



West Fargo City Commission Meeting
Monday, March 16, 2020
Commission Chambers 5:30 PM

- A. Pledge of Allegiance
- B. Approve Order of Agenda
- C. Approval of Minutes – March 2, 2020 **(Pg. 2-4)**
- D. Building Permits

Consent Agenda – Approve the Following:

- a. Bills **(Pg. 5-12)**
- b. Final approval of River's Bend at the Preserve 5th Addition, a combination plat **(Pg. 13-16)**
- c. Gaming Site Authorization for West Fargo Rural Fire Department, Inc. Games to be conducted: Bingo, Raffles, Pull Tab Dispensing Device, Electronic Pull Tab Device, Paddlewheels with Tickets at Boston Pizza, 1640 13th Avenue East **(Pg. 17)**
- d. Gaming Site Authorization for West Fargo Rural Fire Department, Inc. Games to be conducted: Bingo, Raffles, Pull Tab Jar, Pull Tab Dispensing Device, Electronic Pull Tab Device, Twenty One, and Paddlewheels with Tickets at Bordertown, 807 Main Avenue East **(Pg. 18)**
- e. Gaming Site Authorization for West Fargo Rural Fire Department, Inc. Games to be conducted: Bingo, Raffles, Pull Tab Jar, Pull Tab Dispensing Device, Electronic Pull Tab Device, Twenty One, and Paddlewheels with Tickets at Silver Dollar, 221 Sheyenne Street **(Pg. 19)**
- f. Games of Chance for Stacy Hennum. Games to be conducted: Raffle on 4/4/2020 at the West Fargo VFW, 444 Sheyenne Street **(Pg. 20)**
- g. Application for Appropriation from Civil Asset Forfeiture Fund **(Pg. 21-23)**
- h. Remediation and Transfer Agreement for Habitat for Humanity Project at 1410 11th Street West **(Pg. 24-30)**
- i. Property Tax Incentive Agreement for The Housing Authority of Cass County **(Pg. 31-45)**
- j. 2020 Neighborhood Revitalization Program Guidelines **(Pg. 46-47)**
- k. Pioneer Place 2nd Addition **(Pg. 48-52)**

Regular Agenda

- 1. Review Renaissance Zone application for Quality Boneless Beef Co Inc. – **Malachi Petersen (Pg. 53-66)**
- 2. Review Renaissance Zone applications for the Restad Industrial Park – **Malachi Petersen (Pg. 67-138)**
 - a. RDA Inc.
 - b. Krog Transport LLC
 - c. F6 Transport LLC
- 3. Review Enterprise Grant application for HollyWould Beauty Suites – **Malachi Petersen (Pg. 139-185)**
- 4. Second Reading of Zoning Ordinance Amendments to Section 4-460 – **Tim Solberg (Pg. 186-195)**
- 5. First Reading of Ordinance No. 1155 – **John Shockley (Pg. 196-204)**
- 6. Resolution Providing for Partial Redemption of the Temporary Refunding Improvement Bonds of 2018 – **John Shockley (Pg. 205-206)**
- 7. Review Amendment to 2018-1 TIF Agreement – **Jim Larson (Pg. 207-224)**
- 8. Review Amendments to 2017-1 TIF Agreement – **Jim Larson (Pg. 225-259)**
- 9. Spring Flood Update and Discussion of RFQ for 2020 Flood Engineering Services – **Dustin Scott (Pg. 260-263)**
- 10. Review Folkways contract for community input project for the West Fargo Public Library – **Carissa Hansen (Pg. 264-267)**
- 11. Review proposed TIF for redevelopment project at 409 Sheyenne Street – **Tim Solberg, Jim Larson, Tina Fisk (Pg. 268-283)**
- 12. Construction Updates – **Dustin Scott**
- 13. City Administrator's Report – **Tina Fisk**
- 14. Correspondence
- 15. Non-Agenda
- 16. Adjourn



**West Fargo City Commission Meeting
Monday, March 2, 2020
Commission Chambers 5:30 PM**

The West Fargo City Commission met on Monday, March 2, 2020, at 5:30 pm. Those present were Bernie Dardis, Brad Olson, Mark Simmons, Eric Gjerdevig, and Mike Thorstad. The President of the Board Bernie Dardis called the meeting to order.

The Pledge of Allegiance was recited.

Commissioner Simmons moved and Commissioner Gjerdevig seconded to approve the Order of Agenda as presented with the addition of Consent Agenda item 'f.' No opposition. Motion carried.

Commissioner Olson moved and Commissioner Simmons seconded to approve the minutes of February 18, 2020 as presented. No opposition. Motion carried.

The Commission reviewed the Building Department Activity Report and Monthly Comparison Report dated March 2, 2020 and Building Permits #50-62. Commissioner Gjerdevig moved and Commissioner Olson seconded to approve the Building Permits as presented. No opposition. Motion carried.

Commissioner Olson moved and Commissioner Gjerdevig seconded to approve the following items from the Consent Agenda:

- a. Bills
- b. Gaming Site Authorization for the West Fargo Hockey Association. Games to be conducted: Bingo, Raffles, Pull Tab Jar, Pull Tab Dispensing Device, Electronic Pull Tab Device, Club Special, Tip Board, Seal Board, Punchboard, Prize Board, Sports Pools, Twenty-One, Poker, Paddlewheels with Tickets, Paddlewheel Table from 3/2/2020 to 6/30/2020 at Hooligans, 509 32nd Avenue West
- c. Games of Chance for the West Fargo Packer Backers. Games to be conducted: Raffle from 3/2/2020 to 5/28/2020 at the Silver Dollar, 221 Sheyenne Street
- d. 2019 Stormwater Program Annual Report
- e. Schedule the West Fargo Board of Equalization Meeting on Tuesday, April 14, 2020 at 5:30 p.m.
- f. Recommendation for the West Fargo Planning & Zoning Commission

No opposition. Motion carried.

Planning & Zoning Director Tim Solberg appeared before the Commission for a 5:30 p.m. Public Hearing and First Reading on The Ranch at the Wilds First Addition and Rezoning from A: Agricultural to PUD: Planned Unit Development. The Public Hearing was opened. Houston Engineering appeared to address any questions. There was no other Public Comment. The Public Hearing was closed. After discussion, Commissioner Simmons moved and Commissioner Thorstad seconded to approve the First Reading on The Ranch at the Wilds First Addition with the eight conditions listed in the staff report. No opposition. Motion carried.



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Planning & Zoning Director Tim Solberg appeared before the Commission for a 5:30 p.m. Public Hearing and First Reading on the Zoning Ordinance Amendment to Section 4-460. The Public Hearing was opened. There was no Public Comment. The Public Hearing was closed. After discussion, Commissioner Simmons moved and Commissioner Gjerdevig seconded to approve the First Reading of Zoning Ordinance Amendment to Section 4-460. Commissioners Dardis and Thorstad abstained. The majority having voted in favor, the motion carried.

Planning & Zoning Director Tim Solberg appeared before the Commission for a 5:30 p.m. Public Hearing and Second Reading on the Rezoning from R-R: Rural Residential District to PUD: Planned Unit Development at 225 40th Avenue West. The Public Hearing was opened. There was no Public Comment. The Public Hearing was closed. After discussion, Commissioner Simmons moved and Commissioner Olson seconded to approve the Second Reading of the rezoning. No opposition. Motion carried.

Emergency Manager Pierre Freeman appeared before the Commission for the approval of the Emergency Declaration for Spring Flooding. Commissioner Simmons moved and Commissioner Gjerdevig seconded to approve the declaration. No opposition. Motion carried.

West Fargo Fire Chief Dan Fuller appeared before the Commission to present the 2019 West Fargo Fire Department Annual Report. No action was requested of the Commission.

Communications Director Melissa Richard appeared before the Commission to provide a complete count committee update for the 2020 Census. No action was requested of the Commission.

City Attorney John Shockley appeared before the Commission to Review Encroachment Agreement for Harper Heights LP. After discussion, Commissioner Simmons moved and Commissioner Gjerdevig seconded to approve the Encroachment Agreement as presented. Commissioner Dardis voted in opposition. The majority having voted in favor, the motion carried.

City Attorney John Shockley appeared before the Commission for a Resolution Providing for Redemption of the Sales Tax Revenue Bonds of 2012. After discussion, Commissioner Olson moved and Commissioner Thorstad seconded to move forward to calling the bonds for redemption. No opposition. Motion carried.

Planning & Zoning Director Tim Solberg appeared before the Commission to Review the Agreements for 906 19th Avenue North. After discussion, Commissioner Simmons moved and Commissioner Olson seconded to approve the agreements as presented. Commissioner Dardis voted in opposition. The majority having voted in favor, the motion carried.



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Transportation Engineer Andrew Wrucke appeared before the Commission to Review Plans & Specifications for Sewer, Water, Storm, and Street Improvement District No. 1329. After discussion, Commissioner Olson moved and Commissioner Gjerdevig seconded to approve the plans and specifications as presented and advertising for bids in April. No opposition. Motion carried.

Planner Malachi Petersen appeared before the Commission for a Second Reading and Final Plat Approval for the Rezoning of The Wilds 18th Addition. After discussion, Commissioner Simmons moved and Commissioner Thorstad seconded to approve the Second Reading and final plat as presented. No opposition. Motion carried.

Planner Malachi Petersen appeared before the Commission to Review tenant Renaissance Zone applications for Restad Industrial Park. Five applications were presented. After discussion, Commissioner Simmons moved and Commissioner Olson seconded to approve the application for Guardian Logistic LLC. No opposition. Motion carried. Commissioner Olson moved and Commissioner Gjerdevig seconded to approve the application for Northland Freight Brokers Inc. No opposition. Motion carried. Commissioner Simmons moved and Commissioner Gjerdevig seconded to approve the application for Northland Trailer Leasing Inc. No opposition. Motion carried. Commissioner Gjerdevig moved and Commissioner Simmons seconded to approve the application for OLR Transportation Inc. No opposition. Motion carried. Commissioner Olson moved and Commissioner Gjerdevig seconded to approve the application for Halo Commodity Company LLC. No opposition. Motion carried.

There were no construction updates.

There was no City Administrator's Report.

There were no non-agenda items.

There was no correspondence.

Commissioner Simmons moved and Commissioner Olson seconded to adjourn the meeting. No opposition. Meeting adjourned.

Bernie Dardis, Commission President

Tina Fisk, City Administrator

Consent Agenda Item: a

03/03/20
16:09:31

CITY OF WEST FARGO, ND
Check Register
For the Accounting Period: 3/20

Page: 1 of 8
Report ID: AP300

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86147	S	2782 DANE PRANKE	838.83	03/02/20			
86148	S	2712 BRIAN MATZKE	245.64	03/02/20		CL 89683	838.83
86162	S	2499 FM CONVENTION & VISITORS BUREAU	14562.98	03/03/20		CL 89688	245.64
86163	S	2499 FM CONVENTION & VISITORS BUREAU	7281.48	03/03/20		CL 89566	14562.98
86164	S	489 3-D SPECIALITIES	1619.72	03/03/20		CL 89567	7281.48
86165	S	289 ACME TOOLS	521.82	03/03/20		CL 89549	520.78
86166	S	2947 ALLSTATE PETERBILT OF FARGO	5656.66	03/03/20		CL 89553	1098.94
86167	S	3490 AMAZON CAPITAL SERVICES	184.75	03/03/20		CL 89531	169.37
86168	S	2742 AMBASSADOR INC	7298.59	03/03/20		CL 89547	352.45
86169	S	317 AMERICAN WELDING & GAS, INC.	360.85	03/03/20		CL 89541	5656.66
86170	S	3511 ASPEN MILLS	335.38	03/03/20		CL 89268	57.45
86171	S	1695 BAKER & TAYLOR	6319.35	03/03/20		CL 89522	90.97
86172	S	2826 BCBS OF ND	145.20	03/03/20		CL 89589	36.33
86173	S	36 BERT'S TRUCK EQUIPMENT	10775.00	03/03/20		CL 89686	7298.59
86174	S	1127 BIERSCHBACH EQUIPMENT & SUPPLY	2544.00	03/03/20		CL 89562	360.85
86175	S	26 BORDER STATES INDUSTRIES INC	106.94	03/03/20		CL 89623	335.38
86176	S	3512 BOUND TREE MEDICAL, LLC	322.96	03/03/20		CL 89524	6319.35
86177	S	999999 BRENT YOUNG	56.00	03/03/20		CL 89557	145.20
86178	S	16 BROKERAGE PRINTING	207.55	03/03/20		CL 89624	10775.00
86179	S	351 BUSINESS ESSENTIALS	615.18	03/03/20		CL 89499	2279.00
						CL 89556	265.00
						CL 89603	106.94
						CL 89625	322.96
						CL 89606	56.00
						CL 89533	36.75
						CL 89615	170.80
						CL 89481	51.33
						CL 89525	563.85

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86180	S	61 CASS COUNTY FINANCE	7525.00	03/03/20			
86181	S	46 CASS RURAL WATER USERS	28.03	03/03/20		CL 89608	7525.00
86182	S	1512 CDW GOVERNMENT, INC	915.48	03/03/20		CL 89590	28.03
						CL 89486	824.48
						CL 89558	71.00
						CL 89628	20.00
86183	S	62 CENTRAL DOOR/HARDWARE	145.15	03/03/20		CL 89502	145.15
86184	S	928 CHRISTIANSON'S BUSINESS FURNITURE	16695.12	03/03/20		CL 89565	16695.12
86185	S	2166 CHRISTOPHER GOLTZ	750.00	03/03/20		CL 89660	750.00
86186	S	3216 CINTAS	89.33	03/03/20		CL 89575	89.33
86187	S	111 CITY OF FARGO	68034.08	03/03/20		CL 89519	34344.43
						CL 89682	33689.65
86188	S	287 CITY OF MOORHEAD	50.00	03/03/20		CL 89652	50.00
86189	S	66 CITY OF WEST FARGO-PETTY CASH	325.00	03/03/20		CL 89529	325.00
86190	S	72 CLASSIC FLORAL	60.00	03/03/20		CL 89501	60.00
86191	S	1904 CODE 4 SERVICES, INC	34631.19	03/03/20		CL 89638	280.50
						CL 89669	34350.69
86192	S	850 COMFORT SUITES BISMARCK	172.80	03/03/20		CL 89664	172.80
86193	S	3530 CONNECTWISE	2160.00	03/03/20		CL 89574	2160.00
86194	S	3245 CORE & MAIN	636.64	03/03/20		CL 89585	636.64
86195	S	60 CROSSCOUNTRY FREIGHT SOLUTIONS	85.29	03/03/20		CL 89539	85.29
86196	S	65 CURT'S LOCK & KEY	60.00	03/03/20		CL 89572	60.00
86197	S	2782 DANE PRANKE	281.45	03/03/20		CL 89493	281.45
86198	S	856 DAVE'S WEST FARGO TIRE	119.63	03/03/20		CL 89634	119.63
86199	S	1825 DELL MARKETING LP	18434.15	03/03/20		CL 89564	18434.15
86200	S	2100 EAGLE RUN CROSSING LLC	58.23	03/03/20		CL 89489	58.23
86201	S	3410 ENGRAPHIX	30.50	03/03/20		CL 89637	30.50

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Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86202	S	2862 ESSENTIA HEALTH	967.00	03/03/20			
86203	S	3533 F-M FORKLIFT SALES & SERVICE INC.	19900.00	03/03/20		CL 89482	967.00
86204	S	660 FARGO FREIGHTLINER	1203.12	03/03/20		CL 89586	19900.00
86205	S	2404 FARONICS	656.25	03/03/20		CL 89516	1002.81
86206	S	1648 FARSTAD OIL, INC	253.50	03/03/20		CL 89579	200.31
86207	S	2098 FBI-LEEDA	2085.00	03/03/20		CL 89666	656.25
86208	S	151 FEDERAL EXPRESS	10.11	03/03/20		CL 89537	253.50
86209	S	329 FERGUSON WATERWORKS #2516	4865.87	03/03/20		CL 89643	2085.00
86210	S	55 FLEETPRIDE	185.56	03/03/20		CL 89607	10.11
86211	S	104 FORUM COMMUNICATIONS	155.65	03/03/20		CL 89517	432.40
86212	S	155 GALLS, LLC	902.10	03/03/20		CL 89551	4433.47
86213	S	2864 GOODIN COMPANY	5.68	03/03/20		CL 89580	185.56
86214	S	556 GRAINGER, INC.	583.48	03/03/20		CL 89662	155.65
86215	S	3534 GRAND FORKS FIRE EQUIPMENT LLC	2689.75	03/03/20		CL 89668	902.10
86216	S	939 GRAYBAR	2303.82	03/03/20		CL 89513	5.68
86217	S	3535 GREAT PLAINS FIRE	249.07	03/03/20		CL 89577	331.78
86218	S	2877 GREATAMERICA FINANCIAL SERVICES	619.52	03/03/20		CL 89635	251.70
86219	S	2318 HABERDASHERY	962.95	03/03/20		CL 89645	2689.75
86220	S	2713 HAMPTON INN & SUITES	1677.24	03/03/20		CL 89497	2197.60
86221	S	3281 HEARTLAND PAPER COMPANY	635.03	03/03/20		CL 89569	106.22
						CL 89646	249.07
						CL 89526	442.89
						CL 89560	176.63
						CL 89496	239.95
						CL 89520	723.00
						CL 89604	899.64
						CL 89663	777.60
						CL 89503	635.03

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86222	S	1226 HP INC.	4816.76	03/03/20			
86223	S	3529 HURCO TECHNOLOGIES INC	1703.82	03/03/20		CL 89485	4816.76
86224	S	2102 IACP	380.00	03/03/20		CL 89552	1703.82
86225	S	1304 INTERNATIONAL CRIME FREE ASSOC, INC	200.00	03/03/20		CL 89614	380.00
86226	S	1012 INTERSTATE POWER SYSTEMS, INC	576.63	03/03/20		CL 89639	200.00
86227	S	1076 IPMA - HR	649.05	03/03/20		CL 89647	576.63
86228	S	233 J & L SPORTS	56.00	03/03/20		CL 89649	649.05
86229	S	999999 JACOB ZACH	56.00	03/03/20		CL 89514	56.00
86230	S	1155 JOHN FREEMAN	168.00	03/03/20		CL 89640	56.00
86231	S	999999 K-9 DEFENSE, LLC	897.00	03/03/20		CL 89492	168.00
86232	S	2735 KADRMAS, LEE & JACKSON, INC	84799.90	03/03/20		CL 89612	897.00
						CL 89591	1045.00
						CL 89592	36058.50
						CL 89593	47696.40
86233	S	3173 KIESLER'S POLICE SUPPLY, INC.	5810.00	03/03/20		CL 89599	5810.00
86234	S	1102 KNIGHT PRINTING	1538.00	03/03/20		CL 89491	1538.00
86235	S	2325 KUSTOM KONCEPTS	224.25	03/03/20		CL 89630	224.25
86236	S	2800 LAUREN NEPHEW	16.24	03/03/20		CL 89527	16.24
86237	S	3491 LOFFLER COMPANIES INC	118.72	03/03/20		CL 89561	118.72
86238	S	3304 MAC'S - FARGO	204.53	03/03/20		CL 89504	35.71
						CL 89545	61.91
						CL 89584	106.91
86239	S	3536 MACQUEEN EMERGENCY	1306.38	03/03/20		CL 89651	1306.38
86240	S	3384 MATHESON TRI-GAS INC	190.00	03/03/20		CL 89563	190.00
86241	S	299 MENARDS	530.63	03/03/20		CL 89543	473.17
						CL 89600	17.82
						CL 89601	39.64
86242	S	2766 MIDCONTINENT COMMUNICATIONS	125.00	03/03/20		CL 89610	125.00

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86243	S	102 MIDSTATES WIRELESS	5.00	03/03/20			
86244	S	1854 MIDWEST TAPE	426.06	03/03/20		CL 89611	5.00
86245	S	772 MINNKOTA	75.00	03/03/20		CL 89521	426.06
86246	S	305 MOORE ENGINEERING	58365.63	03/03/20		CL 89616	75.00
86247	S	335 ND DEPT OF TRANSPORTATION	1933154.92	03/03/20		CL 89594	58365.63
						CL 89595	839301.60
						CL 89596	40182.45
						CL 89597	1053670.87
86248	S	3537 ND FIRE CHIEF'S ASSOCIATION	100.00	03/03/20		CL 89654	100.00
86249	S	3531 NDBOA	580.00	03/03/20		CL 89583	580.00
86250	S	3083 NDLTAP/UGPTI	150.00	03/03/20		CL 89500	150.00
86251	S	756 NELCO FIRST AID	221.00	03/03/20		CL 89653	221.00
86252	S	1600 NELSON AUTO CENTER FLEET DEPT	22988.89	03/03/20		CL 89538	22988.89
86253	S	364 NELSON INTERNATIONAL	260.06	03/03/20		CL 89544	260.06
86254	S	271 NETCENTER TECHNOLOGIES	10054.00	03/03/20		CL 89484	2783.00
						CL 89588	535.00
						CL 89621	6736.00
86255	S	2261 NETWORK CENTER INCORPORATED	160.00	03/03/20		CL 89483	160.00
86256	S	3459 NEXT MOVE GROUP, LLC	6500.00	03/03/20		CL 89578	6500.00
86257	S	2626 NICK LEE	57.65	03/03/20		CL 89667	57.65
86258	S	141 NORTH STAR SAFETY, INC	1423.81	03/03/20		CL 89495	392.13
						CL 89532	1031.68
86259	S	1715 NORTHWEST TIRE INC	15.83	03/03/20		CL 89542	15.83
86260	S	1774 O'REILLY AUTOMOTIVE STORES, INC	537.52	03/03/20		CL 89546	518.20
						CL 89655	19.32
86261	S	352 OK TIRE	81.84	03/03/20		CL 89576	81.84
86262	S	399 OLYMPIC SALES	895.82	03/03/20		CL 89505	55.82
						CL 89550	840.00

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86263	S	276 OSTROMS ACE HARDWARE	310.52	03/03/20	_____	CL 89510 CL 89622	128.37 182.15
86264	S	3508 PAUL MONTPLAISIR	118.97	03/03/20	_____	CL 89518	118.97
86265	S	563 PETRO SERVE USA	2932.20	03/03/20	_____	CL 89490 CL 89602	2925.51 6.69
86266	S	1295 PRO-WEST & ASSOCIATES, INC	3800.00	03/03/20	_____	CL 89571	3800.00
86267	S	1166 PRODUCTIVITY PLUS ACCOUNT	267.00	03/03/20	_____	CL 89511 CL 89570	173.00 94.00
86268	S	885 RADISSON HOTEL BISMARCK	172.80	03/03/20	_____	CL 89618	172.80
86269	S	663 ROAD EQUIPMENT PARTS CENTER	88.70	03/03/20	_____	CL 89515 CL 89573	33.50 55.20
86270	S	2656 RYAN HASKELL	80.50	03/03/20	_____	CL 89605	80.50
86271	S	1881 SAM'S CLUB/SYNCHRONY BANK	163.90	03/03/20	_____	CL 89619	163.90
86272	S	437 SANDY'S DONUTS	75.80	03/03/20	_____	CL 89656	75.80
86273	S	1634 SHANE ORN	296.00	03/03/20	_____	CL 89642	296.00
86274	S	999999 SHEEPDOG GUARDIAN CONSULTING	50.00	03/03/20	_____	CL 89629	50.00
86275	S	1702 SHEYENNE RIVER KENNELS	106.98	03/03/20	_____	CL 89626	106.98
86276	S	2655 SIMPLIFILE	170.00	03/03/20	_____	CL 89687	170.00
86277	S	2535 SKOOTER'S PLUMBING	732.97	03/03/20	_____	CL 89494	732.97
86278	S	3528 SNACKS PLUS VENDING	123.00	03/03/20	_____	CL 89480	123.00
86279	S	274 STEVE MOTTINGER	4750.00	03/03/20	_____	CL 89508	4750.00
86280	S	3037 STONEBURNER STUDIOS	500.00	03/03/20	_____	CL 89617	500.00
86281	S	31 STURDEVANT'S AUTO PARTS	230.70	03/03/20	_____	CL 89509	230.70
86282	S	2858 TAKEFORM	927.44	03/03/20	_____	CL 89633	927.44
86283	S	3532 TECH SALES CO	3939.00	03/03/20	_____	CL 89587	3939.00
86284	S	1900 THE UPS STORE #5998	30.77	03/03/20	_____	CL 89555	30.77

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Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86285	S	3093 TRACKER PRODUCTS LLC	300.00	03/03/20			
						CL 89636	300.00
86286	S	1285 TRAFFIC CONTROL CORPORATION	9000.00	03/03/20			
						CL 89554	9000.00
86287	S	3524 TRAVIS OLSON	777.02	03/03/20			
						CL 89627	777.02
86288	S	665 TWIN CITY GARAGE DOOR	79.00	03/03/20			
						CL 89512	79.00
86289	S	1320 TYLER WILLIAMS	345.81	03/03/20			
						CL 89641	345.81
86290	S	784 UNITED POWER EQUIPMENT	92.75	03/03/20			
						CL 89657	92.75
86291	S	1267 VERIZON WIRELESS	10692.01	03/03/20			
						CL 89479	10692.01
86292	S	525 VILLAGE FAMILY SERVICE	125.00	03/03/20			
						CL 89609	125.00
86293	S	544 WALLWORK TRUCK CENTER	75.62	03/03/20			
						CL 89530	33.54
						CL 89568	42.08
86294	S	3062 WELK'S LAWN CARE LLC	1100.00	03/03/20			
						CL 89581	1100.00
86295	S	2945 WEST FARGO AREA COMMUNITY PROGRAM	1225.77	03/03/20			
						CL 89685	1225.77
86296	S	648 WEST FARGO AUTO BODY/GLASS	3997.07	03/03/20			
						CL 89498	3997.07
86297	S	3306 WEST FARGO EVENTS, INC	45200.00	03/03/20			
						CL 89488	45200.00
86298	S	378 WEST FARGO POSTMASTER	480.00	03/03/20			
						CL 89506	240.00
						CL 89507	240.00
86299	S	2184 WEST SIDE STEEL	147.30	03/03/20			
						CL 89548	147.30
86300	S	549 WF PUB SCHOOLS DIST #6	12074.38	03/03/20			
						CL 89528	84.38
						CL 89535	11990.00
86301	S	338 XCEL ENERGY	483.68	03/03/20			
						CL 89536	186.04
						CL 89704	183.56
						CL 89705	56.83
						CL 89706	57.25
86302	S	1813 YANKEE HILL MACHINE CO, INC	2133.81	03/03/20			
						CL 89613	2133.81
86303	S	582 ZEP MANUFACTURING	762.50	03/03/20			
						CL 89540	762.50

Total for Claim Checks 2501575.56
Count for Claim Checks 144

* denotes missing check number(s)

of Checks: 144 Total: 2501575.56

Fund/Account	Amount
1000 GENERAL	
101000	\$178,989.88
1001 GENERAL FUND RESERVE	
101000	\$37,743.82
2060 FIRE FUND	
101000	\$26,113.07
2141 FM CONVENTION VISITOR'S BUREAU	
101000	\$21,844.46
2210 FORESTRY	
101000	\$91.32
2230 CITY UTILITY	
101000	\$4,865.87
2310 SHEYENNE PLAZAS OPERATING FUND	
101000	\$28,265.00
2320 SHEYENNE PARKING GARAGE OPERATING FUND	
101000	\$17,200.00
2515 K9 FUNDRAISER	
101000	\$897.00
2950 ASSET FORFEITURES	
101000	\$5,810.00
2960 ECONOMIC DEVELOPMENT	
101000	\$1,100.00
4391 2250 Sheyenne St (Beaton to 40th)	
101000	\$2,016,909.82
4411 1314 Eagle Run Plaza 6th	
101000	\$680.30
4412 1315 Westview 3rd Addition	
101000	\$1,668.02
4423 1323-BROOKS HARBOR 9TH ADDITION, SEWER,	
101000	\$56,017.31
6010 HEALTH & SANITATION	
101000	\$46,330.04
6020 WATER ENTERPRISE	
101000	\$27,656.93
6025 SEWER ENTERPRISE	
101000	\$9,068.84
7000 LIBRARY	
101000	\$20,295.85
7050 AIRPORT AUTHORITY	
101000	\$28.03
Total:	\$2,501,575.56

*** Consent Agenda ***

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # b

***Please Note: The following information must be completed and submitted to the West Fargo City Auditor's Office by the Thursday noon preceding the City Commission meeting. Failure to comply may result in no action being taken on your request.

1. CONTACT PERSON: Tim Solberg, AICP

2. PHONE NUMBER: 433-5321 DATE: March 12, 2020

3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:

Final approval of River's Bend at the Preserve 5th Addition – a combination plat. A combination plat is a clean and minimally restrictive process to combine two legally created lots into one. This is typically used for property owners who wish to combine lots for additional area to construct homes or accessory buildings on one larger lot.

4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):

Lots 11 and 12, Block 3, River's Bend 4th Addition

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Final Approval of River's Bend at the Preserve 5th Addition with conditions listed in staff report

STAFF REPORT

A19-46		COMBINATION/RETRACEMENT PLAT	
River's Bend at the Preserve 5 th Addition			
Lots 11 & 12, Block 3 of River's Bend at the Preserve 4 th Addition			
Applicant: Eric Merhiy		Staff Contact: Lisa Sankey	
Owner: Merco Investments			
Planning & Zoning Commission:		11-12-2019 - Approval	
City Commission:			

PURPOSE:

Combination of two existing platted lots into one.

STATEMENTS OF FACT:

Land Use Classification:	G-2: Sub-Urban - Growth Sector
Existing Land Use:	Vacant
Current Zoning District(s):	R-1A: Single Family Dwellings
Zoning Overlay District(s):	N/A
Proposed Lot size(s) or range:	53,920 ft ² or 1.24 Acres
Adjacent Zoning Districts:	R--1A: Single Family Dwellings
Adjacent street(s):	River's Bend Drive East (Local)
Adjacent Bike/Pedestrian Facilities:	Sidewalks
Available Parks/Trail Facilities:	River's Bend facilities within ¼ mile

DISCUSSION AND OBSERVATIONS:

- The applicant is proposing to combine two previously subdivided lots.
- Property owners wishing to combine properties which have been previously platted for the purpose of building across lot lines and/or increasing lot area to address district requirements may submit a retracement plat provided the following conditions are met:
 1. No additional right-of-way is required or being established.
 2. There is no proposed or perceived need of public improvements as a result of the combining of platted lots.
 3. Lots to be combined are contiguous and under common ownership.
- The proposed retracement plat will not affect the property or use. The retracement plat will be given a subdivision name with a lot and block number, which will be of benefit to the City and Cass County for administration purposes.
- With retracement plats there are no street right-of-way dedication or park dedication requirements.
- A public hearing is not required, though the applicant must plat the property according to platting standards and the plat must be reviewed by the Planning and Zoning and City Commissions.

STAFF REPORT

NOTICES:

Sent to: Applicable agencies and departments

Comments Received:

- None to date

CONSISTENCY WITH COMPREHENSIVE PLAN AND OTHER APPLICABLE CITY PLANS AND ORDINANCES:

- The proposed application is consistent with the City plans and ordinances.

RECOMMENDATIONS:

It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. An Attorney Title Opinion to the City of West Fargo is received.
2. Signed Final Plat is received with any necessary easements.
3. A certificate is received showing taxes are current.

PLANNING AND ZONING RECOMMENDATION:

At their November 12, 2019 meeting, the Planning and Zoning Commission recommended approval of the retracement plat, subject to the three conditions listed above.

PLAT OF RIVER'S BEND AT THE PRESERVE FIFTH ADDITION TO THE CITY OF WEST FARGO, A REPLAT OF LOT 11 AND LOT 12, BLOCK 3, RIVER'S BEND AT THE PRESERVE FOURTH ADDITION TO THE CITY OF WEST FARGO, CASS COUNTY, NORTH DAKOTA

CERTIFICATE

STEVEN W. HOLM, BEING DULY SWORN, DEPOSES AND SAYS THAT HE IS THE REGISTERED LAND SURVEYOR WHO PREPARED AND MADE THE ATTACHED PLAT OF "RIVER'S BEND AT THE PRESERVE FIFTH ADDITION" TO THE CITY OF WEST FARGO, A REPLAT OF LOT 11 AND LOT 12, BLOCK 3, RIVER'S BEND AT THE PRESERVE FOURTH ADDITION TO THE CITY OF WEST FARGO, CASS COUNTY, NORTH DAKOTA; THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID SURVEY; THAT ALL DISTANCES ARE CORRECTLY SHOWN ON SAID PLAT; THAT MONUMENTS HAVE BEEN PLACED IN THE GROUND AS INDICATED FOR THE GUIDANCE OF FUTURE SURVEYS AND THAT THE EXTERIOR BOUNDARY LINES OF SAID ADDITION ARE DESCRIBED AS FOLLOWS, TO WIT:

LOT 11 AND LOT 12, BLOCK 3, RIVER'S BEND AT THE PRESERVE FOURTH ADDITION TO THE CITY OF WEST FARGO, ACCORDING TO THE RECORDED PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER, CASS COUNTY, NORTH DAKOTA.
SAID TRACT CONTAINS 1.24 ACRES, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD, IF ANY.



STEVEN W. HOLM
REGISTERED LAND SURVEYOR
REG. NO. LS-6571

STATE OF NORTH DAKOTA)
COUNTY OF CASS)

ON THIS _____ DAY OF _____, 2020, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED STEVEN W. HOLM, REGISTERED LAND SURVEYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

DEDICATION

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF "RIVER'S BEND AT THE PRESERVE FIFTH ADDITION" TO THE CITY OF WEST FARGO, A REPLAT OF LOT 11 AND LOT 12, BLOCK 3, RIVER'S BEND AT THE PRESERVE FOURTH ADDITION TO THE CITY OF WEST FARGO, CASS COUNTY, NORTH DAKOTA, THAT WE HAVE CAUSED IT TO BE PLATTED INTO LOTS AND BLOCKS AS SHOWN BY SAID PLAT AND CERTIFICATE OF STEVEN W. HOLM, REGISTERED LAND SURVEYOR, AND THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED LAND SURVEYOR IS CORRECT.

OWNER: MERCO INVESTMENTS, LLLP

ERIC MERHIY, GENERAL PARTNER

STATE OF NORTH DAKOTA)
COUNTY OF CASS)

ON THIS _____ DAY OF _____, 2020, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED ERIC MERHIY, GENERAL PARTNER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF MERCO INVESTMENTS, LLLP.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

MORTGAGEE: BELL BANK

BY: _____
TITLE: _____

STATE OF NORTH DAKOTA)
COUNTY OF CASS)

ON THIS _____ DAY OF _____, 2020, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____ KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN THE NAME OF BELL BANK.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

WEST FARGO PLANNING COMMISSION APPROVAL

THIS PLAT IN THE CITY OF WEST FARGO IS HEREBY APPROVED THIS _____ DAY OF _____, 2020.

TOM MCDUGALL, CHAIRMAN

STATE OF NORTH DAKOTA)
COUNTY OF CASS)

ON THIS _____ DAY OF _____, 2020, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TOM MCDUGALL, CHAIRMAN OF THE WEST FARGO PLANNING COMMISSION, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF THE WEST FARGO PLANNING COMMISSION.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

WEST FARGO CITY COMMISSION APPROVAL

THIS PLAT IN THE CITY OF WEST FARGO IS HEREBY APPROVED THIS _____ DAY OF _____, 2020.

BERNIE L. DARDIS, PRESIDENT OF
THE WEST FARGO CITY COMMISSION

TINA FISK, CITY AUDITOR

STATE OF NORTH DAKOTA)
COUNTY OF CASS)

ON THIS _____ DAY OF _____, 2020, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BERNIE L. DARDIS, PRESIDENT OF THE WEST FARGO CITY COMMISSION, AND TINA FISK, CITY AUDITOR, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THE NAME OF THE CITY OF WEST FARGO.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

CITY ENGINEER'S APPROVAL

THIS PLAT IN THE CITY OF WEST FARGO IS HEREBY APPROVED THIS _____ DAY OF _____, 2020.



DUSTIN T. SCOTT, CITY ENGINEER

STATE OF NORTH DAKOTA)
COUNTY OF CASS)

ON THIS _____ DAY OF _____, 2020, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED DUSTIN T. SCOTT, CITY ENGINEER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

WEST FARGO CITY ATTORNEY APPROVAL

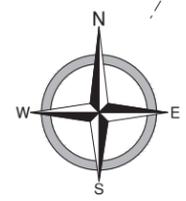
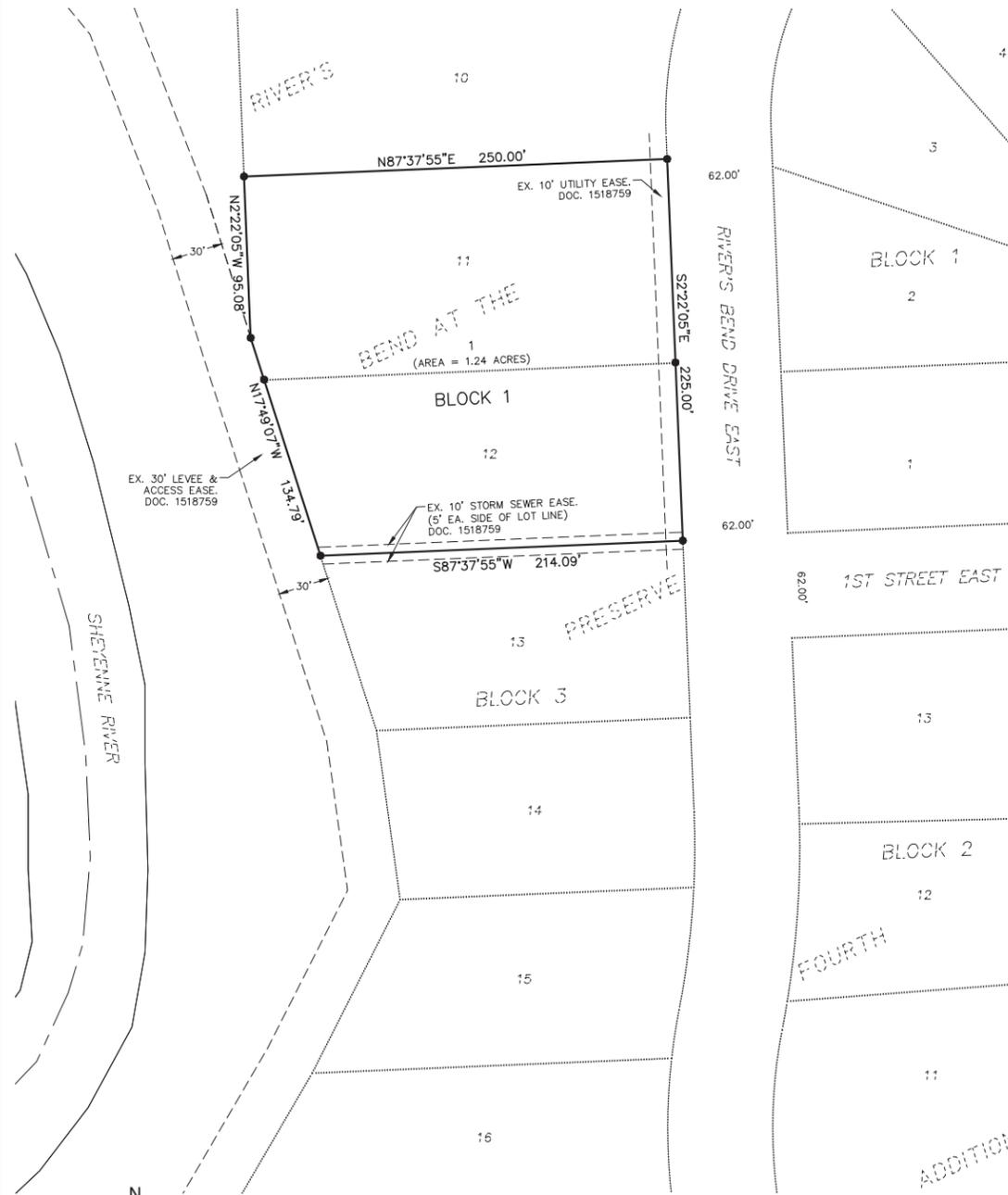
I HEREBY CERTIFY THAT PROPER EVIDENCE OF TITLE HAS BEEN EXAMINED BY ME AND I APPROVE THE PLAT AS TO FORM AND EXECUTION THIS _____ DAY OF _____, 2020.

JOHN T. SHOCKLEY, CITY ATTORNEY

STATE OF NORTH DAKOTA)
COUNTY OF CASS)

ON THIS _____ DAY OF _____, 2020, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JOHN T. SHOCKLEY, CITY ATTORNEY, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS THE CITY ATTORNEY.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA



0 50
Scale in Feet

BASIS OF BEARINGS:
RIVER'S BEND AT THE
PRESERVE FOURTH ADDITION
TO THE CITY OF WEST FARGO
ACCORDING TO THE RECORDED
PLAT THEREOF.

LEGEND
● IRON MONUMENT FOUND



GAMING SITE AUTHORIZATION
 OFFICE OF ATTORNEY GENERAL
 SFN 17996 (02/2018)

G - _____ (_____) _____
 Site License Number
 (Attorney General Use Only)

Full, Legal Name of Gaming Organization **West Fargo Rural Fire Department Incorporated**

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

Name of Location Boston Pizza			
Street 1640 13th Ave E	City West Fargo	ZIP Code 58078	County Cass
Beginning Date(s) Authorized		Ending Date(s) Authorized	Number of twenty-one tables if zero, enter "0":
Specific location where games of chance will be conducted and played at the site (required) Bar Area South Wall			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known			

RESTRICTIONS (City/County Use Only)

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

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

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

APPROVALS

Attorney General	Date
Signature of City/County Official	Date
PRINT Name and official position of person signing on behalf of city/county above	

INSTRUCTIONS:

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

RETURN ALL DOCUMENTS TO:

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

Handwritten: CK# 2286
 #100 Pd 3-11-20



GAMING SITE AUTHORIZATION
 OFFICE OF ATTORNEY GENERAL
 SFN 17996 (02/2018)

G - _____ (_____) _____ Site License Number (Attorney General Use Only)

Full, Legal Name of Gaming Organization	West Fargo Rural Fire Department Incorporated
---	---

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

Name of Location				Bordertown			
Street		City		ZIP Code		County	
807 Main Ave E		West Fargo		58078		Cass	
Beginning Date(s) Authorized				Ending Date(s) Authorized		Number of twenty-one tables if zero, enter "0":	
Specific location where games of chance will be conducted and played at the site (required)							
Bar Area South Wall							
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known							

RESTRICTIONS (City/County Use Only)	
Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)

ACTIVITY TO BE CONDUCTED Please check all applicable games to be conducted at site (required)		
<input checked="" type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> ELECTRONIC Quick Shot Bingo	<input type="checkbox"/> Tip Board	<input checked="" type="checkbox"/> Twenty-One
<input checked="" type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> ELECTRONIC 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input checked="" type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input checked="" type="checkbox"/> Paddlewheels with Tickets
<input checked="" type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table
<input checked="" type="checkbox"/> ELECTRONIC Pull Tab Device		

APPROVALS	
Attorney General	Date
Signature of City/County Official	Date
PRINT Name and official position of person signing on behalf of city/county above	

INSTRUCTIONS:

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RETURN ALL DOCUMENTS TO:

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

*ck # 2284
 \$100 -
 pd 3-11-20*



GAMING SITE AUTHORIZATION
 OFFICE OF ATTORNEY GENERAL
 SFN 17996 (02/2018)

G - _____ (_____) _____
 Site License Number
 (Attorney General Use Only)

Full, Legal Name of Gaming Organization **West Fargo Rural Fire Department Incorporated**

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

Name of Location Silver Dollar			
Street 221 Sheyenne St	City West Fargo	ZIP Code 58078	County Cass
Beginning Date(s) Authorized		Ending Date(s) Authorized	Number of twenty-one tables if zero, enter "0":
Specific location where games of chance will be conducted <u>and</u> played at the site (required) Bar Area South Wall			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known:			

RESTRICTIONS (City/County Use Only)

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

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

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

APPROVALS

Attorney General	Date
Signature of City/County Official <i>[Signature]</i>	Date 3-10-2020
PRINT Name and official position of person signing on behalf of city/county above	

INSTRUCTIONS:

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

RETURN ALL DOCUMENTS TO:

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

*CK# 2286
 \$100
 pd 3-11-20*



West Fargo Police Department

800 4th Ave E, Suite 2 West Fargo, ND 58078 | 701-433-5500 | westfargopolice.com

Heith R. Janke
Chief of Police

Application for Appropriation from Civil Asset Forfeiture Fund

Applicant

Heith Janke, Chief of Police
West Fargo Police Department, 800 4 Avenue East, Suite 2, West Fargo ND, 58078
Heith.Janke@westfargond.gov
701-433-5521

March 10th, 2020

Appropriation Requested:

\$1,530.01 to purchase Blackhawk holsters. 31 at \$48.71 each plus shipping.

Explanation and confirmation how the requested appropriation will further the public purpose of reducing criminal activity and aiding the efforts of criminal justice in support and furtherance of the West Fargo Police Department's mission:

The West Fargo Police is finalizing the transition of the entire department to the 9MM handguns. This transition has not only improved the overall accuracy of the department but will decrease the amount of funding needed moving forward for the citizens. The cost of the ammunition will result in a cost savings that will pay for itself in approximately four years.

Assistant Chief Jerry Boyer has approved this request for appropriation.

I, Chief Heith Janke, am in support of the above-stated request for appropriation from the Civil Asset Forfeiture Fund. City of West Fargo procurement policies will be followed for all expenditures. Written confirmation will be provided to the City of West Fargo Finance Office when the funds are expended.


Heith Janke, Chief of Police

3/11/2020
Date

PURCHASE REQUEST FORM

Budget Year: 2020

Police Department

Type of Request

Training

Purchase

VENDOR NAME/CONFERENCE NAME:		Kreslers	
Date of Request	3-10, 2020		
Person Requesting	tylen williams		
Is the item(s) requested in the Budget?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Object Number	1000-421000-	Seized Assets	
	Amount of the Request	1530.01	

<p>City, State of Training</p> <hr/> <p>Date(s) of Training</p> <hr/> <p>PD Credit Card Assigned</p> <p>CC #1 CC #2 CC #3 CC #4</p>	<p>Justification for the Purchase</p> <p style="text-align: center; border: 1px solid black; border-radius: 50%; padding: 10px;">Needs Commission Approved</p>
---	--

Please attach all quotes and/or supporting documentation for the purchase.

Date Approved	Amount Approved	Approved by Whom
3/10/20	\$ 1530.01	Assistant Chief <i>[Signature]</i>
3/10/20	\$ 1530.01	Chief of Police <i>[Signature]</i>

Return all information to Chris Davidson... thank you.



Sales Quote

KIESLER POLICE SUPPLY
 2802 SABLE MILL RD
 JEFFERSONVILLE, IN 47130

Bill-to Customer

WEST FARGO, CITY OF
 DEPARTMENT OF POLICE
 800 4TH AVENUE EAST, SUITE 2
 WEST FARGO, ND 58078

Ship-to Address

WEST FARGO POLICE DEPARTMENT
 TYLER WILLIAMS
 800 4TH AVENUE EAST
 WEST FARGO, ND 58078

Your Reference

Bill-to Customer No. L01797
 Tax Registration No.

Salesperson TERESA
 Email
 Home Page
 Phone No.

No. Q110845
 Document Date March 10, 2020
 Due Date April 9, 2020
 Payment Terms
 Payment Method
 Tax Identification Type Legal Entity
 Shipment Method

No.	Description	Quantity	Unit of Measure	Unit Price Excl. Tax	Line Amount Excl. Tax
PART NUMBER	BLACM990444BKR BLACKHAWK T-SERIES L2C LB HOLSTER TO FIT GLOCK 17 WITH TLR 7/8, BLACK, RIGHT HAND ARRO	31	EACH	48.71	1,510.01
SHIPPING	Shipping	1	EACH	20.00	20
FORMAT TERESA	QUOTED BY TERESA MCKINNIE KIESLER POLICE SUPPLY 2802 SABLE MILL ROAD JEFFERSONVILLE, IN 47130 THIS QUOTE IS VALID FOR 30 DAYS TMCKINNIE@KIESLER.COM	1	EACH	0.00	0
Amount Subject to Sales Tax				0.00	
Amount Exempt from Sales Tax				1,530.01	
				Subtotal	1,530.01
				Total Tax	0.00
				Total \$ Incl. Tax	1,530.01
				Tax Amount	0.00

KIESLER POLICE SUPPLY FFL# 4-35-019-11-1M-08220

RETURNED GOODS POLICY

No returned goods will be accepted without prior consent. Any packages returned without properly displaying a return authorization number will be refused. Returns subject to up to 25% restocking fee

DEFECTIVE MERCHANDISE POLICY

We are not a warranty repair station for any manufacturer. Returns of defective merchandise must be made directly to the manufacturer for repair or replacement.

DAMAGED GOODS POLICY

Claims of shortages or damaged shipments must be made immediately upon receipt of shipment.

REMEDATION AND TRANSFER AGREEMENT

THIS REMEDIATION AND TRANSFER AGREEMENT (this “Agreement”) is made and entered into this 10th day of March, 2020, (the “Effective Date”), by and between the City of West Fargo, a North Dakota political subdivision (the “City”); Lake Agassiz Habitat for Humanity, a Minnesota nonprofit corporation (“Habitat”); and Mary Tuttle, f/k/a Mary Nelson, a married person (the “Owner”) (collectively, the “parties”).

RECITALS

WHEREAS, the Owner owns real property located at 1410 11th Street West, West Fargo, ND (the “Property”), which is further described in the Agreement below; and

WHEREAS, the Property was the site of a house fire in December 2018, which rendered the house uninhabitable; and

WHEREAS, the Owner desires to gift the Property to Habitat and Habitat desires to receive the Property from the Owner so long as the Property is in “build ready condition;” and

WHEREAS, the City, in an effort to promote construction of housing for low income families, agreed to facilitate restoration of the Property to “build ready condition” as further described below (the “Project”), at no cost to the Owner or Habitat; and

WHEREAS, the City will work with contractors to ensure the Project is completed in accordance with City standards and procedures.

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

AGREEMENT

1. **Purpose.** The purpose of this Agreement is to outline the parties’ respective rights and responsibilities in regard to the Project and transfer of the Property under the terms and provisions provided herein.
2. **Property.** The Property is located at 1410 11th Street West, West Fargo, ND 58078, is identified as Cass County parcel ID number 02-1910-00210-015, and is legally described as follows:

Lots 17 and 18 in Block 3 of the Replat of Lots 2 through 16, Block 3, and Lots 1 through 14, Block 5, of Sheyenne Park Addition to the City of West Fargo, Cass County, North Dakota.
3. **Project.** The Project consists of the removal of the fire damaged structure and any related appurtenances from the Property, including water and sewer lines to the curb stops, transporting the fire damaged structure and all demolition materials to the landfill or scrap metal yards, remediation of any waste materials, filling in the excavated foundation, grading the yard after it is backfilled, and seeding the Property.

4. **City's Obligations.** The City will perform the following:
 - a) Contract with area businesses to complete the Project at no cost to Habitat or Owner.
 - b) Monitor contractors' services to ensure proper removal of the fire damaged structure and demolition materials from the Property.
 - c) Ensure all contractors obtain any necessary licenses or permits.
5. **Owner's Obligations.** The Owner and her husband will perform the following:
 - a) Provide the City and its contractors immediate access to the Property to complete the Project described herein.
 - b) Transfer the Property to Habitat within sixty (60) days after completion of the Project described herein.
 - c) Execute a quit claim deed and any documents necessary to effectuate the transfer of the Property to Habitat.
6. **Habitat's Obligations.** Habitat will perform the following regarding the Project:
 - a) Assume tax obligations for the Property as of the property transfer date per the quit claim deed.
 - b) Conduct title review of the Property and prepare a quit claim deed transferring the Property from the Owner to Habitat. Habitat is solely responsible for the costs associated with title review, preparation, and recording of the quit claim deed. In addition, Habitat shall be solely responsible for the cost of curing any title defects.
7. **Project Access Rights.** Under this Agreement, the Owner grants and conveys to the City and its contractors authorization to enter the Property for purposes of completing the Project, including access, ingress and egress upon, over, under, through, and across the Property.
8. **Ownership.** The Owner will maintain ownership of the Property until completion of the Project. Within sixty (60) days after completion of the Project, the Owner agrees to execute a quit claim deed, transferring ownership of the Property to Habitat. Failure of the Owner to transfer the Property within sixty (60) days after completion of the Project will result in the Owner being responsible for all costs associated with the Project. Said costs may be assessed to the Property in the event the Owner fails to transfer the Property to Habitat.
9. **Hazardous Materials.** The City is not responsible for removal of any hazardous materials from the Property.

