



West Fargo City Commission Meeting  
Monday August 20, 2018  
Commission Chambers 5:30 PM

- A. Pledge of Allegiance
- B. Approve Order of Agenda
- C. Approval of Minutes – August 6, 2018 **(Pg 2-5)**
- D. Building Permits

**Consent Agenda – Approve the Following:**

- a. July statement of revenues, expenditures, and fund balances **(Pg 6-11)**
- b. Gaming Site Authorization for North Dakota State Council Knights of Columbus. Games to be conducted: Raffles on 4/26/19 to 4/28/19 at Holy Cross Catholic Church, 2711 17 St E. **(Pg 12-13)**
- c. Games of Chance for Dakota Se Chapter of Pheasants Forever Inc. Games to be conducted: Raffle on 9/20/18 at Speedway Event Center, 680 Main Ave. **(Pg 14)**
- d. Schedule a 5:30pm Public Hearing on Tuesday, September 4, 2018 for the Maple Ridge at the Preserve 6<sup>th</sup> Addition, Replat and Rezoning from P: Public Facilities to R-1A: Single Family Dwellings. **(Pg 15-16)**
- e. Approve Plans & Specs for Street Improvement District No. 2250 (Segment 3), Authorize NDDOT to Advertise for Bids for Street Improvement District No. 2250 (Segment 3) **(Pg 17)**

**Regular Agenda**

- 1. Special Assessment Community Forum Proposal – Eric Gjerdevig **(Pg 18)**
- 2. Red River Valley Fair Annexation Proposal – Eric Gjerdevig **(Pg 18)**
- 3. Review CPM Agreement for West Fargo Urban Grant – Chris Brungardt **(Pg 19-28)**
- 4. First Reading on the rezoning of The Wilds 11<sup>th</sup> Addition – Tim Solberg **(Pg 29-40)**
- 5. Second Reading on the Zoning Ordinance Amendment to Section 4-421 of the A: Agricultural Zoning District Regulations – Tim Solberg **(Pg 41-56)**
- 6. Review JB Subdivision, a subdivision and conditional use permit to allow for single family dwelling in an agriculturally zoned district – Tim Solberg **(Pg 57-67)**
- 7. Review of development at 425 32<sup>nd</sup> Avenue West – Tim Solberg **(Pg 68-71)**
- 8. Review the Developer’s Petition to add Wilds 11<sup>th</sup> Addition improvements to Sewer, Water, Storm and Street Improvement District No. 1305 via Work Change Directive to the General Contract and Review Engineer’s Opinion of Estimated Cost for additional improvements to Sewer, Water, Storm and Street Improvement District No. 1305 per Petition request – Jim Bullis **(Pg 72-76)**
- 9. Review Renaissance Zone Application for Henco Properties – Callie Roth **(Pg 77-95)**
- 10. Review liquor license application for MacKenzie River Pub & Grille – Tina Fisk **(Pg 96-116)**
- 11. Review West Fargo Events Contract – Tina Fisk **(Pg 117-144)**

*Executive Session pursuant to N.D.C.C. § 44-04-19.1 (9) for the purpose of developing final offers for acquisition of easements for Sewer Improvement Project No. 1308, which was created pursuant to N.D.C.C. sections 40-22-01, 40-22-03, 40-22-05 and 40-22-08*

- 12. Resolutions of Just Compensation for Sewer Improvement Project No. 1308 – John Shockley
- 13. City Administrator’s Report
- 14. Correspondence
- 15. Adjourn



West Fargo City Commission Meeting  
**Monday, August 6, 2018**  
Commission Chambers 5:30 PM

The West Fargo City Commission met on Monday, August 6, 2018 at 5:30 pm. Those present were Bernie Dardis, Eric Gjerdevig, Brad Olson, Mark Simmons and Mike Thorstad. Commission President 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. No opposition. Motion carried.

Commissioner Olson moved and Commissioner Thorstad seconded to approve the minutes of the July 16, 2018 Commission meeting. No opposition. Motion carried.

The Commission reviewed the Building Department Activity Report dated August 6, 2018 and Building Permits #502-578.

Commissioner Simmons moved and Commissioner Thorstad seconded to approve the following items from the Consent Agenda:

- a. July Checks
- b. 11 proposed Resolutions Directing Assessments to be Levied for the following districts:
  - Infrastructure Replacement District No. 3001
  - Sewer, Water, Storm and Street Improvement District No. 1279
  - Sewer, Water, Storm and Street Improvement District No. 1292
  - Sewer, Water, Storm and Street Improvement District No. 1295
  - Sewer, Water, Storm and Street Improvement District No. 1300
  - Sewer, Water, Storm and Street Improvement District No. 1301
  - Sewer, Water, Storm and Street Improvement District No. 1303
  - Sewer, Water, Storm and Street Improvement District No. 1304
  - Storm Improvement District No. 4058
  - Storm Improvement District No. 4060
  - Storm Improvement District No. 4061
- c. Resolution Approving Contract and Contractor's Bond in Sanitary Sewer Improvement District No. 1319
- d. Approval of Sara Forness as Educational Liaison on the Urban Forestry Committee
- e. Games of Chance for Holy Cross Catholic Church. Games to be conducted: raffle on October 21, 2018 at Holy Cross Catholic Church, 2711 7 St E.
- f. Games of Chance for the West Fargo Lions Club. Games to be conducted: Meat Raffle on 8/24/18 – 2/24/2019 at Silver Dollar Bar, 221 Sheyenne St.
- g. Games of Chance for the Fargo Motor Patrol, Inc. Games to be conducted: Raffle on 11/3/18 at Silver Dollar Bar & Flying Pig Grill, 221 Sheyenne St.

No opposition. Motion carried.

West Fargo Police Chief Heith Janke appeared before the Commission to introduce Ryan Feltman as the new Cultural Liaison Officer for the West Fargo Police Department.

City Attorney John Shockley appeared before the Commission for a 5:30pm Public Hearing for a Resolution of Necessity and a Resolution Determining Not Sufficient Protests Received for District No. 2249. The Public Hearing was opened. There was no Public Comment. The Public Hearing was closed. Commissioner Thorstad moved and Commissioner Gjerdevig seconded to approve the resolution as presented. No opposition. Motion carried.

Director of Planning & Zoning Tim Solberg appeared before the Commission for a 5:30pm Public Hearing and First Reading of Zoning Ordinance Amendment to Section 4-421. The Public Hearing was opened. There was no Public Comment. The Public Hearing was closed. Commissioner Simmons moved and Commissioner Olson seconded to put on First Reading. No opposition. Motion carried.

Director of Planning & Zoning Tim Solberg appeared before the Commission for a 5:30pm Public Hearing and First Reading for the rezoning of Halverson's Industrial Park 3rd Addition. The Public Hearing was opened. There was no Public Comment. The Public Hearing was closed. Commissioner Thorstad moved and Commissioner Gjerdevig seconded to put on First Reading. No opposition. Motion carried.

Director of Planning & Zoning Tim Solberg appeared before the Commission for a 5:30pm Public Hearing for the rezoning of the Wilds 11<sup>th</sup> Addition. The Public Hearing was opened. There was no Public Comment. The Public Hearing was closed. No action was requested of the Commission; the item will be tabled until the August 20, 2018 meeting.

