for Entry and Construction with Judie A. VandeVoort as Trustee of the Judie A. VandeVoort Revocable Living Trust (Project No. FM-15-K0).
  - 23. Sole Source Procurement with Border States Electric to provide Millerbernd street lighting poles and pole parts.
  - 24. Bid award for aggregate materials, concrete, asphalt, emulsified asphalt and re-bar (RFP18067).

25. Bid award for water main materials, miscellaneous materials, fire hydrants/parts and miscellaneous street materials (RFP18066).
26. Change Orders for Project No. WA1301:
  - a. No. 14 for an increase of \$63,662.00 for the general construction contract.
  - b. No. 12 for an increase of \$157,582.27 for the mechanical construction contract.
  - c. No. 7 for an increase of \$73,791.00 for the electrical construction contract.
27. Sole Source Procurement with Connection for the Supervisory Control and Data Acquisition (SCADA) network equipment for the Membrane Water Treatment Plant in the amount of \$73,223.07.
28. Bills.
29. Installation of dedicated bike lanes along 4th Street South from 12th Avenue to 2nd Street South (Improvement District No. BR-18-G1).
30. Creation and addition of Improvement District No. FM-14-83 to the 2018 CIP.
31. Negative Final Balancing Change Order No. 4 in the amount of -\$66,156.83 for Improvement District No. PR-17-H1.
32. Bid award for Improvement District No. SR-18-A1.
33. Create Improvement District No. SL-17-B.

#### **REGULAR AGENDA:**

34. State Water Commission requests for Cost Reimbursement for FM Diversion Flood Project Costs:
  - a. Costs totaling \$65,355.00.
  - b. Costs totaling \$780,105.00.
35. Public Hearings - 5:15 pm:
  - a. Transfer of a Class "AB" Alcoholic Beverage License from Mom's Kitchen Inc. d/b/a Tailgator's Sports Café at 1322 Main Avenue to Demeske Enterprises Inc. d/b/a Tailgator's/Mom's Kitchen; continued from the 1/29/18 and 2/12/18 Regular Meetings.
  - b. CONTINUE to 3/26/18 - Transfer of a Class "A" Alcoholic Beverage License from Classic Foods, LTD d/b/a Ground Round Restaurant to FSB Associates, LLC d/b/a Saloon at 506 Broadway North.
  - c. Application filed by Cash Wise Liquor, LLC d/b/a Cash Wise Liquor for a Class "B-Limited" Alcoholic Beverage License at 4985 Timber Parkway South.
  - d. Rocking Horse Farm 5th Addition (5801 52nd Avenue South); approval recommended by the Planning Commission on 1/4/18:
    1. Zoning Change from AG, Agricultural to SR-3, Single-Dwelling Residential and P/I, Public and Institutional.
    2. 1st reading of rezoning Ordinance.
    3. Plat of Rocking Horse Farm 5th Addition.

- e. Developer Agreements (three) related to Tax Increment Financing District No. 2001-01 (Interstate Business Park).
  - f. Plat of Interstate Business Park Addition a replat of Lot 1, Block 1, Adams 7th Addition and part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the 5th Principal Meridian (3801 26th Avenue South, 3901, 4001 and 4155 23rd Avenue South, and 2880 and 2852 Thunder Road South); approval recommended by the Planning Commission on 4/4/17.
  - g. 2018 Community Development Action Plan.
- 36. Consider directing the City Attorney's Office to amend Section 25-1509.1 of the Fargo Municipal Code to allow alcohol consumption in public at select Downtown Community Partnership events.
  - 37. Request to create a new Sub-Committee to re-visit the results of the Feasibility Study for a Fargo Performance Center.
  - 38. Request to retrofit the Civic Center with HVAC equipment.
  - 39. Request to Lease/Purchase the Border States Electric IT Building at 2403 3rd Avenue North.


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

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



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**TO: BOARD OF CITY COMMISSIONERS**

**FROM: KENT COSTIN, DIRECTOR OF FINANCE** 

**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**

**DATE: February 15, 2018**

The existing legislation in place for State Water Commission funding related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project requires that the Fargo City Commission, Cass County Commission, and the Cass Water Resource Board approve all payment reimbursement requests prior to their submission and ultimate payment.

The attached reimbursement request has been prepared by Finance staff and is ready for processing. Your approval of the request for funds is hereby requested as required.

**Suggested Motion:**

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$65,355.

February 15, 2018

Garland Erbele, P.E.  
North Dakota State Water Commission  
900 East Boulevard Avenue, Dept 770  
Bismarck, ND 58505-0850

Dear Garland,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #60 pursuant to the terms and conditions of House Bill 1020 for costs incurred from January 1, 2018 to January 31, 2018 on the Fargo-Moorhead Metropolitan Area Flood Risk Management Project. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$65,355.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$244,000,000	\$181,299,067	\$130,709	50%	\$65,355	\$62,635,578

**Project Narrative, this request:**

Project Number	Project Description
V02819	Pay Application #13 for WP 42F.1N 2 <sup>nd</sup> Street North, North of Pump Station

We certify that \$78,689,391 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of HB 1020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

The City of Fargo, Cass County Commission, and the Cass County Joint Water Resource Board have approved our request for funds as required in HB 1020. Copies of their approval letters are included.

If you have any questions relating to our request, please contact me directly.

Sincerely,



Kent Costin  
Director of Finance, City of Fargo  
Metro Flood Diversion Authority

**Required Local Approvals:**

\_\_\_\_\_  
City of Fargo

\_\_\_\_\_  
Cass County Commission


\_\_\_\_\_  
Cass County Joint Water Resource Dist.

**FM Metropolitan Area Flood Risk Management Project**  
**Summary of Cash Disbursements Eligible for SWC Funding**  
**January 2018**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-0000-206.10-00	1/25/2018	284506	INDUSTRIAL BUILDERS INC	93,203.50	185032 Retainage	V02819	2ND ST N FLOODWALL
790-0000-206.10-00	1/25/2018	284506	INDUSTRIAL BUILDERS INC	6,796.50	185033 Retainage	V02819	2ND ST N FLOODWALL
790-0000-206.10-00	1/25/2018	284506	INDUSTRIAL BUILDERS INC	(10,362.57)	CITY OF FARGO'S SHARE OF PROJ	V02819	2ND ST N FLOODWALL
			<b>Total Retainage</b>	<b>89,637.43</b>			
790-7950-429.73-52	1/25/2018	284506	INDUSTRIAL BUILDERS INC	53,806.01	WORK PKG 42F-1N	V02819	2ND ST N FLOODWALL
790-7950-429.73-52	1/25/2018	284506	INDUSTRIAL BUILDERS INC	(12,734.26)	CITY OF FARGO'S SHARE OF PROJ	V02819	2ND ST N FLOODWALL
			<b>Total ND Construction - Flood Control</b>	<b>41,071.75</b>			
			<b>Total Expense for Period</b>	<b>130,709.18</b>			

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**TO: BOARD OF CITY COMMISSIONERS**

**FROM: KENT COSTIN, DIRECTOR OF FINANCE** 

**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**

**DATE: February 15, 2018**

The existing legislation in place for State Water Commission funding related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project requires that the Fargo City Commission, Cass County Commission, and the Cass Water Resource Board approve all payment reimbursement requests prior to their submission and ultimate payment.

The attached reimbursement request has been prepared by Finance staff and is ready for processing. Your approval of the request for funds is hereby requested as required.

As requested previously by the City Commission, the costs related to the Oxbow Hickson Bakke levee are being presented separately from the rest of the Metro Flood Diversion expenses. This request includes only the OHB levee related costs for January 2018.

**Suggested Motion:**

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$780,105.

February 15, 2018

Garland Erbele, P.E.  
North Dakota State Water Commission  
900 East Boulevard Avenue, Dept 770  
Bismarck, ND 58505-0850

Dear Garland,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #61 pursuant to the terms and conditions of House Bill 1020 for costs incurred on the OHB Levee project from January 1, 2018 to January 31, 2018. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$780,105.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$244,000,000	\$181,364,422	\$1,560,210	50%	\$780,105	\$61,855,473

**Project Narrative, this request:**

Project Number	Project Description
V03801	Pay Application #4 for WP 42E.2E – Schnell Drive & Oxbow Country Club Removals
V04401	Pay Application #4 for WP 43CD – OHB Ring Levee Phases C and D

We certify that \$78,689,391 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of HB 1020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

The City of Fargo, Cass County Commission, and the Cass County Joint Water Resource Board have approved our request for funds as required in HB 1020. Copies of their approval letters are included.

If you have any questions relating to our request, please contact me directly.

Sincerely,



Kent Costin  
Director of Finance, City of Fargo  
Metro Flood Diversion Authority

**Required Local Approvals:**

\_\_\_\_\_  
City of Fargo

\_\_\_\_\_  
Cass County Commission

\_\_\_\_\_  
Cass County Joint Water Resource Dist.

**FM Metropolitan Area Flood Risk Management Project**  
**Summary of Cash Disbursements Eligible for SWC Funding**  
**January 2018 - OHB Levee Related Costs**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-0000-206.10-00	1/25/2018	284558	SCHMIDT AND SONS CONSTRUCTION INC	9,418.70	Retainage PO 193314	V03801	DEMO SCHNELL DR & OCC
790-0000-206.10-00	1/25/2018	284522	MEYER CONTRACTING INC	0.35	Retainage PO #194201	V04401	OHB RING LEVEE PHASES C&D
			<b>Total Retainage</b>	<b>9,419.05</b>			
790-7930-429.73-20	1/25/2018	284558	SCHMIDT AND SONS CONSTRUCTION INC	66,130.00	SCHNELL DR/OXBOW CC DEMO	V03801	DEMO SCHNELL DR & OCC
			<b>Total LERRDS - North Dakota - Site Improvements</b>	<b>66,130.00</b>			
790-7952-429.73-52	1/25/2018	284522	MEYER CONTRACTING INC	1,484,660.50	OHB RING LEVEE	V04401	OHB RING LEVEE PHASES C&D
			<b>Total O/H/B Construction - Flood Control</b>	<b>1,484,660.50</b>			
			<b>Total Expense for Period</b>	<b>1,560,209.55</b>			



35W

**This application is for the Class or Classes of Licenses checked:**

- ☐ Class A Authorizes the licensee to sell "on-sale" only.
- ☐ Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- ☒ Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- ☐ Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- ☐ Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- ☐ Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- ☐ Class D Authorizes the licensee to sell beer "off-sale" only.
- ☐ Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- ☐ Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- ☐ Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- ☐ Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

- ( ) Class G Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.
- ( ) Class H Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.
- ( ) Class I Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.
- ( ) Class I Entertainment Authorizes the Licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.
- ( ) Class J Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
- ( ) Class L Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.
- ( ) Class M Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.
- ( ) Class N Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.
- ( ) Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- ( ) Class P Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.
- ( ) Class RZ-V Authorizes the licensee to sell "on-sale" only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The Venue must derive 60% or more of its annual gross receipts from the sale of tickets.
- ( ) Class W Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.
- ( ) Class Y Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.
- ( ) Class Z Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

Intent to transfer (sell) AB-11 Liquor License

Mom's Kitchen, Inc. has intent to sell the furniture, fixtures, and equipment used in the operation of a restaurant & bar located at 1322 Main Avenue to DeNeske Enterprises Inc. (as the buyer). Mom's Kitchen, Inc. has intent to transfer (sell) the AB-11 liquor license to the same buyer within the 1<sup>st</sup> calendar quarter of 2018.

Dated December 22, 2017

A handwritten signature in dark ink, appearing to read 'Richard Nymark', written in a cursive style.

Richard Nymark (President)

Mom's Kitchen, Inc.

**The following section to be completed by the applicant:**

**ALL APPLICANTS** must initial #1 - #9 and sign in the space provided below.

1. DBD SRB All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. DBD SRB I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. DBD SRB If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. DBD SRB I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. DBD SRB I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. DBD SRB I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. DBD SRB I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. DBD SRB I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. DBD SRB I understand that the license will expire on June 30 of each year and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: David Geske Signature: [Signature]

Applicant printed name: DOUGLASE Deminck Signature: [Signature]

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

**Applicant Information:** (2 pages)

Name: DOUGLAS EUGENE DeMinck  
 (first) (middle) (last) (maiden name)

Address: 1834 3rd St N. FARGO N.D. 58102  
 (address) (city) (state & zip)

How long have you lived at this address? 31 YEARS

Provide your address history for the past 5 years:

From 1986 to 2017 Address: 1834 3rd St N. FARGO, N.D. 58102

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: DOUG DeMinck@G-MAIL.COM

Home phone number: (\_\_\_\_) \_\_\_\_\_ Other number: (701) 306-0753

Date of Birth: 7/22/58 Place of Birth: ONTARIO, OREGON

List each driver's license you have ever had and the state of issue:

DL#: DEM-58-3065 State of Issue: ND Dates: 1974

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? X Yes \_\_\_\_\_ No If "yes," where and when.

DUI - 23 YEARS AGO BECKER COUNTY, MN

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?

X Yes NO No If "yes," where and when?

SAME AS ABOVE

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes X No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? X Yes \_\_\_\_\_ No

If "yes", provide the date of arrest, location, charge of each conviction.

SAME AS ABOVE

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

OWNED THE NESTON TAVERN LICENSE (AB) FOR 12 YEARS  
SOLD DEC 1, 2017

Have any of the above named licenses ever been suspended or revoked? \_\_\_\_ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2005 to 2017 Business name: NESTON TAVERN

Address: 1001 N.R. Ave Position/Title: OWNER - PRESIDENT

From: \_\_\_\_ to \_\_\_\_ Business name: \_\_\_\_

Address: \_\_\_\_ Position/Title: \_\_\_\_

From: \_\_\_\_ to \_\_\_\_ Business name: \_\_\_\_

Address: \_\_\_\_ Position/Title: \_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
\_\_\_\_ Yes ☒ No If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?  
☒ Yes \_\_\_\_ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?  
☒ Yes \_\_\_\_ No If "yes", describe below: OWNER NESTON TAVERN (12 YRS) SALESMAN FOR BUDWISER WHOLESALE (13 YRS) SALESMAN BARRER O FUN WHOLESALE (11 YRS) ALL CARLING ON BARS AND RESTAURANTS PURCHASING AGENT HOLIDAY IN (5 YRS) WITH BEER AND LIQUOR RESPONSABILITIES  
Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Operator/Manager Information**

Are you going to operate/manage this business personally?

X Yes \_\_\_\_\_ No If "no", who will operate/manage it?

Name:

\_\_\_\_\_  
(first)

\_\_\_\_\_  
(middle)

\_\_\_\_\_  
(last)

\_\_\_\_\_  
(maiden name)

Address:

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(city)

\_\_\_\_\_  
(state & zip)

Home phone number: (\_\_\_\_) \_\_\_\_\_ Other number (\_\_\_\_) \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

(**Important:** The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)



**Applicant Information:** (2 pages)

Name: David Paul Geske  
                     (first)                    (middle)                    (last)                    (maiden name)

Address: 2611 N. River Dr moorhead MN 56560  
                     (address)                    (city)                    (state & zip)

How long have you lived at this address? 7 years

Provide your address history for the past 5 years:

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: pack1package@midconetwork.com

Home phone number: (701) 261-8736 Other number: (\_\_\_\_) \_\_\_\_\_

Date of Birth: 5-5-61 Place of Birth: Fargo

List each driver's license you have ever had and the state of issue:

DL#: \_\_\_\_\_ State of Issue: N.D. Dates: 1976 - 2000

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: 2010 - present

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes ☒ No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in: City of West Fargo & State of N.D. Off Sale  
Liquor licenses

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2013 to Present Business name: Family Fare Liquors

Address: 1100 13<sup>th</sup> Ave S. W.F. Position/Title: Liquor manager

From: 2004 to 2013 Business name: Packers Package

Address: 1100 13<sup>th</sup> Ave S. W.F. Position/Title: Owner

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
☐ Yes ☒ No If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?  
☐ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?  
☒ Yes ☐ No If "yes", describe below:

I owned and ran Packers Package an off sale in West Fargo for 9 years before selling the business to Nash Finch Corp. I am now manager of the business  
Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Operator/Manager Information**

Are you going to operate/manage this business personally?

~~Yes~~ Yes \_\_\_\_\_ No \_\_\_\_\_ If "no", who will operate/manage it?

Name:

\_\_\_\_\_  
(first)

\_\_\_\_\_  
(middle)

\_\_\_\_\_  
(last)

\_\_\_\_\_  
(maiden name)

Address:

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(city)

\_\_\_\_\_  
(state & zip)

Home phone number: (\_\_\_\_) \_\_\_\_\_ Other number (\_\_\_\_) \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

(**Important:** The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

### Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

We are taking over an existing business with a good track record of 35 years in business. We do not intend to change the business in anyway.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons:

We will have monthly meeting with our staff to emphasize that we will not tolerate the over-serving of anyone. Also it will be mandatore to have a servers training card before they can begin employment. If we cannot control a intoxicated or disorderly customer we will call Fargo P.D. for assitance.

Safety and security issues, including crowd control:

We will always have a manager on duty with ample staff to make sure all of our customers and staff are safe & secure at all times. On occasions of a speical event we will have security at the Door.

Minors on the premises, including consumption by minors:

Minors will not be permitted on the Tailgaters side. If we do find a minor consuming alcohol we will contact Fargo P.D. ~~and~~ immediately so they can come arrest the person. Once again at our monthly meeting we will emphasize the importance of checking ID's correctly.

Noise concerns, especially from nearby residences of other businesses:

Shauld have no concerns with noise. Any outdoor activillies will abid with city ordnances.

Do you plan to feature live entertainment? ☒ Yes ☐ No If "yes", describe what you envision at the time, including how often such entertainment will take place.

Would like to continue the outdoor entertainment during the summer months on our patio.

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## APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): FSB Associates, LLC

Doing business as: ~~FSB~~ SALON

Business address (location): 506 Broadway North

Mailing address: 4265 45<sup>th</sup> St. S. Fargo, ND 58104

Business e-mail address: derickson@bulldogtap.com

Phone number: (701) 866-2124 Other number: ( )

**The following section to be completed by City Staff:**

Date Received by Auditor's Office: 1/19/18

Investigations Fee Paid (\$250) ☒ Yes ☐ No Date Paid: 1/19/18 Check # Council Cr

Reviewed – Police Department by: \_\_\_\_\_ Date: \_\_\_\_\_

Comments (or see attached report):

\_\_\_\_\_ Approval Recommendation

\_\_\_\_\_ Denial Recommendation

\_\_\_\_\_  
Chief of Police

\_\_\_\_\_  
Date

Reviewed – Liquor Control Committee on (date): \_\_\_\_\_

\_\_\_\_\_ Approval Recommendation

\_\_\_\_\_ Denial Recommendation

(See attached comments or minutes)

Reviewed – City Commission on (date): \_\_\_\_\_

\_\_\_\_\_ Approval

\_\_\_\_\_ Denial

**This application is for the Class or Classes of Licenses checked:**

- ☒ Class A Authorizes the licensee to sell "on-sale" only.
- ☐ Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- ☐ Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- ☐ Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- ☐ Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- ☐ Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- ☐ Class D Authorizes the licensee to sell beer "off-sale" only.
- ☐ Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- ☐ Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- ☐ Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- ☐ Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.

( ) Class H

Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.

( ) Class I

Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.

( ) Class I Entertainment

Authorizes the Licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.

( ) Class J

Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.

( ) Class L

Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.

( ) Class M

Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.

( ) Class N

Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.

( ) Class O

Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.

( ) Class P

Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.

( ) Class RZ-V

Authorizes the licensee to sell "on-sale" only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The Venue must derive 60% or more of its annual gross receipts from the sale of tickets.

( ) Class W

Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.

( ) Class Y

Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.

( ) Class Z

Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

**The following section to be completed by the applicant:**

**ALL APPLICANTS** must initial #1 - #9 and sign in the space provided below.

1. DE All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. DE I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. DE If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. DE I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. DE I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. DE I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. DE I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. DE I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. DE I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: David Erickson Signature: 

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_





List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in: Dilworth Liquor License - Red Hen Taphouse

Moorhead Liquor License - Dave's Southside Tap  
FARGO Liquor License - Bulldog Tap + Hennessys Irish Pub

Have any of the above named licenses ever been suspended or revoked?      Yes X No

If "yes", list the dates and reasons for the suspensions or revocations:

NA

List your employment/business history for the past 7-year period:

From: 08 to Present Business name: Dave's Southside Tap

Address: 803 Belsky Blvd #100 Moorhead Position/Title: Owner / President

From: 10 to Present Business name: Bulldog Tap

Address: 426 45th St. S. Fargo, ND 58104 Position/Title: Owner / President

From: 13 to Present Business name: Red Hen Taphouse

Address: 1710 Center Ave #138 Dilworth, MN Position/Title: Owner / President

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

X Yes      No If "yes", list each business below: Bulldog Tap - FARGO; Hennessys - FARGO;  
Dave's Southside Tap - Moorhead; Red Hen Taphouse - Dilworth

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

     Yes X No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?

X Yes      No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Operator/Manager Information**

Are you going to operate/manage this business personally?

☒ Yes ☐ No If "no", who will operate/manage it?

Name:

\_\_\_\_\_  
(first) (middle) (last) (maiden name)

Address:

\_\_\_\_\_  
(address) (city) (state & zip)

Home phone number: (\_\_\_\_) \_\_\_\_\_ Other number (\_\_\_\_) \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

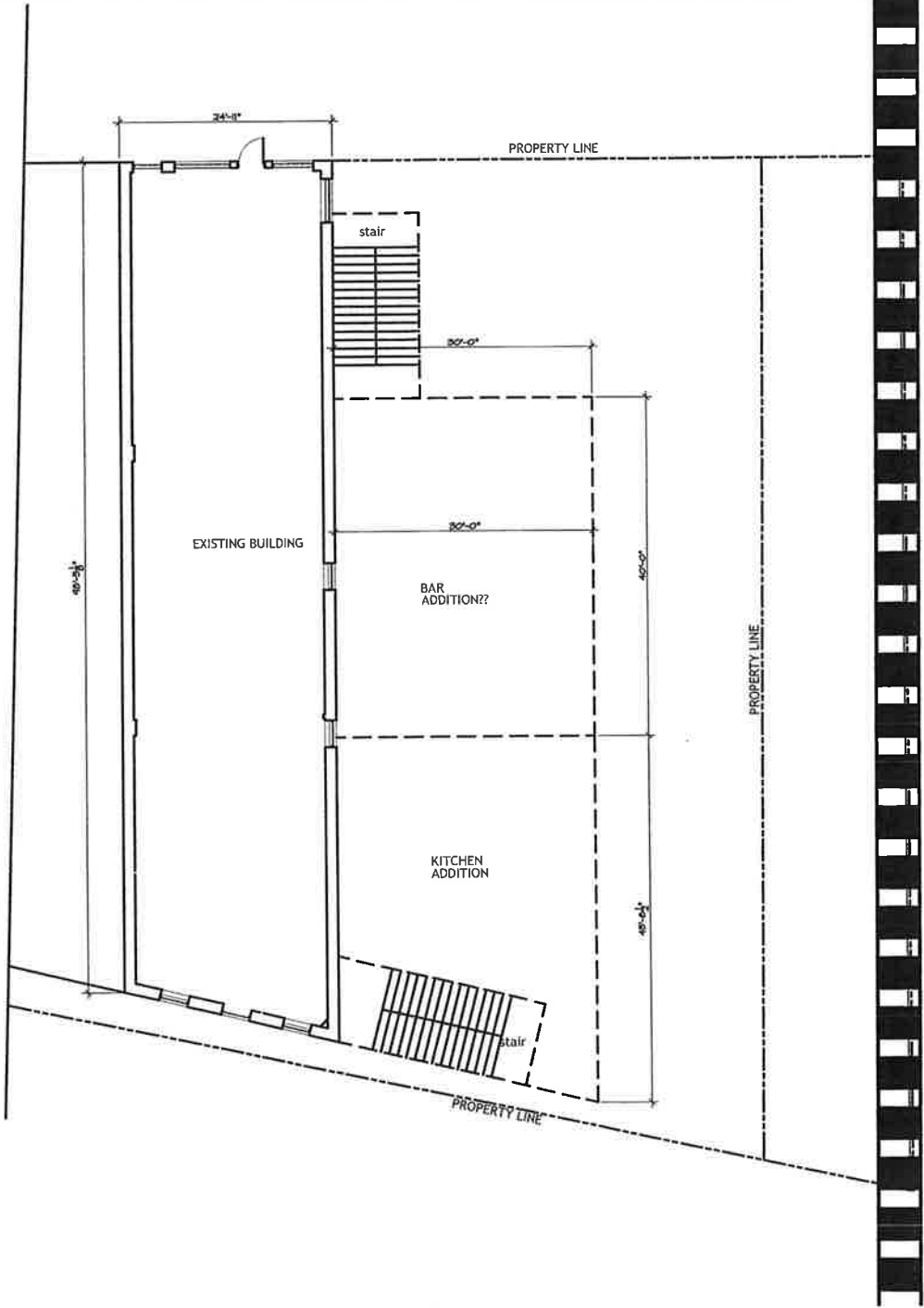
**(Important:** The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

**Business Site Plan**

On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

506  
Broadway



### Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

Sports Bar with full Kitchen on first level with small outdoor patio on adjacent lot and private party space on second level.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons:

All staff will be required to attend the FM Coalitions server training course. Along with this, there will be additional training on a monthly basis.

Safety and security issues, including crowd control:

Security will be at all entrances to control crowd size and customer safety issues. There will be a one strike rule. A list will be kept of all violators.

Minors on the premises, including consumption by minors:

All minors will be required to leave at 9pm. Security and staff will check all ID's at this point.

Noise concerns, especially from nearby residences of other businesses:

Located on the train tracks, so shouldn't be a concern

Do you plan to feature live entertainment? ☒ Yes ☐ No If "yes", describe what you envision at the time, including how often such entertainment will take place.

Live Music 2-4 times a month.

What is your total **business** indebtedness for the entity, excluding lease costs? \$ 1,000,000

Does any one creditor represent more than 10% of that sum? ☒ Yes ☐ No

If "yes", list each creditor below. (Total must equal 100%)

Name	Address	Phone #	% Owed
First Community Credit Union	4521 19th Ave S. Fargo	701-282-9011	70 %
_____	_____	_____	_____
_____	_____	_____	_____

Have you ever filed a petition of bankruptcy? ☐ Yes ☒ No

If "yes", when and what were the circumstances?

**Please list at least three business references:**

Name	Address	Phone #
Sysco ND	3025 12th Ave N. Fargo	701-293-8900
Coca Cola	2000 1st Ave N. Moorhead	218-236-7165
Beverage Wholesalers	701 4th Ave N. Fargo	701-293-7404

Is this application for a motel or hotel with 100 or more guest rooms? ☐ Yes ☒ No

Is this application for a lodge or club? ☐ Yes ☒ No

If "yes", number of members in good standing NA

Date of organization incorporation NA



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## APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

**Company name (LLC, Inc):** Cash Wise Liquor, LLC

**Doing business as:** Cash Wise Liquor

**Business address (location):** 4985 Timber Parkway S, Fargo, ND 58103

**Mailing address:** PO Box 6146, St. Cloud, MN 56302

**Business e-mail address:** joyce.schmidt@cobornsinc.com

**Phone number:** ( 320 ) 252-4222 (corp) **Other number:** (      )                       
(location phone # not available yet)

**The following section to be completed by City Staff:**

**Date Received by Auditor's Office:** 1-16-18

**Investigations Fee Paid (\$250)**   X   Yes      No **Date Paid:** 1-16-18 **Check #** 6885

**Reviewed – Police Department by:**                                      **Date:**                     

**Comments (or see attached report):**

     **Approval Recommendation**

     **Denial Recommendation**

    
**Chief of Police**

    
**Date**

**Reviewed – Liquor Control Committee on (date):**                                     

     **Approval Recommendation**

     **Denial Recommendation**

(See attached comments or minutes)

**Reviewed – City Commission on (date):**                                     

     **Approval**

     **Denial**



**This application is for the Class or Classes of Licenses checked:**

- ☐ Class A Authorizes the licensee to sell "on-sale" only.
- ☐ Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☒ Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- ☐ Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- ☐ Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- ☐ Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- ☐ Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- ☐ Class D Authorizes the licensee to sell beer "off-sale" only.
- ☐ Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- ☐ Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- ☐ Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- ☐ Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

- Class G** Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.
- ( ) **Class H** Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.
- ( ) **Class I** Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.
- ( ) **Class I Entertainment** Authorizes the Licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.
- ( ) **Class J** Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
- ( ) **Class L** Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.
- ( ) **Class M** Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.
- ( ) **Class N** Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.
- ( ) **Class O** Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- ( ) **Class P** Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.
- ( ) **Class RZ-V** Authorizes the licensee to sell "on-sale" only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The Venue must derive 60% or more of its annual gross receipts from the sale of tickets.
- ( ) **Class W** Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.
- ( ) **Class Y** Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.
- ( ) **Class Z** Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

## The following section to be completed by the applicant:

**ALL APPLICANTS** must initial #1 - #9 and sign in the space provided below.

1. CNC All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. CNC I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. CNC If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. CNC I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. CNC I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. CNC I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. CNC I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. CNC I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. CNC I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: Christopher Coborn

Signature: Christopher Coborn

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

**Applicant Information:** (2 pages)

Name: Christopher Michael Coborn  
 (first) (middle) (last) (maiden name)

Address: 3104 Dunbar Road St. Cloud MN 56301  
 (address) (city) (state & zip)

How long have you lived at this address? 9 years

Provide your address history for the past 5 years:

From \_\_\_\_\_ to \_\_\_\_\_ Address: same as above

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: chris.coborn@cobornsinc.com

Home phone number: ( 320 ) 250-1467 (cell) Other number: (\_\_\_\_) \_\_\_\_\_

Date of Birth: 2/10/59 Place of Birth: Milwaukee, WI

List each driver's license you have ever had and the state of issue:

DL#: W363263658912 State of Issue: MN Dates: exp 2021

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes X No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes X No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes X No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☐ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 1974 to present Business name: Coborn's, Incorporated

Address: 1921 Coborn Blvd, St. Cloud, MN Position/Title: President/CEO

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

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

☒ Yes ☐ No If "yes", list each business below:

As a shareholder of Coborn's, Inc., which owns several retail liquor stores (see attached list of stores)

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

☒ Yes ☐ No If "yes", indicate where, when, and for whom below:

See attached list of stores

Do you have any current or prior management experience working for a business that sells or serves alcohol?

☒ Yes ☐ No If "yes", describe below:

As an officer of Coborn's, Inc., which owns and operates several retail liquor stores (see attached list)

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

### Operator/Manager Information

**Are you going to operate/manage this business personally?**

       Yes   X   No If "no", who will operate/manage it?

Name:

Timothy	Neil	Pausch	
(first)	(middle)	(last)	(maiden name)

**Address:**

649 Beech Lane	Moorhead	MN 56560
(address)	(city)	(state & zip)

Home phone number: ( 218 ) 790-4114 (cell) Other number ( )

Date of Birth: 9/25/61 Place of Birth: Breckenridge, MN

(**Important:** The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

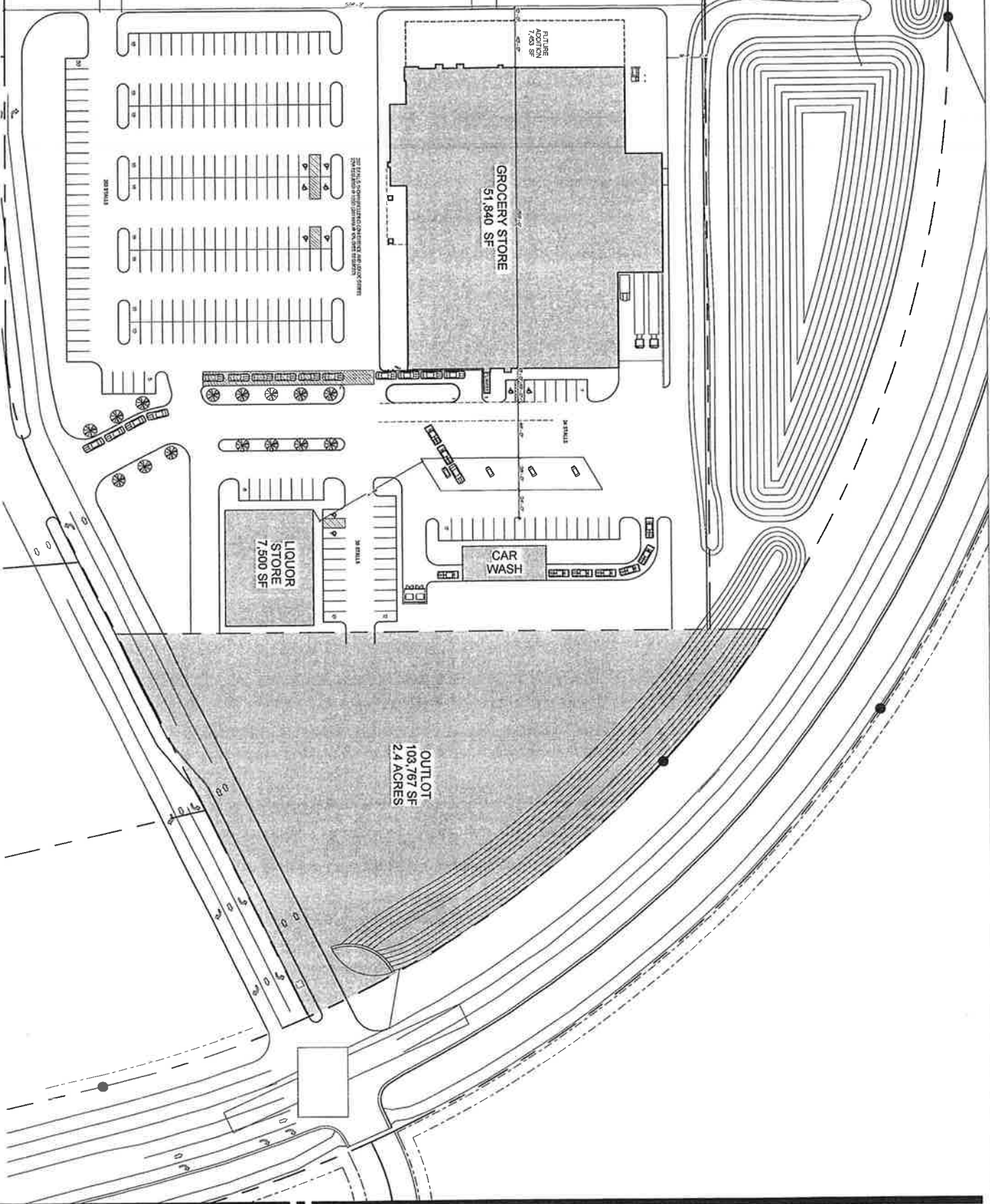
**Business Site Plan**

On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

**See attached**

SITE PLAN  
1" = 30' 0"



A101

OWNER: CASH WISE FOODS  
DESIGNED BY: RICE  
DATE: 10/1/17  
PROJECT NO: 2017-01

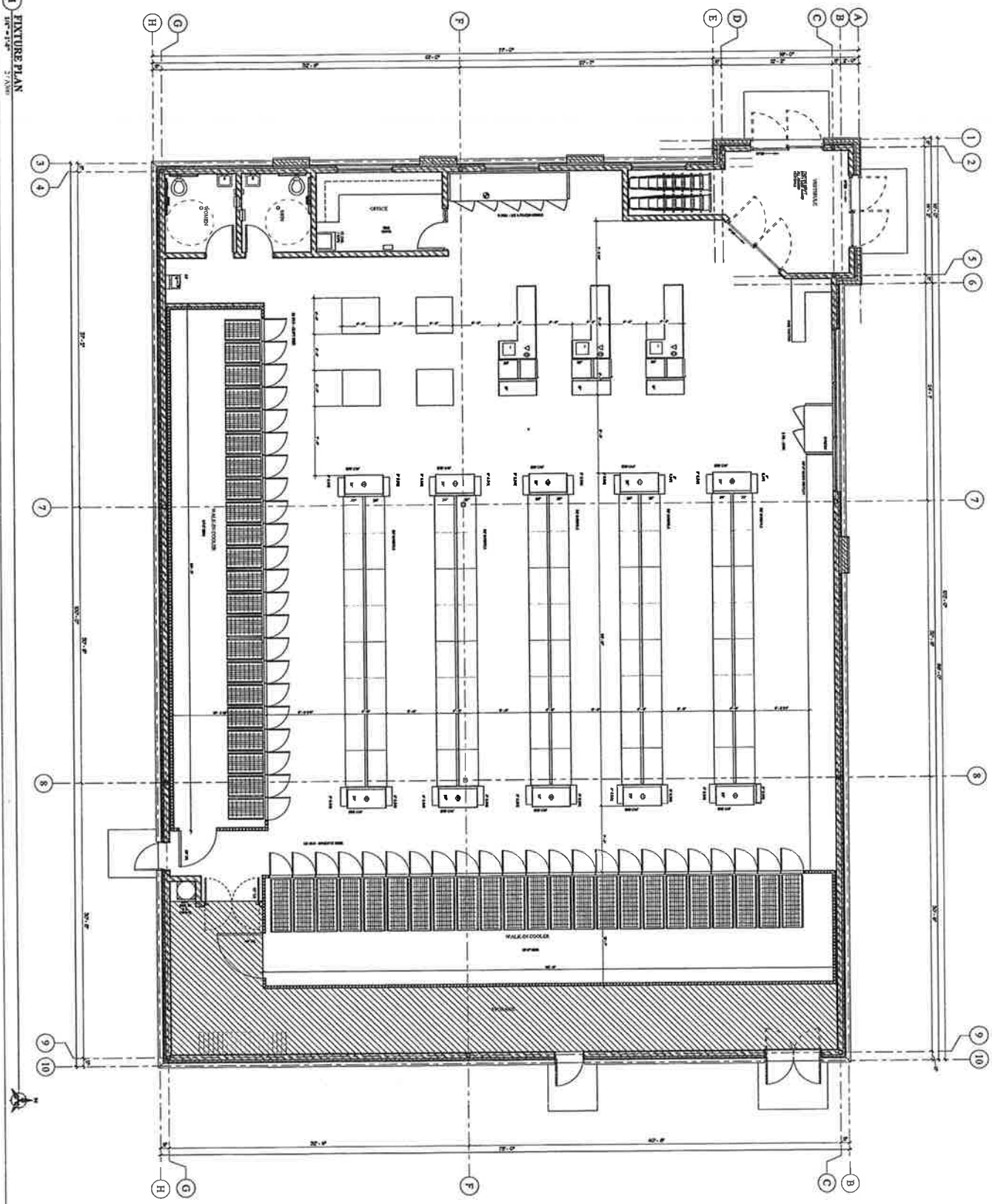
NOTES:  
1. THE SITE PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION.  
2. THE SITE PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION.

**RICE**  
ARCHITECTS  
1010 13th Avenue South  
Fargo, ND 58103  
701.785.1234  
www.ricearchitects.com

**CASH WISE FOODS**  
2017 GROCERY STORE  
SOUTH FARGO, ND



1 FUTURE PLAN  
REV: 10/18/18  
2/1/18



2

# CASH WISE LIQUOR

2017 LIQUOR STORE  
FARGO, ND



**RICE**  
Architectural & Construction  
1000 1st Avenue North  
Fargo, ND 58102  
701.785.1234  
www.ricearchitect.com

PROJECT NO. 2017-001  
DATE: 10/18/18  
DRAWN BY: J. RICE  
CHECKED BY: J. RICE  
PROJECT NAME: 2017 LIQUOR STORE  
FARGO, ND

AR201

### **Operational and Financial Issues**

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

Cash Wise Liquor, LLC, currently operates a 10800 sq ft liquor store on 34th St S. know as Cash Wise Liquor. Cash Wise Liquor, LLC intends to construct a new 7500 sq ft liquor store in South Fargo in the Timber Parkway area. The liquor store will be located near a new grocery store, but will comply with the 100' requirement. The new store will be compatible with the existing commercial development and businesses in the vicinity, will be convenient for the public, will utilize current vacant property, and will have a positive economic impact on the City of Fargo.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons:

Safety and security issues, including crowd control:

Minors on the premises, including consumption by minors:

Noise concerns, especially from nearby residences of other businesses:

Do you plan to feature live entertainment? \_\_\_\_\_ Yes \_\_\_\_\_ No If "yes", describe what you envision at the time, including how often such entertainment will take place.