10. **Indemnity.** The Owner will release, defend, indemnify, protect, and hold harmless the City and the City's officers, agents, representatives, employees, consultants, and contractors from and against any and all claims, actions, administrative proceedings, judgments, damages, penalties, fines, costs, liabilities, interests, or losses, including costs, expenses, and attorneys' fees, arising out of or as a result of the use, operation, construction, reconstruction, repair, modification, replacement, and improvement of the Project; any entry upon, use of, or access, ingress and egress upon, over, or across the Property by the City or the City's officers, agents, representatives, employees, consultants, and contractors, or any of the City's other invitees; or any act, error, or omission of the City or the City's officers, agents, representatives, employees, consultants, contractors, or any of the City's other invitees, including any failure to perform under this Agreement.
11. **Term and Termination.** The City's responsibilities under this Agreement will commence on the Effective Date and expire upon completion of the Project which will occur on or before March 31, 2020, weather permitting.
12. **Entire Agreement.** This Agreement, and any exhibits and amendments hereto, contains the entire and exclusive understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, statements, representations, and negotiations, in each case oral or written, between the parties with respect to their subject matter, except as otherwise provided herein.
13. **Forbearance.** The failure or delay of any party to insist on the timely performance of any of the terms of this Agreement, or the waiver of any particular breach of any of the terms of this Agreement, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no forbearance or waiver had occurred.
14. **Severability.** If any Court of competent jurisdiction declares any provision or part of this Agreement invalid or unenforceable, all remaining terms and provisions of this Agreement will remain binding and enforceable; however, the parties will reconvene negotiations and will reform or replace any invalid, illegal, or unenforceable provision or portion of this Agreement with an alternative provision that is enforceable and bears as close resemblance as possible to any provision determined invalid, illegal, or unenforceable.
15. **Successors.** The covenants, terms, conditions, provisions, and undertakings in this Agreement, or in any amendment, will be binding upon the parties' successors and assigns.
16. **Applicable Law.** This Agreement will be construed in accordance with and governed by North Dakota law.
17. **Assignment.** The parties may not transfer or assign this Agreement or any rights or obligations under this Agreement without the express written consent of the other parties.
18. **Amendments.** Any modifications or amendments of this Agreement must be in writing and signed by all parties to this Agreement.
19. **Interpretation.** This Agreement will be construed as if prepared by all the parties.

20. **Cooperation.** The parties agree to cooperate fully, to execute any and all additional documents, and to take any and all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement and to accomplish the purposes of this Agreement.
21. **Counterparts.** This Agreement may be signed in counterparts, meaning that the Agreement is valid if signed by all parties even if the signatures of the parties appear on separate copies of the same Agreement rather than on a single document.
22. **Effective Date.** This Agreement will become effective on the date of execution by the last party to sign.

IN WITNESS WHEREOF, the parties have duly affixed their signatures on the dates written below.

[Signatures appear on the following pages.]

Date: _____, 2020

CITY:

**CITY OF WEST FARGO, NORTH
DAKOTA**

Bernie Dardis, President of the Board of City
Commissioners

ATTEST:

Tina Fisk, City Administrator

HABITAT:

**LAKE AGASSIZ HABITAT
FOR HUMANITY**

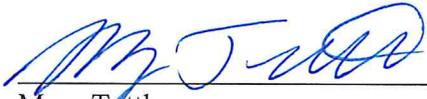
Date: March 10th, 2020



Jim Nelson, Executive Director

OWNER:

Date: 3/10, 2020



Mary Tuttle

PROPERTY TAX INCENTIVE AGREEMENT

**BY AND BETWEEN
CITY OF WEST FARGO
AND**

THE HOUSING AUTHORITY OF CASS COUNTY, NORTH DAKOTA

Dated as of March ____, 2020

Relating to:

**A Property Tax Incentive Agreement granting payments in lieu of
ad valorem taxes for Phase II of a proposed homeless, senior, and
family-designated affordable rental housing project in the City.**

This instrument was drafted by:
Ohnstad Twichell, P.C.
John T. Shockley
P.O. Box 458
West Fargo, North Dakota 58078

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PROPERTY TAX INCENTIVE AGREEMENT

THIS PROPERTY TAX INCENTIVE AGREEMENT (the “Agreement”) is entered this ____ day of February, 2020 (the “Effective Date”), by and between CITY OF WEST FARGO, a municipal corporation and home rule charter city organized under the laws of the State of North Dakota (the “City”), and THE HOUSING AUTHORITY OF CASS COUNTY, NORTH DAKOTA, a political subdivision of the State of North Dakota (“HACC”).

WHEREAS, as provided in North Dakota Century Code chapter 40-57.1 (the “Code”), the City has the power to authorize that an entity operating a revenue-producing enterprise make payments in lieu of ad valorem taxes (“PILOT”) on the buildings, structures, fixtures, and improvements used in the operation of the project; and

WHEREAS, HACC currently owns property located at 201 9th Avenue West in the City and operates public housing units on the property; and

WHEREAS, HACC desires to begin Phase II and demolish its current public housing units and replace those units with a homeless, senior, and family-designated affordable rental housing project; and

WHEREAS, to incentivize the construction of its project, HACC filed an application with the City for authorization of PILOT on Phase II of the project; and

WHEREAS, after the consideration of HACC’s application and the expected activity to be generated by the project, the City desires to grant HACC’s application for PILOT on Phase II; and

WHEREAS, the City and HACC now desire to enter into this Agreement to set forth the roles and responsibilities regarding HACC’s PILOT.

NOW THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the City and HACC agree as follows:

ARTICLE I. DEFINITIONS AND INTERPRETATION

Section 1.01 DEFINITIONS. All capitalized terms used, and not otherwise defined herein, shall have the meanings given to them in this Agreement and as defined in this Section unless a different meaning clearly applies from the context.

“Applicable Law” means collectively, the Constitutions of the United States and of the State, all common law and principles of equity, and all Federal, State, and local laws including, without limitation, all environmental laws, statutes, treaties, codes, acts, rules, regulations, guidelines, ordinances, resolutions, orders, judgments, decrees, injunctions, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any governmental authority charged with the enforcement, interpretation, or administration thereof,

all governmental approvals, and all administrative orders, awards, directed duties, requests, licenses, certificates, authorizations and permits of, and agreements with, any governmental authority and, with respect to any person, the person, the articles of incorporation, bylaws, or other organizational or governing documents of such person, in each case whether or not having the force of law, that are applicable now or are applicable at any time hereafter to (a) the City, (b) HACC, or (c) the Project.

“City” means the City of West Fargo, North Dakota.

“Code” means Chapter 40-57.1 of the North Dakota Century Code.

“County Auditor” means the County Auditor of Cass County, North Dakota.

“Good Faith” means the observance of reasonable commercial standards of fair dealing in a given trade or business.

“HACC” means The Housing Authority of Cass County North Dakota, a political subdivision of the State of North Dakota.

“Party” means either the City or HACC, and its successors, representatives, or assigns, as the context may require.

“PILOT” means payments in lieu of ad valorem taxes as set forth in the Code.

“Project” means as defined in Section 2.01 hereof.

“Property” means real property legally described as Lots 1 & 2, Block 3 of Southdale Addition to the City of West Fargo, North Dakota, which is owned by HACC.

“State” means the State of North Dakota.

Section 1.02 INTERPRETATION.

(a) The headings of articles and sections are provided for convenience of reference only and will not affect the construction, meaning, or interpretation of this Agreement. Any and all exhibits to this Agreement are hereby incorporated by reference. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (i) any definition of or reference to any agreement, instrument, or other document herein shall be construed as referring to such agreement, instrument, or other document as from time to time amended, supplemented, or otherwise modified (subject to any restrictions on such amendments, supplements, or modifications as set forth herein), (ii) any reference herein to any person shall be construed to include such person’s permitted assigns, (iii) the words “herein,” “hereof,” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to articles, sections, exhibits, and

schedules shall be construed to refer to articles and sections of, and exhibits and schedules to, this Agreement, and (v) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” mean “to and including.”

(b) This Agreement is not to be interpreted or construed against the interests of a Party merely because that Party proposed this Agreement or some provision of it or because that Party relies on a provision of this Agreement to protect itself. The Parties acknowledge and agree that this Agreement has been prepared jointly by the Parties and has been the subject of arm’s length and careful negotiation, that each Party has been given the opportunity to independently review this Agreement with legal counsel, and that each Party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions of this Agreement. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement will not be interpreted or construed against the Party preparing it simply as a consequence of preparing it.

ARTICLE II. INTENT

Section 2.01 PROJECT. On or prior to the Effective Date, HACC has owned and operated twenty-four (24) 2-story public housing units in multiple buildings on the Property. With the execution of this Agreement, HACC intends to initiate Phase II and demolish such twenty-four (24) units and newly construct thirty-eight (38) homeless, senior, and family-designated, affordable rental housing units in nine (9) buildings on the Property (the “Project”). HACC estimates the market value for the Project will be \$8,500,000. Additionally, HACC estimates construction of the Project will begin in September 2020, and operations will commence in April 2022.

Section 2.02 BEST INTEREST. The City has determined that the granting of PILOT for the Project, as intended by HACC, is in the best interest of the City because construction of the Project will bring jobs into the community and the Project will spur economic growth.

ARTICLE III. PROPERTY TAX INCENTIVE

Section 3.01 PAYMENT IN LIEU OF TAXES. In lieu of paying ad valorem taxes on the Project, HACC shall make payments for the Project to the Cass County Treasurer, whose address is 211 9th Street S, Fargo, ND, 58103, as provided in the Code, in accordance with this Agreement. HACC shall make the following payments:

<i>Calendar Year*</i>	<i>Year</i>	<i>Phase II PILOT Payment*</i>	<i>Estimated Land Property Taxes*</i>	<i>Total Estimated Payment</i>
2023	1	\$ 7,600	\$ 6,780	\$ 14,380
2024	2	7,752	6,916	14,668
2025	3	7,907	7,054	14,961
2026	4	8,065	7,195	15,260
2027	5	8,226	7,339	15,566
2028	6	8,391	7,486	15,877
2029	7	8,559	7,636	16,194
2030	8	8,730	7,788	16,518
2031	9	8,905	7,944	16,849
2032	10	9,083	8,103	17,186
2033	11	9,264	8,265	17,529
2034	12	9,450	8,430	17,880
2035	13	9,639	8,599	18,238
2036	14	9,831	8,771	18,602
2037	15	10,028	8,946	18,974
	Totals:	\$131,430	\$117,253	\$248,683

*Assumptions: First full year of operations will be 2023; the PILOT payment starts with a base of \$200 per unit and increases by two percent (2%) per year; and, the estimated land property taxes also increase by two percent (2%) per year.

Section 3.02 PAYMENTS AFTER 2037. Commencing with the year 2038, HACC shall pay to the Cass County Auditor a sum equal to five percent (5%) of its annual gross income as a tax payment. This amount shall be payable in a lump sum to the Cass County Auditor and is not subject to a discount for early payment.

Section 3.03 APPLICABLE LAW. Although HACC is receiving the grant of PILOT for the Project, except as otherwise stated herein, all provisions of Applicable Law relating to enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem taxes apply to HACC's PILOT. The discount for early payment of taxes under N.D.C.C. § 57-20-09, as may be amended from time to time, however, **does not apply** to HACC's PILOT.

Section 3.04 CERTIFICATION. By November first of each year, or as otherwise required by the Code, the City will certify to the County Auditor the amount of PILOT due by HACC in the following year.

Section 3.05 PRIOR PAYMENTS. Prior to HACC's first PILOT payment in 2023, HACC shall continue to make payments on the Property and the Project as required by Applicable Law or any other agreements with the City.

**ARTICLE IV.
HACC REQUIREMENTS**

Section 4.01 INTENT. Due to anticipated high construction costs, HACC and the City agree that HACC would not be able to fulfill its mission and cover the costs of the City's standard PILOT guidelines and payments.

Section 4.02 HACC RENTAL REQUIREMENTS. HACC must demonstrate on an annual basis that it is renting sixty-five percent (65%) or more of its available units to individuals who are at or below fifty percent (50%) AMI. In order to establish its eligibility, HACC must provide reports each and every year of this Agreement demonstrating that it has met this requirement to the City. The reports described in this section will be provided to the City each year by or before January 1st, commencing with data from January 1 through December 31, 2022. HACC agrees and acknowledges that if the requirements of this section are not satisfied, HACC will be required to pay five percent (5%) of the Project's annual gross income as a tax payment to the Cass County Auditor.

**ARTICLE V.
RESERVATION OF CITY RIGHTS**

Section 5.01 RESERVED RIGHTS. In addition to any other rights specified in this Agreement, the City shall have the following additional rights:

- (a) To revoke or increase the PILOT if:
 - (1) Information provided by HACC during the negotiation and deliberation of the option to make PILOT has proven to be inaccurate or untrue;
 - (2) Use of the Property by HACC does not comply with the reasonable expectations of the City at the time the option to make PILOT was approved; or
 - (3) The Property has been improved to a substantially greater extent than the City reasonably anticipated at the time the option to make PILOT was approved.

**ARTICLE VI.
REPRESENTATIONS AND WARRANTIES**

Section 6.01 HACC. HACC hereby represents and warrants to the City as follows:

- (a) HACC is a duly organized political subdivision of the State, is qualified to do business in the State, has the requisite power and all required licenses to carry on its present and proposed activities, and has the full power, right, and authority to execute and perform each and all of its obligations under this Agreement;
- (b) HACC has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement;

(c) Each person executing this Agreement on behalf of HACC has been or will at such time be duly authorized to execute each such document on behalf of HACC;

(d) This Agreement has been duly authorized, executed, and delivered by HACC and constitutes a valid and legally binding obligation on HACC, enforceable against it in accordance with its terms, subject only to applicable bankruptcy, insolvency, and similar applicable laws affecting the enforceability of the rights of creditors generally and to general principles of equity;

(e) Neither the execution and delivery by HACC of this Agreement, nor the consummation of the transactions contemplated hereby or thereby, is in conflict with or will result in a default under or a violation of (i) the governing instruments of HACC or any other agreements or instruments to which it is a party or by which it is bound or (ii) to its knowledge, any Applicable Law, where such violation will have a material effect on the ability of HACC to perform its obligations under this Agreement;

(f) There is no action, suit, proceeding, investigation, or litigation pending and served on HACC which challenges HACC's authority to execute, deliver, or perform, or the validity or enforceability of, this Agreement, or challenges the authority of the HACC official executing this Agreement, and HACC has disclosed to the City any pending and unserved or threatened action, suit, proceeding, investigation, or litigation with respect to such matters of which HACC is aware; and

(g) HACC is in material compliance with all Applicable Laws applicable to the activities connected with this Agreement.

Section 6.02 CITY. The City hereby represents and warrants to HACC as follows:

(a) The City has the full power, right, and authority to execute, deliver, and perform its obligations under, in accordance with, and subject to the terms and conditions of this Agreement;

(b) Each person executing this Agreement has been or at such time will be duly authorized to execute each such document on behalf of the City;

(c) Neither the execution and delivery by the City of this Agreement, nor the consummation of the transaction hereby, is in conflict with or will result in a default under or violation of (i) any other agreements or instruments to which it is a party or by which it is bound or (ii) to its knowledge, any Applicable Law, where such violation will have a material adverse effect on the ability of the City to perform its obligations under this Agreement; and

(d) The City has taken or caused to be taken all requisite actions to authorize the execution and delivery of, and the performance of its obligations under, this Agreement.

ARTICLE VII. DEFAULT

Section 7.01 HACC DEFAULT. The occurrence of any one or more of the following will constitute a default by HACC pursuant to this Agreement:

(a) Any representation or warranty made by HACC is false or misleading in any material respect on the date made and a materially adverse effect upon the City's rights and obligations under this Agreement results therefrom, and such circumstances continue without cure for a period of thirty (30) calendar days following the date the City delivers written notice thereof to HACC, or as agreed upon by the Parties, with cure regarded as complete only when the adverse effects are remedied; or

(b) HACC fails to comply with, perform, or observe any material obligation, covenant, agreement, term, or condition in this Agreement which failure materially and adversely affects the City's right and obligations under this Agreement, and such failure continues without cure for a period of thirty (30) calendar days following the date the City delivers written notice thereof to HACC, or as agreed upon by the Parties.

Section 7.02 CITY DEFAULT. The occurrence of any one or more of the following will constitute a default by the City pursuant to this Agreement:

(a) Any representation or warranty made by the City is false or misleading in any material respect on the date made and a materially adverse effect upon HACC's rights and obligations under this Agreement results therefrom, and such circumstances continue without cure for a period of seven (7) calendar days following the date HACC delivers written notice thereof to the City, or as agreed upon by the Parties, with cure regarded as complete only when the adverse effects are remedied; or

(b) The City fails to comply with, perform, or observe any material obligation, covenant, agreement, term, or condition in this Agreement which failure materially and adversely affects HACC's right and obligations under this Agreement, and such failure continues without cure for a period of seven (7) calendar days following the date HACC delivers written notice thereof to the City; or as agreed upon by the Parties.

ARTICLE VIII. TERM AND TERMINATION

Section 8.01 TERM. The original term of this Agreement will end on 2050. Thereafter, this Agreement shall automatically renew for successive ten (10) year terms unless either party gives written notice of its intent to terminate this Agreement one (1) year prior to the expiration of the original term or a renewal term.

Section 8.02 MUTUAL AGREEMENT. The Parties may mutually agree, in writing, to terminate this Agreement.

Section 8.03 DEFAULT. Subject to the provisions of this Agreement, at any time after the occurrence of a default by either Party, the non-defaulting Party may terminate this Agreement. The non-defaulting Party must deliver a written notice of intent to terminate this Agreement.

**ARTICLE IX.
MISCELLANEOUS**

Section 9.01 SUCCESSORS AND ASSIGNS. HACC may assign its interest created by this Agreement. Without limiting the foregoing, HACC may assign its interest created by this Agreement to HACC Redevelopment, LLC, a North Dakota Limited Liability Company (“HACC Subsidiary”), a wholly-owned subsidiary of HACC formed to hold fee simple title to the Property. So long as HACC Subsidiary owns the Property, and so long as HACC remains a wholly-owned subsidiary of HACC, the City agrees that HACC may assign this Agreement to HACC Subsidiary and that HACC Subsidiary may assume all of HACC’s rights and obligations hereunder. In order for any assignment of this agreement to be valid, HACC or its assign shall provide notice of said assignment and a copy of a fully executed assignment by certified mail delivered to the City in conformance with Section 9.05 of this Agreement. HACC and its assigns agree and acknowledge that the failure to provide notice of any assignment of this Agreement to the City shall result in such being invalid.

Section 9.02 AMENDMENTS. This Agreement, or any part thereof, may be amended, modified, or waived only by a written instrument duly executed by the Parties, specifying with particularity the nature and extent of such amendment, modification, or waiver.

Section 9.03 WAIVER. The failure or delay of any Party to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any terms of this Agreement, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement or the right to enforce each and every term of this Agreement.

Section 9.04 AUTHORIZED REPRESENTATIVES.

(a) HACC and the City each hereby designates the following individual as its initial representative to administer this Agreement on its respective behalf:

- (1) HACC Representative: Executive Director
- (2) City Representative: Economic Development Director

(b) The representatives will be reasonably available to each other during the term of this Agreement and will have the authority to issue instructions and other communications on behalf of HACC and the City, respectively, and will be the recipients of notices and other communications from the other Party pursuant to this Agreement. Such representatives, however, will not have the authority to make decisions or give instructions binding on HACC or the City, except to the extent expressly authorized by HACC or the City, as the case may be.

Section 9.05 NOTICES.

(a) All notices under this Agreement shall be in writing and (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) sent by recognized overnight mail or courier services, with delivery receipt requested; or (iv) sent by email communication followed by a hard copy, to the following addresses.

(b) All notices to HACC shall be marked as regarding the Project and shall be delivered to the following address or as otherwise directed by the HACC Representative:

Housing Authority of Cass County
Attn: Executive Director
230 8th Ave. W
West Fargo, ND 58078

(c) All notices to the City shall be marked as regarding the Project and shall be delivered to the following address or as otherwise directed by the City Representative:

City of West Fargo
Attn: Economic Development Director
800 4th Ave. E, Suite 1
West Fargo, ND 58078

(d) Notices shall be deemed received when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the U.S. Postal Services, private courier, or other person making the delivery. Notices received after 5:00 p.m. shall be deemed received on the first calendar day following delivery.

Section 9.06 NO THIRD PARTY BENEFICIARIES. Nothing contained in this Agreement is intended or will be construed as creating or conferring any right, benefit, or remedies upon, or creating any obligations of the Parties hereto toward, any person or entity not a Party to this Agreement, except those rights expressly contained herein.

Section 9.07 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

Section 9.08 SEVERABILITY. If any term or provision of this Agreement or any application thereof to any person or circumstances shall to any extent be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by Applicable Law.

Section 9.09 COUNTERPARTS. This instrument may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

Section 9.10 ENTIRE AGREEMENT. This Agreement contains the entire and exclusive understanding of the Parties with respect to the subject matter thereof, and this Agreement supersedes all prior agreements, understanding, statements, representations, and negotiations, in each case oral or written, between the Parties with respect to the subject matter.

Section 9.11 AGREEMENT TO BE RECORDED. This Agreement shall be recorded against the Property upon the execution of both parties to this Agreement.

IN WITNESS WHEREOF, the City and HACC have executed this Agreement.

(Remainder of page intentionally left blank.)

2020 West Fargo Neighborhood Revitalization Program – Low Interest Home Improvement Loans

Gate City Bank and the City of West Fargo are working together to keep West Fargo's neighborhoods strong and to help local homeowners reinvest in their homes by providing the Neighborhood Revitalization Program: low interest loans and technical assistance to homeowners for major home improvement projects for existing homes.

Loan Terms

- Interest rate – 10 Year – 2.25%; 15 Year – 3.00%
- Repayable over 10 years or 15 years
- Minimum loan value: \$10,000
- Maximum loan value: \$75,000
- Maximum loan to value: 90% (based on evaluation/appraisal of the property)

Eligible Improvement Costs

The West Fargo Neighborhood Revitalization Program funds may be used to address code and structural corrections, energy improvements and general property improvements. Loans are available to finance new improvements not yet under construction, and if there are code corrections identified during the inspection, they must be addressed as part of the project.

The project must include at least one of the following:

- Foundation work (drain tile, bracing, new foundation)
- Major exterior improvements (siding, roofing, windows)
- Addition of bedroom or new living space
- Major interior remodeling or replacement of major mechanical systems (furnace, electrical, etc.)
- Conversion of rental unit to owner-occupied home
- Sewer/Water connection replacements from the dwelling unit to City infrastructure (clay pipe)

How do I qualify?

Applicants:

- Loan applicant must be the owner/occupant of the home and meet Gate City Bank's credit standards for repayment of the improvement loan

Home/Property:

- Located within the City of West Fargo municipal boundaries and north of Interstate 94
- Assessed value under \$250,000 (home value)
- Owner-occupied unit residences
- Current on property taxes and special assessments
- Home is zoned properly

Applications are reviewed on a first come, first served basis, as funds are available

Questions?

For additional information, please contact Gate City Bank at 701-293-2426 or the City of West Fargo Planning & Community Development Department at 701-433-5320

Program Administration Responsibilities

City of West Fargo

- Upon homeowner completion of pre-application, inspect property for property eligibility
 - Inspection and building permit fees are waived
- Conduct construction inspections (initial and final)
- Provide technical assistance to homeowner and Gate City Bank as needed
- Approve payment requests from homeowner and submit to Gate City Bank

Gate City Bank

- Upon City of West Fargo property inspection and application submittal with bids/cost estimates, accept loan application and determine borrower eligibility
- Order applicable items (appraisal/evaluation, title work, etc.)
- Conduct loan closing
- Process disbursements upon receipt of approved payment requests from the City of West Fargo

Project/Loan Workflow

Homeowner

- Complete loan application with the City of West Fargo
- Submit scope of work to the City of West Fargo for approval
- Obtain bid(s) from licensed contractors for work required under building code regulations or itemized list of materials with cost estimates if work is to be completed by homeowner
- Application and bids/cost estimates are forwarded by City to Gate City Bank for loan review and approval
- Provide the City of West Fargo copies of contractor licenses (if applicable) and liability insurance policy
- Complete the improvement project as agreed upon within six (6) months of project start date unless an extension is granted by Gate City Bank
- Sign payment requests to Gate City Bank

Contractor

- Provide homeowner with bids/cost estimates
- Provide homeowner and the City of West Fargo a copy of ND Contractor's License and liability insurance policy
- Complete the improvement project within six (6) months of the project start date
- Obtain approval from homeowner and the City of West Fargo for payment requests
- Provide lien waivers to homeowner upon completion of work

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # k

***Please Note: The following information must be completed and submitted to the West Fargo City Auditor's Office by the Thursday noon preceding the City Commission meeting. Failure to comply may result in no action being taken on your request.

1. CONTACT PERSON: Tim Solberg, AICP

2. PHONE NUMBER: 433-5321 DATE: March 12, 2020

3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:

Consideration for final approval of Pioneer Place 2nd Addition, a major subdivision replat.

4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):

Lot 1, Block 1, Pioneer Place 1st Addition and Lots 12 & 13, Block 6, Francis 2nd Subdivision and Lot, Block 1, Sheyenne Plaza 1st Addition and Vacation of Part of Sheyenne Street.

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Final Approval of Pioneer Place 2nd Addition with conditions listed in the staff report.

CITY OF WEST FARGO PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

A18-39		REPLAT & REZONING
Pioneer Place 2 nd Addition		
Lots 12 & 13, Block 6 of Francis 2 nd Subdivision; Lot 1, Block 1 of Pioneer Place 1 st Addition; Lot 1, Block 1 of Sheyenne Plaza 1 st Addition and Vacation of Part of 4 th Avenue West, City of West Fargo, North Dakota		
Applicant: Brian Kounovsky Owners: SAD Downtown LLC and the City of West Fargo	Staff Contact: Tim Solberg, AICP	
Planning & Zoning Commission Introduction:	09-11-2018	
Public Hearing:	09-11-2018 – Concept Plans	
City Commission Introduction:		
Planning & Zoning Commission Detailed Development Plan Review:		
Public Hearing & 1 st Reading:		
2 nd Reading and Final Plat Approval:		

PURPOSE:

Replat to develop a mix of public, commercial, retail and residential uses.

STATEMENTS OF FACT:

Land Use Classification:	G-4A Core Retrofit Growth Area
Existing Land Use:	General Commercial and Public uses
Current Zoning District(s):	C: Light Commercial & PUD Planned Unit Development
Zoning Overlay District(s):	CO-S: Sheyenne Street Corridor Overlay District
Proposed Zoning District(s):	PUD: Planned Unit Development
Proposed Lot size(s) or range:	14,094 ft ² to 47,774 ft ²
Total area size:	79,601 ft ²
Adjacent Zoning Districts:	North & South – PUD: Planned Unit Development; East – C: Light Commercial; West – R-2: Limited Multiple Dwellings
Adjacent street(s):	Sheyenne Street (arterial)
Adjacent Bike/Pedestrian Facilities:	Existing Sidewalks
Available Parks/Trail Facilities:	Sheyenne Plaza within ¼ mile, Tintes and South Elementary parks within ½ mile.
Park Dedication Requirements:	The area is developed. No park dedication required.

DISCUSSION AND OBSERVATIONS:

- The applicant has submitted an application, preliminary plat along with conceptual site plan, building elevations and floor plans.
- The preliminary plat currently shows one lot for development of a 5-story, multi-use building. The conceptual plan shows 19 underground parking spaces, light commercial tenant space on the 1st floor, and 8 residential multiple family units with community room and fitness center on the 3rd floor, and 10 residential multiple family units on floors 4 and 5. The plat also provides one lot which

STAFF REPORT

is the existing Pioneer Place lot that is under construction, and one lot that is the full vacation of 4th Avenue to be joined with the POW/MIA Plaza.

- The CO-S Overlay district standards require zero front yard setback and zero side yard setback. There is however, deviation allowed where the development wishes to add additional useable space. Any deviation can be addressed through the PUD process when detailed development plans are to be considered.
- The CO-S Overlay district requires higher building construction standards. Although in concept the details of building construction have not been finalized, the plans show a large amount of glass on floors 1 and 2, and a brick appearance throughout which would indicate that the project intends to meet the higher standards of the district.
- The applicant is proposing to dedicate additional right of way to accommodate on-street diagonal parking in front of the building to be designed in the same fashion as Sheyenne Plaza to the south. The City is a recipient of a grant through the Governor’s Urban Grant Program. This grant award will blend exceptionally well into the proposed development and the City is working with the applicant to ensure that the plans coordinate together.
- The CO-S Overlay district standards reduce standard parking requirements found in Section 4-450 of City Ordinances. The parking requirements of the CO-S district would require 81 spaces for the proposed plan. This assumes both floors 1 and 2 develop with retail commercial uses and floors 3-5 remain residential multiple family units. Prior to final approval, adequate parking or shared parking agreements should be pursued to ensure the development meets City parking requirements as it appears that the proposed project is supplying 29 parking spaces in underground and on-street diagonal parking. In past downtown projects, the City has utilized the additional on-street parking provided in the project to help offset parking requirements.
- As the detailed development plans are prepared, the City Engineer needs to be consulted to ensure City services are adequately provided for.
- A drainage plan is required for the subdivision and will need to be developed prior to, or as a part of, the special improvement district. The City Engineer has indicated that retention needs are difficult in this area of town and that the current development pattern does not provide retention. Staff is recommending that as part of the developer agreement that future retention needs be addressed as they will likely become part of a larger improvement district.

NOTICES:

Sent to: Property owners within 150’ and applicable agencies and departments

Comments Received:

- None to date.

CONSISTENCY WITH COMPREHENSIVE PLAN AND OTHER APPLICABLE CITY PLANS AND ORDINANCES:

- This application invests in older neighborhoods, improves the neighborhood design, increases a mix of uses and is consistent with goals of the Comprehensive Plan’s Action Plan Big Idea to “Strengthen Neighborhoods and Expand Housing Choice”.
- Redevelopment and reinvestment in the site to align with the “Core-Retrofit Growth Sector” will positively impact the City’s downtown core area and the proposed design and mixed uses are

STAFF REPORT

consistent with the Comprehensive Plan Big Idea to continue to “Establish Downtown as a Cultural Center for West Fargo”.

RECOMMENDATIONS:

It is recommended that the City approve the proposed application in concept on the basis that it is consistent with City plans and ordinances with recommended items to be addressed with the detailed development plans as follows:

1. Parking requirements are further refined and if necessary shared parking agreements are provided to be considered in a resolution for reduction in parking by the City Commission.
2. Development will be subject, but not limited to CO-S: Sheyenne Street Corridor Overlay District, 4-440 Supplementary District Regulations, 4-450 Off-Street Parking and Loading Requirements, and 4-460 Sign Regulations.
3. Utility and infrastructure as well as any current or future drainage considerations be addressed and included in a future developer’s agreement.

PLANNING AND ZONING RECOMMENDATION:

At their September 11, 2018 meeting, the Planning and Zoning Commission recommended approval of concept, subject to the three conditions listed above.

UPDATE:

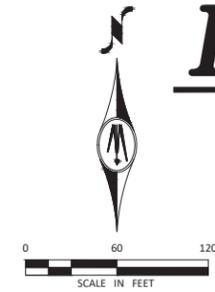
The property was zoned DMU: Downtown Mixed Use as part of the recent map amendments adopted on January 20, 2020. The applicant has therefore withdrawn their request for rezoning to a PUD. Consideration is requested for approval of a final plat of Pioneer Place 2nd Addition which will include Lot 1 which contains a conforming structure, Lot 2 which will provide a developable lot under DMU: Downtown Mixed Use district standards, and Lot 3 which combines the previously platted Lot 1, Block 1 of Sheyenne Plaza 1st Addition and the vacation of a portion of 4th Avenue W which together have been developed as the POW/MIA Plaza zoned as P: Public Facilities.

Staff would recommend amending the previously forwarded recommendation to approve the final plat of Pioneer Place 2nd Addition with the following recommended conditions of approval:

1. An updated drainage plan is approved by the City Engineer.
2. An Attorney Title Opinion to the City of West Fargo is received.
3. Signed Final Plat is received with any necessary easements.
4. A certificate is received showing taxes are current.

PIONEER PLACE SECOND ADDITION

A REPLAT OF LOT 1, BLOCK 1, PIONEER PLACE FIRST ADDITION AND LOTS 12 & 13, BLOCK 6, FRANCIS 2ND SUBDIVISION
AND LOT 1, BLOCK 1, SHEYENNE PLAZA FIRST ADDITION AND A VACATION OF PART OF SHEYENNE STREET
TO THE CITY OF WEST FARGO, CASS COUNTY, NORTH DAKOTA



ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE EAST LINE OF BLOCK 6, FRANCIS' SECOND SUBDIVISION HAVING A BEARING OF S 2°21'22" E

OWNERS DESCRIPTION AND DEDICATION

KNOWN ALL MEN BY THESE PRESENTS, That the City of West Fargo, a Municipal corporation under the laws of the State of North Dakota and Sad Downtown, LLC, a North Dakota limited liability company, under the laws of the State of North Dakota, as owners of a parcel of land located in the Northeast Quarter of Section 7, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota and more particularly described as follows:

Lot 1, Block 1, PIONEER PLACE FIRST ADDITION, according to the plat thereof, on file and of record in the Office of the County Recorder, Cass County, North Dakota.

AND

Lots 12 and 13 in Block 6, FRANCIS' SECOND SUBDIVISION, according to the plat thereof, on file and of record in the Office of the County Recorder, Cass County, North Dakota.

AND

Lot 1, Block 1, SHEYENNE PLAZA FIRST ADDITION, according to the plat thereof, on file and of record in the Office of the County Recorder, Cass County, North Dakota.

AND

That part of the vacated Fourth Avenue West, originally dedicated on FRANCIS' SECOND SUBDIVISION, located between the north side of Lot 1, Block 1, SHEYENNE PLAZA FIRST ADDITION and the south side of Lot 13, Block 6, FRANCIS' SECOND SUBDIVISION.

AND

That part of Sheyenne Street, originally dedicated on PIONEER PLACE FIRST ADDITION as shown to be vacated on this plat.

Said parcel contains 82,258 square feet of land, more or less and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Said owner has caused the above described parcel of land to be surveyed and platted as "PIONEER PLACE SECOND ADDITION" to the City of West Fargo, Cass County, North Dakota and do hereby vacate Sheyenne Street as shown for vacation on this plat and do hereby dedicate to the public for public use Sheyenne Street as shown on this plat and do hereby dedicate to the public for public use the utility easement as shown on this plat.

OWNER: LOT 1 and LOT 3
City of West Fargo

By: Bernie L. Dardis
President of the West Fargo City Commission

By: Tina Fisk
City Auditor

State of North Dakota
County of Cass

On this ____ day of _____, in the year 2020 before me, a notary public within and for said County and State, personally appeared Bernie L. Dardis, President of the West Fargo City Commission and Tina Fisk, City Auditor, known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same on behalf of City of West Fargo

Notary Public

OWNER: LOT 2
Sad Downtown, LLC

By: Todd Berning, President

State of North Dakota
County of Cass

On this ____ day of _____, in the year 2020 before me, a notary public within and for said County and State, personally appeared Todd Berning, President of the Sad Downtown, LLC, a North Dakota limited liability company known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that they executed the same on behalf of Sad Downtown, LLC

Notary Public

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Gregg Stroeing, Registered Professional Land Surveyor under the laws of the State of North Dakota do hereby certify that this plat is a correct representation of the survey, that all distances shown are correct and that the monuments for the guidance of future surveys have been located or placed in the ground as shown and that the outside boundary lines are correctly designated on the plat.

Gregg Stroeing, Professional Land Surveyor
North Dakota License Number LS-6703

State of North Dakota
County of Cass

On this ____ day of _____, in the year 2020 before me, a notary public within and for said County and State, personally appeared Gregg Stroeing, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same.

Notary Public

WEST FARGO CITY ATTORNEY APPROVAL

I do hereby certify that proper evidence of title has been examined by me and I approve the plat as to form and execution this ____ day of _____, 2020.

John T. Shockley, City Attorney

State of North Dakota
County of Cass

On this ____ day of _____, in the year 2020 before me, a notary public within and for said County and State, personally appeared John T. Shockley, City Attorney, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the City of West Fargo.

Notary Public

CITY ENGINEER'S APPROVAL

This plat in the City of West Fargo is hereby approved this ____ day of _____, 2020.

Dustin Scott, City Engineer

State of North Dakota
County of Cass

On this ____ day of _____, in the year 2020 before me, a notary public within and for said County and State, personally appeared Dustin Scott, City Engineer, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the City of West Fargo.

Notary Public

WEST FARGO PLANNING COMMISSION APPROVAL

This plat in the City of West Fargo is hereby approved this ____ day of _____, 2020.

Tom McDougall, Chairman, West Fargo Planning Commission

State of North Dakota
County of Cass

On this ____ day of _____, in the year 2020 before me, a notary public within and for said County and State, personally appeared Tom McDougall, Chairman, West Fargo Planning Commission, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the West Fargo Planning Commission.

Notary Public

WEST FARGO CITY COMMISSION APPROVAL

This plat in the City of West Fargo is hereby approved this ____ day of _____, 2020.

Bernie L. Dardis, President of the West Fargo City Commission

Attest:
Tina Fisk, City Auditor

County of Cass
State of North Dakota

On this ____ day of _____, in the year 2020 before me, a notary public within and for said County and State, personally appeared Bernie L. Dardis, President of the West Fargo City Commission, and Tina Fisk, City Auditor known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same on behalf of the City of West Fargo.

Notary Public

LEGEND

- 5/8" x 18" REBAR MONUMENT SET
CAP LICENSE NO. LS-6703
- MONUMENT FOUND
- SUBJECT PROPERTY LINE
- - - EXISTING PROPERTY LINE
- - - SECTION LINE



PREPARED BY:

BOLTON & MENK

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # 1

***Please Note: The following information must be completed and submitted to the West Fargo City Auditor's Office by the Thursday noon preceding the City Commission meeting. Failure to comply may result in no action being taken on your request.

1. CONTACT PERSON: Malachi Petersen

2. PHONE NUMBER: 701-433-5324 DATE: March 12, 2020

3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:

The City of West Fargo has received an application for a Renaissance Zone income and property tax incentive for Quality Boneless Beef Co Inc. The application was reviewed and recommended for approval by an 8-2-1 vote of the Economic Development Advisory Committee at their March 4, 2020 meeting.

4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):

700 Center St West Fargo ND 58078

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Consideration for Approval of the Renaissance Zone application for Quality Boneless Beef Inc. with a condition that all requirements of the Renaissance Zone Program are met.

STAFF REPORT

Carol assigned
8-2-1

Project Name: Quality Boneless Beef Co Inc
Project Location: Lot 4 Block 5 unplatd Annex AC 1.935-13 9-49 AVE Lot 4 of NW 1/4
 700 Center St West Fargo ND 58078
Contact Name: Blair Kemmer
Contact Phone: 701-282-0202
Email: bkemmer@qualitymeats.com
Purpose: Application for Renaissance zone tax incentive
Background: Applicant is building a 20,000 sqft expansion adding value to building
Timeline: Mid 2021

Assessment Department	YES	NO
Property Taxes Current	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Additional Notes: <i>NPL</i>		
Additional Notes: <i>02-3050-04368-000 / 02-0020-00090-000</i>		
Planning Department	YES	NO
Property in Corridor Overlay District <i>A portion is in the</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Property in Renaissance Zone <i>Redevelopment Corridor Overlay</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Property in Main Ave Corridor	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Main Ave Corridor Conditions Met	<input type="checkbox"/>	<i>NA</i>
Zoning Appropriate for Proposed Project	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sufficient/Appropriate Parking Included	<i>TBD</i>	<input type="checkbox"/>
Landscape Submitted/Reviewed	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Additional Notes: <i>The proposed addition is not within the CO-R-2</i>		
Economic Development Department	YES	NO
Project Located in Existing Incentive Program	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Project Eligible for Local Incentives	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Project Eligible for State Incentives	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Project Operator Received Tax Incentives within Past 5 years	<input type="checkbox"/>	<input checked="" type="checkbox"/>
City Granted Tax Incentive on Similar Project within Past 5 years	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is there Precedent for Proposed Tax Incentive	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Does City Recommend Approval of Application	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Score:		
Reasons:		
Additional Notes:		

T.P.?
For [unclear]
would not require landscaping
3/2/2020
 MP

City of West Fargo Renaissance Zone Project Application

Proposed Renaissance Zone projects must be submitted to and approved by West Fargo City and the State of North Dakota prior to start of construction. Please submit a project proposal that addresses the following items:

What is the legal description and street address of proposed project?

LOT 4 BLOCK 5 UN PLATTED ANNEX AC 1.93 S-13 9-49 AWD

LOT 4 OF NW 1/4

700 CENTER ST., WEST FARGO, ND

Who are the current property owners?

QUALITY BONELESS BEEF CO., INC.

Contact phone number where you may be reached 701-282-0202

Email address you can be reached at bkemmer@qualitymeats.com

List the name of applicant and their Tax I.D. Number or Social Security Number.

Applicant's Name: Quality Boneless Beef Co., Inc.

Tax ID #: XXXXXXXXXX

SSN: _____

What is the current use of property?

FRESH STEAK, PORK CHOP CUTTING, GROUND BEEF PROCESSING
AND MAIN DISTRIBUTION CENTER

What is the square footage of the lot and of the building – each floor should be listed separately.

Type of investment ~ Is the project being funded by a Renaissance Fund Organization? If so, describe the type and amount of financing and the name of the Renaissance Fund Organization. If the project is being financed through a loan or personal financing, please indicate so.

BANK FINANCING, SBA FUNDING, OTHERS TO BE DETERMINED

Describe scope of work, including a detailed cost estimate of the work to be completed.

DEMOLISH OLD PRODUCTION ROOM, RE-BUILD NEW PRODUCTION ROOM - WITH ADDED COOLER SPACE, MORE EFFICIENT MACHINES AND UPDATED EQUIPMENT. BUILD A NEW ADDITION TO THE BUILDING WHICH WILL HOUSE A COOKED PRODUCT AND SMOKING FACILITY.

TOTAL ESTIMATED COST WILL BE FOR BUILDING AND DESIGN EXPECTED TO BE \$5,161,272.50, EQUIPMENT WILL COME IN AROUND 1,788,780.00 AND COOLING UNITS AND OTHER ITEMS TO BE AROUND 350,000.00

Provide a break out of capital improvements.

NEW SMOKED MEATS AND COOKED PRODUCTS PRODUCTION FACILITY UPDATED AND NEW MORE EFFICIENT EQUIPMENT TO IMPROVE PRODUCT QUALITY AND PRODUCT OUTPUT EFFICIENCY

Estimate the value of the building after improvements have been completed and provide the estimated state income tax and local property tax benefit you will receive each of the five years.

BUILDING AFTER IMPROVEMENTS SHOULD BE VALUED BETWEEN 8-9 MILLION

Describe how the project meets the zone's goals, objectives and guidelines.

WITH EXPANSION WE HOPE TO CREATE 5-10 ADDITIONAL JOBS WITH ABOVE AVERAGE WAGES.

Extent of the exterior renovation and/or property improvements – include site plans and building plans or renderings as attachments.

See attached.

A building permit must be obtained for the work. If known at this time, please include the permit number N/A and permit date: ___/___/___.

Provide documentation that the project cost meets the city's minimum criteria. Please attach copies of all cost estimates.

See "Scope of work" question on previous page for cost estimates.

Are income and property taxes current? Attach a copy of a Certificate of Good Standing from the State Tax Commissioner and copies of receipts showing proof that local real estate taxes have been paid.

Yes. See attached.

For residential applicants only ~ please answer the following question:

Please provide evidence that the home is the taxpayer's primary residence.

N/A

For commercial and investment applicants only ~ please answer the following questions:

What is the business name or investor's name (trade name, doing business as)?

QUALITY MEATS AND SEAFOOD

What is the legal name of business, if different from trade name?

QUALITY BONELESS BEEF CO., INC.

What is the mailing address ~ if different from property address?

P.O. Box 337, WEST FARGO, ND 58078

For commercial and investment applicants only (Continued)

Type of Entity ~ partnership; corporation; cooperative, limited liability partnership, limited liability corporation, sole proprietorship, subchapter S corporation.

SUBCHAPTER - S CORPORATION

Are you subject to a financial institution tax (NDCC § 57-35.3)?

N/A

What is the expected date of purchase, lease, completion of rehabilitation and / or historical preservation and renovation, and the exact date when it occurs? For purchase with major improvements include the expected and final purchase date, the expected date of occupancy or first rental, and the final dates when they occur.

TO BE DETERMINED - SOMETIME MID-2021



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
RYAN RAUSCHENBERGER, COMMISSIONER

February 25, 2020

Ref: L0526235392

QUALITY BONELESS BEEF CO INC
PO BOX 337 700 CENTER ST
WEST FARGO ND 58078-0337

RE: Renaissance Zone Certificate Of Good Standing, State Income And Sales Taxes Only

This letter is evidence of good standing as required by the North Dakota Division of Community Services for purposes of obtaining final approval of a renaissance zone project.

As of the date of this letter, the records in the North Dakota Office of State Tax Commissioner do not show probable cause to believe that any income taxes (including income tax withheld from wages) or sales and use taxes are due and owing to the State of North Dakota by the following taxpayer:

Taxpayer's Name: QUALITY BONELESS BEEF CO INC
SSN or FEIN: [REDACTED]

This letter must be submitted (as part of the zone project application) to the local zone authority for the renaissance zone in which the proposed zone project will be located. Please keep a copy of this letter for your records.

/s/ Liliya Montgomery
Liliya Montgomery
Supervisor, Individual Income Tax and Withholding
Phone: (701) 328-1296
Email: lmontgomery@nd.gov

RENAISSANCE ZONE PROJECT APPLICATION

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 59291 (5/16)

In order to receive DCS approval on zone projects, the following information must be submitted to the DCS:

1. Type of project

Business Residential Utility Infrastructure Project (UIP)

2. If this is a UIP, project is the applicant a renaissance zone project? Yes No

a. To be considered a Renaissance Zone project, the project would need to take place in the Renaissance Zone and be a utility company.

b. If this is a property owner affected by a UIP not participating in a renaissance zone project, is the property owner in the Renaissance Zone? Yes No

3. Name of applicant(s)/or business name Quality Boneless Beef Co., Inc.

If business, type of entity Fresh Meat and Seafood Wholesaler

Provide a copy of the Certificate of Good Standing from Tax Department)

Address and renaissance zone block number as it appears in the development plan property listings.

Address 700 Center Street

City West Fargo Renaissance Zone Block 2A

4. For residential projects provide evidence that the home purchased is the taxpayer's primary residence.

5. Project Type:

a. Purchase (to include new construction)

b. Purchase with major improvements

c. Lease

i. What type of lease?

New Expansion Continuation of a Lease Leasehold Improvement

If this an expansion, what is the additional square feet of the expansion? 20,000

ii. If it is a lease project, does it involve the relocation of a business from one location in the city to the Renaissance Zone or from one zone property to another zone property? Yes No

d. Rehabilitation

i. Commercial 50% of the True and full value

Or

ii. Residential 20% of the true and full value

iii. Current true and full value \$ 880,000

iv. For rehabilitation projects, provide a description of the work and the estimated costs.

Work to be Done	Estimated Cost
Put up New Production building	\$ 845,000.00
Add New 20,000 Square foot production facility	\$ 5,166,000.00
Update and improve new efficient machines	\$ 1,700,000.00

6. Does this project involve historical preservation or renovation? Yes No

a. For projects that involve historical preservation or renovation, but are not part of a rehabilitation project, provide a description of the work and the estimated costs. **A letter of approval from the Historical Society is required to claim any historical tax credits either on a rehabilitation project or renovation.**

b. Information for historical properties may be obtained by contacting the Historical Society at: (701) 328- 2666.

7. For projects other than the purchase(includes new construction) or rehabilitation of a single family home and historical preservation and renovation, describe how the overall benefit(s) of the project to the community meets or exceeds the financial and tax benefit to the businesses or investor.

by bringing our production facility under one roof, we will be able to make our process more efficient, we will be able to then place a greater focus on promoting our products and open up new lines of sales for us. one of those areas is selling and exporting to Canada. With this new facility and new avenue, we will be able to increase staff and increase production.

8. Is the project being funded by a Renaissance Fund Organization? Yes No

If yes, describe the type and amount of financing and name of the Renaissance Fund Organization.

N/A

BUSINESS INCENTIVE AGREEMENT
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 SFN 59686 (10/2018)

(For office use only) Agreement Number
Grantor Reference Number

The RECIPIENT specified below has been approved to receive a business incentive from the state of North Dakota. Therefore, in fulfillment of the requirements of North Dakota Century Code § 54-60.1-03, the grantor of the business incentive (**GRANTOR**) and the entity to receive the business incentive (**RECIPIENT**) must enter into a **Business Incentive Agreement**. This Business Incentive Agreement provides project data and specifies the goals the RECIPIENT has agreed to meet in order to receive the state business incentive.

Should the value of this incentive be less than \$25,000, and should the RECIPIENT receive no additional incentives to bring the total to \$25,000 or more within twelve months, the reporting requirements outlined in North Dakota Century Code § 54-60.1-05 and in this agreement, will not go into effect.

Grantor

Name of GRANTOR/GRANT ADMINISTRATOR <i>City of West Fargo</i>	On Behalf Of <i>State of North Dakota</i>		
Address <i>800 4 Ave E</i>	City <i>West Fargo</i>	State <i>ND</i>	ZIP Code <i>58078</i>

Recipient

Name of RECIPIENT Business <i>Quality Boneless Beef Co., Inc.</i>	Also known as <i>Quality Meats and Seafood</i>		
Mailing Address <i>PO Box 337</i>	City <i>West Fargo</i>	State <i>ND</i>	ZIP Code <i>58078</i>
Street Address <i>700 Center Street</i>	City <i>West Fargo</i>	State <i>ND</i>	ZIP Code <i>58078</i>
Location of Project (street address, city, county) <i>700 Center Street, West Fargo, ND</i>			
Business Classification of RECIPIENT (3 digit NAICS Code)			
Parent Company of RECIPIENT (if any)			
Street Address	City	State	ZIP Code

Recipient Contact Information

Main Contact Person <i>Blair Kemmer</i>	Email Address <i>bkemmer@qualitymeats.com</i>
Title <i>Chief Financial Officer</i>	Telephone Number <i>701-282-0202</i>

Location of Recipient PRIOR to receiving this business incentive (if relocating)

Street Address	City	State	ZIP Code
----------------	------	-------	----------

Business Owners or Shareholders

List the names and addresses of all individuals or shareholders owning twenty percent (20%) or more of this business.

Owner or Shareholder	Mailing Address	City	State	ZIP Code

Project Information

Benefit Date TBD		Incentive Value \$158,125
Project Description Rebuild main production room and expand to bring our smoked meats and cooked products over to house at one location		
Incentive Description Renaissance Zong Property + Income tax incentive		
Is this incentive tax increment financing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, describe the type of district	Business Investment Value \$ 9,000,000.00

Incentive Type (check one only)

<input type="checkbox"/> Contribution of property or infrastructure	<input type="checkbox"/> Preferential use of government facility
<input type="checkbox"/> Direct cash transfer, loan, or equity investment	<input type="checkbox"/> Guarantee of payment under loan, lease, or other obligation
<input checked="" type="checkbox"/> Reduction or deferral of tax or fee	<input type="checkbox"/> Interest buy-down

Public Purpose (check one only)

<input type="checkbox"/> Assisting community Development	<input checked="" type="checkbox"/> Indirectly creating employment opportunities through increased economic activity
<input type="checkbox"/> Increasing tax base	<input checked="" type="checkbox"/> Job retention (only in cases where job loss is specific and demonstrable)
<input checked="" type="checkbox"/> Directly creating employment opportunities	

Current Employment, Wages, Benefits and Compensation

Is this a new business or a business with no full-time employees?
 Yes No
 If yes, please enter 0 for the current number of jobs, average hourly wage, and average hourly benefits below.
 If no, please enter the current number of jobs, average hourly wage, and average hourly benefits below.

Current number of Full Time Equivalent Employees (FTE's) ¹	Average Hourly Wage ²	Average Hourly Benefits ³	Average Hourly Compensation (Wage plus Benefits) ⁴
64.0	20.33	2.43	22.76

Seasonal, explain:

Goal Information

In exchange for the incentive provided by the GRANTOR, the RECIPIENT agrees to, within 2 years (check one only)
 Create Jobs Retain Jobs Neither create nor retain jobs⁵

Current number of Full Time Equivalent Employees (FTE's) ¹	Average Hourly Wage ²	Average Hourly Benefits ³	Average Hourly Compensation (Wage plus Benefits) ⁴
			0.00

¹ Full time equivalent employees (FTE's) work 32 hours per week or greater. The exception is when a single position is filled by two people. In this instance each person needs to work 20 hours per week or greater to be considered an FTE. Please round job numbers to the nearest 0.5 FTE.

² Wage includes wages, salary, bonuses and commissions.

³ Benefits include health, disability, life and retirement benefits or insurance premiums paid by the employer; an employee's share of payroll taxes paid by the employer; and other fringe benefits such as housing allowance and transportation expense.

⁴ Wage plus benefits.