City Attorney John Shockley appeared before the Commission to review a Resolution Authorizing the Issuance of Improvement Warrants and Exchanging Them for \$30,260,000 Refunding Improvement Bonds of 2018, Series B. After discussion, Commissioner Simmons moved and Commissioner Gjerdevig seconded to approve the bond resolution. No opposition. Motion carried.

Public Works Director Chris Brungardt appeared before the Commission to review potential landscape improvement concepts for 13<sup>th</sup> Avenue East. After discussion, no action was requested of the Commission. Project concepts will be reviewed again at a later date.

Public Works Director Chris Brungardt appeared before the Commission to review the 2020 Urban Grant for Sheyenne Street. After discussion, Commissioner Olson moved and Commissioner Gjerdevig seconded to formally accept the 2020 Urban Grant. No opposition. Motion carried.

West Fargo resident Wally Tintes and Director of Planning & Zoning Tim Solberg appeared before the Commission to review the constructed sit vs. approved plans and the CO-S Overlay District for the Bernie's Liquors site. After discussion, Commissioner Simmons moved and Commissioner Gjerdevig seconded to table the review for further discussion. No opposition. Motion carried.

Director of Planning & Zoning Tim Solberg appeared before the Commission for the Final Plat Approval of Eagle Run 22<sup>nd</sup> Addition. After discussion, Commissioner Simmons moved and Commissioner Thorstad seconded to approve the Final Plat with the recommendations. No opposition. Motion carried.

Director of Planning & Zoning Tim Solberg appeared before the Commission to approve a Street Name Change Resolution. Commissioner Olson moved and Commissioner Gjerdevig seconded to approve the Street Name Change Resolution. No opposition. Motion carried.

West Fargo resident Alan Ray appeared before the Commission to discuss the Easement on his property, 825 19 Ave NW. After discussion no motion of the Commission was requested, there will be a review of the easement and a staff member will be in touch with Mr. Ray.

West Fargo resident Mark McAllister appeared before the Commission to address concerns regarding Sewer Improvement Project No. 1308. Attorney Jonathon Garaas appeared before the Commission representing the township. After discussion, no motion was requested of the Commission. Staff will continue to be in communication with the residents regarding the project.

Cass County Administrator Robert Wilson and Cass County Commissioner Chad Peterson appeared before the Commission to discuss a Radio Upgrade Cost & Revenue. After discussion, no motion was requested of the Commission; they will return at a later date.

City Administrator Tina Fisk appeared before the Commission to review the liquor license application for Wurst Bier Hall. After discussion, Commissioner Simmons moved and Commissioner Gjerdevig seconded to approve the liquor license. No opposition. Motion carried.

Finance Director Aaron Mitchell and City Administrator Tina Fisk appeared before the Commission for the Preliminary Budget Hearing for the 2019 budget. After discussion, Commissioner Simmons moved and Commissioner Olson seconded to approve the preliminary budget. No opposition. Motion carried.

City Engineer Dustin Scott appeared before the Commission to review the bid tab for Street Improvement District No. 2239. After discussion, Commissioner Thorstad moved and Commissioner Gjerdevig seconded to award the bid tab to Earthwork Services, Inc. No opposition. Motion carried.

City Administrator Tina Fisk appeared before the Commission and discussed the following for the City Administrator's Report:

- Dangerous dog ordinance – have dangerous animal ordinance
  - i. No law to outlaw certain animals
  - ii. Ordinance specifically defines behaviors pertaining to vicious
  - iii. Good ordinance in place
    - 1. Melissa remind public of ordinance
- Commission meeting: Tuesday, September 4<sup>th</sup>
- Special meeting
  - 1. District 1308
    - a. Engineers will bring back information r/e offers to owners
- ND League of Cities Conference
  - i. Sept 13-15
- Chris Brungardt:
  - i. Double turn lanes at 9/13 open
  - ii. Veterans/23<sup>rd</sup> – 2<sup>nd</sup> northbound turn lane
  - iii. Sheyenne St – phase 1 (13-beaton) finish part of road, will switch traffic flow
    - 1. Phase 2 - 4 weeks behind schedule: difficulty w/ materials

- a. Sheyenne will close b/w 32 and 26<sup>th</sup> ave next week – working on NB lane
- 2. Interstate work going nicely, on schedule
- iv. 13<sup>th</sup> Ave – paving by early next week

There were no non-agenda items.

There was no correspondence.

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

---

Bernie L. Dardis  
Commission President

---

Tina Fisk  
City Auditor

Fund/Account	Beginning Balance	Received	Transfers In	Disbursed	Transfers Out	Ending Balance
1000 GENERAL						
101000 CASH - OPERATING	15,315,353.41	873,690.42	2,168.34	450.01	1,114,958.54	15,075,803.62
1001 GENERAL FUND RESERVE						
101000 CASH - OPERATING	9,984,413.36	24,958.99	0.00	0.00	0.00	10,009,372.35
2000 SALES TAX						
101000 CASH - OPERATING	2,596,240.18	817,560.09	0.00	0.00	0.00	3,413,800.27
2030 CITY'S SHARE OF SPECIALS						
101000 CASH - OPERATING	15,765.07	1,663.34	0.00	0.00	0.00	17,428.41
2050 PARK						
101000 CASH - OPERATING	0.00	184,381.90	0.00	0.00	0.00	184,381.90
2060 FIRE FUND						
101000 CASH - OPERATING	873,406.32	22,356.00	0.00	0.00	324,780.16	570,982.16
2110 GAMING FUNDS						
101000 CASH - OPERATING	56,231.56	3,338.13	0.00	0.00	0.00	59,569.69
2130 MUNICIPAL HIGHWAY FUND						
101000 CASH - OPERATING	351,193.88	150,081.38	0.00	0.00	0.00	501,275.26
2140 TOURIST & EVENT COMMITTEE						
101000 CASH - OPERATING	60,790.91	41.23	0.00	0.00	1,000.00	59,832.14
2141 FM CONVENTION VISITOR'S BUREAU						
101000 CASH - OPERATING	0.00	27,601.60	0.00	0.00	0.00	27,601.60
2160 CASH IN LIEU OF LAND DEDICATION						
101000 CASH - OPERATING	354,139.88	0.00	0.00	0.00	0.00	354,139.88
2200 VECTOR CONTROL						
101000 CASH - OPERATING	88,124.16	7,785.74	144.73	7.34	7,814.33	88,232.96
2210 FORESTRY						
101000 CASH - OPERATING	49,338.50	17,357.51	354.14	7.84	31,971.90	35,070.41
2230 CITY UTILITY						
101000 CASH - OPERATING	276,625.21	13,302.60	0.00	0.00	0.00	289,927.81
2500 NIGHT TO UNITE						
101000 CASH - OPERATING	5,892.74	1,350.00	0.00	0.00	0.00	7,242.74
2600 FUTURE BUILDING						
101000 CASH - OPERATING	134,672.48	91.33	0.00	0.00	0.00	134,763.81
2800 WEST FEST						
101000 CASH - OPERATING	29,563.82	7,730.00	0.00	0.00	0.00	37,293.82
2900 CRUISE NIGHT						
101000 CASH - OPERATING	23,488.24	1,000.00	0.00	0.00	4,638.50	19,849.74
2950 ASSET FORFEITURES						
101000 CASH - OPERATING	87,229.46	0.00	0.00	0.00	0.00	87,229.46
102000 Cash - Restricted	32,774.00	821.00	0.00	0.00	0.00	33,595.00
<b>Total Fund</b>	<b>120,003.46</b>	<b>821.00</b>				<b>120,824.46</b>
2960 ECONOMIC DEVELOPMENT						
101000 CASH - OPERATING	1,098,620.72	51,309.75	0.00	0.00	2,312.50	1,147,617.97
2970 CAPITAL IMPROVEMENTS						
101000 CASH - OPERATING	9,578,944.77	21,092.53	0.00	0.00	37,204.34	9,562,832.96
2980 SOUTH FACILITIES HOOKUP						
101000 CASH - OPERATING	2,881,004.68	1,953.81	0.00	0.00	0.00	2,882,958.49