35d

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Rocking Horse Farm Fifth Addition	<b>Date:</b>	12/27/2017
		<b>Updated:</b>	2/21/2018
<b>Location:</b>	5801 52 <sup>nd</sup> Avenue South and 4901 Veterans Boulevard South	<b>Staff Contact:</b>	Donald Kress, senior planner
<b>Legal Description:</b>	Portion of the SE 1/4 of Sec. 32, T139N, R49W and Lot 1, Block 4, Rocking Horse East 2 <sup>nd</sup> Addition		
<b>Owner(s)/Applicant:</b>	Rocking Horse Farms, LLC/Houston Engineering (Mike Love)	<b>Engineer:</b>	Houston Engineering
<b>Entitlements Requested:</b>	<b>Major Subdivision</b> (Portion of the SE 1/4 of Sec. 32, T139N, R49W, City of Fargo, Cass County, North Dakota and Lot 1, Block 4, Rocking Horse East 2 <sup>nd</sup> Addition ) <b>Zone Change</b> (from AG, Agriculture to SR-3, Single-Dwelling Residential and P/I, Public/Institutional)		
<b>Status:</b>	City Commission Public Hearing: February 26, 2018		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Residential
<b>Zoning:</b> AG, Agricultural	<b>Zoning:</b> SR-3, Single-Dwelling Residential and P/I, Public/Institutional
<b>Uses Allowed:</b> AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production	<b>Uses Allowed:</b> SR-3 Allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities P/I – Public and Institutional. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events.
<b>Maximum Density Allowed (Residential):</b> AG allows a maximum of 1 dwelling unit per 10 acres.	<b>Maximum Density Allowed:</b> SR-3 Allows 8.7 dwelling units per acre; P/I has no density or minimum lot coverage standard.

<b>Proposal:</b>
<p>The applicant requests two entitlements:</p> <ol style="list-style-type: none"> <li>1. A major subdivision, entitled <b>Rocking Horse Farm Fifth Addition</b>, a three block, 48 lot subdivision, which is a plat of a portion of the SE 1/4 of Sec. 32, T139N, R49W, City of Fargo, Cass County, North Dakota and Lot 1, Block 4, Rocking Horse East 2<sup>nd</sup> Addition</li> <li>2. A zoning change from AG, Agricultural to SR-3, Single-Dwelling Residential and P/I, Public/Institutional.</li> </ol> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: Single-dwelling residential with SR-2 zoning; and open space with P/I zoning.</li> <li>• East: (across Veterans Boulevard) Open space with P/I zoning and single-dwelling residential with SR-4 zoning.</li> <li>• South: Undeveloped with AG zoning</li> <li>• West: Commercial with GC, General Commercial zoning; single-dwelling residential with SR-2 zoning; and open space with P/I zoning.</li> </ul>

**Area Plans:**

The 2003 Southwest Future Land Use Plan, amended in 2014 as part of the Rocking Horse Farms Second Addition, designates the area of this project as "Low/Medium Density Residential", "Park/Open Space" and "Commercial". The proposed SR-3 and P/I zoning is consistent with this land use designation.

**Context:**

**Schools:** The subject property is located within the West Fargo School District and is served by Legacy Elementary, Liberty Middle and Sheyenne High schools.

**Neighborhood:** The subject property is located in the Osgood Neighborhood.

**Parks:** Veterans Park (4951 53rd Street South) is located approximately less than 650 feet east of the subject property and provides the amenities of a playground and of recreational trails.

**Pedestrian / Bicycle:** There are off-road bike facilities along Veterans Boulevard that are a component of the metro area bikeways system.

**Staff Analysis:****PLAT AND ZONE CHANGE**

The plat will create 48 lots in three blocks, including one lot to be owned by the Fargo Park District and two lots to be owned by the homeowners' association (HOA). zoned as shown in the chart below:

BLOCK	LOTS	ZONING	LAND USE
1	1	P/I	HOA-owned for private park
1	13	P/I	To be owned by Fargo Park District; includes detention basin
1	25	P/I	HOA-owned for sign
1	2-12 and 14-24	SR-3	Single-dwelling residential development
2	1-12	SR-3	Single-dwelling residential development
3	1-11	SR-3	Single-dwelling residential development

The SR-3 zoned single-dwelling lots range in size from 6,986 square feet to 11,606 square feet, with most lots being in the 6,000 to 8,000 square foot range. All these lots meet the minimum lot area requirement for the SR-3 zone of 5,000 square feet. The P/I zoned lots range in size from 13,062 square feet to 244,907 square feet. There is no minimum required lot area in the P/I zone.

**HOMEOWNERS' ASSOCIATION (HOA)-OWNED LOTS:** Staff is working with the applicant to create documentation that will clearly define the HOA's obligations to pay taxes on and maintain the HOA-owned lots, and to provide the City a course of action to continue to collect taxes and maintain these lots should the HOA fail to do so.

**ACCESS:** The lots will be accessed by way of dedicated public streets. Necessary rights of way will be dedicated with the plat. No private streets will be created by this plat.

**AMENITIES PLAN:** The amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC) and found to be satisfactory. A copy is attached.

**STORMWATER:** This subdivision is served by two existing stormwater ponds, plus will be served by a new pond created in Lot 26.

### **Zoning**

Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG, Agricultural. The proposed zoning of SR-3 and P/I are consistent with the 2003 Southwest Future Land Use Plan, amended in 2014 as part of the Rocking Horse Farms Second Addition designation of the area of this project as "low density residential" and "park/open space." **(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. Lots in the subdivision will front on dedicated public streets. The necessary rights of way for these streets will be dedicated with the plat. These streets will provide access and public utilities to serve the development. **(Criteria satisfied)**

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

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

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2003 Southwest Future Land Use Plan, amended in 2014 as part of the Rocking Horse Farms Second Addition; this plan designates this property as appropriate for lower to medium density residential development and park/open space, which would include the SR-3 and P/I zones. The project provides a gross density of approximately 2.6 dwelling units per acre, which does not exceed the maximum density of 8.7 dwelling units per acre allowed in the SR-3 zone. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

### **Subdivision**

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

**1. Section 20-0907(C)(1)(Development Review Procedures—Subdivisions—Major Subdivisions) of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**

The zoning for the development on this property is SR-3 and P/I. The SR-3 zone will accommodate the proposed single-family development and is consistent with the "low density residential" designation for this property in the 2003 Future Land Use Plan. P/I zoning, for publicly owned facilities such as stormwater detention basins, parks, and homeowners association amenity lots that cannot be developed as residential lots, is appropriate in any land use designation. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no comments or inquiries about the project.

**(Criteria Satisfied)**

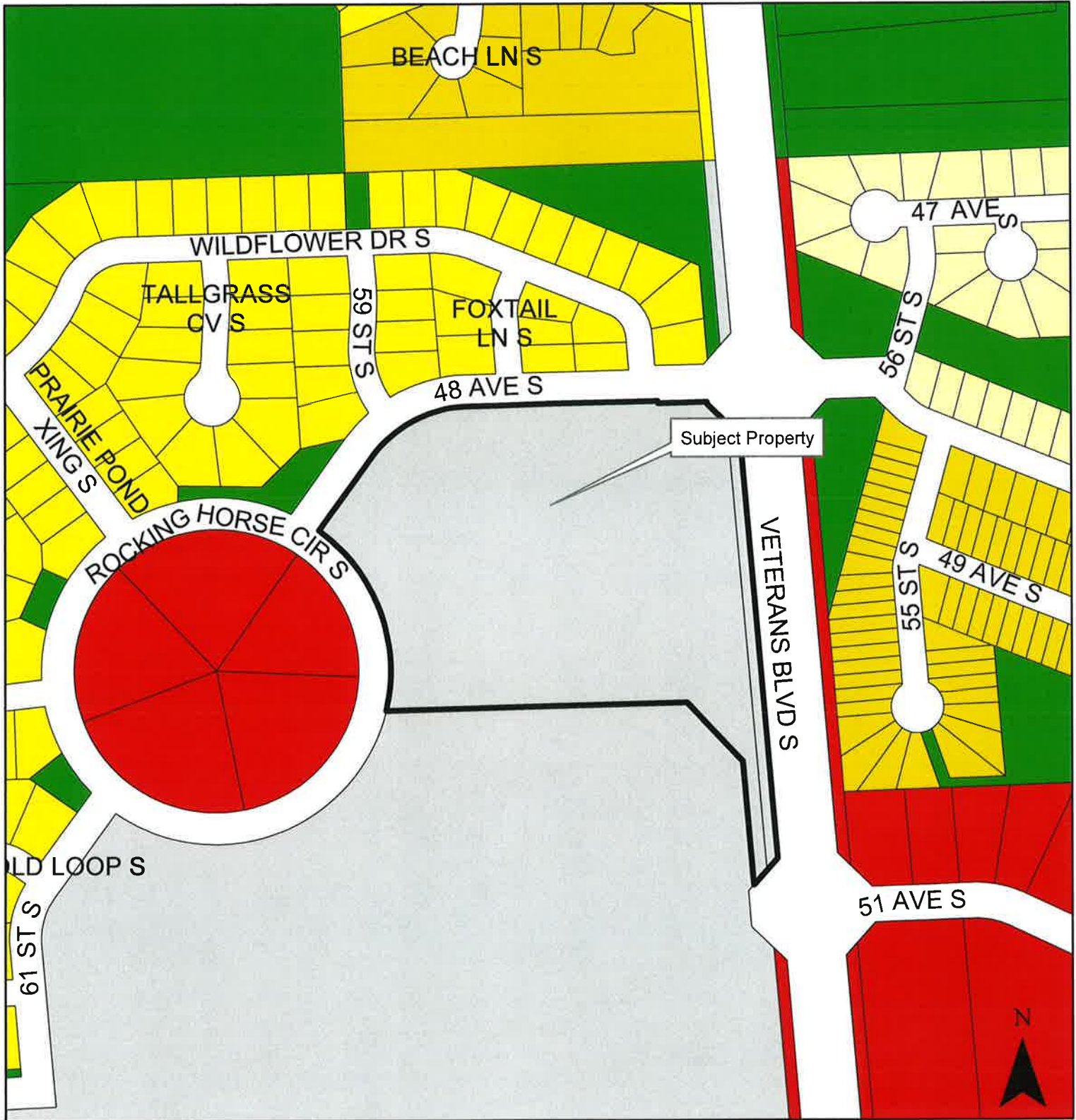
<p><b>2. Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.</b></p> <p>The proposed zoning is SR-3 and P/I. This zoning is consistent with the 2003 Southwest Future Land Use Plan, amended in 2014 as part of the Rocking Horse Farms Second Addition, which designates this property for lower to medium density residential development. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code.</p> <p><b>(Criteria Satisfied)</b></p> <p><b>3. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.</b></p> <p>The applicant has provided an amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC) and found to be satisfactory. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles.</p> <p><b>(Criteria Satisfied)</b></p>
<p><b>Planning Commission Recommendation: January 4, 2018</b></p>
<p>On January 4, 2018, by a vote of 9-0 with one Commissioner absent, the Planning Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) zone change from AG, Agricultural to SR-3, Single-Dwelling Residential and P/I, Public/Institutional; and 2) <b>Rocking Horse Farm Fifth Addition</b> subdivision plat as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2003 Southwest Future Land Use Plan as amended in 2014, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.</p>
<p><b>Staff Recommendation: February 26, 2018</b></p>
<p>Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and move to approve the proposed: 1) zone change from AG, Agricultural to SR-3, Single-Dwelling Residential and P/I, Public/Institutional; and 2) <b>Rocking Horse Farm Fifth Addition</b> subdivision plat as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2003 Southwest Future Land Use Plan as amended in 2014, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."</p>
<p><b>Attachments:</b></p>
<ol style="list-style-type: none"> <li>1. Zoning Map</li> <li>2. Location Map</li> <li>3. Preliminary Plat</li> <li>4. Zoning Exhibit</li> <li>5. Amenities Plan</li> </ol>



# Plat (Major) and Zone Change (AG to SR-3 & P/I)

## Rocking Horse Farm 5th Addition

5801 52nd Avenue South



AG	LC	MHP	SR-1
DMU	LI	NCI	SR-2
GC	MR-1	NO	SR-3
GI	MR-2	P/I	SR-4
GO	MR-3	UMU	SR-5

300  
Feet

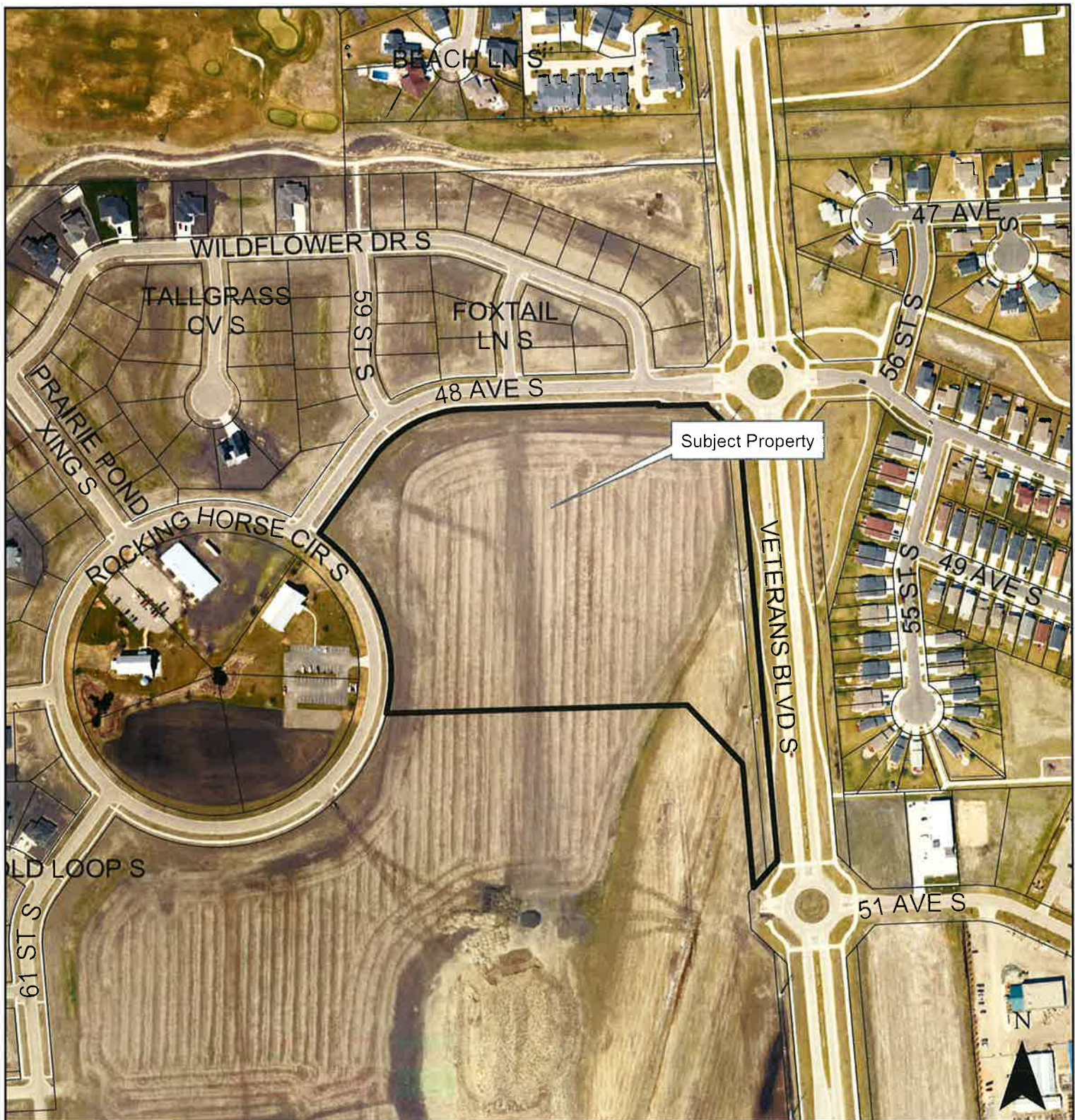
Fargo Planning Commission  
January 4, 2018



# Plat (Major) and Zone Change (AG to SR-3 & P/I)

## Rocking Horse Farm 5th Addition

5801 52nd Avenue South

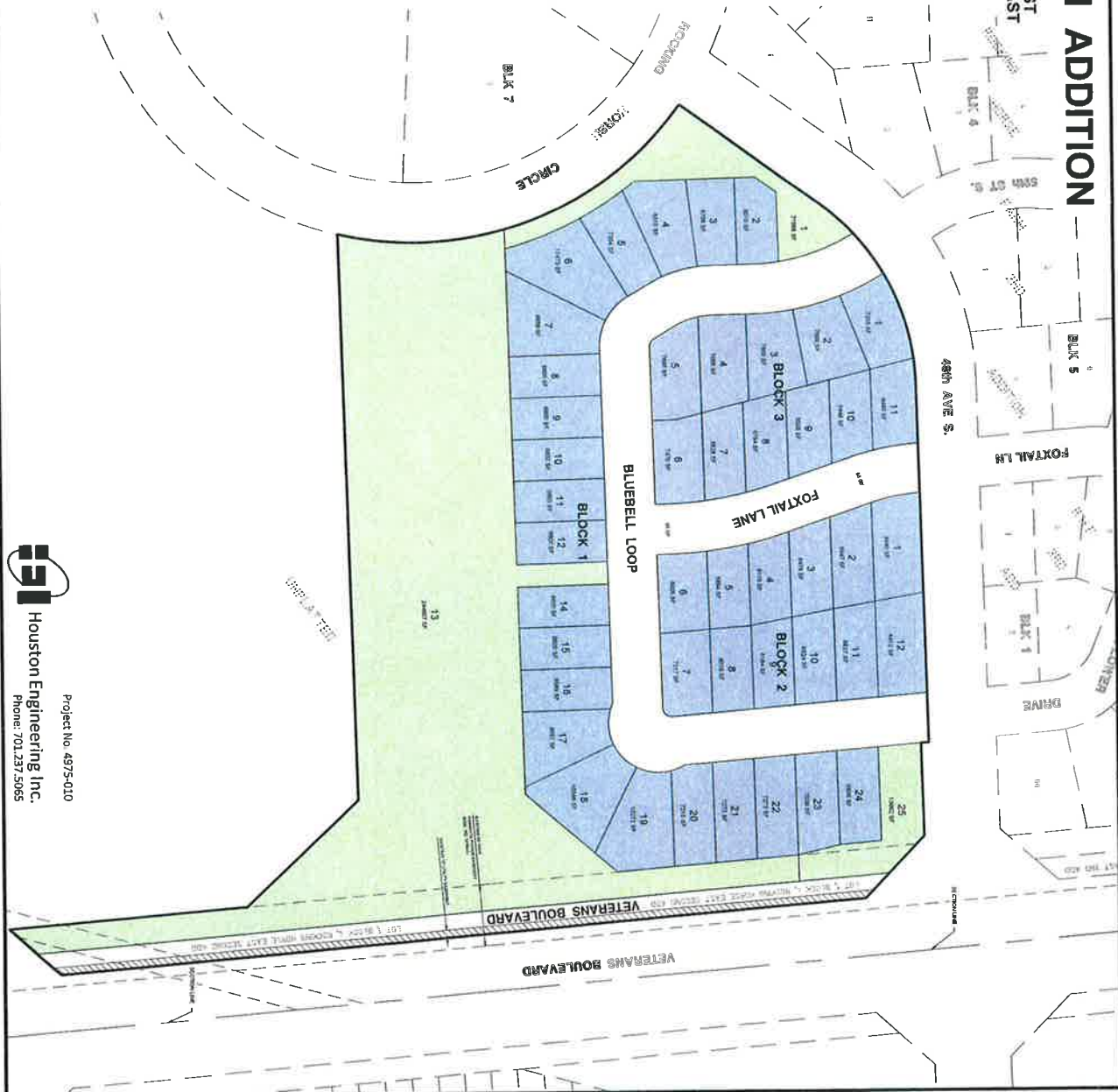




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**ROCKING HORSE FARM 5TH ADDITION**  
 A MAJOR PLAT  
 BEING A REPLAT OF LOT 1, BLOCK 4, ROCKING HORSE EAST  
 SECOND ADDITION, AND A PLAT OF PART OF THE SOUTHEAST  
 QUARTER OF SECTION 32, T.139 N., R.49 W., 5th P.M.  
 TO THE CITY OF FARGO,  
 CASS COUNTY, NORTH DAKOTA

**ZONING LEGEND**  
 P/J ZONING  
 SR-3 ZONING



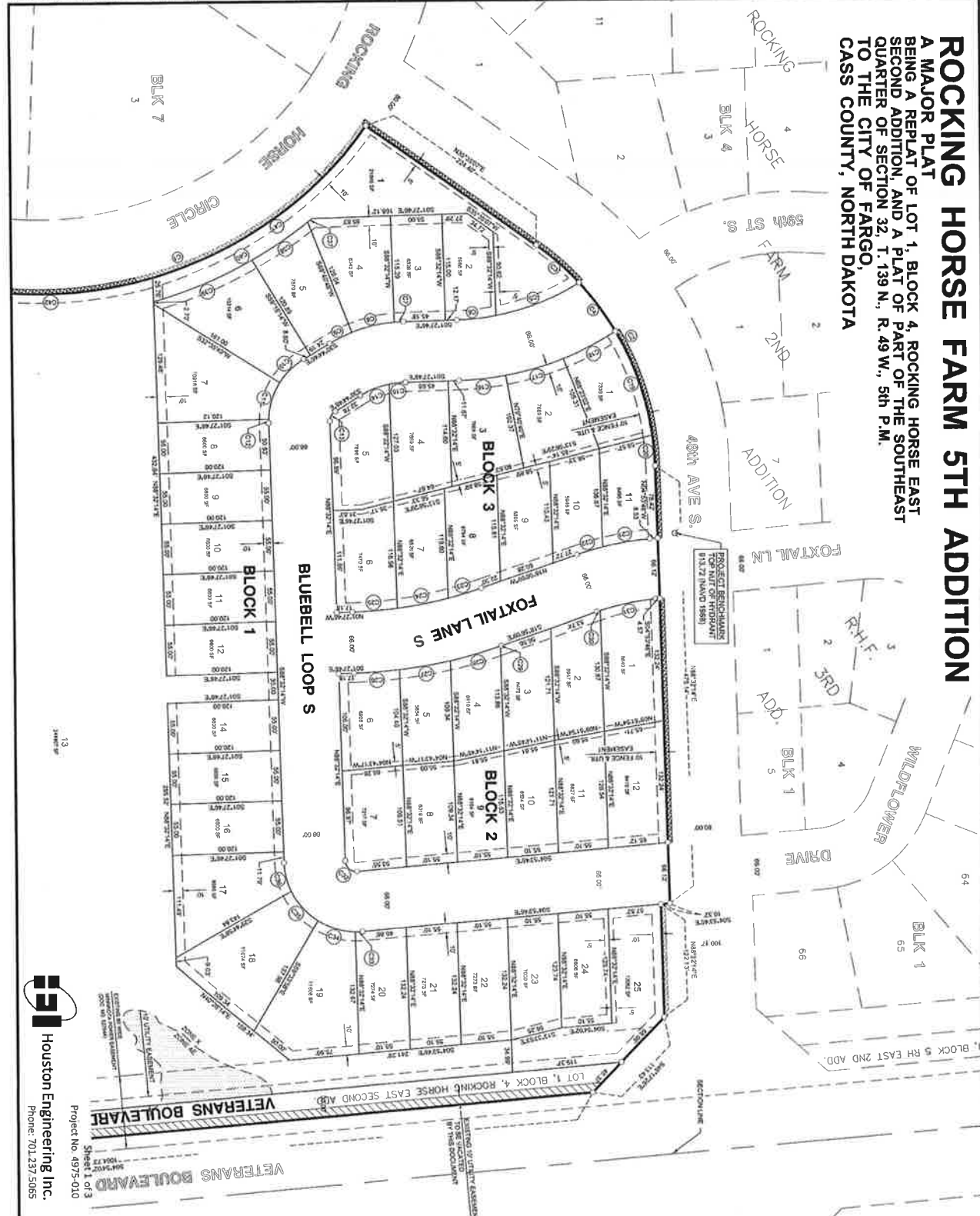
**HEI**  
 Houston Engineering Inc.  
 Project No. 4875-010  
 Phone: 701.237.5065





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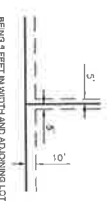
# **ROCKING HORSE FARM 5TH ADDITION** A MAJOR PLAT BEING A REPLAT OF LOT 1, BLOCK 4, ROCKING HORSE EAST SECOND ADDITION, AND A PLAT OF PART OF THE SOUTHEAST QUARTER OF SECTION 32, T.139 N., R.49 W., 5th P.M. TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



**Houston Engineering Inc.**  
Project No. 4975-010  
Sheet 1 of 3  
Phone: 701.237.5065

NOTE:  
1. PROPERTY IS PARTIALLY SITUATED IN ZONE AE  
AS SHOWN ON FEMA FIRM 17020C0201A  
2. ZONE AE BASE FLOOD ELEVATION = 565.7  
(FIRM 1988)

## **UTILITY EASEMENTS ARE SHOWN THUS**



LEGEND  
NON-VOLUNTARY FOUND  
1/2" 10" PIPE SET  
EXISTING NEGATIVE ACCESS  
NEGATIVE ACCESS  
BASEMENT TO BE VACATED  
BASEMENT TO BE VACATED  
100% FLOOD PLAIN  
(ZONE AE - ELEV. 602.7)  
BEARING SHOWN ARE BASED ON  
NEGATIVE ACCESS EASEMENT, ASSUMED ON  
THIS PLAT IS A BASEMENT DEDICATED AS  
ONE OF THE PORT COASTS DIRECTORIAL  
ACCESS TO A STREET OR PUBLIC WAY FROM  
OR WAY. THE NEGATIVE ACCESS EASEMENT IS  
NOT A STRIP OF LAND OF ANY CERTAIN WIDTH,  
BOUNDARY OF THE ADJACENT LOT OR LOTS.

**Site Amenities and  
Project Plan  
Rocking Horse Farm 5<sup>th</sup> Addition  
(1.3.18)**

**Location:** The subject property is legally referenced as lot 1, Block 4, Rocking Horse East Second Addition and an un-platted portion of the Southeast Quarter of Section 32, Township 139 North, Range 49 West, Cass County North Dakota. The platted acreage associated with Rocking Horse Farm 5<sup>th</sup> Addition comprises approximately 17.19 acres.

**Details:** The project includes 1 Park/Open Space lot, 2 Public/Institutional (HOA) lots, and 45 SR-3 zoned lots on three (3) blocks and is located south of 48<sup>th</sup> Avenue S and west of Veterans Boulevard. As approved, the project is intended to be developed as single family residential units, pursuant to the LDC. The overall gross density calculates at approximately 2.6 units per acre.

**Right of Way (ROW):** The project accommodates right of way dedications for public roadways and utilities, with specific details outlined below:

Veterans Boulevard: An additional 10 feet of right-of-way will be dedicated to the existing Veterans Boulevard roadway between 48<sup>th</sup> Ave S and 51<sup>st</sup> Ave S as part of the plat. The existing 4.5-foot wide sidewalk currently located within the west boulevard of the Veterans Boulevard right-of-way is planned to either be widened to 10 feet or replaced with a new 10-foot trail as part of the Rocking Horse Farm 5<sup>th</sup> Addition infrastructure improvements.

Bluebell Loop and Foxtail Lane: These segments have been designated as *local* roadways pursuant to §20.0702.

- ROW dedication for all roadways shall be 66 feet;
- Street widths shall be 30 feet with parking allowed on both sides of the street, with appropriate signage to be installed by the City of Fargo at which time public improvements are completed;
- Street lighting shall be determined by the City Engineering Department in cooperation with the developer and installed per city standards;
- 4.5-foot sidewalks shall be incorporated into the boulevards as required by §20.0611-1.

Other:

- Developer shall be responsible for coordinating the placement of a group mailbox, parking signage and street light locations with the City of Fargo Engineering Department. These details shall be determined and agreed upon prior to construction of any public improvements. Consideration to maintenance and snow removal for a group mailbox shall be outlined within restrictive covenants for the project.

**Storm Water Management:**

Storm Water Detention Facilities: All storm water quality requirements will be met by constructing an adequately sized on-site wet pond as required by the City of Fargo. The storm water quantity increase will be mitigated using a combination of both an on-site wet pond and utilizing additional capacity that was built into the Veterans Park Addition storm water pond and assessed to areas west of Veterans Boulevard. The on-site pond will be located on Lot 13, Block 1 of Rocking Horse

Farm 5<sup>th</sup> Addition. The existing Veterans Park Addition pond is located on Lot 59, Block 5 Veterans Park Addition.

- Lot 13, Block 1 shall be dedicated to the Park District. After plat recordation, developer shall provide a fee simple warranty deed to the Park District for these lots. All maintenance shall be the responsibility of the Park District, excluding any maintenance related to pond infrastructure (any outfalls or storm-sewer pipes within established easements dedicated to the City of Fargo).
- All lots abutting Park District property shall be required to discharge any sump water to the front yard or directly into rear yard storm drains and shall not be allowed to convey any water onto Park District property. In addition to inclusion within the Park Development Agreement, this provision shall also be specifically outlined within the restrictive covenants.

**Flood Protection:** Rocking Horse Farm 5<sup>th</sup> Addition will be protected from flooding with the following measures:

Internal Flooding: rainfall or spring event induced:

1. Storm sewer systems designed and installed to city standards;
2. Storm water detention facilities located on Lot 13, Block 1.

FEMA Floodplain Expansion: If applicable, residential building construction shall meet the requirements of the City of Fargo Floodplain Ordinance.

**Water Supply:** Potable water shall be provided by Cass Rural Water District.

**Engineering and Construction Improvements:** The owner/developer proposes to complete the design of all public and private improvements, inclusive of stormwater detention facilities, using an engineer of his/her choosing. Project design will be coordinated with City Engineering and shall comply with the latest version of the City of Fargo Standard Specifications for Construction. The owner/developer shall then rely upon and collaborate with the City of Fargo Engineering Department for the construction of all improvements.

**Funding of Improvements:** The following shall apply respective to assessed public improvements:

- As discussed with the City of Fargo Special Assessment Coordinator, all existing special assessment costs and all deferred special assessment costs, with the exception of the Veterans Park Addition stormwater detention pond assessments, shall be allocated on a square foot basis over the net developed land in the entire 64.5 acre unplatted property. The Veterans Park Addition stormwater detention pond assessments should be special assessed to the benefitting properties identified as “SE Pond” Subbasin which is outlined in blue on Exhibit A.
- Future special assessments for the completion of infrastructure for 51<sup>st</sup> Avenue South and Prairie Pond Crossing (south) are to be allocated on a square foot basis to the developed lands in the subject 64.5 acre parcel.

- The street and underground utility infrastructure construction costs associated with Bluebell Loop and Foxtail Lane shall be assessed to the benefitting properties pursuant to City policy.

**Property Owner Association:** Restrictive covenants shall provide for maintenance of entry signage, private storm water facilities, USPS cluster mailboxes, landscaping, any fencing installed by the developer and any non-public improvements or appurtenances not commonly associated with individual lot maintenance responsibilities, as applicable. Permanent development signage is currently planned for Lot 1 and 25, Block 1 as shown on the Rocking Horse Farm 5<sup>th</sup> Addition plat. All permanent signage shall meet LDC requirements. The Rocking Horse Farm 5<sup>th</sup> Addition homeowners association shall be responsible for the following:

- Lot 1, Block 1 (buffer lot): The association shall be responsible for all maintenance related to these buffer and signage lots which shall include: sidewalks, snow removal, green space, trees or other amenities that may be installed on this lot including development signage.

Note: The Rocking Horse Farm development sign and associated landscaping located on Lot 25, Block 1 shall be maintained by the Rocking Horse Farm 2<sup>nd</sup> Addition HOA.

**Park Dedication:** The Rocking Horse Farm 5<sup>th</sup> Addition plat establishes a 5.62 acre lot (Lot 13, Block 1) that will be transferred to the Fargo Park District after recordation of the plat. The developer shall provide a fee simple warranty deed after recordation of the plat to the Fargo Park District. At which point property conveyance is complete, the Fargo Park District shall assume all maintenance responsibilities as agreed to by the Fargo Park District.

**Trails:** The following trails will be constructed in conjunction with this project.

Park District: Lot 13, Block 1 will be dedicated to the Park District. As shown in Exhibit B, the Park District intends to construct a 10-foot shared use facility that provides connectivity between Veterans Boulevard and Rocking Horse Circle and a connection to Bluebell Loop. The 10-foot shared use paths will be maintained by the Park District. The Park District intends to design and bid a separate project for these improvements.

City of Fargo: As previously stated, the existing 4.5-foot sidewalks located in the west boulevard of Veterans Boulevard will either be widened to accommodate a 10-foot trail or it will be removed and replaced with a new 10-foot wide trail. This work will be completed as part of the Rocking Horse Farm 5<sup>th</sup> Addition infrastructure improvements.

The amenity plan is hereby approved:

\_\_\_\_\_  
Jan Promersberger, Jetland Properties LLC  
Developer

\_\_\_\_\_  
date

\_\_\_\_\_  
Kenneth L. Promersberger, Rocking Horse Farm LLC  
Owner

\_\_\_\_\_  
date

\_\_\_\_\_  
Mark Bittner, Director of Engineer

\_\_\_\_\_  
date



EXHIBIT A

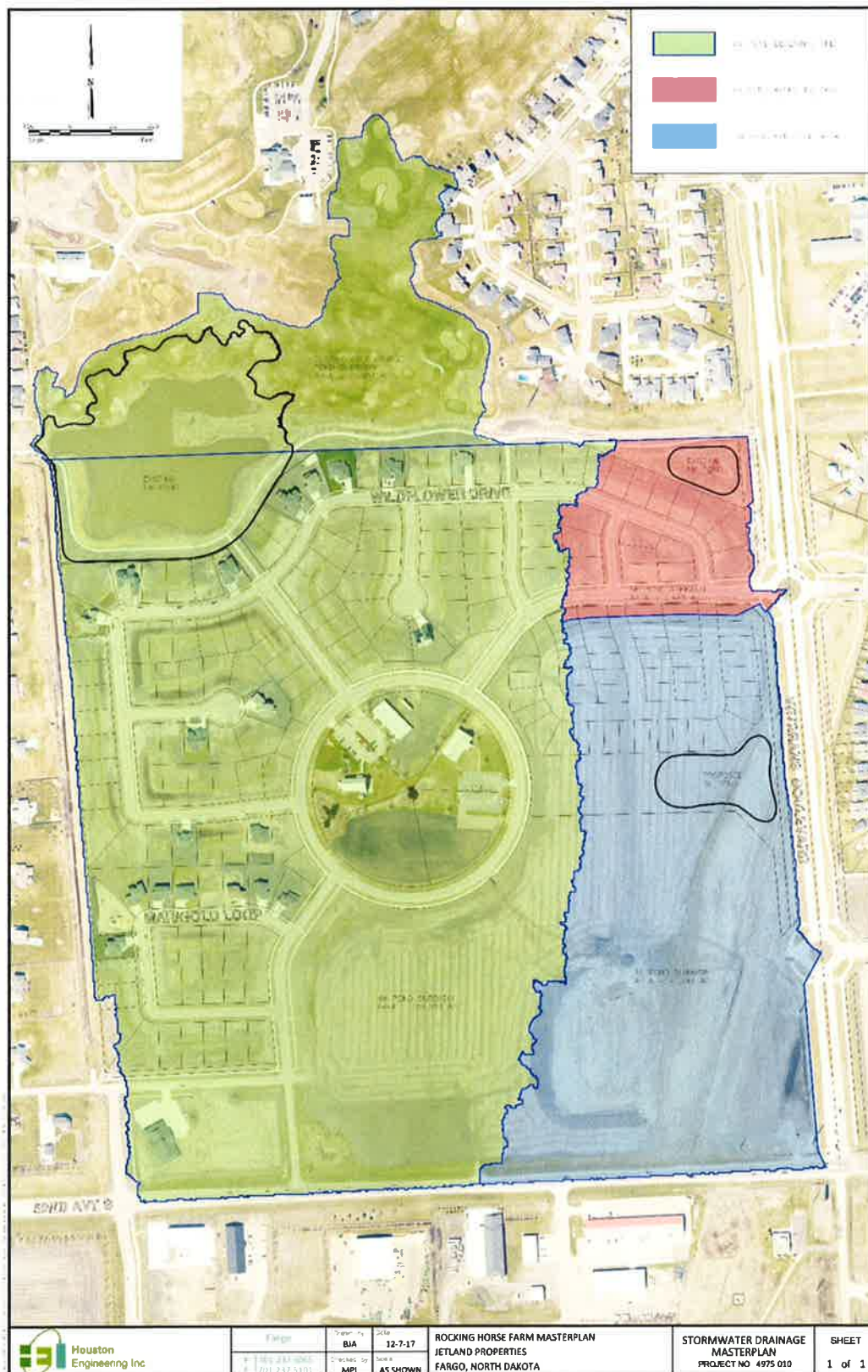
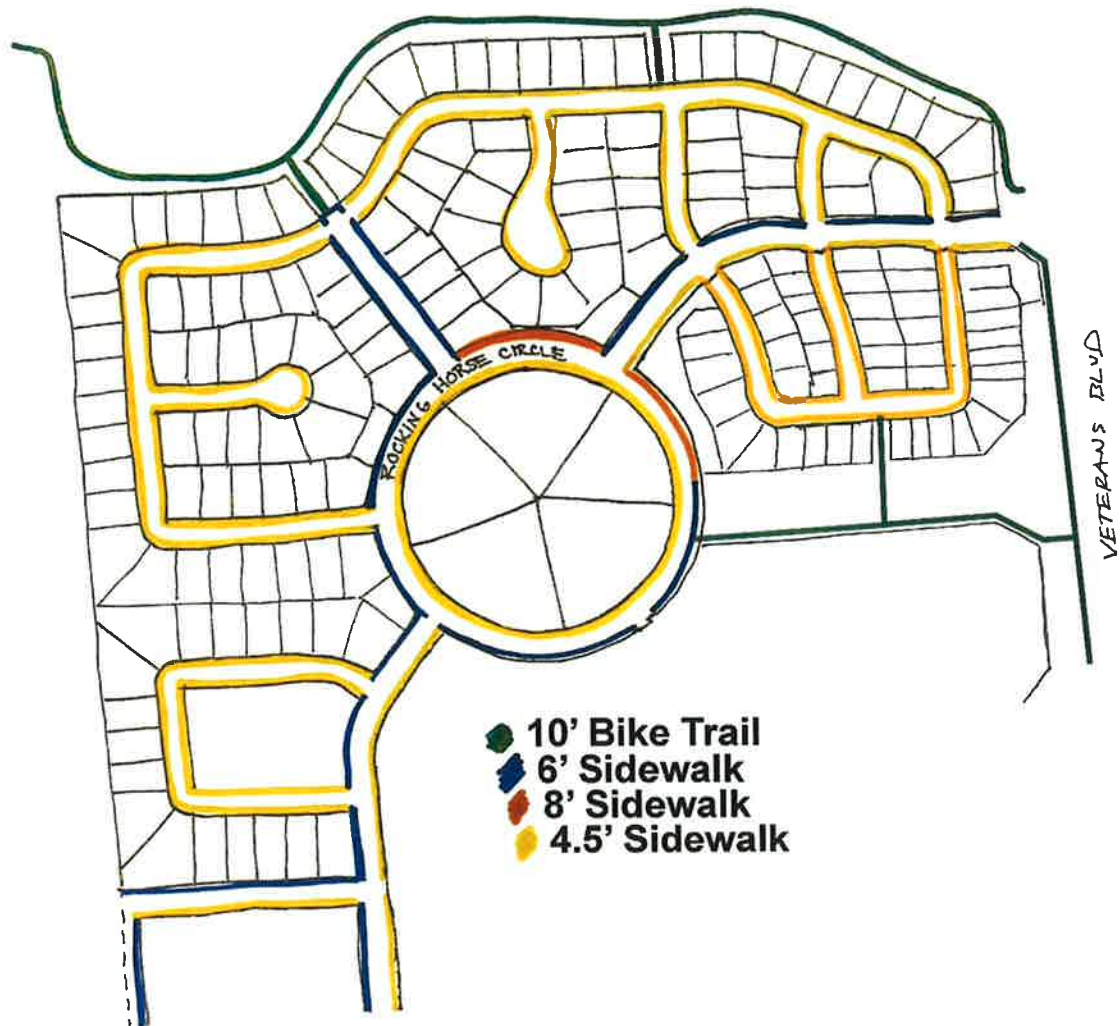


EXHIBIT B



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

35d2

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN ROCKING HORSE FARM 5<sup>TH</sup> ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in the proposed Rocking Horse Farm 5<sup>th</sup> Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on January 4, 2018; and,

WHEREAS, the rezoning changes were approved by the City Commission on February 26, 2018,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots Two (2) through Twelve (12) and Fourteen (14) through Twenty-four (24), Block One (1); Lots One (1) through Twelve (12), Block Two (2) and Lots One (1) through Eleven (11), Block Three (3) Rocking Horse Farm 5<sup>th</sup> Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "SR-3", Single-Dwelling Residential, District;

Section 2. The following described property:

Lots One (1), Thirteen (13) and Twenty-five (25), Block One (1) Rocking Horse Farm 5<sup>th</sup> Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "P/I", Public and Institutional, District;

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

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

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

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

(SEAL)

Attest:


First Reading:  
Second Reading:  
Final Passage:

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

35e

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: JIM GILMOUR, STRATEGIC PLANNING DIRECTOR** 

**DATE: FEBRUARY 22, 2018**

**RE: DEVELOPMENT AGREEMENTS FOR INTERSTATE BUSINESS PARK**

The City Administrator and the Planning Department have been working with property owners on the Interstate Business Park development. This development includes the future headquarters of Border States Electric which is now under construction.