⁵ If 'Neither create nor retain jobs' is checked, please enter '0' for number of jobs, wage and benefits goals. All RECIPIENTS must file recipient reports as described on page 3 of this document, including those with no job, wage or benefits goals.

In addition to meeting the goals outlined in this document, the RECIPIENT agrees to the following terms as specified by N.D.C.C. §54-60.1:

1. The RECIPIENT shall continue operation in the jurisdiction in which the business incentive is used for five years or more after the benefit date.
2. RECIPIENT reports requesting current job, wage and benefit information will be mailed to the RECIPIENT by the GRANTOR. The RECIPIENT shall complete, sign and return this annual recipient report to the GRANTOR within 60 days of the annual anniversary of the benefit date for a period of two years or until the goals specified in the Business Incentive Agreement have been met, whichever is later.

If the recipient report is not received within those 60 days, the GRANTOR shall mail the RECIPIENT a warning letter. The RECIPIENT then has 14 days from the postmarked date of that warning letter to file a report. If the recipient report is still not received, the RECIPIENT may be charged one hundred dollars (\$100) from the GRANTOR for each subsequent day until the report is received. The maximum penalty under this section may not exceed one thousand dollars (\$1,000).

3. If, after 2 years, the job and compensation goals listed in the Business Incentive Agreement are not met, the RECIPIENT shall continue to provide recipient reports to the grantor until the incentive is repaid to the grantor. At a minimum, a recipient that fails to meet business incentive agreement goals shall pay back the value of the incentive to the GRANTOR prorated to reflect any partial fulfillment of the job and compensation goals. There is an exception to this financial obligation for any unmet goals that result from an act of God or terrorism.
4. The Business Incentive Agreement shall only be modified or extended by the GRANTOR pursuant to N.D.C.C. §54-60.1-04.
5. If the terms of the Business Incentive Agreement are not met, RECIPIENT, including all individuals or shareholders owning twenty percent (20%) or more of the business, will not be eligible to receive a business incentive from any GRANTOR for a period of five years from the date of failure or until RECIPIENT satisfies its repayment obligation.

By signing this document, RECIPIENT agrees to the terms noted herein, verifies that it has not failed to meet the terms of any business incentive agreement in the last five years and confirms that it has disclosed, in Attachment "A" of this agreement, all additional financial assistance received from state or political subdivision GRANTORS for this project.

GRANTOR

Title	Authorized Signature	Date

RECIPIENT

Title	Authorized Signature	Date
Chief Financial Officer		3-2-20

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

ATTACHMENT "A"

RECIPIENT verifies it has received additional financial assistance from state or political subdivision GRANTORS from the following entities for this project since its inception. A listing of incentives from past projects (i.e. past expansions) is not required.

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

9. Provide the estimated state and local tax benefit to the taxpayer for five years (applies to all projects).

Total State tax benefit for five years \$ 40,625.00

Total Property tax benefit for five years \$ 117,500.00

Total Non-participating owner tax credit \$ _____

10. Zone Authority and City Documentation:

Date of approval or conditional approval ____/____/____

Provide a copy of minutes or other supporting documentation that indicates the formal approval by the approving entity.

11. Identify from the Development Plan the specific criteria used to approve the project

Business will use the incentive to expand its operations which will equate to additional high quality jobs within West Fargo. Expansion will assist in adding to the city's tax base as well as indirectly promote economic development within the city.

12. Evidence that the taxpayer is current on state taxes. (Taxpayers can contact the Office of State Tax Commissioner to receive a Certificate of Good Standing. This request must indicate that it is for a Renaissance Zone Project.) See Appendix E.

Letter of Good Standing Attached? Yes No

13. Expected date of occupancy ____/____/2021

NOTE: The DCS reserves the right to reject a zone-approved project or to continue negotiating its approval. When a project is approved by the DCS, the local zone authority will be notified in writing.

If after a project is approved and the property changes hands or a replacement project is approved during the five year exemption period, the DCS does not need to approve the transfer or the replacement project. The zone authority, however, must notify the DCS of the change and provide the applicable information about the new homeowners, business, and/or investor. The zone authority must also notify the DCS if any other change occurs in the status of the business or investor tax would affect the exemption approved.

Once the project is completed, DCS must be informed by email, Fax or letter of the exact date of completion, and project number before the final letter of approval can be issued.

On historical Renovations/rehabilitations documentation from the Historical Society approving the final restorations must be submitted to DCS prior a final letter of approval can be issued.


Signature _____

3-2-20
Date

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # 2

***Please Note: The following information must be completed and submitted to the West Fargo City Auditor's Office by the Thursday noon preceding the City Commission meeting. Failure to comply may result in no action being taken on your request.

1. CONTACT PERSON: Malachi Petersen

2. PHONE NUMBER: 701-433-5324 DATE: March 12, 2020

3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:

The City of West Fargo has received an application for a Renaissance Zone income tax incentive for RDA Inc. The application was reviewed and recommended for approval by a unanimous vote of the Economic Development Advisory Committee at their March 4, 2020 meeting.

4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):

1210 3rd Ave NW Ste #3 West Fargo ND 58078

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Consideration for Approval of the Renaissance Zone application for RDA Inc. with a condition that all requirements of the Renaissance Zone Program are met.

STAFF REPORT

Project Name: RDA Inc

Project Location: Restad Industrial Park, 1210 3rd Ave NW STE #3 West Fargo ND 58078

Contact Name: James Dura

Contact Phone: 701-238-9051

Email: James.Dura@aol.com

Purpose: Applying for a tenant tax incentive for locating in an RZ

Background: Tenant will be located in Restad Industrial Park

Timeline: AS soon as possible

Assessment Department	YES	NO
Property Taxes Current	✓	
Additional Notes: <i>NPL</i> <i>02-0801-00010-000</i>		
Planning Department	YES	NO
Property in Corridor Overlay District		X
Property in Renaissance Zone	X	
Property in Main Ave Corridor		X
Main Ave Corridor Conditions Met		NA
Zoning Appropriate for Proposed Project	X	
Sufficient/Appropriate Parking Included	X	
Landscape Submitted/Reviewed		NA
Additional Notes:		
Economic Development Department	YES	NO
Project Located in Existing Incentive Program	X	
Project Eligible for Local Incentives		X
Project Eligible for State Incentives	X	
Project Operator Received Tax Incentives within Past 5 years		X
City Granted Tax Incentive on Similar Project within Past 5 years	X	
Is there Precedent for Proposed Tax Incentive	X	
Does City Recommend Approval of Application	X	
Score:		
Reasons:		
Additional Notes:		

T = ?
5000

- MP
2/28/2010

City of West Fargo Renaissance Zone Project Application

Proposed Renaissance Zone projects must be submitted to and approved by West Fargo City and the State of North Dakota prior to start of construction. Please submit a project proposal that addresses the following items:

What is the legal description and street address of proposed project?

1210 3rd Ave NW STE 3, West Fargo, ND 58078

Who are the current property owners?

Restad Industrial Park LLC

Contact phone number where you may be reached Jim 701-238-9051 Ryan 701-219-5994

Email address you can be reached at JamesDura@aol.com and ryan.goodman605@gmail.com

List the name of applicant and their Tax I.D. Number or Social Security Number.

Applicant's Name: RDA, Inc

Tax ID #: [REDACTED]

SSN: N/A

What is the current use of property?

Warehouse bay fro organizing work for construction projects. Also, office space for management.

What is the square footage of the lot and of the building – each floor should be listed separately.

*Shop space 2400 SF including 258 SF office
and bath on the main floor
258 SF office*

Type of investment ~ Is the project being funded by a Renaissance Fund Organization? If so, describe the type and amount of financing and the name of the Renaissance Fund Organization. If the project is being financed through a loan or personal financing, please indicate so.

No

Describe scope of work, including a detailed cost estimate of the work to be completed.

complete fit-up floor to ceiling for the total project was \$183,548.73

We provided all the framing, insulation, windows and trim, drywall and paint, drop ceiling, carpet, sealed concrete floors and liner panel on office/bathroom.

Provide a break out of capital improvements.

N/A, Tenant Application,

Estimate the value of the building after improvements have been completed and provide the estimated state income tax and local property tax benefit you will receive each of the five years.

N/A, Tenant Application

Describe how the project meets the zone's goals, objectives and guidelines.

Project is the addition of a business to West Fargo. It will indirectly assist in economic activity and will add to the tax base.

Extent of the exterior renovation and/or property improvements – include site plans and building plans or renderings as attachments.

N/A, Tenant Application.

A building permit must be obtained for the work. If known at this time, please include the permit number _____ and permit date: ___/___/___.

Provide documentation that the project cost meets the city's minimum criteria. Please attach copies of all cost estimates.

N/A, Tenant Application.

Are income and property taxes current? Attach a copy of a Certificate of Good Standing from the State Tax Commissioner and copies of receipts showing proof that local real estate taxes have been paid.

Yes, please see attached

For residential applicants only ~ please answer the following question:

Please provide evidence that the home is the taxpayer's primary residence.

N/A

For commercial and investment applicants only ~ please answer the following questions:

What is the business name or investor's name (trade name, doing business as)?

RDA, Inc.

What is the legal name of business, if different from trade name?

What is the mailing address ~ if different from property address?

For commercial and investment applicants only (Continued)

Type of Entity ~ partnership; corporation; cooperative, limited liability partnership, limited liability corporation, sole proprietorship, subchapter S corporation.

corporation

Are you subject to a financial institution tax (NDCC § 57-35.3)?

no

What is the expected date of purchase, lease, completion of rehabilitation and / or historical preservation and renovation, and the exact date when it occurs? For purchase with major improvements include the expected and final purchase date, the expected date of occupancy or first rental, and the final dates when they occur.

As soon as application is approved.

RENAISSANCE ZONE PROJECT APPLICATION

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 59291 (5/16)

In order to receive DCS approval on zone projects, the following information must be submitted to the DCS:

1. Type of project

Business Residential Utility Infrastructure Project (UIP)

2. If this is a UIP, project is the applicant a renaissance zone project? Yes No

a. To be considered a Renaissance Zone project, the project would need to take place in the Renaissance Zone and be a utility company.

b. If this is a property owner affected by a UIP not participating in a renaissance zone project, is the property owner in the Renaissance Zone? Yes No

3. Name of applicant(s)/or business name RDA, INC.

If business, type of entity _____

Provide a copy of the Certificate of Good Standing from Tax Department)

Address and renaissance zone block number as it appears in the development plan property listings.

Address 1210 3RD AVE NW #3

City West Fargo, ND 58078 Renaissance Zone Block _____

4. For residential projects provide evidence that the home purchased is the taxpayer's primary residence.

5. Project Type:

a. Purchase (to include new construction)

b. Purchase with major improvements

c. Lease

i. What type of lease?

New Expansion Continuation of a Lease Leasehold Improvement

If this an expansion, what is the additional square feet of the expansion? _____

ii. If it is a lease project, does it involve the relocation of a business from one location in the city to the Renaissance Zone or from one zone property to another zone property? Yes No

d. Rehabilitation

i. Commercial 50% of the True and full value

Or

ii. Residential 20% of the true and full value

iii. Current true and full value \$ _____

iv. For rehabilitation projects, provide a description of the work and the estimated costs.

Work to be Done	Estimated Cost
N/A	

6. Does this project involve historical preservation or renovation? Yes No

a. For projects that involve historical preservation or renovation, but are not part of a rehabilitation project, provide a description of the work and the estimated costs. **A letter of approval from the Historical Society is required to claim any historical tax credits either on a rehabilitation project or renovation.**

b. Information for historical properties may be obtained by contacting the Historical Society at: (701) 328- 2666.

7. For projects other than the purchase (includes new construction) or rehabilitation of a single family home and historical preservation and renovation, describe how the overall benefit(s) of the project to the community meets or exceeds the financial and tax benefit to the businesses or investor.

8. Is the project being funded by a Renaissance Fund Organization? Yes No

If yes, describe the type and amount of financing and name of the Renaissance Fund Organization.

9. Provide the estimated state and local tax benefit to the taxpayer for five years (applies to all projects).

Total State tax benefit for five years \$ 18,000

Total Property tax benefit for five years \$ —

Total Non-participating owner tax credit \$ 18,000

10. Zone Authority and City Documentation:

Date of approval or conditional approval / /

Provide a copy of minutes or other supporting documentation that indicates the formal approval by the approving entity.

11. Identify from the Development Plan the specific criteria used to approve the project

The addition of this tenant to the Restad Industrial Park will help encourage new development in West Fargo as others see the business park full which will lead/encourage renovations + expansions in the surrounding area.

12. Evidence that the taxpayer is current on state taxes. (Taxpayers can contact the Office of State Tax Commissioner to receive a Certificate of Good Standing. This request must indicate that it is for a Renaissance Zone Project.) See Appendix E.

Letter of Good Standing Attached? Yes No

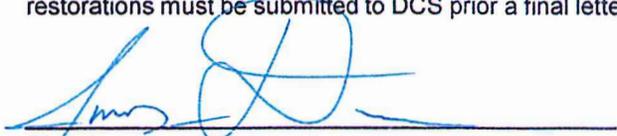
13. Expected date of occupancy 4/1/20

NOTE: The DCS reserves the right to reject a zone-approved project or to continue negotiating its approval. When a project is approved by the DCS, the local zone authority will be notified in writing.

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Once the project is completed, DCS must be informed by email, Fax or letter of the exact date of completion, and project number before the final letter of approval can be issued.

On historical Renovations/rehabilitations documentation from the Historical Society approving the final restorations must be submitted to DCS prior a final letter of approval can be issued.


Signature

2-17-20
Date



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
RYAN RAUSCHENBERGER, COMMISSIONER

February 18, 2020

Ref: L0570857216

RDA INC
118 BROADWAY N STE 619
FARGO ND 58102-4972

RE: Renaissance Zone Certificate Of Good Standing, State Income And Sales Taxes Only

This letter is evidence of good standing as required by the North Dakota Division of Community Services for purposes of obtaining final approval of a renaissance zone project.

As of the date of this letter, the records in the North Dakota Office of State Tax Commissioner do not show probable cause to believe that any income taxes (including income tax withheld from wages) or sales and use taxes are due and owing to the State of North Dakota by the following taxpayer:

Taxpayer's Name: RDA INC
SSN or FEIN: [REDACTED]

This letter must be submitted (as part of the zone project application) to the local zone authority for the renaissance zone in which the proposed zone project will be located. Please keep a copy of this letter for your records.

/s/ Liliya Montgomery
Liliya Montgomery
Supervisor, Individual Income Tax and Withholding
Phone: (701) 328-1296
Email: lmontgomery@nd.gov

BUSINESS INCENTIVE AGREEMENT
NORTH DAKOTA DEPARTMENT OF COMMERCE
 SFN 59686 (10/2018)

(For office use only) Agreement Number

Grantor Reference Number

The RECIPIENT specified below has been approved to receive a business incentive from the state of North Dakota. Therefore, in fulfillment of the requirements of North Dakota Century Code § 54-60.1-03, the grantor of the business incentive (**GRANTOR**) and the entity to receive the business incentive (**RECIPIENT**) must enter into a **Business Incentive Agreement**. This Business Incentive Agreement provides project data and specifies the goals the RECIPIENT has agreed to meet in order to receive the state business incentive.

Should the value of this incentive be less than \$25,000, and should the RECIPIENT receive no additional incentives to bring the total to \$25,000 or more within twelve months, the reporting requirements outlined in North Dakota Century Code § 54-60.1-05 and in this agreement, will not go into effect.

Grantor

Name of GRANTOR/GRANT ADMINISTRATOR	On Behalf Of		
Address	City	State	ZIP Code

Recipient

Name of RECIPIENT Business RDA, Inc.	Also known as RDA, Inc.		
Mailing Address 1210 3rd ave NW STE 3	City West Fargo	State ND	ZIP Code 58078
Street Address 1210 3rd ave NW STE 3	City West Fargo	State ND	ZIP Code 58078
Location of Project (street address, city, county) 1210 3rd ave NW, West Fargo, ND 58078			
Business' Classification of RECIPIENT (3 digit NAICS Code) 236			
Parent Company of RECIPIENT (if any) N/A			
Street Address	City	State	ZIP Code

Recipient Contact Information

Main Contact Person Jim Dura	Email Address JamesDura@AOL.com
Title President	Telephone Number 701-238-9051

Location of Recipient PRIOR to receiving this business incentive (if relocating)

Street Address	City	State	ZIP Code
----------------	------	-------	----------

Business Owners or Shareholders

List the names and addresses of all individuals or shareholders owning twenty percent (20%) or more of this business.

Owner or Shareholder	Mailing Address	City	State	ZIP Code
Jim Dura	1123 3rd ave south	Fargo	ND	58103

Project Information

Benefit Date	4/1/2020	Incentive Value	\$18,000
Project Description Tenant Relocation to a Renaissance zone			
Incentive Description Income tax Incentive			
Is this incentive tax increment financing?	If yes, describe the type of district		Business Investment Value
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

Incentive Type (check one only)

<input type="checkbox"/> Contribution of property or infrastructure	<input type="checkbox"/> Preferential use of government facility
<input type="checkbox"/> Direct cash transfer, loan, or equity investment	<input type="checkbox"/> Guarantee of payment under loan, lease, or other obligation
<input checked="" type="checkbox"/> Reduction or deferral of tax or fee	<input type="checkbox"/> Interest buy-down

Public Purpose (check one only)

<input type="checkbox"/> Assisting community Development	<input type="checkbox"/> Indirectly creating employment opportunities through increased economic activity
<input checked="" type="checkbox"/> Increasing tax base	<input type="checkbox"/> Job retention (only in cases where job loss is specific and demonstrable)
<input type="checkbox"/> Directly creating employment opportunities	

Current Employment, Wages, Benefits and Compensation

Is this a new business or a business with no full-time employees?
 Yes No | If yes, please enter 0 for the current number of jobs, average hourly wage, and average hourly benefits below.
 If no, please enter the current number of jobs, average hourly wage, and average hourly benefits below.

Current number of Full Time Equivalent Employees (FTE's) ¹	Average Hourly Wage ²	Average Hourly Benefits ³	Average Hourly Compensation (Wage plus Benefits) ⁴
11	23.00	0	23.00

Seasonal, explain:

Goal Information

In exchange for the incentive provided by the GRANTOR, the RECIPIENT agrees to, within 2 years (check one only)

Create Jobs Retain Jobs Neither create nor retain jobs⁵

Current number of Full Time Equivalent Employees (FTE's) ¹	Average Hourly Wage ²	Average Hourly Benefits ³	Average Hourly Compensation (Wage plus Benefits) ⁴
14	25.00		25.00

¹ Full time equivalent employees (FTE's) work 32 hours per week or greater. The exception is when a single position is filled by two people. In this instance each person needs to work 20 hours per week or greater to be considered an FTE. Please round job numbers to the nearest 0.5 FTE.

² Wage includes wages, salary, bonuses and commissions.

³ Benefits include health, disability, life and retirement benefits or insurance premiums paid by the employer; an employee's share of payroll taxes paid by the employer; and other fringe benefits such as housing allowance and transportation expense.

⁴ Wage plus benefits.

⁵ If 'Neither create nor retain jobs' is checked, please enter '0' for number of jobs, wage and benefits goals. All RECIPIENTS must file recipient reports as described on page 3 of this document, including those with no job, wage or benefits goals.

In addition to meeting the goals outlined in this document, the RECIPIENT agrees to the following terms as specified by [N.D.C.C. §54-60.1](#):

1. The RECIPIENT shall continue operation in the jurisdiction in which the business incentive is used for five years or more after the benefit date.
2. RECIPIENT reports requesting current job, wage and benefit information will be mailed to the RECIPIENT by the GRANTOR. The RECIPIENT shall complete, sign and return this annual recipient report to the GRANTOR within 60 days of the annual anniversary of the benefit date for a period of two years or until the goals specified in the Business Incentive Agreement have been met, whichever is later.

If the recipient report is not received within those 60 days, the GRANTOR shall mail the RECIPIENT a warning letter. The RECIPIENT then has 14 days from the postmarked date of that warning letter to file a report. If the recipient report is still not received, the RECIPIENT may be charged one hundred dollars (\$100) from the GRANTOR for each subsequent day until the report is received. The maximum penalty under this section may not exceed one thousand dollars (\$1,000).

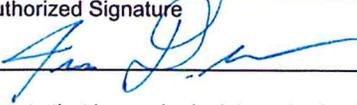
3. If, after 2 years, the job and compensation goals listed in the Business Incentive Agreement are not met, the RECIPIENT shall continue to provide recipient reports to the grantor until the incentive is repaid to the grantor. At a minimum, a recipient that fails to meet business incentive agreement goals shall pay back the value of the incentive to the GRANTOR prorated to reflect any partial fulfillment of the job and compensation goals. There is an exception to this financial obligation for any unmet goals that result from an act of God or terrorism.
4. The Business Incentive Agreement shall only be modified or extended by the GRANTOR pursuant to N.D.C.C. §54-60.1-04.
5. If the terms of the Business Incentive Agreement are not met, RECIPIENT, including all individuals or shareholders owning twenty percent (20%) or more of the business, will not be eligible to receive a business incentive from any GRANTOR for a period of five years from the date of failure or until RECIPIENT satisfies its repayment obligation.

By signing this document, RECIPIENT agrees to the terms noted herein, verifies that it has not failed to meet the terms of any business incentive agreement in the last five years and confirms that it has disclosed, in Attachment "A" of this agreement, all additional financial assistance received from state or political subdivision GRANTORS for this project.

GRANTOR

Title	Authorized Signature	Date

RECIPIENT

Title	Authorized Signature	Date
Jim Dura		2/27/2020

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

ATTACHMENT "A"

RECIPIENT verifies it has received additional financial assistance from state or political subdivision GRANTORS from the following entities for this project since its inception. A listing of incentives from past projects (i.e. past expansions) is not required.

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

LEASE AGREEMENT

THIS LEASE is made and entered into this ___ day of ____, 2020 (the "Effective Date"), between Restad Industrial Park LLC, North Dakota limited liability company, whose post office address is 1206 3rd Ave NW #1, West Fargo, ND 58078, ("Landlord"), and RDA INC a North Dakota corporation, whose post office address is 1210 3rd Ave NW #3, ("Tenant").
West Fargo, ND 58078

WITNESSETH:

1. **PREMISES.** In consideration of the rentals herein reserved and the conditions, covenants and agreements herein contained to be kept, observed and performed by Tenant, Landlord does hereby lease and rent to Tenant premises located at 1210 3rd Ave NW #3 West Fargo, ND 58078.

The Premises consists of one stall and the one exterior parking space without plug-in for gravel truck on east side of plat as shown on Exhibit "A" attached hereto (the "Premises").

2. **TERM.** The term of this Lease shall be for a period of _____ years commencing on _____, 2020, and terminating on _____ ("Term").
3. **RENT.** Tenant shall pay to Landlord, as monthly rental for the Premises, the following sums and at the times hereinafter set forth:

- (a) One thousand Five Hundred (1,500⁰⁰/₁₀₀) Dollars per month, due and payable on the first day of each month during the term of this Lease.
- (b) Tenant agrees that all other sums of money or charges required to be paid by Tenant under the provisions of this Lease shall be deemed to be additional rent and should be included in the term "rent" whenever used in this Lease. If such amounts are not paid by Tenant at the time provided in this Lease, they shall, nevertheless, be collectible from Tenant as additional rent with the next installment of rent thereafter falling due hereunder, but nothing herein contained shall be deemed to suspend or delay the payment of any sum at the time it becomes due and payable hereunder or limit any other remedy of Landlord.
- (c) If the rent or other sums of money or charges required to be paid by Tenant under the provisions of this Lease are not paid on its due date, Tenant shall pay to Landlord a late fee of \$250.00. Following an event of default, any unpaid amounts will accrue interest at the rate of 1.5% per month until payment is received.
- (d) All rentals shall be payable to Restad Industrial Park LLC and addressed to 1206 3rd Ave. NW #1, West Fargo, ND 58078, Attn: Ryan Restad, or to such other person or persons and at such place as the Landlord shall designate in writing.

4. PERMITTED USES. Tenant shall not use the Premises contrary to any valid law of the state or to any valid ordinance of the municipality of which the Premises are a part and no act or thing shall be permitted upon the said Premises which will make void or voidable or increase the cost of any policy of fire insurance thereon. Tenant shall use the Premises solely for operating a **General Construction** and related activities, and shall not use the Premises for any other purpose, except with the prior written consent of Landlord.

5. SECURITY DEPOSIT. Tenant shall pay to Landlord the sum of _____ (\$ _____) as a security deposit. Said deposit shall be held by Landlord without liability for interest, as security for the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease to be kept and performed by said Tenant during the term hereof. If at any time during the term of this Lease any of the rent herein reserved shall be overdue and unpaid, or any other sum payable by Tenant to Landlord hereunder shall be overdue and unpaid, then Landlord may, at its option, appropriate and apply any portion of said deposit to the payment of any such overdue rent or other sum. Also, Landlord at its option may appropriate and apply all or part of said deposit, as necessary, to compensate Landlord for loss or damage sustained or suffered by it due to any breach, default, or neglect of Tenant to keep and perform any of the terms, covenants and conditions of this Lease. Should the entire deposit, or any portion be appropriated and applied by Landlord as provided herein, then Tenant shall, upon written demand, forthwith remit to Landlord a sufficient amount in cash to restore said security to the original sum deposited, and Tenant's failure to do so within five days after receipt of such demand shall constitute a breach of this Lease. Should Tenant comply with all of said terms, covenants and conditions and promptly pay all of the rental as it falls due, and all other sums payable by Tenant to Landlord under this Lease, the deposit shall be returned in full to Tenant at the end of the term of this Lease, or upon its earlier termination as provided herein.

6. TAXES. Landlord shall pay all real estate taxes and special assessments levied and assessed against the Premises during the term of this Lease.

7. INSURANCE. Tenant shall, at its expense, keep the Premises insured against loss by fire, wind, and other extended coverages and such other casualties as are presently included in the form of casualty insurance commonly known as the special forms endorsement for the full insurable value of the Premises. Landlord shall be as an additional insured.

Tenant shall, at its expense, keep its equipment, fixtures, and personal property on the Premises insured against loss by fire, wind and other extended coverages and such other casualties as are presently included in the form of casualty insurance commonly known as the special forms endorsement.

Tenant shall, at its expense, maintain comprehensive general liability insurance. Such liability insurance shall include products, broad form property damage, blanket, contractual, personal injury and owned and non-owned auto liability, and shall be in such amounts as Landlord shall approve and naming Landlord as an additional insured.

All insurance required under this Lease by Tenant shall: (1) be effected under valid enforceable policies issued by insurers of recognized responsibility and authorized to do business in North Dakota; (2) be in effect as of the first day of this Lease and continue until expiration of this Lease; (3) require at least thirty (30) days' notice to Landlord of any cancellation; and (4) include the Landlord as an insured and as an additional insured. Tenant shall, upon the request of the Landlord and at least annually, provide Landlord and its lender with a Certificate of Insurance evidencing the insurance coverages required by this Lease.

8. UTILITIES. Tenant shall furnish all electricity, water, gas, heat, telephone, internet, and any and all other utilities used by Tenant on the Premises at Tenant's expense. Landlord shall have no obligation or liability for any such expense, or expenses of similar nature.
9. WAIVER OF SUBROGATION. Each party hereto hereby waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies. This waiver shall apply only when permitted by the applicable insurance policy.
10. MAINTENANCE AND REPAIRS. Landlord shall keep the foundation, exterior walls, roof and other items which may be considered structural in nature in good repair but shall not be otherwise obligated to repair or replace any parts of the Premises except as provided in this Section 11. Landlord shall be responsible for keeping the driveways, sidewalks and parking lots in a good and clean order and condition, including snow removal.

Tenant shall, at its own expense, keep the Premises and equipment, fixtures, and appliances in and upon the Premises in good repair and in good sanitary condition during the term of this Lease and shall replace all broken glass with glass of the same quality. Tenant will maintain and keep in good repair the interior portions of the Premises including exterior doors. Tenant, at its expense, shall maintain the heating, ventilating and air-conditioning systems of the Premises in good condition and repair. In the event that the heating, ventilating or air-conditioning systems of the Premises need to be replaced, as determined by Landlord, then Landlord shall be responsible for the replacement of such system or systems.

If Tenant does not repair or replace any parts of the Premises as required by this Lease, Landlord may repair the same, at Landlord's discretion, after having given written notice of such need to Tenant. In such event Tenant shall pay to Landlord the costs of such repairs as additional rent. In the event Landlord does not repair or replace any parts of the Premises as required by this Lease, Tenant may repair the same, at its discretion, after having given written notice of need to Landlord and may deduct the costs of such repairs from the rental provided for herein.

Landlord shall not be liable or responsible for any damage, loss or inconvenience for failure to furnish heat, air conditioning, water and electrical services when such failure is caused by conditions beyond Landlord's control, by acts of God, strikes, lockouts, embargoes, material shortages, war or accidents, or when such failure arises out of

maintenance or the making of inspections, repairs, alterations, changes or improvement in any part of the buildings of which the Premises are a part, or the failure of outside agencies to furnish any such services if any of such services are furnished by outside agencies. The failure to furnish any of said utilities or services shall not constitute an eviction from the Premises or work a reduction, discontinuance or delay in the payment of rent.

11. CONDITION OF PREMISES. Tenant shall take possession of the Premises as presently constituted "AS IS" and "WITH ALL FAULTS", and without warranty of any kind, express or implied, including implied warranties of fitness for a particular purpose. The taking of possession by Tenant shall be conclusive evidence that the Premises, equipment, fixtures, and appliances were when possession was taken in all respects in satisfactory and acceptable condition and that nothing further is required of Landlord to make them suitable for the occupancy of Tenant or to conform to the terms and conditions of this Lease, except as may be otherwise agreed in writing. Notwithstanding the foregoing, Landlord will install air conditioning to service the main floor and upper floor office space of the Premises at Landlord's sole expense, prior to _____, 2020.
12. NUISANCE AND INJURY TO PREMISES. Tenant shall not deface, injure or mar the Premises or overload the floors, driveways, or parking lots, and shall not do or permit to be done thereon, or in the passages, alleys, areas, stairways, or on the sidewalks or streets adjacent thereto, anything that will amount to or create a nuisance.
13. ENVIRONMENTAL. Tenant shall take all necessary precautions to prevent the deposit or placing, and to immediately remove hazardous materials, fumes and odors from the Premises, except those as a result of Landlord's or any previous owner's occupancy of the Premises. Tenant, at its expense, shall be responsible for the installation of all necessary and appropriate equipment, including storage facilities to comply with environmental laws and regulations, such equipment to be duly approved by governmental authority where appropriate and required.

Tenant shall at all times conform to city, county, state and federal and other governmental guidelines relating to the disposal of hazardous substances including the maintenance, control and disposal of such hazardous substances. For the purpose of this Lease "hazardous substances" means hazardous waste, toxic substances as may be defined by state or federal ordinance, statute or regulation. Tenant shall defend, at Tenant's expense and at all times indemnify and hold Landlord harmless from any lien, claim, action or demand by any governmental agency or third party for damages, remedial or otherwise, resulting from the presence, release or disposal of any hazardous substance located on or generated from the Leased Premises except those as a result of Landlord's or any previous owner's occupancy of the Leased Premises. If Landlord becomes aware of any such claim and Landlord so notifies Tenant, Tenant shall have a reasonable period of time for the circumstances to cure the default resulting from Tenant's breach of this provision.

14. ALTERATIONS INCLUDING WIRING. No alterations, additions or improvements to the Premises shall be made without the prior written consent of the Landlord. The plans

and specifications regarding any such improvements shall be submitted to the Landlord prior to commencement of such work. This includes any and all changes to wiring of any kind including, but not limited to, electrical, TV, telephone, computer lines, satellite or microwave equipment, TV towers and the like. All alterations, additions, or improvements made upon consent of the Landlord by the Tenant shall be made at the Tenant's expense. Once Tenant receives written consent from Landlord for alterations or additions, the Landlord reserves the right of prior inspection and approval of the written contracts of the contractor, material suppliers, and subcontractors before they are entered into. Each such contract should provide that it cannot be modified in any way without utilizing a written change order approved in writing both by Tenant and Landlord. Tenant agrees to pay when due all bills for labor, services, materials, supplies or equipment furnished to or for Tenant in or about the Premises and keep the Premises and the buildings of which the Premises are a part free from all liens or rights to liens or claims to liens of mechanics and material suppliers for work done or materials furnished to Tenant. In the event a lien is placed on the Premises, Tenant agrees to either pay the lien or have it bonded within ten (10) days after the filing thereof. All improvements, additions and alterations to the Premises shall adhere thereto and become the property of Landlord, with the exception of such additions as are usually classified as furniture and operating equipment.

Notwithstanding the foregoing, the parties acknowledge Tenant will be completing the build-out of the upper level office space, provided Tenant provides and Landlord approves plans and specifications regarding such improvements within 30 days after execution of this Lease. Tenant specially acknowledges and agrees the build-out of the upper level office space shall include windows overlooking the bay. Such improvements and alterations shall be completed by Tenant within 12 months after the execution of this Lease and shall be completed by Tenant at Tenant's sole expense.

15. DAMAGE OR DESTRUCTION. If the Premises shall be partially or totally damaged by fire or other casualty so as to become partially or totally untenable, the Premises shall be rebuilt as soon as reasonably possible at the expense of Landlord unless Landlord shall elect not to rebuild as provided below. If Tenant's business is substantially interfered with, a proportionate part of the rent shall be abated until the Premises are rebuilt within a reasonable period of time.

If the Premises shall be destroyed or damaged by fire or other casualty to the extent of fifty percent (50%) or more of the cost of replacement, or if the Premises shall be damaged by a cause or casualty not covered by insurance, Landlord may elect to rebuild or give notice terminating this Lease. Landlord shall give written notice to Tenant of its election within thirty (30) days after damage or destruction.

If Landlord repairs or rebuilds after damage, Landlord's obligation shall be limited to rebuilding or restoring the Premises to a condition substantially the same as prior to the damage. Tenant shall be solely responsible for repairing or replacing all its exterior and interior signs, trade fixtures, furniture, equipment, display cases, decorations and other personal property and improvements originally installed by Tenant at its expense to the

extent Tenant determines to repair or replace such fixtures, furniture, equipment, personal property and improvements.

Tenant shall give Landlord immediate notice of any damage or destruction to the Premises. Receipt of notice by Landlord shall be the starting date for the time required in this section.

16. LANDLORD NOT LIABLE. Tenant shall be in exclusive control and possession of the Premises and Landlord, Landlord's agents and employees, shall not be liable for any injury or damage to any property or to any person on the Premises nor for any injury or damage to any property of Tenant, including, but not limited to any damages, caused by or growing out of any defect in the building or on the Premises or caused by or growing out of fire, the elements or other causes.
17. INDEMNITY. Tenant covenants and agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, claims, actions, damages, liability, costs and expense including reasonable attorney's fees in connection with loss of life, personal or bodily injury, damage to property, or litigation arising from or out of any occurrence in, upon or at the Premises (and the adjoining streets and sidewalks) or the occupancy or use by Tenant of the Premises, or occasioned anywhere wholly or in part by any act, neglect, or omission of Tenant, its agents, contractors, employees, servants, lessees or concessionaires. Tenant shall defend, indemnify, and hold Landlord harmless against any loss or claim for damages or expense of any kind, including attorney's fees incurred by Landlord arising out of Tenant's failure to perform any of the terms or conditions of this Lease or any mechanic's lien or security interest filed against the Premises.
18. PARKING. Tenant shall have an assigned parking space as identified on the attached Exhibit A.
19. SIGNAGE. Tenant shall not install any signs on the exterior of the Premises without the prior written approval of Landlord. Upon the termination of this Lease, Tenant shall remove and repair any damage caused by Tenant's signage.
20. QUIET POSSESSION. Landlord covenants with Tenant that on paying the rent reserved and performing the covenants and agreements herein contained, and agreed to be performed on the part of Tenant, Tenant shall at all times during the term of this Lease, peaceably and quietly have, hold and enjoy the Premises.
21. LIENS. Tenant shall not permit any mechanic's or other lien to stand against the Premises or the Landlord arising out of any act or omission of Tenant. Tenant may contest the validity or amount of any lien if Tenant shall give Landlord security required by Landlord to insure payment or prevent any forfeiture of the Premises. Tenant shall pay any judgment and have all liens released or judgments satisfied at Tenant's expense.
22. REQUIREMENTS OF PUBLIC AUTHORITY. Tenant shall comply with all covenants and restrictions of record, and all laws, ordinances and regulations of governmental

authority which affect the Premises, the buildings, improvements, business or use thereof. Tenant shall obtain, at its own expense, all licenses and permits necessary for Tenant's business. Tenant shall defend and hold Landlord harmless from the consequences of any violations of such laws, ordinances, or regulations.

23. DEFAULT. If Tenant shall fail to pay the rent when due or default in any of the provisions of this Lease, or if Tenant shall make an assignment for the benefit of creditors, enter bankruptcy, receivership or insolvency, Landlord may, at Landlord's election, give notice to Tenant in writing specifying the default. Tenant shall have twenty (20) days after notice is sent to cure the default. If default continues thereafter, Landlord may declare the term ended and re-enter the Premises without a forfeiture of rents to become due hereunder, either with or without process of law and to expel the Tenant and all persons on the Premises, using force as may be necessary to repossess and enjoy the Premises without prejudice to any other remedy which might be available. Landlord may re-rent at a price and terms as Landlord determines, and receive the rent applying it first to payment of the rent due under this Lease, after all expenses of re-rental, including advertising, rental commissions, decorating, repairs and maintenance. Tenant shall pay any deficiency and remain liable for failure to comply with all terms and conditions of the Lease. Landlord may, but is not obligated to make payments or to keep covenants required of Tenant under this Lease. All expenses of Landlord in so doing shall be additional rent and paid by Tenant to Landlord. The specified remedies to which the Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which the Landlord may be lawfully entitled in case of any breach or threatened breach by the Tenant of any provision or provisions of this Lease.

If Landlord is in default under this Lease, Landlord shall have a reasonable time to cure the default after written notice specifying the default to Landlord by Tenant.

24. NONWAIVER. No waiver by a party of any breach by the other of its obligations hereunder shall be a waiver of any other subsequent or continuing breach. Forbearance by a party to seek a remedy for any breach by the other shall not be a waiver of its rights or remedies with respect to the breach.

25. CONDEMNATION. If the entire Premises are taken in condemnation proceedings, or as the result of negotiations in lieu of condemnation, this Lease shall automatically terminate as of the date of taking. If any portion of the Premises is taken by condemnation, either party shall have the right to terminate this Lease as of the date of the taking upon notice thereof to the other party within ninety (90) days after the date of taking. If a portion of the Premises is taken by condemnation proceedings and this Lease is not terminated as provided above, Landlord shall, subject to the provisions of any mortgage covering the Premises, restore the Premises to as near the condition which existed immediately prior to the date of taking as reasonably possible. Damages awarded for the taking of any or a portion of the Premises pursuant to condemnation or pursuant to a negotiated settlement in lieu of condemnation, shall be the property of Landlord. Nothing herein shall give Landlord any interest in or preclude Tenant from seeking and recovering on its own account from the condemning authority any award or compensation attributable to Tenant's relocation expenses, provided that any such separate claim by Tenant

shall not reduce or adversely affect the amount of Landlord's award. If any such award made or compensation paid to either party specifically includes an award or amount for the other, the party first receiving the same shall promptly account therefor to the other. If the portion of the Premises remaining after a partial taking is inadequate for the continued operation of Tenant's business at the Premises, as determined by Tenant in Tenant's reasonable business judgment, Tenant shall have the right to terminate this Lease.

26. ASSIGNMENT. Tenant shall not assign, sublet or mortgage this Lease or any right hereunder without prior written consent of Landlord. In the event of such assignment or transfer, with the consent of Landlord, the transferee or sublessee shall assume all the obligations of this Lease, and any renewal thereof, imposed on the Tenant, provided that such assignment or subletting does not release the Tenant herein from the covenants and obligations hereof and Tenant shall continue to be bound by all of the terms and conditions hereof.
27. SUBORDINATION AND NONDISTURBANCE. Landlord shall have the right to place upon Premises any mortgages which Landlord or its lender(s) deem advisable. Such mortgages shall have priority over this Lease and Tenant's rights hereunder. At Landlord's request, Tenant shall execute any and all instruments necessary to subject and subordinate this Lease to any such mortgages, on the condition that each such mortgagee executes a non-disturbance agreement in favor of Tenant which provides that so long as Tenant is not in default of this Lease, Tenant's right to possession of the Premises and Tenant's rights under this Lease, including, without limitation, any right to terminate, shall not be affected or disturbed by the mortgagee in the exercise of any of its rights or remedies against Landlord, nor shall Tenant be named as a party defendant to any foreclosure of the lien or mortgage. Furthermore, Tenant shall, within ten (10) days after receipt of a request therefor, execute and deliver to Landlord an estoppel certificate setting forth the name of Tenant, the date of this Lease, a description of the Premises and the rent payable therefor, and certifying that this Lease is either in full force and effect or specifically enumerating any conditions of default with respect thereto.
28. RIGHT TO ENTER. Landlord and its agents shall have the right during the final one hundred eighty (180) days of the Lease term and any renewal thereof to enter upon the Premises and post signs and notices that the Premises is for sale or lease and to show the Premises to a prospective lessee or buyer. Tenant covenants and agrees to cooperate with Landlord and its agents in showing and permitting to be shown the Premises to the general public.
29. SURRENDER. On the last day of the term of this Lease, or the earlier termination hereof, Tenant will peaceably surrender the Premises to Landlord. At the termination of this Lease, Tenant shall, at Tenant's expense, if Landlord so elects, remove all alterations and additions erected by Tenant and restore the Premises to their original condition, ordinary wear and tear excepted; otherwise such improvements shall be delivered up to Landlord with the Premises. All moveable office furnishings, trade fixtures, and equipment installed by Tenant may be removed by Tenant at the termination of this Lease, if Tenant so elects, and shall be removed if required by Landlord. All such

removals and restoration shall be accomplished in a good and workmanlike manner so as not to damage the Premises. Personal property remaining in the Premises at the expiration or termination of this Lease shall be deemed abandoned, and Landlord may dispose of the same as Landlord deems expedient. Tenant will promptly surrender all keys for the Premises to Landlord at the place then fixed for payment of rent and will inform Landlord of combinations on any locks and safes on the Premises.

- 30. HOLDING OVER. If, without Landlord's written consent, Tenant remains in possession of the Premises after the expiration or other termination of this Lease, Tenant shall be deemed to be occupying the Premises upon a tenancy at will only, at a monthly rental equal to 125% of the monthly rent (1/12th of the last annual rent) otherwise payable hereunder on the last day of the term of this Lease immediately prior to the expiration or termination of such term. Such tenancy at sufferance may be terminated by Landlord at any time by notice to Tenant at least thirty (30) days in advance of such termination. Any month-to-month tenancy or tenancy at will hereunder will be subject to all other terms and conditions of this Lease and nothing contained in this Section 31 will be construed to limit or impair any of Landlord's rights of reentry or eviction or constitute a waiver thereof.
- 31. NOTICES. All notices, requests, consents or other communications which are required or permitted to be given by either party to the other shall be in writing delivered to the other party by registered or certified mail with postage prepaid, addressed as follows:

To Landlord:

To Tenant:

- 32. ATTORNEY FEES. If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal shall be entitled to its reasonable attorney's fees to be paid by the losing party as fixed by the court. The provisions of this paragraph shall inure to the benefit of the party named herein who seeks to enforce a right hereunder.
- 33. OBLIGATION OF PARTIES. The agreements in this Lease shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.

- 34. RELATIONSHIP OF PARTIES. Nothing contained in this Lease shall be construed to create a relationship of principal and agent, partnership, joint venture or association between Landlord and Tenant. Neither the method of computing rent or any act of the parties shall create any relationship between the parties other than the relationship of Landlord and Tenant.
- 35. GOVERNING LAW. This Lease covers real property in North Dakota, and shall be construed according to North Dakota law. Invalidity of any provision of this Lease shall not affect the validity of any other provision. Any dispute arising out of this Lease shall be venued in district court in Cass County, North Dakota.
- 36. CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this Lease. In the event of any ambiguity or question of intent or interpretation arising, this Lease shall be construed as drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Lease.
- 37. SEVERABILITY. If any term, condition or provision of this Lease shall to any extent be held to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and shall continue to be effective and binding on the parties and complied with to the full extent permitted by law.
- 38. ENTIRE AGREEMENT. This Lease contains the entire agreement between the parties and there are no oral understandings or agreements other than those set out herein. This Lease cannot be altered or amended in any way except by a written agreement signed by the parties. All provisions of this Lease, including indemnification provisions, intended to continue after the termination of this Lease shall survive the termination of this Lease.
- 39. COUNTERPARTS. This Lease may be executed in whole or in separate counterparts, all of which together shall constitute one agreement. Copies of signature pages delivered by one party to the other by electronic communications (e.g., fax or email) shall be deemed to constitute original signatures

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

LANDLORD:

TENANT:

By: _____
Its: _____

By: _____
Its: _____

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # _____

***Please Note: The following information must be completed and submitted to the West Fargo City Auditor's Office by the Thursday noon preceding the City Commission meeting. Failure to comply may result in no action being taken on your request.

1. CONTACT PERSON: Malachi Petersen

2. PHONE NUMBER: 701-433-5324 DATE: March 12, 2020

3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:

The City of West Fargo has received an application for a Renaissance Zone income tax incentive for Krog Transport LLC. The application was reviewed and recommended for approval by a unanimous vote of the Economic Development Advisory Committee at their March 4, 2020 meeting.

4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):

1210 3rd Ave NW Ste #4 West Fargo ND 58078

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Consideration for Approval of the Renaissance Zone application for Krog Transport LLC with a condition that all requirements of the Renaissance Zone Program are met.

STAFF REPORT

Project Name: Kroeg Transport LLC
Project Location: Rusted Industrial Park, 1210 3rd Ave NW STE #4 West Fargo ND 58078
Contact Name: Jerry Kroeg
Contact Phone: 701-219-3828
Email: Jerrikb@kroegtransport.com
Purpose: Applying for a tenant tax incentive for locating in an R2
Background: Tenant will be located in Rusted Industrial Park
Timeline: As soon as possible

Assessment Department	YES	NO
Property Taxes Current	✓	
Additional Notes:	N/A 02-0801-00010-000	
Planning Department	YES	NO
Property in Corridor Overlay District		X
Property in Renaissance Zone	X	
Property in Main Ave Corridor		NA
Main Ave Corridor Conditions Met		NA
Zoning Appropriate for Proposed Project	X	
Sufficient/Appropriate Parking Included	X	
Landscape Submitted/Reviewed		NA
Additional Notes:		
Economic Development Department	YES	NO
Project Located in Existing Incentive Program	X	
Project Eligible for Local Incentives		X
Project Eligible for State Incentives	X	
Project Operator Received Tax Incentives within Past 5 years		X
City Granted Tax Incentive on Similar Project within Past 5 years	X	
Is there Precedent for Proposed Tax Incentive	X	
Does City Recommend Approval of Application	X	
Score:		
Reasons:		
Additional Notes:		

T = 2.
5/1/20

-MP
2/28/2020

City of West Fargo Renaissance Zone Project Application

Proposed Renaissance Zone projects must be submitted to and approved by West Fargo City and the State of North Dakota prior to start of construction. Please submit a project proposal that addresses the following items:

What is the legal description and street address of proposed project?

1210 3rd Ave NW #4
West Fargo, ND 58078

Who are the current property owners?

Restad Industrial Park LLC

Contact phone number where you may be reached 701-214-3828

Email address you can be reached at Jerryk@Krogtransport.com

List the name of applicant and their Tax I.D. Number or Social Security Number.

Applicant's Name: Krog Transport, LLC

Tax ID #: [REDACTED]

SSN: _____

What is the current use of property?

Warehouse bay for equipment storage & work area for equipment. Office space / bathroom for management within the bay

What is the square footage of the lot and of the building – each floor should be listed separately.

Main bay approximately 2,700 sq ft
within main bay approximately 272 sq ft for office & bathroom

Type of investment ~ Is the project being funded by a Renaissance Fund Organization? If so, describe the type and amount of financing and the name of the Renaissance Fund Organization. If the project is being financed through a loan or personal financing, please indicate so.

NO

Describe scope of work, including a detailed cost estimate of the work to be completed.

Business will move into new tenant location.

Provide a break out of capital improvements.

N/A. Tenant Application.

Estimate the value of the building after improvements have been completed and provide the estimated state income tax and local property tax benefit you will receive each of the five years.

N/A. Tenant Application.

Describe how the project meets the zone's goals, objectives and guidelines.

Project is the addition of a business to West Fargo
and will indirectly assist in economic activity in the city with the possibility
of additional high quality jobs. Will increase tax base.

Extent of the exterior renovation and/or property improvements – include site plans and building plans or renderings as attachments.

N/A. Tenant Application.

A building permit must be obtained for the work. If known at this time, please include the permit number _____ and permit date: ___/___/___.

Provide documentation that the project cost meets the city's minimum criteria. Please attach copies of all cost estimates.

N/A. Tenant Application

Are income and property taxes current? Attach a copy of a Certificate of Good Standing from the State Tax Commissioner and copies of receipts showing proof that local real estate taxes have been paid.

Yes, See attached.

For residential applicants only ~ please answer the following question:

Please provide evidence that the home is the taxpayer's primary residence.

N/A

For commercial and investment applicants only ~ please answer the following questions:

What is the business name or investor's name (trade name, doing business as)?

Krag Transport, LLC

What is the legal name of business, if different from trade name?

What is the mailing address ~ if different from property address?

For commercial and investment applicants only (Continued)

Type of Entity ~ partnership; corporation; cooperative, limited liability partnership, limited liability corporation, sole proprietorship, subchapter S corporation.

LLC

Are you subject to a financial institution tax (NDCC § 57-35.3)?

NO

What is the expected date of purchase, lease, completion of rehabilitation and / or historical preservation and renovation, and the exact date when it occurs? For purchase with major improvements include the expected and final purchase date, the expected date of occupancy or first rental, and the final dates when they occur.

AS SOON AS APPLICATION IS APPROVED.

Submit Project Proposals to:
Economic Development and Community Services Director,
800 4th Ave E, West Fargo, ND 58078 701-433-5311

RENAISSANCE ZONE PROJECT APPLICATION

NORTH DAKOTA DEPARTMENT OF COMMERCE

DIVISION OF COMMUNITY SERVICES

SFN 59291 (5/16)

In order to receive DCS approval on zone projects, the following information must be submitted to the DCS:

1. Type of project

Business Residential Utility Infrastructure Project (UIP)

2. If this is a UIP, project is the applicant a renaissance zone project? Yes No

- a. To be considered a Renaissance Zone project, the project would need to take place in the Renaissance Zone and be a utility company.
- b. If this is a property owner affected by a UIP not participating in a renaissance zone project, is the property owner in the Renaissance Zone? Yes No

3. Name of applicant(s)/or business name Krog Transport, LLC
If business, type of entity Transportation

Provide a copy of the Certificate of Good Standing from Tax Department)

Address and renaissance zone block number as it appears in the development plan property listings.

Address 1210 3rd Ave NW # 4
City West Fargo ND 58078 Renaissance Zone Block _____

4. For residential projects provide evidence that the home purchased is the taxpayer's primary residence.

5. Project Type:

- a. Purchase (to include new construction)
- b. Purchase with major improvements
- c. Lease
 - i. What type of lease?
New Expansion Continuation of a Lease Leasehold Improvement

If this an expansion, what is the additional square feet of the expansion? _____

- ii. If it is a lease project, does it involve the relocation of a business from one location in the city to the Renaissance Zone or from one zone property to another zone property? Yes No

d. Rehabilitation

- i. Commercial 50% of the True and full value
- Or
- ii. Residential 20% of the true and full value

iii. Current true and full value \$ N/A

iv. For rehabilitation projects, provide a description of the work and the estimated costs.

Work to be Done	Estimated Cost
N/A	

6. Does this project involve historical preservation or renovation? Yes No

a. For projects that involve historical preservation or renovation, but are not part of a rehabilitation project, provide a description of the work and the estimated costs. **A letter of approval from the Historical Society is required to claim any historical tax credits either on a rehabilitation project or renovation.**

b. Information for historical properties may be obtained by contacting the Historical Society at: (701) 328-2666.

7. For projects other than the purchase (includes new construction) or rehabilitation of a single family home and historical preservation and renovation, describe how the overall benefit(s) of the project to the community meets or exceeds the financial and tax benefit to the businesses or investor.

N/A

8. Is the project being funded by a Renaissance Fund Organization? Yes No

If yes, describe the type and amount of financing and name of the Renaissance Fund Organization.

9. Provide the estimated state and local tax benefit to the taxpayer for five years (applies to all projects).

Total State tax benefit for five years \$ 23,000.00

Total Property tax benefit for five years \$ N/A

Total Non-participating owner tax credit \$ N/A

10. Zone Authority and City Documentation:

Date of approval or conditional approval / /

Provide a copy of minutes or other supporting documentation that indicates the formal approval by the approving entity.