Fund/Account	Beginning Balance	Received	Transfers In	Disbursed	Transfers Out	Ending Balance
3339 RIB - 2011 SERIES C						
101000 CASH - OPERATING	1,948,266.58	14,468.89	0.00	0.00	0.00	1,962,735.47
3340 RIB 2011 B (recall 2004B)						
101000 CASH - OPERATING	-2,515.98	0.00	0.00	0.00	0.00	-2,515.98
3341 RIB 2011 A (recall 2005A)						
101000 CASH - OPERATING	1,272,147.70	1,015.88	0.00	0.00	0.00	1,273,163.58
3344 6043 SIDEWALK WARRANTS 2006						
101000 CASH - OPERATING	-28,618.51	33.60	0.00	0.00	0.00	-28,584.91
3345 SIDEWALK 6042 WARRANTS 2005						
101000 CASH - OPERATING	24,535.35	16.64	0.00	0.00	0.00	24,551.99
3347 SIDEWALK 6044 WARRANTS 2007						
101000 CASH - OPERATING	3,355.61	2.28	0.00	0.00	0.00	3,357.89
3349 RIB 2008 - C						
101000 CASH - OPERATING	1,780,277.92	13,941.64	0.00	0.00	0.00	1,794,219.56
3351 R.I.B. 2009 A (from 2001/2001C/2002						
101000 CASH - OPERATING	568,803.52	0.00	0.00	0.00	0.00	568,803.52
3353 RIB 2009 B (from 2003 C & 2003 D)						
101000 CASH - OPERATING	128,175.34	0.00	0.00	0.00	0.00	128,175.34
3355 REFUND BOND 2005C						
101000 CASH - OPERATING	32,951.85	22.35	0.00	0.00	0.00	32,974.20
3360 RIB 2012B (Ref 2006A)						
101000 CASH - OPERATING	-252,186.07	28,299.28	0.00	0.00	0.00	-223,886.79
3368 GO BONDS OF 2009						
101000 CASH - OPERATING	-111,572.75	0.00	0.00	0.00	0.00	-111,572.75
3369 MUNICIPAL BONDS 2009 NDPFA						
101000 CASH - OPERATING	189,486.11	128.50	0.00	0.00	0.00	189,614.61
3370 R.I.B. 2009 SERIES C						
101000 CASH - OPERATING	745,319.35	3,467.18	0.00	0.00	0.00	748,786.53
3371 R.I.B. 2010 A (refund of 2003E & 2004A)						
101000 CASH - OPERATING	1,250,799.10	4,171.93	0.00	0.00	0.00	1,254,971.03
3372 REFUNDING IMPROVEMENT BONDS 2010 B						
101000 CASH - OPERATING	476,834.38	5,792.44	0.00	0.00	0.00	482,626.82
3373 SIDEWALK REFUNDING BONDS 2010						
101000 CASH - OPERATING	70,756.70	0.00	0.00	0.00	0.00	70,756.70
3375 RIB - 2012A						
101000 CASH - OPERATING	2,595,613.84	6,000.88	0.00	0.00	0.00	2,601,614.72
3376 SIDEWALK REFUNDING BONDS OF 2012						
101000 CASH - OPERATING	30,376.87	20.60	0.00	0.00	0.00	30,397.47
3378 RIB 2012-D						
101000 CASH - OPERATING	4,439,402.24	37,314.76	0.00	0.00	0.00	4,476,717.00
3379 2012 Sales Tax Bonds - COSTCO						
101000 CASH - OPERATING	343,924.33	233.24	0.00	0.00	0.00	344,157.57
3380 RESERVE FUND FOR 2012 SALES TAX BONDS						
101000 CASH - OPERATING	208,116.95	141.14	0.00	0.00	0.00	208,258.09
3381 RIB 2013A						
101000 CASH - OPERATING	1,786,053.59	18,316.95	0.00	0.00	0.00	1,804,370.54

Fund/Account	Beginning Balance	Received	Transfers In	Disbursed	Transfers Out	Ending Balance
3382 RIB 2013B						
101000 CASH - OPERATING	2,130,637.00	12,210.86	0.00	0.00	0.00	2,142,847.86
3383 2012 SIDEWALK DISTRICT (6050)						
101000 CASH - OPERATING	-87,375.23	0.00	0.00	0.00	0.00	-87,375.23
3384 2014A REFUNDING IMPROVEMENT BOND						
101000 CASH - OPERATING	767,022.13	47,585.63	0.00	0.00	0.00	814,607.76
3385 2014B REFUNDING IMPROVEMENT BOND						
101000 CASH - OPERATING	-53,749.34	49,307.68	0.00	0.00	0.00	-4,441.66
3386 2015A RIB						
101000 CASH - OPERATING	3,182,930.01	18,269.85	0.00	0.00	0.00	3,201,199.86
3387 2015B RIB						
101000 CASH - OPERATING	2,722,332.88	96,987.13	0.00	0.00	0.00	2,819,320.01
3388 2016A RIB						
101000 CASH - OPERATING	1,790,192.42	48,259.66	0.00	0.00	0.00	1,838,452.08
3389 2017A RIB						
101000 CASH - OPERATING	4,014,799.44	178,021.37	0.00	0.00	0.00	4,192,820.81
3391 2018A Refunding						
101000 CASH - OPERATING	2,757,633.67	13,160.59	0.00	0.00	0.00	2,770,794.26
3730 2067						
101000 CASH - OPERATING	0.52	0.00	0.00	0.00	0.00	0.52
3979 TIF WEST FARGO 2ND & 3RD						
101000 CASH - OPERATING	108,398.47	0.00	0.00	0.00	0.00	108,398.47
3981 TIF BONDS STERLING IND. PARK (to 3377)						
101000 CASH - OPERATING	614,256.36	0.00	0.00	0.00	0.00	614,256.36
3982 TIF - BUTLER (to 3360 and 3366)						
101000 CASH - OPERATING	3,036,187.74	0.00	0.00	0.00	0.00	3,036,187.74
3983 TIF BONDS 2009 TITAN MACHINERY (to 3370 30,000 per year)						
101000 CASH - OPERATING	730,728.46	0.00	0.00	0.00	0.00	730,728.46
4000 CONSTRUCTION TESTING						
101000 CASH - OPERATING	2,244.63	0.00	0.00	0.00	0.00	2,244.63
4011 3001 1ST AVE E RECONSTRUCT						
101000 CASH - OPERATING	-2,685,108.67	0.00	0.00	0.00	6,940.09	-2,692,048.76
4032 2241 5th ST WEST EXT. (27TH AVE W TO 28TH AVE W)						
101000 CASH - OPERATING	-410,858.37	0.00	0.00	0.00	68,427.50	-479,285.87
4033 2240 8TH AVE NW & 26TH ST NW - PAVING						
101000 CASH - OPERATING	-2,993,788.02	0.00	0.00	0.00	623,828.50	-3,617,616.52
4034 2242 STREET IMPROVEMENT DISTRICT						
101000 CASH - OPERATING	-254,551.62	0.00	0.00	0.00	0.00	-254,551.62
4053 4058 HAYDEN HEIGHTS DRAINAGE IMPROVEMENTS						
101000 CASH - OPERATING	-148,340.09	0.00	0.00	0.00	0.00	-148,340.09
4054 2243 Intersection at 9th & 13th						
101000 CASH - OPERATING	-2,459,800.08	0.00	0.00	0.00	472,023.83	-2,931,823.91
4055 4060 STORM SEWER LIFT SA 72 IMPROVEMENTS						
101000 CASH - OPERATING	-1,981,933.95	0.00	0.00	0.00	150,741.25	-2,132,675.20
4059 4059 STORM LIFT SM 33 REHABILITATION						
101000 CASH - OPERATING	-285,955.20	0.00	0.00	0.00	192.50	-286,147.70