Infrastructure is needed to serve Border States Electric and adjacent properties. A Renewal Plan that was adopted in 2001 identified the need for Tax Increment Financing funds for infrastructure to serve development in this area. The infrastructure identified in that Renewal Plan includes the facilities which are in three development agreements. The agreements are attached for your consideration.

A public hearing has been scheduled for these agreements. One of the purposes of the hearing is to provide potential competitors with an opportunity to comment if the agreements would result in unfair competition.

The three development agreements are with Border States Industries, Inc., Matrix Properties Corporation, and Scheels All Sports, Inc. The agreements state that Tax Increment Funds will be used for a portion of the cost of new streets, storm water facilities, and a traffic signal. Matrix and Scheels will have special assessment deferrals until they plat their properties.

**Recommended Motion**

Approve development agreements with Border States Industries, Inc., Matrix Properties Corporation, and Scheels All Sports, Inc.

# **DEVELOPER'S AGREEMENT**

**between**

**BORDER STATES INDUSTRIES, INC.**

**and**

**CITY OF FARGO, NORTH DAKOTA**

**regarding**

**Tax Increment District 2001-01**

## AGREEMENT

THIS AGREEMENT, made and entered into this 23 day of January, 2018, by and between **BORDER STATES INDUSTRIES, INC.**, a North Dakota corporation, of Fargo, North Dakota ("Border States"), and the **CITY OF FARGO**, a North Dakota municipal corporation ("City").

### RECITALS RELATED TO DISTRICT No. 2001-01:

WHEREAS, by resolution of October 8, 2001, the Board of City Commissioners of the City of Fargo determined that certain property defined below as the District is underdeveloped and that development of the property is necessary and appropriate in accordance with Chapter 40-58 N.D.C.C.; and,

WHEREAS, as of October 8, 2001, the real property within the District was owned by various owners, including Matrix Properties Corporation ("Matrix"), as set forth in Exhibit "A", attached hereto; and,

WHEREAS, Border States and the City seek to utilize tax increments to finance and provide for amortization of the costs of certain portions of public improvements and the City is authorized to sell municipal bonds or provide other funding of such cost through sales tax revenues or other sources of funding, such bonds or other financing to be repaid from tax increments from the project as provided in Chapter 40-58, N.D.C.C.; and,

WHEREAS, a number of municipal improvements have been constructed and will be constructed utilizing tax increment financing, sales tax proceeds, special assessment financing or a combination thereof; and,

WHEREAS, the Renewal Plan for Tax Increment Financing District No. 2001-01 has been amended as of December 20, 2004, to incorporate into said plan the public improvements contemplated in this Agreement; and,

WHEREAS, plans and arrangements have been developed for the continuation of the established parkway known as 23<sup>rd</sup> Avenue South and also as 38<sup>th</sup> Street South (the "Parkway"), the configuration of which will require, effectively, the exchange of various parcels within the District so as to allow said continuation of the 23<sup>rd</sup> Avenue/38<sup>th</sup> Street Parkway in its currently-planned configuration to be dedicated for right-of-way purposes and to be constructed and to allow other local roads to be planned, dedicated and constructed, and to provide other public facilities (infrastructure), including a regional storm water retention/detention facility that will further the objectives of the renewal plan for the District; and,



**RECITALS RELATED TO  
INTERSTATE BUSINESS PARK DEVELOPMENT:**

WHEREAS, Matrix is the owner of record of certain property depicted on the attached Exhibit "B" and identified thereon as the "Matrix Parcels" with certain smaller parcels within the Matrix Parcels described thereon as Parcels 1, 2, 4, 5, 6 and 8 with the legal description for the Matrix Parcels being described on the attached Exhibit "C"<sup>1</sup>; and

WHEREAS, Border States is the owner of record of certain property depicted on the attached Exhibit "B" as Parcel 3 (hereinafter the "Border States Parcel") with the legal description for the Border States Parcel being described on the attached Exhibit "C"; and,

WHEREAS, the City is the owner of record of certain property depicted on the attached Exhibit "B" and identified thereon as Parcel 7; and

WHEREAS, the Parkway had been platted and constructed to a terminus ending 100 feet, more or less, north of its intersection with 26<sup>th</sup> Avenue South and it is the desire of Border States, Matrix, and the City that the Parkway be continued from its previous terminus and that it be platted and constructed to service the property described herein and ultimately to continue to the intersection of said 23<sup>rd</sup> Avenue South with 45<sup>th</sup> Street South, said plat to be named "Interstate Business Park", or a name substantially similar thereto; and,

WHEREAS, the City deems it appropriate to construct a regional storm water retention and detention pond on Parcel 1, as depicted on Exhibit "B", to serve the Matrix Parcels and the Border States Parcel; and,

WHEREAS, the intended municipal improvements affect and benefit real property owned by Border States as a result of the extension of the Parkway to serve the Border States Parcel and as a result of the construction of the Storm Water Retention Pond; and,

WHEREAS, Border States and the City wish to set forth in writing the terms by which said development will occur;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**Section 1.     Border States to Join in Plat including Dedication of right-of-way for Parkway.** Border States shall join in the plat of the intended "Interstate Business Park" which plat will include the Border States Parcel and which plat will include the dedication of right-of-way for

---

<sup>1</sup> The legal description of the Matrix Parcels is the remaining portion of unplatted land left after the plat of Interstate Business Park Addition goes into effect, owned by Matrix Properties and does not include the 120.00 foot wide strip of existing 42nd Street right-of-way.



the Parkway. Border States shall provide the City with an attorney's opinion of title or a copy of a title insurance policy, stating that Border States is the owner of record of the Border States Parcel, as required by N.D.C.C. §40-50.1-03.

**Section 2. Regional Storm Water Detention-Retention Pond.** The City shall acquire, install and construct a "Regional Storm Water Detention-Retention Pond" (hereinafter referred to as the "Storm Water Pond") in the location of Parcel 1 on Exhibit "B", including the connection of the Storm Water Pond to the City's storm water collection system, at City's expense and with no expense charged to Border States either directly or by way of special assessments, said expense to be recouped to the City from tax increment funds as described herein. The City shall allow Border States to connect to the City's storm water collection system (the "Trunk Storm Sewer") so that, in turn, storm water runoff collecting on the Border States Parcel will be drained from the Border States Parcel and into the Storm Water Pond. The Storm Water Pond and Trunk Storm Sewer shall be designed and constructed by the City to meet: (i) the discharge quantity and quality requirements for the "easterly parcels" as depicted on Exhibit "B" (specifically, Parcels 2 and 4, currently owned by Matrix, and the Border States Parcel), and (ii) the discharge quantity requirements for the "westerly parcel" as depicted on Exhibit "B" (specifically, Parcel 5, currently owned by Matrix); provided, however, that said design specifications will be developed by the City based on the assumption that development within the area serviced by the Storm Water Pond will have no greater area of impervious surface than sixty-five percent (65%) of said service area. To the extent development occurs on the Border States Parcel that exceeds such sixty-five percent (65%) level of impervious surface, Border States and its successors-in-interest shall be responsible for providing any additional storm water detention and retention upon the Border States Parcel necessary to comply with the then-applicable development standards.

**Section 3. Creation of Tax Increment District.** The City has taken the necessary steps to establish a tax increment district pursuant to the provision of Chapter 40-58, N.D.C.C. which district is described by a map attached and incorporated herein as Exhibit "A", (herein

“District 2001-01” or the “District”). A renewal plan for the District may be amended from time to time.

**Section 4. Public Improvements.** Development of the District shall be in accordance with an approved plan. Border States understands that the amount of tax increment which will be available to amortize bonds sold or monies otherwise furnished to pay eligible cost is dependent upon the value of development occurring within the District. Border States is already in the process of designing and constructing its corporate headquarters building and other improvements on the Border States Parcel and has received one or more building permits from the City for construction of the initial phase of Border States’ development on the Border States Parcel and, accordingly, Border States agrees to complete such permitted initial improvements upon the Border States Parcel on or before February 1, 2020.

Border States and the City desire that certain public improvements be installed or constructed within the District by the City, and that other public assistance be provided by the City, as authorized by Chapter 40-58 N.D.C.C. Said improvements and other public assistance pertaining to this Agreement include:

(a) Regional Storm Water Pond Land Acquisition and Construction	\$ 800,000
(b) Trunk Storm Sewer for Regional Storm Water Pond	\$ 750,000
(c) Parkway improvements including Paving & Incidentals	\$1,275,000
(d) Traffic Lights (one intersection at 23 <sup>rd</sup> Avenue and 42 <sup>nd</sup> St.)	<u>\$1,000,000</u>
Total	\$3,825,000

The actual costs of the improvements described in Section 4(a) and 4(b) shall be paid using only tax increment financing funds, to the extent such TIF funds are available, and shall not be paid through special assessments. The actual costs of the improvements described in Section 4(c) and 4(d) shall be paid in the manner set forth in Section 5 below.

The City shall continue to coordinate with Border States regarding the schedule for, commencement of and completion of said improvements. With respect to the improvements

described in Section 4(c), the City shall include the following completion deadline dates in the bidding materials for such work, and shall attempt in good faith to have such improvements substantially completed and utilities available by the following dates:

<u>Improvements</u>	<u>Completion Date</u>
Storm Sewer and Pond	August 1, 2018
Sanitary Sewer & Water	August 1, 2018
Paving, Incidentals, Sidewalks	September 30, 2018

The September 30, 2018, date for substantial completion for paving, incidentals and sidewalks applies to that portion of the Parkway necessary to allow the Border States Parcel access to public right of way from the south, the extension of which Parkway shall continue from the south to a northernmost point such that traffic utilizing the northernmost driveway approach for the Border States Parcel will be able to enter and exit onto said substantially-complete paved Parkway. Furthermore, the storm sewer, sanitary sewer and water utilities to be completed by the City by August 1, 2018 shall include the installation of such utilities past the northernmost point which is required to facilitate perpendicular (i.e. east-west) connections to such related utilities serving the Border States Parcel which have been permitted and are to be installed in accordance with the Building Permit (BL 20171499) issued by the City to Border States on August 10, 2017. The extension of the Parkway from said northernmost point further to the north and west to connect the Parkway to 42<sup>nd</sup> Street may not be accomplished until a later date.

**Section 5. Parkway Special Assessments-Arterial Cap.** Border States understands and agrees that certain public improvements for the Parkway as described in section 4(c) and 4(d), above, will be installed and constructed to serve the Border States Parcel and that special assessments therefor will be levied and assessed against the Border States' Parcel and other benefitted parcels for such improvements described in section 4(c) and 4(d) above; accordingly, Border States hereby waives Border States' right to protest the resolution of necessity for any such improvements as would otherwise be required pursuant to N.D.C.C. Section 40-22-17. Border States hereby specifically consents to the construction of such improvements described in Section

4(c) and 4(d) above and to the assessment of the costs thereof against the Border States Parcel. The City will continue to coordinate with Border States regarding the schedule for, commencement of and completion of said improvements. At such time as annual installments of special assessments are certified for collection as hereinabove provided, the total amount to be assessed shall be spread over a period of not to exceed twenty-five (25) years and the annual installments shall be determined in accordance with N.D.C.C. Sections 40-24-04 through 40-24-08. The total amount to be assessed shall be the entire amount of the assessment as determined by the Special Assessment Commission and as confirmed by the Board of City Commissioners.

Due to the fact that two Interstate, controlled-access highways, constitute two of the actual arterial roads that serve the Border States Parcel, the City intends to treat the Parkway as the equivalent of an arterial road, as described in the City's functional street classification system. As such, the City intends to treat the special assessments for the Parkway in the same manner as an arterial road and, therefore, will cap the special assessments for the paving and incidentals portion of the Parkway improvements against the Border States Parcel at the same rate as for local or collector roads in an SR Zoning District (based upon a 40-ft paving width) with the excess over said cap being paid using tax increment funds as described herein. The parties recognize that the current (2017) cap of special assessments for the paving and incidentals portion of local or collector roads in an SR Zoning District (40-ft width) is set at \$208.00 per lineal front foot of the applicable lot or parcel; however, said cap may be subject to change from time to time based upon a number of factors including installation cost fluctuations. The parties understand and agree that the costs associated with Sanitary Sewer, Water Main, Storm Sewer and Street lights for the Parkway will be special assessed against the Border States Parcel and other benefitted parcels and; accordingly, Border States hereby waives Border States' right to protest the resolution of necessity for any such improvements as would otherwise be required pursuant to N.D.C.C. Section 40-22-17.

The installation of the Storm Water Pond and Trunk Storm Sewer between the Border States Parcel and the Storm Water Pond being installed and constructed by the City, including costs of land acquisition, as described in Section 4(a) and 4(b), are intended to be paid using tax increment

funds as described herein and said improvements are not intended to be financed or paid through special assessments. Therefore, Border States will not be responsible for, nor the Border States Parcel assessed for, the costs associated with (i) the Storm Water Pond land acquisition and construction, (ii) the cost associated with easements acquired for the City to connect the Storm Water Pond to the City's storm water collection system, including cost of land or easement acquisition or (iii) the construction and associated cost of the installation of the Trunk Storm Sewer between the Border States Parcel and the Storm Water Pond.

**Section 6. Relocation.** City and Developer agree that prior to Border States acquiring and commencing construction on the Border States Parcel, said parcel was undeveloped and accordingly, had no tenants or occupants of buildings. Nonetheless, Border States agrees to indemnify and hold the City harmless from any and all claims that might be asserted against the City for such relocation costs related to the Border States Parcel, including legal costs for defense of such claims or actions. Expenses of relocation shall include all actual costs paid to claimants, plus any and all administrative and legal expenses necessarily incurred in connection with such relocation.

**Section 7. Assignability.** This Agreement is personal to Border States, shall not run with the land and may not be assigned to any other party, except with the written consent of the City.

**Section 8. Choice of Law, Venue and Jurisdiction.** The law of the State of North Dakota shall apply to this Agreement. Any dispute regarding this Agreement shall be venued in District Court for the County of Cass, State of North Dakota and both parties agree to submit to the jurisdiction of said court.

**Section 9. Execution of Documents.** The parties agree to execute such instruments as necessary to effect the terms of this Agreement, including a Memorandum of Agreement prepared in such form as to be acceptable for recording in the Cass County Recorder's office for the purpose

of placing subsequent owners, lienholders and mortgagees on notice as to the existence of this Agreement and the terms hereof. The Memorandum of Agreement shall be drafted to be recorded against (or tracked to) the property currently owned by Border States as of the effective date of this agreement, such property being as described on the attached Exhibit "C".

**Section 10. Entire Agreement.** This Agreement contains all of the terms of the agreement between City and Border States and supersedes all oral negotiations. The provisions hereof shall be binding upon the successors and assigns of the parties hereto. Border States agrees to apprise any buyers or intended assigns of the existence and content of this Agreement.

DATED effective the day and year first above written.

BORDER STATES INDUSTRIES, INC.

By:   
Tammy Miller, CEO

ATTEST:

CITY OF FARGO,  
a North Dakota municipal corporation

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

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

**EXHIBIT "A"**

**Description of Tax Increment Financing District 2001-01**

**EXHIBIT “B”**  
**SITE PLAN DEPICTION**

**[See attached]**



**EXHIBIT "C"**

**LEGAL DESCRIPTIONS**

**LEGAL DESCRIPTION OF MATRIX' PROPERTY [as of the effective date of this agreement]:**

**DESCRIPTION – MATRIX PROPERTIES – UNPLATTED REMAINDER TRACT:**

That part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows:

COMMENCING at the southwest corner of said Northeast Quarter; thence North 88°04'18" East on the south line of said Northeast Quarter for a distance of 1798.32 feet to the northwest corner of Lot 1, Block 1 of ADAMS SEVENTH ADDITION to the City of Fargo, said point also being on the east line of that tract deeded to the City of Fargo as evidenced by Document Number 1086481 filed of record at the office of the Cass County Recorder; thence North 02°17'42" West on said east line, and along the east line of 30<sup>th</sup> Avenue South as dedicated on the plat of said ADAMS SEVENTH ADDITION, for a distance of 100.00 feet to the northeast corner of said 30<sup>th</sup> Avenue South; thence South 88°04'18" West, along the north line of said 30<sup>th</sup> Avenue South, for a distance of 80.00 feet to the northwest corner of said 30<sup>th</sup> Avenue South, and the TRUE POINT OF BEGINNING of the tract to be described; thence North 02°17'42" West for a distance of 578.65 feet to a point of tangential curve to the left, radius 460.00 feet; thence northwesterly along said curve to the left, for a distance of 652.11 feet, central angle 81°13'26", chord bearing North 42°54'25" West; thence North 83°31'08" West for a distance of 72.70 feet to the southeast corner of an 80.00-foot wide strip of land described as an exception on the Warranty Deed as evidenced by Document Number 863638, filed of record at the office of said Cass County Recorder; thence continue North 83°31'08" West, along the southerly line of said 80.00-foot wide strip, for a distance of 1152.43 feet to a point of intersection with a line lying 120.00 feet easterly of (as measured perpendicular to) the west line of said Northeast Quarter, said point being the southwest corner of said 80.00-foot wide strip; thence South 02°23'48" East, parallel with and 120.00 feet easterly of the west line of said Northeast Quarter, for a distance of 569.90 feet to the northwest corner of WEST 29 4<sup>th</sup> ADDITION to the City of Fargo; thence North 87°36'12" East, along the north line of said WEST 29 4<sup>th</sup> ADDITION, for a distance of 515.62 feet to the northeast corner of said WEST 29 4<sup>th</sup> ADDITION; thence South 02°23'48" East, along the east line of said WEST 29 4<sup>th</sup> ADDITION, for a distance of 704.27 feet to the southeast corner of said WEST 29 4<sup>th</sup> ADDITION, said corner being the northeast corner of WEST 29 3<sup>rd</sup> ADDITION to the City of Fargo; thence South 02°21'42" East, along the east line of said WEST 29 3<sup>rd</sup> ADDITION, for a distance of 5.00 feet to the northwest corner of WEST 29 5<sup>th</sup> ADDITION to the City of Fargo; thence North 88°04'18" East, along the north line of said WEST 29 5<sup>th</sup> ADDITION, for a distance of 1082.75 feet to the northeast corner of said WEST 29 5<sup>th</sup> ADDITION, said corner being on the west line of said 30<sup>th</sup> Avenue South; thence North 02°17'42" West, along the west line of said 30<sup>th</sup> Avenue South, for a distance of 65.00 feet to the TRUE POINT OF BEGINNING.

Said tract of land contains 33.370 acres, more or less.

**LEGAL DESCRIPTIONS OF BORDER STATES' PROPERTY [as of the effective date of this agreement]:**

That part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

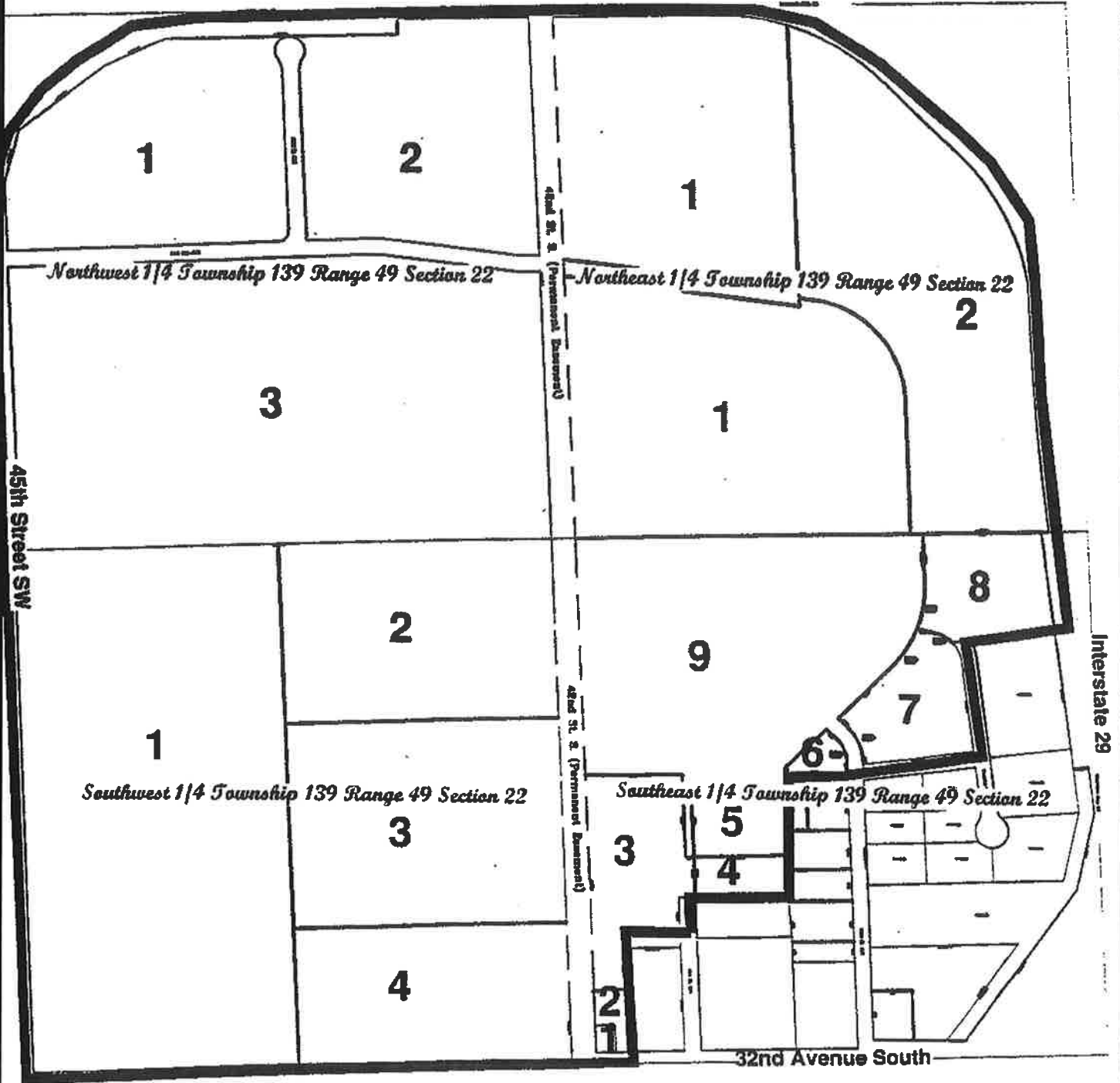
Commencing at the southwest corner of said Northeast Quarter; thence North 88 degrees 04 minutes 18 seconds East on the south line of said Northeast Quarter for a distance of 1798.32 feet to the northwest corner of Lot 1, Block 1 of ADAMS SEVENTH ADDITION to the City of Fargo, and the True Point of Beginning of the tract to be described, said point also being on the east line of that tract deeded to the City of Fargo as evidenced by Document Number 1086481 filed of record at the office of the Cass County Recorder; thence North 02 degrees 17 minutes 42 seconds West on said east line for a distance of 679.16 feet; thence northwesterly 465.52 feet on said east line of the arc of a curve concave to the southwest, said curve having a central angle of 49 degrees 23 minutes 34 seconds, and a radius of 540.00 feet; thence North 38 degrees 18 minutes 44 seconds East for a distance of 95.59 feet; thence South 83 degrees 31 minutes 08 seconds East for a distance of 709.14 feet to the west right-of-way line of Interstate Highway Number 29; thence South 02 degrees 08 minutes 18 seconds East on said west right-of-way line for a distance of 97.61 feet; thence southerly 960.76 feet on said west right-of-way line on the arc of a curve concave to the east, said curve having a central angle of 04 degrees 41 minutes 50 seconds, and a radius of 11,719.19 feet, to a point of intersection with the southerly line of the Northeast Quarter of said Section 22; thence South 88 degrees 04 minutes 18 seconds West, along the southerly line of the Northeast Quarter of said Section 22, for a distance of 611.01 feet to the True Point of Beginning.

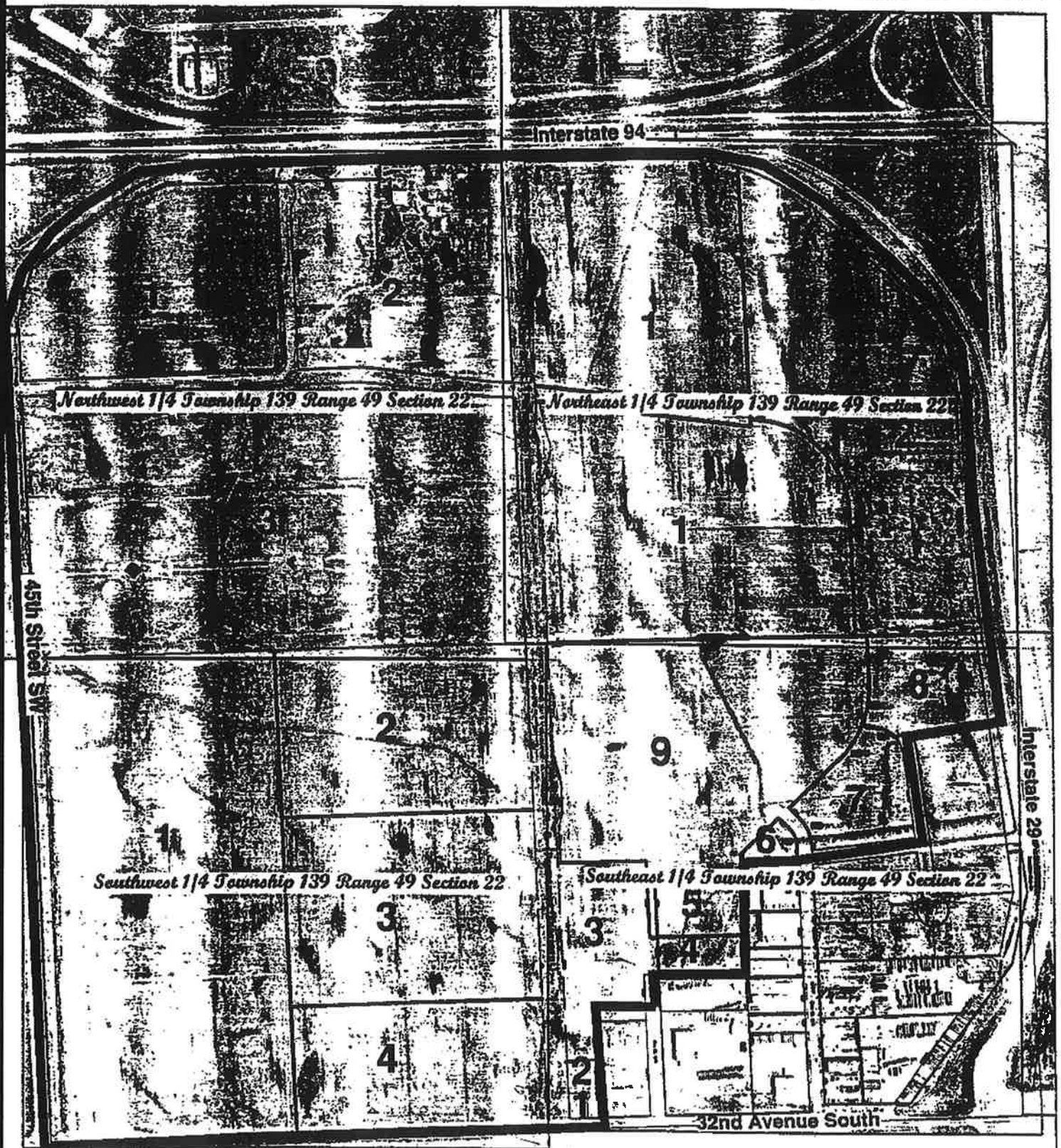
Said tract contains 15.534 acres, more or less, and is subject to easements and rights-of-way of record.

**EXHIBIT "A"**

**Description of Tax Increment Financing District 2001-01**

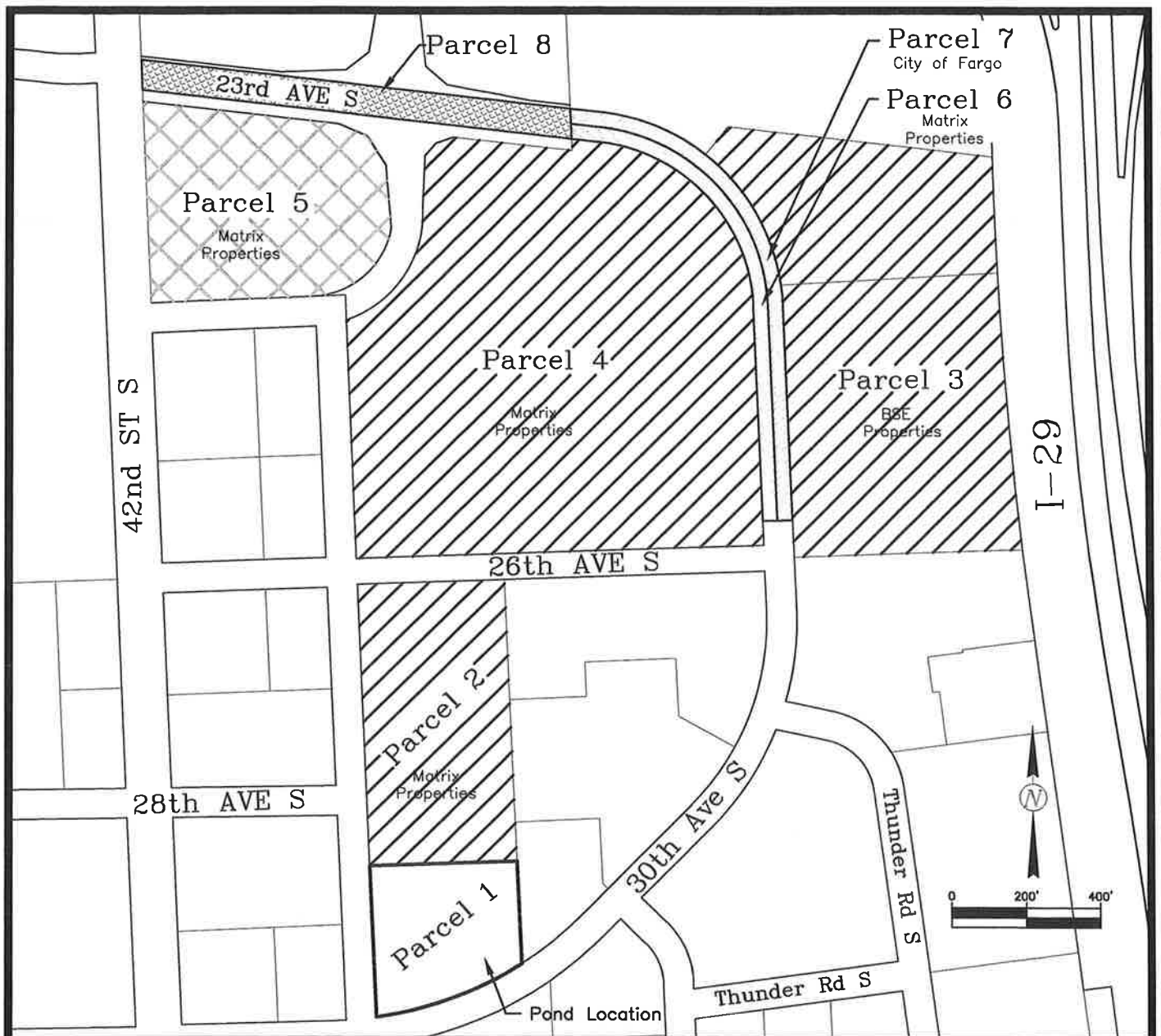
Interstate 94





**EXHIBIT “B”**  
**SITE PLAN DEPICTION**

**[See attached]**



Parcel 1 - Pond Location

Parcel 2 - Matrix Properties

Parcel 3 - BSE Properties

Parcel 4 - Matrix Properties

Parcel 5 - Matrix Properties

Parcel 6 - Matrix Properties

Parcel 7 - City of Fargo

Parcel 8 - 23 Ave S Right-of-Way



Exhibit B

PARCELS MAP

DRAWN BY: SDK	DATE: OCTOBER 28, 2017
APPROVED BY: JMG	SHEET 1 OF 1

# **DEVELOPER'S AGREEMENT**

**between**

**MATRIX PROPERTIES CORPORATION**

**and**

**CITY OF FARGO, NORTH DAKOTA**

**regarding**

**Tax Increment District 2001-01**



## **AGREEMENT**

**THIS AGREEMENT**, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between **MATRIX PROPERTIES CORPORATION**, a Minnesota corporation, of Fargo, North Dakota ("Matrix"), and the **CITY OF FARGO**, a North Dakota municipal corporation ("City"),

### **RECITALS RELATED TO DISTRICT No. 2001-01:**

**WHEREAS**, by resolution of October 8, 2001, the Board of City Commissioners of the City of Fargo determined that certain property defined below as the District is underdeveloped and that development of the property is necessary and appropriate in accordance with Chapter 40-58 N.D.C.C.; and,

**WHEREAS**, as of October 8, 2001, the real property within the District was owned by various owners, including Matrix, as set forth in Exhibit "A", attached hereto; and,

**WHEREAS**, Matrix and the City seek to utilize tax increments to finance and provide for amortization of the costs of certain portions of public improvements and the City is authorized to sell municipal bonds or provide other funding of such cost through sales tax revenues or other sources of funding, such bonds or other financing to be repaid from tax increments from the project as provided in Chapter 40-58, N.D.C.C.; and,

**WHEREAS**, a number of municipal improvements have been constructed utilizing tax increment financing, sales tax proceeds, special assessment financing or a combination thereof; and,

**WHEREAS**, the Renewal Plan for Tax Increment Financing District No. 2001-01 has been amended as of December 20, 2004, to incorporate into said plan the public improvements contemplated in this agreement; and,

**WHEREAS**, said Renewal Plan, as amended, called for Matrix and the City wish to enter into a new Developer's Agreement pertaining to certain specific public improvements pertaining to parkways within the district; and,

**WHEREAS**, plans and arrangements have been developed for the continuation of the established parkway known as 23<sup>rd</sup> Avenue Street and also as 28<sup>th</sup> Street, the configuration of which will require, effectively, the exchange of various parcels within the district so as to allow said continuation of the 23<sup>rd</sup> Avenue/28<sup>th</sup> Street parkway in its currently-planned configuration to be dedicated for right of way purposes and to be constructed [hereinafter, the "Parkway"] and to allow other local roads to be planned, dedicated and constructed, and to provide other public facilities (infrastructure), including a regional storm water

retention/detention facility that will further the objectives of the renewal plan for the district; and,

**INTERSTATE BUSINESS PARK DEVELOPMENT**

**WHEREAS**, Matrix is the owner of record of certain property depicted on the attached Exhibit “B” and identified thereon as the “Matrix Parcels” with certain smaller parcels within the Matrix Parcels described thereon as Parcels 1, 2, 4, 5, 6 and 8 with the legal description for the Matrix Parcels being described on the attached Exhibit “C”; and,

**WHEREAS**, Border States Industries, Inc. [hereinafter “Border States”] is the owner of record of certain property depicted on the attached Exhibit “B” as Parcel 3 [hereinafter the “Border States Parcels” with the legal description for the Border States Parcels being described on the attached Exhibit “C”; and,

**WHEREAS**, the Parkway had been platted and constructed to a terminus ending 100 feet, more or less, north of its intersection with 26<sup>th</sup> Avenue South and it is the desire of Border States, Matrix, and the City that the Parkway be continued from its previous terminus and that it be platted and constructed to service the property described herein and ultimately to continue to the intersection of said 23<sup>rd</sup> Avenue with 45<sup>th</sup> Street South; and,

**WHEREAS**, the City is the owner of record of certain property depicted on the attached Exhibit “B” and identified thereon as Parcel 7; and,

**WHEREAS**, the City deems it appropriate to construct a regional storm water retention and detention pond to serve the Matrix Parcels and the Border States Parcels as depicted on the attached Exhibit “D” and Matrix is willing to convey land for said pond; and,

**WHEREAS**, Matrix and the City wish to set forth the terms by which said development will occur in writing;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**Section 1.     Matrix to Convey or Dedicate right of way for Parkway.**

A.           With respect to that portion of the Parkway denoted as Parcels 6 and 7 on

Exhibit “B”, to the extent Matrix has not already so conveyed the same to the City, Matrix hereby agrees to donate, convey and dedicate said one-half of the right of way for said Parkway up to a width of one-half of the intended 80-foot right-of-way, said conveyance and dedication to be accomplished by platting.

- B. With respect to that portion of the Parkway denoted as Parcel 8 on Exhibit “B”, to the extent Matrix has not already so conveyed the same to the City, Matrix hereby agrees to donate, convey and dedicate the full width of the right of way for said Parkway up to a width of 80 feet, said conveyance and dedication to be accomplished by platting. It is further understood that Matrix may enter into one or more agreements with property owner of Parcel 9, on Exhibit “B”, in which case Matrix shall dedicate additional square footage for the Parkway in such configuration as is depicted on the draft plat of Interstate Business Park Addition, attached as Exhibit “G”, or a plat substantially similar thereto. In addition, Matrix wishes to dedicate right-of-way for a local road extending south from the Parkway to become known as 41<sup>st</sup> Street South, as is also depicted on said draft plat.

**Section 2.     Regional Storm Water Detention-Retention Pond.**

- A. Matrix is the record owner of Parcel 1, the legal description for which is stated on Exhibit “F”, incorporated herein by reference [hereinafter referred to as the “Storm Water Pond Property”]. A regional storm water detention-retention pond (hereinafter the “Regional Storm Water Pond”) is to be constructed on the Storm Water Pond Property, the terms by which said construction is to occur are set forth herein, with Matrix to undertake a portion of the construction, after which Matrix will convey the Storm Water Pond Property to the City and the City will complete construction and place the Regional Storm Water Pond into service. In addition, Matrix and the City intend for the Regional Storm Water Pond and the Storm

Water Pond Property to be dedicated to the public as part of the plat of Interstate Business Park Addition, as described herein.