11. Identify from the Development Plan the specific criteria used to approve the project

The addition of this tenant to the Rested Industrial Park will help encourage new development in West Fargo as others see the park full and booming which will hopefully lead / encourage renovations + expansions in the surrounding area.

12. Evidence that the taxpayer is current on state taxes. (Taxpayers can contact the Office of State Tax Commissioner to receive a Certificate of Good Standing. This request must indicate that it is for a Renaissance Zone Project.) See Appendix E.

Letter of Good Standing Attached? Yes No

13. Expected date of occupancy 4 / 1 / 20

NOTE: The DCS reserves the right to reject a zone-approved project or to continue negotiating its approval. When a project is approved by the DCS, the local zone authority will be notified in writing.

If after a project is approved and the property changes hands or a replacement project is approved during the five year exemption period, the DCS does not need to approve the transfer or the replacement project. The zone authority, however, must notify the DCS of the change and provide the applicable information about the new homeowners, business, and/or investor. The zone authority must also notify the DCS if any other change occurs in the status of the business or investor tax would affect the exemption approved.

Once the project is completed, DCS must be informed by email, Fax or letter of the exact date of completion, and project number before the final letter of approval can be issued.

On historical Renovations/rehabilitations documentation from the Historical Society approving the final restorations must be submitted to DCS prior a final letter of approval can be issued.

Donald R. King
Signature

2/17/2020
Date



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
RYAN RAUSCHENBERGER, COMMISSIONER

February 25, 2020

Ref: L1008056064

KROG TRANSPORT LLC
1210 3RD AVE NW STE 4
WEST FARGO ND 58078-1374

RE: Renaissance Zone Certificate Of Good Standing, State Income And Sales Taxes Only

This letter is evidence of good standing as required by the North Dakota Division of Community Services for purposes of obtaining final approval of a renaissance zone project.

As of the date of this letter, the records in the North Dakota Office of State Tax Commissioner do not show probable cause to believe that any income taxes (including income tax withheld from wages) or sales and use taxes are due and owing to the State of North Dakota by the following taxpayer:

Taxpayer's Name: KROG TRANSPORT LLC
SSN or FEIN: [REDACTED]

This letter must be submitted (as part of the zone project application) to the local zone authority for the renaissance zone in which the proposed zone project will be located. Please keep a copy of this letter for your records.

/s/ Liliya Montgomery
Liliya Montgomery
Supervisor, Individual Income Tax and Withholding
Phone: (701) 328-1296
Email: lmontgomery@nd.gov

BUSINESS INCENTIVE AGREEMENT
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 SFN 59686 (10/2018)

(For office use only) Agreement Number
Grantor Reference Number

The RECIPIENT specified below has been approved to receive a business incentive from the state of North Dakota. Therefore, in fulfillment of the requirements of North Dakota Century Code § 54-60.1-03, the grantor of the business incentive (GRANTOR) and the entity to receive the business incentive (RECIPIENT) must enter into a **Business Incentive Agreement**. This Business Incentive Agreement provides project data and specifies the goals the RECIPIENT has agreed to meet in order to receive the state business incentive.

Should the value of this incentive be less than \$25,000, and should the RECIPIENT receive no additional incentives to bring the total to \$25,000 or more within twelve months, the reporting requirements outlined in North Dakota Century Code § 54-60.1-05 and in this agreement, will not go into effect.

Grantor

Name of GRANTOR/GRANT ADMINISTRATOR <i>CITY of West Fargo</i>	On Behalf Of <i>State of North Dakota</i>		
Address <i>800 4th AVE</i>	City <i>West Fargo</i>	State <i>ND</i>	ZIP Code <i>58078</i>

Recipient

Name of RECIPIENT Business <i>Krog Transport, LLC</i>	Also known as		
Mailing Address <i>1210 3rd Ave NW #4</i>	City <i>West Fargo</i>	State <i>ND</i>	ZIP Code <i>58078</i>
Street Address	City	State	ZIP Code
Location of Project (street address, city, county)			
Business Classification of RECIPIENT (3 digit NAICS Code)			
Parent Company of RECIPIENT (if any)			
Street Address	City	State	ZIP Code

Recipient Contact Information

Main Contact Person <i>Gerald R. Krog</i>	Email Address <i>Jerryk@Krogtransport.com</i>
Title <i>V-P</i>	Telephone Number <i>701-219-3823</i>

Location of Recipient PRIOR to receiving this business incentive (if relocating)

Street Address	City	State	ZIP Code
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Business Owners or Shareholders

List the names and addresses of all individuals or shareholders owning twenty percent (20%) or more of this business.

Owner or Shareholder	Mailing Address	City	State	ZIP Code
<i>DeAnne L. Krog</i>	<i>25622 267th Ave</i>	<i>Fergus Falls</i>	<i>MN</i>	<i>56537</i>
<i>Gerald R. Krog</i>	<i>25622 267th Ave</i>	<i>Fergus Falls</i>	<i>MN</i>	<i>56537</i>
<i>Eric R. Krog</i>	<i>625 West Summit Ave</i>	<i>Fergus Falls</i>	<i>MN</i>	<i>56537</i>
<i>Brian T. Krog</i>	<i>725 13 1/2 Ave East</i>	<i>West Fargo,</i>	<i>ND</i>	<i>58078</i>

Project Information

Benefit Date 4/1/2020	Incentive Value \$23,000
Project Description Tenant Relocation to a Renaissance zone	
Incentive Description Income tax Incentive	
Is this incentive tax increment financing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, describe the type of district
Business Investment Value	

Incentive Type (check one only)

<input type="checkbox"/> Contribution of property or infrastructure	<input type="checkbox"/> Preferential use of government facility
<input type="checkbox"/> Direct cash transfer, loan, or equity investment	<input type="checkbox"/> Guarantee of payment under loan, lease, or other obligation
<input checked="" type="checkbox"/> Reduction or deferral of tax or fee	<input type="checkbox"/> Interest buy-down

Public Purpose (check one only)

<input type="checkbox"/> Assisting community Development	<input type="checkbox"/> Indirectly creating employment opportunities through increased economic activity
<input checked="" type="checkbox"/> Increasing tax base	<input type="checkbox"/> Job retention (only in cases where job loss is specific and demonstrable)
<input type="checkbox"/> Directly creating employment opportunities	

Current Employment, Wages, Benefits and Compensation

Is this a new business or a business with no full-time employees?
 Yes No
 If yes, please enter 0 for the current number of jobs, average hourly wage, and average hourly benefits below.
 If no, please enter the current number of jobs, average hourly wage, and average hourly benefits below.

Current number of Full Time Equivalent Employees (FTE's) ¹	Average Hourly Wage ²	Average Hourly Benefits ³	Average Hourly Compensation (Wage plus Benefits) ⁴
5	\$19.16	\$4	\$23.16

Seasonal, explain:

Goal Information

In exchange for the incentive provided by the GRANTOR, the RECIPIENT agrees to, within 2 years (check one only)

Create Jobs Retain Jobs Neither create nor retain jobs⁵

Current number of Full Time Equivalent Employees (FTE's) ¹	Average Hourly Wage ²	Average Hourly Benefits ³	Average Hourly Compensation (Wage plus Benefits) ⁴
			0.00

¹ Full time equivalent employees (FTE's) work 32 hours per week or greater. The exception is when a single position is filled by two people. In this instance each person needs to work 20 hours per week or greater to be considered an FTE. Please round job numbers to the nearest 0.5 FTE.

²Wage includes wages, salary, bonuses and commissions.

³ Benefits include health, disability, life and retirement benefits or insurance premiums paid by the employer; an employee's share of payroll taxes paid by the employer; and other fringe benefits such as housing allowance and transportation expense.

⁴Wage plus benefits.

⁵If 'Neither create nor retain jobs' is checked, please enter '0' for number of jobs, wage and benefits goals. All RECIPIENTS must file recipient reports as described on page 3 of this document, including those with no job, wage or benefits goals.

ATTACHMENT "A"

RECIPIENT verifies it has received additional financial assistance from state or political subdivision GRANTORS from the following entities for this project since its inception. A listing of incentives from past projects (i.e. past expansions) is not required.

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

In addition to meeting the goals outlined in this document, the RECIPIENT agrees to the following terms as specified by N.D.C.C. §54-60.1:

1. The RECIPIENT shall continue operation in the jurisdiction in which the business incentive is used for five years or more after the benefit date.
2. RECIPIENT reports requesting current job, wage and benefit information will be mailed to the RECIPIENT by the GRANTOR. The RECIPIENT shall complete, sign and return this annual recipient report to the GRANTOR within 60 days of the annual anniversary of the benefit date for a period of two years or until the goals specified in the Business Incentive Agreement have been met, whichever is later.

If the recipient report is not received within those 60 days, the GRANTOR shall mail the RECIPIENT a warning letter. The RECIPIENT then has 14 days from the postmarked date of that warning letter to file a report. If the recipient report is still not received, the RECIPIENT may be charged one hundred dollars (\$100) from the GRANTOR for each subsequent day until the report is received. The maximum penalty under this section may not exceed one thousand dollars (\$1,000).

3. If, after 2 years, the job and compensation goals listed in the Business Incentive Agreement are not met, the RECIPIENT shall continue to provide recipient reports to the grantor until the incentive is repaid to the grantor. At a minimum, a recipient that fails to meet business incentive agreement goals shall pay back the value of the incentive to the GRANTOR prorated to reflect any partial fulfillment of the job and compensation goals. There is an exception to this financial obligation for any unmet goals that result from an act of God or terrorism.
4. The Business Incentive Agreement shall only be modified or extended by the GRANTOR pursuant to N.D.C.C. §54-60.1-04.
5. If the terms of the Business Incentive Agreement are not met, RECIPIENT, including all individuals or shareholders owning twenty percent (20%) or more of the business, will not be eligible to receive a business incentive from any GRANTOR for a period of five years from the date of failure or until RECIPIENT satisfies its repayment obligation.

By signing this document, RECIPIENT agrees to the terms noted herein, verifies that it has not failed to meet the terms of any business incentive agreement in the last five years and confirms that it has disclosed, in Attachment "A" of this agreement, all additional financial assistance received from state or political subdivision GRANTORS for this project.

GRANTOR

Title	Authorized Signature	Date

RECIPIENT

Title <i>V-P</i>	Authorized Signature <i>David R. King</i>	Date <i>2/23/2020</i>
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Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

LEASE AGREEMENT

THIS LEASE is made and entered into this ____ day of _____, 2020 (the "Effective Date"), between Restad Industrial Park LLC, North Dakota limited liability company, whose post office address is 1206 3rd Ave NW #1, West Fargo, ND 58078, ("Landlord"), and Kroq transport LLC a North Dakota corporation, whose post office address is 1210 3rd Ave NW #4, ("Tenant").
West Fargo, ND 58078

WITNESSETH:

1. **PREMISES.** In consideration of the rentals herein reserved and the conditions, covenants and agreements herein contained to be kept, observed and performed by Tenant, Landlord does hereby lease and rent to Tenant premises located at 1210 3rd Ave NW #4 West Fargo, ND 58078.

The Premises consists of one stall and the one exterior parking space without plug-in for gravel truck on east side of plat as shown on Exhibit "A" attached hereto (the "Premises").

2. **TERM.** The term of this Lease shall be for a period of _____ years commencing on _____, 2020, and terminating on _____ ("Term").
3. **RENT.** Tenant shall pay to Landlord, as monthly rental for the Premises, the following sums and at the times hereinafter set forth:
 - (a) One thousand Six Hundred (1,600.00) Dollars per month, due and payable on the first day of each month during the term of this Lease.
 - (b) Tenant agrees that all other sums of money or charges required to be paid by Tenant under the provisions of this Lease shall be deemed to be additional rent and should be included in the term "rent" whenever used in this Lease. If such amounts are not paid by Tenant at the time provided in this Lease, they shall, nevertheless, be collectible from Tenant as additional rent with the next installment of rent thereafter falling due hereunder, but nothing herein contained shall be deemed to suspend or delay the payment of any sum at the time it becomes due and payable hereunder or limit any other remedy of Landlord.
 - (c) If the rent or other sums of money or charges required to be paid by Tenant under the provisions of this Lease are not paid on its due date, Tenant shall pay to Landlord a late fee of \$250.00. Following an event of default, any unpaid amounts will accrue interest at the rate of 1.5% per month until payment is received.
 - (d) All rentals shall be payable to Restad Industrial Park and addressed to 1206 3rd Ave. NW #1, West Fargo, ND 58078, Attn: Ryan Restad, or to such other person or persons and at such place as the Landlord shall designate in writing.

4. PERMITTED USES. Tenant shall not use the Premises contrary to any valid law of the state or to any valid ordinance of the municipality of which the Premises are a part and no act or thing shall be permitted upon the said Premises which will make void or voidable or increase the cost of any policy of fire insurance thereon. Tenant shall use the Premises solely for operating a **General Construction** and related activities, and shall not use the Premises for any other purpose, except with the prior written consent of Landlord.

5. SECURITY DEPOSIT. Tenant shall pay to Landlord the sum of _____ (\$ _____) as a security deposit. Said deposit shall be held by Landlord without liability for interest, as security for the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease to be kept and performed by said Tenant during the term hereof. If at any time during the term of this Lease any of the rent herein reserved shall be overdue and unpaid, or any other sum payable by Tenant to Landlord hereunder shall be overdue and unpaid, then Landlord may, at its option, appropriate and apply any portion of said deposit to the payment of any such overdue rent or other sum. Also, Landlord at its option may appropriate and apply all or part of said deposit, as necessary, to compensate Landlord for loss or damage sustained or suffered by it due to any breach, default, or neglect of Tenant to keep and perform any of the terms, covenants and conditions of this Lease. Should the entire deposit, or any portion be appropriated and applied by Landlord as provided herein, then Tenant shall, upon written demand, forthwith remit to Landlord a sufficient amount in cash to restore said security to the original sum deposited, and Tenant's failure to do so within five days after receipt of such demand shall constitute a breach of this Lease. Should Tenant comply with all of said terms, covenants and conditions and promptly pay all of the rental as it falls due, and all other sums payable by Tenant to Landlord under this Lease, the deposit shall be returned in full to Tenant at the end of the term of this Lease, or upon its earlier termination as provided herein.

6. TAXES. Landlord shall pay all real estate taxes and special assessments levied and assessed against the Premises during the term of this Lease.

7. INSURANCE. Tenant shall, at its expense, keep the Premises insured against loss by fire, wind, and other extended coverages and such other casualties as are presently included in the form of casualty insurance commonly known as the special forms endorsement for the full insurable value of the Premises. Landlord shall be as an additional insured.

Tenant shall, at its expense, keep its equipment, fixtures, and personal property on the Premises insured against loss by fire, wind and other extended coverages and such other casualties as are presently included in the form of casualty insurance commonly known as the special forms endorsement.

Tenant shall, at its expense, maintain comprehensive general liability insurance. Such liability insurance shall include products, broad form property damage, blanket, contractual, personal injury and owned and non-owned auto liability, and shall be in such amounts as Landlord shall approve and naming Landlord as an additional insured.

All insurance required under this Lease by Tenant shall: (1) be effected under valid enforceable policies issued by insurers of recognized responsibility and authorized to do business in North Dakota; (2) be in effect as of the first day of this Lease and continue until expiration of this Lease; (3) require at least thirty (30) days' notice to Landlord of any cancellation; and (4) include the Landlord as an insured and as an additional insured. Tenant shall, upon the request of the Landlord and at least annually, provide Landlord and its lender with a Certificate of Insurance evidencing the insurance coverages required by this Lease.

8. UTILITIES. Tenant shall furnish all electricity, water, gas, heat, telephone, internet, and any and all other utilities used by Tenant on the Premises at Tenant's expense. Landlord shall have no obligation or liability for any such expense, or expenses of similar nature.
9. WAIVER OF SUBROGATION. Each party hereto hereby waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies. This waiver shall apply only when permitted by the applicable insurance policy.
10. MAINTENANCE AND REPAIRS. Landlord shall keep the foundation, exterior walls, roof and other items which may be considered structural in nature in good repair but shall not be otherwise obligated to repair or replace any parts of the Premises except as provided in this Section 11. Landlord shall be responsible for keeping the driveways, sidewalks and parking lots in a good and clean order and condition, including snow removal.

Tenant shall, at its own expense, keep the Premises and equipment, fixtures, and appliances in and upon the Premises in good repair and in good sanitary condition during the term of this Lease and shall replace all broken glass with glass of the same quality. Tenant will maintain and keep in good repair the interior portions of the Premises including exterior doors. Tenant, at its expense, shall maintain the heating, ventilating and air-conditioning systems of the Premises in good condition and repair. In the event that the heating, ventilating or air-conditioning systems of the Premises need to be replaced, as determined by Landlord, then Landlord shall be responsible for the replacement of such system or systems.

If Tenant does not repair or replace any parts of the Premises as required by this Lease, Landlord may repair the same, at Landlord's discretion, after having given written notice of such need to Tenant. In such event Tenant shall pay to Landlord the costs of such repairs as additional rent. In the event Landlord does not repair or replace any parts of the Premises as required by this Lease, Tenant may repair the same, at its discretion, after having given written notice of need to Landlord and may deduct the costs of such repairs from the rental provided for herein.

Landlord shall not be liable or responsible for any damage, loss or inconvenience for failure to furnish heat, air conditioning, water and electrical services when such failure is caused by conditions beyond Landlord's control, by acts of God, strikes, lockouts, embargoes, material shortages, war or accidents, or when such failure arises out of

maintenance or the making of inspections, repairs, alterations, changes or improvement in any part of the buildings of which the Premises are a part, or the failure of outside agencies to furnish any such services if any of such services are furnished by outside agencies. The failure to furnish any of said utilities or services shall not constitute an eviction from the Premises or work a reduction, discontinuance or delay in the payment of rent.

11. CONDITION OF PREMISES. Tenant shall take possession of the Premises as presently constituted "AS IS" and "WITH ALL FAULTS", and without warranty of any kind, express or implied, including implied warranties of fitness for a particular purpose. The taking of possession by Tenant shall be conclusive evidence that the Premises, equipment, fixtures, and appliances were when possession was taken in all respects in satisfactory and acceptable condition and that nothing further is required of Landlord to make them suitable for the occupancy of Tenant or to conform to the terms and conditions of this Lease, except as may be otherwise agreed in writing. Notwithstanding the foregoing, Landlord will install air conditioning to service the main floor and upper floor office space of the Premises at Landlord's sole expense, prior to _____, 2020.
12. NUISANCE AND INJURY TO PREMISES. Tenant shall not deface, injure or mar the Premises or overload the floors, driveways, or parking lots, and shall not do or permit to be done thereon, or in the passages, alleys, areas, stairways, or on the sidewalks or streets adjacent thereto, anything that will amount to or create a nuisance.
13. ENVIRONMENTAL. Tenant shall take all necessary precautions to prevent the deposit or placing, and to immediately remove hazardous materials, fumes and odors from the Premises, except those as a result of Landlord's or any previous owner's occupancy of the Premises. Tenant, at its expense, shall be responsible for the installation of all necessary and appropriate equipment, including storage facilities to comply with environmental laws and regulations, such equipment to be duly approved by governmental authority where appropriate and required.

Tenant shall at all times conform to city, county, state and federal and other governmental guidelines relating to the disposal of hazardous substances including the maintenance, control and disposal of such hazardous substances. For the purpose of this Lease "hazardous substances" means hazardous waste, toxic substances as may be defined by state or federal ordinance, statute or regulation. Tenant shall defend, at Tenant's expense and at all times indemnify and hold Landlord harmless from any lien, claim, action or demand by any governmental agency or third party for damages, remedial or otherwise, resulting from the presence, release or disposal of any hazardous substance located on or generated from the Leased Premises except those as a result of Landlord's or any previous owner's occupancy of the Leased Premises. If Landlord becomes aware of any such claim and Landlord so notifies Tenant, Tenant shall have a reasonable period of time for the circumstances to cure the default resulting from Tenant's breach of this provision.

14. ALTERATIONS INCLUDING WIRING. No alterations, additions or improvements to the Premises shall be made without the prior written consent of the Landlord. The plans

and specifications regarding any such improvements shall be submitted to the Landlord prior to commencement of such work. This includes any and all changes to wiring of any kind including, but not limited to, electrical, TV, telephone, computer lines, satellite or microwave equipment, TV towers and the like. All alterations, additions, or improvements made upon consent of the Landlord by the Tenant shall be made at the Tenant's expense. Once Tenant receives written consent from Landlord for alterations or additions, the Landlord reserves the right of prior inspection and approval of the written contracts of the contractor, material suppliers, and subcontractors before they are entered into. Each such contract should provide that it cannot be modified in any way without utilizing a written change order approved in writing both by Tenant and Landlord. Tenant agrees to pay when due all bills for labor, services, materials, supplies or equipment furnished to or for Tenant in or about the Premises and keep the Premises and the buildings of which the Premises are a part free from all liens or rights to liens or claims to liens of mechanics and material suppliers for work done or materials furnished to Tenant. In the event a lien is placed on the Premises, Tenant agrees to either pay the lien or have it bonded within ten (10) days after the filing thereof. All improvements, additions and alterations to the Premises shall adhere thereto and become the property of Landlord, with the exception of such additions as are usually classified as furniture and operating equipment.

Notwithstanding the foregoing, the parties acknowledge Tenant will be completing the build-out of the upper level office space, provided Tenant provides and Landlord approves plans and specifications regarding such improvements within 30 days after execution of this Lease. Tenant specially acknowledges and agrees the build-out of the upper level office space shall include windows overlooking the bay. Such improvements and alterations shall be completed by Tenant within 12 months after the execution of this Lease and shall be completed by Tenant at Tenant's sole expense.

15. DAMAGE OR DESTRUCTION. If the Premises shall be partially or totally damaged by fire or other casualty so as to become partially or totally untenable, the Premises shall be rebuilt as soon as reasonably possible at the expense of Landlord unless Landlord shall elect not to rebuild as provided below. If Tenant's business is substantially interfered with, a proportionate part of the rent shall be abated until the Premises are rebuilt within a reasonable period of time.

If the Premises shall be destroyed or damaged by fire or other casualty to the extent of fifty percent (50%) or more of the cost of replacement, or if the Premises shall be damaged by a cause or casualty not covered by insurance, Landlord may elect to rebuild or give notice terminating this Lease. Landlord shall give written notice to Tenant of its election within thirty (30) days after damage or destruction.

If Landlord repairs or rebuilds after damage, Landlord's obligation shall be limited to rebuilding or restoring the Premises to a condition substantially the same as prior to the damage. Tenant shall be solely responsible for repairing or replacing all its exterior and interior signs, trade fixtures, furniture, equipment, display cases, decorations and other personal property and improvements originally installed by Tenant at its expense to the

extent Tenant determines to repair or replace such fixtures, furniture, equipment, personal property and improvements.

Tenant shall give Landlord immediate notice of any damage or destruction to the Premises. Receipt of notice by Landlord shall be the starting date for the time required in this section.

16. LANDLORD NOT LIABLE. Tenant shall be in exclusive control and possession of the Premises and Landlord, Landlord's agents and employees, shall not be liable for any injury or damage to any property or to any person on the Premises nor for any injury or damage to any property of Tenant, including, but not limited to any damages, caused by or growing out of any defect in the building or on the Premises or caused by or growing out of fire, the elements or other causes.
17. INDEMNITY. Tenant covenants and agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, claims, actions, damages, liability, costs and expense including reasonable attorney's fees in connection with loss of life, personal or bodily injury, damage to property, or litigation arising from or out of any occurrence in, upon or at the Premises (and the adjoining streets and sidewalks) or the occupancy or use by Tenant of the Premises, or occasioned anywhere wholly or in part by any act, neglect, or omission of Tenant, its agents, contractors, employees, servants, lessees or concessionaires. Tenant shall defend, indemnify, and hold Landlord harmless against any loss or claim for damages or expense of any kind, including attorney's fees incurred by Landlord arising out of Tenant's failure to perform any of the terms or conditions of this Lease or any mechanic's lien or security interest filed against the Premises.
18. PARKING. Tenant shall have an assigned parking space as identified on the attached Exhibit A.
19. SIGNAGE. Tenant shall not install any signs on the exterior of the Premises without the prior written approval of Landlord. Upon the termination of this Lease, Tenant shall remove and repair any damage caused by Tenant's signage.
20. QUIET POSSESSION. Landlord covenants with Tenant that on paying the rent reserved and performing the covenants and agreements herein contained, and agreed to be performed on the part of Tenant, Tenant shall at all times during the term of this Lease, peaceably and quietly have, hold and enjoy the Premises.
21. LIENS. Tenant shall not permit any mechanic's or other lien to stand against the Premises or the Landlord arising out of any act or omission of Tenant. Tenant may contest the validity or amount of any lien if Tenant shall give Landlord security required by Landlord to insure payment or prevent any forfeiture of the Premises. Tenant shall pay any judgment and have all liens released or judgments satisfied at Tenant's expense.
22. REQUIREMENTS OF PUBLIC AUTHORITY. Tenant shall comply with all covenants and restrictions of record, and all laws, ordinances and regulations of governmental

authority which affect the Premises, the buildings, improvements, business or use thereof. Tenant shall obtain, at its own expense, all licenses and permits necessary for Tenant's business. Tenant shall defend and hold Landlord harmless from the consequences of any violations of such laws, ordinances, or regulations.

23. DEFAULT. If Tenant shall fail to pay the rent when due or default in any of the provisions of this Lease, or if Tenant shall make an assignment for the benefit of creditors, enter bankruptcy, receivership or insolvency, Landlord may, at Landlord's election, give notice to Tenant in writing specifying the default. Tenant shall have twenty (20) days after notice is sent to cure the default. If default continues thereafter, Landlord may declare the term ended and re-enter the Premises without a forfeiture of rents to become due hereunder, either with or without process of law and to expel the Tenant and all persons on the Premises, using force as may be necessary to repossess and enjoy the Premises without prejudice to any other remedy which might be available. Landlord may re-rent at a price and terms as Landlord determines, and receive the rent applying it first to payment of the rent due under this Lease, after all expenses of re-rental, including advertising, rental commissions, decorating, repairs and maintenance. Tenant shall pay any deficiency and remain liable for failure to comply with all terms and conditions of the Lease. Landlord may, but is not obligated to make payments or to keep covenants required of Tenant under this Lease. All expenses of Landlord in so doing shall be additional rent and paid by Tenant to Landlord. The specified remedies to which the Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which the Landlord may be lawfully entitled in case of any breach or threatened breach by the Tenant of any provision or provisions of this Lease.

If Landlord is in default under this Lease, Landlord shall have a reasonable time to cure the default after written notice specifying the default to Landlord by Tenant.

24. NONWAIVER. No waiver by a party of any breach by the other of its obligations hereunder shall be a waiver of any other subsequent or continuing breach. Forbearance by a party to seek a remedy for any breach by the other shall not be a waiver of its rights or remedies with respect to the breach.

25. CONDEMNATION. If the entire Premises are taken in condemnation proceedings, or as the result of negotiations in lieu of condemnation, this Lease shall automatically terminate as of the date of taking. If any portion of the Premises is taken by condemnation, either party shall have the right to terminate this Lease as of the date of the taking upon notice thereof to the other party within ninety (90) days after the date of taking. If a portion of the Premises is taken by condemnation proceedings and this Lease is not terminated as provided above, Landlord shall, subject to the provisions of any mortgage covering the Premises, restore the Premises to as near the condition which existed immediately prior to the date of taking as reasonably possible. Damages awarded for the taking of any or a portion of the Premises pursuant to condemnation or pursuant to a negotiated settlement in lieu of condemnation, shall be the property of Landlord. Nothing herein shall give Landlord any interest in or preclude Tenant from seeking and recovering on its own account from the condemning authority any award or compensation attributable to Tenant's relocation expenses, provided that any such separate claim by Tenant

shall not reduce or adversely affect the amount of Landlord's award. If any such award made or compensation paid to either party specifically includes an award or amount for the other, the party first receiving the same shall promptly account therefor to the other. If the portion of the Premises remaining after a partial taking is inadequate for the continued operation of Tenant's business at the Premises, as determined by Tenant in Tenant's reasonable business judgment, Tenant shall have the right to terminate this Lease.

26. ASSIGNMENT. Tenant shall not assign, sublet or mortgage this Lease or any right hereunder without prior written consent of Landlord. In the event of such assignment or transfer, with the consent of Landlord, the transferee or sublessee shall assume all the obligations of this Lease, and any renewal thereof, imposed on the Tenant, provided that such assignment or subletting does not release the Tenant herein from the covenants and obligations hereof and Tenant shall continue to be bound by all of the terms and conditions hereof.
27. SUBORDINATION AND NONDISTURBANCE. Landlord shall have the right to place upon Premises any mortgages which Landlord or its lender(s) deem advisable. Such mortgages shall have priority over this Lease and Tenant's rights hereunder. At Landlord's request, Tenant shall execute any and all instruments necessary to subject and subordinate this Lease to any such mortgages, on the condition that each such mortgagee executes a non-disturbance agreement in favor of Tenant which provides that so long as Tenant is not in default of this Lease, Tenant's right to possession of the Premises and Tenant's rights under this Lease, including, without limitation, any right to terminate, shall not be affected or disturbed by the mortgagee in the exercise of any of its rights or remedies against Landlord, nor shall Tenant be named as a party defendant to any foreclosure of the lien or mortgage. Furthermore, Tenant shall, within ten (10) days after receipt of a request therefor, execute and deliver to Landlord an estoppel certificate setting forth the name of Tenant, the date of this Lease, a description of the Premises and the rent payable therefor, and certifying that this Lease is either in full force and effect or specifically enumerating any conditions of default with respect thereto.
28. RIGHT TO ENTER. Landlord and its agents shall have the right during the final one hundred eighty (180) days of the Lease term and any renewal thereof to enter upon the Premises and post signs and notices that the Premises is for sale or lease and to show the Premises to a prospective lessee or buyer. Tenant covenants and agrees to cooperate with Landlord and its agents in showing and permitting to be shown the Premises to the general public.
29. SURRENDER. On the last day of the term of this Lease, or the earlier termination hereof, Tenant will peaceably surrender the Premises to Landlord. At the termination of this Lease, Tenant shall, at Tenant's expense, if Landlord so elects, remove all alterations and additions erected by Tenant and restore the Premises to their original condition, ordinary wear and tear excepted; otherwise such improvements shall be delivered up to Landlord with the Premises. All moveable office furnishings, trade fixtures, and equipment installed by Tenant may be removed by Tenant at the termination of this Lease, if Tenant so elects, and shall be removed if required by Landlord. All such

removals and restoration shall be accomplished in a good and workmanlike manner so as not to damage the Premises. Personal property remaining in the Premises at the expiration or termination of this Lease shall be deemed abandoned, and Landlord may dispose of the same as Landlord deems expedient. Tenant will promptly surrender all keys for the Premises to Landlord at the place then fixed for payment of rent and will inform Landlord of combinations on any locks and safes on the Premises.

30. HOLDING OVER. If, without Landlord's written consent, Tenant remains in possession of the Premises after the expiration or other termination of this Lease, Tenant shall be deemed to be occupying the Premises upon a tenancy at will only, at a monthly rental equal to 125% of the monthly rent (1/12th of the last annual rent) otherwise payable hereunder on the last day of the term of this Lease immediately prior to the expiration or termination of such term. Such tenancy at sufferance may be terminated by Landlord at any time by notice to Tenant at least thirty (30) days in advance of such termination. Any month-to-month tenancy or tenancy at will hereunder will be subject to all other terms and conditions of this Lease and nothing contained in this Section 31 will be construed to limit or impair any of Landlord's rights of reentry or eviction or constitute a waiver thereof.

31. NOTICES. All notices, requests, consents or other communications which are required or permitted to be given by either party to the other shall be in writing delivered to the other party by registered or certified mail with postage prepaid, addressed as follows:

To Landlord:

To Tenant:

32. ATTORNEY FEES. If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal shall be entitled to its reasonable attorney's fees to be paid by the losing party as fixed by the court. The provisions of this paragraph shall inure to the benefit of the party named herein who seeks to enforce a right hereunder.

33. OBLIGATION OF PARTIES. The agreements in this Lease shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.

34. RELATIONSHIP OF PARTIES. Nothing contained in this Lease shall be construed to create a relationship of principal and agent, partnership, joint venture or association between Landlord and Tenant. Neither the method of computing rent or any act of the parties shall create any relationship between the parties other than the relationship of Landlord and Tenant.
35. GOVERNING LAW. This Lease covers real property in North Dakota, and shall be construed according to North Dakota law. Invalidity of any provision of this Lease shall not affect the validity of any other provision. Any dispute arising out of this Lease shall be venued in district court in Cass County, North Dakota.
36. CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this Lease. In the event of any ambiguity or question of intent or interpretation arising, this Lease shall be construed as drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Lease.
37. SEVERABILITY. If any term, condition or provision of this Lease shall to any extent be held to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and shall continue to be effective and binding on the parties and complied with to the full extent permitted by law.
38. ENTIRE AGREEMENT. This Lease contains the entire agreement between the parties and there are no oral understandings or agreements other than those set out herein. This Lease cannot be altered or amended in any way except by a written agreement signed by the parties. All provisions of this Lease, including indemnification provisions, intended to continue after the termination of this Lease shall survive the termination of this Lease.
39. COUNTERPARTS. This Lease may be executed in whole or in separate counterparts, all of which together shall constitute one agreement. Copies of signature pages delivered by one party to the other by electronic communications (e.g., fax or email) shall be deemed to constitute original signatures

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

LANDLORD:

TENANT:

By: _____
 Its: _____

By: _____
 Its: _____

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # _____

***Please Note: The following information must be completed and submitted to the West Fargo City Auditor's Office by the Thursday noon preceding the City Commission meeting. Failure to comply may result in no action being taken on your request.

1. CONTACT PERSON: Malachi Petersen

2. PHONE NUMBER: 701-433-5324 DATE: March 12, 2020

3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:

The City of West Fargo has received an application for a Renaissance Zone income tax incentive for F6 Transport LLC. The application was reviewed and recommended for approval by a unanimous vote of the Economic Development Advisory Committee at their March 4, 2020 meeting.

4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):

1210 3rd Ave NW Ste #1 and #2 West Fargo ND 58078

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Consideration for Approval of the Renaissance Zone application for F6 Transport LLC with a condition that all requirements of the Renaissance Zone Program are met.

STAFF REPORT

Project Name: F6 Transport LLC

Project Location: Rostad Industrial Park, 1210 3rd Ave NW STE #1 and #2 West Fargo ND 58078

Contact Name: Ted Lagerqvist

Contact Phone: 320-232-0975

Email: f6transport@gmail.com

Purpose: Application for a tenant tax incentive for locating in an RZ

Background: Applicant is located in the Rostad Industrial Park

Timeline: As soon as possible

Assessment Department	YES	NO
Property Taxes Current	✓	
Additional Notes: NR		
02-0801-00010-000		
Planning Department	YES	NO
Property in Corridor Overlay District		X
Property in Renaissance Zone	X	
Property in Main Ave Corridor		X
Main Ave Corridor Conditions Met		NA
Zoning Appropriate for Proposed Project	X	
Sufficient/Appropriate Parking Included	X	
Landscape Submitted/Reviewed		NA
Additional Notes:		
Economic Development Department	YES	NO
Project Located in Existing Incentive Program	X	
Project Eligible for Local Incentives		X
Project Eligible for State Incentives	X	
Project Operator Received Tax Incentives within Past 5 years		X
City Granted Tax Incentive on Similar Project within Past 5 years	X	
Is there Precedent for Proposed Tax Incentive	X	
Does City Recommend Approval of Application	X	
Score:		
Reasons:		
Additional Notes:		

T: F.
50

- MP
2/28/2020

City of West Fargo Renaissance Zone Project Application

Proposed Renaissance Zone projects must be submitted to and approved by West Fargo City and the State of North Dakota prior to start of construction. Please submit a project proposal that addresses the following items:

What is the legal description and street address of proposed project?

1210 3rd Ave NW Unit #1 and #2

West Fargo, ND 58078

Who are the current property owners?

Restad Industrial Park, LLC.

Contact phone number where you may be reached (320) 232-0975

Email address you can be reached at fltransport@gmail.com

List the name of applicant and their Tax I.D. Number or Social Security Number.

Applicant's Name: Fl Transport, Inc. / Ted Lagerquist

Tax ID #: [REDACTED]

SSN: NA

What is the current use of property?

Bays used for trailer storage, maintenance, and office management work.

What is the square footage of the lot and of the building – each floor should be listed separately.

Two main bays approx 2400 sq. ft. each for a total of 4800 sq ft.

Type of investment ~ Is the project being funded by a Renaissance Fund Organization? If so, describe the type and amount of financing and the name of the Renaissance Fund Organization. If the project is being financed through a loan or personal financing, please indicate so.

NO

Describe scope of work, including a detailed cost estimate of the work to be completed.

Trailer Storage, maintenance work on equipment and Office Management work.

Provide a break out of capital improvements.

N/A, This is a tenant Application for a preexisting building

Estimate the value of the building after improvements have been completed and provide the estimated state income tax and local property tax benefit you will receive each of the five years.

N/A, This is a tenant Application for a preexisting building

Describe how the project meets the zone's goals, objectives and guidelines.

Project assists in relocation of a business to the Rested Industrial Park, helping to fill the space and promote economic activity within the zone.

Extent of the exterior renovation and/or property improvements – include site plans and building plans or renderings as attachments.

N/A, tenant application

A building permit must be obtained for the work. If known at this time, please include the permit number N/A and permit date: / /.

Provide documentation that the project cost meets the city's minimum criteria. Please attach copies of all cost estimates.

N/A

Are income and property taxes current? Attach a copy of a Certificate of Good Standing from the State Tax Commissioner and copies of receipts showing proof that local real estate taxes have been paid.

Yes. Please see attached letter of good standing.

For residential applicants only ~ please answer the following question:

Please provide evidence that the home is the taxpayer's primary residence.

N/A

For commercial and investment applicants only ~ please answer the following questions:

What is the business name or investor's name (trade name, doing business as)?

Fce Transport, INC.

What is the legal name of business, if different from trade name?

Same

What is the mailing address ~ if different from property address?

2609 57th Ave S.

Fargo, ND 58104

For commercial and investment applicants only (Continued)

Type of Entity ~ partnership; corporation; cooperative, limited liability partnership, limited liability corporation, sole proprietorship, subchapter S corporation.

S Corp.

Are you subject to a financial institution tax (NDCC § 57-35.3)?

No

What is the expected date of purchase, lease, completion of rehabilitation and / or historical preservation and renovation, and the exact date when it occurs? For purchase with major improvements include the expected and final purchase date, the expected date of occupancy or first rental, and the final dates when they occur.

Expected date of lease is as soon as possible
after City Commission approval.

Submit Project Proposals to:
Economic Development and Community Services Director,
800 4th Ave E, West Fargo, ND 58078 701-433-5311



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
RYAN RAUSCHENBERGER, COMMISSIONER

February 20, 2020

Ref: L1661089536

F6 TRANSPORT INC
1210 3RD AVE NW STE 1
WEST FARGO ND 58078-1374

RE: Renaissance Zone Certificate Of Good Standing, State Income And Sales Taxes Only

This letter is evidence of good standing as required by the North Dakota Division of Community Services for purposes of obtaining final approval of a renaissance zone project.

As of the date of this letter, the records in the North Dakota Office of State Tax Commissioner do not show probable cause to believe that any income taxes (including income tax withheld from wages) or sales and use taxes are due and owing to the State of North Dakota by the following taxpayer:

Taxpayer's Name: F6 TRANSPORT INC
SSN or FEIN: [REDACTED]

This letter must be submitted (as part of the zone project application) to the local zone authority for the renaissance zone in which the proposed zone project will be located. Please keep a copy of this letter for your records.

/s/ Liliya Montgomery
Liliya Montgomery
Supervisor, Individual Income Tax and Withholding
Phone: (701) 328-1296
Email: lmontgomery@nd.gov

RENAISSANCE ZONE PROJECT APPLICATION
NORTH DAKOTA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY SERVICES
SFN 59291 (5/16)

In order to receive DCS approval on zone projects, the following information must be submitted to the DCS:

1. Type of project

Business Residential Utility Infrastructure Project (UIP)

2. If this is a UIP, project is the applicant a renaissance zone project? Yes No

a. To be considered a Renaissance Zone project, the project would need to take place in the Renaissance Zone and be a utility company.

b. If this is a property owner affected by a UIP not participating in a renaissance zone project, is the property owner in the Renaissance Zone? Yes No

3. Name of applicant(s)/or business name F6 Transport, Inc

If business, type of entity Trucking Company

Provide a copy of the Certificate of Good Standing from Tax Department)

Address and renaissance zone block number as it appears in the development plan property listings.

Address 1210 3rd Ave NW

City West Fargo Renaissance Zone Block #1, 2

4. For residential projects provide evidence that the home purchased is the taxpayer's primary residence.

5. Project Type:

a. Purchase (to include new construction)

b. Purchase with major improvements

c. Lease

i. What type of lease?

New Expansion Continuation of a Lease Leasehold Improvement

If this an expansion, what is the additional square feet of the expansion? _____

ii. If it is a lease project, does it involve the relocation of a business from one location in the city to the Renaissance Zone or from one zone property to another zone property? Yes No

d. Rehabilitation

i. Commercial 50% of the True and full value

Or

ii. Residential 20% of the true and full value

iii. Current true and full value \$ N/A

iv. For rehabilitation projects, provide a description of the work and the estimated costs.

Work to be Done	Estimated Cost
N/A	

6. Does this project involve historical preservation or renovation? Yes No

a. For projects that involve historical preservation or renovation, but are not part of a rehabilitation project, provide a description of the work and the estimated costs. **A letter of approval from the Historical Society is required to claim any historical tax credits either on a rehabilitation project or renovation.**

b. Information for historical properties may be obtained by contacting the Historical Society at: (701) 328- 2666.

7. For projects other than the purchase(includes new construction) or rehabilitation of a single family home and historical preservation and renovation, describe how the overall benefit(s) of the project to the community meets or exceeds the financial and tax benefit to the businesses or investor.

8. Is the project being funded by a Renaissance Fund Organization? Yes No

If yes, describe the type and amount of financing and name of the Renaissance Fund Organization.

9. Provide the estimated state and local tax benefit to the taxpayer for five years (applies to all projects).

Total State tax benefit for five years \$ ~~25,000~~ \$25,000

Total Property tax benefit for five years \$ 0

Total Non-participating owner tax credit \$ 0

10. Zone Authority and City Documentation:

Date of approval or conditional approval / /

Provide a copy of minutes or other supporting documentation that indicates the formal approval by the approving entity.

11. Identify from the Development Plan the specific criteria used to approve the project

The addition of this tenant to the Rusted Industrial Park will help encourage new development in West Fargo as others see the park full which will hopefully encourage renovations + expansions in the surrounding area.

12. Evidence that the taxpayer is current on state taxes. (Taxpayers can contact the Office of State Tax Commissioner to receive a Certificate of Good Standing. This request must indicate that it is for a Renaissance Zone Project.) See Appendix E.

Letter of Good Standing Attached? Yes No

13. Expected date of occupancy / /

NOTE: The DCS reserves the right to reject a zone-approved project or to continue negotiating its approval. When a project is approved by the DCS, the local zone authority will be notified in writing.

If after a project is approved and the property changes hands or a replacement project is approved during the five year exemption period, the DCS does not need to approve the transfer or the replacement project. The zone authority, however, must notify the DCS of the change and provide the applicable information about the new homeowners, business, and/or investor. The zone authority must also notify the DCS if any other change occurs in the status of the business or investor tax would affect the exemption approved.

Once the project is completed, DCS must be informed by email, Fax or letter of the exact date of completion, and project number before the final letter of approval can be issued.

On historical Renovations/rehabilitations documentation from the Historical Society approving the final restorations must be submitted to DCS prior a final letter of approval can be issued.



Signature

2/17/20

Date

BUSINESS INCENTIVE AGREEMENT
 NORTH DAKOTA DEPARTMENT OF COMMERCE
 SFN 59686 (10/2018)

(For office use only) Agreement Number
Grantor Reference Number

The RECIPIENT specified below has been approved to receive a business incentive from the state of North Dakota. Therefore, in fulfillment of the requirements of North Dakota Century Code § 54-60.1-03, the grantor of the business incentive (GRANTOR) and the entity to receive the business incentive (RECIPIENT) must enter into a **Business Incentive Agreement**. This Business Incentive Agreement provides project data and specifies the goals the RECIPIENT has agreed to meet in order to receive the state business incentive.

Should the value of this incentive be less than \$25,000, and should the RECIPIENT receive no additional incentives to bring the total to \$25,000 or more within twelve months, the reporting requirements outlined in North Dakota Century Code § 54-60.1-05 and in this agreement, will not go into effect.

Grantor

Name of GRANTOR/GRANT ADMINISTRATOR City of West Fargo	On Behalf Of State of North Dakota		
Address 800 4th Ave E	City West Fargo	State ND	ZIP Code 58078

Recipient

Name of RECIPIENT Business F6 TRANSPORT INC	Also known as		
Mailing Address 2609 57 Ave S.	City Fargo	State ND	ZIP Code 58104
Street Address	City	State	ZIP Code
Location of Project (street address, city, county) 1210 3rd Ave NW West Fargo, ND 58078			
Business Classification of RECIPIENT (3 digit NAICS Code)			
Parent Company of RECIPIENT (if any)			
Street Address	City	State	ZIP Code

Recipient Contact Information

Main Contact Person Ted Lagerquist	Email Address F6transport@gmail.com
Title President	Telephone Number 320-232-0975

Location of Recipient PRIOR to receiving this business incentive (if relocating)

Street Address	City	State	ZIP Code
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Business Owners or Shareholders

List the names and addresses of all individuals or shareholders owning twenty percent (20%) or more of this business.

Owner or Shareholder	Mailing Address	City	State	ZIP Code
Ted Lagerquist	2609-57 Ave S.	Fargo	ND	58104

Project Information

Benefit Date TBD	Incentive Value \$25,000
Project Description Tenant relocating to Renaissance zone	
Incentive Description Renaissance zone tax Incentive (Income tax)	
Is this incentive tax increment financing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, describe the type of district N/A
Business Investment Value	

Incentive Type (check one only)

<input type="checkbox"/> Contribution of property or infrastructure	<input type="checkbox"/> Preferential use of government facility
<input type="checkbox"/> Direct cash transfer, loan, or equity investment	<input type="checkbox"/> Guarantee of payment under loan, lease, or other obligation
<input checked="" type="checkbox"/> Reduction or deferral of tax or fee	<input type="checkbox"/> Interest buy-down

Public Purpose (check one only)

<input type="checkbox"/> Assisting community Development	<input checked="" type="checkbox"/> Indirectly creating employment opportunities through increased economic activity
<input type="checkbox"/> Increasing tax base	<input checked="" type="checkbox"/> Job retention (only in cases where job loss is specific and demonstrable)
<input type="checkbox"/> Directly creating employment opportunities	

Current Employment, Wages, Benefits and Compensation

Is this a new business or a business with no full-time employees?
 Yes No | If yes, please enter 0 for the current number of jobs, average hourly wage, and average hourly benefits below.
 If no, please enter the current number of jobs, average hourly wage, and average hourly benefits below.

Current number of Full Time Equivalent Employees (FTE's) ¹	Average Hourly Wage ²	Average Hourly Benefits ³	Average Hourly Compensation (Wage plus Benefits) ⁴
5	\$ 25	\$ 15	0.00

Seasonal, explain:

Goal Information

In exchange for the incentive provided by the GRANTOR, the RECIPIENT agrees to, within 2 years (check one only)

Create Jobs Retain Jobs Neither create nor retain jobs⁵

Current number of Full Time Equivalent Employees (FTE's) ¹	Average Hourly Wage ²	Average Hourly Benefits ³	Average Hourly Compensation (Wage plus Benefits) ⁴
			0.00

¹ Full time equivalent employees (FTE's) work 32 hours per week or greater. The exception is when a single position is filled by two people. In this instance each person needs to work 20 hours per week or greater to be considered an FTE. Please round job numbers to the nearest 0.5 FTE.

²Wage includes wages, salary, bonuses and commissions.

³ Benefits include health, disability, life and retirement benefits or insurance premiums paid by the employer; an employee's share of payroll taxes paid by the employer; and other fringe benefits such as housing allowance and transportation expense.

⁴ Wage plus benefits.

⁵If 'Neither create nor retain jobs' is checked, please enter '0' for number of jobs, wage and benefits goals. All RECIPIENTS must file recipient reports as described on page 3 of this document, including those with no job, wage or benefits goals.

In addition to meeting the goals outlined in this document, the RECIPIENT agrees to the following terms as specified by N.D.C.C. §54-60.1:

1. The RECIPIENT shall continue operation in the jurisdiction in which the business incentive is used for five years or more after the benefit date.
2. RECIPIENT reports requesting current job, wage and benefit information will be mailed to the RECIPIENT by the GRANTOR. The RECIPIENT shall complete, sign and return this annual recipient report to the GRANTOR within 60 days of the annual anniversary of the benefit date for a period of two years or until the goals specified in the Business Incentive Agreement have been met, whichever is later.

If the recipient report is not received within those 60 days, the GRANTOR shall mail the RECIPIENT a warning letter. The RECIPIENT then has 14 days from the postmarked date of that warning letter to file a report. If the recipient report is still not received, the RECIPIENT may be charged one hundred dollars (\$100) from the GRANTOR for each subsequent day until the report is received. The maximum penalty under this section may not exceed one thousand dollars (\$1,000).

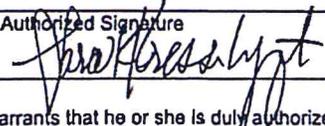
3. If, after 2 years, the job and compensation goals listed in the Business Incentive Agreement are not met, the RECIPIENT shall continue to provide recipient reports to the grantor until the incentive is repaid to the grantor. At a minimum, a recipient that fails to meet business incentive agreement goals shall pay back the value of the Incentive to the GRANTOR prorated to reflect any partial fulfillment of the job and compensation goals. There is an exception to this financial obligation for any unmet goals that result from an act of God or terrorism.
4. The Business Incentive Agreement shall only be modified or extended by the GRANTOR pursuant to N.D.C.C. §54-60.1-04.
5. If the terms of the Business Incentive Agreement are not met, RECIPIENT, including all individuals or shareholders owning twenty percent (20%) or more of the business, will not be eligible to receive a business Incentive from any GRANTOR for a period of five years from the date of failure or until RECIPIENT satisfies its repayment obligation.

By signing this document, RECIPIENT agrees to the terms noted herein, verifies that it has not failed to meet the terms of any business incentive agreement in the last five years and confirms that it has disclosed, in Attachment "A" of this agreement, all additional financial assistance received from state or political subdivision GRANTORS for this project.

GRANTOR

Title	Authorized Signature	Date
-------	----------------------	------

RECIPIENT

Title Vice President	Authorized Signature 	Date 4/21/20
-------------------------	--	-----------------

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

ATTACHMENT "A"

RECIPIENT verifies it has received additional financial assistance from state or political subdivision GRANTORS from the following entities for this project since its inception. A listing of incentives from past projects (i.e. past expansions) is not required.

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

LEASE AGREEMENT

THIS LEASE is made and entered into this ____ day of _____, 2020 (the "Effective Date"), between Restad Industrial Park, North Dakota limited liability company, whose post office address is 1206 3rd Ave NW #1, West Fargo, ND 58078, ("Landlord"), and FLC a North Dakota corporation, whose post office address is 1210 3rd Ave NW # 1 & 2 ("Tenant").
West Fargo, ND 58078

WITNESSETH:

1. **PREMISES.** In consideration of the rentals herein reserved and the conditions, covenants and agreements herein contained to be kept, observed and performed by Tenant, Landlord does hereby lease and rent to Tenant premises located at 1210 3rd Ave NW # 1 & 2 West Fargo, ND 58078.

The Premises consists of one stall and the one exterior parking space without plug-in for gravel truck on east side of plat as shown on Exhibit "A" attached hereto (the "Premises").

2. **TERM.** The term of this Lease shall be for a period of _____ years commencing on _____, 2020, and terminating on _____ ("Term").
3. **RENT.** Tenant shall pay to Landlord, as monthly rental for the Premises, the following sums and at the times hereinafter set forth:
 - (a) Three thousand Five Hundred (3,500.00) Dollars per month, due and payable on the first day of each month during the term of this Lease.
 - (b) Tenant agrees that all other sums of money or charges required to be paid by Tenant under the provisions of this Lease shall be deemed to be additional rent and should be included in the term "rent" whenever used in this Lease. If such amounts are not paid by Tenant at the time provided in this Lease, they shall, nevertheless, be collectible from Tenant as additional rent with the next installment of rent thereafter falling due hereunder, but nothing herein contained shall be deemed to suspend or delay the payment of any sum at the time it becomes due and payable hereunder or limit any other remedy of Landlord.
 - (c) If the rent or other sums of money or charges required to be paid by Tenant under the provisions of this Lease are not paid on its due date, Tenant shall pay to Landlord a late fee of \$250.00. Following an event of default, any unpaid amounts will accrue interest at the rate of 1.5% per month until payment is received.
 - (d) All rentals shall be payable to Restad Industrial Park and addressed to 1206 3rd Ave. NW #1, West Fargo, ND 58078, Attn: Ryan Restad, or to such other person or persons and at such place as the Landlord shall designate in writing.