Fund/Account	Beginning Balance	Received	Transfers In	Disbursed	Transfers Out	Ending Balance
4061 4061 STORM LIFT REHAB (SM 25, 28, 44)						
101000 CASH - OPERATING	-1,318,413.45	0.00	0.00	0.00	227,721.46	-1,546,134.91
4062 4062 Storm Lift SM 75 & CR 19 Abandonment						
101000 CASH - OPERATING	-441,072.69	0.00	0.00	0.00	8,496.63	-449,569.32
4251 4064 Halvorson Pond						
101000 CASH - OPERATING	-186,152.83	0.00	0.00	0.00	50,749.76	-236,902.59
4252 4065 Storm Sewer SM 78 Gateway West						
101000 CASH - OPERATING	-716,748.37	0.00	0.00	0.00	6,069.41	-722,817.78
4301 1279 12th AVE NORTH - 45TH STREET TO CTY RD 19						
101000 CASH - OPERATING	-7,519,855.61	0.00	0.00	0.00	308,373.73	-7,828,229.34
4302 1273 MAIN AVE PHASE III NHU-8-010(032)932						
101000 CASH - OPERATING	-43,569.47	0.00	0.00	0.00	12,526.91	-56,096.38
4367 1289 26th STREET NE & DIVERSION RD IMPR						
101000 CASH - OPERATING	126,506.10	0.00	0.00	0.00	44,824.92	81,681.18
4373 1295 Highland Meadows 2nd Addition						
101000 CASH - OPERATING	-3,800,215.38	0.00	0.00	0.00	77,789.37	-3,878,004.75
4375 1297 LIFT STATION SA 27 & SA 40						
101000 CASH - OPERATING	-157.40	0.00	0.00	0.00	0.00	-157.40
4377 1301 SANDHILLS 3rd ADDITION						
101000 CASH - OPERATING	-4,148,412.32	0.00	0.00	0.00	4,982.00	-4,153,394.32
4378 1292 North Pond at the Preserve 9th						
101000 CASH - OPERATING	-903,988.06	0.00	0.00	0.00	0.00	-903,988.06
4381 1300 RIVERS BEND AT PRESERVE 4TH ADDITION						
101000 CASH - OPERATING	-2,135,326.67	0.00	0.00	0.00	0.00	-2,135,326.67
4382 1303 OAK RIDGE 11TH ADDITION						
101000 CASH - OPERATING	-1,153,999.31	0.00	0.00	0.00	0.00	-1,153,999.31
4383 1302 WATER TANK REHABILITATION						
101000 CASH - OPERATING	-1,505.00	0.00	0.00	0.00	0.00	-1,505.00
4384 1304 26th AVE W & 5th CT W						
101000 CASH - OPERATING	-276,682.06	0.00	0.00	0.00	0.00	-276,682.06
4385 1305 WILDS 9th & SA 46						
101000 CASH - OPERATING	-4,078,635.15	0.00	0.00	0.00	357,947.06	-4,436,582.21
4386 1308 FARGO WASTEWATER CONNECTION PROJECT						
101000 CASH - OPERATING	-227,971.24	0.00	0.00	0.00	75,921.14	-303,892.38
4387 1309 LAGOON DECOMMISSIONING PROJECT						
101000 CASH - OPERATING	-124.00	0.00	0.00	0.00	0.00	-124.00
4388 1310 South Regional Sanitary Sewer Forcemain						
101000 CASH - OPERATING	-126,882.48	0.00	0.00	0.00	16,842.36	-143,724.84
4389 2248 1st Ave & 10th ST E Improvement District						
101000 CASH - OPERATING	-5,840.50	0.00	0.00	0.00	78.90	-5,919.40
4391 2250 Sheyenne St (Beaton to 40th) Improvement District						
101000 CASH - OPERATING	-620,995.07	35,094,290.48	0.00	0.00	447,390.69	34,025,904.72
102000 Cash - Restricted	0.00	1,429,987.86	0.00	0.00	0.00	1,429,987.86
<b>Total Fund</b>	<b>-620,995.07</b>	<b>36,524,278.34</b>			<b>447,390.69</b>	<b>35,455,892.58</b>
4392 1311 BROOKS HARBOR WATER TOWER						
101000 CASH - OPERATING	-646,372.41	0.00	0.00	0.00	173,307.36	-819,679.77