- B. With respect to the Storm Water Pond Property, Matrix, as the record owner thereof, shall sell, and City shall purchase, said parcel comprising of one hundred twenty six thousand three hundred twenty four (126,324) square feet of land in accordance with the terms herein and the City will design the Storm Water Pond, including its connection to the City's storm water collection system at City's expense, said expense to be recouped to the City from tax increment funds as described herein.
- C. City Purchase of Storm Water Pond Property. Matrix will convey to the City, and the City will purchase and accept from Matrix the Storm Water Pond Property, the legal description for which is set forth on Exhibit "F", in accordance with terms as follows.
- i. Purchase Price. The City shall pay to Matrix a purchase price of Six Hundred Sixty Thousand One Hundred Twenty One and 85/100ths Dollars (\$660,121.85) for the Storm Water Pond Property [the "Purchase Price"] to be paid by the City to Matrix at the Closing.
  - ii. Title. The City wishes to take title as follows: City of Fargo, a North Dakota municipal corporation. Conveyance of the Storm Water Pond Property shall be by limited warranty deed in the usual form used in North Dakota.
  - iii. Section 1031 Exchange Accommodation. The parties agree to take such reasonable steps as necessary to reasonably accommodate Matrix should it desire to establish an exchange authorized under Section 1031 of the Internal Revenue Code.
  - iv. Closing. The closing of the sale by Matrix and purchase by the City of the Storm Water Pond Property (the "Closing") will occur on a date to be agreed which date shall be no later than April 1, 2018.

- v. Abstract of Title and Survey. The City shall be responsible for performing any and all title and survey examination or due diligence that City deems appropriate, at City's sole cost and expense.
- vi. Liens and Encumbrances. The Storm Water Pond Property shall be conveyed to Buyer free and clear of all liens and encumbrances except special assessments, and subject, however, to all easements or covenants of record, if any.
- vii. Matrix Closing Documents. The Matrix will deliver to the City at the Closing:
  - 1. a limited warranty deed duly executed by Matrix conveying the Storm Water Pond Property to the City; and
  - 2. any other items required by this agreement or reasonably required by the closing company for the Closing.
- viii. City Closing Documents. The City will deliver to Matrix at the Closing:
  - 1. the Purchase Price;
  - 2. any other items required by this agreement or reasonably required by the closing company for the closing.
- ix. Closing Costs and Prorations.
  - 1. Closing Costs. The City and Matrix will each be responsible for its respective legal, accounting and other expenses. Matrix will be responsible for any fees associated with the accommodation of a Section 1031 exchange, if any. The City will be responsible for the deed and the recording fees, title examination costs and title insurance premiums. The City and Matrix will share equally in the closing fee imposed by the Title Company in connection with this transaction.
  - 2. Taxes and Assessments. Real estate taxes and installments of special assessments for the year prior to the Closing (payable the year of the

Closing) and prior years shall be the responsibility of Matrix. Real estate taxes and installments of special assessments for the year of the Closing (payable the year following the Closing) and for all subsequent years shall be the responsibility of the City.

- D. Simultaneous with the Closing on the Storm Water Pond Property, above, or at such other time as the parties agree, Matrix will donate and convey to the City easements for providing a connection of the Storm Water Pond Property to the City's storm water collection system and an easement for public utilities, the description of said easements attached as Exhibit "E". The Storm Water Pond will be designed and constructed to meet the discharge quantity and quality requirements for the easterly parcels as depicted on Exhibit "B"—Parcels 2 and 4, currently owned by Matrix, and Parcel 3, currently owned by Border States-- -- and discharge quantity requirements for the "westerly parcel", Parcel 5, currently owned by Matrix; provided, however, that said design specifications will be developed by the City with an assumption that development within the area serviced by the Storm Water Pond provides no greater area of impervious surface than 65 percent of said service area.
- E. With respect to actual construction of the Storm Water Pond, Matrix will be responsible, at Matrix' sole expense, to excavate to a rough grade finish the Storm Water Pond in accordance with the City's standard specifications. Matrix will be responsible for engaging a qualified excavation contractor for such purpose. Matrix will be entitled to extract the dirt or earth that is excavated from the Storm Water Pond site and to remove and transport said dirt or earth from Parcel 1 to a location of Matrix' choosing within the Matrix Parcels. Upon completion of said rough-grade excavation, Matrix shall turn over the property and project to the City or the City's contractor in such condition as set by the City's said standard specifications, as approved through the site plan approval process. Upon notice of

Completion City will confirm compliance and notify developer of either noncompliance or acceptance. Noncompliant work shall be corrected within 14 days. Topsoil shall be stripped and stockpiled per location designated on the site plan for use by City for final grading. Developer will be required to meet NPDES permit requirements due to the timing between the two phases of the project. To the extent that ownership of said Parcel 1 has been conveyed to the City, either by deed or plat dedication, prior to the time Matrix commences its excavation activities then Matrix and the City will, in good faith, enter into an appropriate agreement allowing Matrix the right of entry onto said Parcel 1.

- F. After the City obtains ownership and possession of said Parcel 1, the Storm Water Pond Property, City shall thereafter be responsible for operation, maintenance and repair of the storm water pond including the regular grass mowing thereof.

**Section 3. Creation of Tax Increment District.** The City has taken the necessary steps to establish a tax increment district pursuant to the provision of Chapter 40-58, N.D.C.C. which district is described by a map attached and incorporated herein as Exhibit "A", (herein "District 2001-01" or the "District"). A renewal plan for the District may be amended from time to time.

**Section 4. Public Improvements.** Developer and the City desire that certain public improvements be installed or constructed and that other public assistance be provided, as authorized by Chapter 40-58 N.D.C.C. Said improvements and other public assistance pertaining to this Agreement include:

(a)	Regional Storm Water Pond Land Acquisition and Construction	\$ 800,000
(b)	Trunk Storm Sewer for Regional Storm Water Pond	\$ 750,000
(c)	Parkway improvements including Paving & Incidentals	\$1,275,000
(d)	Traffic Lights (one intersection at 23 <sup>rd</sup> Avenue and 42 <sup>nd</sup> St.)	<u>\$1,000,000</u>
	Total	\$3,825,000

In addition, tax increment will be used for the City's administrative costs (up to a maximum of 5% of the tax increment received).

**Section 5. Parkway Special Assessments-Arterial Cap.** Due to the fact that two interstate, controlled-access highways, constitute two of the actual arterial roads that serve the Matrix Parcels, the City intends to treat the Parkway as the equivalent of an arterial road, as described in the City's functional street classification system. As such, the City intends to treat the special assessments for the Parkway in the same manner as an arterial road and, therefore, will cap the special assessments against the Matrix Parcels at the same rate as for local or collector roads in an SR Zoning District based upon a 40-foot paving width with the excess over said cap being paid using tax increment funds as described herein. Also, as with arterial road improvements, the City shall bear the carrying cost for such improvements during any period of deferral of special assessments for the same. In other words, the City shall be shall bear the interest costs paid during any period of deferral, said deferral terminating at such time as development occurs. The parties understand and agree that the said carrying costs borne by the City, as described in this section, may be paid out of, or recouped to the city from, tax increment proceeds.

**Section 6. Deferral of Special Assessments.**

At such time as annual installments of special assessments are certified for collection as hereinabove provided, the total amount to be assessed shall be spread over a period of not to exceed twenty-five (25) years and the annual installments shall be determined in accordance with Sections 40-24-04 through 40-24-08 N.D.C.C. The total amount to be assessed shall be the entire amount of the assessment as determined by the Special Assessment Commission and as confirmed by the Board of City Commissioners.

The City agrees to defer the certification of annual installments of special assessments levied against the Matrix Parcels for any of the public improvements described herein that are constructed and installed until the earliest of one of two triggering events occurs:



(1) Ten (10) years from the date of the earliest Notice of Special Assessment issued by the City that pertains to the public improvements for the paving of the 23<sup>rd</sup> Avenue/30<sup>th</sup> Street Parkway; or

(2) When the final plat for the property, or a portion, has been approved by City, such plat has been recorded and streets, sewers, water and lighting improvements have been installed or area available at the boundary lines, as the case may be (all activities, collectively, "Platting"). If unplatted land remains within a tract upon the occurrence of the tenth platted parcel, all deferred special assessments shall be certified to the tenth platted parcel and any unplatted land within a tract.

**Section 7. This section intentionally omitted.**

**Section 8. No Additional Park Land Dedication Required.** Developer having previously dedicated park land within the area to a sufficient level, Developer shall not be obligated or required to dedicate additional park land as a condition for development of Matrix Property.

**Section 9. Relocation.** City and Developer agree that the Matrix Parcels are undeveloped and accordingly, have no tenants or occupants of buildings. Nonetheless, Developer agrees to indemnify and hold the City harmless from any and all claims that might be asserted against the City for such relocation costs, including legal costs for defense of such claims or actions. Expenses of relocation shall include all actual costs paid to claimants, plus any and all administrative and legal expenses necessarily incurred in connection with such relocation.

**Section 10. Intentionally omitted.**

**Section 11. Choice of Law, Venue and Jurisdiction.** The law of the State of North Dakota shall apply to this agreement. Any dispute regarding this agreement shall be venued in District Court for the County of Cass, State of North Dakota and both parties agree to submit to the jurisdiction of said court.

**Section 12. Execution of Documents.** The parties agree to execute such instruments as necessary to effect the terms of this agreement, including a Memorandum of Agreement prepared in such form as to be acceptable for recording in the Cass County Recorder's office for the purpose of placing subsequent owners, lienholders and mortgagees on notice as to the existence of this agreement and the terms hereof. The Memorandum of Agreement shall be drafted to be recorded against (or tracked to) the property currently owned by Matrix as of the effective date of this agreement, such property being as described on the attached Exhibit "C".

**Section 13. Entire Agreement.** This agreement contains all of the terms of the agreement between City and Matrix and supersedes all oral negotiations. The provisions hereof shall be binding upon the successors and assigns of the parties hereto. Matrix agrees to apprise any buyers or intended assigns of the existence and content of this agreement.

DATED effective the day and year first above written.

MATRIX PROPERTIES COPORATION

By:

Its:

Idun Olejagstad  
pres.

ATTEST:

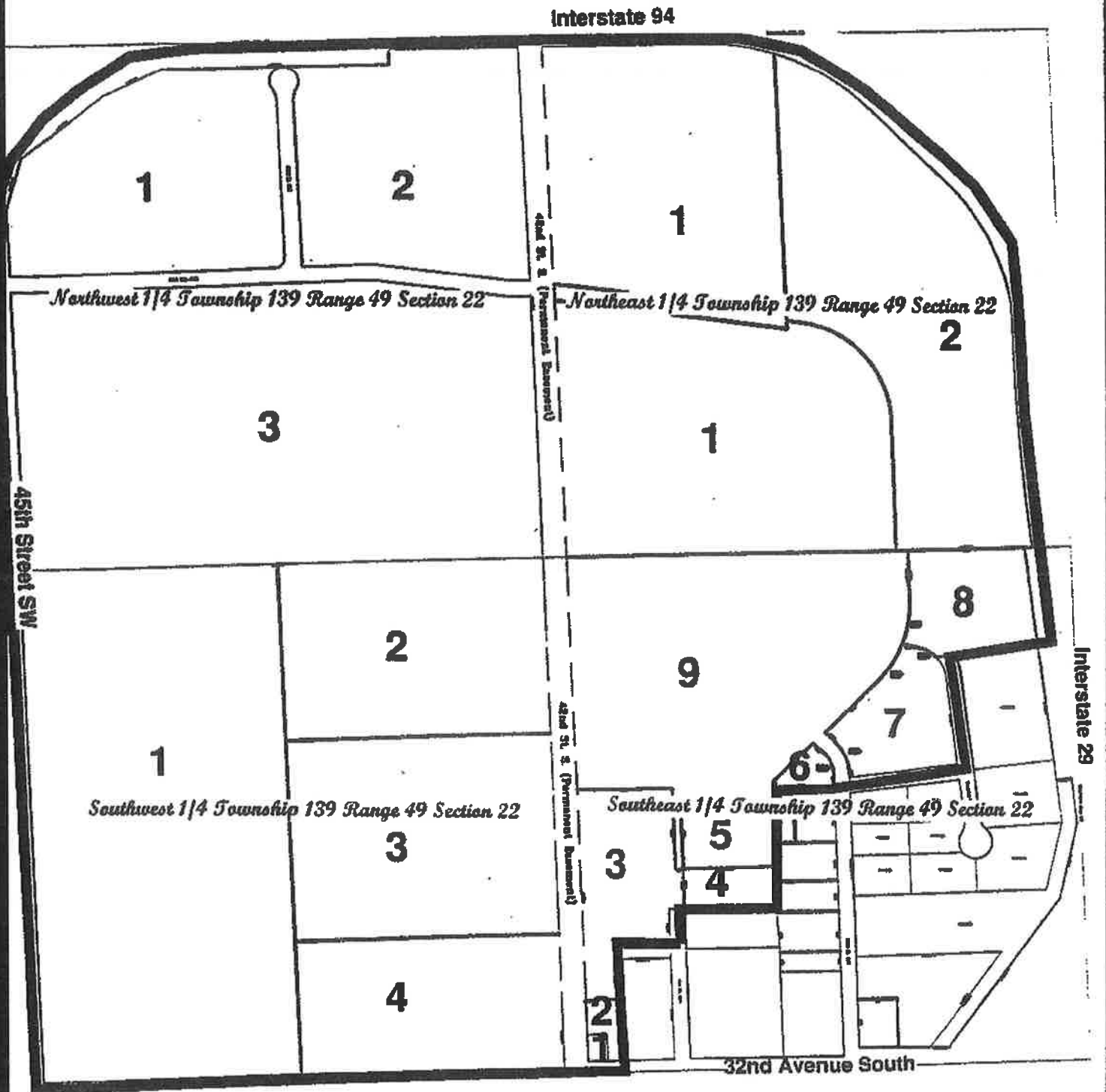
CITY OF FARGO,  
a North Dakota municipal corporation

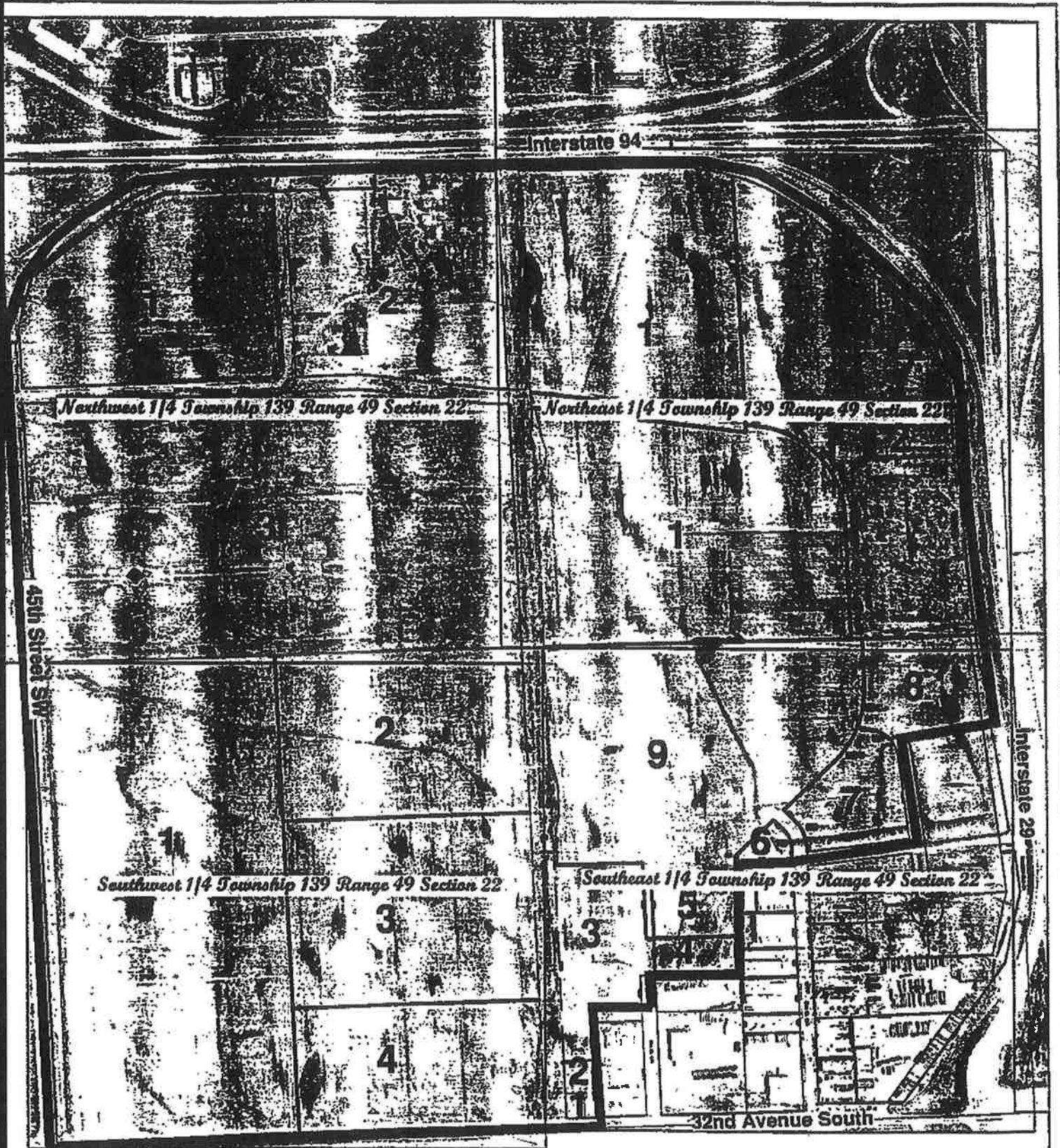
\_\_\_\_\_  
Steven Sprague, City Auditor

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

**EXHIBIT "A"**

**Description of Tax Increment Financing District 2001-01**

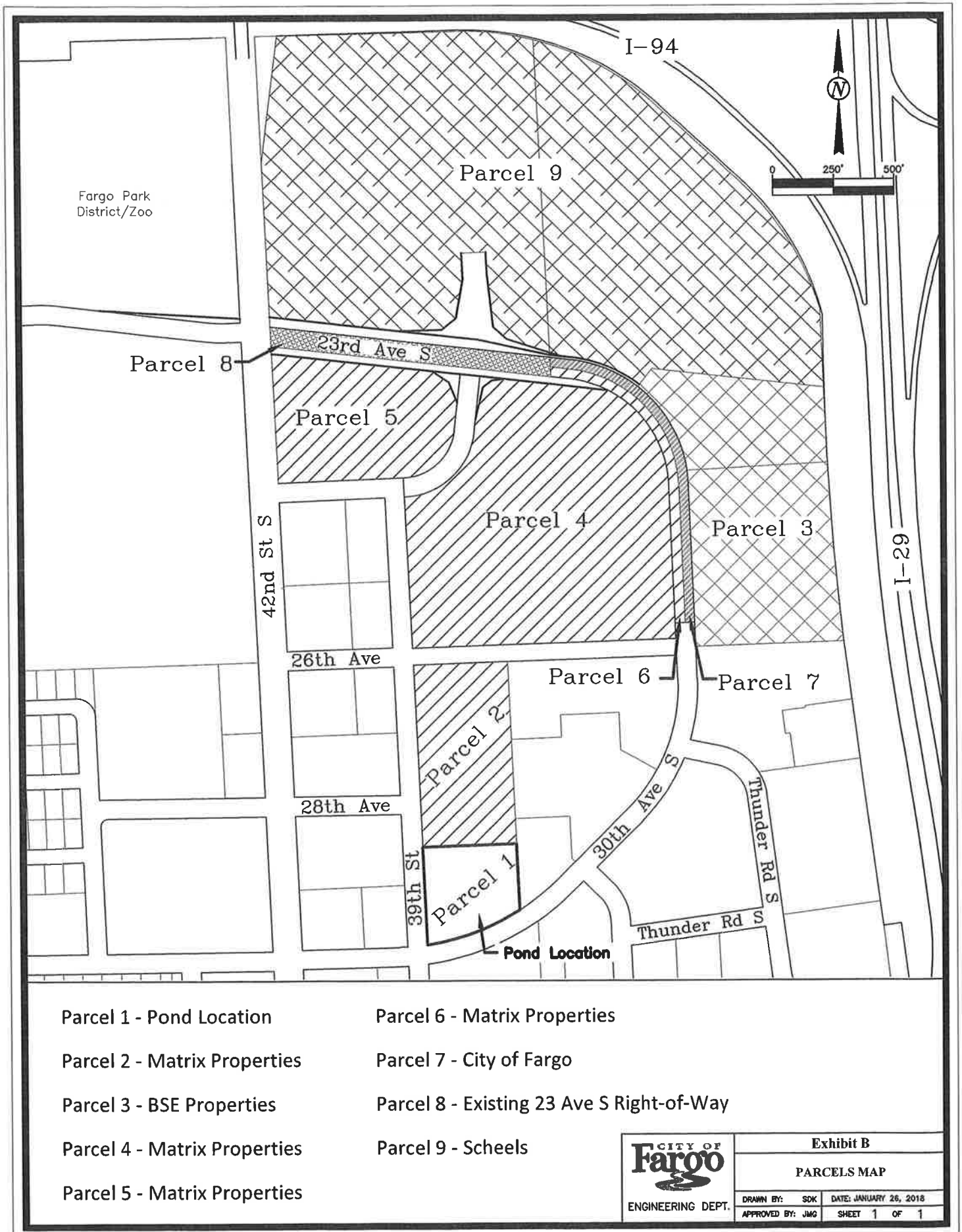




**EXHIBIT “B”**

**SITE PLAN DEPICTION**

**[See attached]**





**EXHIBIT "C"**

**LEGAL DESCRIPTIONS**

**LEGAL DESCRIPTION OF MATRIX' PROPERTY [as of the effective date of this agreement]:**

**DESCRIPTION – MATRIX PROPERTIES – UNPLATTED REMAINDER TRACT:**

That part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows:

COMMENCING at the southwest corner of said Northeast Quarter; thence North 88°04'18" East on the south line of said Northeast Quarter for a distance of 1798.32 feet to the northwest corner of Lot 1, Block 1 of ADAMS SEVENTH ADDITION to the City of Fargo, said point also being on the east line of that tract deeded to the City of Fargo as evidenced by Document Number 1086481 filed of record at the office of the Cass County Recorder; thence North 02°17'42" West on said east line, and along the east line of 30<sup>th</sup> Avenue South as dedicated on the plat of said ADAMS SEVENTH ADDITION, for a distance of 100.00 feet to the northeast corner of said 30<sup>th</sup> Avenue South; thence South 88°04'18" West, along the north line of said 30<sup>th</sup> Avenue South, for a distance of 80.00 feet to the northwest corner of said 30<sup>th</sup> Avenue South, and the TRUE POINT OF BEGINNING of the tract to be described; thence North 02°17'42" West for a distance of 578.65 feet to a point of tangential curve to the left, radius 460.00 feet; thence northwesterly along said curve to the left, for a distance of 652.11 feet, central angle 81°13'26", chord bearing North 42°54'25" West; thence North 83°31'08" West for a distance of 72.70 feet to the southeast corner of an 80.00-foot wide strip of land described as an exception on the Warranty Deed as evidenced by Document Number 863638, filed of record at the office of said Cass County Recorder; thence continue North 83°31'08" West, along the southerly line of said 80.00-foot wide strip, for a distance of 1152.43 feet to a point of intersection with a line lying 120.00 feet easterly of (as measured perpendicular to) the west line of said Northeast Quarter, said point being the southwest corner of said 80.00-foot wide strip; thence South 02°23'48" East, parallel with and 120.00 feet easterly of the west line of said Northeast Quarter, for a distance of 569.90 feet to the northwest corner of WEST 29 4<sup>th</sup> ADDITION to the City of Fargo; thence North 87°36'12" East, along the north line of said WEST 29 4<sup>th</sup> ADDITION, for a distance of 515.62 feet to the northeast corner of said WEST 29 4<sup>th</sup> ADDITION; thence South 02°23'48" East, along the east line of said WEST 29 4<sup>th</sup> ADDITION, for a distance of 704.27 feet to the southeast corner of said WEST 29 4<sup>th</sup> ADDITION, said corner being the northeast corner of WEST 29 3<sup>rd</sup> ADDITION to the City of Fargo; thence South 02°21'42" East, along the east line of said WEST 29 3<sup>rd</sup> ADDITION, for a distance of 5.00 feet to the northwest corner of WEST 29 5<sup>th</sup> ADDITION to the City of Fargo; thence North 88°04'18" East, along the north line of said WEST 29 5<sup>th</sup> ADDITION, for a distance of 1082.75 feet to the northeast corner of said WEST 29 5<sup>th</sup> ADDITION, said corner being on the west line of said 30<sup>th</sup> Avenue South; thence North 02°17'42" West, along the west line of said 30<sup>th</sup> Avenue South, for a distance of 65.00 feet to the TRUE POINT OF BEGINNING.

Said tract of land contains 33.370 acres, more or less.

---

**LEGAL DESCRIPTION OF BORDER STATES' PROPERTY [as of the effective date of this agreement]:**

That part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

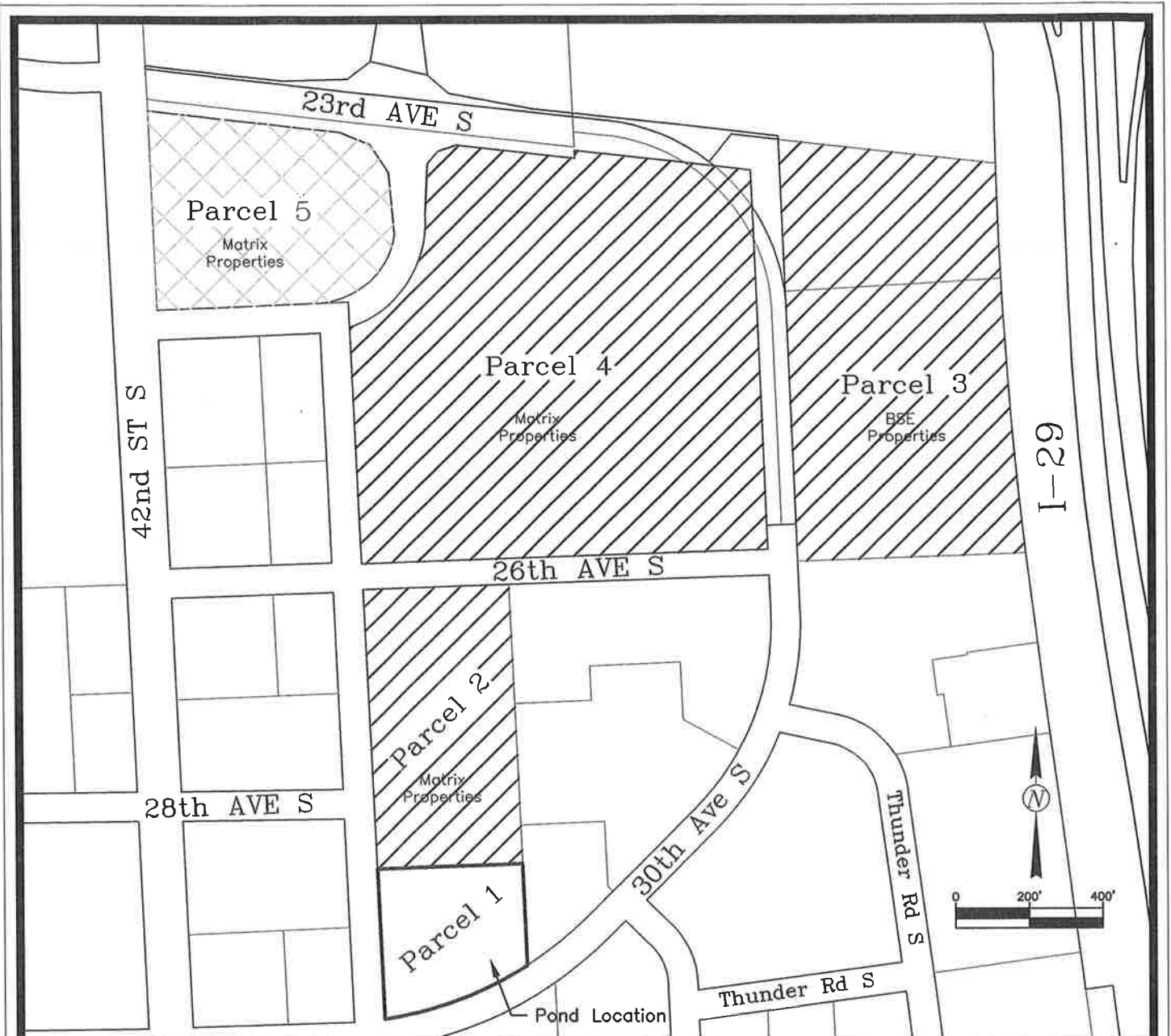
Commencing at the southwest corner of said Northeast Quarter; thence North 88 degrees 04 minutes 18 seconds East on the south line of said Northeast Quarter for a distance of 1798.32 feet to the northwest corner of Lot 1, Block 1 of ADAMS SEVENTH ADDITION to the City of Fargo, and the True Point of Beginning of the tract to be described, said point also being on the east line of that tract deeded to the City of Fargo as evidenced by Document Number 1086481 filed of record at the office of the Cass County Recorder; thence North 02 degrees 17 minutes 42 seconds West on said east line for a distance of 679.16 feet; thence northwesterly 465.52 feet on said east line of the arc of a curve concave to the southwest, said curve having a central angle of 49 degrees 23 minutes 34 seconds, and a radius of 540.00 feet; thence North 38 degrees 18 minutes 44 seconds East for a distance of 95.59 feet; thence South 83 degrees 31 minutes 08 seconds East for a distance of 709.14 feet to the west right-of-way line of Interstate Highway Number 29; thence South 02 degrees 08 minutes 18 seconds East on said west right-of-way line for a distance of 97.61 feet; thence southerly 960.76 feet on said west right-of-way line on the arc of a curve concave to the east, said curve having a central angle of 04 degrees 41 minutes 50 seconds, and a radius of 11,719.19 feet, to a point of intersection with the southerly line of the Northeast Quarter of said Section 22; thence South 88 degrees 04 minutes 18 seconds West, along the southerly line of the Northeast Quarter of said Section 22, for a distance of 611.01 feet to the True Point of Beginning.

Said tract contains 15.534 acres, more or less.

**EXHIBIT “D”**

**Depiction of Parcels Intended to Benefit from Retention Pond**


**[See attached site plan]**



### Regional Pond Benefits

Parcel 2,3 and 4

- Benefit from regional pond on parcel 1 for 65% impervious and water quality

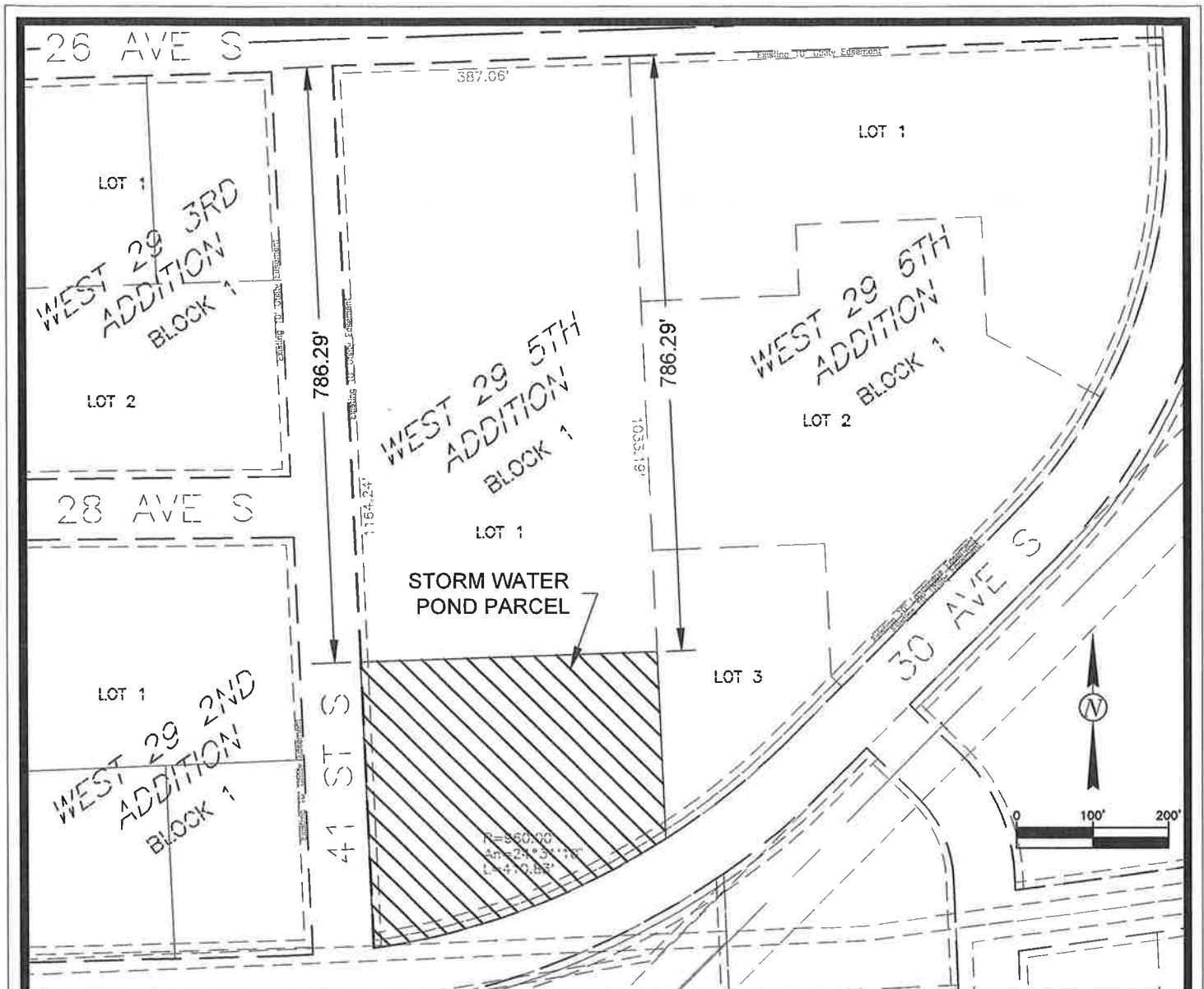
 <b>CITY OF Fargo</b> ENGINEERING DEPT.	Exhibit 1.1	
	MATRIX PROPERTIES	
	DRAWN BY: SDK	DATE: JUNE 29, 2017
	APPROVED BY: JMG	SHEET 1 OF 1

**EXHIBIT "E"**

**Storm Water Easements and Public Utilities Easements**

**[See attached site plan containing legal descriptions]**

## EXHIBIT-- STORM WATER POND PARCEL

**Exhibit A**

- Storm Water Pond Parcel

**Purpose:** Permanent Storm Water Pond Parcel**Description:**

A tract of land in Block 1 of WEST 29 5TH ADDITION to the City of Fargo, Cass County, North Dakota described as follows:

Lot 1, Block 1 of WEST 29 5TH ADDITION to the City of Fargo, Cass County, North Dakota less the northerly 786.29 feet thereof.

Said tract contains 126,887 square feet, more or less.

Bearings based on the City of Fargo ground control system.

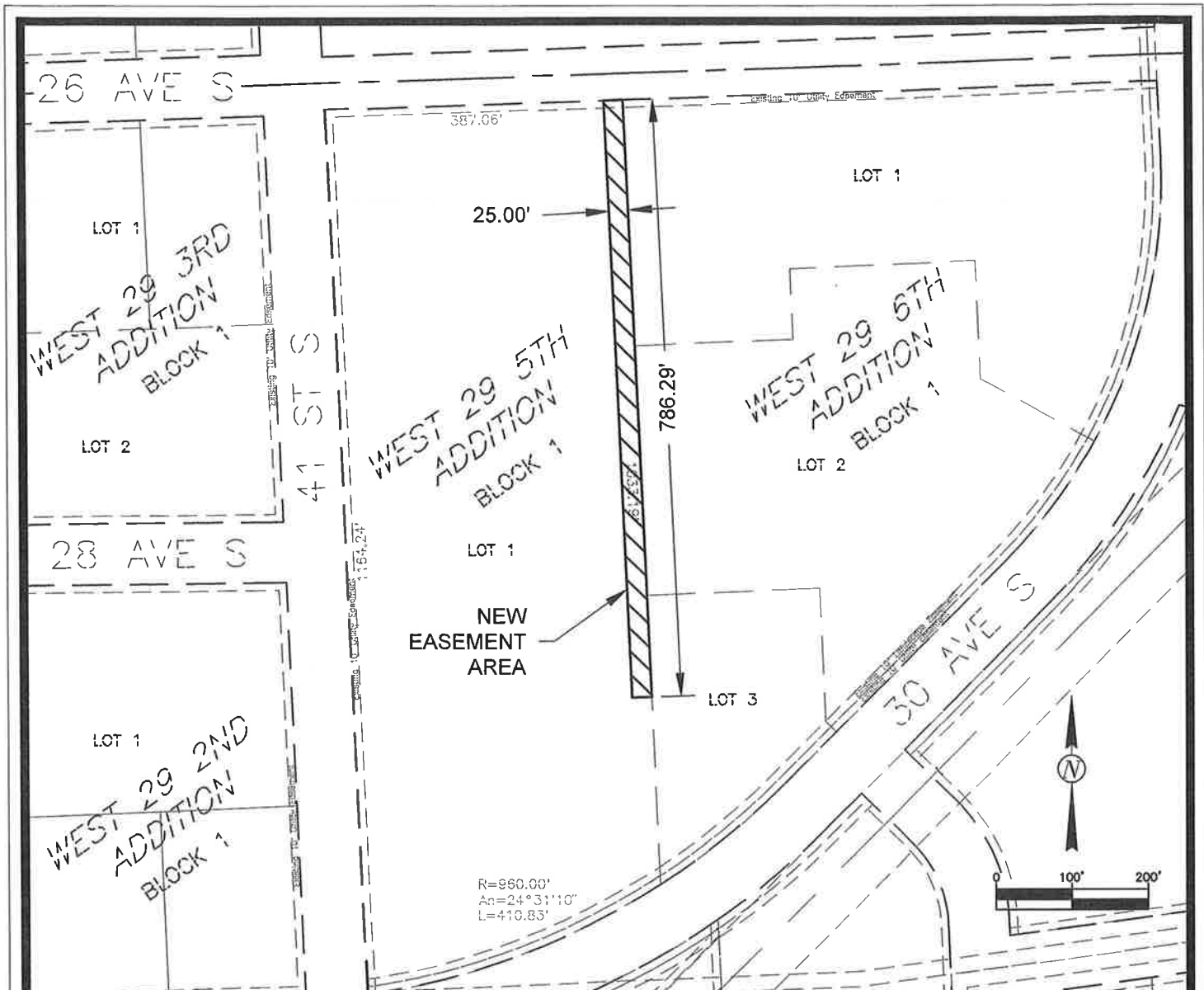


ENGINEERING DEPT.

**STORM WATER POND PARCEL**

**WEST 29 5TH ADDITION  
LOT 1, BLOCK 1**

DRAWN BY: SDK	DATE: JUNE 27, 2017
APPROVED BY: BHW	SHEET 1 OF 1

**Exhibit A**

- New Storm Sewer Easement

**Purpose:** Permanent Storm Sewer Easement**Description:**

A tract of land in Block 1 of WEST 29 5TH ADDITION to the City of Fargo, Cass County, North Dakota described as follows:

The east 25.00 feet of the north 786.29 feet of Lot 1, Block 1 of WEST 29 5TH ADDITION to the City of Fargo, Cass County, North Dakota.

Said tract contains 19,657 square feet, more or less.

Bearings based on the City of Fargo ground control system.