4. PERMITTED USES. Tenant shall not use the Premises contrary to any valid law of the state or to any valid ordinance of the municipality of which the Premises are a part and no act or thing shall be permitted upon the said Premises which will make void or voidable or increase the cost of any policy of fire insurance thereon. Tenant shall use the Premises solely for operating a **General Construction** and related activities, and shall not use the Premises for any other purpose, except with the prior written consent of Landlord.

5. SECURITY DEPOSIT. Tenant shall pay to Landlord the sum of _____ (\$ _____) as a security deposit. Said deposit shall be held by Landlord without liability for interest, as security for the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease to be kept and performed by said Tenant during the term hereof. If at any time during the term of this Lease any of the rent herein reserved shall be overdue and unpaid, or any other sum payable by Tenant to Landlord hereunder shall be overdue and unpaid, then Landlord may, at its option, appropriate and apply any portion of said deposit to the payment of any such overdue rent or other sum. Also, Landlord at its option may appropriate and apply all or part of said deposit, as necessary, to compensate Landlord for loss or damage sustained or suffered by it due to any breach, default, or neglect of Tenant to keep and perform any of the terms, covenants and conditions of this Lease. Should the entire deposit, or any portion be appropriated and applied by Landlord as provided herein, then Tenant shall, upon written demand, forthwith remit to Landlord a sufficient amount in cash to restore said security to the original sum deposited, and Tenant's failure to do so within five days after receipt of such demand shall constitute a breach of this Lease. Should Tenant comply with all of said terms, covenants and conditions and promptly pay all of the rental as it falls due, and all other sums payable by Tenant to Landlord under this Lease, the deposit shall be returned in full to Tenant at the end of the term of this Lease, or upon its earlier termination as provided herein.

6. TAXES. Landlord shall pay all real estate taxes and special assessments levied and assessed against the Premises during the term of this Lease.

7. INSURANCE. Tenant shall, at its expense, keep the Premises insured against loss by fire, wind, and other extended coverages and such other casualties as are presently included in the form of casualty insurance commonly known as the special forms endorsement for the full insurable value of the Premises. Landlord shall be as an additional insured.

Tenant shall, at its expense, keep its equipment, fixtures, and personal property on the Premises insured against loss by fire, wind and other extended coverages and such other casualties as are presently included in the form of casualty insurance commonly known as the special forms endorsement.

Tenant shall, at its expense, maintain comprehensive general liability insurance. Such liability insurance shall include products, broad form property damage, blanket, contractual, personal injury and owned and non-owned auto liability, and shall be in such amounts as Landlord shall approve and naming Landlord as an additional insured.

All insurance required under this Lease by Tenant shall: (1) be effected under valid enforceable policies issued by insurers of recognized responsibility and authorized to do business in North Dakota; (2) be in effect as of the first day of this Lease and continue until expiration of this Lease; (3) require at least thirty (30) days' notice to Landlord of any cancellation; and (4) include the Landlord as an insured and as an additional insured. Tenant shall, upon the request of the Landlord and at least annually, provide Landlord and its lender with a Certificate of Insurance evidencing the insurance coverages required by this Lease.

8. UTILITIES. Tenant shall furnish all electricity, water, gas, heat, telephone, internet, and any and all other utilities used by Tenant on the Premises at Tenant's expense. Landlord shall have no obligation or liability for any such expense, or expenses of similar nature.
9. WAIVER OF SUBROGATION. Each party hereto hereby waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies. This waiver shall apply only when permitted by the applicable insurance policy.
10. MAINTENANCE AND REPAIRS. Landlord shall keep the foundation, exterior walls, roof and other items which may be considered structural in nature in good repair but shall not be otherwise obligated to repair or replace any parts of the Premises except as provided in this Section 11. Landlord shall be responsible for keeping the driveways, sidewalks and parking lots in a good and clean order and condition, including snow removal.

Tenant shall, at its own expense, keep the Premises and equipment, fixtures, and appliances in and upon the Premises in good repair and in good sanitary condition during the term of this Lease and shall replace all broken glass with glass of the same quality. Tenant will maintain and keep in good repair the interior portions of the Premises including exterior doors. Tenant, at its expense, shall maintain the heating, ventilating and air-conditioning systems of the Premises in good condition and repair. In the event that the heating, ventilating or air-conditioning systems of the Premises need to be replaced, as determined by Landlord, then Landlord shall be responsible for the replacement of such system or systems.

If Tenant does not repair or replace any parts of the Premises as required by this Lease, Landlord may repair the same, at Landlord's discretion, after having given written notice of such need to Tenant. In such event Tenant shall pay to Landlord the costs of such repairs as additional rent. In the event Landlord does not repair or replace any parts of the Premises as required by this Lease, Tenant may repair the same, at its discretion, after having given written notice of need to Landlord and may deduct the costs of such repairs from the rental provided for herein.

Landlord shall not be liable or responsible for any damage, loss or inconvenience for failure to furnish heat, air conditioning, water and electrical services when such failure is caused by conditions beyond Landlord's control, by acts of God, strikes, lockouts, embargoes, material shortages, war or accidents, or when such failure arises out of

maintenance or the making of inspections, repairs, alterations, changes or improvement in any part of the buildings of which the Premises are a part, or the failure of outside agencies to furnish any such services if any of such services are furnished by outside agencies. The failure to furnish any of said utilities or services shall not constitute an eviction from the Premises or work a reduction, discontinuance or delay in the payment of rent.

11. CONDITION OF PREMISES. Tenant shall take possession of the Premises as presently constituted "AS IS" and "WITH ALL FAULTS", and without warranty of any kind, express or implied, including implied warranties of fitness for a particular purpose. The taking of possession by Tenant shall be conclusive evidence that the Premises, equipment, fixtures, and appliances were when possession was taken in all respects in satisfactory and acceptable condition and that nothing further is required of Landlord to make them suitable for the occupancy of Tenant or to conform to the terms and conditions of this Lease, except as may be otherwise agreed in writing. Notwithstanding the foregoing, Landlord will install air conditioning to service the main floor and upper floor office space of the Premises at Landlord's sole expense, prior to _____, 2020.
12. NUISANCE AND INJURY TO PREMISES. Tenant shall not deface, injure or mar the Premises or overload the floors, driveways, or parking lots, and shall not do or permit to be done thereon, or in the passages, alleys, areas, stairways, or on the sidewalks or streets adjacent thereto, anything that will amount to or create a nuisance.
13. ENVIRONMENTAL. Tenant shall take all necessary precautions to prevent the deposit or placing, and to immediately remove hazardous materials, fumes and odors from the Premises, except those as a result of Landlord's or any previous owner's occupancy of the Premises. Tenant, at its expense, shall be responsible for the installation of all necessary and appropriate equipment, including storage facilities to comply with environmental laws and regulations, such equipment to be duly approved by governmental authority where appropriate and required.

Tenant shall at all times conform to city, county, state and federal and other governmental guidelines relating to the disposal of hazardous substances including the maintenance, control and disposal of such hazardous substances. For the purpose of this Lease "hazardous substances" means hazardous waste, toxic substances as may be defined by state or federal ordinance, statute or regulation. Tenant shall defend, at Tenant's expense and at all times indemnify and hold Landlord harmless from any lien, claim, action or demand by any governmental agency or third party for damages, remedial or otherwise, resulting from the presence, release or disposal of any hazardous substance located on or generated from the Leased Premises except those as a result of Landlord's or any previous owner's occupancy of the Leased Premises. If Landlord becomes aware of any such claim and Landlord so notifies Tenant, Tenant shall have a reasonable period of time for the circumstances to cure the default resulting from Tenant's breach of this provision.

14. ALTERATIONS INCLUDING WIRING. No alterations, additions or improvements to the Premises shall be made without the prior written consent of the Landlord. The plans

and specifications regarding any such improvements shall be submitted to the Landlord prior to commencement of such work. This includes any and all changes to wiring of any kind including, but not limited to, electrical, TV, telephone, computer lines, satellite or microwave equipment, TV towers and the like. All alterations, additions, or improvements made upon consent of the Landlord by the Tenant shall be made at the Tenant's expense. Once Tenant receives written consent from Landlord for alterations or additions, the Landlord reserves the right of prior inspection and approval of the written contracts of the contractor, material suppliers, and subcontractors before they are entered into. Each such contract should provide that it cannot be modified in any way without utilizing a written change order approved in writing both by Tenant and Landlord. Tenant agrees to pay when due all bills for labor, services, materials, supplies or equipment furnished to or for Tenant in or about the Premises and keep the Premises and the buildings of which the Premises are a part free from all liens or rights to liens or claims to liens of mechanics and material suppliers for work done or materials furnished to Tenant. In the event a lien is placed on the Premises, Tenant agrees to either pay the lien or have it bonded within ten (10) days after the filing thereof. All improvements, additions and alterations to the Premises shall adhere thereto and become the property of Landlord, with the exception of such additions as are usually classified as furniture and operating equipment.

Notwithstanding the foregoing, the parties acknowledge Tenant will be completing the build-out of the upper level office space, provided Tenant provides and Landlord approves plans and specifications regarding such improvements within 30 days after execution of this Lease. Tenant specially acknowledges and agrees the build-out of the upper level office space shall include windows overlooking the bay. Such improvements and alterations shall be completed by Tenant within 12 months after the execution of this Lease and shall be completed by Tenant at Tenant's sole expense.

15. DAMAGE OR DESTRUCTION. If the Premises shall be partially or totally damaged by fire or other casualty so as to become partially or totally untenable, the Premises shall be rebuilt as soon as reasonably possible at the expense of Landlord unless Landlord shall elect not to rebuild as provided below. If Tenant's business is substantially interfered with, a proportionate part of the rent shall be abated until the Premises are rebuilt within a reasonable period of time.

If the Premises shall be destroyed or damaged by fire or other casualty to the extent of fifty percent (50%) or more of the cost of replacement, or if the Premises shall be damaged by a cause or casualty not covered by insurance, Landlord may elect to rebuild or give notice terminating this Lease. Landlord shall give written notice to Tenant of its election within thirty (30) days after damage or destruction.

If Landlord repairs or rebuilds after damage, Landlord's obligation shall be limited to rebuilding or restoring the Premises to a condition substantially the same as prior to the damage. Tenant shall be solely responsible for repairing or replacing all its exterior and interior signs, trade fixtures, furniture, equipment, display cases, decorations and other personal property and improvements originally installed by Tenant at its expense to the

extent Tenant determines to repair or replace such fixtures, furniture, equipment, personal property and improvements.

Tenant shall give Landlord immediate notice of any damage or destruction to the Premises. Receipt of notice by Landlord shall be the starting date for the time required in this section.

16. LANDLORD NOT LIABLE. Tenant shall be in exclusive control and possession of the Premises and Landlord, Landlord's agents and employees, shall not be liable for any injury or damage to any property or to any person on the Premises nor for any injury or damage to any property of Tenant, including, but not limited to any damages, caused by or growing out of any defect in the building or on the Premises or caused by or growing out of fire, the elements or other causes.
17. INDEMNITY. Tenant covenants and agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, claims, actions, damages, liability, costs and expense including reasonable attorney's fees in connection with loss of life, personal or bodily injury, damage to property, or litigation arising from or out of any occurrence in, upon or at the Premises (and the adjoining streets and sidewalks) or the occupancy or use by Tenant of the Premises, or occasioned anywhere wholly or in part by any act, neglect, or omission of Tenant, its agents, contractors, employees, servants, lessees or concessionaires. Tenant shall defend, indemnify, and hold Landlord harmless against any loss or claim for damages or expense of any kind, including attorney's fees incurred by Landlord arising out of Tenant's failure to perform any of the terms or conditions of this Lease or any mechanic's lien or security interest filed against the Premises.
18. PARKING. Tenant shall have an assigned parking space as identified on the attached Exhibit A.
19. SIGNAGE. Tenant shall not install any signs on the exterior of the Premises without the prior written approval of Landlord. Upon the termination of this Lease, Tenant shall remove and repair any damage caused by Tenant's signage.
20. QUIET POSSESSION. Landlord covenants with Tenant that on paying the rent reserved and performing the covenants and agreements herein contained, and agreed to be performed on the part of Tenant, Tenant shall at all times during the term of this Lease, peaceably and quietly have, hold and enjoy the Premises.
21. LIENS. Tenant shall not permit any mechanic's or other lien to stand against the Premises or the Landlord arising out of any act or omission of Tenant. Tenant may contest the validity or amount of any lien if Tenant shall give Landlord security required by Landlord to insure payment or prevent any forfeiture of the Premises. Tenant shall pay any judgment and have all liens released or judgments satisfied at Tenant's expense.
22. REQUIREMENTS OF PUBLIC AUTHORITY. Tenant shall comply with all covenants and restrictions of record, and all laws, ordinances and regulations of governmental

authority which affect the Premises, the buildings, improvements, business or use thereof. Tenant shall obtain, at its own expense, all licenses and permits necessary for Tenant's business. Tenant shall defend and hold Landlord harmless from the consequences of any violations of such laws, ordinances, or regulations.

23. DEFAULT. If Tenant shall fail to pay the rent when due or default in any of the provisions of this Lease, or if Tenant shall make an assignment for the benefit of creditors, enter bankruptcy, receivership or insolvency, Landlord may, at Landlord's election, give notice to Tenant in writing specifying the default. Tenant shall have twenty (20) days after notice is sent to cure the default. If default continues thereafter, Landlord may declare the term ended and re-enter the Premises without a forfeiture of rents to become due hereunder, either with or without process of law and to expel the Tenant and all persons on the Premises, using force as may be necessary to repossess and enjoy the Premises without prejudice to any other remedy which might be available. Landlord may re-rent at a price and terms as Landlord determines, and receive the rent applying it first to payment of the rent due under this Lease, after all expenses of re-rental, including advertising, rental commissions, decorating, repairs and maintenance. Tenant shall pay any deficiency and remain liable for failure to comply with all terms and conditions of the Lease. Landlord may, but is not obligated to make payments or to keep covenants required of Tenant under this Lease. All expenses of Landlord in so doing shall be additional rent and paid by Tenant to Landlord. The specified remedies to which the Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which the Landlord may be lawfully entitled in case of any breach or threatened breach by the Tenant of any provision or provisions of this Lease.

If Landlord is in default under this Lease, Landlord shall have a reasonable time to cure the default after written notice specifying the default to Landlord by Tenant.

24. NONWAIVER. No waiver by a party of any breach by the other of its obligations hereunder shall be a waiver of any other subsequent or continuing breach. Forbearance by a party to seek a remedy for any breach by the other shall not be a waiver of its rights or remedies with respect to the breach.

25. CONDEMNATION. If the entire Premises are taken in condemnation proceedings, or as the result of negotiations in lieu of condemnation, this Lease shall automatically terminate as of the date of taking. If any portion of the Premises is taken by condemnation, either party shall have the right to terminate this Lease as of the date of the taking upon notice thereof to the other party within ninety (90) days after the date of taking. If a portion of the Premises is taken by condemnation proceedings and this Lease is not terminated as provided above, Landlord shall, subject to the provisions of any mortgage covering the Premises, restore the Premises to as near the condition which existed immediately prior to the date of taking as reasonably possible. Damages awarded for the taking of any or a portion of the Premises pursuant to condemnation or pursuant to a negotiated settlement in lieu of condemnation, shall be the property of Landlord. Nothing herein shall give Landlord any interest in or preclude Tenant from seeking and recovering on its own account from the condemning authority any award or compensation attributable to Tenant's relocation expenses, provided that any such separate claim by Tenant

shall not reduce or adversely affect the amount of Landlord's award. If any such award made or compensation paid to either party specifically includes an award or amount for the other, the party first receiving the same shall promptly account therefor to the other. If the portion of the Premises remaining after a partial taking is inadequate for the continued operation of Tenant's business at the Premises, as determined by Tenant in Tenant's reasonable business judgment, Tenant shall have the right to terminate this Lease.

26. ASSIGNMENT. Tenant shall not assign, sublet or mortgage this Lease or any right hereunder without prior written consent of Landlord. In the event of such assignment or transfer, with the consent of Landlord, the transferee or sublessee shall assume all the obligations of this Lease, and any renewal thereof, imposed on the Tenant, provided that such assignment or subletting does not release the Tenant herein from the covenants and obligations hereof and Tenant shall continue to be bound by all of the terms and conditions hereof.
27. SUBORDINATION AND NONDISTURBANCE. Landlord shall have the right to place upon Premises any mortgages which Landlord or its lender(s) deem advisable. Such mortgages shall have priority over this Lease and Tenant's rights hereunder. At Landlord's request, Tenant shall execute any and all instruments necessary to subject and subordinate this Lease to any such mortgages, on the condition that each such mortgagee executes a non-disturbance agreement in favor of Tenant which provides that so long as Tenant is not in default of this Lease, Tenant's right to possession of the Premises and Tenant's rights under this Lease, including, without limitation, any right to terminate, shall not be affected or disturbed by the mortgagee in the exercise of any of its rights or remedies against Landlord, nor shall Tenant be named as a party defendant to any foreclosure of the lien or mortgage. Furthermore, Tenant shall, within ten (10) days after receipt of a request therefor, execute and deliver to Landlord an estoppel certificate setting forth the name of Tenant, the date of this Lease, a description of the Premises and the rent payable therefor, and certifying that this Lease is either in full force and effect or specifically enumerating any conditions of default with respect thereto.
28. RIGHT TO ENTER. Landlord and its agents shall have the right during the final one hundred eighty (180) days of the Lease term and any renewal thereof to enter upon the Premises and post signs and notices that the Premises is for sale or lease and to show the Premises to a prospective lessee or buyer. Tenant covenants and agrees to cooperate with Landlord and its agents in showing and permitting to be shown the Premises to the general public.
29. SURRENDER. On the last day of the term of this Lease, or the earlier termination hereof, Tenant will peaceably surrender the Premises to Landlord. At the termination of this Lease, Tenant shall, at Tenant's expense, if Landlord so elects, remove all alterations and additions erected by Tenant and restore the Premises to their original condition, ordinary wear and tear excepted; otherwise such improvements shall be delivered up to Landlord with the Premises. All moveable office furnishings, trade fixtures, and equipment installed by Tenant may be removed by Tenant at the termination of this Lease, if Tenant so elects, and shall be removed if required by Landlord. All such

removals and restoration shall be accomplished in a good and workmanlike manner so as not to damage the Premises. Personal property remaining in the Premises at the expiration or termination of this Lease shall be deemed abandoned, and Landlord may dispose of the same as Landlord deems expedient. Tenant will promptly surrender all keys for the Premises to Landlord at the place then fixed for payment of rent and will inform Landlord of combinations on any locks and safes on the Premises.

30. HOLDING OVER. If, without Landlord's written consent, Tenant remains in possession of the Premises after the expiration or other termination of this Lease, Tenant shall be deemed to be occupying the Premises upon a tenancy at will only, at a monthly rental equal to 125% of the monthly rent (1/12th of the last annual rent) otherwise payable hereunder on the last day of the term of this Lease immediately prior to the expiration or termination of such term. Such tenancy at sufferance may be terminated by Landlord at any time by notice to Tenant at least thirty (30) days in advance of such termination. Any month-to-month tenancy or tenancy at will hereunder will be subject to all other terms and conditions of this Lease and nothing contained in this Section 31 will be construed to limit or impair any of Landlord's rights of reentry or eviction or constitute a waiver thereof.

31. NOTICES. All notices, requests, consents or other communications which are required or permitted to be given by either party to the other shall be in writing delivered to the other party by registered or certified mail with postage prepaid, addressed as follows:

To Landlord:

To Tenant:

32. ATTORNEY FEES. If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal shall be entitled to its reasonable attorney's fees to be paid by the losing party as fixed by the court. The provisions of this paragraph shall inure to the benefit of the party named herein who seeks to enforce a right hereunder.

33. OBLIGATION OF PARTIES. The agreements in this Lease shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.

- 34. RELATIONSHIP OF PARTIES. Nothing contained in this Lease shall be construed to create a relationship of principal and agent, partnership, joint venture or association between Landlord and Tenant. Neither the method of computing rent or any act of the parties shall create any relationship between the parties other than the relationship of Landlord and Tenant.
- 35. GOVERNING LAW. This Lease covers real property in North Dakota, and shall be construed according to North Dakota law. Invalidity of any provision of this Lease shall not affect the validity of any other provision. Any dispute arising out of this Lease shall be venued in district court in Cass County, North Dakota.
- 36. CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this Lease. In the event of any ambiguity or question of intent or interpretation arising, this Lease shall be construed as drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Lease.
- 37. SEVERABILITY. If any term, condition or provision of this Lease shall to any extent be held to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and shall continue to be effective and binding on the parties and complied with to the full extent permitted by law.
- 38. ENTIRE AGREEMENT. This Lease contains the entire agreement between the parties and there are no oral understandings or agreements other than those set out herein. This Lease cannot be altered or amended in any way except by a written agreement signed by the parties. All provisions of this Lease, including indemnification provisions, intended to continue after the termination of this Lease shall survive the termination of this Lease.
- 39. COUNTERPARTS. This Lease may be executed in whole or in separate counterparts, all of which together shall constitute one agreement. Copies of signature pages delivered by one party to the other by electronic communications (e.g., fax or email) shall be deemed to constitute original signatures

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

LANDLORD:

TENANT:

By: _____
 Its: _____

By: _____
 Its: _____

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # 3

***Please Note: The following information must be completed and submitted to the West Fargo City Auditor's Office by the Thursday noon preceding the City Commission meeting. Failure to comply may result in no action being taken on your request.

1. CONTACT PERSON: Malachi Petersen

2. PHONE NUMBER: 701-433-5324 DATE: March 12, 2020

3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:

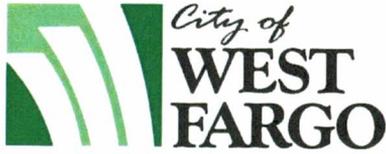
The City of West Fargo has received an application for an Enterprise Grant for the sum of \$47,066 from HollyWould Beauty Suites. The application was reviewed and recommended for approval by a unanimous vote of the Economic Development Advisory Committee at their March 4, 2020 meeting.

4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):

300 Sheyenne St. West Fargo ND 58078

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Consideration for Approval of the Enterprise Grant application for HollyWould Beauty Suites in the amount of \$47,066 with a condition that all requirements of the Enterprise Grant Program are met.



Enterprise Grant Application

Program Purpose and Benefits

The City of West Fargo (city) targeted development program provides the use of public funds to leverage private investment for interior and exterior improvements to commercial properties located within the city. The program applies to all commercial property that is located within the targeted redevelopment area downtown. Targeted redevelopment area is defined as a property located in the downtown overlay district (see map attached). The program is intended to encourage property owners and business tenants of properties to undergo projects which are transformational with respect to use (which must be consistent with the vision of the West Fargo 2.0 comprehensive plan) or lifespan of the building not just maintenance of the property (This is not a building maintenance contract).

Program Goals

- Beautify the area by improving exterior building facades
- Enhance commercial growth
- Encourage redevelopment and reinvestment
- Increase community pride in the adjacent neighborhoods
- Add significant physical improvements to the aesthetics of the property
- Create unique and distinct places
- Coordinate implementation efforts
- Attract businesses that compliment revitalization of an area through employment, unique offerings, and complementary businesses to the West Fargo 2.0 Comprehensive Vision

Project Eligibility

The program is offered through and administered by the City of West Fargo Economic Development office. Interested parties may apply for a grant not to exceed \$75,000. To qualify for the entire \$75,000 the applicant must have at least \$150,000.00 of qualifying expenses that are approved by the West Fargo Economic Development Advisory Committee (EDAC) and City Commission. Projects will be considered on a prorated basis, the grant is eligible for up to 50% of the qualified expenses. Additional Renaissance Zone incentives may be applicable if other capital/structural improvements are made to the property. Eligibility requirements include:

- Payment of all taxes and/or assessments must be current
- Property must be zoned commercial and operate as such
- Applicant must make a financial commitment to the project
- Projects must be transformational in appearance, use, or lifespan of the building.
- Improvements must comply with all City zoning and building code requirements and Sheyenne St/Main Ave recommendations.



Enterprise Grant Application

Eligible Improvements

As a part of the grant application, applicants shall provide professionally rendered drawings and estimates from licensed contractors or vendors of work and equipment required for the project. The EDAC will review bids and drawings and send an expense eligibility recommendation to the city commission for final consideration. Only expenses relating to capital improvements to buildings and essential equipment will be considered.

The following lists contains costs NOT eligible for assistance

- Building permits and fees
- Title reports and fees
- Extermination of insects, rodents or other pests
- Private sidewalk replacement or repair
- Acquisition of land or buildings
- Refinancing of existing debt
- Building security systems
- General repair/maintenance work not contributing to the overall interior or exterior impact of the building
- Improvements not listed as eligible or ineligible are subject to review by the city, EDAC and city commission.
- Operating capital

Funding

The city's assistance may not exceed 50% of the total project costs up to a maximum of \$150,000 for each qualifying project, whichever is less. Payments will be made at the completion of a project validated by invoices from licensed contractors and vendors. If a recipient remains in business (as described in the Business Incentive agreement) and within good standing with the City for at least 5 years from the date of opening the balance will be written off up to a maximum of \$75,000. If an approved project defaults on the Business Incentive Agreement the recipient will be required to repay the entire grant or a prorated amount at the City Commission's discretion. Projects with a total cost of less than \$10,000 will not be considered.

Process

Interested applicants shall submit an application to the economic development office. City staff will review the project to ensure program compliance. If the project complies, it will be sent to a subcommittee (financial review committee) of the EDAC which make a recommendation to the full EDAC for review. The applicant is encouraged to attend the full EDAC meeting where the project will be reviewed and considered. City staff will notify applicant as to the progress, time and date of the EDAC meeting. If the project is approved by the EDAC, it will be sent to the city commission for consideration of the final approval. An applicant must have final approval from the city commission to start incurring eligible expenses. Any expenses incurred before final approval will



Enterprise Grant Application

not be considered eligible. If denied at any level, city staff will notify the applicant as to the reasoning and give the applicant the opportunity to amend their application for reconsideration and further review.

Application items to be included are as follows:

- a) Completed application form
- b) Property address and/or complete legal description
- c) Proof of ownership/draft lease.
- d) Site plan with elevations
- e) Photos, drawings, site plans
- f) Bids and cost estimates
- g) Landscaping plan, signage plan

ADDITIONAL INFORMATION AND EXHIBITS TO APPLICATION

Business plan Including:

- A. History of business
- B. Marketing analysis and strategy
- C. Description of products and process
- D. Financial projections
- E. Three years of financial projections and pro-forma financial statements
- F. Business organization documents
- G. Articles of incorporation and by-laws or partnership agreement
- H. Certification of good standing from State of North Dakota

ALL SECTIONS REQUIRED IN PAGES 7-10 MUST BE COMPLETED OR SEPRATE ATTACHMENTS COVERING REQUIRED SECTIONS MUST BE INCLUDED WITH A COMPLETED APPLICATION. THE EDAC AND CITY COMMISSION RESERVE THE RIGHT TO REQUEST ANY ADDITIONAL INFORMATION AT ANY TIME DURING THE APPLICATION PROCESS THAT MAY BE PERTINANT TO THE APPLICATION BUT NOT COVERED BY THIS FORM.



Enterprise Grant Application

Project Award

Following the review and approval by the city commission, the applicant may obtain any required building permits. The applicant should not start any improvements or demolition unless written authorization is given by the City's Economic Development Department. Any work performed or materials purchased prior to final approval by the city commission will NOT be eligible for the grant.

Construction must be completed within 10 months or as otherwise approved by the city commission. Modifications to the approved final plans which produce visible differences or if a different occupant other than the approved application and design will require review and approval of city staff. Failure to do so will invalidate the project and result in the project being terminated and NOT eligible for grant assistance.

Once construction is complete, the applicant will notify the City's Economic Development Department and schedule a final walk-through. Discrepancies between the approved plan and actual construction will be noted in writing and a time frame for correction will be determined.

Grant assistance is limited to two projects per fiscal year for each parcel and a maximum of two projects in any multi-tenant building. Applications cannot be submitted for properties or multi-tenant units which received grant assistance within two years. Funding allocations by the city for any given fiscal year and will be funded on a first applied, first approved basis, until funds are depleted or City Commission changes process. The city, in its sole and exclusive discretion, reserves the right to cancel the program at any time, prior to grant approval, without notice, if sufficient funds for the program are not available.

Payment

In the event of a default payments are due 30 Days after official notice from the city. If a payment is more than 30 days late applicant will be charged 3% of the amount of payment or \$800 whichever is less for each 30 days late.

Applicant will be considered in default if upon review of the commission any of the following events occur:

- **Insolvency or bankruptcy:** The death, dissolution or insolvency of appointment of a receiver by or on behalf of the business or applicant; application of any debtor relief law, the assignment of the benefit of creditors by or on behalf of; the voluntary or involuntary termination of existence by; or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization compensation or debtor relief law by or against applicant or any co-signer, endorser, surety or guarantor of this note or any other obligations applicant may have.
- **Business Termination:** Applicant merges, dissolves, reorganizes, and terminates business existence or a partner or majority owner dies or is declared legally incompetent.



Enterprise Grant Application

- **New Organization:** Without city’s written consent, applicant reorganizes, merges into or consolidates with an entity; acquires all or substantially all of the assets of another business; materially changes the legal structure, management, ownership, or financial condition; or affects or enters into a domestication, conversion or interest exchange.
- **Failure to Perform:** Applicant fails to perform any condition or to keep any promise or covenant of this agreement.
- **Other Agreements:** -Applicant is in default on any other debt or agreement with city.
- **Misrepresentation:** Applicant makes any verbal or written statement(s) or provides any financial information that is untrue or inaccurate, or conceals a material fact at the time it is made or provided.
- **Judgment:** Applicant fails to satisfy or appeal any judgment against city.
- **Forfeiture:** The property is used in a manner or for purpose that threatens confiscation by a legal authority.
- **Name Change:** Applicant changes name or assumes an additional name without notifying city before making such a change.
- **Property Value:** City determines in good faith that the value of applicant’s property has declined, is impaired, or in a gross state of disrepair.
- **Material Change:** Without first notifying city, there is a material change in applicant’s business, including ownership, management and financial conditions.
- **Due on Sale or Encumbrance:** City may, at its option, declare the entire balance of this note to be immediately due and payable upon the creation of or contract for the creation of, any lien, encumbrance, or transfer of sale of, all or any part of the property. If applicant is in default under this agreement, applicant may not sell the inventory portion of the property even in the ordinary course of business.

*Should the business be sold, the incentive may be assumed by the buyer, provided they meet all of the requirements and agree to terms of the Note.

* Upon review by the city commission, at the commission’s discretion an applicant may be given up to 60 days to become compliant with the terms of the agreement.

Waivers and Consent: To the extent not prohibited by law, applicant waives protest, presentment for payment, demand, notice of acceleration, notice of intent to accelerate and notice of dishonor.

Release of funds

Execution of this application and supporting documentation (Pages1-) you are indicating that you are personally responsible and liable for the terms of the Grant and applicant understands the terms to be binding of both parties. The conditions of the Grant are subject to the West Fargo Enterprise Grant specifications and the application packet you have provided and have been approved by the City.

Grant funding will be awarded upon a **post completion** basis only. Applicants must provide verification of all project costs including copies of all paid invoices before funds can be disbursed.

Applicant Signature:
Signature of Applicant:

Date: 2/27/20

Initial: HG



Enterprise Grant Application

PRIMARY CONTACT INFORMATION FOR THIS APPLICATION

Name: Holly Greiff

Address: 4440 50Th St S. Fargo, ND 58104

Phone: 701-490-1207 Fax: NA

E-Mail: Hollywouldlash@gmail.com

Applicant Name: Holly Greiff / HollyWould Beauty Suites

(Name of person/entity to RECEIVE grant)

Property Owner: Epic Companies / Pioneer Place LLC

Property Address: 300 Sheyenne St. West Fargo ND 58078

Architect/Firm: ICON Architectural Group / Great States Construction
(If applicable)

DESCRIPTION OF PROPERTY

Current tenant(s): Commercial Mixed use building

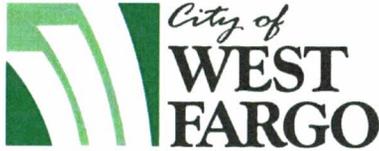
Building History (If available): This is new construction in the downtown West Fargo area. The property is phase 2 of a 4 phase project aimed directly at aiding the West Fargo 2.0 comprehensive plan.

Total Qualifying Expenses \$ 94,132 Total Loan from City \$ 47,066

Potential Grant Portion of Loan \$ 47,066

Is the renovation part of a larger project? Yes No, the renovation is the only work I am doing.

If yes, please describe comprehensive Project: The property is part of an extensive project that will revitalize the vision of West Fargo's downtown. The only work I am doing is fitting up my personal business space.



Enterprise Grant Application

Summary of Existing Condition: (Please attach Pictures – Attachment 1)

The space is located in Pioneer Place, one of the newest additions to the Sheyenne Street construction project. It is approximately 918 sq ft located to the adjacent south of DA Davidson. The location is a store front retail space with direct access from Sheyenne Street.

Summary of Proposed Scope of Work: (Materials, color schemes, etc.) Please attach colored drawings that include pre- and post- rehab detail, indicating specifically what will be modified and how (Attachment 2). Bids or official estimates from licensed commercial contractors or other providers of needed services and materials are required. (Attachment 3)

Epic Companies has built retail space within multi-use buildings serving to aid in the development of the City of West Fargo's 2.0 downtown vision. HollyWould Beauty Suites will create 5 private suites for individual licensed beauty professionals running their own business in downtown West Fargo. The new construction will be managed by Great States Construction to construct a waiting area and enclosed private suites. Each suite to include upper and lower cabinetry, hand sink, and dimmable lighting. Aesthetics include clean, modern decor, mixing black and gold hardware with wood accents. The building exterior, as well as upper level resident units, have already been completed. The interior retail space for HollyWould Beauty Suites will be constructed from a "vanilla shell" running electrical, HVAC, and plumbing.

Estimated completion date: End of May 2020

City Vision: How will proposed project help city reach the vision downtown as described in the West Fargo 2.0 Comprehensive plan and downtown framework study?

There is a need for booth rental salons focused on skin care services & massage in the West Fargo and FM area. West Fargo booth rental options such as Cloud 9, Serene Escape, Freya, and West 13th Salon, all offer hair services as their main source of business. In preparation for West Fargo 2.0, a salon was removed. HollyWould Beauty Suites provides the opportunity for small beauty businesses in downtown West Fargo. Bringing tenants and clientele to the downtown area where we are located in a mixed use building within walking distance to other local business such as shopping, restaurants, and community curricular activities. The beauty industry provides steady clients, meaning more traffic to neighboring businesses. Above and local tenants will have more opportunity for beauty services local to downtown, keeping business in West Fargo.

How will your project complement downtown redevelopment efforts? What is the nature of the business? What are the growth plans if any over the next 5 years?

My current business, HollyWould Lash, is located in South Fargo and would be moving to downtown West Fargo as a tenant for HollyWould Beauty Suites. HollyWould Beauty Suites will provide private suite rental for independent beauty professionals outside of a hair salon environment, creating a community of entrepreneurial beauty professionals where instead of competition, there is a share of knowledge and support. Over the next 5 years, the beauty industry will continue to grow and new services will evolve. Providing the latest trends in services will allow small businesses to thrive. The opportunity exists for employees being paid on a commission basis of services performed. There is also a need for mentoring programs for recent graduates looking to obtain training hours towards Master Licenses in turn allowing them to start their own small business. We will advocate for sharing knowledge and support for beauty professionals, new or established, instead of looking at others as competition.



Enterprise Grant Application

Employment: What is the anticipated employment and total compensation including benefits?

HollyWould Beauty Suites will bring the opportunity for a minimum of 5 individual small business owners to operate their small business as licensed beauty professionals. With the potential of 10 individual small business owners if tenants opt to share suite spaces. It is also possible to add 1 to 2 employees in the future to assist with services or reception and retail sales needs. The community need for mentors could also bring in 1 to 2 students gaining hours towards their Master Esthetician license. Potentially 15 people could work under the HollyWould Beauty Suites space. Future employees would be paid an hourly wage along with commission on products and services. Mentoring students would be compensated on an hourly basis, as services performed by them would be offered at a discounted rate.

The West Fargo downtown area businesses, tenants, and consumer foot traffic will provide ample opportunity for suite tenants to build on their clientele.

List any other incentives received by the city or state (program not eligible with the PILOT program).

Not Applicable

Business plan including:

- A. History of business
- B. Marketing analysis and strategy
- C. Description of products and process
- D. Financial projections
- E. Three years of financial projections and pro-forma financial statements
- F. Business organization documents
- G. Articles of incorporation and by-laws or partnership agreement
- H. Certification of good standing from State of North Dakota
- I. Information on a lead lender if applicable



Enterprise Grant Application

Applicant Signature: Holly Ouff **Date:** 2/27/20
Signature of Applicant: _____ **Date:** _____
Signature of property owner: Brian Stealy **Date:** 2-27-20
 _____ **Date:** _____

If approved by West Fargo City Commissioners, signature will be required by the Mayor and/or Economic Development Director of the City of West Fargo.

City of West Fargo:

 Mayor Date: _____

 Economic Development Director Date: _____

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

On this ____ day of _____, 20____, before me, a Notary Public within and for said County and State, personally appeared _____, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

 Notary Public, Cass County ND
 My Commission Expires:

(SEAL)

Notary signature required prior to receipt of funds.

Signature of Applicant

 Applicant Date: _____

 Date: _____

Notary signature required prior to receipt of funds.

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

On this ____ day of _____, 20____, before me, a Notary Public within and for said County and State, personally appeared _____, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

 Notary Public, Cass County ND
 My Commission Expires:

(SEAL)

Attachment 1: Photos (current & historic if available)



Historic photos of Sheyenne Street

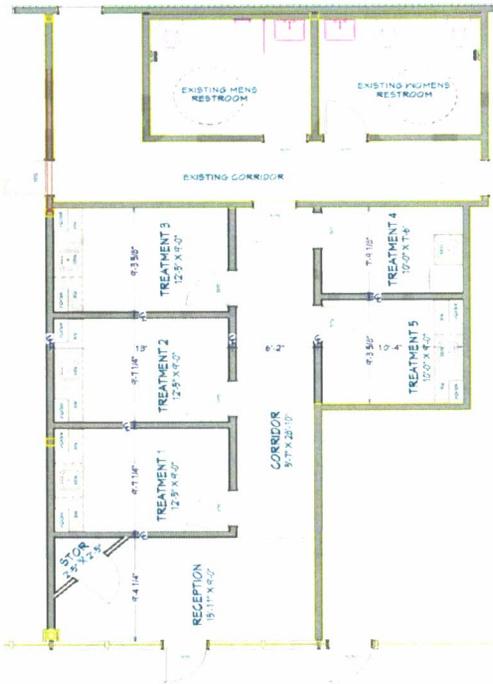


During construction of Pioneer Place



Finished construction of Pioneer Place

Attachment 2: DRAWINGS PRE & POST



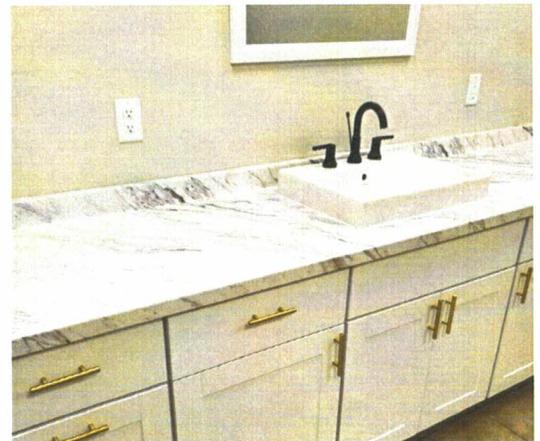
Interior layout of HollyWould Beauty Suites



View of HollyWould Beauty Suites from Sheyenne St.

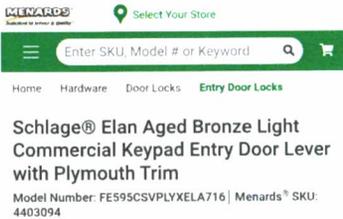


Decor mood board for interior design. Clean, urban modern decor with gold and back accents. Dark accent wall with wood stained doors.



Cabinet, counter top, and faucet ideas for treatment rooms.

Attachment 3: BIDS & COSTS ESTIMATES



Online Price
\$119⁰⁰ each

Treatment room keypad entry x 5
\$595

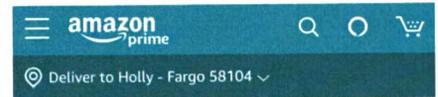


OPEN GALLERY (1 IMAGE)



\$169.99

Treatment room mirrors x 5
\$850



Up to 20% off AmazonBasics

Artechworks
Artechworks Modern Velvet Accent Arm Chair Pink with Golden Legs, Living Room Bedroom Dining Chair



2 Colors:
Pink

Price: **\$119.99** & Free Shipping

Waiting area chairs x 2
\$240



5% Off: Free Shipping & No Tax On Orders Over \$49.99* Special Discount Code: TODAY Offer Ends Wednesday, February 19th!

Norvell Salon Mobile Start-Up Kit (M-1000)



NORVELL SALON MOBILE START-UP KIT (M-1000)

750⁰⁰ **SAVE \$55**

Complete spray tanning start up
\$750

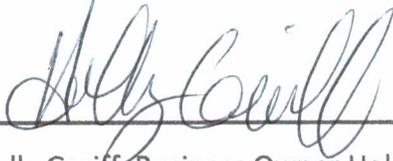


Exterior blade sign example
\$896

Initial:

I, Holly Greiff, owner of HollyWould Beauty Suites plan to personally finance the fit-up for my business in cash in the amount of \$94,500.

Pioneer Place, LLC. will be giving my business a \$25/SF fit-up allowance for the 918 SF space in the amount of = \$22, 950 to also assist in financing the build out.

X 

Holly Greiff, Business Owner HollyWould Beauty Suites



2/28/2020

To whom it may concern,

Adrian & Holly Greiff have had both personal and business relationships with us at Bell Bank since 2010. In that time, we have had no problems with any of their accounts. balances, transactions, etc.

Hollywould Beauty Suites does have sufficient funds to cover the \$94,000 that is being requested.

Thanks,

A handwritten signature in blue ink, appearing to read "KSE".

Kris Schneider
Personal Banking Officer
Bell Bank

I, Ashley Troy, plan to lease out a beauty suite at HollyWould Beauty Suites new location at 300 Sheyenne Street in West Fargo, ND 58078.

The purpose of my business will be to serve the community with beauty related services.

Ashley Troy

Signature

Ashley Rae's Massage

Business Name

I, Ashtyn JOHNSON, plan to lease out a beauty suite at HollyWould Beauty Suites new location at 300 Sheyenne Street in West Fargo, ND 58078.

The purpose of my business will be to serve the community with beauty related services.

Ashtyn Johnson

Signature

Turning Heads

Business Name



Beauty Suites

2020
Business Plan

Holly Greiff

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Executive Summary

The beauty industry is always growing due to evolving services and the search for anti-aging treatments. Eyelash extensions, permanent makeup, facial services, and massages are all luxury services. With the growth of social media and celebrity idols along with a thriving economy, luxury services are increasingly popular and more obtainable than ever.

Currently most booth rental salons in West Fargo mainly focus on hair stylists with the occasional room for rent by an esthetician, massage therapist, or nail artist. HollyWould Beauty Suites will take a different approach by offering booth rental suites designed specifically for skin care services and massage therapy. West Fargo customers can now have their every other week lash appointment or monthly facial or massage appointment near if not right in their neighborhood.

After renting from primarily hair salons for the last 3 years, it became difficult to charge the premium prices for services when the environment is not as luxurious as the service. Loud hair dryers, stylist and clients trying to talk over dryers, smells of chemical hair and nail treatments, and tracking hair trimmings literally everywhere is not conducive to performing or receiving a clean, relaxing, high-end service.

HollyWould Beauty Suites will offer a clean, quiet, relaxing home for independent beauty experts. Focusing on bringing together a small community of entrepreneurial licensed beauty professionals sharing knowledge and support in place of competition. Beauty professionals renting private suites will also be able to build clientele through the downtown West Fargo neighborhood as the general consumer utilizes businesses in close proximity to their home or workplace. Loyal clientele to business tenants will bring traffic into other downtown West Fargo businesses for shopping, food and drinks, and community events.

History

Holly Greiff moved to Fargo in 2006 after graduating from VCSU with a degree in Business Management. Hired directly out of college, she worked as a Human Resource Manager for a local large construction company for just shy of 10 years. Passionate about cosmetics and the skin care industry, Holly then attended the Salon Professional Academy in Fargo for a license in Esthetics. Eyelash extensions quickly became the on-trend service to perform with the craze becoming increasingly popular locally. Holly excelled, finished the program early, and began working and mentoring under another local Master Esthetician and lash artist. A minimum of 1,000 hours under a Master allowed her to obtain her own Master Esthetician license which permits individual estheticians to operate as their own business in the state of North Dakota.

Holly created HollyWould Lash as a sole proprietor in October of 2016 and began renting a suite in a booth rental salon in South Fargo. Ongoing training and further certifications over the last three years has allowed HollyWould Lash to continually provide upscale services including classic, hybrid, and volume eyelash extensions, cosmetic tattoo microblading, lash lift and tinting, dermaplaning, and other skincare services. Corresponding retail including Epionce prestige skincare and aftercare products complement the services offered.

HollyWould Lash successfully gained a loyal lash clientele through word of mouth, referrals, and social media. With the maximum of client capacity approaching, the future planning for HollyWould Lash began. Future growth plans for HollyWould Lash include: maximizing the relaxation experience, the potential to add employees assisting with services, retail and reception, mentoring for students perusing esthetics, new services, the addition of more prestige skincare lines, make-up lessons and educational presentations for the local community, and providing private suite rental for other licensed beauty professionals to build their own businesses. All towards the common goal of servicing more clientele for increasingly popular beauty services outside of a hair salon environment. Holly registered the tradename for HollyWould Beauty Suites in January of 2020.

Business Mission

The mission for HollyWould Beauty Suites is to provide upscale private booth rental for individual licensed beauty professionals such as Master Estheticians, Massage Therapists, Permanent Makeup artists, or other beauty professionals.

Removing the common hair salon environment most beauty professionals rent from, provides a quiet, clean, serene environment for the upscale services clients are paying for. Having multiple business professionals in one location allows for the ability to service more clients and cross promote services. HollyWould Beauty Suites furnishes a local community of beauty professionals operating small businesses under one roof advocating for a society of supportive specialists instead of competition.

HollyWould Beauty Suites will create a new store front home for HollyWould Lash in growing downtown West Fargo. HollyWould Lash will continue to offer lash extensions, microblading, other esthetic services and corresponding retail while adding airbrush spray tanning to the service menu.

Marketing Analysis and Strategy

Clientele

The target market for beauty services are consumers of all ages including minors as young as 16. Clients who have the disposable income to pamper themselves with services are the core of long-term repeat customers.

Clients who utilize beauty services typically fall into the following 4 main categories:

1. **New/First time clients:** Customers trying a service for the first time out of interest. Many of these clients are obtained through social media posts highlighting a specific service. They may have heard of the service before and have been interested and never tried it. First time clients are always potentially loyal clients, or special event clients.
2. **Special event clients:** Customers who want to look their best for a special event such as weddings, proms, photos, etc. They have or have not had the service before but are willing to splurge for a special occasion.
3. **Referrals:** The 2nd best type of client. Their friend, coworker, or family has utilized your services and had positive experiences. They are so happy with the result they want to share it.
4. **Loyal clients:** Steady repeat customers who generally have a higher disposable income or have budgeted for the services. Loyal lash clients are expected every 2 to 3 weeks, facial and massage clients are typically monthly. Permanent make up clients require ongoing touch ups. You can count on these clients to keep your schedule steady and often are the ones to refer your services to friends, family, or coworkers.

Examples

An Esthetician or Cosmetologist offering lash extension services could service on average 5 or 6 clients per day for an average ticket price of \$70. Totaling between \$350 to \$420 per day in service sales x 5 or 6 days per week equals between \$1,750 to \$2,520 on service sales alone, not including tips or retail sales. Permanent make up services average anywhere from \$200 to \$500 for a two-hour appointment. An average 75-minute massage is \$85 x 6 clients per day equals \$450 per day excluding tips. Airbrush spray tanning current rates locally are \$35 each. The product cost of 1 airbrush tan is about \$4 and takes less than 15 minutes.

Private suite rental technicians servicing an average of 6 clients per day, 5 days per week would each bring in 30 clients to the downtown area each week. Five tenants each bringing in 30 clients per week equals 150 clients for potential consumers to other downtown West Fargo businesses.

Strategy

Booth rental salons in the FM area are booming. With two local beauty schools providing cosmetology, esthetic and massage therapy courses, the number of beauty professionals are on the rise. In 2020 Joseph's School of Hair Design has 5 different enrollment dates for Cosmetology courses, 3 for skin Esthetic courses, and 2 for Massage Therapy. The Salon Professional Academy also has 5 different enrollment dates for Cosmetology, 3 for Esthetics, and 3 for Massage Therapy. With average course sizes of 20 students for Cosmetology, 12 for Esthetics, and 9 for Massage Therapy.

Licensed beauty professionals have the option of working as an employee in a salon or spa. The North Dakota State Board of Cosmetology requires licensed Estheticians to work under another Master Esthetician or Master Cosmetologist for a minimum of 1,000 hours in order to obtain a master license. Master license holders can operate as their own salon or business under state board guidelines. Motivated specialists in the beauty industry are most likely planning to run their own business through renting a booth. Running your own business means setting your own hours, product lines, and standards of service.

Strategy for HollyWould Beauty Suites is to provide an upscale booth rental for small business beauty professionals that provide luxury beauty services and are generally limited to operating out of hair salons. Focusing on potential tenants who provide luxury beauty services such as, estheticians, permanent make-up artists, and massage therapists.

Marketing

The location of a mixed-use building will play an important role in increasing business awareness. The walk ability of downtown West Fargo allows for more foot traffic from other local businesses and apartment complexes in the same unit. The use of Epic Companies email newsfeeds and social media accounts will also increase advertising for HollyWould Beauty Suites as a retail space tenant. Community events such as make-up classes for beginners, promotions for surrounding school students for prom, spray tanning events, or skin care tips presentations are all ways HollyWould Beauty Suites can interact with the surrounding community and increase clientele.

Zero to minimal funds will be spent on advertising. Utilizing free social media platforms such as Facebook and Instagram will encourage customers to become part of the social media community. Fostering those relationships between each individual operators' clients and businesses within HollyWould Beauty Suites. Facebook has numerous salon groups specifically for the FM area, making it the perfect publicity for rental suite openings and making HollyWould Beauty Suites a known local name. The occasional paid "boosted" post may be utilized to reach an extended audience for special events or suite openings. Boosted social

media posts on Facebook and Instagram platforms are extremely low-cost and easy to customize.

Description of Products and Process

HollyWould Beauty Suites will lease a space allowing for five private treatment rooms. The suites will be available for rent to individual licensed beauty professionals operating as their own businesses. Occupants will be required to sign a 12-month rental agreement, provide a security deposit, as well as provide and maintain a policy of liability insurance with HollyWould Beauty Suites named as additionally insured.

Occupants will run their own small business, making their own schedules and booking their own clients. All licensed professionals are subject to following local and state guidelines. The State Board of Cosmetology and Cass County Public Health will inspect HollyWould Beauty Suites and all other applicable business tenants.

The option to share suites spaces with multiple professionals will be allowed and encouraged for tenants looking for reduced rent while building their business. Tenants willing to share their suite will together determine their own schedules dividing use of the suite. If multiple tenants elect to share a suite, the monthly rent will be increased by \$200 before being divided equally. Suite lease amounts will be competitively based off square footage of each suite. HollyWould Beauty Suites being located with direct access from busy Sheyenne Street, a busy downtown West Fargo area will draw in ample foot traffic and advertising from other local businesses as well as tenants living in the above quarters of Pioneer Place. The downtown traffic will allow for small beauty professionals to quickly increase clientele.

Amenities for tenant suite rental include:

- High speed wireless internet
- 24-hour access
- Common large restrooms for tenants and guests
- Reception / Waiting area
- All utilities included
- Monthly rent ACH withdrawal available
- Ample parking for tenants and clients
- Store front access from Sheyenne in expanding downtown district of West Fargo
- Foot traffic & visibility from Pioneer Place retail and luxury apartments

Each suite to include:

- Enclosed private suite for privacy
- White built in upper and lower cabinets with lux laminate countertop
- High gloss porcelain hand sink
- Dimmable lighting
- Pendant decor light
- Keypad security door entry on each suite
- Business name on suite door

Suite Information:

#	Size	Sq. Footage	Monthly Rent	Deposit
Suite 1	12.5' x 9'	112.5	900	500
Suite 2	12.5' x 9'	112.5	900	500
Suite 3	12.5' x 9'	112.5	900	500
Suite 4	10' x 7.5'	75	700	375
Suite 5	10' x 9'	90	775	425

Financial Information

The few monthly expenses for HollyWould Beauty Suites include: Rent, CAM, utilities, internet, and insurance. The remaining cost of construction fit up will be personally paid for by Holly Greiff leaving no loan payment.