Fund/Account	Beginning Balance	Received	Transfers In	Disbursed	Transfers Out	Ending Balance
4393 1312 Water Loop 15th St NW						
101000 CASH - OPERATING	-50,878.95	0.00	0.00	0.00	11,519.45	-62,398.40
4394 2251 13th Ave (12th-45th) Reconstruct						
101000 CASH - OPERATING	-279,878.38	0.00	0.00	0.00	57,719.40	-337,597.78
4398 2249 Sheyenne St & 7th Ave Intersection						
101000 CASH - OPERATING	-5,875.20	0.00	0.00	0.00	100.60	-5,975.80
4399 1313 Water Loop 9th St NE						
101000 CASH - OPERATING	-42,395.11	0.00	0.00	0.00	9,006.71	-51,401.82
4411 1314 Eagle Run Plaza 6th						
101000 CASH - OPERATING	-594,241.05	0.00	0.00	0.00	71,309.18	-665,550.23
4412 1315 Westview 3rd Addition						
101000 CASH - OPERATING	-15,151.37	0.00	0.00	0.00	7,476.75	-22,628.12
4413 2253 Sheyenne St Main to 7th Ave						
101000 CASH - OPERATING	-43,855.58	0.00	0.00	0.00	201,616.63	-245,472.21
4414 6054 Sidewalk Improvement District						
101000 CASH - OPERATING	-73,979.14	0.00	0.00	0.00	12,041.07	-86,020.21
4415 1317 Tehar 2nd Area						
101000 CASH - OPERATING	-14,055.00	0.00	0.00	0.00	0.00	-14,055.00
4416 1318 Halverson Pond Industrial 2nd						
101000 CASH - OPERATING	-430.33	0.00	0.00	0.00	4,869.69	-5,300.02
4417 1319 SANITARY SEWER DISTRICT						
101000 CASH - OPERATING	0.00	0.00	0.00	0.00	165.00	-165.00
4499 2244 - SHEYENNE ST 13th to Beaton DR						
101000 CASH - OPERATING	-2,001,260.60	7,966,724.86	0.00	0.00	560,081.01	5,405,383.25
102000 Cash - Restricted	0.00	324,598.47	0.00	0.00	0.00	324,598.47
<b>Total Fund</b>	<b>-2,001,260.60</b>	<b>8,291,323.33</b>			<b>560,081.01</b>	<b>5,729,981.72</b>
4501 2246 Traffic Calming Elmwood Ct						
101000 CASH - OPERATING	-43,522.50	40,000.00	0.00	0.00	0.00	-3,522.50
5000 TREE PLANTING						
101000 CASH - OPERATING	507,623.03	15,344.25	0.00	0.00	7,970.00	514,997.28
6010 HEALTH & SANITATION						
101000 CASH - OPERATING	1,460,973.60	292,496.44	3,634.79	197.38	285,410.45	1,471,497.00
6020 WATER ENTERPRISE						
101000 CASH - OPERATING	4,813,660.10	805,112.27	445.65	989.40	208,378.19	5,409,850.43
6025 SEWER ENTERPRISE						
101000 CASH - OPERATING	448,125.15	143,260.34	1,679.62	135.15	76,565.08	516,364.88
6040 REPL & DEPRECIATION SWOP						
101000 CASH - OPERATING	30,000.00	0.00	0.00	0.00	0.00	30,000.00
6050 SEWAGE SURCHARGE						
101000 CASH - OPERATING	307,334.10	227.92	0.00	0.00	0.00	307,562.02
6060 W/S 2012 REF (2005) RESERVE FUND						
101000 CASH - OPERATING	665,660.22	0.00	0.00	0.00	0.00	665,660.22
6070 W/S 2009 RESERVE FUND						
101000 CASH - OPERATING	601,646.26	0.00	0.00	0.00	0.00	601,646.26
7000 LIBRARY						
101000 CASH - OPERATING	1,520,795.20	15,759.47	51.68	0.00	85,357.92	1,451,248.43

Fund/Account	Beginning Balance	Received	Transfers In	Disbursed	Transfers Out	Ending Balance
7040 AIRPORT AUTH BOND CONSTRUCTION						
101000 CASH - OPERATING	198,444.43	134.58	0.00	0.00	0.00	198,579.01
7050 AIRPORT AUTHORITY						
101000 CASH - OPERATING	288,085.41	4,185.62	0.00	0.00	14,971.50	277,299.53
7501 MARVIN WINDOWS ESCROW SP.ASSMTS						
101000 CASH - OPERATING	170,658.00	0.00	0.00	0.00	0.00	170,658.00
7551 TITAN JOB TRAINING GRANT 5%						
101000 CASH - OPERATING	13,717.35	0.00	0.00	0.00	0.00	13,717.35
7570 ENERGY GRANT						
101000 CASH - OPERATING	15,800.00	0.00	0.00	0.00	0.00	15,800.00
7601 DOWNTOWN BUSINESS ASSOCIATION						
101000 CASH - OPERATING	10,142.01	0.00	0.00	0.00	0.00	10,142.01
7650 WAGE GARNISHMENTS						
101000 CASH - OPERATING	0.00	0.00	0.00	0.00	-272.00	272.00
7700 WINSOR GREEN SUBDIVISION						
101000 CASH - OPERATING	15,910.81	0.00	0.00	0.00	0.00	15,910.81
7710 Eagle Run 8th-Gustafson Land Development						
101000 CASH - OPERATING	118,516.89	0.00	0.00	0.00	0.00	118,516.89
7750 BORUD'S SUBDIVISION						
101000 CASH - OPERATING	21,739.37	0.00	0.00	0.00	0.00	21,739.37
7910 PAYROLL FUND						
101000 CASH - OPERATING	1,278.00	0.00	1,159,972.41	1,153,348.04	0.00	7,902.37
7930 CLAIMS FUND						
101000 CASH - OPERATING	319,871.70	0.00	5,105,962.91	5,161,658.78	0.00	264,175.83
8605 2017-1 BROOKS HARBOR ELEMENTARY PARK						
101000 CASH - OPERATING	0.00	787.01	0.00	0.00	0.00	787.01
8610 2014-2 GOLDENWOOD AREA PARK						
101000 CASH - OPERATING	0.00	1,975.74	0.00	0.00	0.00	1,975.74
8625 Park Improvement District 2011-1						
101000 CASH - OPERATING	992.66	1,430.85	0.00	0.00	0.00	2,423.51
8635 2014 PARK SPECIAL ASSESSMENTS-RIVER'S BEND						
101000 CASH - OPERATING	0.00	387.96	0.00	0.00	0.00	387.96
9000 CDBG FUND						
101000 CASH - OPERATING	1,921.91	0.00	0.00	0.00	0.00	1,921.91
<b>Totals</b>	<b>52,030,980.15</b>	<b>48,963,362.42</b>	<b>6,274,414.27</b>	<b>6,316,793.94</b>	<b>6,274,142.27</b>	<b>94,677,820.63</b>

\*\*\* Transfers In and Transfers Out columns should match. There are a couple exceptions to this: 1) Canceled Electronic Checks and 2) Payroll Journal Vouchers that include local deductions set up with receipt accounting. Please see cash reconciliation procedure in manual or call for more details.