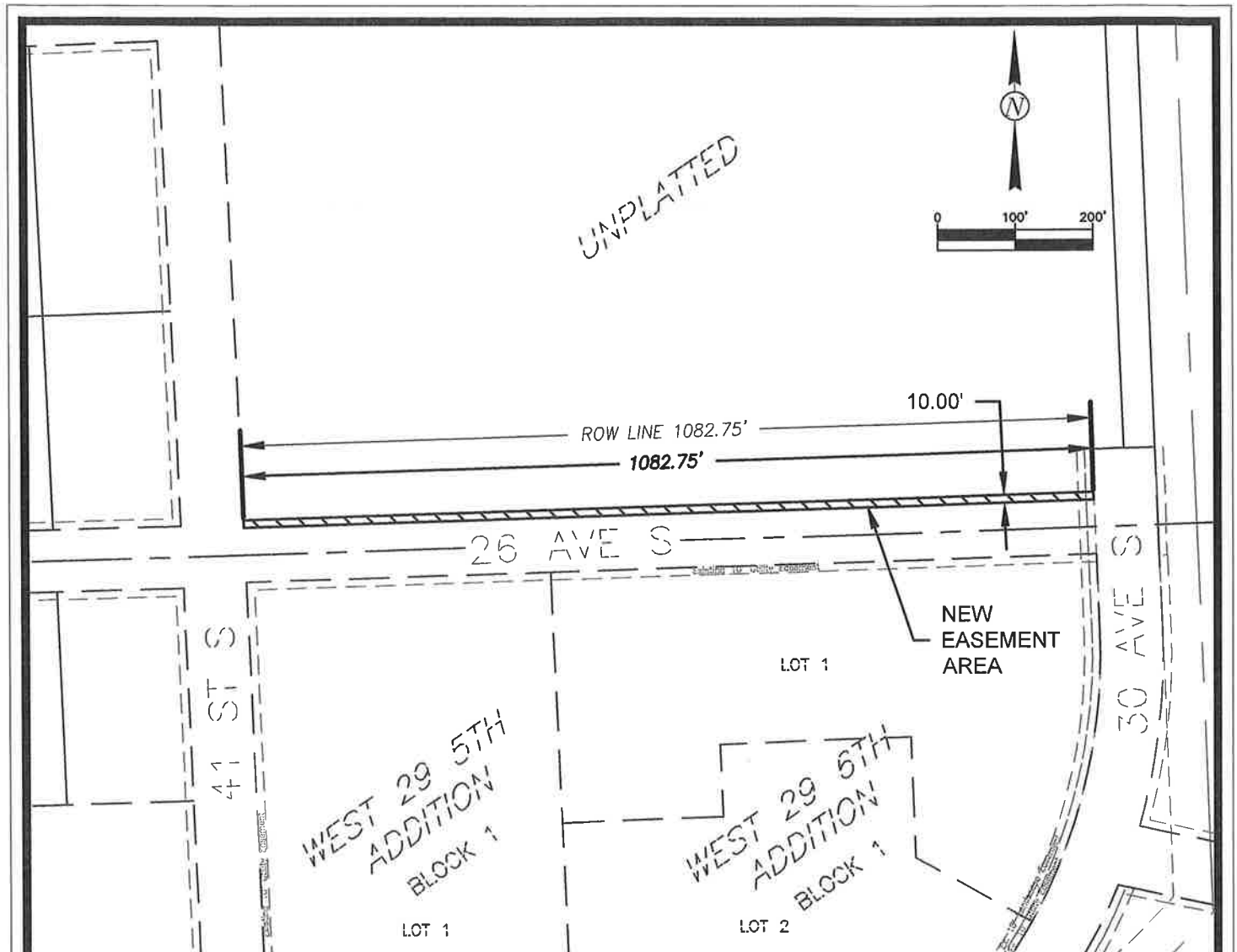
 <b>CITY OF Fargo</b> ENGINEERING DEPT.	<b>STORM SEWER EASEMENT</b>	
	<b>WEST 29 5TH ADDITION LOT 1, BLOCK 1</b>	
	DRAWN BY: SDK	DATE: JUNE 27, 2017
	APPROVED BY: BWW	SHEET 1 OF 1

Exhibit - Storm Sewer Easement North of 26th Ave S -- unplatted land



**Exhibit A**

 - New Storm Sewer Easement

Purpose: Permanent Storm Sewer Easement

Description:

A tract of land in the unplatted South Half of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as:

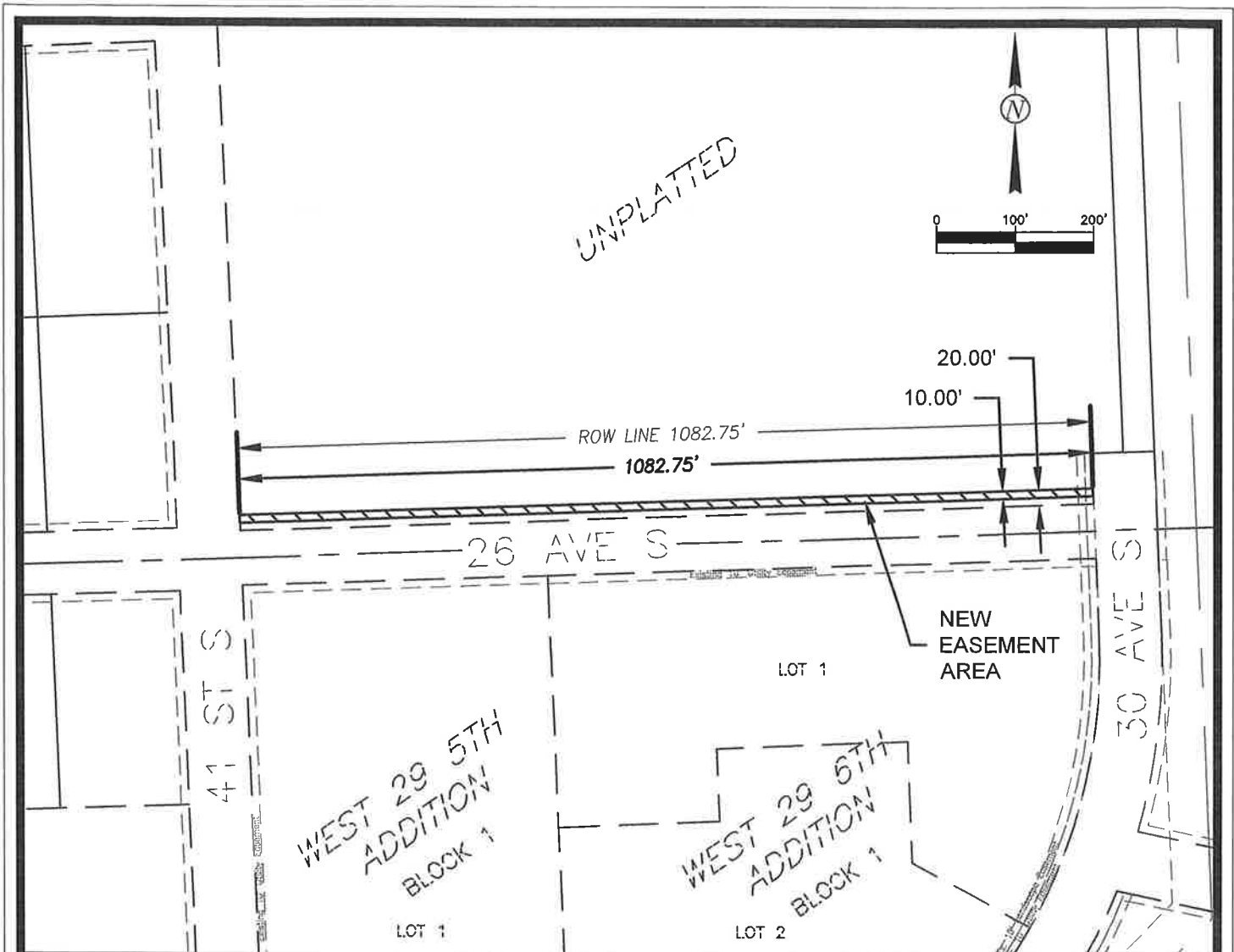
A 10.00 foot wide strip of land parallel with and bounded on the south by the northerly line of 26 AVENUE SOUTH as dedicated to the City of Fargo by the WEST 29 5TH ADDITION plat on file at the Cass County Recorder's Office as document #1421919, bounded on the east by the westerly line of 30 AVENUE SOUTH as dedicated to the City of Fargo by the ADAMS SEVENTH ADDITION plat on file at the Cass County Recorder's Office as document #1268174, bounded on the west by the easterly line of 41 STREET SOUTH as dedicated to the City of Fargo by the WEST 29 4TH ADDITION plat on file at the Cass County Recorder's Office as document #1388571.

Said tract contains 10,828 square feet, more or less.

Bearings based on the City of Fargo ground control system.

 <b>CITY OF Fargo</b> ENGINEERING DEPT.	<b>STORM SEWER EASEMENT</b>		
	UNPLATTED S ½ OF NE ¼ SECTION 22, T139N, R49W		
	DRAWN BY: SDK	DATE: JUNE 8, 2017	
	APPROVED BY: BWW	SHEET 1	OF 2



**Exhibit B**

 - New Utility Easement

Purpose: Permanent Utility Easement

Description:

A tract of land in the unplatted South Half of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as:

The north 10.00 feet of a 20.00 foot wide strip of land parallel with and bounded on the south by the northerly line of 26 AVENUE SOUTH as dedicated to the City of Fargo by the WEST 29 5TH ADDITION plat on file at the Cass County Recorder's Office as document #1421919, bounded on the east by the westerly line of 30 AVENUE SOUTH as dedicated to the City of Fargo by the ADAMS SEVENTH ADDITION plat on file at the Cass County Recorder's Office as document #1268174, bounded on the west by the easterly line of 41 STREET SOUTH as dedicated to the City of Fargo by the WEST 29 4TH ADDITION plat on file at the Cass County Recorder's Office as document #1388571.

Said tract contains 10,828 square feet, more or less.

Bearings based on the City of Fargo ground control system.



ENGINEERING DEPT.

**UTILITY EASEMENT**

**UNPLATTED S ½ OF NE ¼  
SECTION 22, T139N, R49W**

DRAWN BY: SDK	DATE: JUNE 8, 2017
APPROVED BY: BWW	SHEET 2 OF 2

# **DEVELOPER'S AGREEMENT**

**between**

**SCHEELS ALL SPORTS, INC.**

**and**

**CITY OF FARGO, NORTH DAKOTA**

**regarding**

**Tax Increment District 2001-01**

## AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_ day of February, 2018, by and between **SCHEELS ALL SPORTS, INC.**, a North Dakota corporation (“Scheels”), and the **CITY OF FARGO**, a North Dakota municipal corporation (“City”).

### RECITALS RELATED TO DISTRICT No. 2001-01:

WHEREAS, by resolution of October 8, 2001, the Board of City Commissioners of the City of Fargo determined that certain property defined below as the District is underdeveloped and that development of the property is necessary and appropriate in accordance with Chapter 40-58 N.D.C.C.; and,

WHEREAS, as of October 8, 2001, the real property within the District was owned by various owners, including Matrix Properties Corporation (“Matrix”), as set forth in Exhibit “A”, attached hereto; and,

WHEREAS, Scheels and the City seek to utilize tax increments to finance and provide for amortization of the costs of certain portions of public improvements and the City is authorized to sell municipal bonds or provide other funding of such cost through sales tax revenues or other sources of funding, such bonds or other financing to be repaid from tax increments from the project as provided in Chapter 40-58, N.D.C.C.; and,

WHEREAS, a number of municipal improvements have been constructed and will be constructed utilizing tax increment financing, sales tax proceeds, special assessment financing or a combination thereof; and,

WHEREAS, the Renewal Plan for Tax Increment Financing District No. 2001-01 has been amended as of December 20, 2004, to incorporate into said plan the public improvements contemplated in this Agreement; and,

WHEREAS, plans and arrangements have been developed for the continuation of the established parkway known as 23<sup>rd</sup> Avenue South and also as 38<sup>th</sup> Street South (**the “Parkway”**), the configuration of which will require, effectively, the exchange of various parcels within the District so as to allow said continuation of the 23<sup>rd</sup> Avenue/38<sup>th</sup> Street Parkway in its currently-planned configuration to be dedicated for right-of-way purposes and to be constructed and to allow other local roads to be planned, dedicated and constructed, and to provide other public facilities (infrastructure), including a regional storm water retention/detention facility that will further the objectives of the renewal plan for the District; and,

**RECITALS RELATED TO  
INTERSTATE BUSINESS PARK DEVELOPMENT:**

WHEREAS, Matrix is the owner of record of certain property depicted on the attached Exhibit "B" and identified thereon as the "Matrix Parcels" with certain smaller parcels within the Matrix Parcels described thereon as Parcels 1, 2, 4, 5, 6 and 8 with the legal description for the Matrix Parcels being described on the attached Exhibit "C"; and

WHEREAS, Border States Industries, Inc. is the owner of record of certain property depicted on the attached Exhibit "B" as Parcel 3 and identified as thereon as the "Border State Parcel" (hereinafter the "Border States Parcel") with the legal description for the Border States Parcel being described on the attached Exhibit "C"; and,

WHEREAS, Scheels is the owner of record of certain property depicted on the attached Exhibit "B" as Parcel 9 (hereinafter the "Scheels Parcel") with the legal description for the Scheels Parcel being described on the attached Exhibit "C"; and,

WHEREAS, the City is the owner of record of certain property depicted on the attached Exhibit "B" and identified thereon as Parcel 7; and

WHEREAS, the Parkway had been platted and constructed to a terminus ending 100 feet, more or less, north of its intersection with 26<sup>th</sup> Avenue South and it is the desire of Scheels, Matrix, Border States Industries, Inc. and the City that the Parkway be continued from its previous terminus and that it be platted and constructed to service the property described herein and ultimately to continue to the intersection of said 23<sup>rd</sup> Avenue South with 45<sup>th</sup> Street South, said plat to be named "Interstate Business Park", or a name substantially similar thereto; and,

WHEREAS, the intended municipal improvements affect and benefit real property owned by Scheels as a result of the extension of the Parkway to serve the Scheels Parcel; and,

WHEREAS, Scheels and the City wish to set forth in writing the terms by which said development will occur;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**Section 1. Scheels to Join in Plat including Dedication of right-of-way for Parkway.** Scheels shall join in the plat of the intended "Interstate Business Park" in substantially the form attached hereto as Exhibit "D" (the "Plat") which Plat will include the dedication of right-of-way within a portion of the Scheels Parcel and within a portion of the Matrix property for the Parkway to include additional land sufficient to construct a round-a-bout, possibly to be constructed in the future which, if constructed and installed, would benefit the Scheels Parcel and

other parcels. Scheels shall provide the City with an attorney's opinion of title or a copy of a title insurance policy, stating that Scheels is the owner of record of the Scheels Parcel, as required by N.D.C.C. §40-50.1-03.

**Section 2. Creation of Tax Increment District.** The City has taken the necessary steps to establish a tax increment district pursuant to the provision of Chapter 40-58, N.D.C.C. which district is described by a map attached and incorporated herein as Exhibit "A", (herein "District 2001-01" or the "District"). A renewal plan for the District may be amended from time to time.

**Section 3. Public Improvements.** Development of any parcel within the District shall be in accordance with an approved plan by the City. Scheels understands that the amount of tax increment which will be available to amortize bonds sold or monies otherwise furnished to pay eligible cost is dependent upon the value of development occurring within the District. Scheels and the City desire that certain public improvements be installed or constructed within the District by the City, and that other public assistance be provided by the City, as authorized by Chapter 40-58 N.D.C.C. Said improvements and other public assistance pertaining to this Agreement include:

(a) Regional Storm Water Pond Land Acquisition and Construction*	\$ 800,000
(b) Trunk Storm Sewer for Regional Storm Water Pond	\$ 750,000
(c) Parkway improvements including Paving & Incidentals	\$1,275,000
(d) Traffic Lights (one intersection at 23 <sup>rd</sup> Avenue and 42 <sup>nd</sup> St.)	<u>\$1,000,000</u>
Total	\$3,825,000

(\* The Scheels Parcel will not benefit from the above-referenced Regional Storm Water Pond [Section 3(a)] or the Trunk Storm Sewer for such Regional Storm Water Pond [Section 3(b)] .)

The actual costs of the improvements described in Section 3(a) and 3(b) shall be paid using only tax increment financing funds, to the extent such TIF funds are available, and shall

not be paid through special assessments. The actual costs of the improvements described in Section 3(c) and 3(d) shall be paid in the manner set forth in Section 4 below.

**Section 4. Parkway Special Assessments-Arterial Cap.** Scheels understands and agrees that certain public improvements for the Parkway as described in Section 3(c) and 3(d), above, will be installed and constructed to serve the Scheels Parcel and other benefitted parcels and that special assessments therefor will be levied and assessed against the Scheels' Parcel and other benefitted parcels for such improvements described in Section 3(c) and 3(d) above; accordingly, Scheels hereby waives Scheels' right to protest the resolution of necessity for any such improvements described in Section 3(c) and 3(d) above as would otherwise be required pursuant to N.D.C.C. Section 40-22-17. Scheels hereby specifically consents to the construction of such improvements described in Section 3(c) and 3(d) above and to the assessment of a portion of the costs thereof against the Scheels Parcel calculated in accordance with applicable City codes or guidelines. The City will continue to coordinate with Scheels regarding the schedule for, commencement of and completion of said improvements. At such time as annual installments of special assessments are certified for collection as provided in Section 5 below, the total amount to be assessed against the Scheels Parcel shall be spread over a period of not to exceed twenty-five (25) years and the annual installments shall be determined in accordance with N.D.C.C. Sections 40-24-04 through 40-24-08. The total amount to be assessed against the Scheels Parcel and other benefitted parcels shall be the entire amount of the assessment as determined by the Special Assessment Commission and as confirmed by the Board of City Commissioners.

Due to the fact that two Interstate, controlled-access highways, constitute two of the actual arterial roads that serve the Scheels Parcel, the City intends to treat the Parkway as the equivalent of an arterial road, as described in the City's functional street classification system. As such, the City intends to treat the special assessments for the Parkway in the same manner as an arterial road and, therefore, will cap the special assessments for the costs of paving and incidentals portion of the Parkway improvements against the Scheels Parcel at the same rate as for local or collector roads in

an SR Zoning District (based upon a 40-ft paving width) with the excess costs of paving and incidentals portion of the Parkway improvements over said cap being paid using tax increment funds as described herein. The parties recognize that the current (2017) cap of special assessments for the paving and incidentals portion of local or collector roads in an SR Zoning District (40-ft width) is set at \$208.00 per lineal front foot of the applicable lot or parcel; however, said cap may be subject to change from time to time based upon a number of factors not within the control of the City, including installation cost fluctuations. The parties understand and agree that the costs associated with sanitary sewer, water main, storm sewer and street lights for the Parkway will be specially assessed against the Scheels Parcel and other benefitted parcels and; accordingly, Scheels hereby waives Scheels' right to protest the resolution of necessity for any such improvements as would otherwise be required pursuant to N.D.C.C. Section 40-22-17.

The installation of the Regional Storm Water Pond and Trunk Storm Sewer being installed and constructed by the City, including costs of land acquisition, as described in Section 3(a) and 3(b), are intended to be paid using tax increment funds as described herein and said improvements are not intended to be financed or paid through special assessments. Therefore, Scheels will not be responsible for, nor the Scheels Parcel assessed for, the costs associated with the improvements described in Section 3(a) or 3(b) including without limitation: (i) such Regional Storm Water Pond land acquisition and construction, (ii) the cost associated with easements acquired for the City to connect such Regional Storm Water Pond to the City's storm water collection system, including cost of land or easement acquisition or (iii) the construction and associated cost of the installation of such Trunk Storm Sewer between the Border States Parcel and the Regional Storm Water Pond.

#### **Section 5. Special Assessments and Deferral.**

At such time as annual installments of special assessments are certified for collection as provided below, the total amount to be assessed shall be spread over a period of not to exceed twenty-five (25) years and the annual installments shall be determined in accordance with Sections 40-24-04 through 40-24-08 N.D.C.C. The total amount to be assessed shall be the entire amount of

the assessment as determined by the Special Assessment Commission and as confirmed by the Board of City Commissioners.

The City agrees to defer the certification for collection of annual installments of special assessments levied against the Scheels Parcel for the costs of any of the public improvements described herein that are constructed and installed until the earliest of one of two triggering events occurs:

(1) Ten (10) years from the date of the earliest Notice of Special Assessment issued by the City that pertains to the public improvements for the paving of the 23<sup>rd</sup> Avenue/30<sup>th</sup> Street Parkway; or

(2) The date of issuance of a building permit pertaining to the Scheels Parcel.

The City also agrees that all interest accruing during such deferral period on the special assessments to be levied against the Scheels Parcel shall be paid using tax increment funds as described herein.

**Section 6. Tax Increment Financing.** Scheels and City acknowledge and agree that the City has implemented a tax increment financing mechanism for the financing and payment of certain eligible project costs pursuant to the authority granted to municipalities by Chapter 40-58 N.D.C.C., that additional public projects may be financed through the tax increment derived from the District 2001-01 so long as existing debt payment obligations under this agreement are being met.

The parties acknowledge that Scheels may request in the future that the City consider the use of tax increment proceeds for additional public infrastructure improvements including storm water retention/detention, pedestrian-bike paths and street trees. No commitment is being made for such by this agreement but the City is willing to consider such requests in the future.

**Section 7. Contingency.** The City's obligations to Scheels and Scheels' obligations to City under this Agreement are contingent upon the City entering into Development



Agreements with Matrix Properties, Inc., and Border States Industries, Inc. that will assure the dedication of right of way for the Parkway as shown in the Plat. Scheels obligations to City under this Agreement are also contingent upon Scheels entering into an agreement with Matrix Properties, Inc. confirming Matrix will plat additional land within the Matrix Parcels sufficient for future construction of the round-a-about within the right of way shown on the Plat, and all necessary parties executing and delivering signed mylars of the Plat to a mutually acceptable third party or agent for recording in the land title records of Cass County, North Dakota.

**Section 8. Relocation.** City and Scheels agree that prior to Scheels acquiring and commencing construction on the Scheels Parcel, said parcel was undeveloped and accordingly, had no tenants or occupants of buildings. Nonetheless, Scheels agrees to indemnify and hold the City harmless from any and all claims that might be asserted against the City for such relocation costs related to the Scheels Parcel, including legal costs for defense of such claims or actions. Expenses of relocation shall include all actual costs paid to claimants, plus any and all administrative and legal expenses necessarily incurred in connection with such relocation.

**Section 9. Assignability.** This Agreement is personal to Scheels, shall not run with the land and may not be assigned to any other party, except with the written consent of the City, not to be unreasonably withheld.

**Section 10. Choice of Law, Venue and Jurisdiction.** The law of the State of North Dakota shall apply to this Agreement. Any dispute regarding this Agreement shall be venued in District Court for the County of Cass, State of North Dakota and both parties agree to submit to the jurisdiction of said court.

**Section 11. Execution of Documents.** The parties agree to execute such instruments as necessary to effect the terms of this Agreement, including a Memorandum of Agreement prepared in such form as to be acceptable for recording in the Cass County Recorder's office for the purpose of placing subsequent owners, lienholders and mortgagees on notice as to the existence of this Agreement and the terms hereof. The Memorandum of Agreement shall be drafted to be recorded against (or tracked to) the property currently owned by Scheels as of the effective date of this agreement, such property being as described on the attached Exhibit "C".

**Section 12. Entire Agreement.** This Agreement contains all of the terms of the agreement between City and Scheels and supersedes all oral negotiations. The provisions hereof shall be binding upon the successors and assigns of the parties hereto. Scheels agrees to apprise

any buyers or intended assigns of the existence and content of this Agreement.

DATED effective the day and year first above written.

SCHEELS ALL SPORTS, INC.,  
a North Dakota corporation

By: 

William D. Nelson  
(print name)

Its: President  
(print title)

CITY OF FARGO,  
a North Dakota municipal corporation

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

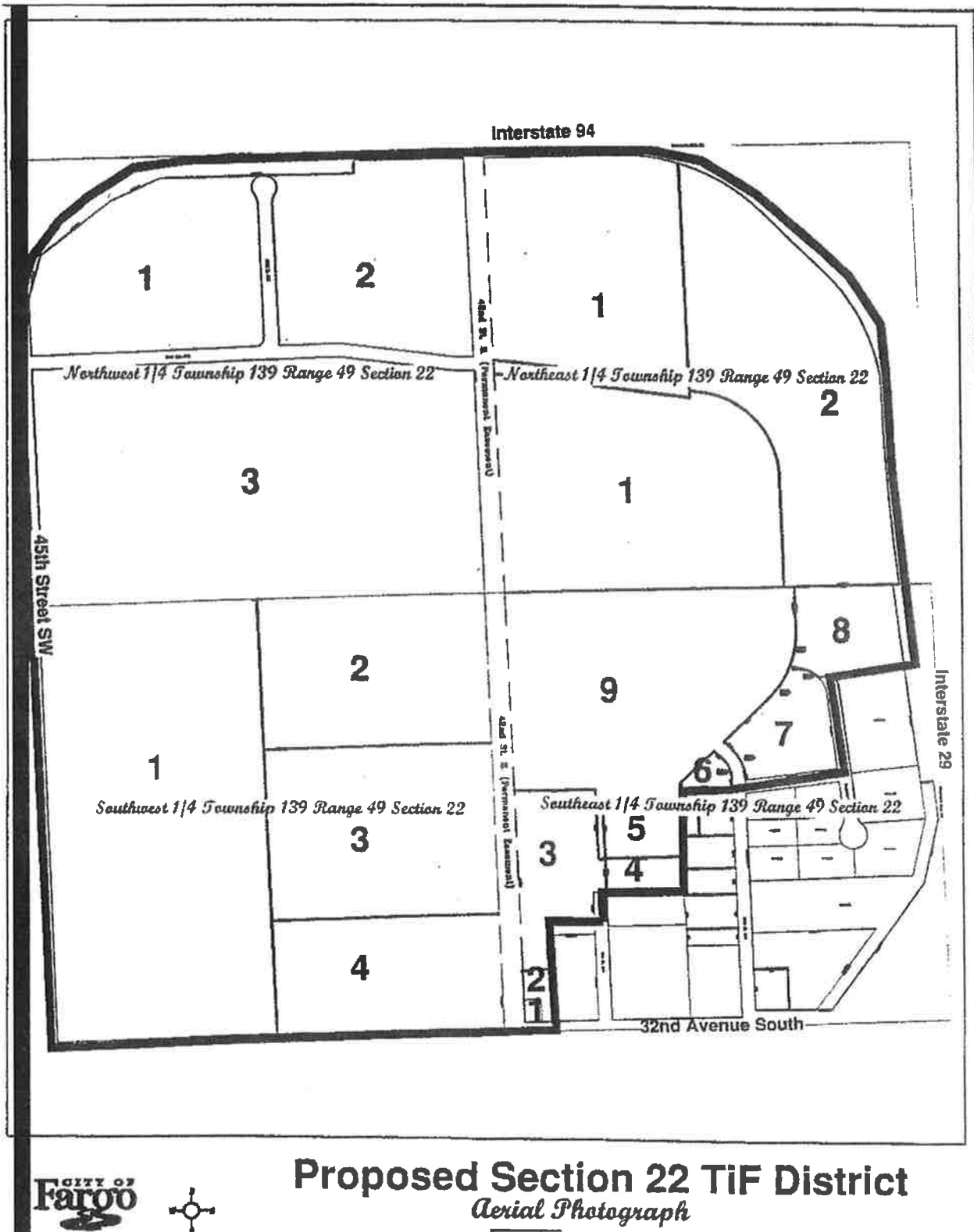
Its: Mayor

ATTEST:

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

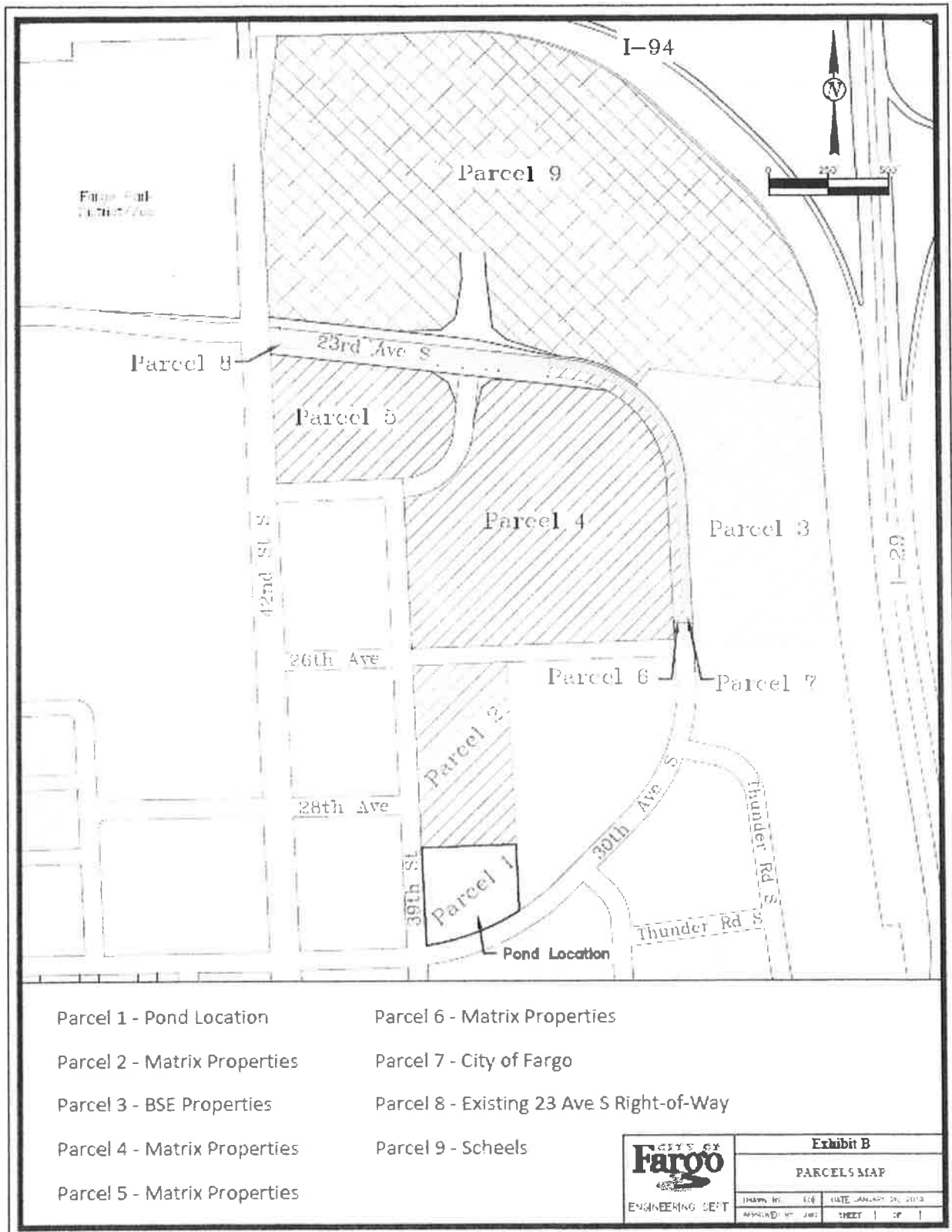
EXHIBIT "A"

Description of Tax Increment Financing District 2001-01



## EXHIBIT "B"

### SITE PLAN DEPICTION



## EXHIBIT "C"

### LEGAL DESCRIPTIONS

#### **LEGAL DESCRIPTION OF MATRIX PARCELS [as of the effective date of this agreement]:**

##### DESCRIPTION – MATRIX PROPERTIES – UNPLATTED REMAINDER TRACT:

That part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows:

COMMENCING at the southwest corner of said Northeast Quarter; thence North 88°04'18" East on the south line of said Northeast Quarter for a distance of 1798.32 feet to the northwest corner of Lot 1, Block 1 of ADAMS SEVENTH ADDITION to the City of Fargo, said point also being on the east line of that tract deeded to the City of Fargo as evidenced by Document Number 1086481 filed of record at the office of the Cass County Recorder; thence North 02°17'42" West on said east line, and along the east line of 30<sup>th</sup> Avenue South as dedicated on the plat of said ADAMS SEVENTH ADDITION, for a distance of 100.00 feet to the northeast corner of said 30<sup>th</sup> Avenue South; thence South 88°04'18" West, along the north line of said 30<sup>th</sup> Avenue South, for a distance of 80.00 feet to the northwest corner of said 30<sup>th</sup> Avenue South, and the TRUE POINT OF BEGINNING of the tract to be described; thence North 02°17'42" West for a distance of 578.65 feet to a point of tangential curve to the left, radius 460.00 feet; thence northwesterly along said curve to the left, for a distance of 652.11 feet, central angle 81°13'26", chord bearing North 42°54'25" West; thence North 83°31'08" West for a distance of 72.70 feet to the southeast corner of an 80.00-foot wide strip of land described as an exception on the Warranty Deed as evidenced by Document Number 863638, filed of record at the office of said Cass County Recorder; thence continue North 83°31'08" West, along the southerly line of said 80.00-foot wide strip, for a distance of 1152.43 feet to a point of intersection with a line lying 120.00 feet easterly of (as measured perpendicular to) the west line of said Northeast Quarter, said point being the southwest corner of said 80.00-foot wide strip; thence South 02°23'48" East, parallel with and 120.00 feet easterly of the west line of said Northeast Quarter, for a distance of 569.90 feet to the northwest corner of WEST 29 4<sup>th</sup> ADDITION to the City of Fargo; thence North 87°36'12" East, along the north line of said WEST 29 4<sup>th</sup> ADDITION, for a distance of 515.62 feet to the northeast corner of said WEST 29 4<sup>th</sup> ADDITION; thence South 02°23'48" East, along the east line of said WEST 29 4<sup>th</sup> ADDITION, for a distance of 704.27 feet to the southeast corner of said WEST 29 4<sup>th</sup> ADDITION, said corner being the northeast corner of WEST 29 3<sup>rd</sup> ADDITION to the City of Fargo; thence South 02°21'42" East, along the east line of said WEST 29 3<sup>rd</sup> ADDITION, for a distance of 5.00 feet to the northwest corner of WEST 29 5<sup>th</sup> ADDITION to the City of Fargo; thence North 88°04'18" East, along the north line of said WEST 29 5<sup>th</sup> ADDITION, for a distance of 1082.75 feet to the northeast corner of said WEST 29 5<sup>th</sup> ADDITION, said corner being on the west line of said 30<sup>th</sup> Avenue South; thence North 02°17'42" West, along the west line of said 30<sup>th</sup> Avenue South, for a distance of 65.00 feet to the TRUE POINT OF BEGINNING.

Said tract of land contains 33.370 acres, more or less.

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**LEGAL DESCRIPTION OF BORDER STATES PARCEL [as of the effective date of this agreement]:**

That part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Northeast Quarter; thence North 88 degrees 04 minutes 18 seconds East on the south line of said Northeast Quarter for a distance of 1798.32 feet to the northwest corner of Lot 1, Block 1 of ADAMS SEVENTH ADDITION to the City of Fargo, and the True Point of Beginning of the tract to be described, said point also being on the east line of that tract deeded to the City of Fargo as evidenced by Document Number 1086481 filed of record at the office of the Cass County Recorder; thence North 02 degrees 17 minutes 42 seconds West on said east line for a distance of 679.16 feet; thence northwesterly 465.52 feet on said east line of the arc of a curve concave to the southwest, said curve having a central angle of 49 degrees 23 minutes 34 seconds, and a radius of 540.00 feet; thence North 38 degrees 18 minutes 44 seconds East for a distance of 95.59 feet; thence South 83 degrees 31 minutes 08 seconds East for a distance of 709.14 feet to the west right-of-way line of Interstate Highway Number 29; thence South 02 degrees 08 minutes 18 seconds East on said west right-of-way line for a distance of 97.61 feet; thence southerly 960.76 feet on said west right-of-way line on the arc of a curve concave to the east, said curve having a central angle of 04 degrees 41 minutes 50 seconds, and a radius of 11,719.19 feet, to a point of intersection with the southerly line of the Northeast Quarter of said Section 22; thence South 88 degrees 04 minutes 18 seconds West, along the southerly line of the Northeast Quarter of said Section 22, for a distance of 611.01 feet to the True Point of Beginning.

Said tract contains 15.534 acres, more or less, and is subject to easements and rights-of-way of record.

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**LEGAL DESCRIPTION OF SCHEELS PARCEL [as of the effective date of this agreement] consisting of the following Tract One and Tract Two:**

**TRACT ONE (the "Matrix-acquired tract"):**

That part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West, 5th Principal Meridian, Cass County, North Dakota described as follows: Commencing at the southwest corner of said Northeast Quarter; thence North 88 degrees 04 minutes 18 seconds East on the south line of said Northeast Quarter for a distance of 1798.32 feet to the northwest corner of Lot 1, Block 1 of ADAMS SEVENTH ADDITION, a duly recorded plat on file and of record in the Office of the County Recorder, Cass County, North Dakota and also being on the east line of that tract deeded to the City of Fargo as evidenced by Document Number 1086481 filed of record at the office of the Cass County Recorder; thence North 02 degrees 17 minutes 42 seconds West on said east line for a distance of 679.16 feet; thence northwesterly 765.52 feet on said east line on the arc of a curve concave to the southwest, having a central angle of 81 degrees 13 minutes 26 seconds, and a radius of 540.00 feet; thence North 83 degrees 31 minutes 08 seconds West, tangent to said curve, on the north line of said tract deeded to the City of Fargo for a distance of 85.20 feet to the east line of a parcel of land described in Document Number 863638 filed of record at the office of the Cass County Recorder and the point of beginning of the land to

be described; thence North 02 degrees 23 minutes 48 seconds West, along the east line of said Document Number 863638 for a distance of 1316.81 feet to the southerly right-of-way line of Interstate Highway Number 94, as monumented, and as shown as Parcel No. 321 A on the correction plat dated September 1, 2006 and filed for record as Document Number 1181663 in the office of the Cass County; thence northwesterly 315.92 feet along said southerly right of way line on the arc of a curve, not tangent to the last described course, concave to the southwest having a central angle of 15 degrees 47 minutes 28 seconds and a radius of 1146.28 feet, and a chord length of 314.92 feet which bears North 83 degrees 35 minutes 16 seconds West; thence South 88 degrees 43 minutes 56 seconds West, continuing along said southerly right of way line, not tangent to said curve, 738.98 feet to the northeast corner of Parcel 23-P of City of Fargo Dedication Plat of 42<sup>nd</sup> Street South, as evidenced by Document 1128839 filed of record at the office of the Cass County Recorder; thence South 7 degrees 15 minutes 11 seconds West, along the easterly line of said Parcel 23-P, 528.43 feet to a line parallel with and 120.00 feet east of the west line of said Northeast Quarter; thence South 2 degrees 23 minutes 48 seconds East, along said parallel line and along the east line of Parcel 29-P of said City of Fargo Dedication Plat of 42<sup>ND</sup> Street South 680.79 feet to the north line of an 80.00 foot strip of land excepted out of said Document 863638; thence South 83 degrees 31 minutes 08 seconds East, along the north line of said 80.00 foot strip, 1152.43 feet to the point of beginning.

## AND

### **TRACT TWO** (the "Comstock-acquired tract"):

That part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Northeast Quarter; thence North 88 degrees 04 minutes 18 seconds East on the south line of said Northeast Quarter for a distance of 1798.32 feet to the northwest corner of Lot 1, Block 1 of ADAMS SEVENTH ADDITION to the City of Fargo and also being on the east line of that tract deeded to the City of Fargo as evidenced by Document Number 1086481 filed of record at the office of the Cass County Recorder; thence North 02 degrees 17 minutes 42 seconds West on said east line for a distance of 679.16 feet; thence northwesterly 465.52 feet on said east line of the arc of a curve concave to the southwest, said curve having a central angle of 49 degrees 23 minutes 34 seconds, and a radius of 540.00 feet, to the Point of Beginning of the tract to be described; thence continue northwesterly 300.00 feet on said east line of the arc of a curve concave to the southwest, said curve having a central angle of 31 degrees 49 minutes 52 seconds, and a radius of 540.00 feet; thence North 83 degrees 31 minutes 08 seconds West on the north line of said tract deeded the City of Fargo for a distance of 85.20 feet; thence North 02 degrees 23 minutes 48 seconds West for a distance of 1316.81 feet to the southerly right-of-way line of Interstate Highway Number 94 as shown as Parcel No. 321 A on the correction plat dated September 1, 2006 and filed for record as Document Number 1181663 in the office of the said Cass County Recorder; thence southeasterly 570.94 feet on said southerly right-of-way line on the arc of a curve concave to the southwest, said curve having a central angle of 28 degrees 32 minutes 16 seconds, a radius of 1146.28 feet, and a chord length of 565.05 feet which bears South 61 degrees 25 minutes 24 seconds East;



thence South 47 degrees 09 minutes 16 seconds East on said southerly right-of-way line for a distance of 20.98 feet to a found iron pin in a concrete monument; thence continuing South 47 degrees 09 minutes 16 seconds East on said southerly right-of-way for a distance of 446.03 feet to found iron pin in a concrete monument; thence South 47 degrees 09 minutes 04 seconds East on said southerly right-of-way line for a distance of 4.63 feet; thence southeasterly 626.56 feet on said southerly right-of-way line on the arc of a curve concave to the southwest, said curve having a central angle of 31 degrees 19 minutes 05 seconds, a radius of 1146.28 feet and a chord length of 618.79 feet which bears South 31 degrees 29 minutes 44 seconds East to the west right-of-way line of Interstate Highway Number 29; thence South 02 degrees 08 minutes 18 seconds East on said west right-of-way line for a distance of 324.74 feet; thence North 83 degrees 31 minutes 08 seconds West for a distance of 709.14 feet; thence South 38 degrees 18 minutes 44 seconds West for a distance of 95.59 feet to the Point of Beginning.