Rent for Pioneer Place will increase annually by 2% per the five-year lease agreement. CAM charges will not increase during the five-year lease. HollyWould Beauty Suites tenants will incur a 2% rent increase per year.

Monthly Rent	Suite 1	Suite 2	Suite 3	Suite 4	Suite 5
2021	918	918	918	714	790
2022	936.36	936.36	936.36	728	806
2023	955	955	955	742.56	822.12

Pro Forma Financial information (see attached) represents all 5 suites rented for 7 months of 2020, and all 12 months of 2021, 2022, and 2023. Projections also depict no tenant turn over. The attached pro forma financial information projects Suites 1, 2, & 5 sharing suite space between two tenants for the year of 2022 & 2023. Suite spaces with shared tenants will have a rent increase of \$200 per month before being divided between roommates. Suite tenants, although sharing a space, both pay the full deposit amount.

Shared Suites	2022 Monthly Rent	2023 Monthly Rent
Suite 1	$936.36 + 200 = 1,136.36$	$955 + 200 = 1,155.00$
Suite 2	$936.36 + 200 = 1,136.36$	$955 + 200 = 1,155.00$
Suite 5	$806 + 200 = 1,006.00$	$822.12 + 200 = 1,022.12$

Pro-Forma Income Statement

HollyWould Beauty Suites

June 2020 through 2023

	2020	2021	2022	2023
Monthly Expenses				
Rent	\$ 1,377.00	\$ 1,404.20	\$ 1,432.67	\$ 1,461.25
CAM	\$ 286.92	\$ 286.92	\$ 286.92	\$ 286.92
Utilities	\$ 120.00	\$ 120.00	\$ 120.00	\$ 120.00
Internet	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00
Insurance	\$ 67.00	\$ 67.00	\$ 67.00	\$ 67.00
Total Monthly Expenses	\$ 1,900.92	\$ 1,928.12	\$ 1,956.59	\$ 1,985.17
Revenue	June - Dec 2020	2021	2022	2023
Rent Income	\$ 29,225	\$ 51,096	\$ 59,317	\$ 60,356
Deposits	\$ 2,300	\$ -	\$ 1,425	\$ -
Total	\$ 31,525	\$ 51,096	\$ 60,742	\$ 60,356
Expenses				
Rent	\$ 9,639	\$ 16,854	\$ 17,192	\$ 17,535
CAM	\$ 2,008	\$ 3,443	\$ 3,443	\$ 3,443
Utilities	\$ 840	\$ 1,440	\$ 1,440	\$ 1,440
Internet	\$ 350	\$ 600	\$ 600	\$ 600
Insurance	\$ 469	\$ 804	\$ 804	\$ 804
Total Expenses	\$ 13,306	\$ 23,141	\$ 23,479	\$ 23,822
Profit	\$ 18,219	\$ 27,955	\$ 37,263	\$ 36,534



Hand made volume fan



Volume eyelash extensions



Single classic lash extensions



Classic eye lash extensions



Eyelash lift



Eyebrow microblading

Bid & Cost Estimate Summary
HollyWould Beauty Suites

Build out by Great States Construction	\$ 91,501
Permits (included in GSC bid)	\$ (700)
Treatment room keypad locks	\$ 595
Tanning equipment	\$ 750
Treatment room mirrors	\$ 850
Waiting area chairs	\$ 240
Signage - Blade & Door Vinyl	\$ 896
<u>Total</u>	<u>\$ 94,132</u>



GREAT STATES CONSTRUCTION

1318 25TH AVENUE SOUTH

FARGO, NORTH DAKOTA 58103

(701) 205-4717

FAX (701) 864-38

February 18th, 2020

HollyWould Beauty Suites Updated Proposal

Attn: Holly Greiff

Re: **HollyWould Beauty Suites – Pioneer Place**
300 Sheyenne St
West Fargo, ND 58078

Dear Holly Greiff:

This letter is a proposal for all required work to complete the fit-up of HollyWould Lash. It is understood that the construction of this facility will be in accordance with commercial construction practices of the industry and shall be performed in a professional manner.

Thank you for giving us the opportunity to provide you with the following quote and we look forward to working with you.

Division 1 – General Conditions - \$15,712.00

- Permits (**\$700.00**)
- Supervision and Management
- Trash Dumpster
- Temporary Sanitation Facilities
- Liability Insurance
- General Labor & Cleaning
- Final Cleaning

Division 3 – Concrete - \$3,911.00

- Furnish labor and equipment to grind floor to a Grade 1 – salt and pepper exposed surface
- Furnish labor and material to install (1) coat of densifier sealer to increase floor hardness and reduce concrete dusting
- Furnish labor and equipment to polish floor to a class 1 – medium reflectivity, 400 grit medium gloss finish
- Fill all control joints with backer rod and a poly-urethra joint sealant color chosen from stock colors
- Furnish labor and material to install (2) coats of LS guard sealer and burnish when complete

Division 6 – Woods, Plastics & Composites - \$1,799.00

- Finish carpentry installation

Division 7 – Thermal & Moisture Protection - \$55.00

Caulking

- Caulking as needed

Division 8 – Openings - \$2,607.00

- Provide & install (5) pre-finished flush wood interior doors for treatment rooms and break room
 - Color TBD
- Provide & install (5) Timely knock down door frames for treatment rooms and break room
 - Color TBD
- Provide opening in storage closet for tenant provided barn door

Division 9 – Finishes - \$17,793.00

- Metal frame new walls - 2x4 throughout
- Metal frame 2x6 plumbing walls and demising wall
- Hang drywall at all new walls up to the deck
- Tape, prime, and paint all interior walls (2) colors
 - Wall finish to be smooth
 - Wall color TBD
- Provide & install vinyl base throughout
 - Color TBD
- Provide & install 2x2 acoustical ceiling grid and tile
 - Acoustical ceiling tile - Armstrong Prelude 15/16” Cirrus, White, throughout entire space

Thermal

- Insulation at all new walls

Division 10 – Specialties - \$231.00

- Provide & install (1) new fire extinguisher
- Provide & install (1) new semi-recessed fire extinguisher cabinet

ITEMS NOT INCLUDED

The following items shall be specifically excluded from this proposal:

- Bonding
- Termination of Data
- Utility charges
- Testing
- Wiring or connection of Owner Furnished Equipment (Unless Noted Above)
- Low voltage HVAC wiring
- Appliances/Kitchen Equipment
- Exterior sign wiring
- Fire alarm wiring
- Any exterior penetrations
- Barn door for storage closet
- Window treatments
- Treatment room mirrors
- Keypad entry locks for treatment rooms
- Vinyl and blade signage

AREAS:

Areas defined in this proposal are as follows: **As indicated on plans**

Great States Construction, Inc. proposes to construct this facility as herein described for a total cost of **\$84,900.00** on a progress payment basis. Applications for payment will be presented monthly. Terms will be net 10 days. This proposal is subject to revision in 30 days.

Thank you for the opportunity you have given us to present this proposal to you. We look forward to the opportunity of working with you on this project and guarantee that you will be pleased with the product we provide.

Sincerely,

GREAT STATES CONSTRUCTION, INC.



Luther Holm
Senior Project Manager



Audri Wenger
Assistant Project Manager

ALTERNATES TO BASE BID:

1. Upgrade to pre-finished 3-panel wood doors Add **\$4,611.00**
2. Upgrade P-Lam cabinet doors to Thermofoil doors..... Add **\$610.00**
3. Upgrade ceiling tiles in hallway & reception to Armstrong
Ledges Tand #8013..... Add **\$1,380.00**

Landlord Work:

1. Demising wall work with RC channel on both sides,
unfinished drywall on vacant side..... Add **\$4,000.00**
2. Provide (1) 1-hr fire rated pre-finished flush wood door
with (1) hollow metal door frame (to match existing)..... Add **\$671.00**

From: Mike K
Sent: Wednesday, February 19, 2020 2:05 PM
To: Holly Greiff
Subject: Re: Blade Sign & vinyl - HollyWould Beauty Suites

Holly-

Thank you for your patience while I gathered that information from my production manager. We would create the blade side with a steel bracket/frame that we would spray paint black. We would then add (2) .080 thick aluminum panels to each side of the bracket and those would be painted black with the logo in white vinyl. It would look a lot like the "Crush" sign you sent over from your examples at 3'W x 2'H. The price for the custom sign with that custom fabricated bracket would be **\$440.00 + tax**.

The white vinyl for your glass door would be **\$30.00 + tax**. What is the exact size of your door windowpane? My artist will need that to start on the proofing process.

Installation of the vinyl along with the blade sign would be a 2 man team and we estimate to take around 2.5 hours. The cost for install would be **\$390.00 (not taxed)**.

\$440.00 (custom blade sign) + \$30.00 (white vinyl) + \$390.00 (Install - Not taxed) + \$35.25 (tax) = GRAND TOTAL: \$895.25

Let me know if you have any questions. Once I know the windowpane for the door I can get my artist to start on the proof for you.

Thank you and look forward to your response.

Mike Kary | Account Manager
Office Sign Company
Phone: 701-526-3835
310 NP Ave N, Fargo, ND 58102

From: Holly Greiff <hollywouldlash@gmail.com>
Sent: Tuesday, February 18, 2020 5:31 PM
To: Mike K <mikek@officesigncompany.com>
Subject: Re: Blade Sign & vinyl - HollyWould Beauty Suites

Sounds good, thank you.

On Tue, Feb 18, 2020, 4:22 PM Mike K <

> wrote:

State of North Dakota

SECRETARY OF STATE



Certificate of Registration of HollyWould Beauty Suites

SOS Control ID#: 0003035453

The undersigned, as Secretary of State of the state of North Dakota, hereby certifies that a Trade Name Registration for

HollyWould Beauty Suites

duly signed pursuant to the provisions of the North Dakota statutes governing a trade name, has been received in this office and is found to conform to law.

ACCORDINGLY, the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Registration of

HollyWould Beauty Suites

which is owned by Holly B Greiff.

Filed date: January 24, 2020

Expiration date: January 24, 2025

Handwritten signature of Alvin A. Jaeger in cursive.

Alvin A. Jaeger
Secretary of State

State of North Dakota

SECRETARY OF STATE



CERTIFICATE OF TRADE NAME REGISTRATION OF

HOLLYWOULD LASH
Secretary of State ID#: 42,084,600

The undersigned, as Secretary of State of North Dakota, hereby certifies that an Application for Registration of a Trade Name, duly signed pursuant to the provisions of the North Dakota Trade Names statutes, has been received in this office and is found to conform to law.

Accordingly the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues the Certificate of Trade Name Registration of HOLLYWOULD LASH which is owned by GREIFF ENTERPRISES, LLC with an address of 102 UNIVERSITY DR N , FARGO, ND 58102-4690 . The Trade Name Registration shall remain in force until October 31, 2021.

DATED: October 31, 2016

A handwritten signature in cursive script, reading "Alvin A. Jaeger".

Alvin A. Jaeger
Secretary of State

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Form Info	SOS Control ID#	Status	Standing	Filing Date
HollyWould Beauty Suites <small>Trade Name</small>	> 0003035453	Active	Good Standing	01/24/2020
HOLLYWOULD LASH <small>Trade Name</small>	> 0000266162	Active	Good Standing	10/31/2016

LEASE AGREEMENT

THIS LEASE AGREEMENT is made on this 21 day of Feb, 2022, by and between Pioneer Place, LLC ("Landlord") and HollyWould Beauty Suites ("Tenant").

In consideration of the rents and covenants herein contained, Landlord hereby rents to Tenant the premises located in the City of West Fargo described as approximately 918 square feet located at 300 Sheyenne St, West Fargo, ND 58078 as is more fully identified and set forth on Exhibit A attached hereto ("Premises").

1. **TERM:** The term of this Lease Agreement shall be Five (5) years from the commencement date set forth below in Paragraph 2.
2. **COMMENCEMENT DATE:** The lease shall commence on June 1st, 2022 or the 1st Day of the Month following substantial completion of Landlord's work as described in item 9. If Landlord does not deliver the premises to the Tenant 30 days prior to the anticipated June 1st, 2022 commencement, said commencement date will be delayed until July 1st, 2022 and all other dates in Section 3 will adjust by one month accordingly.
3. **RENT:** Tenant shall pay to Landlord, as rental for the Premises, the rate of the table below.

RENT:

	Base Rent	CAM	Total Rent	Lease % increase	CAM % Increase
Year 1	\$16,524	\$3,443	\$19,967		
Year 2	\$16,854	\$3,443	\$20,297	2%	0%
Year 3	\$17,192	\$3,443	\$20,634	2%	0%
Year 4	\$17,535	\$3,443	\$20,978	2%	0%
Year 5	\$17,886	\$3,443	\$21,329	2%	0%

4. **COMMON AREA MAINTENANCE CHARGES:** Tenant shall be responsible for common area maintenance charges (CAM) which include, but are not limited to, heating, ventilating and cooling of the non-tenant common spaces, real estate taxes and special assessments, parking lots, lighting, maintenance, snow removal, grounds maintenance and cleaning, and property and liability insurance. CAM charges shall remain fixed for the first five year term of the lease.
5. **EXTENSION OPTION:** Provided Tenant is not in default of this Lease Agreement, Tenant shall have the option to extend the term as follows:
 - a. Tenant shall have two (2) options to renew this Lease for a term of five (5) years for each option.

- b. Rent for each option period shall increase 3% annually from the rent under the terms of this Lease Agreement.

Tenant must provide Landlord a one hundred twenty (120) day advance written notice indicating intention to exercise the lease options. All terms and conditions of the Lease shall remain the same, except for the base rent, CAM and taxes which shall be adjusted accordingly based upon the parties' negotiation.

6. **SECURITY DEPOSIT:** A security deposit shall be \$1,377.00 (one month's base rent).
7. **USE:** It is understood by and between all parties that the Premises will be used for the purposes of leasable beauty suites. Tenant further covenants and agrees, so long as this Lease remains in force, to continuously use and occupy the Premises for leasable beauty suites and for no other purposes whatsoever without the prior written consent of the Landlord. Tenant agrees to operate its business on the Premises during the entire term of this Lease and to conduct its business in a reputable manner. Tenant shall not commit or allow to be committed any waste upon the Premises nor any public nor private nuisance. No use shall be made of the Premises which is illegal, unlawful, conflicts with any statute, law, ordinance, rule or regulation which, in effect, will increase the existing insurance rates or cause cancellation of insurance upon the Premises. Tenant shall obtain any necessary permits and licenses required for the business use anticipated for the Premises. Tenant shall not do, nor permit to be done, any act or thing on the Premises that disturbs the quiet enjoyment of any other occupant of the building or complex in which the Premises are located.
8. **GUARANTORS:** The Lease Agreement will be personally guaranteed by all owners of HollyWould Beauty Suite who own more than a thirty (30) percent share of HollyWould Beauty Suites. Each owner will sign a separate personal guaranty, guaranteeing all of the amounts due and owing under the terms of the Lease Agreement.
9. **LANDLORD'S WORK EXHIBIT AND IMPROVEMENTS:** Landlord shall be responsible, at Landlord's cost and expense, to provide a "vanilla shell" as is more fully set forth on Exhibit B. Landlord hereby approves its Tenant making all modifications and alterations to the Premises necessary to conduct Tenant's business, however, such alterations or modifications must have Landlord's prior approval. Landlord shall provide Tenant with a Tenant improvement allowance equal to \$25 per usable square foot or a maximum amount of \$22,950.00 for fit up costs. Tenant improvement allowance will be paid upon written request from Tenant after opening to the public and presentation of all executed lien waivers.

Landlord will also work with Tenant to secure an Enterprise Grant from the City of West Fargo for an additional fit-up dollars. This lease is contingent upon Tenant receiving approval for the Enterprise Grant. If said grant is not awarded to the

Tenant, Tenant may cancel this Lease Agreement and be released from any obligations.

10. **TENANT'S WORK EXHIBIT AND IMPROVEMENTS:** Tenant shall perform all build-out necessary for the operation of their business and responsible for any and all costs of any build-out over and above any Tenant improvement allowance paid for by Landlord.
11. **CONSTRUCTION LIEN:** Tenant shall do all things reasonably necessary to prevent the filing of construction liens or other liens or encumbrances against the Premises, or the complex, or any part thereof, or upon any interest of Landlord or any mortgage in any part of the complex by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone in possession of the Premises or any part thereof through Tenant. Tenant agrees to promptly pay all sums of money in respect of any labor, services, materials, supplies, or equipment furnished or alleged to have been furnished to Tenant in, at or about the Premises or furnished to Tenant's agents, employees, contractors or subcontractors, which may be secured by any mechanics, material men, suppliers or other type of lien against the Premises, or any interest therein. In the event of the receipt of any notice of intention to claim such a lien, a demand for payment, or a mechanic's lien statement, Tenant shall immediately notify Landlord thereof, and shall either: (a) cause the same to be discharged of record within ten (10) days thereafter; or (b) if in good faith Tenant determines that such lien should be contested, Tenant shall furnish such security as may be necessary and required to prevent any foreclosure proceeding against the Premises or any portion thereof during the pendency of the contest. Failure of Tenant to discharge the lien in the manner required hereunder shall constitute a default under this Lease and, in addition to any other remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same of record by paying the amount claimed to be due, and the amount so paid by Landlord and all costs and expenses incurred by Landlord therewith, including reasonable attorney's fees, shall be due and payable by Tenant to Landlord.
12. **OCCUPANCY PERMIT:** Tenant shall make application for all licenses, permits, or other authority required for the lawful operation of Tenant's business in the Premises and shall use Tenant's best effort to obtain all such required authority. In the event such authority is denied due to Landlord's negligence, Landlord shall correct such problem within fifteen (15) days during which time rent shall be abated. Tenant will have the right to terminate the Lease if it is unable to obtain all permits, variances, and governmental approvals needed for the lawful construction and operation of its store.
13. **UTILITIES AND SERVICES:** Landlord will supply heating and air conditioning units in the Premises, to be metered separately. Tenant agrees to pay for all heat, air conditioning, electricity, water, and sewer. Tenant shall provide all of its own interior janitorial services for the Premises. Landlord shall not be liable or responsible for any damage, loss or inconvenience for failure to furnish such heat,

air conditioning, water, sewer and electrical services when such failure is caused by conditions beyond Landlord's control, by acts of God, strikes, lockouts, embargoes, material shortages, war or accidents, or when such failure arises out of maintenance or the making of inspections, repairs, alterations, changes or improvements in any part of the building of which the Premises are a part, or the failure of outside agencies to furnish any such services if any of such services are furnished by outside agencies. The failure to furnish any of said utilities or services shall not constitute an eviction from the Premises or work a reduction, discontinuance, or delay in the payment of rent.

14. **LANDLORD'S OBLIGATIONS FOR REPAIRS AND MAINTENANCE:** Landlord shall, within a reasonable period after receipt of written notice from Tenant, make or cause to be made necessary structural repairs to the exterior foundations and exterior walls of the Premises and shall keep or shall cause to be kept in good order, condition and repair of the exterior walls, foundations and roofs of the buildings constituting the Premises, except for reasonable wear and tear.
15. **TENANT'S OBLIGATIONS FOR REPAIRS AND MAINTENANCE:** Tenant shall maintain and repair the interior of the Premises. Such maintenance and repair shall include, but shall not be limited to, painting, any and all glass windows and doors, doors, door closing and locking mechanisms, pest control services, the repair of any damage resulting from the movement of furniture, fixtures, merchandise or supplies, and any and all floor coverings. Tenant will also be responsible for the exterior maintenance of the drive-thru and adjacent patio space along the front of the building that is above and beyond what is covered by CAM in item 4. This includes, but shall not be limited to, trash receptacles, patio furniture, etc. Storage of items such as patio furniture is not allowed on premise during off-season periods.
16. **ASSIGNMENT AND SUBLETTING BY TENANT:** It is agreed and understood that this Lease shall be transferable in whole; however, it must first have the written approval and consent of Landlord.
17. **INDEMNITY:** Tenant agrees to keep the Premises covered with liability insurance per this Lease at the cost of Tenant and to name Landlord as an additional insured under that policy in an amount of at least \$1,000,000.00 per occurrence, at the sole cost of Tenant. In addition, Tenant agrees to indemnify and hold Landlord harmless from any loss, expense, action, claims or damages of any kind or nature arising out of Tenant's use of the Premises by Tenant, Tenant's employees, invitees, agents or visitors. Landlord shall not be liable for any injury or loss on or about the Premises to Tenant, his employees, agents, invitees, subtenants, licensees or concessionaires or any other damage to property caused by defect or failure of equipment, pipes, wiring, broken glass, backing up of drains or by water, gas, electricity or oil leaking or by any portion of the property becoming out of repair unless such acts are caused by the negligent acts of the Landlord or its employees, agents or contractors. Landlord shall not be liable for loss or damage that may be caused by acts or omissions of other tenants or the property.

Additionally, Landlord agrees to indemnify and hold Tenant harmless from any loss, expense, action, claims or damages of any kind or nature caused by Landlord's negligence or the negligence of Landlord's employees and/or agents.

18. **ENTRY:** Landlord or his representatives shall have the right to enter the Premises at all reasonable times to inspect, make repairs or alterations, or show the Premises to prospective purchasers or lenders, after giving sufficient notice to Tenant. Tenant shall not be entitled to abatement of the rent by reason thereof. Tenant shall not be entitled to compensation, damages, or abatement or reduction in rent on account of any such repairs, maintenance, alterations, improvements or remodeling or adding of additional stories thereto. At all times during the term of this Lease, Landlord shall have the right to post "for sale" or "for lease" signs on the Premises, so long as the signage does not interfere with the Tenant's use and enjoyment of the Premises or interfere with or obstruct Tenant's signage.
19. **SIGNAGE:** Subject to Landlord's approval, all signage fabrication and installation shall be at the expense of the Tenant unless otherwise specifically agreed to in writing by both parties. Tenant shall have the ability to put up one exterior sign on the building consistent with the design of the building, with the written approval of Landlord.
20. **DEFAULT:** The following events shall be deemed to be a default by Tenant: 1) failure to pay any installment of rent, and such failure shall continue for five (5) days, 2) failure to comply with any provision of this Lease, other than payment of rent, and shall not cure such failure within fifteen (15) days after written notice is sent to Tenant, 3) Tenant becomes insolvent; makes a transfer in fraud to creditors; makes an assignment for the benefit of creditors; files a petition under any section of the National Bankruptcy Code; is adjudged bankrupt; has a receiver appointed; deserts or vacates any substantial portion of the property; does or permits any act which creates a lien on the property, or 4) failure to stay current or make installment payments on any loan, note or other debt that Landlord or affiliated entity (such as Epic Capital, LLC) is the lender or borrowing entity.

Upon the occurrence of any default set forth above, Landlord may without demand or notice, enter and take possession of the property, expel or remove all occupants and property found thereon without being liable for damages; may elect to cancel this Lease or re-let the Premises on such terms as Landlord deems advisable and receive the rent therefore and Tenant agrees to pay Landlord on demand any deficiency and costs incurred. Landlord shall have the option to file a Forcible Entry and Detainer action without prior notice, in the proper court, and obtain a writ of possession thereby. Landlord shall be entitled to all expenses, court costs and reasonable attorney's fees for the collection of any sum due under this Lease and the enforcement of this agreement. All past due rentals shall bear interest at the highest rate permitted by the laws of this state. Landlord is specifically given the right to seek injunctive relief against Tenant in the event of default.

21. **WAIVER:** Acceptance of delinquent rent or prior waiver of any of Landlord's rights to prompt payment or damages in event of subsequent default or breach of Tenant shall not otherwise modify any of the other terms of this Lease nor modify any of the Landlord remedies under this Lease.

22. **HOLDING OVER:** In the event Tenant remains in possession of the property at the termination of this Lease and without the execution of a new Lease, Tenant shall be deemed a Tenant from month to month at a rental of one hundred twenty percent (120%) of the monthly rental shown above subject to all terms of this Lease applicable to a month to month tenancy.

23. **INSURANCE:**

a. **Landlord.** Landlord will procure and maintain all risk coverage as from time to time is included in standard extended coverage endorsements and special broad form coverage insuring the structure in question. Landlord shall insure the Premises at a Landlord's expense. Landlord shall provide proof of such insurance with the Tenant and shall provide proof of premium payment to Tenant.

b. **Tenant.** Tenant shall keep in full force and effect at its expense, a policy or policies of public liability insurance with respect to the Premises and the business of Tenant and any approved subtenant, licensee, or concessionaire, with companies licensed to do business in the state of North Dakota, and approved by Landlord, in which both Tenant and Landlord and any person, firm or corporation designated by Landlord, shall be adequately covered under reasonable limits of liability not less than \$1,000,000.00 combined single limit personal injury and property damage coverage per occurrence. Tenant shall furnish Landlord with certificates or other evidence acceptable to Landlord that such insurance is in effect which evidence shall state that Landlord shall be notified in writing thirty (30) days prior to cancellation.

Tenant agrees to indemnify and hold harmless the Landlord from and against all claims of whatever nature arising from any accident, injury, or damage to person or property during the term hereof in or about the Premises or arising from any accident, injury, or damage to personal property occurring outside of the Premises but within the property of which the Premises is a part, where such accident, injury, or damage results or is claimed to have resulted from an act, omission, or negligence on the part of Tenant, or on the part of any of its licensees, agents, invitee, servants or employees. This indemnity agreement shall include indemnity against all costs, claims, attorney's fees, expenses, penalties, liens, and liabilities incurred in or in connection with any such claim or proceeding brought thereon and the defense thereof.

24. **DAMAGE/CONDEMNATION**: In case during the term hereof, the Premises become un-tenantable by fire, or casualty, then rent shall abate, with proportionate refund of any prepayment, from the time of such occurrence until Landlord restores the Premises; provided that if the building of which the Premises are a part or thereof be so injured as in the opinion and at the option of the Landlord the possession of the Premises is needed by Landlord for demolition, reconstruction, sale, or any other purpose whatsoever, the Landlord may by written notice to Tenant wholly terminate the term of this Lease.

In the event the building of which the Premises is a part shall be taken, in whole or in part, by condemnation or the exercise of the right of eminent domain, the Landlord may terminate this Lease by written notice to Tenant and prepaid rent shall be proportionately refunded. All damages awarded for such taking, whether for the fee or the leasehold interest, shall belong to and be the property of Landlord, except the Tenant shall be entitled to compensation for removable trade fixtures, stock in trade, furniture and other personal property owned by Tenant.

25. **SUBORDINATION**. This Lease, and the term and estate hereby granted, and all of the rights of Tenant hereunder, are subject to any underlying ground leases and the liens of any mortgage or mortgages (or other instrument resulting from any other method of financing or refinancing) now or hereafter in force against the Premises or the building in which the Premises are located or the land on which it sits, and to all advances made or hereafter to be made upon the security thereof, and Tenant shall execute such further instruments, subordinating this Lease to the lien or liens of any such ground lease or mortgage, as shall be reasonably requested by Landlord or its ground lessor and/or lender(s) or mortgagee(s); provided, however, that this subordination and any such further instruments shall not, so long as Tenant is not in default in the performance of any of the terms, covenants and conditions of this Lease, disturb Tenant's right of possession under this Lease (subject to the terms and conditions hereof). Without limiting the generality of the foregoing, Tenant and Landlord's lender(s) and/or mortgagee(s) shall enter into a Subordination, Non-Disturbance and Attornment Agreement substantially in the form attached hereto as Exhibit C, promptly following request made (but in any case not later than 10 days thereafter) by Landlord or Landlord's lender(s) or mortgagee(s) at any time or from time to time.
26. **ABANDONMENT**. If Tenant shall vacate or abandon the Premises, the same shall constitute a default under this Lease and Landlord shall have all of the same rights and remedies against Tenant as herein granted and reserved to Landlord by Paragraph 19 of this Lease upon a default of Tenant in this Lease. For the purpose of this Lease, the Premises shall be deemed to be vacant if Tenant shall cease to operate its business in the Premises.
27. **PEACEABLE SURRENDER**: Upon termination of this Lease, whether upon expiration of the term or otherwise, Tenant shall peaceably quit and surrender to Landlord the Premises in good condition and repair, ordinary wear and tear excepted, all improvements constructed by Tenant to be and become part of the

property of Landlord; provided, however, that Tenant, if not then in default hereunder, shall have the right and privilege at the termination of this Lease to remove from the Premises any movable office equipment installed and maintained by Tenant in the Premises. Any damage to the Premises caused by such removal shall be paid by Tenant.

28. **INTERRUPTION OF SERVICES FOR DAMAGE CAUSED BY ACTS OF GOD:**

Interruption or curtailment of any service maintained in the office building, if caused by strikes, mechanical difficulties, acts of God or any other causes beyond Landlord's control shall not entitle Tenant to any claim against Landlord or to any abatement in rent. If such damage or partial destruction to the facility shall be of such characters so as to require the Tenant to discontinue using the Premises, the Landlord shall have thirty (30) days to decide whether to rebuild the Premises or terminate the Lease. The Tenant is not responsible for any lease payment during the time that the Premises is unusable.

29. **LAW:** Tenant agrees to comply with all laws, rules and orders of federal, state and municipal governments and all other departments. Furthermore, this Lease will be interpreted in accordance with the laws of the State of North Dakota and all parties agree that proper venue for any litigation involving the terms and conditions of this agreement is properly venued in Cass County, North Dakota.

30. **GENERAL PROVISIONS:**

- a. All covenants, conditions and agreements herein contained shall be binding upon in inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
- b. The captions of paragraphs of this Lease Agreement are not a part of this Lease and shall have no effect upon the construction or interpretation of any term of this Lease Agreement.
- c. Time of payment shall be an essential part of this Lease Agreement.
- d. Any provision of this Lease which shall prove to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provisions of this Lease Agreement and all other provisions shall remain in full force and effect.
- e. Whenever the consent of the Landlord is required under the terms of this Lease Agreement, the giving or withholding of such consent of any one or any number of instances shall not limit nor waive the need for such consent in any other or future instance.
- f. This Lease Agreement contains all the agreements of Landlord and Tenant with respect to any matter covered or mentioned in this Lease Agreement and no other prior Agreements or understanding pertaining to any such matter shall be affective for any purpose. No provision of this Lease Agreement may be amended or added except by an agreement in writing signed by the parties hereto or their respective successors in interest. Any and all notices or other communication provided for in this Lease Agreement shall be given in writing by registered or certified mail which, unless otherwise designated by a party, shall be addressed as follows:

i. Landlord's contact:
Pioneer Place, LLC
Attn: Vicki Campbell
PO Box 879
Minot ND 58702
701-852-3045
vickic@minot.com

ii. Tenant's contact:
Entity: HollyWood Beauty Suites
Name: *Holly Wood*
Address:
Email: *hollywood@hollywood.com*
Phone:

_____ remainder of the page intentionally left blank _____

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be duly executed in duplicate the day and year first above written.

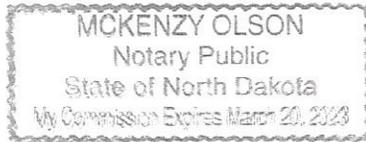
LANDLORD

Pioneer Place, LLC

By: _____

Its: _____

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



The foregoing instrument was acknowledged before me on February 24th, 2019, by Morgan Kenney, the owner of Pioneer Place, LLC, a North Dakota limited liability company, on behalf of the limited liability company.

Mckenzy Olson
Notary Public

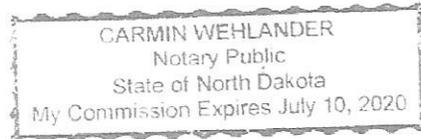
TENANT

HollyWould Beauty Suites

By: Holly Cull

Its: Owner

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



The foregoing instrument was acknowledged before me on Feb 24, 2019, by Morgan Kenney, the owner of Pioneer Place, LLC, a North Dakota corporation, on behalf of the corporation.

Carmin Wehlander
Notary Public

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # 4

***Please Note: The following information must be completed and submitted to the West Fargo City Auditor's Office by the Thursday noon preceding the City Commission meeting. Failure to comply may result in no action being taken on your request.

1. CONTACT PERSON: Tim Solberg, AICP

2. PHONE NUMBER: 433-5321 DATE: March 12, 2020

3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:

Zoning Ordinance Amendment for proposed changes to Section 4-460. Sign Regulations.

4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):

N/A.

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Hold 2nd Reading on the Zoning Ordinance Amendment with approval based on conditions listed in the staff report.

STAFF REPORT

A20-7	ZONING ORDINANCE AMENDMENTS
Zoning Ordinance Amendment to review proposed changes to Section 4-460 Sign Regulations	
Applicant: City of West Fargo	Staff Contact: Tim Solberg, AICP
Planning & Zoning Commission Introduction:	02-11-2020
Public Hearing:	02-11-2020 – Approval
City Commission Introduction:	02-18-2020
Public Hearing & 1 st Reading:	03-02-2020
2 nd Reading	03-16-2020

PURPOSE:

Amendments to Section 4-460. Sign Regulations to reflect recent creation of the DMU: Downtown and EMU: Entertainment Mixed Use Districts.

DISCUSSION AND OBSERVATIONS:

- The addition of the Entertainment Mixed Use District and Downtown Mixed Use District were not reflected into the City’s Sign Regulations found in 4-460 of City Ordinances. The proposed amendments will make the necessary additions.
- Staff also recognized that the use of the term “off-premise” may not have been clearly defined so a definition was added within the definitions section.

NOTICES:

Sent to: Notice in the newspaper and to City Departments

Comments Received:

- None to date.

CONSISTENCY WITH COMPREHENSIVE PLAN AND OTHER APPLICABLE CITY PLANS AND ORDINANCES:

- The proposed amendments are minor corrections related to recent amendments that were consistent with the City’s plans and ordinances.

RECOMMENDATIONS:

Staff is recommending approval of the ordinance amendments.

PLANNING AND ZONING RECOMMENDATION:

At their February 11, 2020 meeting, the Planning and Zoning Commission recommended approving the zoning ordinance amendments.

ORDINANCE NO. 1157

AN ORDINANCE TO AMEND AND REENACT SECTIONS 4-460.3, 460.7.10, 460.8,1.I, AND 460.9.2 OF THE REVISED ORDINANCES OF 1990 OF THE CITY OF WEST FARGO RELATING TO DEFINITION OF OFF-PREMISE SIGN, PLACEMENT OF PORTABLE, HIGH IMPACT AND CONSTRUCTION/DEVELOPMENT SIGNS, AND GENERAL DISTRICT REGULATIONS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WEST FARGO, NORTH DAKOTA:

SECTION 1. Section 4-460.3 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted by adding the following definition to read as follows:

OFF-PREMISE SIGN. An advertising sign not related to the premises on which it is located.

SECTION 2. Section 4-460.7.10 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-460.7. GENERAL SIGN PROVISIONS.

* * *

10. Portable and High Impact signs shall be governed by the following provisions:

- A. Portable Signs - Prior to the placement of a portable sign, a portable sign permit must be obtained from the City of West Fargo Planning Office. A portable sign permit may be granted for a period not to exceed fourteen (14) days at a time, except for municipal construction zones which impact customer access to a business or use, whereupon the Planning Director may authorize extended display periods. Upon removal of the portable sign, it must be at least fourteen (14) days before another permit may be issued at that location for the same business or use, provided that portable signage on the site does not exceed 56 days within one calendar year for the same business or use. Portable sign permits shall be issued provided the following:

- 1) The portable sign is located in a Commercial (C, ~~CM~~, EMU, DMU or PUD), Industrial (~~CM~~ HC, LI, M, or PUD), or Public Facilities (P) Zoning District.
- 2) The portable sign is located upon the same parcel which the advertisement/notice is intended, unless advertising a community-wide event, as determined the Planning Director.
- 3) No portable sign may exceed sixty (60) square feet in area, with the sign face not to exceed six (6) feet in height or ten feet in width, and may not exceed eight feet (8) feet in overall height.
- 4) No portable sign may be placed upon the public right-of-way without approval of the City Commission. Portable signs shall meet the setback requirements for freestanding signs for Corridor Overlay Districts and underlying zoning districts.
- 5) No portable sign placed within one hundred (100) feet of an area zoned for residential use may have blinking, flashing or fluttering lights or other illuminating devices that have a changing intensity, brightness or color.
- 6) No part of a portable sign may be located within the thirty (30) foot sight triangle measured from the point of curvature of the intersecting street curbs.
- 7) Notwithstanding any other provision of this Ordinance, no sign may be placed in a manner as to impede vision within a twenty-four (24) foot sight triangle of the intersecting curb line of a driveway, entrance, or exit. This triangle may be increased by the Planning Director when deemed necessary for traffic safety.
- 8) Only one portable sign may be placed upon a property or development complex site at any given time, except in the case of multiple tenant sites consisting of six (6) or more businesses/uses, where two (2) portable signs will be allowed on the parcel at any given time.

- 9) All portable signs must be kept in good repair and in proper state of maintenance, including, but not limited to replacing lamps, replacing or repairing the sign face, replacing trim, etc. If the Planning Director finds that a sign is not in a proper state of repair, the City may after thirty (30) days of written notification, not issue a permit for the specific sign for any location.
- 10) In installing or removing the portable signs, access can not be across a boulevard, sidewalk or bikepath, unless an established driveway is present and used.

B. High Impact Signs - Prior to the placement of a high impact sign, a high impact sign permit must be obtained from the City of West Fargo Planning Office. A high impact sign permit may be granted for a period not to exceed five (5) consecutive days at a given site for a business use and no more than twenty-one (21) total days within one calendar year. High impact sign permits shall be issued providing the following:

- 1) The high impact sign is located in a Commercial (C, ~~CM~~, EMU, DMU or PUD), Industrial (~~CM~~ HC, LI, M, or PUD), or Public Facilities (P) Zoning District.
- 2) The high impact sign is located upon the same parcel which the advertisement/notice is intended, unless advertising a community-wide event, as determined the Planning Director.
- 3) No high impact sign may be placed upon the public right-of-way without approval of the City Commission. Portable signs shall meet the setback requirements for freestanding signs for Corridor Overlay Districts and underlying zoning districts.
- 4) No high impact sign placed within one hundred (100) feet of an area zoned for residential use may have blinking, flashing or fluttering lights or other illuminating devices that have a changing intensity, brightness or color.
- 5) No part of a high impact sign may be located within the thirty (30) foot sight triangle

measured from the point of curvature of the intersecting street curbs.

- 6) Notwithstanding any other provision of this Ordinance, no sign may be placed in a manner as to impede vision within a twenty-four (24) foot sight triangle of the intersecting curb line of a driveway, entrance, or exit. This triangle may be increased by the Planning Director when deemed necessary for traffic safety.
- 7) Only one high impact or portable sign may be on a property or business site during any given period, except that multiple tenant sites may have up to two (2) portable signs or high impact signs, or a combination thereof, during any given period, provided the content of the sign changes for each business per the regulations outlined in this section.
- 8) In installing or removing the high impact signs, access can not be across a boulevard, sidewalk or bikepath, unless an established driveway is present and used.

SECTION 3. Section 4-460.8.1.i of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-460.8. SIGNS NOT REQUIRING PERMIT AND PROHIBITED SIGNS.

1. Permitted Signs. The following signs are allowed without a permit; however are included within the allowable sign area, unless otherwise indicated.

* * *

- i. Construction/Development Signs. A non-illuminated construction or development sign confined to the site of the construction, alteration, repair or development. Such sign must be removed within two (2) years of the date of issuance of the first building permit on the site or when the particular project is completed, whichever is sooner, unless said sign is intended to be a permanent identification sign for the development and is approved as a conditional use. One sign shall be

permitted for each street the project abuts. No sign may exceed thirty-two (32) square feet in the R-1E, R-1A, R-1, R-4 and R-5 Districts, or sixty-four (64) square feet in the A, R-2, R-3, C, ~~EM~~ EMU, DMU, HC, LI and M districts unless otherwise approved as a conditional use.

SECTION 4. Section 4-460.9.2 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-460.9 GENERAL DISTRICT REGULATIONS.

2. "C," "EMU," "DMU," "HC," "LI" and "M" Districts.

- a. Sign Allocation Plan. A sign allocation plan shall be established by the developer or property owner for multi-tenant buildings to provide for the desired allocation of signage. When buildings are expanded and/or tenants added, a revised plan shall be established. Sign allocation plans shall take into consideration the total buildable area of the property and provide for an equitable distribution of signage to tenants based on the percentage of leasable floor area for each tenant. Anchor tenants may be assigned up to ten (10) percent more signage than the distribution formula would provide for with smaller tenants receiving proportionally less. Plans shall be submitted to the City for administrative review and approval.
- b. Single or Multiple Occupancy Business Signs. The total sign area for the subject property may not exceed two (2) square feet for every one (1) foot of lot frontage on a public or approved private street. On corner lots the longest frontage may be used. Signs chosen to comprise the total sign area shall be consistent with the following provisions:
 - (1) Freestanding. Not more than one (1) sign per 50,000 square feet of floor area; however, on corner lots two (2) freestanding signs are allowable, one (1) per frontage. Total individual business sign area may not exceed one hundred (100) square feet nor exceed a maximum height of thirty-five (35) feet. The sign area may be increased to one hundred fifty (150) square feet provided the sign is

set back a minimum of twenty (20) feet from the street right-of-way in front. Multiple tenant signs on a freestanding sign structure may not exceed one hundred fifty (150) square feet, except that if a setback of twenty (20) feet from the street right-of-way in front is provided, the total signage may be increased to two hundred (200) square feet.

- a. Freestanding Signs on Main Avenue. Main Avenue is recognized as a unique, established business highway corridor with properties distanced from the main roadway travel lanes in some areas by either frontage roads or by increased boulevards with landscaping. To provide for more equitable visibility of signage, total individual business sign area may be increased subject to review as a conditional use, but not to exceed one hundred fifty (150) square feet, nor exceed a maximum height of thirty-five (35) feet without the previously stated setback requirement of twenty (20) feet from the street right-of-way if it can be determined that the existing site has adequate separation provided by either frontage road or an increased boulevard of Main Avenue. Multiple tenant signs on a freestanding sign structure may be increased subject to review as a conditional use, but not to exceed 200 square feet nor exceed a maximum height of thirty-five (35) feet without the previously stated setback requirement of twenty (20) feet from the street right-of-way if it can be determined that the existing site has adequate separation provided by either frontage road or an increased boulevard of Main Avenue.
- (2) Wall, Canopy or Marquee. Not more than one sign for each ten (10) feet of lot frontage. Sign area may not exceed fifteen percent (15%) of the building facade up to a maximum of one hundred (100) square feet per sign for buildings with a setback of less than one hundred (100) feet and up to a maximum of two hundred (200) square feet per sign for

buildings with a setback of one hundred (100) feet or more.

- c. Modified Sign Development Plan. Parcels which are unusual in dimensions (large parcels with limited frontage) may have a modified sign development plan considered as a conditional use, particularly if the property is intended to be developed with multi-tenant building(s) and the allowable signage is very limited.
- d. Off-premise signs are allowed in "HC": Heavy Commercial, "LI": Light Industrial, "M": Heavy Industrial, "DMU": Downtown Mixed Use, and "EMU": Entertainment Mixed Use Districts. No off-premise sign shall exceed seven hundred fifty (750) square feet in area, unless otherwise approved through the conditional use permit process. No two off-premise signs may be placed less than two hundred fifty (250) feet apart, unless said signs are separated by buildings or other obstructions in such a manner that only one sign is visible from the roadway at any time.
- e. Projecting Signs. Where a building is meeting the required zero front setback line of a specific zoning district, an encroachment of a wall sign or protruding wall sign may occur with appropriate approval of an encroachment agreement with the City as approved by the City Commission.

SECTION 5. Effective Date. This ordinance shall be in full force and effect from and after the date of its final passage and publication.

President of Board of City
Commissioners of the City of
West Fargo, North Dakota

ATTEST:

City Auditor

Date of First Reading:

Date of Second Reading:

Date of Publication:

ORDINANCE NO. 1155

AN ORDINANCE TO AMEND AND REENACT SECTION 3-0204.A, 12-0402, CHAPTER 12-06, SECTIONS 13-0101.1.a, 13-1004, 13-1015, 13-1204, AND 13-1207, AND TO CREATE AND ENACT SECTION 13-1021 OF THE REVISED ORDINANCES OF 1990 OF THE CITY OF WEST FARGO, RELATING TO NUISANCES, POSSESSION OF MARIJUANA AND DRUG PARAPHERNALIA, SALE OF TOBACCO PRODUCTS, AUTHORIZED EMERGENCY VEHICLES, VEHICLES ON SIDEWALK PROHIBITED, CHILD RESTRAINT DEVICES, AUTHORITY TO PLACE RESTRICTED TURN SIGNS AND TURNING MARKERS, AND DISTRACTED DRIVING.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WEST FARGO, NORTH DAKOTA:

SECTION 1. Section 3-0204.A of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

3-0204. NUISANCES. The following conditions are public nuisances whenever they may be found in the City:

- A. Any living or standing elm tree or part thereof infected to any degree with the dutch elm disease, fungus, *Ceratocystis ulmi*, and which harbors any of the elm bark beetles, *Scolytus multistriatus*, or *Hylurgopinus rufipes*, or other tree species infected by a disease, invasive species or insect, ~~is determined a nuisance by the Urban Forestry Committee.~~

SECTION 2. Section 12-0402 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

12-0402. POSSESSION OF MARIJUANA AND DRUG PARAPHERNALIA.

1. It shall be unlawful to possess marijuana within the jurisdiction of the City of West Fargo, North Dakota, unless permitted under Chapter 19-24.1 of the N.D.C.C. For purposes of this section, possession includes actual or constructive possession. Constructive possession shall mean the power and capability to exercise dominion and control over the marijuana. ~~A person in possession of less than one half ounce [14.175 grams] of marijuana is guilty of an infraction. A person in possession of at least one half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.~~

A. A person in possession of less than one-half ounce [14.175 grams] of marijuana is guilty of an infraction.

B. A person in possession of at least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.

2. It shall be unlawful to use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce marijuana into the human body or possess with the intent to use drug paraphernalia to store or contain marijuana, unless permitted under Chapter 19-24.1 of the N.D.C.C. Any person violating this section shall be guilty of an infraction.

SECTION 3. Chapter 12-06 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

CHAPTER 12-06

SALE OF TOBACCO PRODUCTS TO MINORS AND USE BY MINORS PERSONS UNDER THE AGE OF TWENTY-ONE PROHIBITED

SECTIONS:

- 12-0601. Procuring Tobacco Product for Persons Under Twenty-One Years of Age~~Minor~~.
12-0602. Persons Under Twenty-One Years of Age ~~Minor~~ Possessing Tobacco Products.
12-0603. Fee.
12-0604. Payment Procedure.
12-0605. Burden of Proof.
12-0606. Notice to Parent or Legal Guardian.
12-0607. Penalty for Contempt.

12-0601. PROCURING TOBACCO PRODUCT FOR PERSON UNDER TWENTY-ONE YEARS OF AGE ~~MINOR~~. For the purpose of this section, the definitions in Section 10-0601 shall apply. It is an infraction for any person to sell or furnish to a person under twenty-one (21) years of age ~~minor~~, or procure for a person under twenty-one (21) years of age ~~minor~~, cigarettes, cigarette papers, cigars, e-cigarettes, electronic cigarettes, electronic smoking devices, snuff, or tobacco products in any other form in which it may be utilized for smoking or chewing. As used in this section, "sell" includes dispensing from a vending machine under the control of the actor.

12-0602. PERSON UNDER TWENTY-ONE YEARS OF AGE ~~MINOR~~
POSSESSING TOBACCO PRODUCTS.

1. It is a noncriminal offense for a ~~minor~~ person under twenty-one (21) years of age to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, e-cigarettes, electronic cigarettes, electronic smoking devices, snuff, or tobacco products in any form in which it may be utilized for smoking or chewing.
2. Subsection 1 shall not apply to an individual under ~~eighteen~~ twenty-one (21) years of age who may purchase and possess tobacco products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco product retailer, or association of tobacco product retailers may also conduct compliance surveys, after coordination with the appropriate law enforcement authority.
3. Subsection 1 shall not apply to an employee less than ~~18~~ twenty-one (21) years of age employed by a licensed tobacco product dealer or distributor where said employee under the age of ~~18~~ twenty-one (21) years handles tobacco products listed in this section as part of that employee's employment.
4. Subsection 1 shall not apply if the ~~minor's~~ possession or use of tobacco products relates to a cultural or religious practice; including, without limitation, the use or possession of tobacco products during any religious or cultural ceremony.

12-0603. FEE. A fee of \$25 will be assessed for a ~~minor~~ person fourteen (14) years of age or older who has been charged with an offense under Section 12-0602 for the first offense. For a second offense within a year, a fee of \$50 and attendance at a tobacco cessation program approved by the West Fargo Municipal Court will be required. For third and subsequent offenses within a year the Municipal Court may impose a fee of up to \$250 and attendance at a tobacco cessation program. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance is punishable as a contempt of court, except a minor may not be imprisoned for contempt.

12-0604. PAYMENT PROCEDURE. A ~~minor~~ person fourteen (14) years of age or older found to have violated Section 12-0602 must pay a fee in the amount set out in Section 12-0603.

1. Any individual who has been cited for a violation of Section 12-0602 may appear before the West Fargo

Municipal Court and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited fails to follow the procedures of this section, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court is the same as the fee schedule set out in Section 12-0603. For a third or subsequent violation, the individual must appear before the Judge of the Municipal Court.

2. An individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed 90 days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
3. The failure to post bond or to pay an assessed fee, or attend a tobacco cessation class when required to do so is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.

12-0605. BURDEN OF PROOF. The prosecution must prove the commission of a cited violation under Section 12-0602 by a preponderance of the evidence.

12-0606. NOTICE TO PARENT OR LEGAL GUARDIAN. A law enforcement officer that cites a minor person under the age of eighteen (18) for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

12-0607. PENALTY FOR CONTEMPT. A person adjudged guilty of contempt for failure to pay a fee or fine or to attend a tobacco cessation class when required to do so may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or attendance at a tobacco cessation class to an alternative sentence or sanction including community service.

SECTION 4. Section 13-0101.1.a of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-0101. DEFINITIONS. The following words and phrases, when used in this title, shall have the meanings respectively ascribed to them except in those instances where the context clearly indicates a different meaning:

1. "Authorized Emergency Vehicles."

a. "Class A" authorized emergency vehicles means:

- (1) Vehicles of a governmentally owned fire department;
- (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles;
- (3) Vehicles clearly identifiable as property of the Department of Corrections and Rehabilitation when operated or under the control of the Director of the Department of Corrections and Rehabilitation.
- (4) Ambulances;
- (5) Vehicles operated by or under the control of the Director, District Deputy Director, or a District Deputy Game Warden of the Game and Fish Department;
- (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
- (7) Vehicles designated for the use of the Adjutant General and Assistant Adjutant General in cases of emergency;
- (8) Vehicles operated by or under the control of the ~~Director of the Parks and Recreation Department~~ West Fargo Park District.
- (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.

(10) Vehicles operated by or under the control of the state forester.

(11) Vehicles operated by or under the control of the Bureau of Criminal Investigation and used for law enforcement purposes.

SECTION 5. Section 13-1004 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-1004. VEHICLE SHALL NOT BE DRIVEN ON A SIDEWALK. The driver of a vehicle shall not drive on or within any sidewalk area except at a permanent or temporary driveway. This section does not apply to any government agency or designee of such government agency.

SECTION 6. Section 13-1015 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-1015. CHILD RESTRAINT DEVICES - PENALTY - EVIDENCE.

1. If a child, under ~~four (4)~~ eight (8) years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one (1) child restraint system for each such child. However, a child under the age of eight (8) who is at least fifty-seven (57) inches [1.45 meters] tall is not required to use a child restraint system, but must be correctly buckled in a safety belt. The child restraint system must meet the standards adopted by the United States Department of Transportation for those systems (49 CFR 571.213). While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. While the motor vehicle is moving, each child of eight (8) through seventeen (17) years of age who is in the motor vehicle must be in an approved child restraint system in accordance with the manufacturer's instructions or correctly buckled in a safety belt. ~~If a child who is at least four (4) and at most seventeen (17) years of age is present in a motor vehicle, unless properly secured in an approved child restraint system, the child must be buckled in a seatbelt whenever the car is moving.~~ Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when manufactured. If a child is being transported in an emergency situation, this section does not apply.

2. Violation of this ordinance is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

(Source: North Dakota Century Code Section 39-21-41.2)

SECTION 7. Section 13-1204 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-1204. AUTHORITY TO PLACE RESTRICTED TURN SIGNS. ~~The Police Department~~ City Administrator, or authorized designee, is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or "U" turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

SECTION 8. Section 13-1207 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-1207. AUTHORITY TO PLACE AND OBEDIENCE TO TURNING MARKERS. ~~The police department~~ City Administrator, or authorized designee, may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by the vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

SECTION 9. Section 13-1021 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby created and enacted to read as follows:

13-1021. DISTRACTED DRIVING.