**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  
North Dakota state Council Knights of Columbus

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 <u>Holy Cross Catholic church</u>			
Street <u>2711 17<sup>th</sup> St. E.</u>	City <u>West Fargo</u>	ZIP Code <u>58078</u>	County <u>Cass</u>
Beginning Date(s) Authorized <u>4/26/19</u>	Ending Date(s) Authorized <u>4/28/19</u>	Number of twenty-one tables if zero, enter "0": <u>0</u>	
Specific location where games of chance will be conducted and played at the site (required) <u>Foyer</u>			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known <u>4/26/19 to 4/28/19</u>			

**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 type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input checked="" type="checkbox"/> <b>ELECTRONIC</b> 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"/> <b>ELECTRONIC</b> 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheels with Tickets
<input type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table
<input type="checkbox"/> <b>ELECTRONIC</b> Pull Tab Device		

**APPROVALS**

Attorney General	Date
Signature of City/County Official	Date
<b>PRINT</b> 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

*CK# 6713  
 Ad 8/8/18  
 \$100.-*



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9413 (Rev. 05-2018)

License Number (Office Use Only)

Site Owner (Lessor) <b>Holy Cross Catholic Church</b>		Site Name <b>Foyer</b>		Site Phone Number <b>701-282-7217</b>	
Site Address <b>2711 17<sup>th</sup> St. E.</b>		City <b>West Fargo</b>	State <b>ND</b>	Zip Code <b>58078</b>	County <b>Cass</b>
Organization (Lessee) <b>North Dakota state Council K&amp;C</b>			Rental Period <b>4/26/19 to 4/28/19</b>		Monthly Rent Amount
1. Is Bingo going to be conducted at this site? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				\$	
1a. If "Yes" to number 1 above, is Bingo the primary game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts. <input type="checkbox"/> No <input type="checkbox"/> Yes					
2. Is Twenty-One conducted at this site?		X Rent per Table \$ _____		\$	
Number of Tables with wagers up to \$5 _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Number of Tables with wagers over \$5 _____		X Rent per Table \$ _____		\$	
3. Is Paddlewheels conducted at this site?		X Rent per Table \$ _____		\$	
Number of Tables _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
4. Is Pull Tabs involving either a jar bar, standard, or electronic dispensing device conducted at this site? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				\$	
Please check: <input type="checkbox"/> Jar Bar <input type="checkbox"/> Standard Dispensing Device <input type="checkbox"/> Electronic Dispensing Device Number of Electronic Devices _____					
No additional rent is allowed for electronic pull tabs. Rent must be based on dispensing device requirements per NDCC 53-06.1-11 (5)(a)(b)					
Total Monthly Rent				\$ <b>0.00</b>	
5. If the only gaming activity to be conducted at this site is a raffle drawing, please check here. <input checked="" type="checkbox"/>					
<b>TERMS OF RENTAL AGREEMENT:</b>					
This RENTAL AGREEMENT is between the Owner (LESSOR) and Organization (LESSEE) that will be leasing the site to conduct games of chance.					
The LESSOR agrees that no game will be directly operated as part of the lessor's business.					
The LESSOR agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab, pay a prize board cash prize, and award a prize board merchandise prize involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization.					
The LESSOR agrees that the lessor's on call or temporary or permanent employee will not, directly or indirectly, conduct games at the site as an employee of the lessee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.					
If the LESSEE provides the Lessor with a temporary loan of funds for redeeming pull tabs or prize boards, or both, involving a dispensing device, the Lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.					
The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.					
The LESSOR agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee.					
At the LESSOR'S option, the lessee agrees that this rental agreement may be automatically terminated if the lessee's gaming license is suspended at this site for more than fourteen days or revoked.					
Signature of Lessor 		Title <b>Pastor</b>		Date <b>8-7-18</b>	
Signature of Lessee		Title		Date	

# Consent Agenda Item: c

AUG - 7 2018



## APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT OFFICE OF ATTORNEY GENERAL SFN 9338 (9-2009)

Application for:  Local Permit  Charity Local Permit (one event per year)

Name of Non-profit Organization Dakota Se Chapter Of Pheasants Forever Inc.		Date(s) of Activity 9/20/2018 to 9/20/2018	
Person Responsible for the Gaming Operation and the Disbursement of Net Income Tim Richard		Title President	Business Phone Number (701) 793-1694
Business Address 10 Roberts St.	City Fargo	State ND	Zip Code 58102-0000
Mailing Address (if different)	City	State	Zip Code
Name of Site Where Game(s) will be Conducted Speedway Event Center		Site Address 680 Main Ave.	
City West Fargo	State ND	Zip Code 58078-0000	County Cass
Check the Game(s) to be Conducted: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit. <input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker * <input type="checkbox"/> Twenty-one * <input type="checkbox"/> Paddlewheels *			

### DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Raffle	Guns	\$8,000.00			
	Hunting Equip	\$3,000.00			
Total:					(Limit \$12,000 per year) \$ 11,000.00

Intended uses of gaming proceeds: Wildlife habitat projects and promoting youth hunting and shooting sports

Does the organization presently have a state gaming license?  No  Yes - If "Yes," the organization is not eligible for a local permit or charity local permit and should call the Office of Attorney General at 1-800-326-9240.

Has the organization received a charity local permit from this or another city or county for the fiscal year July 1 through June 30?  No  Yes - If "Yes," the organization does not qualify for a local permit or charity local permit.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30?  No  Yes - If "Yes," indicate the total value of all prizes previously awarded: \$ \_\_\_\_\_. This amount is part of the total prize limit of \$12,000 per year.

Signature of Organization's Top Executive Official <i>[Signature]</i>	Date 8-1-18	Title Pres.	Business Phone Number 701-793-1694
--	----------------	----------------	---------------------------------------

CK# 6575  
pd 8/7/18  
\$10.00

\*\*\* Consent Agenda \*\*\*

AGENDA ITEM DESCRIPTION  
CITY COMMISSION  
WEST FARGO, NORTH DAKOTA

Agenda # d

\*\*\*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

2. PHONE NUMBER: 433-5320 DATE: August 13, 2018

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

Maple Ridge at the Preserve 6<sup>th</sup> Addition, Replat and Rezoning from P: Public Facilities to R-1A: Single Family Dwellings

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

Lots 25 & 35, Block 1 of Maple Ridge at the Preserve 2<sup>nd</sup> Addition, City of West Fargo, North Dakota.

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Schedule a public hearing on the Rezoning at 5:30 pm on September 4, 2018.



[www.westfargond.gov](http://www.westfargond.gov)

*Larry M. Weil, Community Development Director  
Tim Solberg, Director of Planning and Zoning, AICP  
Lisa Sankey, Assistant Planner*

## NOTICE OF PUBLIC HEARING

A public hearing will be held on the 4th day of September 2018, at 5:30 P.M. at the City Hall of West Fargo, North Dakota, concerning the enactment of a proposed zoning ordinance. The proposed ordinance involves the following:

Part of Lot 35, Block 1 of Maple Ridge at the Preserve 2<sup>nd</sup> Addition (Proposed Lot 1, Block 1 of Maple Ridge at the Preserve 6<sup>th</sup> Addition)

The ordinance is for the purpose of rezoning from P: Public Facilities District to an R-1A: Single Family District

A copy of the proposed ordinance is available for public inspection and copying at the office of the City Auditor between the hours of 8:00 A.M.-5:00 P.M. all days except weekends and holidays.

BY ORDER OF THE CITY COMMISSION OF THE CITY OF WEST FARGO, NORTH DAKOTA

Bernie L. Dardis  
President of the Board of City  
Commissioners of the City of  
West Fargo, North Dakota

(Please Publish August 20 and 27, 2018)



## Memo

Property taxes and special assessments are getting a lot of community attention. It's important that West Fargo doesn't sit on the sidelines related to this topic. Our residents want to be heard and be engaged in this discussion. Fundamentally, taxes and special assessments must be applied fairly, and property taxes should fund services and amenities that benefit the majority. With that in mind, I am suggesting we consider the following items:

### **Community Forum**

Suggestion: Schedule a community forum(s) to engage West Fargo residents in a discussion on property taxes and special assessments.