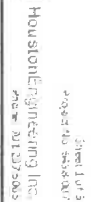
**EXHIBIT "D"**

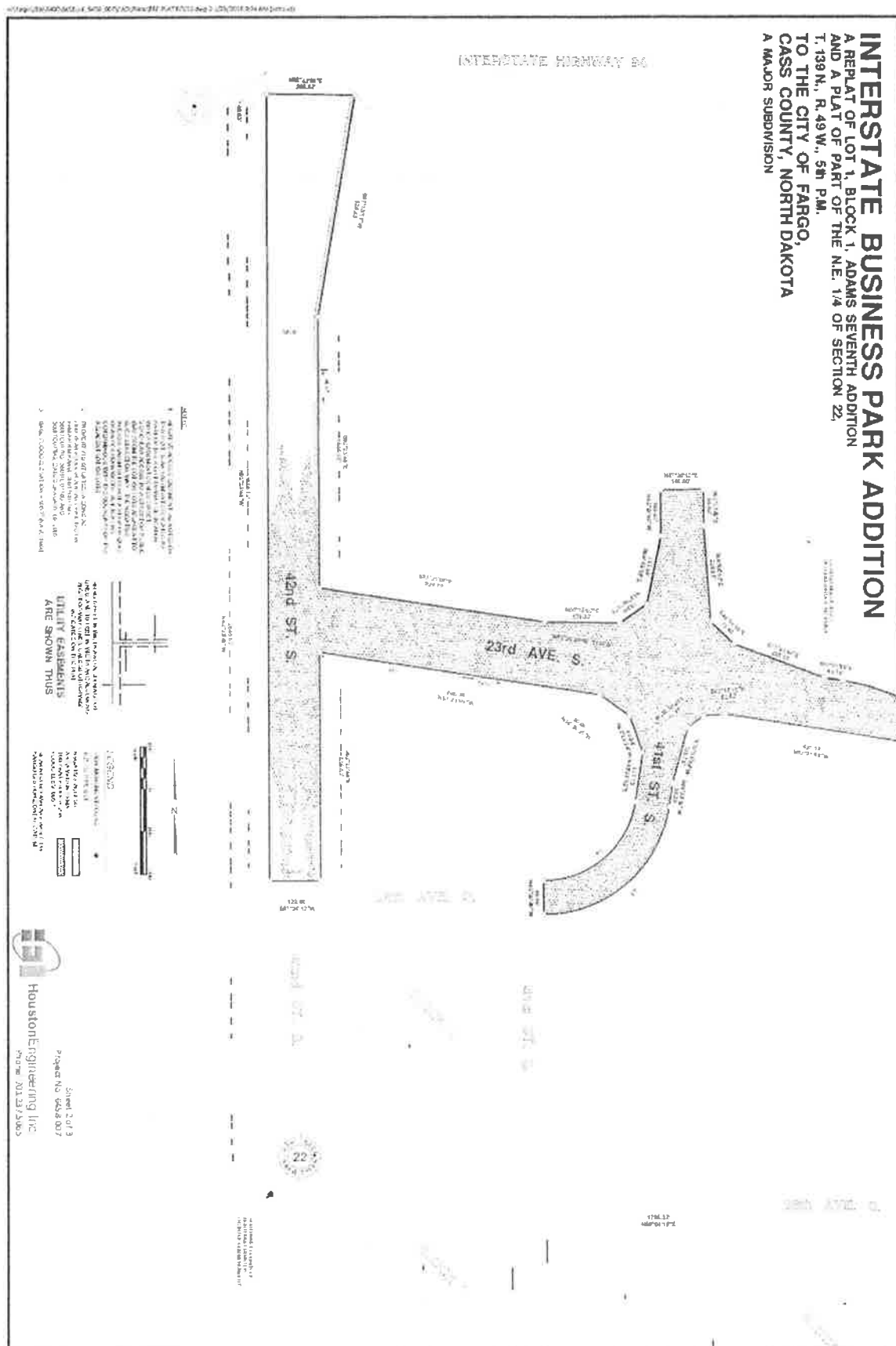
**PROPOSED PLAT OF INTERSTATE BUSINESS PARK**

**[See attached 3 pages]**



A MAJOR SUBDIVISION





## INTERSTATE BUSINESS PARK ADDITION

REBLAT OF LOT 1, BLOCK 1,  
ADAMS SEVENTH ADDITION  
AND A PLAT OF PART OF THE  
NE 1/4 OF SECTION 22,  
T.138N., R.48W., 5th P.M.,  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA


**Houston Engineering Inc.**  
 19000 N. 14th St.  
 Suite 200, Dallas, TX 75244  
 Phone: 214-373-0000

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<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Interstate Business Park Addition	<b>Date: Update:</b>	3/1/2017 2/22/2018
<b>Location:</b>	3801 26th Avenue South; 3901, 4001, and 4155 23rd Avenue South; and 2880 and 2852 Thunder Road South	<b>Staff Contact:</b>	Donald Kress
<b>Legal Description:</b>	Lot 1, Block 1, Adams 7th Addition, and part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota.		
<b>Owner(s)/Applicant:</b>	Scheels All Sports, Inc.; Comstock Services, LLC; Border States Industries, Inc.; Matrix Properties Corporation; City of Fargo / Scott Kjos, Kjos Investments LLC	<b>Engineer:</b>	Houston Engineering Inc.
<b>Entitlements Requested:</b>	<b>Major Subdivision</b> (Replat of Lot 1, Block 1, Adams 7th Addition, and part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota)		
<b>Status:</b>	City Commission Public Hearing: February 26, 2018		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Undeveloped, with one building under construction	<b>Land Use:</b> Office
<b>Zoning:</b> GC: General Commercial	<b>Zoning:</b> No change
<b>Uses Allowed:</b> GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.	<b>Uses Allowed:</b> No change
<b>Maximum Lot Coverage Allowed:</b> 85%	<b>Maximum Lot Coverage Allowed:</b> No change

<b>Proposal:</b>		
<p><b>PROJECT HISTORY NOTE:</b> The version of this plat that was recommended for approval by the Planning Commission on April 4, 2017, has been revised to exclude an area of approximately 55 acres from the northern portion of the plat; dedicate some additional right of way; and reconfigure Lots 1 and 2, Block 1 so that Lot 2 is now touches public right of way. The project site was zoned GC: General Commercial in June, 2017.</p> <p>The applicant is seeking approval of a major subdivision (Interstate Business Park Addition) to create three lots for commercial development, as shown in the table below.</p>		
<b>BLOCK</b>	<b>LOT</b>	<b>AREA (acres)</b>
1	1	3.58
1	2	3.55
1	3	15.53

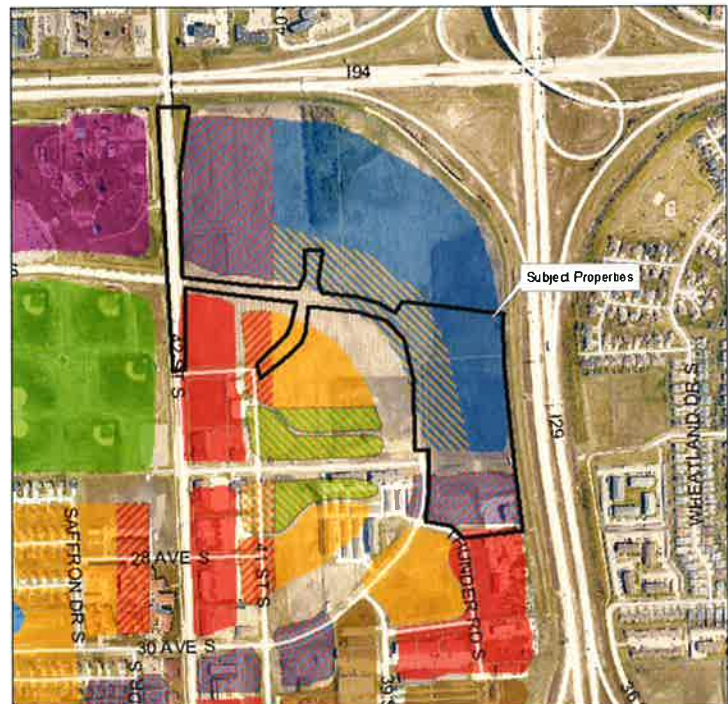
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

**Surrounding Land Uses and Zoning Districts:**

- North: Interstate highway 94 and highway right-of-way use
- East: Interstate highway 29 and highway right-of-way use
- South: GC, General Commercial with vacant land, theme park venue, warehouse, and office use
- West: P/I, Public/Institutional with Red River Zoo and MR-3, Multi-Dwelling Residential with apartment use

**Area Plans:**

The subject properties are located within the 2003 Southwest Future Land Use Plan as amended by the 2013 Valley View Addition Growth Plan Amendment. This plan designates the subject properties as Office and Either Office or Medium/ High Density Residential.



**Schools and Parks:**

**Schools:** The subject property is located within the West Fargo School District and is served by Freedom Elementary, Liberty Middle and Sheyenne High schools.

**Parks:** Woodbury Park (3501 23rd Avenue SW) is located east on the other side of Interstate 29. Woodbury Park provides basketball, picnic table, playground, shelter, and recreational trail amenities.

**Pedestrian / Bicycle:** Off road bike facilities are located on 30<sup>th</sup> Avenue South and are a component of the metro area trail system.

**Staff Analysis:**

**ACCESS:** The lots will be accessed by way of dedicated public streets. Necessary rights of way will be dedicated with the plat. No private streets will be created by this plat.

**STORMWATER:** Stormwater is provided for in the amenities plan.

**AMENITIES PLAN:** The amenities plan has been reviewed by the Public Works Project Evaluation Committee and is currently under technical review by the City Engineering Department.



**Subdivision**

The LDC stipulates that the following criteria is met before a major plat can be approved:

1. **Section 20-0907. of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**

The project site is zoned GC: General Commercial. The GC zoning will accommodate the proposed office and retail development. The GC zoning designation is consistent with the "Office" land use designation for this property in the 2003 Southwest Future Land Use Plan. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one call of inquiry with no comment on the application.

**(Criteria Satisfied)**

2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The project site is zoned GC: General Commercial. This zoning is consistent with the 2003 Southwest Future Land Use Plan which designates this property for office development. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code.

**(Criteria Satisfied)**

3. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

The applicant has provided an amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles

**(Criteria Satisfied)**

**Planning Commission Recommendation: April 4, 2017**

On April 4, 2017, by a vote of 7-0 with two Commissioners absent and one abstaining, the Planning Commission moved to accept the findings and recommendations of staff and to recommend approval to the City Commission of the proposed **Interstate Business Park Addition** subdivision plat as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2003 Southwest Future Land Use Plan (as amended), Standards of Article 20-06, of the LDC and all other applicable requirements of the LDC."

**Staff Recommendation: February 26, 2018**

Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission and move to approve the proposed **Interstate Business Park Addition** subdivision plat as presented, pending City Engineering Department technical review; as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2003 Southwest Future Land Use Plan (as amended), Standards of Article 20-06, of the LDC and all other applicable requirements of the LDC."

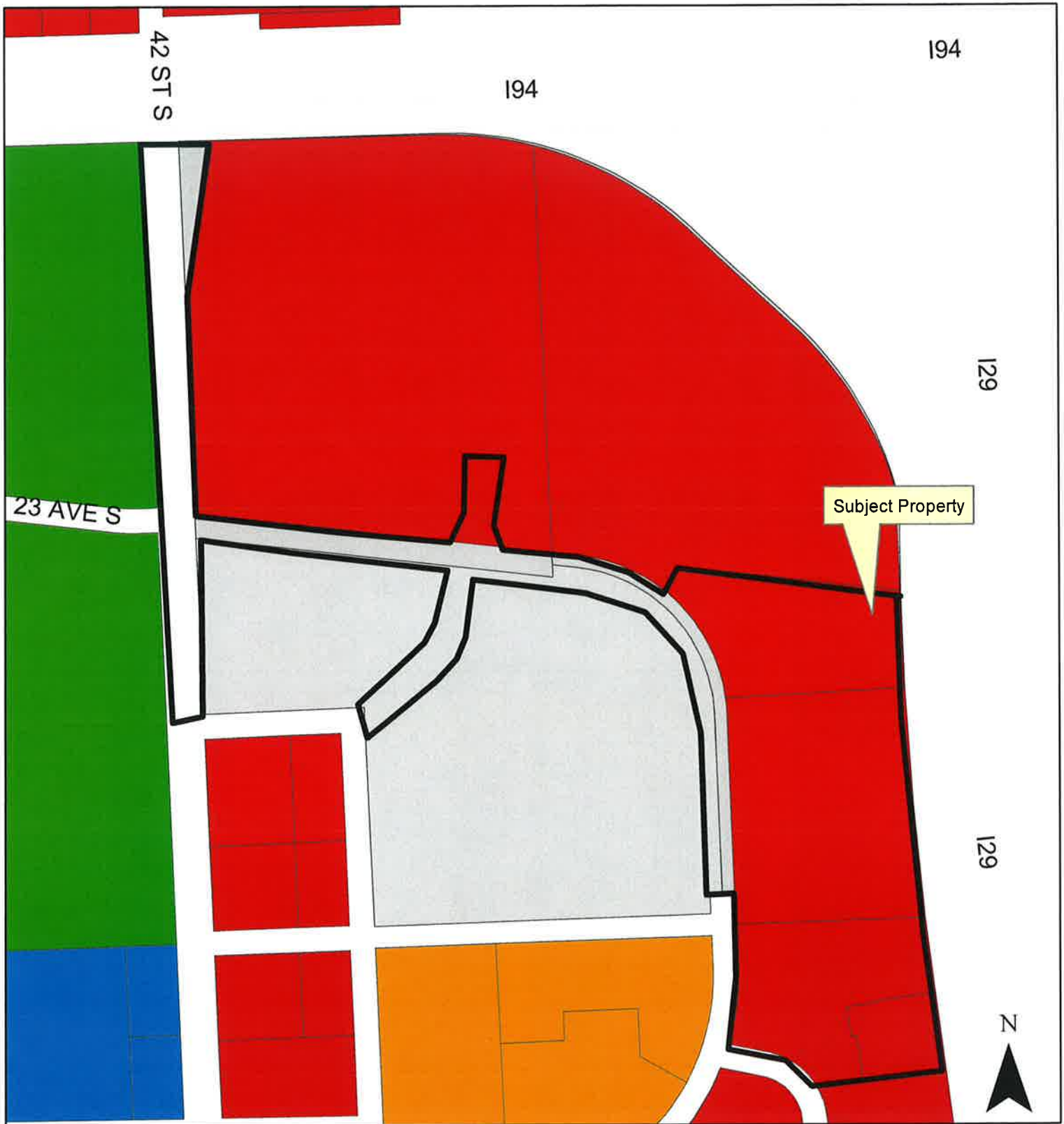
**Attachments:**

1. Zoning Map
2. Location Map
3. Preliminary Plat

# Plat (Major Subdivision)

## Interstate Business Park Addition

3801 26 Ave S, 2880 & 2852 Thunder Rd S  
and 3901, 4001 & 4155 23 Ave S



### Legend

	AG		C		MHP		SR-2
	DM		U		PN		SR-3
	GC		U		NO		SR-4
	GO		U		PA		SR-5
	GO		U		UM		City Limits



## Plat (Major Subdivision)

### Interstate Business Park Addition

3801 26 Ave S, 2880 & 2852 Thunder Rd S  
and 3901, 4001 & 4155 23 Ave S





# INTERSTATE BUSINESS PARK ADDITION

A REPLAT OF LOT 1, BLOCK 1, ADAMS SEVENTH ADDITION  
 AND A PLAT OF PART OF THE N.E. 1/4 OF SECTION 22,  
 T. 139 N., R. 49 W., 5th P.M.  
 TO THE CITY OF FARGO,  
 CASS COUNTY, NORTH DAKOTA  
 A MAJOR SUBDIVISION

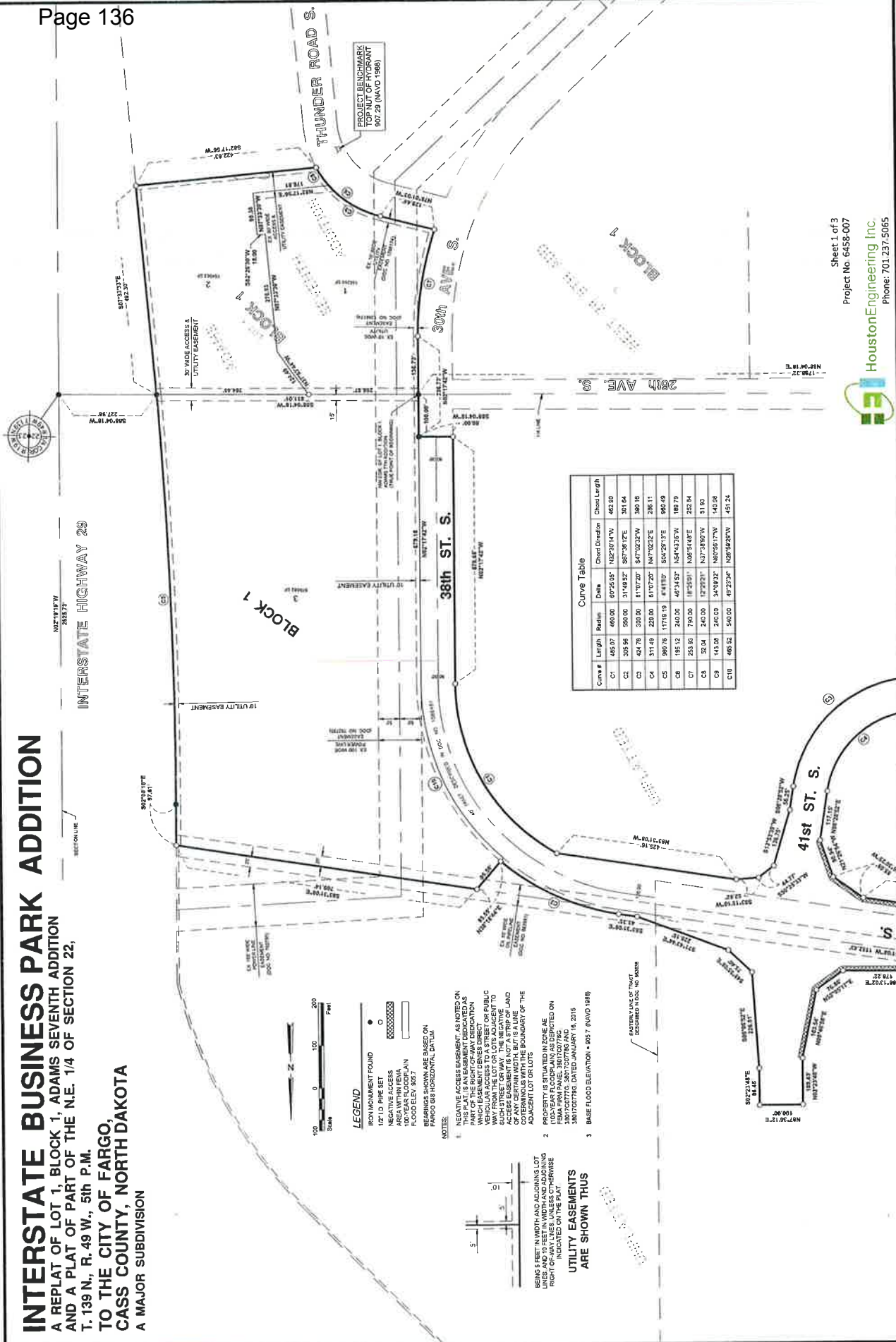
INTERSTATE HIGHWAY 29

Sheet 1 of 3  
Project No. 6458-007  
Engineering Inc.  
Phone: 701.237.5065

Project No. 6458-007

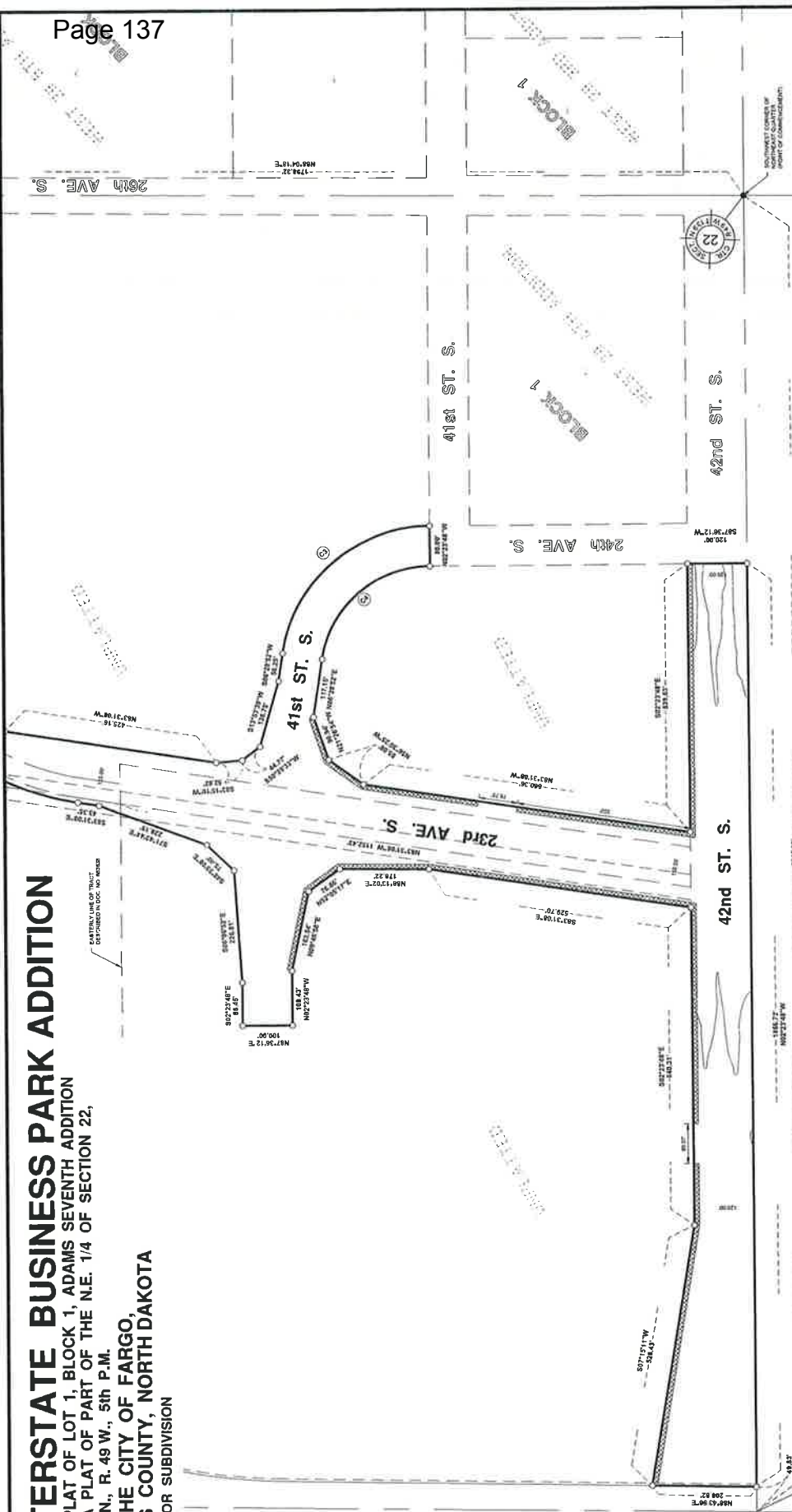
**HoustonEngineering Inc.**

Phone: 701.237.5065



# **INTERSTATE BUSINESS PARK ADDITION** A REPLAT OF LOT 1, BLOCK 1, ADAMS SEVENTH ADDITION AND A PLAT OF PART OF THE N.E. 1/4 OF SECTION 22, T. 139 N., R. 49 W., 5th P.M. TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA A MAJOR SUBDIVISION

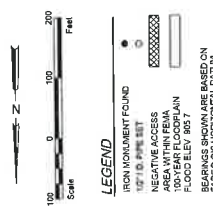
INTERSTATE HIGHWAY 94



- NOTES:**
1. NEGATIVE ACCESS EASEMENT, AS NOTED ON THIS PLAT, IS AN EASEMENT DESIGNATED AS SUCH BY THE FARGO CITY ENGINEER, WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO LOT 1, BLOCK 1, ADAMS SEVENTH ADDITION, FROM THE ADJACENT LOT 1, BLOCK 1, ADAMS SEVENTH ADDITION, TO THE ADJACENT LOT 1, BLOCK 1, ADAMS SEVENTH ADDITION, BY SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS A MAJOR SUBDIVISION OF ANY CERTAIN MOIN, BUT IS A LINE COINCIDENT WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.
  2. PROPERTY IS SITUATED IN ZONE AE, 100-YEAR FLOODPLAIN, AS SHOWN ON THE FARGO GIS HORIZONTAL DATUM, 3817107775, 3817107780 AND 3817107782 DATED JANUARY 16, 2015.
  3. BASE FLOOD ELEVATION = 595.7' (NAVD 1989)

**UTILITY EASEMENTS ARE SHOWN THIS**

BEING 5 FEET IN WIDTH AND ADJOINING LOT 1, BLOCK 1, ADAMS SEVENTH ADDITION, RIGHT-OF-WAY LINES UNLESS OTHERWISE INDICATED ON THE PLAT.



Sheet 2 of 3  
 Project No. 6458-007  
 HoustonEngineering Inc.  
 Phone: 701.237.5065








## PLANNING AND DEVELOPMENT

200 Third Street North  
Fargo, North Dakota 58102  
Phone: (701) 241-1474  
Fax: (701) 241-1526  
E-Mail: [planning@FargoND.gov](mailto:planning@FargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

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## MEMORANDUM

**DATE:** February 22, 2018  
**TO:** City Commission  
**FROM:** Nicole Crutchfield, Planning Director   
**RE:** 2018 Community Development Action Plan

The Community Development Committee recommended the Fargo City Commission approve the 2018 Community Development Action Plan (attached). Applicants were notified by mail and the plan was advertised in The Forum for a 30-day public comment period. No comments were received.

The proposed 2018 Community Development budget anticipates \$637,000 in federal Community Development Block Grant funds; \$336,000 in HOME Partnership funds; and approximately \$50,000 in HOME Program Income. Upon approval by the City Commission, the plan will be forwarded to the U.S. Department of Housing and Urban Development for review and final approval.

**Recommended Action:** Approve the 2018 Community Development Action Plan and submit to the U.S. Department of Housing and Urban Development.



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**City of Fargo, North Dakota**  
**2018 Action Plan**  
**Housing and Community Development**

Presented to  
U.S. Department of Housing and Urban Development  
Denver Office of Community Planning and Development



## EXECUTIVE SUMMARY

The 2018 Fargo Community Development Action Plan addresses the City's allocation of nearly \$1.0 million in Federal funds for the purpose of furthering the creation and retention of affordable housing, revitalizing blighted areas, and assisting low-income households and neighborhoods.

The activities included in this Action Plan address priority needs in the areas of housing, homelessness and non-housing community development. Specific goals focus on affordable housing, homeownership, homelessness, neighborhoods, employment, transportation, fair housing/diversity, and poverty reduction.

Over the years, the City of Fargo has exhibited a commitment to these issues in previous action plans and has demonstrated capacity in successfully implementing the proposed projects. The 2018 Annual Action Plan outlines the City's approach to sub-recipient and self-monitoring, which includes regular file monitoring and periodic on-site visits to assisted projects.

<b>SUMMARY</b>		
<b>FY2018 Community Development Budget – proposed</b>		
	<b>CDBG</b>	<b>HOME</b>
<b>Housing</b>		
1. Housing Rehabilitation and Delivery – Owner Occupied	213,000	252,000
2. CHDO Housing Project		100,000
3. Special Assessment Assistance	15,000	
<b>Downtown</b>		
4. Downtown Slum/Blight Projects	100,000	
<b>Public Service Projects</b>		
5. Housing Education	15,000	
6. Homeless Initiatives	38,000	
7. Metro Transportation Initiative	5,000	
8. Snow Removal Assistance	2,000	
9. NDSCS – Job Training	30,000	
<b>Facilities and Capital Projects</b>		
10. Fraser Ltd	17,000	
11. Rape and Abuse Crisis Center	60,000	
12. Rebuilding Together	10,000	
<b>Planning, Admin &amp; Fair Housing</b>		
13. High Plains Fair Housing Center	5,000	
14. Planning and Administration	127,000	34,000
<b>Total Budgeted</b>	<b>\$637,000</b>	<b>\$386,000</b>

<b>Project Title</b>	<b>Housing Rehab and Delivery – Owner Occupied</b>
<b>Action Plan ID</b>	1
<b>Local Project ID</b>	
<b>Applicant's name</b>	Various
<b>Project Description</b>	Program to rehabilitate existing owner-occupied houses that are at least 40 years old and have a value of less than \$175,000, or occupied by elderly or disabled persons. Eligible properties can be single-family residences, including manufactured homes permanently attached to real property, and two-unit structures where the owner lives in one of the units and rents the other to a tenant (must be a legal rental unit and have been in existence for 10 years). Most of the houses that are rehabilitated are located in Fargo's older low/mod neighborhoods.
<b>Location</b>	Citywide
<b>Goal Supported</b>	Affordable Housing
<b>Needs Addressed</b>	Housing Needs
<b>Con Plan Objective Number</b>	H-1, Rehabilitate older owner-occupied housing H-2, Work with local partners to create new and rehabilitate affordable housing throughout the community, including the preservation of the existing subsidized housing CD-1, Eliminate blighted conditions from Fargo's central residential neighborhoods
<b>HUD Matrix Code</b>	14A (Rehab – single unit residential)
<b>CDBG Citation</b>	570.202
<b>CDBG National Obj</b>	Low/Mod Housing
<b>HUD Obj/Outcome</b>	Affordability for the purpose of providing decent housing
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	<ul style="list-style-type: none"> <li>• Direct Benefit - Low and moderate income homeowners</li> <li>• Indirect Benefit - Residents of affected older neighborhoods (well-maintained housing stock)</li> <li>• Repair/Rehabilitate approximately 10 homes that are at least 40 years old or occupied by elderly or disabled persons</li> </ul>
<b>Units at completion</b>	10
<b>Program income</b>	This activity will generate program income and recaptured funds (HOME). Some of the funds will be repaid because the assistance is given in the form of a low-interest amortized loan. Some of the granted rehab funds may be repaid if a sale or other circumstance triggers repayment of the assistance.
<b>HOME Match</b>	This activity is expected to generate some match, in the form of tax exemptions granted to HOME assisted properties and below-market interest rates associated with City NRI funds. All match will be documented and reported to HUD.
<b>Resale/Recapture</b>	Recapture – loans are forgiven over a 10-year period.

<b>Funding Sources</b>	
CDBG	\$213,000
ESG	
HOME	\$252,000
HOPWA	
Total formula grant funds	\$465,000
Prior year funds	
Assisted housing	
Other funding	
Total	\$465,000

## Community Housing Development Organization (CHDO) Project

<b>Project Title</b>	<b>(CHDO) Project</b>
<b>Action Plan ID</b>	2
<b>Local Project ID</b>	
<b>Applicant's name</b>	Community Housing Development Organization
<b>Project Description</b>	Beyond Shelter, Inc. is currently the only Community Housing Development Organization (CHDO) authorized to receive the HOME set-aside funds in Fargo.
<b>Location</b>	To be determined
<b>Goal Supported</b>	Affordable Housing
<b>Needs Addressed</b>	Housing Needs
<b>Con Plan Objective Number</b>	H-2, Work with local partners to create new affordable housing in the community
<b>HUD Matrix Code</b>	12 (Construction of Housing)
<b>CDBG Citation</b>	570.201(m)
<b>CDBG National Obj</b>	N/A
<b>HUD Obj/Outcome</b>	Availability/Accessibility for the purpose of providing decent housing
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	Construct affordable housing units to serve households at or below 60% AMI
<b>Units at completion</b>	2 HOME units – in Fargo
<b>Program income</b>	This activity is not expected to generate program income.
<b>HOME Match</b>	This activity is expected to generate match that can be used toward the 25 percent match requirement. All match will be documented and reported to HUD.
<b>Resale/Recapture</b>	Recapture

Funding Sources	
CDBG	
ESG	
HOME	\$100,000
HOPWA	
Total formula grant funds	\$100,000
Prior year funds	
Assisted housing	
PHA	
Other funding	
Total	\$100,000

<b>Project Title</b>	<b>Special Assessment Assistance</b>
<b>Action Plan ID</b>	3
<b>Local Project ID</b>	
<b>Applicant's name</b>	City of Fargo
<b>Project Description</b>	This program pays for the special assessments of lower-income persons (less than 60% AMI) for water main replacement and possibly for alley paving, streetlights and other designated infrastructure projects. Infrastructure projects designated for CDBG participation are targeted to geographic areas where at least 35 percent of the residents are lower-income persons (as designated by the US Census).
<b>Location</b>	Citywide
<b>Goal Supported</b>	Neighborhoods
<b>Needs Addressed</b>	Non-Housing Community Development Needs
<b>Con Plan Objective Number</b>	H-3, Assist low income homeowners with infrastructure assessments to help maintain the affordability of homeownership
<b>HUD Matrix Code</b>	03J (Public Facilities – Water & Sewer Improvements)
<b>CDBG Citation</b>	570.201(c)
<b>CDBG National Obj</b>	Low/Mod Clientele
<b>HUD Obj/Outcome</b>	Affordability for the purpose of providing a suitable living environment
<b>Target Date</b>	October 31, 2018 (project completions); funds will be expended when assessments are levied (estimate November 2018)
<b>Performance Indicators</b>	Assist approximately 100 lower-income persons with their yearly special assessment
<b>Units at completion</b>	n/a
<b>Program income</b>	This activity is not expected to generate program income.

<b>Funding Sources</b>	
CDBG	\$15,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$15,000
Prior year funds	
Assisted housing	
PHA	
Other funding	
Total	\$15,000

<b>Project Title</b>	<b>Downtown Slum and Blight Projects</b>
<b>Action Plan ID</b>	4
<b>Local Project ID</b>	
<b>Applicant's name</b>	Various
<b>Project Description</b>	The Community Development Committee wishes to set aside funds for potential projects in the Downtown area that will address slum and blight conditions. Included among these potential projects will be storefront rehabilitation grants to property owners which must be matched one-for-one with private dollars and be utilized for façade renovation. Other activities undertaken with the intention of eliminating blighted conditions in designated areas may be considered as well. At this time, specific projects are yet to be determined.
<b>Location</b>	Downtown Fargo, designated blighted areas (generally, Census Tract 7, Block Groups 1 and 2)
<b>Goal Supported</b>	Neighborhoods
<b>Needs Addressed</b>	Non-Housing Community Development Needs
<b>Con Plan Objective Number</b>	CD-1, Eliminate blighted conditions from the Downtown business district CD-2, Foster the establishment of strong neighborhoods through the implementation of neighborhood revitalization efforts
<b>HUD Matrix Code</b>	14E (Rehab – publicly or privately owned commercial)
<b>CDBG Citation</b>	570.202(a)(3)
<b>CDBG National Obj</b>	SBA (Slum/Blight Area)
<b>HUD Obj/Outcome</b>	Sustainability for the purpose of creating economic opportunity
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	Provide grants to eliminate blighted conditions at approximately 2 yet-to-be-determined properties.
<b>Units at completion</b>	To be determined
<b>Program income</b>	This activity is not expected to generate program income.

<b>Funding Sources</b>	
CDBG	\$100,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$100,000
Prior year funds	
Assisted housing	
PHA	
Other funding – ADDI DCS	
Total	\$100,000

<b>Project Title</b>	<b>Housing Education</b>
<b>Action Plan ID</b>	5
<b>Local Project ID</b>	
<b>Applicant's name</b>	Various
<b>Project Description</b>	CDBG funds will be utilized to support Homebuyer and Tenant Education classes in the Fargo-Moorhead community.
<b>Location</b>	Citywide
<b>Goal Supported</b>	Poverty Reduction
<b>Needs Addressed</b>	Non-Housing Community Development Needs
<b>Con Plan Objective Number</b>	H-5, Provide opportunities for education to potential and recent homeowners and tenants H-7, Increase homeownership rates for minorities
<b>HUD Matrix Code</b>	05R (Homeownership Assistance – Not Direct)
<b>CDBG Citation</b>	570.201(e)
<b>CDBG National Obj</b>	Low/Mod Housing
<b>HUD Obj/Outcome</b>	Sustainability for the purpose of providing decent housing
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	Provide homebuyer and tenant education training sessions to approximately 30 individuals/households.
<b>Units at completion</b>	n/a
<b>Program income</b>	These activities are not expected to generate program income.

<b>Funding Sources</b>	
CDBG	\$15,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$15,000
Prior year funds	
Assisted housing	
PHA	
Other funding – ADDI DCS	
Total	\$15,000

<b>Project Title</b>	<b>Homeless Initiatives</b>
<b>Action Plan ID</b>	6
<b>Local Project ID</b>	
<b>Applicant's name</b>	Various
<b>Project Description</b>	CDBG funds will be utilized to provide operating support at Fargo's Gladys Ray Shelter, and the possible creation of an indemnification fund for landlords that rent to long-term homeless individuals. The work is part of Fargo's 10-Year Plan to End Long-Term Homelessness.
<b>Location</b>	Citywide
<b>Goal Supported</b>	Homelessness
<b>Needs Addressed</b>	Homeless and Special Needs
<b>Con Plan Objective Number</b>	HO-1, Work to end chronic homelessness in Fargo through the 10-Year Plan
<b>HUD Matrix Code</b>	03T (Operating Costs of Homeless/AIDS Patients Programs)
<b>CDBG Citation</b>	570.201(e)
<b>CDBG National Obj</b>	Low/Mod Clientele
<b>HUD Obj/Outcome</b>	Sustainability for the purpose of creating a suitable living environment
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	Provide operating funding for the emergency shelter and help meet the needs stated in Fargo's 10-year Plan to End Long-Term Homelessness
<b>Units at completion</b>	n/a
<b>Program income</b>	These activities are not expected to generate program income.

<b>Funding Sources</b>	
CDBG	\$38,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$38,000
Prior year funds	
Assisted housing	
PHA	
Other funding – ADDI DCS	
Total	\$38,000

<b>Project Title</b>	<b>Metro Transportation Initiative</b>
<b>Action Plan ID</b>	7
<b>Local Project ID</b>	
<b>Applicant's name</b>	
<b>Project Description</b>	CDBG funds will be used to fund transportation solutions for low-income clients of agencies, such as Adult Education and Southeast North Dakota Community Action Agency's Head Start Program. Transportation solutions are developed by a metropolitan wide consortium of social service agencies and transportation providers to improve access to employment and employment related skill development sites.
<b>Location</b>	Citywide (Public Service)
<b>Goal Supported</b>	Poverty Reduction
<b>Needs Addressed</b>	Non-Housing Community Development Needs
<b>Con Plan Objective Number</b>	CD-4, Support skill building opportunities designed to improve self-sufficiency and personal success CD-5, Support metropolitan efforts to address transportation and other barriers to work that affect low-income individuals
<b>HUD Matrix Code</b>	05E (Public Service – Transportation Services)
<b>CDBG Citation</b>	570.201(e)
<b>CDBG National Obj</b>	Low/Mod Clientele
<b>HUD Obj/Outcome</b>	Availability/Accessibility for the purpose of creating economic opportunity
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	Provide subsidy to at least 20 individuals for rides on Metro Area Transit to help low-income individuals and New Americans with public transportation.
<b>Units at completion</b>	n/a
<b>Program income</b>	This activity is not expected to generate program income.