1. An operator of a motor vehicle shall maintain control of that motor vehicle without distraction at all times. An individual is in violation of this section if that individual:

- A. Commits an offense under this chapter or Title 39 of the North Dakota Century Code and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or
 - B. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 39-08-09 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.
- 2. The elements of an offense under this section are the elements of the offense for a violation of this chapter or Title 39 of the North Dakota Century Code and the additional elements that create an offense under the above subsection.
 - 3. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of this traffic offense.
 - 4. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
 - A. Is not necessary to the operation of the vehicle; and
 - B. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.

SECTION 10. Effective Date. This ordinance shall be in full force and effect from and after the date of its final passage and publication.

 President of Board of City
 Commissioners of the City of
 West Fargo, North Dakota

ATTEST:

 City Auditor

Date of First Reading:

Date of Second Reading:

Date of Publication:

Commissioner _____ introduced the following resolution and moved its adoption:

RESOLUTION PROVIDING FOR PARTIAL REDEMPTION
OF THE TEMPORARY REFUNDING IMPROVEMENT BONDS OF 2018

WHEREAS, the City Commission of the City of West Fargo, North Dakota, heretofore issued the \$45,060,000 Refunding Improvement Bonds of 2018 (the "Bond") on July 9, 2018, for the purpose of interim financing the reconstruction of Sheyenne Street from a two lane highway to a concrete four and six lane highway between 13th Avenue South and 40th Avenue South, in addition to the construction of associated multi-use paths, storm sewer, sanitary and water forcemains, street lighting, traffic control devices, other miscellaneous installations, and the local share of the NDDOT reconstruction of the interstate interchange located at Interstate Highway 94 and Sheyenne Street in anticipation of the collection of special assessments; and

WHEREAS, Section 6.02 of the resolution authorizing the issuance of the Bond allows the City to call the Bond for optional redemption on May 1, 2019, and any date thereafter at a price of par plus accrued interest to the date of redemption; and

WHEREAS, the City desires to partially redeem the Bond in the amount of \$8,335,000.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of West Fargo, North Dakota, that the City Auditor is hereby authorized to provide the attached Notice of Partial Redemption to Starion Bond Services, the registrar of the Bond, to provide for the partial redemption of the Bond.

Adopted this 16th day of March, 2020.

President of the Board of City Commissioners

ATTEST:

City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner _____, and after a full discussion thereof and upon a vote being taken thereon, the following voted in favor thereof: _____.

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

NOTICE OF PARTIAL REDEMPTION

CITY OF WEST FARGO
STATE OF NORTH DAKOTA

\$45,060,000 TEMPORARY REFUNDING IMPROVEMENT BONDS OF 2018

Dated May 1, 2018

NOTICE IS HEREBY GIVEN that the City of West Fargo, North Dakota, has called for partial redemption and will redeem and pay on May 1, 2020, \$8,335,000 of the City of West Fargo, North Dakota, Temporary Refunding Improvement Bonds of 2018. The redemption date, redemption amount and CUSIP number being partially redeemed are as follows:

<u>Redemption Date</u>	<u>Redemption Amount</u>	<u>CUSIP Number</u>
May 1, 2020	\$ 8,335,000	952718B86

The Bond being partially refunded should be presented at the office of Starion Bond Services, Bismarck, North Dakota.

CITY OF WEST FARGO, NORTH
DAKOTA

City Auditor



City Commission Agenda Item Request

Please Note: The following information must be completed and submitted before noon on the Thursday preceding the City Commission Meeting. Failure to comply may delay action being taken on your request.

Office Use:

Regular Agenda Item #:

Consent Agenda Item #:

Agenda Item Information:

Contact Name: *

Jim Larson

Phone Number: *

433-5302

Email Address:

Jim.Larson@WestFargoND.gob

Date *

3/12/2020

Topic for Consent or Regular Agenda?

Please select one option:

Consent Agenda

Regular Agenda

Please Briefly Describe Your Request *

Amendment to the 2018-1 TIF Agreement

Site Address or Legal Description (if applicable)

Action Being Requested from City Commission *

Consider approval of the amendment agreement

Upload Additional Documentation (Optional):

TIF 2018-1 amendment Memo_03122020.pdf

366.77KB



Memo

Date: 3/13/2020

To: West Fargo City Commissioners

From: Jim Larson, Finance Director

Re: Amendment to TIF 2018-1 agreement, The Firm & Alley Commons

In 2018 the Commission approved a Tax Increment Financing district (2018-1 TIF) for public improvements to be part of the improvements being constructed in downtown West Fargo on Sheyenne street. The TIF period per the agreement is 13 years. The developer is moving forward with the first of the buildings that are in the 2018-1 TIF starting this spring. The total amount that was approved in the original 2018 TIF agreement is \$1,014,039.

The agreement is written to have the developer expend funds to install the public improvements. As tax increment revenues become available year to year the City would pay these revenues to the developer over the 13 year period or less years should the revenues exceed projections and pay the balance outstanding earlier than the 13 years.

The developer and city staff are asking the Commission to consider approving the attached agreement to amend the 2018-1 agreement to allow the City to provide the financing for the project. This approach is consistent with prior TIF projects and would allow for a lower rate of interest. The lower rate of interest will allow the TIF project to pay off faster and allow the property tax generated by the improvements start flowing to the political subdivisions that are supported by the City of West Fargo tax base sooner.

The attached amendment, drafted by City attorney, allows the City to provide the financing and be fully secured by special assessments against the parcels should the incremental tax revenues not be sufficient to fully satisfy the outstanding debt in 13 year TIF period.

The amendment only changes who provides the financing and guarantees security for payment. No other components of the agreement are changed by the amendment.

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT**

**BY AND BETWEEN
CITY OF WEST FARGO
AND
BA DOWNTOWN, LLC
AND
SAD DOWNTOWN, LLC**

Dated as of _____, 2020

**Relating to:
Development within TIF District 2018-1.**

This instrument was drafted by:
Ohnstad Twichell, P.C.
P.O. Box 458
West Fargo, North Dakota 58078

**FIRST AMENDMENT
TO DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (the “Amendment”) is made and entered into this ____ day of _____, 2020 (the “Effective Date”), by and between the City of West Fargo, North Dakota, a municipal corporation, having an address of 800 Fourth Avenue East, Suite 1, West Fargo, North Dakota 58078 (the “City”); BA Downtown, LLC, a North Dakota limited liability company, having an address of 400 10th Street East, Minot, North Dakota 58701 (“BA Downtown”); and SAD Downtown, LLC, a North Dakota limited liability company, having an address of 400 10th Street East, Minot, North Dakota 58701 (“SAD Downtown”) (collectively, BA Downtown and SAD Downtown, the “Developers”).

WHEREAS, the City adopted a General Development Plan for Urban Renewal and Urban Development and an Urban Development and Renewal Plan for TIF District 2018-1 (the “Plans”) in accordance with the provisions of N.D.C.C. § 40-58-06; and

WHEREAS, in pursuit of the Plans, on May 21, 2018, the City, BA Downtown, and SAD Downtown entered into a Development Agreement for TIF District 2018-1 (the “Agreement”); and

WHEREAS, TIF District 2018-1 consists of the following real property:

Lots 12 & 13, Block 6, Francis 2nd Addition (“Parcel 1”);
Lots 1 & 2, Block 1, Lepirds Addition (“Parcel 2”); and
Lot 3, Block 1, Lepirds Addition (“Parcel 3”)

(hereinafter, Parcel 1, Parcel 2, and Parcel 3, collectively, the “Property”); and

WHEREAS, SAD Downtown is the developer for Parcel 1 of the Property and BA Downtown is the developer for Parcel 2 and Parcel 3 of the Property; and

WHEREAS, the City and the Developers now desire to amend the Agreement to set forth provisions for payment by the City to the Developers.

NOW THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the City, BA Downtown, and SAD Downtown agree as follows:

A. Additions and Deletions. Additions to terms and conditions of the Agreement are herein signified by an underline, and deletions to terms and conditions of the Agreement are herein signified by a ~~striketrough~~.

B. The tenth recital is hereby amended as follows:

WHEREAS, Developers believes that it is in the best interest of the City to enter into this Agreement for the purpose of promoting commercial development in the City through the payment ~~and reimbursement~~ of development costs set out in this Agreement; and

C. Section 6 of the Agreement is hereby amended as follows:

6. ~~Reimbursable Costs.~~Development Costs. ~~Costs eligible for reimbursement~~Costs eligible for initial funding from the City are costs related to the purchase price of the Property, including any buildings or structures on the Property, less a standard land purchase amount of \$6.00 per square foot; and the costs associated with demolition of buildings or structures on the Property (the ~~“Reimbursable Costs”~~“Development Costs”).

D. Section 7 of the Agreement is hereby amended as follows:

7. ~~Reimbursement.~~City Funding. ~~Prior to reimbursement for any costs, Developer must submit a detailed statement, including receipts or invoices, for such costs to the City. The parties agree that the reimbursement for costs under this Agreement will not exceed \$1,014,039.000. No reimbursement will occur until the TIF District has generated funds to reimburse such costs. In no event will the City ever be liable for reimbursement of any costs under this Agreement unless and until the TIF District has generated sufficient funds to provide said~~

reimbursement. SAD Downtown estimates the Development Costs for Parcel 1 of the Property will be \$625,000.00, and will supply documentation to the City supporting such estimate. BA Downtown estimates the Development Costs for Parcel 2 of the Property will be \$50,000 and the Development Costs for Parcel 3 of the Property will be \$339,039.00, and will supply documentation to the City supporting such estimates. On or prior to 9-1-2020, the City will remit \$625,000/00 to SAD Downtown to develop Parcel 1, and on or prior to 9-1-2023, the City will remit \$389,039.00 to BA Downtown to develop Parcels 2 and 3. Following the completion of the development of Parcel 1, SAD Downtown will submit documentation evidencing the final Development Costs to the City, and following the completion of the development of Parcels 2 and 3, BA Downtown will submit documentation evidencing the final Development Costs to the City. The City has the right to request and receive additional supporting documentation from either SAD Downtown or BA Downtown. In the event the payments made by the City to either SAD Downtown or BA Downtown exceed its final Development Costs, SAD Downtown or BA Downtown, as applicable, shall repay the difference between the City payment and the final Development Costs to the City pursuant to a timeline developed by the City. Additionally, in the event revenues from the TIF District are insufficient to repay the City for the Development Costs remitted by the City to SAD Downtown and BA Downtown, both SAD Downtown and BA Downtown agree that the City may specially assess any such deficiency against the Property. SAD Downtown and BA Downtown will be entitled to no funds from the City, including funds generated by the TIF District, except as otherwise set forth herein for the development of the Property.

E. Section 11 of the Agreement is hereby amended as follows:

Termination. This Agreement will terminate and be of no further force and effect after reimbursement for the costs set forth in this Agreement have been made in full, or December 31, 2031, whichever event occurs first.

F. Section 18 of the Agreement is hereby amended as follows:

18. ~~**Insufficient**~~ **TIF District Revenue.** ~~Developer agrees that in the event there is inadequate revenue generated from the TIF District to cover the full amount of the Reimbursable Costs, the amount of said delinquency will not be reimbursed to Developer for said costs.~~ Developers agree and acknowledge that they have no claim to any revenues generated by the TIF District.

C. Effective Date. This Amendment will be effective immediately upon its adoption by each of the parties.

(Remainder of page intentionally left blank.)

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT**

**BY AND BETWEEN
CITY OF WEST FARGO
AND
BA DOWNTOWN, LLC
AND
SAD DOWNTOWN, LLC**

Dated as of _____, 2020

**Relating to:
Development within TIF District 2018-1.**

This instrument was drafted by:
Ohnstad Twichell, P.C.
P.O. Box 458
West Fargo, North Dakota 58078

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C. Effective Date. This Amendment will be effective immediately upon its adoption by each of the parties.

(Remainder of page intentionally left blank.)



City Commission Agenda Item Request

Please Note: The following information must be completed and submitted before noon on the Thursday preceding the City Commission Meeting. Failure to comply may delay action being taken on your request.

Office Use:

Regular Agenda Item #:

Consent Agenda Item #:

Agenda Item Information:

Contact Name: *

Jim Larson

Phone Number: *

7014335302

Email Address:

Jim.Larson@WestFargoND.gov

Date *

3/12/2020

Topic for Consent or Regular Agenda?

Please select one option:

Consent Agenda

Regular Agenda

Please Briefly Describe Your Request *

Amendment to the 2017-1 TIF agreement

Site Address or Legal Description (if applicable)

Action Being Requested from City Commission *

Consider approval of the amendment agreement.

Upload Additional Documentation (Optional):

TIF 2017-1 amendment Memo_03122020.pdf

1.1MB



Memo

Date: 3/13/2020
To: West Fargo City Commissioners
From: Jim Larson, Finance Director
Re: Amendment to TIF 2017-1 agreement, Northern Lights

The project at Sheyenne and 32nd Ave S continues to progress through the winter. The Parking Garage has been transferred to the City and the construction of the plaza is showing a lot of progress with projected completion around June 1st.

The 2017-1 tax increment financing provides funding for the parking garage, plaza and additional public parking at the Northern Lights. The total amount for these improvements is \$18 million. The \$18 million of public improvements is funded from the investment by the developers in the amount over \$96 million. This \$96 million is a total of 5 new mixed use buildings at this site. This is a substantial addition in this part of our city.

The developer of the Northern Lights is planning on constructing an additional building with a total improvement cost of \$8 million. The public improvements related to this project as described by the developer for the site are:

- To continue the public parking plan that has been instituted in the Lights and Northern Lights. Specifically to structure (underground) the primary parking for residents and commercial tenants, allowing for the surface parking to be utilized for public use, including events and shopping. Structured parking allows us to build much more of a building on the lot. This of course translates into a higher overall taxable value for the site. The full site plan isn't finalized, but we will be able to provide more than 60 public parking spaces.
- To extend the Lights Boardwalk (Think really big and nice sidewalk) to the intersection North of the Site. This includes a wider multi use public path, stamped concrete, lighting and engineered landscaping. For example, larger trees in above ground containers, raised planters for grasses and shrubs that create a much better sense of space.
- To continue the wider public vehicle access route from the Stoplight North of the site to the Lights Parking Ramp and the Hockey Arena. This will provide an additional access point for the Lights, and one at a stoplight for better and safer traffic flow.

The proposed new building will be located in the 2017-1TIF district. The developer, Eagleridge Development, LLC is requesting that the 2017-1 TIF agreement be amended to include the new proposed building. With the additional improvements the financial model shows there will be adequate revenues generated to allow for \$900,000 towards the public improvements as part of the new additional building.

The addition of the 2nd building is consistent with the site Master Plan.

Attached is a draft of the proposed amendment as drafted by the City attorney and the Tax Increment financial model. The agreement has the additional funds fully secured by a special assessment against the property should the incremental tax revenues not be sufficient to pay for the outstanding debt in the TIF period.

**FIRST AMENDMENT TO FIRST AMENDMENT
TO MASTER DEVELOPMENT AGREEMENT**

BY AND BETWEEN

THE CITY OF WEST FARGO, as City

AND

EAGLERIDGE DEVELOPMENT, LLC, as North Developer

Dated as of _____, 2020

Relating to:

Sheyenne & 32 Urban Development Plan

This instrument was drafted by:
Ohnstad Twichell, P.C.
P.O. Box 458
West Fargo, North Dakota 58078

FIRST AMENDMENT TO FIRST AMENDMENT
TO MASTER DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO FIRST AMENDMENT TO MASTER DEVELOPMENT AGREEMENT (the “Amendment”) is made and entered into this _____ day of _____, 2020 (the “Effective Date”), by and between the City of West Fargo, North Dakota, a North Dakota municipal corporation, having an address of 800 Fourth Avenue East, Suite 1, West Fargo, North Dakota 58078 (the “City”), and EagleRidge Development, LLC, a North Dakota limited liability company, having an address of 4650 38th Avenue South, Suite 110, Fargo, North Dakota 58104-8529 (the “North Developer”) (collectively, the City and the North Developer, the “Parties”).

WHEREAS, the City, the North Developer, and Sheyenne 32, LLC (the “South Developer”), entered into a First Amendment to Master Development Agreement, dated as of December 17, 2018 (the “First Amendment”), for the development of Lots 3, 4, 5, 6, 7, and 8, Block 1, Eagle Run Plaza Sixth Addition to the City of West Fargo, North Dakota, by the South Developer, and for the development of Lot 1, Block 1, Eagle Run Plaza Sixth Addition to the City of West Fargo, North Dakota (the “North Property”), by the North Developer; and

WHEREAS, under the terms of the First Amendment, the North Developer intended to construct a mixed-use building that incorporated retail, commercial office space, living space, and a parking ramp; and

WHEREAS, to assist the North Developer with the development of such infrastructure on the North Property, the City agreed, under the terms of the First Amendment, to reimburse the North Developer up to \$3,000,000; and

WHEREAS, the North Developer now plans to build additional infrastructure on the North Property, including but not limited to additional public parking and public amenities; and

WHEREAS, in return for the North Developer’s increase in development, the North Developer and the City now desire to increase the reimbursement amount to the North Developer.

NOW, THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the City and the North Developer agree as follows:

1. Additions and Deletions. Additions to terms and conditions of the First Amendment are herein signified by an underline, and deletions to terms and conditions of the First Amendment are herein signified by a ~~striketrough~~.

2. The definition of “North Project” in Section 1 of the First Amendment is hereby amended as follows:

“North Project” means the proposed development of the North Property to include atwo (2) mixed-use buildings that incorporates retail, commercial office, and living space, and a Parking Ramp, additional public parking, and public amenities in the public parking and green space areas located around both mixed-use buildings.

3. Section 9(D) of the First Amendment is hereby amended as follows:

D. Once the North Developer invests \$14,000,000, which must include at least \$6,000,000 of loan proceeds from the financial institution backing the North Developer’s development of the North Property, into the construction of the North Property, and the North Developer submits evidence to the City of the same, including establishing the sources of funds, the City will reimburse the North Developer for the construction of the infrastructure on the North Property, including the Parking Ramp, public parking, and public amenities, in the amount of ~~\$3,000,000~~\$3,900,000. Once the City has received, in its opinion, sufficient evidence of investment, the City will reimburse the North Developer within thirty (30) calendar days.

4. Effective Date. This Amendment will be effective immediately upon its adoption by each of the parties.

(Signatures appear on the following page.)

DRAFT

CITY OF WEST FARGO

BY: _____
Bernie L. Dardis, President of the
Board of City Commissioners

BY: _____
Tina Fisk, City Auditor

DRAFT

EAGLERIDGE DEVELOPMENT, LLC

BY: _____
Jim Bullis, _____

DRAFT

TIF Calculation - 2017-1 - Northern Lights

Entity:	Mills: (2018)	Existing Value:	Taxes Collected:	New Value:	New Taxes Collected:	Additional Annual Tax dedicated to TIF	
City	70.24	\$1,371,500	\$4,816.71	\$38,000,000	\$133,456.00	\$128,639.29	
School	133.29	\$1,371,500	\$9,140.36	\$38,000,000	\$253,251.00	\$244,110.64	
Park	26.18	\$1,371,500	\$1,795.29	\$38,000,000	\$49,742.00	\$47,946.71	
County	52.76	\$1,371,500	\$3,618.02	\$38,000,000	\$100,244.00	\$96,625.98	
State	1.00	\$1,371,500	\$68.58	\$38,000,000	\$1,900.00	\$1,831.43	
Garrison	1.00	\$1,371,500	\$68.58	\$38,000,000	\$1,900.00	\$1,831.43	
Water	5.04	\$1,371,500	\$345.62	\$38,000,000	\$9,576.00	\$9,230.38	
Total:	289.51	\$1,371,500	\$19,853.15	\$38,000,000	\$495,062.10	\$475,208.95	
Less City 3% Fee							3.00% \$ (14,256.27)
Less County 5% Discount							5.00% \$ (23,760.45)
Net Available for TIF Project						\$437,192.23	

Base Valuation, Per Nick Lee (not confirmed as of 12/2/2019 JLL)

Name	PIN	Land	Building	Total	Expense allowed to be included into TIF	
2920 SHEYENNE ST	02-0215-00011-000	\$ 1,371,500		\$ -	\$1,500,000	Plaza
				\$ 1,371,500	\$1,500,000	Parking Garage
				\$ -	\$3,000,000	Phase 1 Site Infrastructure
					\$900,000	Phase 2 infrastructure
Total all parcels				\$ 1,371,500	\$6,900,000	
Total Costs With Bond				Other Costs-> \$ -	\$6,900,000	
Bond Term					25	Years->
Bond Rate					3.80%	
Bond Payment per Year					\$432,395.02	
Tax coverage +/-					\$4,797.21	
Cumulative Value of TIF funds, no interest				Years	25	\$10,929,805.79

Project Improvement Valuation, Per Jim Bullis	Cert of Occupancy expected
Phase 1 \$ 30,000,000	07/2021
Phase 2 \$ 8,000,000	02/2022
Total \$ 38,000,000	

**FIRST AMENDMENT TO FIRST AMENDMENT
TO MASTER DEVELOPMENT AGREEMENT**

BY AND BETWEEN

THE CITY OF WEST FARGO, as City

AND

EAGLERIDGE DEVELOPMENT, LLC, as North Developer

Dated as of _____, 2020

Relating to:

Sheyenne & 32 Urban Development Plan

This instrument was drafted by:
Ohnstad Twichell, P.C.
P.O. Box 458
West Fargo, North Dakota 58078

FIRST AMENDMENT TO FIRST AMENDMENT
TO MASTER DEVELOPMENT AGREEMENT

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WHEREAS, under the terms of the First Amendment, the North Developer intended to construct a mixed-use building that incorporated retail, commercial office space, living space, and a parking ramp; and

WHEREAS, to assist the North Developer with the development of such infrastructure on the North Property, the City agreed, under the terms of the First Amendment, to reimburse the North Developer up to \$3,000,000; and

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DRAFT

CITY OF WEST FARGO

BY: _____
Bernie L. Dardis, President of the
Board of City Commissioners

BY: _____
Tina Fisk, City Auditor

DRAFT

EAGLERIDGE DEVELOPMENT, LLC

BY: _____
Jim Bullis, _____

DRAFT

AGREEMENT
BY AND BETWEEN
CITY OF WEST FARGO, NORTH DAKOTA
AND
EAGLE RIDGE DEVELOPMENT, LLC
AND
FIRST INTERNATIONAL BANK & TRUST

Dated _____, 2020

Related to:

An Agreement related to the issuance of Bonds by the City and the Borrower's and Bank's interest in payment proceeds for public infrastructure.

This instrument was drafted by:
Ohnstad Twichell, P.C.
P.O. Box 458
West Fargo, North Dakota 58078-0458

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AGREEMENT

THIS AGREEMENT (the “Agreement”) is made and entered into this ____ day of _____, 2020 (the “Effective Date”), by and between CITY OF WEST FARGO, NORTH DAKOTA, a North Dakota municipal corporation, having an address of 800 4th Avenue East, Suite 1, West Fargo, North Dakota 58078 (the “City”), EAGLERIDGE DEVELOPMENT, LLC, a North Dakota limited liability company, having an address of 4650 38th Avenue South, Suite 110, Fargo, North Dakota 58104-8529 (the “Borrower”), and FIRST INTERNATIONAL BANK & TRUST, having an address of 4501 40th Avenue South, Fargo, North Dakota 58104 (the “Bank”) (collectively, the City, the Borrower, and the Bank, the “Parties”).

WHEREAS, on January 2, 2019, the City entered into a First Amendment to Master Development Agreement with EagleRidge Development, LLC (“Amended Development Agreement”), for the development of Lot 1, Block 1, Eagle Run Plaza Sixth Addition to the City of West Fargo, Cass County, North Dakota (the “Property”); and

WHEREAS, the City created Tax Increment Financing District 2017-1 (the “District”) to facilitate development of the Property; and

WHEREAS, pursuant to the Amended Development Agreement and a First Amendment to the Amended Development Agreement, dated _____ (the “First Amendment”), EagleRidge Development, LLC, committed to constructing, in part, public infrastructure on the Property (the “Public Infrastructure”); and

WHEREAS, following the completion of the Public Infrastructure and certain conditions and terms of the Amended Development Agreement and the First Amendment, the City committed to remitting payment to EagleRidge Development, LLC, in an amount up to \$3,900,000; and

WHEREAS, the Amended Development Agreement provides that the City may fund its payment to EagleRidge Development, LLC, through the issuance of taxable tax increment financing revenue bonds (the “Bonds”), secured, at least in part, by tax revenues from the District; and

WHEREAS, with the consent of the City, EagleRidge Development, LLC, assigned its construction obligations under the Amended Development Agreement and the First Amendment, and the attendant right to receive payment from the City, to the Borrower in an Assignment, dated _____; and

WHEREAS, to secure funds to construct the Public Infrastructure, the Borrower seeks to enter into a loan agreement with the Bank (the “Loan”); and

WHEREAS, as partial security for the Loan, the Bank desires to take a security interest in the Borrower’s right to receive Bond proceeds from the City as payment for the Public Infrastructure; and

WHEREAS, the City, the Borrower, and the Bank desire to enter into this Agreement to set forth the preconditions for issuance of the Bonds and the procedure by which the City will transfer Bond proceeds to the Bank in lieu of transferring such proceeds to the Borrower.

NOW, THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the City, the Borrower, and the Bank agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.01 DEFINITIONS. All capitalized terms used, and not otherwise defined herein, shall have the meanings given to them in this Agreement and as defined in this Section unless a different meaning clearly applies from the context.

“Amended Development Agreement” means the First Amendment to Master Development Agreement, dated January 2, 2019, by and between the City, Sheyenne 32, LLC, and EagleRidge Development, LLC.

“Applicable Law” means, collectively, the Constitutions of the United States and of the State of North Dakota, all common law and principles of equity, and all federal, state, and local laws including, without limitation, all environmental laws, statutes, treaties, codes, acts, rules, regulations, guidelines, ordinances, resolutions, orders, judgments, decrees, injunctions, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any governmental authority charged with the enforcement, interpretation, or administration thereof, all governmental approvals, and all administrative orders, awards, directed duties, requests, licenses, certificates, authorizations, and permits of, and agreements with any governmental authority, and, with respect to any Person, articles of incorporation, bylaws, or other organizational or governing documents of such Person, in each case whether or not having the force of law, that are applicable now or are applicable at any time hereafter to (a) the City; (b) the Borrower; (c) the Bank; or (d) the Public Infrastructure.

“Bank” means First International Bank & Trust, 4501 40th Avenue South, Fargo, North Dakota 58104.

“Best Efforts” means acting in Good Faith, acting in accordance with generally accepted commercial practices, and using due diligence to undertake all action contemplated by this Agreement, in accordance with Applicable Law.

“Bonds” means taxable tax increment financing bonds secured, at least in part, by tax revenues received by the City from the District.

“Borrower” means EagleRidge Development, LLC, a North Dakota limited liability company, having an address of address of 3280 Veterans Boulevard South, Suite 300, Fargo, North Dakota 58104-3347.

“**City**” means the City of West Fargo, North Dakota, a North Dakota municipal corporation, having an address of 800 4th Avenue East, Suite 1, West Fargo, North Dakota 58078.

“**Completion Certificate**” means a certificate from the Borrower to the City indicating the Borrower has met the Investment Threshold.

“**District**” means Tax Increment Financing District 2017-1 of the City of West Fargo, North Dakota, created on July 17, 2017.

“**Event of Default**” means those events described in Article V hereof.

“**First Amendment**” means the First Amendment to the First Amendment to Master Development Agreement, dated _____, by and between the City and EagleRidge Development, LLC.

“**Good Faith**” means the observance of reasonable commercial standards of fair dealing in a given trade or business.

“**Investment Threshold**” means the Borrower has invested \$14,000,000, which must include at least \$6,000,000 of loan proceeds from the Bank, into the construction of the Property.

“**Loan**” means a loan agreement, dated _____, by and between the Borrower and the Bank.

“**Payment**” means the up to \$3,900,000 payment from the City to the Borrower pursuant to the terms of the Amended Development Agreement and First Amendment.

“**Person**” means an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization, or a governmental authority.

“**Pre-Completion Certificate**” means a certificate from the Borrower to the City indicating the Borrower has met seventy-five percent (75%) of the investments required to reach the Investment Threshold.

“**Property**” means Lot 1, Block 1, Eagle Run Plaza Sixth Addition to the City of West Fargo, Cass County, North Dakota.

“**Public Infrastructure**” means a parking ramp, additional public parking, and public amenities in the public parking and green space areas located around the buildings on the Property.

Section 1.02 INTERPRETATION.

(a) The headings of articles and sections are provided for convenience of reference only and will not affect the construction, meaning, or interpretation of this Agreement. Any and all exhibits to this Agreement are hereby incorporated by reference. The definition of terms herein

shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as “shall.” Unless the context requires otherwise (i) any definition of or reference to any agreement, instrument, or other document herein shall be construed as referring to such agreement, instrument, or other document as from time to time amended, supplemented, or otherwise modified (subject to any restrictions on such amendments, supplements, or modifications as set forth herein), (ii) any reference herein to any person shall be construed to include such person’s permitted assigns, (iii) the words “herein,” “hereof,” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to articles, sections, exhibits, and schedules shall be construed to refer to articles and sections of, and exhibits and sections to, this Agreement, and (v) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” mean “to and including.”

(b) This Agreement is not to be interpreted or construed against the interests of a Party merely because that Party proposed this Agreement or some provision of it or because that Party relies on a provision of this Agreement to protect itself. The Parties acknowledge and agree that this Agreement has been prepared jointly by the Parties and has been the subject of arm’s length and careful negotiation, that each Party has been given the opportunity to independently review this Agreement with legal counsel, and that each Party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions of this Agreement. Accordingly, in the event of an ambiguity or dispute regarding the interpretation of this Agreement, this Agreement will not be interpreted or construed against the Party preparing it simply as a consequence of preparing it.

ARTICLE II

BOND ISSUANCE AND RIGHT TO PAYMENT PRECONDITIONS

Section 2.01 DISCRETION TO ISSUE BONDS. The City retains the discretion as to whether it will issue Bonds for the Payment for the Public Infrastructure or whether it will fund the Payment through other means. Regardless of the source of the funds, however, the City remains bound by the terms and conditions of the Amended Development Agreement and the First Amendment to make the Payment to the Borrower if the terms and conditions set forth in the Amended Development Agreement and First Amendment are met. If such terms and conditions are met, including as set forth in this Agreement, the procedure for the remittance of the funds by the City as set forth herein will remain applicable.

Section 2.02 PRE-COMPLETION CERTIFICATE. The Borrower will provide a Pre-Completion Certificate to the City when the Borrower has met seventy-five percent (75%) of the Investment Threshold. The Borrower will also provide a copy of such Pre-Completion Certificate to the Bank. Upon receipt of such notice, if utilizing Bonds for the Payment, the City will commence the bonding process if it has not already done so.

Section 2.03 FINALIZATION OF BOND SALE. The City will commence the process of finalizing the sale of the Bonds, if utilizing Bonds for the Payment, when the City receives a Completion certificate and detailed statements for reimbursement from the Borrower. Within the following 30-day period, the City will review the detailed statements for reimbursement submitted by Borrower, notifying the Borrower of any discrepancies or the need for additional information. Once the City has determined the reimbursement statements are sufficient to its satisfaction, the City, in its discretion, may sell the Bonds for the Payment.

Section 2.05 REIMBURSEMENT / PURCHASE MAXIMUM. As set forth in the Amended Development Agreement and First Amendment, the City's Payment to the Borrower will not exceed \$3,900,000.00. The principal amount of Bonds, if issued by the City, is entirely within the discretion of the City.

Section 2.06 ASSUMPTION OF RISK. The Borrower assumes all risk that the City may not issue the Bonds in the event the Borrower is not in compliance with the Amended Development Agreement or First Amendment.

ARTICLE III

SECURITY INTEREST

Section 3.01 SECURITY INTEREST. The City does not object to the Bank filing a lien or encumbrance on the Payment proceeds. The Bank agrees and acknowledges that in the event the City issues Bonds for the Payment, the proceeds of the Bonds will likely exceed the amount of the Payment. The Bank further agrees and acknowledges that its interest in any proceeds of the Bonds does not extend beyond the amount of the Payment.

ARTICLE IV

PAYMENT PROCEDURE

Section 4.01 PURCHASE NOTIFICATION AND CLAIMED INTEREST. Once the City is ready to make the Payment, the City will provide written notification of the same to the Borrower and the Bank. If the Bank claims any interest in the Payment, it must submit a written statement to the City, copied to the Borrower, of the amount claimed by the Bank within thirty (30) calendar days of the date of the written notification provided by the City. If the City does not receive a written statement from the Bank within the 30-day period, it will assume the Bank is not claiming any interest in the Payment. The Bank agrees and acknowledges that it does not have the authority to object to the amount of the Payment determined by the City. The City will pay the amount of the Payment claimed by the Bank to the Bank at closing, with any remainder being paid to the Borrower, unless the Borrower objects, as provided in Section 4.02, or there is a priority claim in the proceeds, as provided in Section 4.03.

Section 4.02 BORROWER OBJECTION TO CLAIMED INTEREST. Following the submission of the Bank's written statement pursuant to Section 4.01, the Borrower may file an objection to the amount claimed by the Bank within ten (10) calendar days of the date of the Bank's written

statement. In the event the Borrower files such an objection, at the time of the making of the Payment, the City will (i) make the Payment in the amount claimed by the Bank to which the Borrower does not object to the Bank, (ii) will deposit the disputed amount of the Payment into a non-interest bearing escrow account a reputable escrow agent, and (iii) will pay any remaining undisputed Payment proceeds to the Borrower. The City will have no responsibility to make an assessment as to the disputed claims between the Bank and the Borrower. The Borrower and the Bank will then be responsible for determining the ownership of the Payment proceeds deposited in the escrow account.

Section 4.03 PRIORITY CLAIM IN CLAIMED INTEREST. If any Person, aside from the Borrower, asserts a claim in the Payment proceeds that is superior to the claim of the Bank contained in the written statement submitted pursuant to Section 4.01, the City will deposit the Payment proceeds in their entirety into a non-interest bearing escrow account a reputable escrow agent. The City will have no responsibility to make an assessment as to the validity of the claims for priority. The Bank, the Borrower, and the Person will then be responsible for determining the ownership of the purchase proceeds deposited in the escrow account.

Section 4.04 NO RECOURSE. The Borrower and the Bank expressly agree and acknowledge that they will have no recourse against the City for the making of the Payment if the City follows the payment procedure set forth in this Agreement.

ARTICLE V

DEFAULTS AND REMEDIES

Section 5.01 EVENT OF DEFAULT. The occurrence of any one of the following events will constitute an Event of Default by a Party pursuant to this Agreement:

(a) A Party fails to comply with, perform, or observe any material obligation, covenant, agreement, term, or condition in this Agreement which failure materially and adversely affects another Party's rights or obligations under this Agreement and such failure continues without cure for a period of thirty (30) calendar days following the date a non-defaulting Party delivers written notice thereof to the defaulting Party, giving particulars of the default in reasonable detail.

Section 5.02 REMEDIES. Upon the occurrence of an Event of Default under this Agreement, a non-breaching Party may give the defaulting Party and the other Party notice declaring the defaulting Party in default and may do any or all of the following in its discretion:

- (a) Terminate this Agreement to the extent provided in Article VI; and
- (b) Exercise any other rights and remedies provided for hereunder or under Applicable Law.

ARTICLE VI

TERM AND TERMINATION

Section 6.01 TERM. This Agreement will take effect on the Effective Date and will remain in effect for a term of two (2) years. In the event the City has not make the Payment within such 2-year period, the Parties may extend this Agreement for an additional 2-year term.

Section 6.02 TERMINATION FOR DEFAULT. Subject to the provisions of this Agreement, at any time after the occurrence of an Event of Default by any Party, a non-defaulting Party may terminate this Agreement. The non-defaulting Party must deliver a written notice of intent to terminate this Agreement to the other Parties.

Section 6.03 AGREEMENT. The Parties may agree, in writing, to terminate this Agreement.

ARTICLE VII

DISPUTE RESOLUTION

Section 7.01 INTENT AND PROCEDURE. The City, the Borrower, and the Bank will cooperate and use their Best Efforts to ensure that the various provisions of this Agreement are fulfilled. The City, the Borrower, and the Bank agree to act in Good Faith to undertake resolution of disputes in an equitable and timely manner and in accordance with the provisions of this Agreement. If disputes cannot be resolved informally, the Parties will utilize the following procedure.

Section 7.02 MEDIATION. If there is a failure between the Parties to resolve a dispute on their own, the Parties will first attempt to mediate the dispute. The Parties will agree upon a single mediator, and each Party will equally share in the costs for mediation services.

Section 7.03 LITIGATION. If the dispute is not resolved within forty-five (45) calendar days after the selection of the mediator pursuant to Section 7.02, any Party may choose to litigate the matter.

Section 7.04 VENUE. All litigation between the Parties arising out of or pertaining to this Agreement or its breach will be filed, heard, and decided in a court of competent jurisdiction in Cass County, North Dakota, which will have exclusive jurisdiction and venue.

Section 7.05 WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THAT ANY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, COUNTERCLAIM, OR DEFENSE BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER, OR IN ANY CONNECTION WITH THIS AGREEMENT, OR WITH RESPECT TO ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) TO ACTIONS OF ANY PARTY RELATING TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL PARTIES ENTERING INTO THIS AGREEMENT. THIS PROVISION ONLY APPLIES TO SUITS BETWEEN THE PARTIES AND DOES NOT APPLY TO THIRD PARTY CLAIMS OR SUITS.

ARTICLE VIII
INDEMNIFICATION

Section 8.01 INDEMNIFICATION.

(a) The Bank agrees it will indemnify, defend, and hold harmless the City, its officers, employees, agents, and contractors from any and all claims or causes of action, of any nature, arising or purportedly arising out of actions of the Bank, its officers, employees, or agents in connection with this Agreement.

(b) The Borrower agrees it will indemnify, defend, and hold harmless the City, its officers, employees, agents, and contractors from any and all claims or causes of action, of any nature, arising or purportedly arising out of actions of the Borrower, its officers, employees, or agents in connection with this Agreement.

ARTICLE VIX
MISCELLANEOUS

Section 9.01 AMENDED DEVELOPMENT AGREEMENT AND FIRST AMENDMENT. This Agreement is in no way intended to amend or modify the terms or conditions of the Amended Development Agreement or the First Amendment, and the Amended Development Agreement and First Amendment remain in full force and effect following the Effective Date of this Agreement. In the event the terms of this Agreement conflict with the terms and conditions of the Amended Development Agreement or the First Amendment, the Amended Development Agreement or the First Amendment, as applicable, controls.

Section 9.02 SUCCESSORS AND ASSIGNS. The Parties agree that this Agreement will be binding upon and inure to the benefit of the successors and assigns of the Parties in accordance with the terms and conditions of this Agreement and any Applicable Law. No assignment of any interest of the Borrower pursuant to this Agreement may be made without the express written consent of the City and the Bank.

Section 9.03 AMENDMENTS. This Agreement, or any part thereof, may be amended, modified, or waived only by a written instrument duly executed by the Parties, specifying with particularity the nature and extent of such amendment, modification, and waiver.

Section 9.04 WAIVER. The failure or delay of any Party to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement or the right to enforce each and every term of this Agreement.

Section 9.05 AUTHORIZED REPRESENTATIVES.

(a) The City, the Borrower, and the Bank each hereby designates the following individual as its initial representative to administer this Agreement on its respective behalf:

- (1) City Representative: City Administrator
- (2) Borrower Representative: Jim Bullis, President
- (3) Bank Representative: Matt Mueller, Senior Vice President

(b) The representatives will be reasonably available to each other during the term of this Agreement and will have the authority to issue instructions and other communications on behalf of the City, the Borrower, and the Bank, respectively, and will be the recipients of notices and other communications from the other Parties pursuant to this Agreement. Such representatives, however, will not have the authority to make decisions or give instructions binding on the City, the Borrower, or the Bank, except to the extent expressly authorized by the City, the Borrower, or the Bank, as the case may be.

Section 9.06 NOTICE.

(a) All notices under this Agreement shall be in writing and (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) sent by recognized overnight mail or courier services, with delivery receipt requested; or (iv) sent by email communication followed by a hard copy and with receipt confirmed by telephone or return receipt, to the following addresses.

(b) All notices to the City shall be marked as regarding this Agreement and shall be delivered to the following address or as otherwise directed by the City Representative:

City of West Fargo
800 4th Avenue East, Suite 1
West Fargo, North Dakota 58078

(c) All notices to the Borrower shall be marked as regarding this Agreement and shall be delivered to the following address or as otherwise directed by the Borrower Representative:

400 10th Street Southeast
P.O. Box 879
Minot, North Dakota 58702

(d) All notices to the Bank shall be marked as regarding this Agreement and shall be delivered to the following address or as otherwise directed by the Bank Representative:

4501 40th Avenue South
Fargo, North Dakota 58104

(e) Notices shall be deemed received when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on

the receipt of the U.S. Postal Service, private courier, or other person making the delivery. Notwithstanding the foregoing, notices received after 5:00 p.m. CDT will be deemed received on the first calendar day following delivery.

Section 9.07 NO THIRD PARTY BENEFICIARIES. Nothing contained in this Agreement is intended or will be construed as creating or conferring any right, benefit, or remedies upon, or creating any obligations of the Parties hereto toward, any person or entity not a Party, except those rights expressly contained herein.

Section 9.08 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

Section 9.09 SEVERABILITY. If any term or provision of this Agreement or any application thereof to any person or circumstances shall to any extent be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by Applicable Law.

Section 9.10 COUNTERPARTS. This instrument may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

Section 9.11 ENTIRE AGREEMENT. This Agreement contains the entire and exclusive understanding of the Parties with respect to the subject matter thereof, and this Agreement supersedes all prior agreements, understandings, statements, representations, and negotiations, in each case oral or written, between the Parties with respect to the subject matter.

Section 9.12 NOT A GENERAL OBLIGATION. Nothing in this Agreement shall be construed as creating a general obligation of the City.

Section 9.13 FORCE MAJEURE. No Party will be liable to the other during any period in which its performance is delayed or prevented, in whole or in part, by any of the following circumstances: war, civil war, invasion, violent act of foreign enemy, or armed conflict; nuclear, chemical, or biological contamination; ionizing radiation; or any act of terrorism. If such a circumstance occurs, the Party claiming delay must undertake reasonable action to notify the other Parties of the same.

IN WITNESS WHEREOF, the City, the Borrower, and the Bank caused this Agreement to be executed.

(Remainder of page intentionally left blank.)

Signature Page for the City of West Fargo, North Dakota

The governing body of the City of West Fargo, North Dakota, approved this Agreement on the ___ day of _____, 2020.

CITY OF WEST FARGO, NORTH
DAKOTA

By: _____
Bernie Dardis, President of the Board of
City Commissioners

ATTEST:

Tina Fisk, City Administrator

Signature Page for EagleRidge Development, LLC

EAGLERIDGE DEVELOPMENT, LLC

By: _____

Its: _____

DRAFT

Signature Page for First International Bank & Trust

FIRST INTERNATIONAL BANK &
TRUST

By: _____

Its: _____

DRAFT

ASSIGNMENT

THIS ASSIGNMENT (the “Assignment”) is made and entered into this ____ day of _____, 2020 (the “Effective Date”), by and between EAGLERIDGE DEVELOPMENT, LLC, a North Dakota limited liability company, having an address of 4650 38th Avenue South, Suite 110, Fargo, North Dakota 58104-8529 (“EagleRidge”), and NORTHERN LIGHTS ON SHEYENNE, LLC, a North Dakota limited liability company, having an address of 3280 Veterans Boulevard South, Suite 300, Fargo, North Dakota 58104-3347 (“NL”) (collectively, EagleRidge and NL, the “Parties”).

WHEREAS, on January 2, 2019, the City of West Fargo, North Dakota (the “City”) entered into a First Amendment to Master Development Agreement (“Amended Development Agreement”), for the development of Lot 1, Block 1, Eagle Run Plaza Sixth Addition to the City of West Fargo, Cass County, North Dakota (the “Property”); and

WHEREAS, on _____, the City and EagleRidge entered into a First Amendment to the Amended Development Agreement (the “First Amendment”); and

WHEREAS, EagleRidge desires to assign all of its rights, interests, and benefits under the Amended Development Agreement and the First Amendment to NL, including its right to receive payment from the City for the construction of public infrastructure; and

WHEREAS, EagleRidge has solicited and secured consent from the City for the assignment of its rights, interests, and benefits to NL.

NOW, THEREFORE, in consideration of the mutual covenants herein and for other valuable consideration, the receipt of which is hereby acknowledged, EagleRidge and NL agree as follows:

1. Assignment. EagleRidge hereby assigns all of its rights, interests, and benefits under the Amended Development Agreement and the First Amendment to NL, including EagleRidge’s right to receive payment from the City.
2. City Consent. On or prior to the Effective Date of this Assignment, EagleRidge received written consent from the City to assign its rights, interests, and benefits to NL. A copy of such consent is attached hereto as Exhibit A.
3. Governing Law. This Assignment will be controlled by the laws of the State of North Dakota.
4. Entire Agreement. This Assignment contains the entire understanding of the Parties.
5. Modifications. This Assignment may not be changed orally but only upon written agreement by the Parties.

6. Execution Counterparts. This Assignment may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

(Signatures appear on the following page.)

DRAFT

EAGLERIDGE DEVELOPMENT, LLC

By: _____

Its: _____

NORTHERN LIGHTS ON SHEYENNE,
LLC

By: _____

Its: _____

DRAFT

EXHIBIT A
CITY CONSENT TO ASSIGNMENT

DRAFT



Dustin T. Scott - City Engineer
Jerry Wallace – Civil Engineer
Andrew Wrucke – Transportation Engineer
Kayla Volness – Engineering Office Manager

Engineering Department
800 4th Ave E
West Fargo, ND 58078
701-433-5330
www.westfargond.gov

AGENDA ITEM REQUEST
BOARD OF CITY COMMISSIONERS
WEST FARGO, NORTH DAKOTA

OFFICE USE:
AGENDA ITEM # 9

** "Consent" or "Regular" Agenda Item? **Regular** **

1. CONTACT PERSON(s):
 - Dustin T. Scott, City Engineer (433-5425)

2. DATE OF MEETING:
 - March 16, 2020

3. DESCRIPTION OF REQUEST:
 - Spring Flood Update Presentation.
 - Discussion on RFQ for "2020 Flood Engineering Services".

4. LOCATION (address; legal; etc.):
 - N/A

5. ACTION(s) REQUESTED:
 - Authorization to execute contracts if and when needed.

ADDITIONAL INFORMATION:

Statement of qualification submittals were received from the following three Consultants:

Moore Engineering

Houston Engineering

AE2S (Advanced Engineering and Environmental Services)

Request for Qualifications (RFQ)

Professional Engineering Services – “2020 Spring Flood Event”

The City of West Fargo is soliciting a Statement of Qualifications (SOQ) from consulting firms interested in providing professional engineering services for its 2020 Spring Flood Event project.

On February 27, 2020, The President of the Board of City Commissioners signed an “Emergency Declaration” in anticipation of the 2020 Spring Flood Event. Following this action, the City is seeking to retain professional engineering services to assist with various flood management activities.

The solicitation package is available for download on the City’s website: www.westfargond.gov

RFQ Schedule:

February 27 th	Mayor signs Emergency Declaration
February 28 th	Issue RFQ (website, email, media, etc.)
March 2 nd	Board of City Commissioners confirms Emergency Declaration
March 4 th & 11 th	RFQ Published in West Fargo Pioneer
March 11th	SOQ due by 5:00 PM
March 12 th	Contract Negotiation
March 16 th	Contract Approval by Board of City Commissioners

NOTE: All submittals received by 5:00 pm on March 11, 2020 at the City Auditors Office, will be given equal consideration. The City of West Fargo encourages participation from minority, women-owned and disadvantaged business enterprises.

PURPOSE

Following the signing of an “Emergency Declaration”, the City now seeks to acquire professional engineering services to assist with various flood management activities for the “2020 Spring Flood Event”. Though the extent of the 2020 event is uncertain, the City is currently reviewing flood strategies and procedures, as well as initiating protocols to ensure resources are in place and vital infrastructure is operational.

The intent of this RFQ is to identify consulting firms that are uniquely qualified and readily available to perform tasks and services as needed. Interested firms shall submit a Statement of Qualifications as further instructed below and based on the following general scope of services:

- A. Planning & Preparation
- B. Monitoring and Surveying
- C. Administrative & Technical Support

INSTRUCTIONS

The SOQ shall demonstrate qualifications and availability to provide all services identified within this RFQ. The City considers the following qualifications to be most critical:

- Experience assisting with prior flood events within the region and working with the associated jurisdictions, agencies and officials.
- Thorough understanding of the Sheyenne River Watershed and other major basins or sub-basins, tributaries, and/or other relevant systems that influence/impact flood conditions for the City of West Fargo.
- Functional knowledge of the Sheyenne River Flood Control System and other critical city infrastructure.
- Assisting communities in developing strategies, protocols and implementation measures to mitigate and protect against emergency (overland, localized, etc.) flood events.
- Experience with local, state and federal regulatory agencies in relation to permitting, documentation and funding eligibility requirements.

The City intends to negotiate contracts based on tasks and hours. As such, the SOQ must include hourly rate schedules for any staff assigned to tasks in which the consultant intends to invoice. The SOQ shall identify a primary point of contact and include a list of key staff who will have lead roles in completing tasks (include name, classification, proposed role, availability and prior flood related experience). Consultants are encouraged to provide additional information not specifically requested that demonstrate their qualifications.

Submittals will be evaluated and scored based on Qualifications (35%), Experience (35%) and Availability (30%). The Selection Committee will consist of the following staff (subject to change): Tina Fisk – City Administrator; Dustin Scott – City Engineer; Matt Andvik – Public Works Director

SOQ submittals are due by 5:00 PM on March 11, 2020. Deliver three (3) hard copies to:

Dustin T. Scott, City Engineer
800 4th Ave East
West Fargo ND, 58078

SCHEDULE

February 27 th	Mayor signs Emergency Declaration
February 28 th	Issue RFQ (website, email, media, etc.)
March 2 nd	Board of City Commissioners confirms Emergency Declaration
March 4 th & 11 th	RFQ Published in West Fargo Pioneer
March 11th	SOQ due by 5:00 PM
March 12 th	Contract Negotiation
March 16 th	Contract Approval by Board of City Commissioners

POTENTIAL TASKS

A. Planning and Preparation

- i. Attend situational meetings to provide technical support and expertise
- ii. GIS mapping and data processing
- iii. Public outreach assistance

B. Monitoring and Surveying

- i. Routine observations and reporting on river flows, river bank stability and/or other critical systems
- ii. Drone services (must be licensed and FAA certified)
- iii. Survey Support (topographic, emergency levee construction, gauge station calibration, etc.)

C. Administrative and Technical Support

- i. Assistance and coordination with local, state and federal agencies
- ii. Advise on regulatory requirements (permitting, FEMA reimbursement, etc.)
- iii. Emergency construction activities (prepare drawings, coordinate contractors, facilitate easements and/or access Agreements, etc.)
- iv. Post event activities

*NOTE: The tasks outlined above briefly highlight areas in which the city **may** need assistance. The extent of services (if any) to be executed by contract will depend on the nature of the event.*



City Commission Agenda Item Request

Please Note: The following information must be completed and submitted before noon on the Thursday preceding the City Commission Meeting. Failure to comply may delay action being taken on your request.

Office Use:

Regular Agenda Item #:

Consent Agenda Item #:

Agenda Item Information:

Contact Name: *

Carissa Hansen & Tina Fisk

Phone Number: *

701-551-8945

Email Address:

carissa.hansen@westfargond.gov

Date *

3/11/2020

Topic for Consent or Regular Agenda?

Please select one option:

Consent Agenda

Regular Agenda

Please Briefly Describe Your Request *

Contract for community input project for West Fargo Public Library

Site Address or Legal Description (if applicable)

Action Being Requested from City Commission *

Approval to contract with Folkways to facilitate community input for the West Fargo Public Library's 2020-2023 strategic plan

Upload Additional Documentation (Optional):

2-2020 West Fargo Library Preliminary Scope V1.3.pdf

80.77KB

FOLKWAYS

West Fargo Library Public Engagement Scope

The City of West Fargo is engaging Folkways in a defined pilot project for the West Fargo Public Library. This project centers around community engagement as a part of the West Fargo Public Library strategic plan with a specific focus on establishing the library as a public space and defining their approach to delivering library services.

Our Approach

Folkways strives to engage with community members in an authentic and thoughtful way. Through this process, we see the ability to engage with a wide range of West Fargo citizens: youth, seniors, new Americans, families, and long-time residents.

Through a process of effective public engagement, we believe that we can elevate and bring awareness to the existing services and offerings which the West Fargo Library provides. Through better awareness of existing services, a richer understanding of new services can be discovered.