Description: Each meeting(s) would require an investment of time (approximately 3 hours) and be broken down into 3 approximately equal parts:

1. Educate residents on special assessments and property taxes; how are these dollars used.
2. Break into small groups to brainstorm and have a lively discussion on potential improvements.
3. Aggregate ideas from small groups and prioritize based on group feedback.

The city could hold multiple forums based on demand but would limit each event to approximately 50 attendees. We would seek sponsorship for these events from a few key organizations and/or local businesses to pay for beverages, snacks, location, and a facilitator.

Benefits: This would provide an opportunity to *engage residents, provide education* on these topics, and *generate ideas* for improvement. This would allow West Fargo residents to participate in the discussion and not limit community involvement to a small committee.

### **RRVF**

Suggestion: Instruct the City of West Fargo staff to proceed with annexation of the Red River Valley Fairgrounds.

Reasoning: Fairness is a fundamental component that people assume happens with taxes and assessments. Unfortunately, this isn't the case in regard to the Red River Valley Fairgrounds.

As it sits today, the City of West Fargo has no authority to tax or assess the Red River Valley Fair. The amount that would be assessed to them for projects is simply spread across all other property owners in that special assessment district. Most recently, this resulted in Main Avenue area property owners (business and residential) all paying more than their fair share for the Main Avenue improvements. This will continue to happen if we do not act.

The Fair has a West Fargo address, uses West Fargo roads, uses West Fargo water/sewer, and their events impact our city and residents. They are part of our community and it's time they start paying for the city services, infrastructure, and amenities they use just like what we expect from any resident and/or property owner. The Red River Valley Fair is not paying their 'fair' share.

Benefits: First, this would result in lower Special Assessments to West Fargo property owners for future assessment districts that include the Red River Valley Fairgrounds. Secondly, we would collect the appropriate West Fargo city property taxes and sales tax for land that is serviced by city amenities and services. This makes sure that all West Fargo property owners are treated fairly.

**North Dakota Department of Transportation  
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT  
LPA FEDERAL AID PROJECT**

**Federal Award Information – to be provided by NDDOT**

CFDA No: 20.205

CFDA Title: Highway Planning & Construction

Award Name: Federal Aid Highway Program

Awarding Fed. Agency: Federal Highway Admin

NDDOT Program Mgr: Marohl, Sengaroun H.

Telephone: 701-328-4449

**Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.**

**For NDDOT use only.**

**FHWA Authorization date:**

**Project No. UGP-8-992(041)**

**LPA: CITY WEST FARGO**

**Location: SHEYENNE ST FROM MAIN AVE TO 7TH AVE**

**Type of Improvement: ROAD DIET, BULB-OUTS, SIDEWALK, STREETScape, STREET FURNITURE, LIGHTING, BUS STOP, PAVEMENT MARKING**

**Length: 0.5 MILE**

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the Local Public Agency (LPA) of City West Fargo, North Dakota, hereinafter referred to as the LPA, who agree that:

It is in the best interest of both parties to have the LPA construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the LPA with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The LPA agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost up to a maximum of \$2,377,446. The balance of the project is the obligation of the LPA.

**Additional Funding Clause**

Any costs over the cap and any non-eligible items will be City responsibility.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.



Federal funds may not be obligated by the LPA, prior to FHWA approval of the program documents for the project.

## PART I

LPA Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The LPA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the LPA of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

Include the following paragraph verbatim in any subcontracts they sign relative to this project:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the solicitation, award, and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.
3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways and the current edition of the NDDOT's *Local Government Manual*.
4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.
5. To comply with the procedures outlined in the current edition of NDDOT's *Local Government Manual*.
6. To comply with the current edition of NDDOT's *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects*.
7. The LPA will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of streets, inconvenience to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance,
8. To comply with the requirements of Appendices A and E of the Title VI Assurances, attached and incorporated by reference herein.



## PART II

### Contracting and Construction:

1. On behalf of the LPA, NDDOT will:
  - a. Prepare the bid package, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.
  - b. Evaluate the bids as to the sufficiency of Disadvantaged Business Enterprise (DBE) participation and the bidder's good faith efforts in satisfying the requirements of the current edition of the DBE special provision, and 49 CFR Part 26. NDDOT shall have exclusive authority in evaluating the adequacy of DBE participation.
  - c. Tabulate the bids and send to the LPA.
  - d. Concur in the award of the contract, after the LPA has executed the contract, for the sole purpose of enabling the LPA to procure federal aid for the construction of the project.
2. The LPA will:
  - a. Review bids to determine the lowest responsible bidder.
  - b. Execute the contract.
  - c. Distribute copies of the executed contract and contract bond to NDDOT.
3. During the construction of the project, the LPA will:
  - a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual* and the *Standard Specifications for Road and Bridge Construction*.
  - b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System*.
  - c. Make all records available to NDDOT and FHWA for inspection upon request. The LPA will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the LPA.
  - d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

## PART III

### Post Construction:

After the project is completed the LPA agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor.



2. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.
3. If the traffic corridor intersects a state highway, the LPA must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.
4. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.
5. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.
6. Provide maintenance to the completed project at its own cost and expense.
7. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

#### **PART IV**

General:

1. NDDOT will make all contract payments on behalf of the LPA. Payment will be made upon receipt of the engineer's estimate. The LPA will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

If the LPA fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the LPA, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the LPA out of the highway tax distribution fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
3. No official, employee, or other person performing services for the LPA who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the LPA shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the LPA, and such officer, employee, or person has not participated in such acquisition for and in behalf of the LPA.
4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.
5. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are



applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.

- 6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer  
ND Department of Transportation  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700

---

---

---

---

- 7. The LPA is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.
- 8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The LPA, by the signature below of its authorized representative, hereby acknowledges that the LPA has read this agreement, understands it, and agrees to be bound by its terms and conditions.



Executed by the LPA of \_\_\_\_\_, North Dakota, the date last below signed.

APPROVED:

\_\_\_\_\_  
CITY/STATES ATTORNEY (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

LPA of \_\_\_\_\_

\*

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\*

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

ATTEST:

\_\_\_\_\_  
AUDITOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

\_\_\_\_\_  
LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)  
L.D. Approved 4-12-93; 8-17



**CERTIFICATION OF LOCAL MATCH**

It is hereby certified that the LPA of \_\_\_\_\_ will provide non-federal funds, whose source is identified below, as match for the amount the LPA is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

**Non-Federal Match Funds provided by LPA.** Please designate the source(s) of funds in the LPA budget that will be used to match the federal funds obligated for this project through the North Dakota Department of Transportation.