<b>Funding Sources</b>	
CDBG	\$5,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$5,000
Prior year funds	
Assisted housing	
PHA	
Other funding	
Total	\$5,000



<b>Project Title</b>	<b>Snow Removal Assistance</b>
<b>Action Plan ID</b>	8
<b>Local Project ID</b>	
<b>Applicant's name</b>	City of Fargo
<b>Project Description</b>	Partner to assist with snow removal for low and moderate income senior households and people with disabilities. Snow removal service includes one path to the front door, and the public sidewalk in front of the house.
<b>Location</b>	Citywide
<b>Goal Supported</b>	Poverty Reduction
<b>Needs Addressed</b>	Non-Housing Community Development Needs
<b>Con Plan Objective Number</b>	CD-5 Support metropolitan efforts to address barriers that affect low-income individuals
<b>HUD Matrix Code</b>	05A (Senior Services)
<b>CDBG Citation</b>	570.201(e)
<b>CDBG National Obj</b>	Low/Mod Clientele
<b>HUD Obj/Outcome</b>	Availability/Accessibility in order to create a suitable living environment
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	This project will benefit an estimated 10 senior/disabled households. All will be at or below 80 percent of the area median income.
<b>Units at completion</b>	n/a
<b>Program income</b>	n/a

<b>Funding Sources</b>	
CDBG	\$2,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$2,000
Prior year funds	
Assisted housing	
PHA	
Other funding	
Total	\$2,000

**Project Title** **NDSCS - Job Training**  
**Action Plan ID** 9  
**Local Project ID**  
**Applicant's name** Various  
**Project Description** The North Dakota State College of Science - Fargo, in cooperation with North Dakota Job Service, Lutheran Social Services, and Fargo Adult Learning Center, will offer a targeted job skills development program for New American and low-income individuals.  
**Location** Citywide  
**Goal Supported** Poverty Reduction  
**Needs Addressed** Non-Housing Community Development Needs  
**Con Plan Objective Number** CD-4, Support skill building opportunities designed to improve self-sufficiency and personal success  
**HUD Matrix Code** 05H (Employment Training)  
**CDBG Citation** 570.201(e)  
**CDBG National Obj** Low/Mod Clientele  
**HUD Obj/Outcome** Availability/Accessibility for the purpose of creating economic opportunity  
**Target Date** April 30, 2019  
**Performance Indicators** Provide training to at least 8 low/moderate income adults. Program participants must either be underemployed or be classified as a refugee.  
**Units at completion** n/a  
**Program income** This activity is not expected to generate program income.

Funding Sources	
CDBG	\$30,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$30,000
Prior year funds	
Assisted housing	
PHA	
Other funding	
Total	\$30,000

**Project Title** Fraser, Ltd  
**Action Plan ID** 10  
**Local Project ID**  
**Applicant's name** Fraser, Ltd  
**Project Description** CDBG funds will be utilized to ensure safe housing remains intact for adults with intellectual and developmental disabilities who need assistance with daily living activities. These funds will allow an Independent Living Program house to increase functionality through facility upgrades.  
**Location** 2574 Arrowhead Road South  
**Goal Supported** Affordable Housing  
**Needs Addressed** Housing Needs  
**Con Plan Objective Number** H-2, Work with local partners to create new and rehabilitate affordable housing throughout the community  
**HUD Matrix Code** 03B (Handicapped Centers)  
**CDBG Citation** 570.201(c)  
**CDBG National Obj** Low/Mod Clientele  
**HUD Obj/Outcome** Sustainability for the purpose of promoting a livable or viable community, creating a suitable living environment  
**Target Date** April 30, 2019  
**Performance Indicators** Provide a suitable living environment at the facility that serves approximately 6-8 individuals.  
**Units at completion** n/a  
**Program income** This activity is not expected to generate program income.

Funding Sources	
CDBG	\$17,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$17,000
Prior year funds	
Assisted housing	
PHA	
Other funding – ADDI DCS	
Total	\$17,000

<b>Project Title</b>	<b>Rape and Abuse Crisis Center</b>
<b>Action Plan ID</b>	11
<b>Local Project ID</b>	
<b>Applicant's name</b>	Rape and Abuse Crisis Center
<b>Project Description</b>	CDBG funds will be used to improve the safety and security of the center, removing physical barriers and allowing all individuals equal access to the facility. The center provides crisis intervention, advocacy, counseling, and education to all persons affected by sexual and domestic violence, providing prevention programs to create a society free of personal abuse.
<b>Location</b>	720 4th Avenue North and 315 8th Street North
<b>Goal Supported</b>	Neighborhoods
<b>Needs Addressed</b>	Non-Housing Community Development Needs
<b>Con Plan Objective Number</b>	CD-2 Foster the establishment of strong neighborhoods through the implementation of neighborhood revitalization efforts
<b>HUD Matrix Code</b>	14E (Rehab – publicly or privately owned commercial)
<b>CDBG Citation</b>	570.201(a)(3)
<b>CDBG National Obj</b>	Low/Mod Area
<b>HUD Obj/Outcome</b>	Sustainability for the purpose of promoting a livable or viable community, creating a suitable living environment
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	Based on the Census data for this low-mod area, 375 individuals will benefit from the safety and security improvements to the facility.
<b>Units at completion</b>	n/a
<b>Program income</b>	These activities are not expected to generate program income.

<b>Funding Sources</b>	
CDBG	\$60,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$60,000
Prior year funds	
Assisted housing	
PHA	
Other funding – ADDI DCS	
Total	\$60,000

<b>Project Title</b>	<b>Rebuilding Together</b>
<b>Action Plan ID</b>	12
<b>Local Project ID</b>	
<b>Applicant's name</b>	Rebuilding Together
<b>Project Description</b>	CDBG funds will be used to support home improvements to low-income seniors, veterans, and disabled individuals.
<b>Location</b>	Citywide
<b>Goal Supported</b>	Affordable Housing
<b>Needs Addressed</b>	Housing Needs
<b>Con Plan Objective Number</b>	H-1, Rehabilitate older owner-occupied housing H-2, Work with local partners to create new and rehabilitate affordable housing throughout the community, including the preservation of the existing subsidized housing CD-1, Eliminate blighted conditions from Fargo's residential neighborhoods
<b>HUD Matrix Code</b>	14A (Rehab – single unit residential)
<b>CDBG Citation</b>	570.202
<b>CDBG National Obj</b>	Low/Mod Housing
<b>HUD Obj/Outcome</b>	Affordability for the purpose of providing decent housing
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	<ul style="list-style-type: none"> <li>• Direct Benefit - Low and moderate income homeowners</li> <li>• Indirect Benefit - Residents of affected older neighborhoods (well-maintained housing stock)</li> <li>• Repair/Rehabilitate approximately 2 homes that are at least 40 years old or occupied by seniors, veterans, or disabled persons</li> </ul>
<b>Units at completion</b>	n/a
<b>Program income</b>	This activity is not expected to generate program income.

<b>Funding Sources</b>	
CDBG	\$10,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$10,000
Prior year funds	
Assisted housing	
PHA	
Other funding	
Total	\$10,000

**Project Title** **High Plains Fair Housing Center**  
**Action Plan ID** 13  
**Local Project ID**  
**Applicant's name** High Plains Fair Housing Center  
**Project Description** CDBG funds will be used for comprehensive outreach and fair housing education in the region.  
**Location** Citywide  
**Goal Supported** Planning, Admin and Fair Housing  
**Needs Addressed** Non-Housing Community Development Needs  
**Con Plan Objective Number** CD-3, Provide education on fair housing issues  
**HUD Matrix Code** 21D (Fair Housing Activity – subject to Admin. Cap)  
**CDBG Citation** 570.206  
**CDBG National Obj** Low/Mod Clientele  
**HUD Obj/Outcome** Sustainability for the purpose of promoting a livable or viable community, decent housing  
**Target Date** April 30, 2019  
**Performance Indicators** It is estimated approximately 150 individuals will benefit from the Fair Housing education and outreach  
**Units at completion** n/a  
**Program income** This activity is not expected to generate program income.

Funding Sources	
CDBG	\$5,000
ESG	
HOME	
HOPWA	
Total formula grant funds	\$5,000
Prior year funds	
Assisted housing	
PHA	
Other funding	
Total	\$5,000

<b>Project Title</b>	<b>Planning and Administration</b>
<b>Action Plan ID</b>	14
<b>Local Project ID</b>	
<b>Applicant's name</b>	City of Fargo
<b>Project Description</b>	Funds are used for the administration of community development programs and general planning activities. HOME funds pay for administration of the Home program and a share of the delivery costs of the housing rehabilitation program. CDBG funds pay for administrative costs of the personnel that work on the planning and delivery of these community development programs, in addition to special plans, studies, and fair housing education.
<b>Location</b>	Citywide
<b>Goal Supported</b>	Planning and Admin (Administrative funds are used to develop and implement all approved community development activities. However, specific admin activities will address the following priority needs objectives.)
<b>Objective Number</b>	H-4, Increase public awareness of affordability concerns and the needs of at-risk populations HO-1, Work to end chronic homelessness in Fargo HO-2, Provide a continuum of housing options for Fargo's homeless population and encourage the development of supportive housing partnerships CD-3, Provide education on fair housing issues
<b>HUD Matrix Code</b>	21A (General Administration) 21H (Admin costs of a PJ)
<b>CDBG Citation</b>	570.206
<b>CDBG National Obj</b>	N/A
<b>Target Date</b>	April 30, 2019
<b>Performance Indicators</b>	n/a
<b>Units at completion</b>	n/a
<b>Program income</b>	This activity is not expected to generate program income.

<b>Funding Sources</b>	
CDBG	\$127,000
ESG	
HOME	\$34,000
HOPWA	
Total formula grant funds	\$161,000
Prior year funds	
Assisted housing	
PHA	
Other funding	
Total	\$161,000

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## **MEMORANDUM**

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TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Alcohol Consumption in Public at Select DCP Events

DATE: February 21, 2018

Currently, the City of Fargo ordinance 25-1509.1 prohibits consumption of alcohol in a public place without a liquor license. One exception allows consumption in public at the Fargodome in a specifically designated area.

The Downtown Community Partnership (DCP) is requesting the ordinance be amended to allow consumption in public at designated DCP events. Currently, during events like Corks and Canvas patrons will finish a drink before moving on to the next location, if allowed to carry the drink from location to location the amount of alcohol consumed would be decreased. Goals of this proposal are to build on the event experience, decrease intoxication, allow adults to responsibly enjoy adult beverages, among other advantages.

The DCP has visited with the Liquor Control Board, Bar and Business owners, downtown residents, Police, City staff and Fargo Cass Public Health. General agreement is that if this proposal is handled appropriately it could enhance DCP events and lead to a decrease in consumption.

### **Recommended Motion:**

**Direct the City Attorney to amend Fargo Municipal Code 25-1509.1 to allow consumption of alcohol in public at select DCP events.**



# Civic Fargo Civic Center

(37)

207 North Fourth Street • Fargo, North Dakota 58102 • 701-241-1480 • Fax: 701-241-1483 • [www.fargocivic.com](http://www.fargocivic.com)

February 22, 2018

## MEMORANDUM

**To:** City Commission  
**From:** Bruce P. Grubb, City Administrator *BPG*  
**Re:** Civic Center Repurposing– Fargo Performance Center Feasibility Study



### INTRODUCTION

On September 2, 2014, the City Commission appointed a sub-committee to evaluate the potential of repurposing the Civic Center into a performance venue, particularly in light of the loss of Centennial Hall. As you may recall, Centennial Hall was removed to facilitate the construction of a new City Hall. The sub-committee was comprised of the following appointees:

- 2 Commission Co-chairs (Dave Piepkorn and Mike Williams)
- 2 City Staff (Bruce Grubb and Bob Getz)
- 2 Fargodome Authority Members (Deb Mathern and Rob Sobolik)
- 1 Civic Auditorium Board Member (Dan Armbrust)
- 1 Local Events Promoter (Jade Neilson)

The sub-committee was directed to prepare a Request for Proposals (RFP) for professional services to complete a Feasibility Study. In preparing the Scope of Service for the RFP, the sub-committee essentially focused on two basic questions:

1. **What would be the desired purpose of the facility?**
  - What types of performances or events would the facility be intended to host?
  - Is there a local or regional market for those events?
  - What stage and seating configurations would be required?

**2. Renovate existing building or build a new building?**

Can the Civic Center be renovated to meet the need (spatially and structurally)?

Can the Civic Center be removed and a new building constructed to meet the need?

A total of seven proposals were received in response to the RFP advertisement, of which, five were selected for interviews. The successful firm was HVS Convention, Sports & Entertainment Facilities Consulting (HVS). On August 31, 2018, the City Commission received and filed the final HVS Feasibility Study titled "Fargo Performance Center".

Administration staff would like to re-visit the results of the Feasibility Study and re-engage Commission discussion on the future of the Fargo Civic Center.

**FEASIBILITY STUDY SUMMARY**

An Executive Summary of the Feasibility Study has been attached for your reference. The Feasibility Study involved a number of tasks that have been summarized below:

- **Market Area Analysis**
- **Industry Trends and Participation Analysis**
- **Comparable Venue Review**
- **Building Program Recommendations**
- **Demand Analysis**
- **Financial Analysis**
- **Economic Analysis**
- **Financing Approach**
- **Schematic Plans**

**Market Area Analysis:**

The Fargo Market Service Area (MSA) is capable of supporting a performance venue and provide a strong source of local and out-of-town demand for a variety of events. Fargo's entertainment and event infrastructure lacks an indoor performance venue suitable for concerts and theatrical events which attract between 1,000 and 3,000 attendees. Downtown Fargo is a desirable visitor destination and provides an excellent backdrop and complimentary amenities for a performance venue.

**Industry Trends and Participation Analysis:**

The trends have been that the most successful projects have understood and promoted the collective impact on multiple organizations and the community as a whole. Coordination between numerous user groups creates a more powerful constituency to advocate for the project. The resulting facilities have tended to be more flexible and able to adapt to a variety of uses, reversing a 1990's trend towards single purpose performance halls. New and quickly changing technologies in the areas of seating, stage systems, and acoustics have also prompted this multi-use, flexible venue trend.

**Comparable Venue Review:**

The feasibility study analyzed a set of comparable venues that included performance centers in small metropolitan markets throughout the U.S. that are similar to Fargo in population size and presence in their greater regional markets. The comparable venues included the following:

Name of Venue	Location	Owner	Operator
Paramount Theater	Cedar Rapids, IA	Nonprofit	Nonprofit
Adler Theater	Davenport, IA	City of Cedar Rapids	VenuWorks
Globe News Center	Amarillo, TX	City of Amarillo	City of Amarillo
Clay Center	Charleston, WV	Nonprofit	Nonprofit
Fox Cities Performing Arts Center	Appleton, WI	Nonprofit	Nonprofit
Orpheum Theater	Sioux City, IA	Nonprofit	Nonprofit
Washington Pavillion	Sioux Falls, SD	Nonprofit	Nonprofit
Lied Center for Performing Arts	Lincoln, NE	U of N Lincoln	U of N Lincoln
Alberta Bar Theatre	Billings, MT	Nonprofit	Nonprofit
Chester Fritz Auditorium	Grand Forks, ND	U of ND	U of ND
Centennial Concert Hall	Winnipeg, MB	MB Cent. Center Corp.	MB Cent. Center Corp.

### **Building Program Recommendations:**

The feasibility study included conceptual building program recommendations which described seating capacities and floor areas for various types of function spaces and other performance center amenities. The conceptual recommendations were based on the market analysis, participation trends, local stakeholder interviews, comparable venue programming and industry standard practices. Stakeholder interviews were conducted with the following organizations:

- Jade Presents
- Fargo Moorhead Symphony Orchestra
- Fargo Moorhead Opera
- Jam Theatricals
- Dance Schools
- The Arts Partnership
- Fargo Moorhead Community Theater
- Theater B
- Fargo Moorhead Convention and Visitors Bureau
- Fargo Moorhead West Fargo Chamber of Commerce
- Trollwood Performing Arts School
- Scheels Arena
- Kilbourne Group
- Fargo Civic Center

### **Demand Analysis:**

The feasibility study included a section that analyzed the demand potential for numerous performance categories. Demand potential was determined by examining the total number of potential attendees for each of the following performance categories:

- Ballet
- Classical Music
- Musical Plays
- Non-musical Plays
- Opera
- Other Dance

### **Financial Analysis:**

In the feasibility study, it was assumed that the City of Fargo would own the performance venue and contract with a private management company for its operation. It was further assumed that

the performance venue would operate as a stand-alone venue. Estimates of operating revenues and operating expenses were produced, as well as, a projected operating pro forma.

**Economic Analysis:**

The feasibility study anticipated that a new performance venue would have a positive economic impact by attracting new visitors and importing their spending or new income into the local economy. To measure economic impact, the feasibility study calculated new net demand – the difference between event and attendance for both a do-nothing scenario and a new performance venue scenario.

**Financing Approach:**

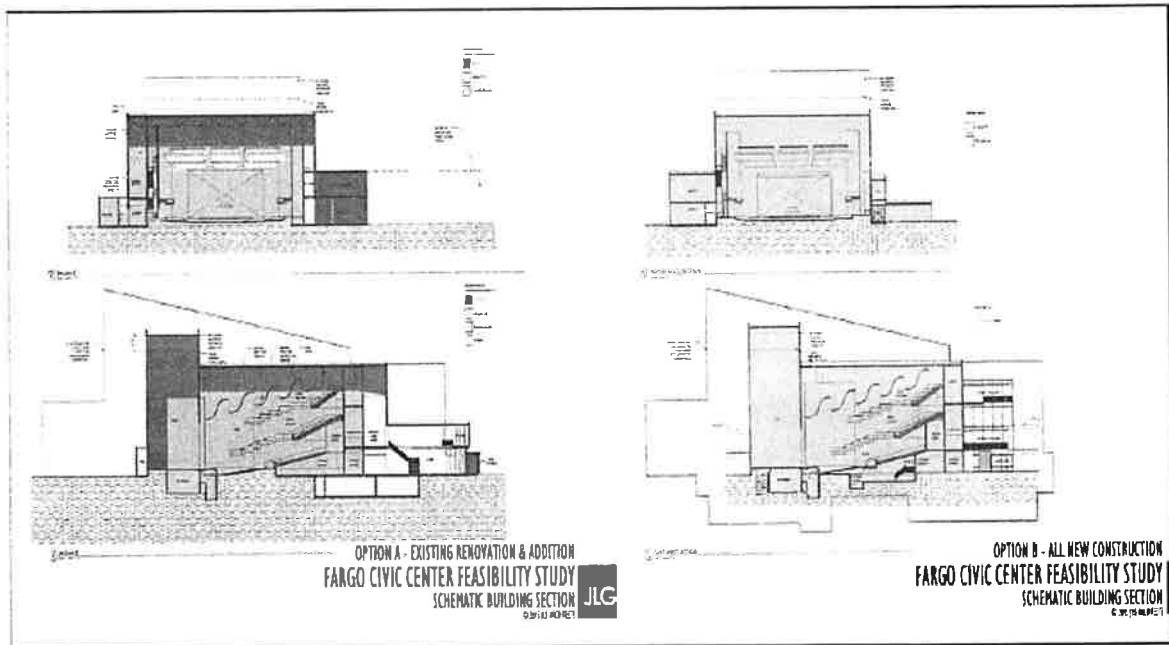
The feasibility study also included an overview of common strategies for performance center ownership and funding, highlighting funding structures currently in place at comparable venues and the impact of a funding strategy on facility operations.

**Schematic Plans:**

The Feasibility Study essentially looked at two options for the repurposing the Civic Center to a performance venue:

Option A - Renovation/Addition to the Fargo Civic Center (Const. Cost Estimate \$54,518,000)

Option B - New Construction (Const. Cost Estimate \$51,425,000)



**FEASIBILITY STUDY PRESENTATION**

Todd Medd and Lee Dobrintz with JLG Architects will be representing the consultant team at the City Commission meeting to present the feasibility study findings.

**RECOMMENDED MOTION**

Approve the formation of a new sub-committee, similar to that which was assembled to complete the feasibility study. The new sub-committee will establish a plan of next steps in the process to include the completion of a preliminary design and cost estimate, as well as, a plan of financing. It is anticipated that the plan of financing would consider a private-public partnership and include a plan for a private fundraising campaign.



# 1. Introduction and Executive Summary

## Nature of the Assignment

The City of Fargo, North Dakota engaged HVS Convention, Sports & Entertainment Facilities Consulting (“HVS”), JLG Architects, Schuler Shook, and Acoustic Distinctions (“consulting team”) to conduct a study assessing the feasibility of repurposing the Fargo Civic Center into a performance venue. The proposed Fargo Performance Center could enhance the demand potential of touring concerts and theatrical productions in Fargo, and provide performing arts groups in the Fargo MSA a modern, state-of-the-art venue in which to perform.

## Methodology

In accordance with the Scope of Services, the consulting team performed the following tasks:

1. The consulting team conducted a series of meetings and interviews in Fargo, North Dakota on April 13-15, 2015. During this visit, they met with the Civic Center committee, toured the Fargo Civic Center, interviewed several potential user groups and other key industry participants, and gathered relevant data.
2. Analyzed the economic and demographic data that indicate whether, and the extent to which, the local market area supports the proposed performance center.
3. Interviewed potential user groups to assess their venue needs and potential event demand they could generate.
4. Compiled data on 11 comparable performance centers to test the reasonableness of the building program recommendations and inform event demand projections.
5. Recommended a market-based facility program based on the above steps.
6. Evaluated the ability of the existing Fargo Civic Center to accommodate the building program recommendations.
7. Prepared event demand and attendance forecasts based on the implementation of the program recommendations.
8. Prepared conceptual plan alternatives based on proposed building recommendations.
9. Prepared a financial forecast for the proposed Fargo Performance Center operations.



10. Prepared an economic and fiscal impact analysis for the proposed Fargo Performance Center.
11. Identified alternative methods used to finance the construction of performance centers in the U.S..
12. Developed steps to implement the proposed building plan.

The consulting team collected and analyzed all information contained in this report. HVS sought out reliable sources and deemed information obtained from third parties to be accurate.

#### **Role of Performing Arts in Cities**

The presence of performing arts opportunities in a community not only directly impacts the individual residents, but also has economic, cultural, and social impacts on the community as a whole. A thriving performing arts culture increases the propensity of residents to participate in the arts, which in turn increases the attractiveness of the community to tourists, businesses, and people, and investment. Since an interest in the arts is highly correlated to education level, the people that are attracted to live in communities with a strong arts presence tend to be an educated, highly-skilled work force. Communities with a robust arts identity tend to have a more favorable image and status while also enjoying reduced crime rates and a greater degree of cultural diversity. The arts also foster creativity among community residents that can spur economic growth in creative industries. The following figure identifies the various mechanisms of impact that performing arts can have on individual residents and a community as a whole.

**FIGURE 1-1  
MECHANISMS OF PERFORMING ARTS IMPACT**

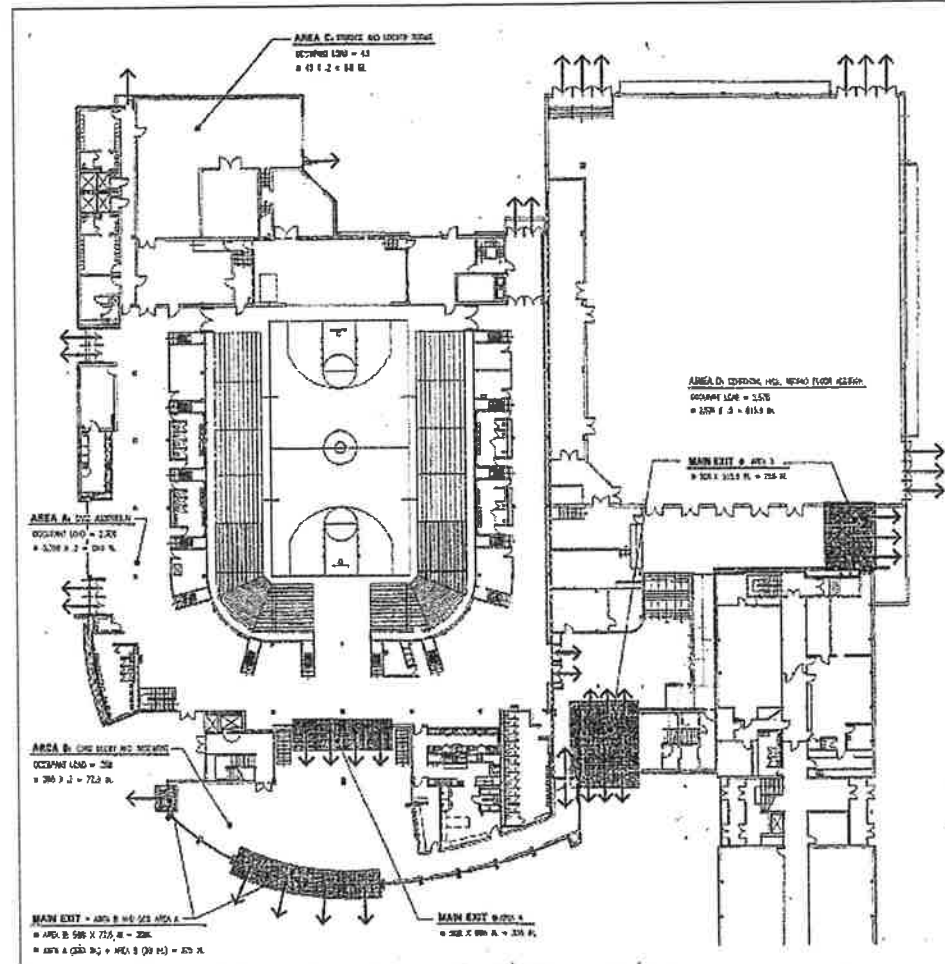
	Material/ Health	Individual Cognitive / Psychological	Interpersonal	Economic	Community Cultural	Social
<b>Audience Participation</b>	Increases opportunities for enjoyment	Increases cultural capital	Increases tolerance of others	Increases spending at local businesses and multiplier effects	Builds community identity and pride	Brings together people who might otherwise not interact
	Relieves stress	Enhances visuo-spatial reasoning (Mozart effect)			Increases diversity, tolerance and free expression	
	Material/ Health	Individual Cognitive / Psychological	Interpersonal	Economic	Community Cultural	Social
<b>Impact of Performing Arts in Community</b>	Increases individual opportunity and propensity to be involved in arts			Increases propensity of community members to participate in the arts	Improves community image and status	Promotes neighborhood cultural diversity
				Increases attractiveness of area to tourists, businesses, and people		Reduces neighborhood crime and delinquency
				Fosters creative spirit that spurs economic growth		

#### Description of Existing Fargo Civic Center

The City of Fargo owns the Fargo Civic Center and operates the venue through an in-house management staff. Located in downtown Fargo, the Fargo Civic Center is a multipurpose venue capable of hosting sporting events, concerts, consumer shows, meetings, and social events. A proscenium stage faces a flat floor and U-shaped fixed seating. Movable risers can expand seating capacity. Seating capacity varies by event, but the Civic Center's auditorium seats approximately 1,500 for sporting events and 2,500 for concerts with floor seating. The open floor in the auditorium contains approximately 12,500 square feet of flat floor space. The venue also houses an 11,000 square foot exhibition hall (Centennial Hall) and approximately 6,000 square feet of meeting space. The venue hosts around 70 event per year, primarily made up of consumer shows and sporting events. The following figure presents the existing Civic Center floor plan.



## FARGO CIVIC CENTER FLOOR PLAN



While the Civic Center's auditorium regularly hosts popular concerts and comedy shows, it lacks the staging capabilities to host touring Broadway performances, symphony, and other fine arts performances. These events typically require a larger stage, stage wings, and a fly loft with adequate height for rigging, catwalks, and other systems.

The following figure provides an aerial view of the Civic Center and developments immediately surrounding the site.

AERIAL VIEW OF THE FARGO CIVIC CENTER



A selection committee has recently named the site just east of the Civic Center and currently occupied by the north end of the Civic Center parking lot as the site for the new Fargo City Hall building. In the current plans, construction of the proposed City Hall facility would require the removal of Centennial Hall from the Fargo Civic Center. Losing this exhibit hall from its building inventory would result in the loss of over half of the events currently hosted by the Civic Center and roughly half of its annual attendees.

In addition to the Fargo City Hall project, the Fargo Civic Center site is also proximate to other major developments in Fargo, including the Second Street Flood Control Project, the potential development of a downtown Fargo Convention Center, and other downtown initiatives. While it is not included in the scope of this study, these interrelated development projects should be viewed in the overall context of a master plan for development of the civic plaza area and potential impacts and mutual benefits should be investigated.



## Market Area Analysis

The Fargo MSA enjoys high population growth and a strong and growing economy. Throughout the recent national recession, Fargo maintained a low unemployment rate and has had significant growth in employment levels during the past decade. The market benefits from these encouraging employment statistics and a well-diversified employment base with a number of corporations in a variety of industries. The local Fargo and surrounding populations are clearly able to support performance venues in Fargo and provide a strong source of local and out-of-town demand for a variety of events.

Fargo's entertainment and event infrastructure lacks an indoor performance venue suitable for events which attract between 1,000 and 3,000 attendees. Downtown Fargo is a desirable visitor destination and provides an excellent backdrop for a performance venue. Future planning and development efforts in downtown Fargo should consider the interrelationship between a performance center, retail and dining amenities, and parking and work to improve the pedestrian connections between them.

## Comparable Venue Assessment

HVS analyzed the following eleven comparable performance centers in small metropolitan markets throughout the U.S. This analysis provides a basis for building program recommendations by comparing the function spaces and other amenities in each of the facilities along with other characteristics of the markets relevant to the success of the venue.

**FIGURE 1-2  
COMPARABLE VENUES**

Name of Venue	Location	Year Opened or Renovated	Seating Capacity
Paramount Theatre	Cedar Rapids IA	2012	1,690
Adler Theatre	Davenport IA	2006	2,400
Globe News Center	Amarillo TX	2006	1,300
Clay Center	Charleston WV	2003	1,883
Fox Cities Performing Arts Center	Appleton WI	2002	2,072
Orpheum Theatre	Sioux City IA	2001	2,459
Washington Pavilion	Sioux Falls SD	1999	1,900
Lied Center for Performing Arts	Lincoln NE	1990	2,000
Alberta Bair Theatre	Billings MT	1987	1,410
Chester Fritz Auditorium	Grand Forks ND	1972	2,384
Centennial Concert Hall	Winnipeg MB	1968	2,305

Sources: Respective Venues

Theater seating in comparable venues ranges from 1,300 to nearly 2,500 seats with an average of just under 2,000 seats. In addition to entertainment and theatrical performances, most venues offer their stage and lobby areas for private

rental for weddings, receptions, expositions, corporate meetings, and other group events. Several of the comparable venues house additional function spaces which allow them to expand these private rentals and create a higher amenity level for patrons attending their performance events. These spaces include meeting rooms, art galleries, black box theaters, restaurants, green rooms, and outdoor plazas. Five of the comparable venues are operated as part of larger integrated developments which include museums, convention centers, and other public facilities.

Local residents comprise a significant portion of a performance center's primary attendee market. Local population characteristics, therefore, can provide insight into event and attendance potential and also provide evidence of a community's overall economic size and ability to support public services and visitor amenities that are important for theater users. When compared to the comparable markets, the size of Fargo's metropolitan population is below average. But, Fargo residents prove more affluent, younger, and more highly educated than residents of the comparable markets, indicating that they are more likely to attend the types of high arts and popular arts performances which would be presented at the Fargo Performance Center. This conclusion is consistent with data that shows that Fargo residents spend higher amounts per capita on symphony, theater, and other performing arts.

This comparable analysis also suggests that the seating capacity in Fargo should be in the higher end of the range created by the comparable venues. If possible, programming of the performance hall should consider the inclusion of complementary function spaces and integrated development to improve the event demand potential, expand the possible uses, and enhance the overall visitor experience.

#### **User & Stakeholder Interviews**

The consulting team interviewed the following representatives from local organizations which could potentially use the proposed performance center for their events. These interviews helped inform building program recommendations and demand estimates.

#### Potential Users

- Jade Neilsen, Jade Presents
- David Hamilton, Executive Director, Fargo Moorhead Opera
- Linda Boyd, Executive Director, Fargo Moorhead Symphony Orchestra
- Scott Sampson, VP of Programming, Jam Theatricals
- Bonnie Haney, Bonnie Haney School of Dance
- Haylee Thompson, Red River School of Dance



The consulting team also interviewed the following community stakeholders and performance venue operators

#### Community Stakeholders

- Dana Del Val, Director, The Arts Partnership
- Carrie Wintersteen, Director, Theater B
- Charley Johnson, President/CEO, Fargo Moorhead CVB
- Mike Hahn, Executive Director, Downtown Community Partnership
- Jim Gartin, President, Fargo Moorhead Economic Development Corporation
- Craig Whitney, President/CEO, Fargo Moorhead West Fargo Chamber of Commerce
- Doug Burgum and Mike Allmendinger, Kilbourne Group

#### Local Venue Operators

- Eloise Breikjen, Director, Fargo Moorhead Community Theater
- Kathy Anderson, Executive Director and Joel Farren, Technical Theatre Specialist, Trollwood Performing Arts School
- Jon Kram, General Manager, Scheels Arena
- Emily Beck, Fargo Theatre
- Bill Law and Ana Rusness-Petersen, North Dakota State University – Festival Concert Hall, Beckwith Recital Hall, Arkanase Auditorium, Walsh Studio Theater
- Elizabeth Evert-Karnes and Ryan Jackson, Minnesota State University Moorhead – Hanson Theater, Gaede Stage, Weld Hall, Fox Recital Hall
- John Roberts and David Wintersteen, Concordia College – Memorial Auditorium, Frances Frazier Cornstock Theater, Recital Hall

#### Civic Center Committee Members

- Dave Piepkorn, City Commissioner
- Mike Williams, City Commissioner
- Bruce Grubb, City Staff
- Bob Getz, City Staff
- Rob Sobolik, Fargodome Manager



- Deb Mathern, Fargodome Board
- Dan Armbrust, Civic Center Board
- Jade Nielson, Local Events Promoter

#### **Building Program Recommendations**

The consulting team developed building program recommendations for a proposed Fargo Performance Center. The recommended facility program can serve as a guide for subsequent physical planning aimed at providing the desired program elements.

The consulting team's program recommendations could place the proposed Fargo Performance Center in a position to attract a variety of touring concerts and theatrical productions to Fargo. These events could include those productions currently held in the Fargo Civic Center and the FARGODOME and new events which existing venues in the market cannot accommodate. The proposed venue could also serve local arts groups, such as the Fargo Moorhead Symphony Orchestra ("FMSO"), allowing them to present their performances in a venue with superior acoustics, back of house accommodations, and attendee amenities than found in the multipurpose facilities they currently use. In addition, smaller performance space could serve performances by arts groups with lower attendance needs and provide all groups space for rehearsals, receptions, and other uses. The consulting team projects that the development of the proposed venue could result in a significant increase in the number of events and the attendance generated by arts and entertainment performances in Fargo.

The consulting team developed the following program for the proposed Fargo Performance Center. Program includes elements required for the front of house, house and stage, and the back of house areas. The building program presented in the following figure would create a 2,200-seat state-of-the-art performance venue in Fargo that would be capable of supporting the multiple performance types required by the market.

**FIGURE 1-3  
PRELIMINARY BUILDING PROGRAM**

Area	Seats	Floor Area (sf)
<b>Front of House</b>		
Lobbies		24,800
Rest Rooms		2,723
Box Office		440
Concessions & Catering		2,540
Ushers & Security		1,150
Admin Offices and Conference		940
Equipment and Storage		992
	Net floor area	33,585
	Gross factor	1.4
<b>FRONT OF HOUSE GROSS FLOOR AREA</b>		<b>47,018</b>
<b>House and Stage</b>		
House - Orchestra (Main)	1300	13,000
House - Balcony	500	5,000
House - Gallery	400	4,000
Stage and wings		6,400
Orchestra Pit		1,980
Support and Technical		1,080
	Net floor area	31,460
	Gross factor	1.5
<b>HOUSE AND STAGE GROSS FLOOR AREA</b>		<b>47,190</b>
<b>Back of House</b>		
Dressing Rooms & Green Room		6,150
Rehearsal/Event Room & Support		3,960
Offices		1,200
Loading		900
Equipment & Storage		3,182
	Net floor area	15,392
	Gross factor	1.4
<b>BACK OF HOUSE GROSS FLOOR AREA</b>		<b>21,549</b>
<b>TOTAL GROSS FLOOR AREA</b>		<b>115,757</b>

The above program represents a performance center with a total gross floor area of 116,000 square feet and a footprint of approximately 70,000 square feet. Based on market and programming recommendations detailed above, JLG Architects prepared conceptual plans and cost estimates for the two options for the Fargo Performance Center, 1) renovation of the existing Fargo Civic Center and 2) new construction on the Civic Center site. These plans are included in the Appendix to this report.



The following figure provides a summary of estimated development costs for both performance center options.

**FIGURE 1-4**  
**ESTIMATE OF DEVELOPMENT COSTS**

Item	Renovate Existing Civic Center	New Construction
Demolition	\$3,000,000	\$1,000,000
Unit Cost ( \$ per Sq Ft)	345	360
Building Area (Sq Ft)	115,757	115,757
Renovation/Construction Cost	\$39,936,165	\$41,672,520
Soft Costs and FF&E	19%	16%
	7,588,000	6,668,000
Owner's Contingency	10%	5%
	3,994,000	2,084,000
<b>Total Cost</b>	<b>\$54,518,000</b>	<b>\$51,425,000</b>
Skyway Allowance		\$4,000,000
Seating Wagon Option		\$2,700,000

### Demand Projections

HVS based event demand projections at the proposed Fargo Performance Center on the following research and analysis:

- The program recommendations presented Section 5 of this report,
- An analysis of historical estimated demand versus demand potential in the market,
- User and stakeholder interviews,
- Event promoter interviews,
- Industry data and trends reports,
- Key market and economic indicators outlined in Section 2, and
- Comparable venue program and demand data.

The following figure presents the demand projections for a stabilized year, which would occur approximately four years after the opening of the venue in 2020.





**FIGURE 1-5**  
**EVENT DEMAND IN A STABILIZED YEAR**

Event Type	Number	Average Attendance	Total Attendance
Concerts & Entertainment	28	1,650	46,200
Touring Theater	16	2,000	32,000
Symphony	6	1,100	6,600
Opera	4	600	2,400
Ballet/Dance	10	350	3,500
Local Theater	30	100	3,000
Assemblies	10	1,000	10,000
Banquets & Social	45	150	6,750
Other	5	1,000	5,000
<b>Total</b>	<b>154</b>		<b>115,450</b>

The new construction scenario includes an optional configuration which provides for flat floor space at the front of the auditorium seating. Auditorium seats would be on seating wagon which can be removed and stored. The flat floor would allow for additional standing attendees at concerts and create additional opportunities to host wedding and dinner theater performances. HVS projects that this option would increase average concert attendance by 150 attendees. It would also allow for 10 additional local theater performances and increase the average attendance at the performances by 50 attendees. Banquet and wedding demand would also increase by 10 events. By a stabilized year of demand, the total number of annual events at the Fargo Performance Center would increase by 15 and the number of annual attendees would increase by approximately 8,000.

#### Financial Analysis

HVS applied a series of revenue and expense assumptions regarding the facility utilization and operations to develop a comprehensive operating financial statement for the proposed Fargo Performance Center. The figure below presents the stabilized year of operating projections. All revenues and expenses are for a stabilized year of demand in inflated dollars.