Folkways' engagement and research will take a holistic approach, working alongside City and Library staff to understand the goals and objectives of the library systems to create survey data and engagement with community members. We will look outside of the physical walls of the library to understand how, why, and when residents choose to engage with the services of the library.

Folkways will conduct a library user experience study with a focus on the users' ability to provide engaging feedback through their library journey. This process will include 8-12 interviews with library users and development of user personas for overall library use. A broad list of ideas and strategies accompanied by an incremental implementation plan for library staff will be provided.

Deliverables:

The preliminary scope includes the following deliverables to be implemented and completed in a three to six month time period:

- 4-6 Stakeholder Interviews: Folkways will interview the library director, employees, and targeted user groups. Information gathered from interviews will be used to help define a direction for public engagement. A summary of the interviews will be presented proceeding with further engagement steps.
- 8-12 interviews with library users: Interviewees will be identified with the help of the library staff and strategy committee. These interviews will be more closely focused on individuals that are using the library on a regular basis. Learnings from these

conversations will inform the creation of the personas and help discover pain points as it relates to providing feedback.

- Developed personas of users for strategic planning and ongoing study: These personas will be derived from the user interviews and will lay the foundation of problem-solving around how to increase user engagement and enhance ongoing feedback efforts of the Library Staff.
- Review of 2020 Calendar of Events: Folkways will assess West Fargo Public Library's current calendar of events to create an action plan and a list of recommendations to amplify engagement within these experiences and bolster the library's narrative of value and service.
- 3 Community Engagement Gatherings: Further details on these gatherings will be defined in the road map strategic session. A summary of findings from these gatherings will be provided. Folkways will provide marketing strategy support, along with the production of event graphics, poster printing, and distribution.
- Community Survey: Folkways will work with the City of West Fargo and West Fargo Public Library to determine the information that will assist these entities in achieving their goals and build consensus for the strategic planning process. The survey will be delivered online and in-person with an outlined marketing plan carried out jointly between West Fargo Public Library and Folkways. Survey results will be analyzed by Folkways and summarized for a presentation to West Fargo Public Library.
- List of generated ideas for strengthening library user engagement.
- Implementation and Recommendation Plan for a refined list of engagement solutions. The focus of this plan will gear toward ways in which the staff can better learn from Library users on an ongoing basis.
- 10 strategy session meetings with Folkways throughout the process will include presentations of findings from deliverables.

Timeline, Roadmap, and Next Steps

Once the core of the scope has been agreed upon, Folkway will draft a timeline and action plan for the work outlined above. This road map will act as the driving document for collaboration between Folkways and West Fargo. This timeline will determine when the following occur: strategy meetings, interviews, and public engagement events. This timeline will be added as an appendix to this scope agreement.

Scope estimate*: \$11,875

**scope will be finalized with the approval of the timeline and road map*

Name:

City of West Fargo

Date:

Joe Burgum

Folkways

Date:

Please provide a signed copy of the scope agreement and \$1,000 deposit to commence the project. Fifty percent of the remaining balance will be billed halfway through the agreed upon timeline, with final payment at the delivery of finalized work.

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # 11

***Please Note: The following information must be completed and submitted to the West Fargo City Auditor's Office by the Thursday noon preceding the City Commission meeting. Failure to comply may result in no action being taken on your request.

1. CONTACT PERSON: Tim Solberg – Jim Larson – Tina Fisk

2. PHONE NUMBER: 433-5321 DATE: March 13, 2020

3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:

Proposed 15 year Tax Increment Finance District for redevelopment of the existing Bell Bank in Downtown. The redevelopment would include a three story parking ramp with two floors and approximately 200 parking spaces directly dedicated to public parking.

4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):

409 Sheyenne Street

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Consider the Economic Development Advisory Committee's recommendation to approve a 15 year TIF for the redevelopment project and direct staff to develop an agreement regarding all matters associated with the project and work with West Fargo School District and Cass County Board of Commissioners regarding their participation in the TIF district.

CITY OF WEST FARGO PLANNING & COMMUNITY DEVELOPMENT

DEVELOPMENT PLAN

BELL BANK DOWNTOWN REDEVELOPMENT		TAX INCREMENT FINANCE DISTRICT	
409 Sheyenne St			
Lots 15-20 and Partial Vacation of Alley at Sukut's 3 rd Subdivision, City of West Fargo, North Dakota			
Applicant: EPIC Companies		Staff Contact: Planning; Finance; City	
Owner: State Bank of West Fargo		Administrator	
Economic Development Advisory Committee:		02-05-2020	
West Fargo Public School District:			
Cass County Board of Commissioners:			
Public Hearing:			
City Commission:			

PURPOSE:

The applicant is proposing an infill project which would involve the demolition of the existing Bell Bank structure to build a new mixed-use structure in its place. The new building will be will include underground parking, one floor of retail space, three floors of parking, and two floors of residential apartments and two floors of residential condominiums. The taxable value of both the property and the building is projected to increase by about \$885,305. The true and full value of the property is projected to increase by about \$17,706,100.

STATEMENTS OF FACT:

Land Use Classification:	G-4A: Core-Retrofit Growth Sector
Existing Land Use:	Light Commercial (Bank)
Existing Improvements:	Approximate 9,500 ft ² owner occupied bank with approximately 31 improved surface parking spaces.
Identified Blight or Slum:	No
Relocation Requirements:	None
Current Zoning District(s):	DMU: Downtown Mixed Use
Zoning Overlay District(s):	None
Total area size:	45,000 ft ²
Adjacent Zoning Districts:	North and West: DMU: Downtown Mixed Use District South and East: R-3: Multiple Family Dwelling District
Adjacent street(s):	4 th Ave W (Local); 5 th Ave W (Local); Sheyenne Street (Arterial)
Adjacent Bike/Pedestrian Facilities:	Sidewalks on all adjacent roadways
Available Parks/Trail Facilities:	POW/MIA Plaza is located across the street

DISCUSSION AND OBSERVATIONS:

- The proposal will provide the City with a total of 321 public parking spaces in a parking garage to be housed on floors 2-4. The applicant is also proposing an additional 48 spaces below ground for their residential tenants which would not be tied to the parking garage. The applicant would propose to reserve floor 2 for tenants of the retail floor between the hours of 8am-5pm Monday-Friday, open to the public all other hours. Floors 3 and 4 would be open to the public at all times.

DEVELOPMENT PLAN

- The project will hold approximately 24,394 ft² of leasable ground floor office/retail space.
- The project will include 52 2-story residential apartments and 21 residential condominiums on floors 5-8.
- Under the City's off-street parking and loading regulations staff has determined a maximum requirement of 166 spaces for the development, whereas the current proposal would provide for 369 spaces leaving for a minimum of 203 parking spaces available to the public through this project. Floors 3 and 4 which are intended to be open to the public 24/7 contain a total of 213 spaces. Using more aggressive models for parking demand as well as shared parking between users it is very likely that there will be more parking available to the public during most periods of the day.

PROJECT ELIGIBILITY FOR DEVELOPMENT:

The project is located in a parcel that is zoned DMU: Downtown Mixed Use and is an urban renewal area in the City's General Plan for Urban Renewal and Urban Development. The project would advance the City's economic development goals by providing immediate economic growth and development and is consistent within the existing zoning district. Many of the objectives as described in the General Plan for Urban Renewal and Urban Development would be achieved through the project's implementation.

1. To Strengthen the economic well-being of the development and renewal areas and the City by Increasing industrial and retail activity, taxable values, and job opportunities.
2. Provide for parcels of sufficient size to permit and attract economic and sound new development.
3. To provide efficient use of underutilized land.
4. To assure development of high standards in site planning, use compatibility, buildings, and creation of an environment that will promote new development in areas.
5. To attract and retain businesses that pay favorable wages to the benefit of our citizens and to prevent overburdening to public and social service agencies
6. To attract and retain businesses that do not damage the physical environment for this is a social and economic burden to all.
7. To address the development imbalance between residential and nonresidential uses that exists in West Fargo by expanding and diversifying the tax base.
8. To spend public economic development dollars and resources wisely.
9. To provide for adequate public infrastructure improvements such as sewer, water, storm sewer, pedestrian facilities and streets conforming to good design and coordinated to facilitate development or redevelopment.
10. To provide for safe, efficient and attractive vehicular access to and circulation within the renewal and development areas.
11. To promote development or redevelopment which will be consistent with the City's Comprehensive Plan and ordinances.

DEVELOPMENT PLAN

CONSISTENCY WITH COMPREHENSIVE PLAN AND OTHER APPLICABLE CITY PLANS AND ORDINANCES:

- Within the City’s Comprehensive Plan, West Fargo 2.0, within the Big Ideas section of the plan to Establish Downtown as a Cultural Center for West Fargo are the following recommendations which align with the proposed project:
 - Grow Business and Bring in New Investment:
 - The proposed project will increase existing retail space from 9,500 ft² to 24,394 ft² on this parcel.
 - The proposed project will provide for a minimum of an additional 203 parking space available to all visitors and businesses to downtown thereby increasing the development potential of all properties downtown.
 - Recruit Downtown Mixed-Use Residential.
 - Attract Millennials and Active Empty Nesters to Downtown:
 - Providing additional options for rental housing as well as residential condominiums enhances the choices available for housing downtown.

FORMS OF ASSISTANCE:

Public assistance for this project will is proposed to consist of a Tax Increment Financing district. Other forms of assistance are still under evaluation.

Breakdown of Public Participation:

The public participation is proposed to purchase two (2) floors of the parking ramp for 24/7 free public parking. This will be approximately 200 spots that will allow current and future development in downtown West Fargo to have adequate parking. The proposed maximum length of the TIF is requested to be 15 years for one parcel pending approvals from all boards and commissions.

See attached table for further breakdown of financial model.

RECOMMENDATIONS:

The proposed project will not cause any displacement of families. The proposed development plan conforms to the city’s General Plan for Urban Renewal and Urban Development as well as the West Fargo Comprehensive Plan. Additionally, the proposed project would assist in the continued development of the downtown area while increasing both residential density as well as expanding the commercial tax base. It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

- Recommendation to the Planning Department to amend 4-450: Off Street Parking and Loading Regulations for the Downtown Mixed Use District to reflect the presence of a public parking garage with excess capacity by exploring no minimum parking requirements and maximum allowable parking to increase taxable valuations on redevelopment in Downtown.

ECONOMIC DEVELOPMENT ADVISORY COMMITTEE RECOMMENDATION:

At their February 5, 2020 meeting, the Economic Development Advisory Committee met and is recommending approval of the application, subject to the recommended condition listed above.

If approved, the City is required per NDCC 40-05-24 to send a letter by certified mail to the President of the School District and Chairman of the Board of County Commissioners. Within 30 days from receipt of the letter, the School District and County must notify the City in writing whether they elect to participate in granting the tax incentive related to their portion of the tax levied on the property.

City staff intends to engage the West Fargo School District and Cass County to convene a meeting of staff and two board members from each entity to discuss the details of the proposed TIF project. Staff will also plan to attend each respective meeting to answer any additional question or address any concerns relayed by the City Commission.

City of West Fargo

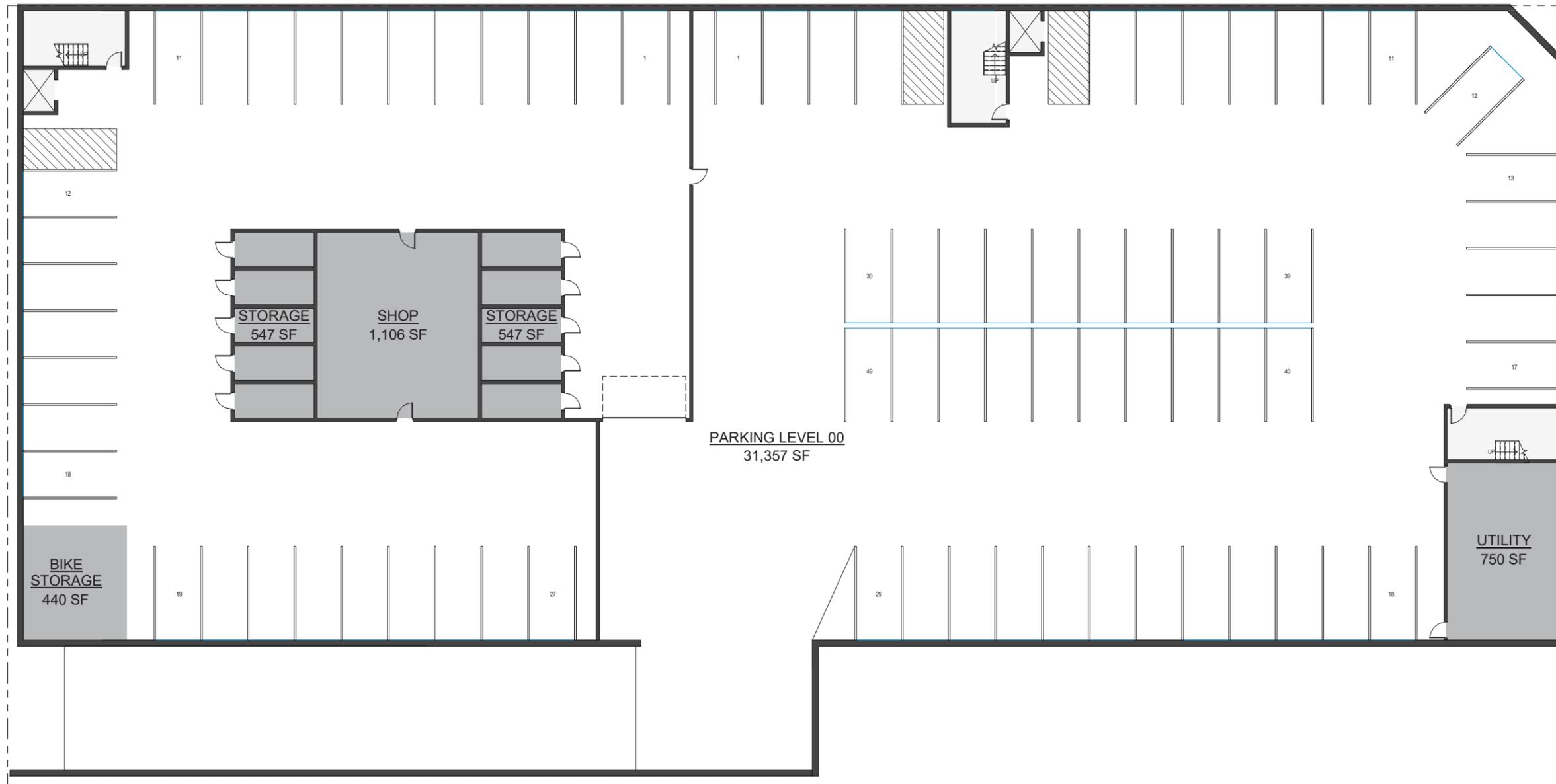
2/4/2020

TIF Calculation - 2020-1 Bell DT Tower

Entity:	Mills: (2019)	Existing Value:	Taxes Collected:	New Value:	New Taxes Collected:	Additional Value dedicated to TIF :
City	77.98	\$1,263,900	\$4,928	\$18,506,542	\$72,157	\$67,229
School	137.25	\$1,263,900	\$8,674	\$18,506,542	\$127,001	\$118,328
Park	27.06	\$1,263,900	\$1,710	\$18,506,542	\$25,039	\$23,329
County	52.31	\$1,263,900	\$3,306	\$18,506,542	\$48,404	\$45,098
State	1.00	\$1,263,900	\$63	\$18,506,542	\$925	\$862
Garrison	0.38	\$1,263,900	\$24	\$18,506,542	\$352	\$328
Water	4.11	\$1,263,900	\$260	\$18,506,542	\$3,803	\$3,543
Total:	300.09	\$1,263,900	\$18,964	\$18,506,542	\$249,913	\$230,949
Less City 3% Fee					3.00% \$	(6,928)
Less County 5% Discount					5.00% \$	(11,547)
Net Available for TIF Project					\$	212,473
Project Support Max					Rate	4.00% \$
						2,362,359
Name	PIN	Land	Building	Total		
Bell Bank parcel	02-2300-01110-000	\$ 135,000.00	\$ 1,128,900.00	\$ 1,263,900	Valuation from City Property info for 2019 as of 1/8/2020	
Total all parcels				\$ 1,263,900		
Bonding/Financing						
Term				15		
Rate				4.00%		
Bond Payment per Year					\$440,352	
Tax coverage +/-					-\$227,878	
Project Valuation Improvement Schedule						
Item	Description	Developer Paid	Non-TIF Cost	TIF Cost		
Use by residential apts and condo's	Basement			\$ 1,931,640	Per Todd B on 2/4/2020	
Commercial - two units - Bell and leasable	Floor 1			\$ 2,592,600	Per Todd B on 2/4/2020	
Public Parking Ramp - 100 spots	Floor 2	\$ 2,448,000			Per Todd B on 2/4/2020	
Public Parking Ramp - 100 spots	Floor 3		\$ 2,448,000		Per Todd B on 2/4/2020	
Public Parking Ramp - 100 spots	Floor 4		\$ 2,448,000		Per Todd B on 2/4/2020	
Floor # 1 of two story apartments	Floor 5			\$ 2,411,331	Per Todd B on 2/4/2020	
Floor #2 of two story apartments - 26 total	Floor 6			\$ 2,411,331	Per Todd B on 2/4/2020	
Floor # 1 of condos - 11	Floor 7			\$ 4,579,820	Per Todd B on 2/4/2020	
Floor #2 of condos - 11	Floor 8			\$ 4,579,820	Per Todd B on 2/4/2020	
Totals		\$ 2,448,000	\$ 4,896,000	\$ 18,506,542		
Project Cost Schedule						
Item	Description	Cost				
Parking Ramp DT Bell	324 Parking Spots	\$ 4,896,000	Per Schedule above			
Totals		\$ 4,896,000				
Required City Contribution		\$ 2,533,641				
Cumulative Value of TIF funds, no interest						
	Years	15	\$3,187,097			

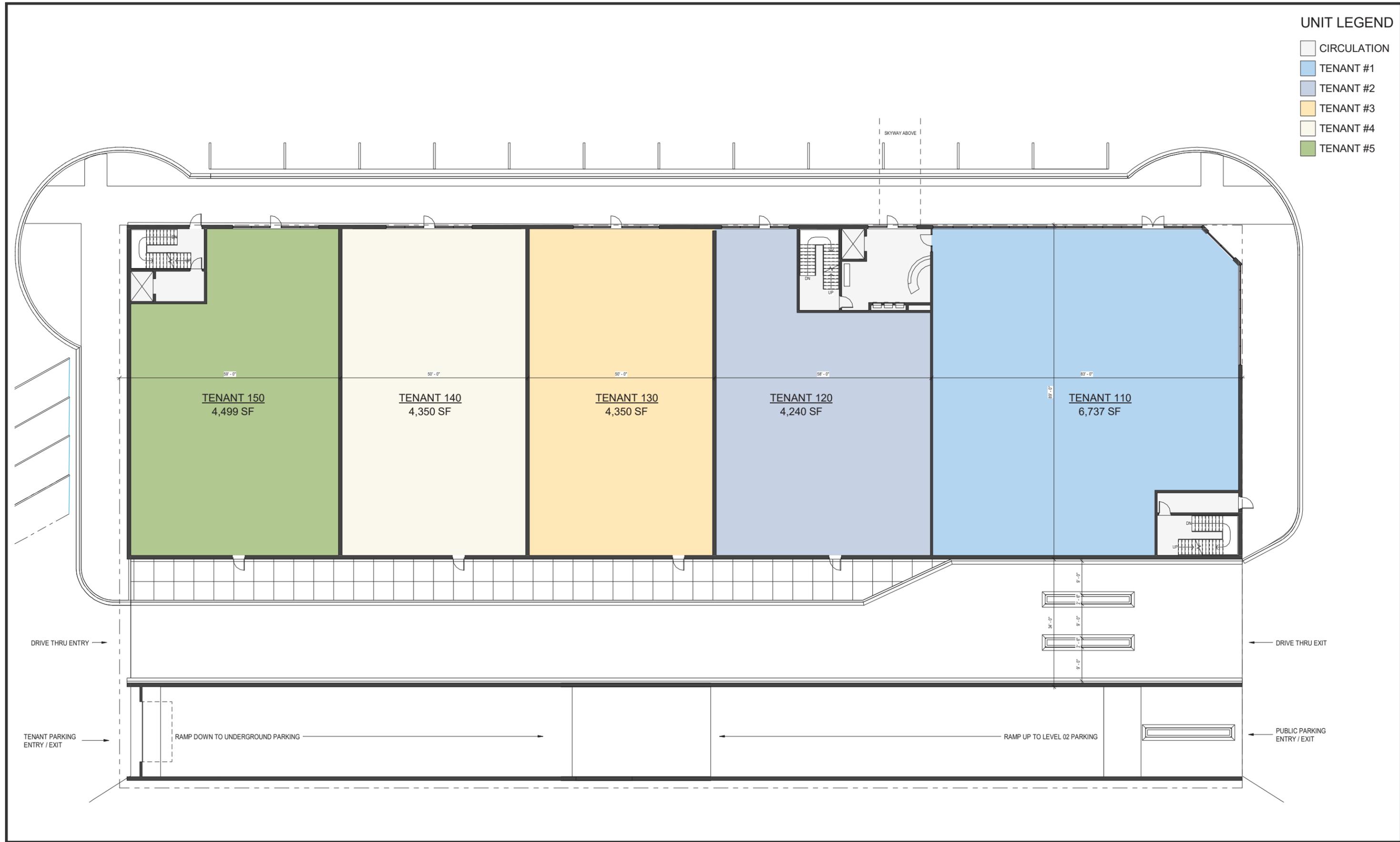
UNIT LEGEND

- CIRCULATION
- PARKING
- SUPPORT SPACE



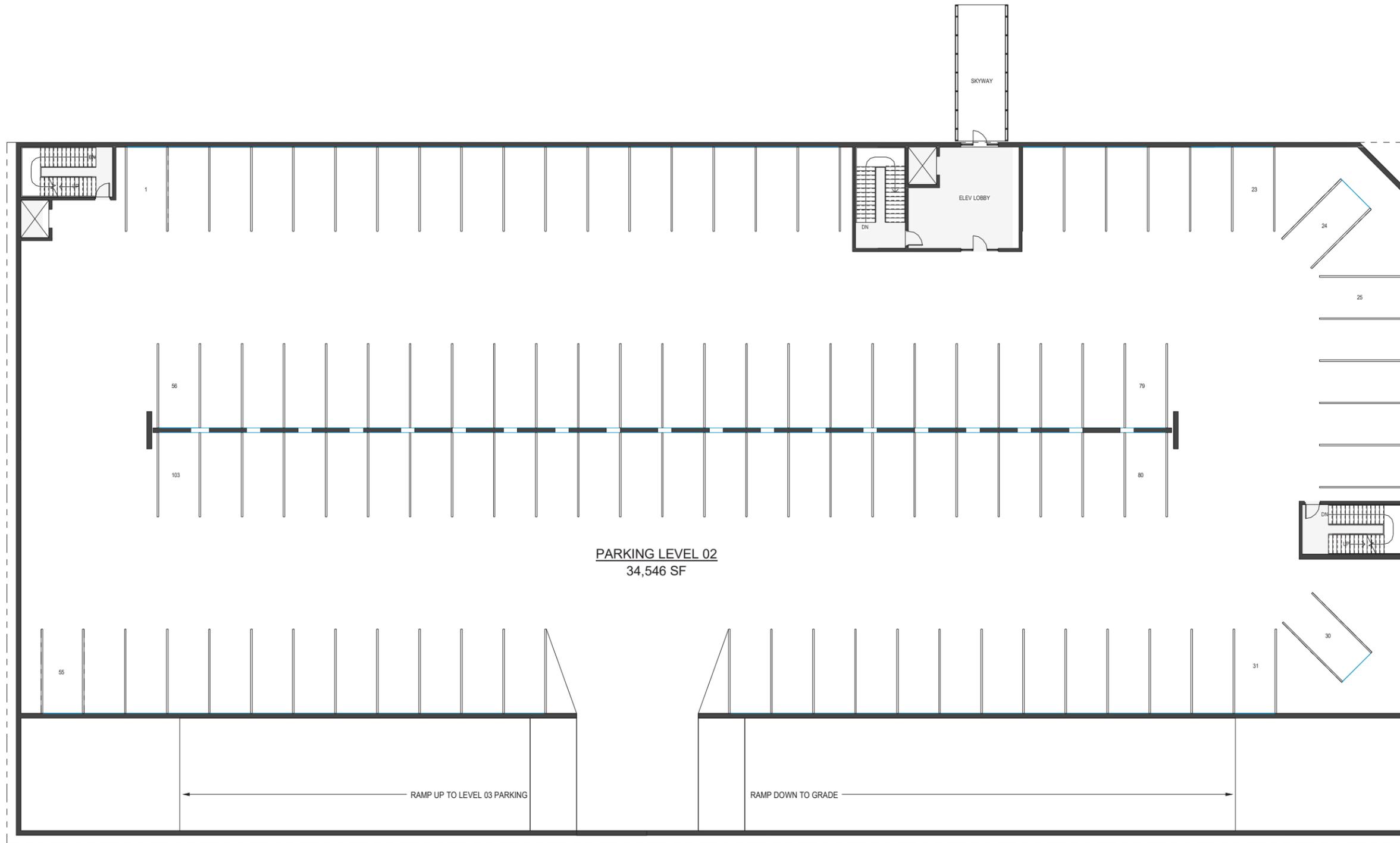
UNIT LEGEND

- CIRCULATION
- TENANT #1
- TENANT #2
- TENANT #3
- TENANT #4
- TENANT #5



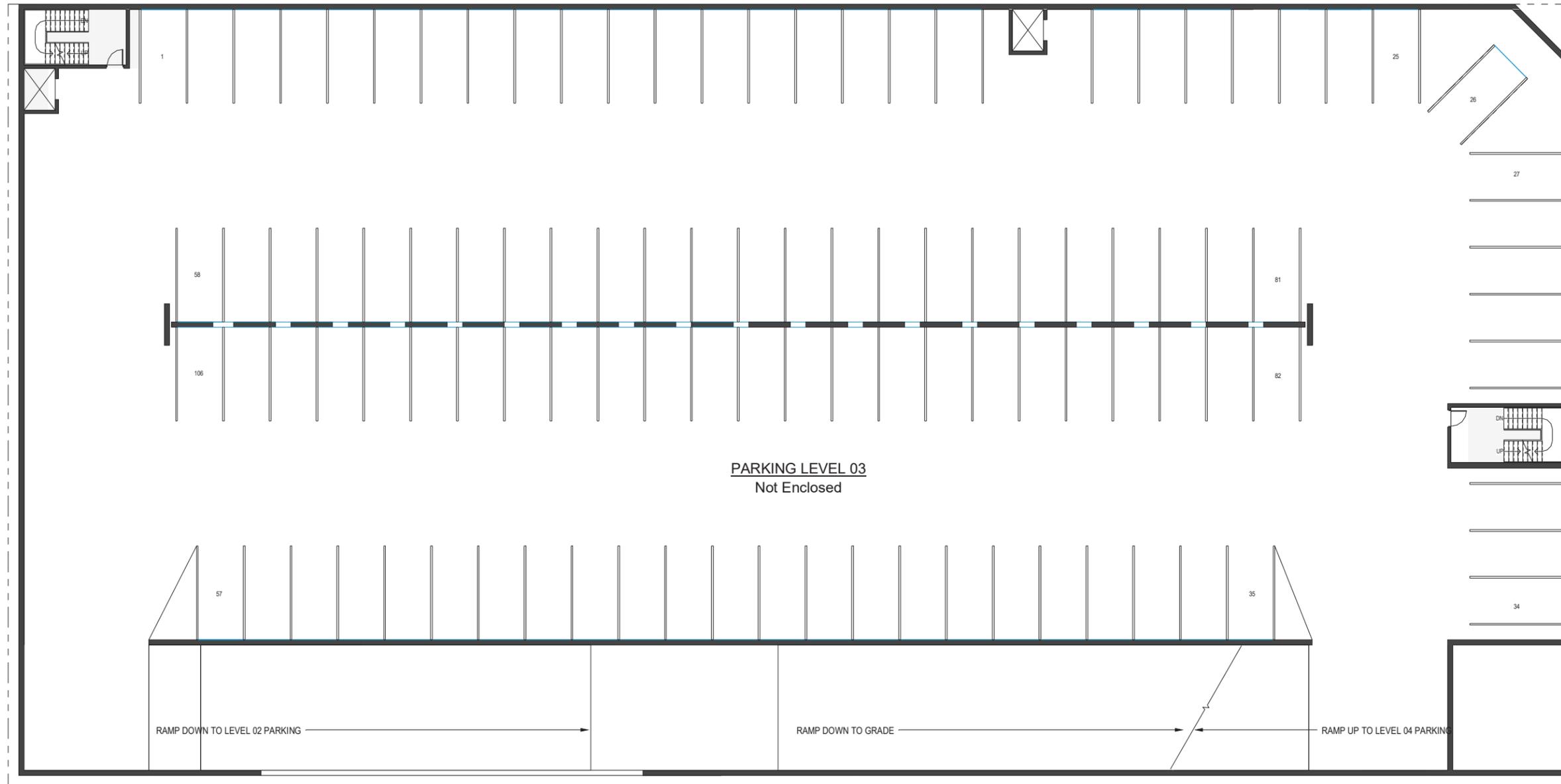
UNIT LEGEND

- CIRCULATION
- PARKING



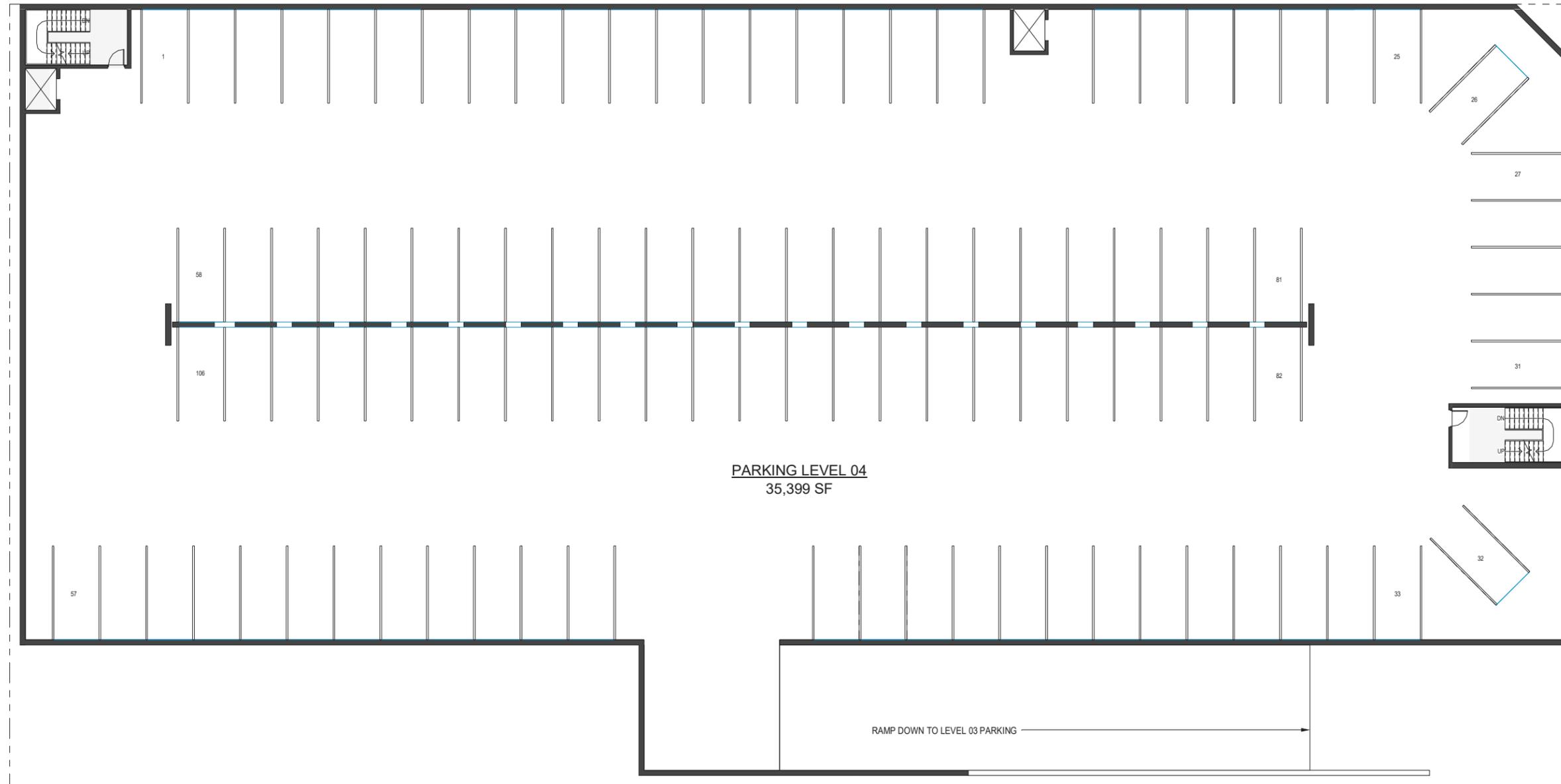
UNIT LEGEND

- CIRCULATION
- PARKING



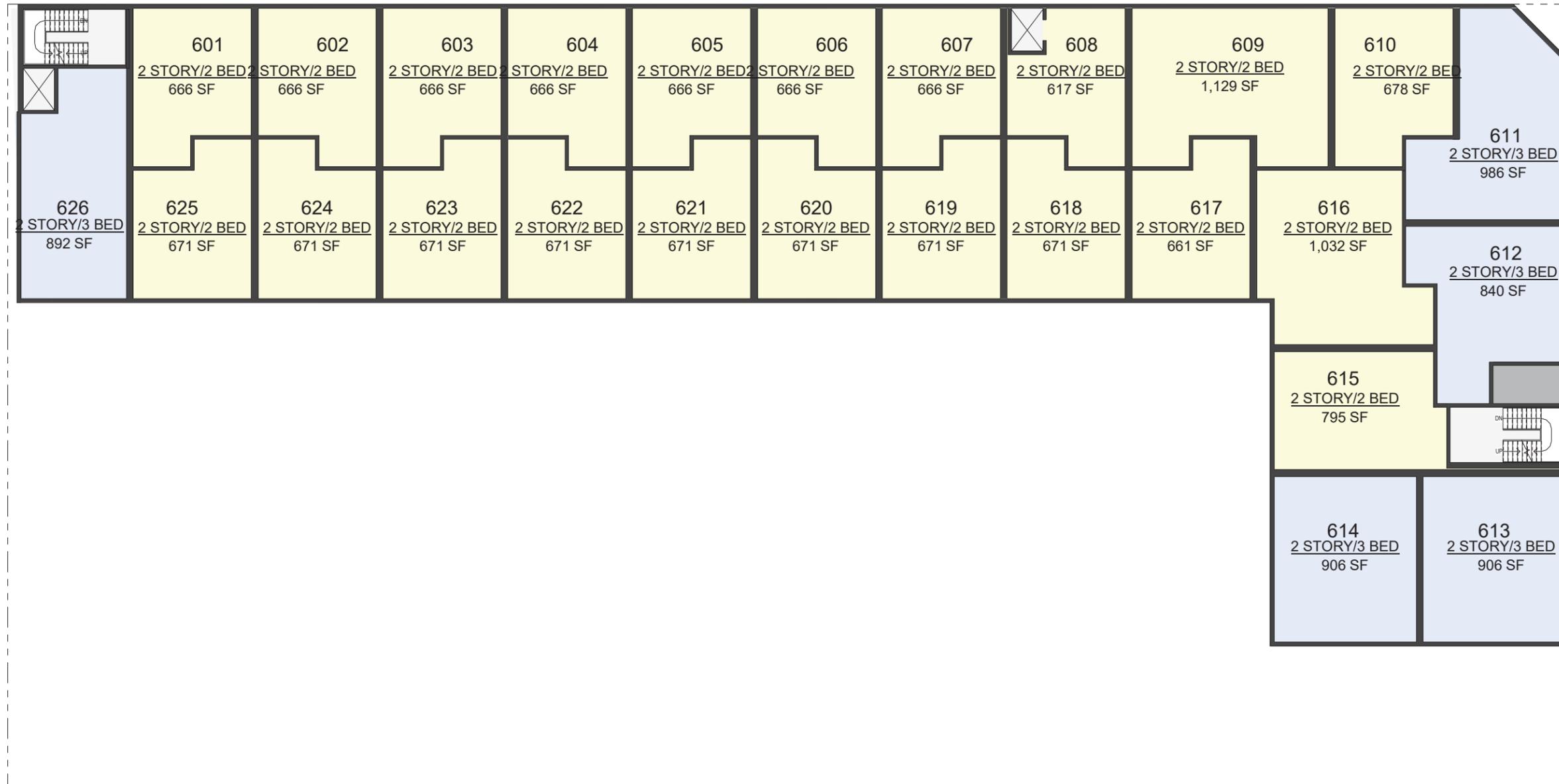
UNIT LEGEND

- CIRCULATION
- PARKING



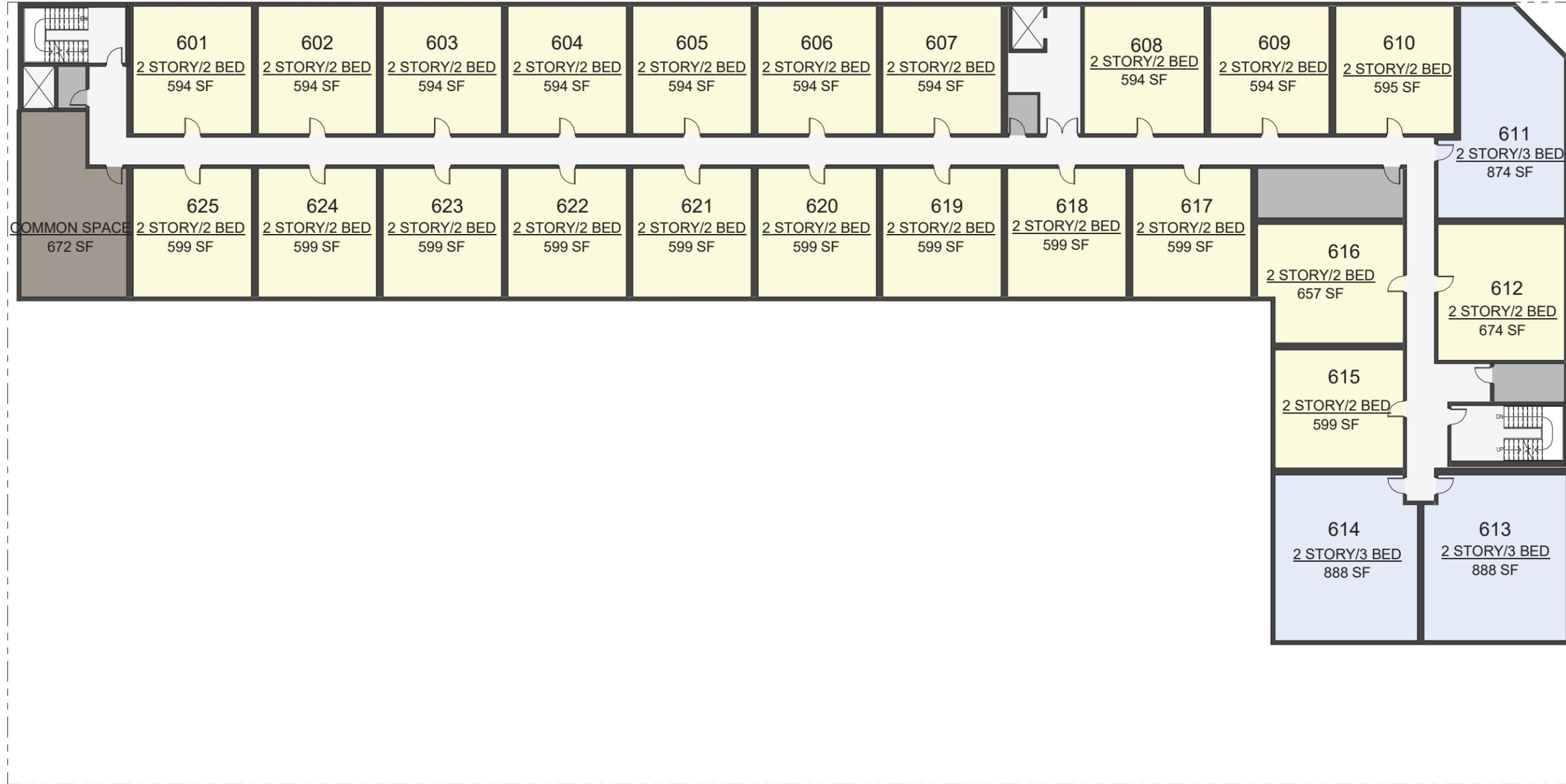
UNIT LEGEND

- 2 BEDROOM
- 3 BEDROOM
- CIRCULATION
- SUPPORT SPACE



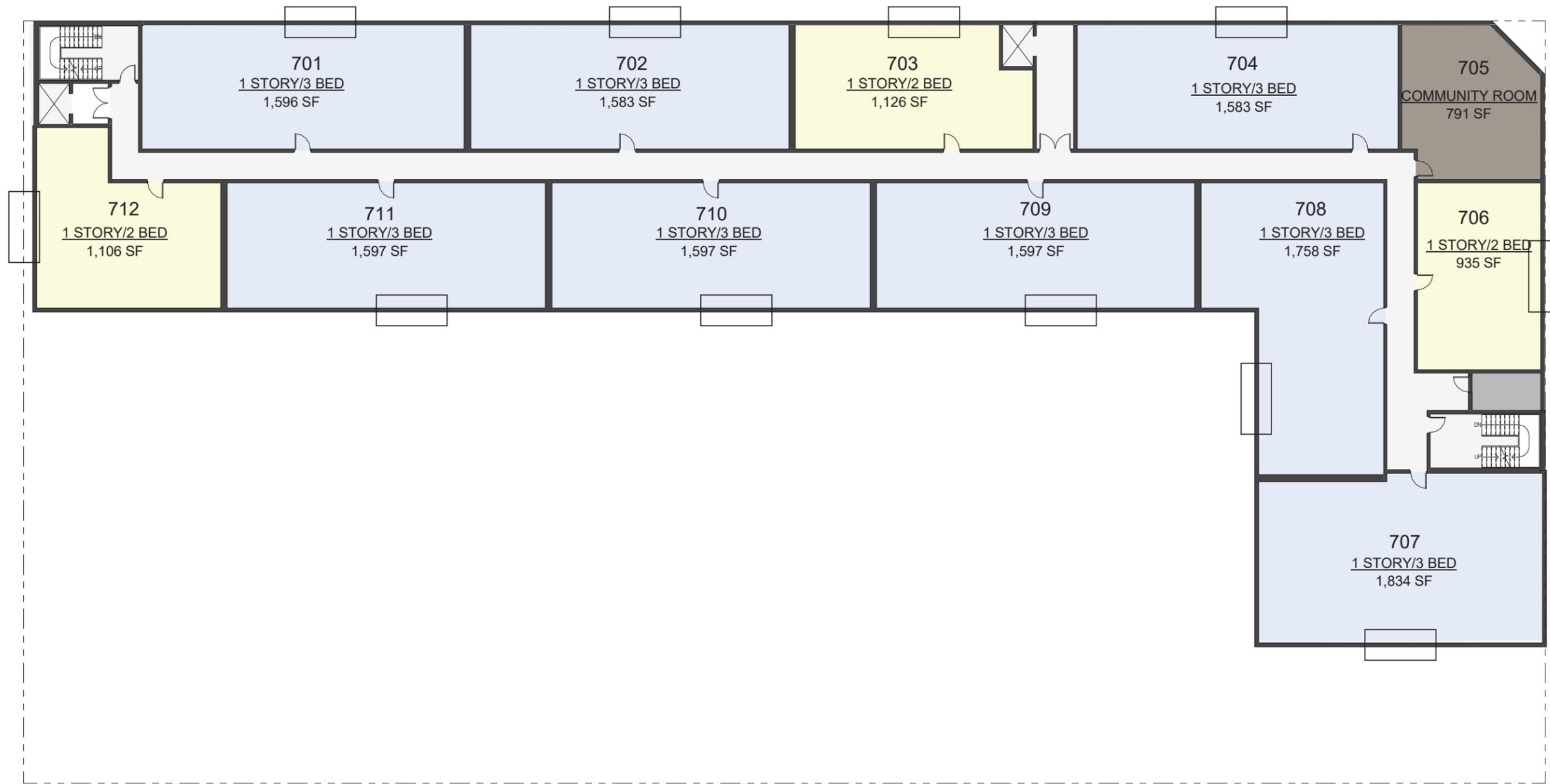
UNIT LEGEND

- 2 BEDROOM
- 3 BEDROOM
- CIRCULATION
- COMMON SPACE
- SUPPORT SPACE



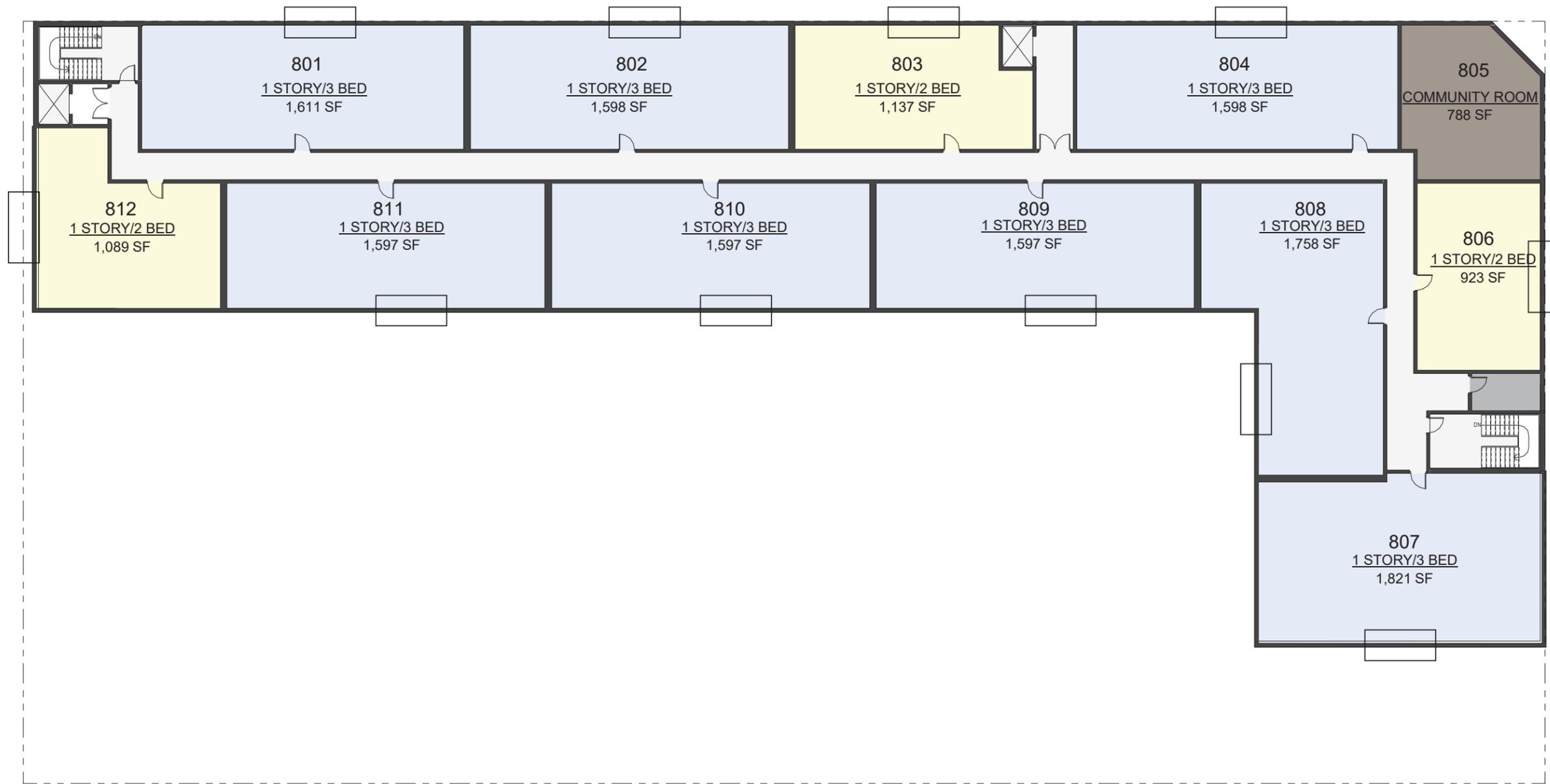
UNIT LEGEND

- 2 BEDROOM
- 3 BEDROOM
- CIRCULATION
- COMMON SPACE
- SUPPORT SPACE



UNIT LEGEND

- 2 BEDROOM
- 3 BEDROOM
- CIRCULATION
- COMMON SPACE
- SUPPORT SPACE

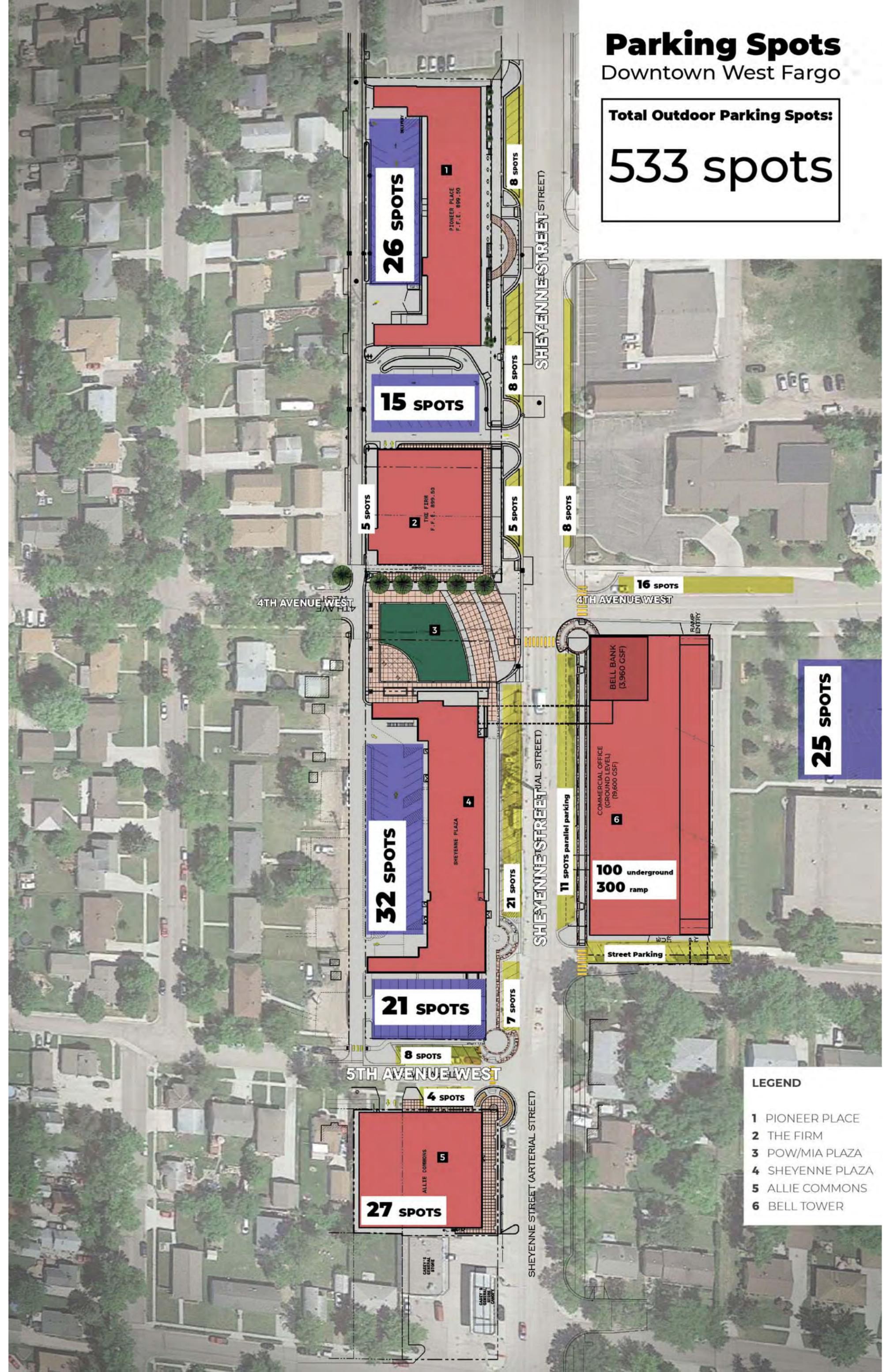


Parking Spots

Downtown West Fargo

Total Outdoor Parking Spots:

533 spots



- LEGEND**
- 1 PIONEER PLACE
 - 2 THE FIRM
 - 3 POW/MIA PLAZA
 - 4 SHEYENNE PLAZA
 - 5 ALLIE COMMONS
 - 6 BELL TOWER