**FIGURE 1-6  
INCOME AND EXPENSE IN A STABILIZED YEAR (INFLATED)**

	<b>Stabilized Year</b>
<b>OPERATING REVENUE</b>	
Theater Rental	\$462,100
Gross Ticket Sales	4,696,100
Facility Fee	221,500
Function Space Rental	38,500
Food & Beverage (Gross)	1,159,200
Event Services (Gross)	113,600
Novelty (Gross)	621,400
Advertising	124,900
Other Revenue	25,000
Total	<u>\$7,462,300</u>
<b>EVENT EXPENSES</b>	
Promoter Costs	\$4,226,500
Food & Beverage Costs	811,500
Event Services Costs	96,600
Novelty Costs	497,100
Total	<u>\$5,631,700</u>
	\$1,830,600
<b>INDIRECT EXPENSES</b>	
Salaries & Benefits	\$700,100
Administrative & General	174,400
Contractual Services	99,600
Repair & Maintenance	111,900
Supplies & Equipment	62,300
Utilities	473,600
Management Fee	124,900
Capital Maintenance Reserve	223,900
Total	<u>\$1,970,700</u>
<b>TOTAL NET INCOME (LOSS)</b>	<u><u>(\$140,100)</u></u>

For a stabilized year of demand, the operation of the proposed Fargo Performance Center would require a subsidy of approximately \$140,000. This is significantly lower than similarly-sized, stand-alone performance centers as shown below. The primary source of costs saving would be in the labor costs required to manage the facility. HVS assumes that the operator of the FARGODOME would also manage the Fargo Performance Center. As a result, several staff functions that would be required in a stand-alone operation would be handled by the management team already in place at the FARGODOME.

HVS projects that the additional events and attendees attracted by the flat floor space created by the seating wagon option would reduce the annual operating subsidy by approximately \$40,000 in a stabilized year of demand.

**FIGURE 1-7**  
**COMPARABLE VENUES OPERATING SUBSIDIES**

Venue	Location	Seating Capacity	Operating Loss	Year
Flynn Center	Burlington, VT	1,400	(\$1,283,000)	2014
Carson Center	Paducah, KY	1,800	(\$1,136,000)	2014
Fox Cities PAC	Appleton, WI	2,070	(\$862,000)	2014
Centennial Hall *	Winnipeg, MB	2,300	(\$831,000)	2014
Alberta Bair Theater	Billings, MT	1,400	(\$422,800)	2013

\* Loss stated in \$CAN.

Source: Respective Venues

HVS projects that the additional events and attendees attracted by the flat floor space created by the seating wagon option would reduce the annual operating subsidy by approximately \$40,000 in a stabilized year of demand.

#### Economic and Fiscal Impacts

HVS identified the new direct spending that would occur in the local economy due to the operations of the proposed Fargo Performance Center. HVS used the IMPLAN input-output model to estimate indirect and induced impacts as well as jobs created on the direct spending. HVS investigated the incremental impacts on the City of Fargo.

HVS direct spending estimates include only new spending that originates from outside the market area defined above. Spending by attendees who live within the market area is a transfer of income from one sector of the area's economy to another; therefore, this analysis does not count spending by local residents as a new economic impact. HVS further removes attendee spending from groups which would transfer business to the Fargo Performance Center from another venue in a market area.

The following figure summarizes the results of this analysis for the new, annual incremental spending projected in the market area. The figure also contains the corresponding fiscal or tax revenue impacts of this spending in the City of Fargo. All dollar figures represent a stabilized year of demand in 2015 dollars.

**FIGURE 1-8  
ECONOMIC AND FISCAL IMPACTS**

	City of Fargo
Economic Impact	\$7.4 Million
Fiscal Impact	\$135,000
Jobs	80

In addition to the quantitative impacts presented above, the presence of the proposed Fargo Performance Center would also have a number of softer, qualitative benefits to the surrounding neighborhood and the greater Fargo community.

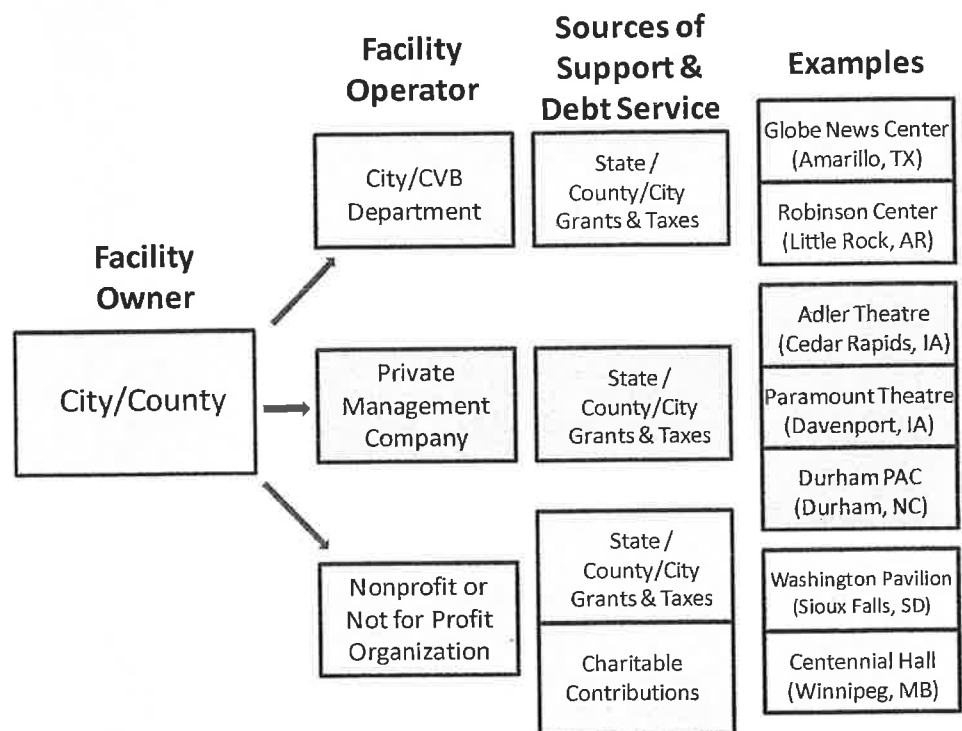
- The presence of a high-quality performance center in Fargo would create additional opportunities for residents to attend and participate in cultural activities. Participation analysis suggests that additional demand potential exists in the Fargo market and that current supply does not satisfy this potential.
- A Fargo Performance Center would afford the local symphony and opera a more suitable venue for their performances, allowing them to potentially expand programming and increase attendance.
- Multiple performance spaces in the proposed performance center would allow local theater and other arts groups additional space for productions and rehearsals. These groups currently face restrictions from inadequate supply of available space.
- Increased cultural activity in a market offers numerous benefits to residents and makes a community a more desirable place to live and work. Fostering Fargo's reputation of having a well-educated and creative work force is a major selling point that differentiates Fargo for corporations looking to relocate in the region.
- The presence of a downtown performance center would enhance ongoing efforts at revitalizing Fargo's downtown. Evening performances would encourage attendees to patronize restaurants and retail establishments either before or after an event, enlivening the neighborhood beyond regular working hours.
- The development of the Fargo Performance Center at the site of the Fargo Civic Center could be a catalyst to the redevelopment the City's Riverfront. With the performance center and new City Hall as prominent anchors,

collateral lodging, retail, dining, and entertainment development would provide a strong boost to the Riverfront renewal.

### Approach to Management and Financing

Performing arts centers operate under a variety of ownership and management structures, ranging from public municipal ownership to ownership by a nonprofit organization. Venues can be stand-alone performance centers or part of a larger cultural and entertainment complex which may include museums, movie theaters, and convention centers. The following figure provides a summary of the most common management structures for city- or county-owned performance centers.

**FIGURE 1-9**  
**MANAGEMENT OF CITY-OWNED PERFORMANCE CENTERS**



Regardless of management structure, publicly-owned venues rely on public support typically in the form of taxes and grants. Venues operated by a nonprofit organization also have active fundraising programs for both private and corporate donations.

In the United States, funding for performance centers includes a range of methods from private, nonprofit groups employing a fundraising campaign to state or local



governments using public debt to finance construction and subsequent operating needs. Many facilities use a combination of the two in which activities by a nonprofit owner or manager are complemented by state and local government pledges of annual funds to maintain the ongoing viability of a performance facility.

Local governments which finance the construction of performance facilities with public debt, usually do so over a 20- to 30-year period. Municipalities justify public investment either on the basis of the potential economic impact of a project or because it represents the development of a community asset with broad support that would not be developed without public spending.

# Civic Fargo Civic Center

(38)

207 North Fourth Street • Fargo, North Dakota 58102 • 701-241-1480 • Fax: 701-241-1483 • www.fargocivic.com

February 22, 2018

## MEMORANDUM

**To:** City Commission  
**From:** Bruce P. Grubb, City Administrator *BPG*  
**Re:** Civic Center HVAC Retrofit



### Introduction

At the January 29, 2018, Finance Committee meeting, the committee discussed the need to retrofit the Civic Center with certain HVAC equipment that is currently located in old City Hall. The demolition of old City Hall will result in the removal of a cooling tower, piping and controls that are necessary for providing cooling to the Civic Center and City Administrative offices.

### Background

During the preparation of bidding documents for the demolition of old City Hall, a plan was also developed to retrofit the Civic Center with stand-alone HVAC equipment. Currently, old City Hall and the Civic Center share certain pieces of HVAC equipment that provide heating and cooling to both buildings. The shared pieces of equipment that are located in old City Hall include a cooling tower, piping and controls. Thus, the Civic Center will need to be fit-up with stand-alone HVAC equipment prior to the demolition of old City Hall. Additionally, maintenance staff from Buildings & Grounds informed the Civic Center that the steam boiler plant has reached the end of its useful life and is recommended for replacement at this time. For these reasons, a retrofit/fit-up of the Civic Center HVAC system is recommended to maintain heating and cooling of the Civic Center and administrative offices.

**Fit-up Recommendations**

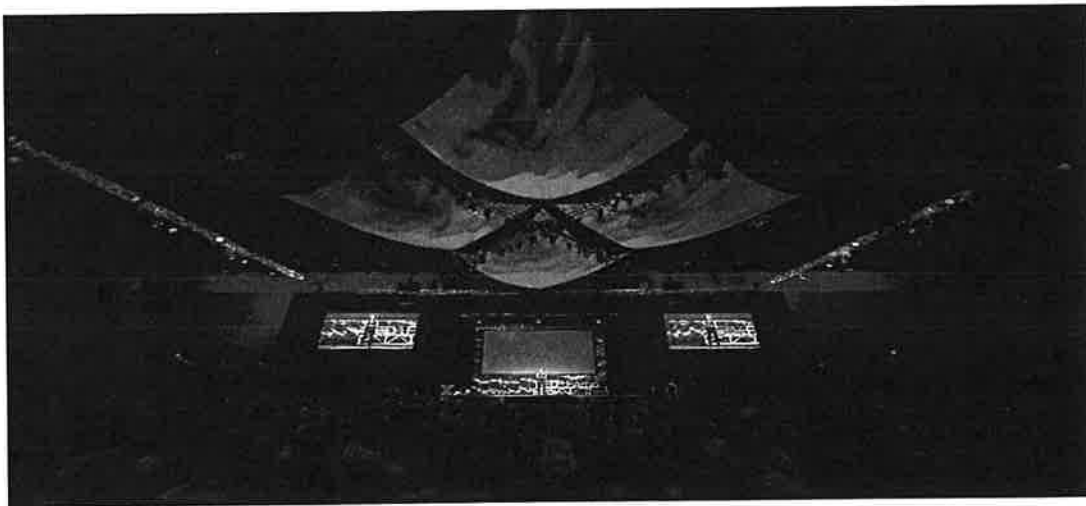
To that end, staff requested an estimate from Obermiller Nelson Engineering (ONE) for the fit-up work necessary to retrofit the Civic Center with a stand-alone HVAC system. ONE is the mechanical engineer on the new City Hall construction project, as well as, the old City Hall demolition project. Therefore, ONE was selected to provide an estimate based on their experience and knowledge of the mechanical relationship between old City Hall and the Civic Center. The estimate of costs has been summarized below:

<b>Civic Center HVAC Estimate      \$780,000</b>	
Replace pneumatic controls with electronic controls	Structural Steel for new cooling tower
New steam boiler plant	Piping from chiller to new cooling tower
New cooling tower	Controls for new cooling tower
Replace condensate piping	Electrical modifications
Service/Overhaul existing chiller	

Please note that the items highlighted above can be designed and sized for the ability to be removed and reused in a different building in the future.

New Steam Boiler Plant	\$380,000
New Cooling Tower	\$ 60,000
Controls for new Cooling Tower	\$ 10,000
<b>Total</b>	<b>\$450,000</b>

It is recommended that the HVAC retrofit work be approved for proceeding with bidding.



**TedX Conference**

**Recommended Funding Plan**

It is recommended that the Civic Center HVAC fit-up work be financed through a short-term inter-fund loan. The terms of the loan would be 5, 7, or 10-years at an annual interest rate of 1.5%. The annual debt repayment would be included in future annual Capital Improvements budgets.



**Suggested Motion:**

Approve proceeding with a project to retrofit the Civic Center with HVAC equipment to be funded with a short-term inter-fund loan.



## MEMORANDUM – M01

Date	12/19/17
Project #	2017380
Project Name	Fargo City Hall Demo
Project Location	Fargo, ND
Description	Mechanical Work Scenerios

---

### Bare Minimum – Demo City Hall and Leave Civic Center

- Replace existing pneumatic controls in Civic Center with new electronic DDC system
- Provide new cooling tower for existing water-cooled chiller
- Provide New Steam Boiler Plant to replace existing boilers
- Replace existing condensate piping to eliminate rust issues
- Service and overhaul existing water cooled chiller (scheduled service)
- Provide new cooling tower to replace unit on City Hall roof being demo'd
- Provide structural steel for mounting new cooling tower
- Provide piping from existing chiller to new cooling tower location (approximately 100' figured)
- Provide controls for new cooling tower
- Provide Electrical changes required for City Hall demolition
- Total Cost = \$780,000

### Hot Water Heating Upgrade – Demo City Hall and Upgrade Civic Center to Hot Water Heat

- Replace existing pneumatic controls in Civic Center with new electronic DDC system
- Provide new gas fired hot water boilers along with pumps, controls, etc. to replace steam boilers
- Provide Air Handling Unit upgrades associated with Hot Water conversion
- Provide hot water distribution piping
- Service and overhaul existing water cooled chiller (scheduled service)
- Provide new cooling tower to replace unit on City Hall roof being demo'd
- Provide structural steel for mounting new cooling tower
- Provide piping from existing chiller to new cooling tower location (approximately 100' figured)
- Provide controls for new cooling tower
- Provide Electrical changes required for City Hall demolition
- Total Cost = \$1,260,000

### Cooling Plant Upgrade – Can Be added on to either of the option shown above

- Remove existing water-cooled chiller
- Provide new air cooled chiller
- Insulate piping from existing chilled water system connection to new chiller location

## **BUILDING SYSTEMS CONSULTANTS**

Alexandria | Bismarck | Duluth | Fargo | Grand Forks | Media | Minneapolis

- Omit work associated with existing chiller system
- Provide electrical for added chiller load
- Cost Added to Previously Discussed Systems = \$60,000

Respectfully,  
Obermiller Nelson Engineering, Inc.

Ross Young

Attachment(s): 2017380\_Cost Estimate  
Cc: File

F:\Projects\2017380 - Fargo Old City Hall Demo\CORRESPONDENCE\MEMOS\2017380 MEMO M01.docx

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OBERMILLER NELSON ENGINEERING

**FARGO**

2201 12th St. N Suite E  
701.280.0500

**GRAND FORKS**

311 4th St. S Suite 203  
701.775.2594

**BISMARCK**

233 West Rosser Ave.  
701.222.0520

**ALEXANDRIA**

503 Hawthorne St. Suite 141  
320.846.0300

**MINNEAPOLIS**

1400 Van Buren St. NE Suite 130  
877.380.0501



# CONSTRUCTION COST ESTIMATE

DATE PREPARED 12/19/2017

**Project: Fargo City Hall Demo**

**Location: Fargo, ND**

## BASIS FOR ESTIMATE

X	CODE A	NO DESIGN COMPLETED
-	CODE B	DESIGN DEVELOPMENT
-	CODE C	FINAL DESIGN
-	CODE D	SCHEMATIC DESIGN

Estimator: RRY

Checked by: NDR

Mechanical Breakout	Total Cost		Total Cost
<b>Demo City Hall and Leave Civic - Bare Minimum</b>		<b>Replace Existing Steam System with Hot Water Heat</b>	
Install New DDC Controls to Replace Pneumatics	\$125,000	Install New DDC Controls to Replace Pneumatics	\$125,000
Provide New Steam Boiler Plant	\$380,000	New Hot Water Boiler Plant (Boilers, Pumps, Controls, etc.)	\$400,000
Replace Condensate Piping	\$40,000	AHU Upgrades (Hot Water Coils, Fresh Air Intake, etc. )	\$300,000
Service/Overhaul Existing Chiller	\$50,000	Distribution Piping and Supplemental Heat	\$200,000
Provide New Cooling Tower	\$60,000	Service/Overhaul Existing Chiller	\$50,000
Structural Steel	\$25,000	Provide New Cooling Tower	\$60,000
Piping	\$50,000	Structural Steel	\$25,000
Cooling Tower Controls	\$10,000	Piping	\$50,000
Electrical	\$40,000	Cooling Tower Controls	\$10,000
		Electrical	\$40,000
<b>Sub Total</b>	<b>\$780,000</b>	<b>Sub Total</b>	<b>\$1,260,000</b>
<b>Add New Air Cooled Chiller to System Above</b>		<b>Add New Air Cooled Chiller to System Above</b>	
Provide New Chiller	\$125,000	Provide New Chiller	\$125,000
Omit Chiller Service Listed Above	-\$50,000	Omit Chiller Service Listed Above	-\$50,000
Omit Cooler Tower Listed Above	-\$60,000	Omit Cooler Tower Listed Above	-\$60,000
Piping Insulation	\$20,000	Piping Insulation	\$20,000
New Chiller Added Electrical	\$25,000	New Chiller Added Electrical	\$25,000
<b>Sub Total</b>	<b>\$60,000</b>	<b>Sub Total</b>	<b>\$60,000</b>
<b>TOTAL</b>	<b>\$840,000</b>	<b>TOTAL</b>	<b>\$1,320,000</b>

**City of Fargo  
Finance Committee Meeting Minutes  
January 29, 2018**

*draft  
2/12/18*

The Finance Committee met for its regular monthly meeting at 10:00 a.m. in the Mayor's Office

Members attending: Piepkorn, Grubb, Redlinger, Sprague, Costin

Members absent: Mahoney

Guests present: Terri Heaton, Jim Gilmour, David Todd, Greg Schildberger

**Minutes Approved**

The minutes from the December, 2017 were approved as presented. Sprague moved to approve. Grubb seconded the motion and all voted in favor.

**Sole Source Procurements Approved**

The Committee approved ten sole source procurement requests as presented by Departments. Costin moved to approve requests. Motion was seconded by Grubb and all voted in favor.

**Alternative Bond Sales Method Discussed**

The Committee met with Terri Heaton, or Springsted representative to discuss two alternative ways of marketing City of Fargo bond issues. One type of bond has been marketed recently by a new company called Neighborly. They break out bonds into \$1,000 denominations and allow direct sale by local citizens vs. directly to Wall Street investors. Ms. Heaton provided some examples from a recent bond sale in Kansas using this method of sale. Another way of selling our debt could be a negotiated sales option that includes the ability to sell bonds in a retail outlets (local banks or brokers) in conjunction with our normal bond marketing. She also highlighted Green Bonds that could be used for renewable energy projects. Neighborly bonds have been typically used for smaller bond issues, whereas retail options are more common and may provide a more efficient bond sales result. Piepkorn and others had several questions about how interest rates are established and who benefits from alternative sales methods. Committee was in favor of using these form of bonds sales where appropriate in the future due to the benefits to our local taxpayers.

### **General Fund Preliminary Financial Results**

Costin reviewed the preliminary General Fund results for 2017. Revenues lagged budget projections by 2.7% while expenditures were lower than budget by about 4.8%. Final results will not be available until about March 31<sup>st</sup>, however he reported that the ending numbers will be close to the preliminary year end numbers.

### **Parking Facility Repair Status Reports**

Gilmour presented facility maintenance reports from Carl Walker highlighting maintenance needs for the Island Park, Radisson and GTC parking ramps. There are several large dollar maintenance projects that need to be scheduled in the future. The most urgent of these was a structural beam in the GTC ramp that is part of the main building structure that supports the upper deck used by Transit. He requested a sole source procurement action to have Carol Walker manage these repair projects and wanted to proceed with all of the report recommendations. The Finance Committee approved using Carol Walker as our project manager, however deferred a decision on the overall scope of repairs due to magnitude of the budget impact of all these facilities of about \$1 million. The Parking Authority fund balance has been expended on the Robert Street Ramp. A prioritized project timeline and related funding plan needs to be completed. Redlinger moved to approve Walker as the project manager using a sole source procurement method. Grubb seconded the motion and all voted in favor. None of the projects were approved at this time.

### **Civic Center HVAC Retrofit Approved**

Grubb reviewed what needs to be done to move current building infrastructure from the old City Hall into the Civic Center. He said that HVAC replacement estimates were about \$780,000, however, these assets, if purchased could be used in the future if the Civic is repurposed. These repairs need to be completed since it impacts the current functionality of the Civic Center. Sprague moved to approve moving forward with this equipment retrofit. Costin seconded the motion and all voted in favor.

### **Pledged Revenues Streams For Utility Funds State Revolving Loans Discussed**

Costin reported that there are three new loans currently being processed or amended for the water treatment plant, the wastewater treatment plant and regional wastewater projects. He stated that existing loans have a primary or first pledge of sales tax revenues followed by a secondary pledge of utility revenues. Since these will be long term loans he wanted to revisit the current pledge strategy due to the size of the loans and their long term nature. He said that he has been working with the SRF program administration DeAnne Amendt they are willing to work with us if a change in the revenue pledge is desired. He said that modifying the pledge language may provide future flexibility in using these revenue streams and should be considered since these loans are typical utility core infrastructure elements and that the utility funds have the financial capacity to repay these loans. Grubb wanted to assure he understood the implications of this concept so no action was taken on this item.

### **Border States IT Building Proposal**

City officials learned that a building just north of the existing BSI building that Police are leasing is up for sale. Grubb received a proposal to lease this facility until such time as BSI moves to their new headquarters in about four years. This building is fully fit up and wired with technology. The City currently has a right of first refusal on this building. He stated that some options for using the building include moving the Red River Valley Dispatch Center, Public Safety expansion, Water meters, or Solid Waste Administration. Chief Todd thought it made sense to move the EOC to the PD building, and the RRRC to the Public Safety Building west of town in a more secure and strong facility. Costin moved to approve the right of first refusal pending and to come up with a financing plan. Redlinger seconded the motion and all voted in favor.

### **City Hall Video Panels**

Grubb and Greg Schildberger reviewed proposals for video screens in the new City Hall lobby. The estimated cost of this project was about \$65,000. Funding for this initiative will come from funds received from Midcontinent during our franchise negotiations in the amount of \$50,000, plus budgeted funds from either IT or the City Hall budget. Grubb moved to approve this project. Costin seconded the motion and all voted in favor.



391

OFFICE OF THE CITY ADMINISTRATOR  
Bruce P. Grubb

February 22, 2018

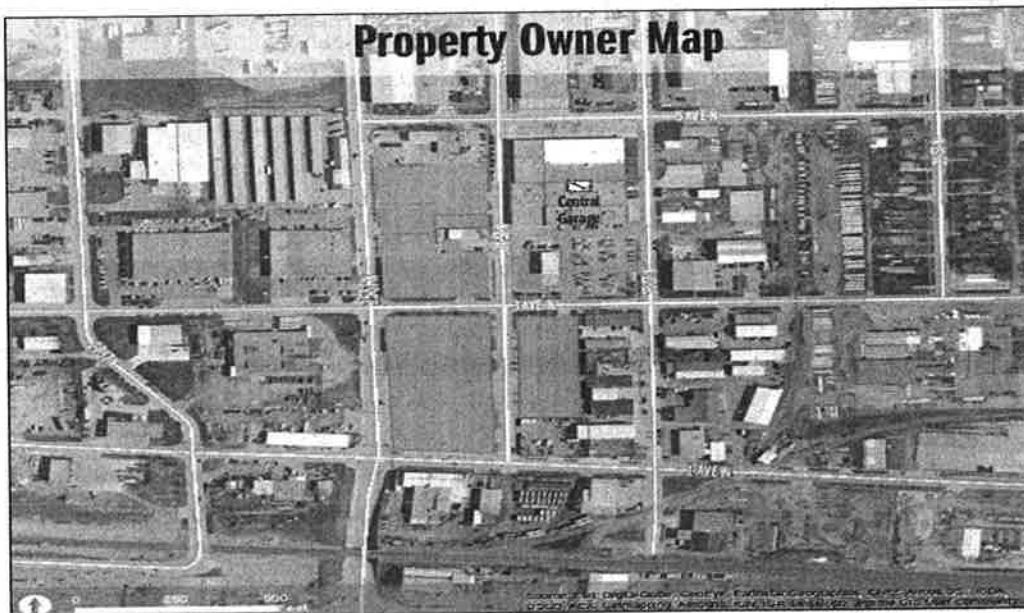
**MEMORANDUM**

**To:** City Commission  
**From:** Bruce P. Grubb, City Administrator *BPG*  
**Re:** Border States IT Building Lease/Purchase Option

**Introduction**

At the January 29, 2018, Finance Committee meeting, the committee discussed a building acquisition opportunity at 2401 3<sup>rd</sup> Avenue North. The building is located immediately north of the new Police station and immediately west of Public Works/Central garage. The building includes approximately 18,500 square feet of space and is currently used by Border States Electric (BSI) for their Information Technology (IT) division. BSI will be vacating the building in early 2019 to relocate to a new corporate office space in south Fargo. As such, an option for either leasing or purchasing the IT building was given to the City of Fargo in a previously approved agreement with BSI regarding their corporate headquarters at 131 24th Street North. The deadline for exercising the option is March 1, 2018.

The Finance Committee voted to approve the option at this time. A copy of the finance Committee meeting minutes has been attached for your reference.



RRP and BSI Buildings and Land



## Background

On February 13, 2017, the City Commission approved a series of agreements related to a lease/acquisition of the Border States Electric (BSI) building at 131 24<sup>th</sup> Street North. The building consists of 57,678 square feet of warehouse space and 48,112 square feet of office space. The building is owned by Red River Properties (RRP) which is leasing the building to BSI.

The City began subleasing the warehouse space from BSI in the fall of 2018. The warehouse space was recently renovated to meet the needs of Fargo PD's Field Services Division. Field Services has moved in to the space and has been operating from this location since early December. The office space is still occupied by BSI corporate personnel, but they expect to vacate the space in late 2018 when construction is completed on their new corporate headquarters building.

The separate, but related agreements have summarized below:

- **Agreement (City, RRP and BSI)**

In this document, RRP approved a BSI sublease of the vacant warehouse space to the City. It also gives the City the first right of refusal to lease/purchase both the RRP building and the BSI building. It also establishes a purchase price for the existing furniture and fixtures in both the RRP building and the BSI building.

- **Sublease Agreement (City and BSI)**

This document defines the terms of the warehouse sublease between the City and BSI. The rental rate under the sublease agreement is \$9.00 per square foot (57,678 square feet).

- **Lease Agreement with Option to Purchase (RRP and City)**

This document defines the terms of the RRP building lease and option to purchase between the City and RRP. After the expiration of the sublease period (ending in 2019), RRP requires that the City lease the entire building for a period of four years. After four years, the City will have the option to purchase the RRP building. The purchase price would be negotiated after completion of a certified appraisal. The rental rate under the lease agreement is \$8.65 per square foot (105,790 square feet). It also establishes the price of all furniture and fixtures at \$430,000.

- **Lease Agreement with Option to Purchase (BSI and City)**

This document defines the terms of the BSI building lease and option to purchase between the City and BSI. After expiration of the sublease period (ending in 2019), the City will have the option to either lease or purchase the BSI building. The agreement requires a commitment by the City to the lease/purchase option by March 1, 2018. The purchase price would be negotiated after completion of a certified appraisal. The rental rate under the lease agreement is \$8.65 per square foot (18,518 square feet). It also establishes the price of all furniture and fixtures at \$120,000.

As mentioned previously, BSI is leasing their corporate headquarters building (and land) from RRP. The current lease is scheduled to expire at the end of 2019 at which point, BSI will vacate the entire building and relocate to a new building. BSI also owns a building at 2401 3<sup>rd</sup> Avenue North, which houses their IT operations. In a similar fashion, BSI will vacate their IT building at the end of 2019 and relocate to a new building. An aerial view of the RRP and BSI properties is shown below.



The property includes several out buildings and considerable surface parking as shown above.

#### BSI Building Potential Uses

It is important to note that the BSI building property is located immediately west of Central Garage and north of the RRP building. It is anticipated that the RRP building will be 100% occupied by Fargo PD in early 2019. Due to the BSI building proximity to Central Garage and Fargo PD, it seems reasonable to consider potential uses of the building to meet City needs. Some of the potential uses may include, but not necessarily be limited to, the following:

- Red River Dispatch Center - relocate from downtown building
- Solid Waste Utility - relocate from existing Solid Waste building
- Water Meters Division - relocate from leased space in south Fargo
- IS Department Training Rooms - relocate from Public Safety building
- Public Works Department - additional surface parking
- Public Safety and Emergency Operations – relocated from Public Safety

#### Terms of Acquisition – BSI Building

As mentioned previously, the City has an agreement with BSI that defines the terms of an IT building lease and/or option to purchase. BSI will vacate the IT building in early 2019, it would become available to the City to either lease or purchase. A March 1, 2018, deadline was established for the City to exercise the lease/purchase option to allow BSI sufficient time to market the building to other potential tenants should the City decline the option. The rental rate under the lease scenario is \$8.65 per square foot (18,518 square feet). The purchase price under the purchase scenario would be negotiated based on certified appraisal. The City Assessor has the current value of building and land listed at \$1,498,100.

### Considerations for Potential Financing

**1. Lease Option.**

**2019 Rental Rate** = **\$160,200** (18,518 SF x \$8.65/SF)

**2. Purchase Option.**

**2019 Purchase Price** = **Negotiated based on certified appraisal** (assessed value \$1,498,100)

After consultation with the City Finance Director, some potential funding sources for consideration could include:

- Future sale of former Police Department Headquarters (\$1,702,300 assessed value)
- Future sale of former Public Health Headquarters (\$1,770,600 assessed value)
- Future sale of Mid-America Steel property (TBD)
- Bank loan (similar to Fargo-Cass Public Health and Newman Outdoor Field) with annual debt repayment.

### Suggested Motion:

Approve a formal notification to BSI of the City's intent to exercise the lease/purchase option for the BSI building located at 2401 3<sup>rd</sup> Avenue North.

Your consideration in this matter is greatly appreciated

C: Michael Redlinger, Assistant City Administrator  
Kent Costin, Finance Director  
David Todd, Police Chief  
Steve Dirksen, Fire Chief  
Terry Ludlum, Solid Waste Utility Director  
Ron Gronneberg, IS Director  
Ben Dow, Public Works Director  
Nancy Morris, Assistant City Attorney  
Phil Settles, Border States Industries

# Border States Electric IT Building

Fargo, ND



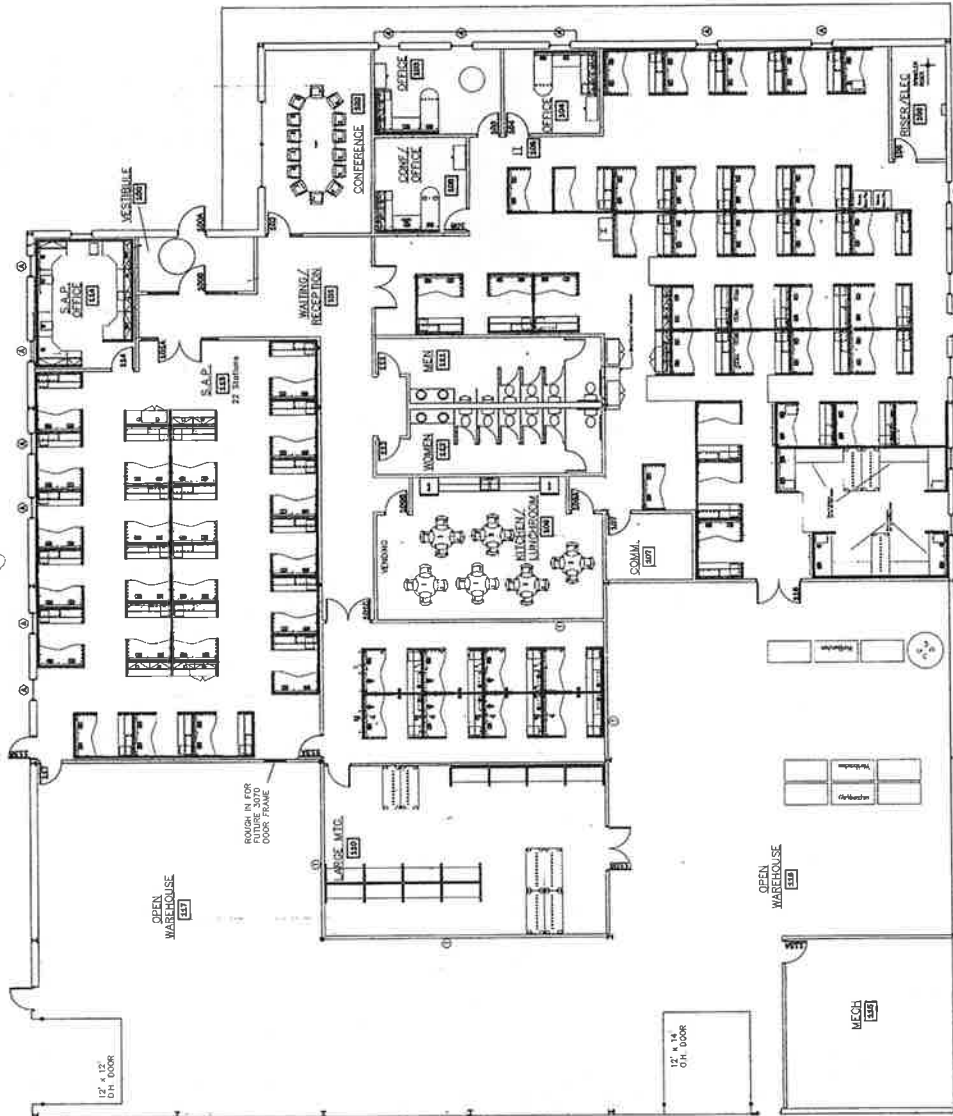
Inter Office Furniture  
2501 N. Broadway, Fargo, North Dakota 58103  
P 701-233-9011 F 701-233-9012

## Furniture Plan

Date 9/16/15

The drawings are prepared by Inter Office Furniture, Inc. and are not to be used for construction without the written consent of Inter Office Furniture, Inc. The drawings are not to be used for any other purpose without the written consent of Inter Office Furniture, Inc.

F1.1



Continue IT

IT FURNITURE  
SCALE: 1/8" = 1'-0"

City of Fargo  
Finance Committee Meeting Minutes  
January 29, 2018

draft  
2/12/18

The Finance Committee met for its regular monthly meeting at 10:00 a.m. in the Mayor's Office

Members attending: Piepkorn, Grubb, Redlinger, Sprague, Costin

Members absent: Mahoney

Guests present: Terri Heaton, Jim Gilmour, David Todd, Greg Schildberger

**Minutes Approved**

The minutes from the December, 2017 were approved as presented. Sprague moved to approve. Grubb seconded the motion and all voted in favor.

**Sole Source Procurements Approved**

The Committee approved ten sole source procurement requests as presented by Departments. Costin moved to approve requests. Motion was seconded by Grubb and all voted in favor.

**Alternative Bond Sales Method Discussed**

The Committee met with Terri Heaton, or Springsted representative to discuss two alternative ways of marketing City of Fargo bond issues. One type of bond has been marketed recently by a new company called Neighborly. They break out bonds into \$1,000 denominations and allow direct sale by local citizens vs. directly to Wall Street investors. Ms. Heaton provided some examples from a recent bond sale in Kansas using this method of sale. Another way of selling our debt could be a negotiated sales option that includes the ability to sell bonds in a retail outlets (local banks or brokers) in conjunction with our normal bond marketing. She also highlighted Green Bonds that could be used for renewable energy projects. Neighborly bonds have been typically used for smaller bond issues, whereas retail options are more common and may provide a more efficient bond sales result. Piepkorn and others had several questions about how interest rates are established and who benefits from alternative sales methods. Committee was in favor of using these form of bonds sales where appropriate in the future due to the benefits to our local taxpayers.

### **General Fund Preliminary Financial Results**

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### **Parking Facility Repair Status Reports**

Gilmour presented facility maintenance reports from Carl Walker highlighting maintenance needs for the Island Park, Radisson and GTC parking ramps. There are several large dollar maintenance projects that need to be scheduled in the future. The most urgent of these was a structural beam in the GTC ramp that is part of the main building structure that supports the upper deck used by Transit. He requested a sole source procurement action to have Carol Walker manage these repair projects and wanted to proceed with all of the report recommendations. The Finance Committee approved using Carol Walker as our project manager, however deferred a decision on the overall scope of repairs due to magnitude of the budget impact of all these facilities of about \$1 million. The Parking Authority fund balance has been expended on the Robert Street Ramp. A prioritized project timeline and related funding plan needs to be completed. Redlinger moved to approve Walker as the project manager using a sole source procurement method. Grubb seconded the motion and all voted in favor. None of the projects were approved at this time.

### **Civic Center HVAC Retrofit Approved**

Grubb reviewed what needs to be done to move current building infrastructure from the old City Hall into the Civic Center. He said that HVAC replacement estimates were about \$780,000, however, these assets, if purchased could be used in the future if the Civic is repurposed. These repairs need to be completed since it impacts the current functionality of the Civic Center. Sprague moved to approve moving forward with this equipment retrofit. Costin seconded the motion and all voted in favor.

### **Pledged Revenues Streams For Utility Funds State Revolving Loans Discussed**

Costin reported that there are three new loans currently being processed or amended for the water treatment plant, the wastewater treatment plant and regional wastewater projects. He stated that existing loans have a primary or first pledge of sales tax revenues followed by a secondary pledge of utility revenues. Since these will be long term loans he wanted to revisit the current pledge strategy due to the size of the loans and their long term nature. He said that he has been working with the SRF program administration DeAnne Amendt they are willing to work with us if a change in the revenue pledge is desired. He said that modifying the pledge language may provide future flexibility in using these revenue streams and should be considered since these loans are typical utility core infrastructure elements and that the utility funds have the financial capacity to repay these loans. Grubb wanted to assure he understood the implications of this concept so no action was taken on this item.

### **Border States IT Building Proposal**

City officials learned that a building just north of the existing BSI building that Police are leasing is up for sale. Grubb received a proposal to lease this facility until such time as BSI moves to their new headquarters in about four years. This building is fully fit up and wired with technology. The City currently has a right of first refusal on this building. He stated that some options for using the building include moving the Red River Valley Dispatch Center, Public Safety expansion, Water meters, or Solid Waste Administration. Chief Todd thought it made sense to move the EOC to the PD building, and the RRRC to the Public Safety Building west of town in a more secure and strong facility. Costin moved to approve the right of first refusal pending and to come up with a financing plan. Redlinger seconded the motion and all voted in favor.

### **City Hall Video Panels**

Grubb and Greg Schildberger reviewed proposals for video screens in the new City Hall lobby. The estimated cost of this project was about \$65,000. Funding for this initiative will come from funds received from Midcontinent during our franchise negotiations in the amount of \$50,000, plus budgeted funds from either IT or the City Hall budget. Grubb moved to approve this project. Costin seconded the motion and all voted in favor.