**Source:**

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

Executed at \_\_\_\_\_, North Dakota, the last date below signed.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
AUDITOR (TYPE OR PRINT)

LPA of \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\*  
\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

\*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)  
L.D. Approved 4-12-93; 8-17



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



## Risk Management Appendix

### **Routine\* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:**

**Parties:** **State** – State of North Dakota, its agencies, officers and employees

**Governmental Entity** – The Governmental Entity executing the attached document, its agencies, officers and employees

**Governments** – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$250,000 per person** and **\$500,000 per occurrence**. The minimum limits of liability required of the State are **\$250,000 per person** and **\$1,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

**The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.**

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

\*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007  
Revised 5-09



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

2. PHONE NUMBER: 433-5320 DATE: August 16, 2018

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

The Wilds 11<sup>th</sup> Addition, Subdivision and Rezoning from A: Agricultural to R-1:  
One & Two Family Dwellings, R-1SM: Mixed One & Two Family Dwellings (Lots  
1-43, Block 1), R-2: Limited Multiple Dwellings and P: Public Facilities.

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

Property located in part of Government Lots 3-5 in the NW $\frac{1}{4}$  of Section 6,  
T138N, R49W, City of West Fargo, North Dakota, City of West Fargo, North  
Dakota.

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Hold 1<sup>st</sup> Reading on the rezoning.

CITY OF WEST FARGO PLANNING & COMMUNITY DEVELOPMENT

STAFF REPORT

A18-34		SUBDIVISION/REZONING	
The Wilds 11 <sup>th</sup> Addition			
Part of Government Lots 3-5 in the NW¼ of Section 6, T138N, R49W, City of West Fargo, North Dakota,			
Applicant: Eagle Ridge Development LLC, Jonathan Youness		Staff Contact: Tim Solberg, AICP	
Owner: Westport Investments, LLC			
Planning & Zoning Commission Introduction:		07-10-2018	
Public Hearing:		07-10-2018 – Approval	
City Commission Introduction:		07-16-2018	
Public Hearing		08-06-2018	
1 <sup>st</sup> Reading:		08-20-2018	
2 <sup>nd</sup> Reading & Final Plat Approval			

**PURPOSE:**

Plat and zone land for residential development.

**STATEMENTS OF FACT:**

Land Use Classification:	G-2: Sub-Urban – Growth Sector
Existing Land Use:	Vacant
Current Zoning District(s):	A: Agricultural
Zoning Overlay District(s):	CO: Corridor Overlay District
Proposed Zoning District(s):	R-1: One & Two Family Dwellings; R-2: Limited Multiple Dwellings; P: Public Facilities
Proposed Lot size(s) or range:	125 R-1 Lots, 48 R-2 Lots, 2 Public lots for retention
Total area size:	50.02 Acres
Adjacent Zoning Districts:	North – R-1A: Single Family Dwellings South & West– A: Agricultural East – R-1: One & Two Family Dwellings & P: Public Facilities
Adjacent street(s):	52 <sup>nd</sup> Ave W (Arterial); 9 <sup>th</sup> Street W (Collector); 10 <sup>th</sup> St W (Local); 11 <sup>th</sup> St W (Local); Cathy Dr (Local); Ashley Ln W (Local); Unnamed Local Streets
Adjacent Bike/Pedestrian Facilities:	Bike path adjacent to 9 <sup>th</sup> Street West; Proposed Bike path along 52 <sup>nd</sup> Ave W and through development.
Available Parks/Trail Facilities:	Legacy Elementary and adjacent park property as well as trail connections to parks within ¼ mile.
Land Dedication Requirements:	Park plan has been approved by West Fargo Park District and will be required to be updated with the proposed development.

STAFF REPORT

**DISCUSSION AND OBSERVATIONS:**

- The applicant has submitted an application, preliminary plat and area plan. The area plan is proposing the majority of the area to develop as single-family residential with some R-2 residential (medium density).
- When the Wilds 8<sup>th</sup> Addition was considered in September 2016, the developer and Park District came to agreement with regards to park plans north of 52<sup>nd</sup> Avenue West, as well as south of 52<sup>nd</sup> Avenue West.
- The applicant is proposing single-family and twin home lot residential development with R-1: One and Two Family Dwellings and R-2: Limited Multiple Dwellings. The developer is also proposing one larger lot to be zoned R-2: Limited Multiple Dwelling.
- Right-of-way widths for local streets on the preliminary plat are provided and should be to 62' unless the applicant is able to provide an amenities plan that can demonstrate how the wider streets will benefit the development.
- There is no means of east-west connection to arterial roadways in this area; therefore staff believes the connections to 64<sup>th</sup> Avenue South on the south side of the previous plat (The Wilds 9<sup>th</sup>) are important to provide access to more than just one arterial roadway. Road right of way exists in Horace to make a connection; however, this right of way is not improved and needs to be considered. The agreements for The Wilds 8<sup>th</sup> Addition and The Wilds 9<sup>th</sup> Addition provided that the developer would work with the City of Horace to establish a schedule for constructing the streets which will be coordinated with the development of the Wilds development. In the event that the City of Horace fails to make improvements to 78<sup>th</sup> Street South and 79<sup>th</sup> Street South, the developer may be responsible for the costs of developing roadways to ensure access to 64<sup>th</sup> Avenue South. 9<sup>th</sup> Street West will be an important major collector for this area.
- As of the date of application, the City currently has 1,211 residential serviced lots which are vacant. Of those lots, 747 are zoned for smaller single family housing (R-1, R-1SM, and PUD). This inventory would service the City under its current rates of absorption for approximately 3-5 years. There are peaks and valleys to the City's building permit rates, however Staff feels it is important to note the amount of inventory of homes in relation to the consideration of the proposed development.
  - To illustrate the rate of absorption, the City permitted the following number of single family homes in corresponding five year time periods below:
    - 276 in 2017; 402 in 2016; 392 in 2015; 428 in 2014; 437 in 2013
    - 409 in 2012; 163 in 2011; 166 in 2010; 158 in 2009; 117 in 2008
    - 184 in 2007; 244 in 2006; 421 in 2005; 626 in 2004; 501 in 2003
- The City does not currently have serviced multiple family lots available and the vacancy reports provided show a slight decline indicating that the proposed multiple family dwellings would be absorbed in a reasonable time.

**NOTICES:**

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

Comments Received:

- None to date.

STAFF REPORT

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

- The mix of housing types and increased densities of the R-2 lots will increase the diversity of the neighborhood housing stock consistent with goals of the Comprehensive Plan's Action Plan Big Idea to "Strengthen Neighborhoods and Expand Housing Choice"

**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. Consideration be given by City Commission on inventory of serviced residential lots and the current rate of absorption in the City of West Fargo and within the metropolitan area.
2. A signed subdivision agreement is received.
3. A signed and updated park dedication agreement is received.
4. A drainage plan is received and approved by the City Engineer.
5. Final Plat is received with any necessary easements.
6. A certificate is received showing taxes are current.

**PLANNING AND ZONING RECOMMENDATION:**

At their July 10, 2018 meeting, the Planning and Zoning Commission approved the subdivision and rezoning, subject to the six conditions listed above.

**UPDATE:**

The developer is requesting a change in the advertised zoning for a portion of the proposed R-2 lots to be changed to R-1SM to accommodate some variation of lot sizes for the previously proposed twin-home lots within the R-2 cul-de-sac. It is advised that a first reading be deferred to allow the Planning Commission to review the change and submit a revised recommendation.

**PLANNING AND ZONING RECOMMENDATION:**

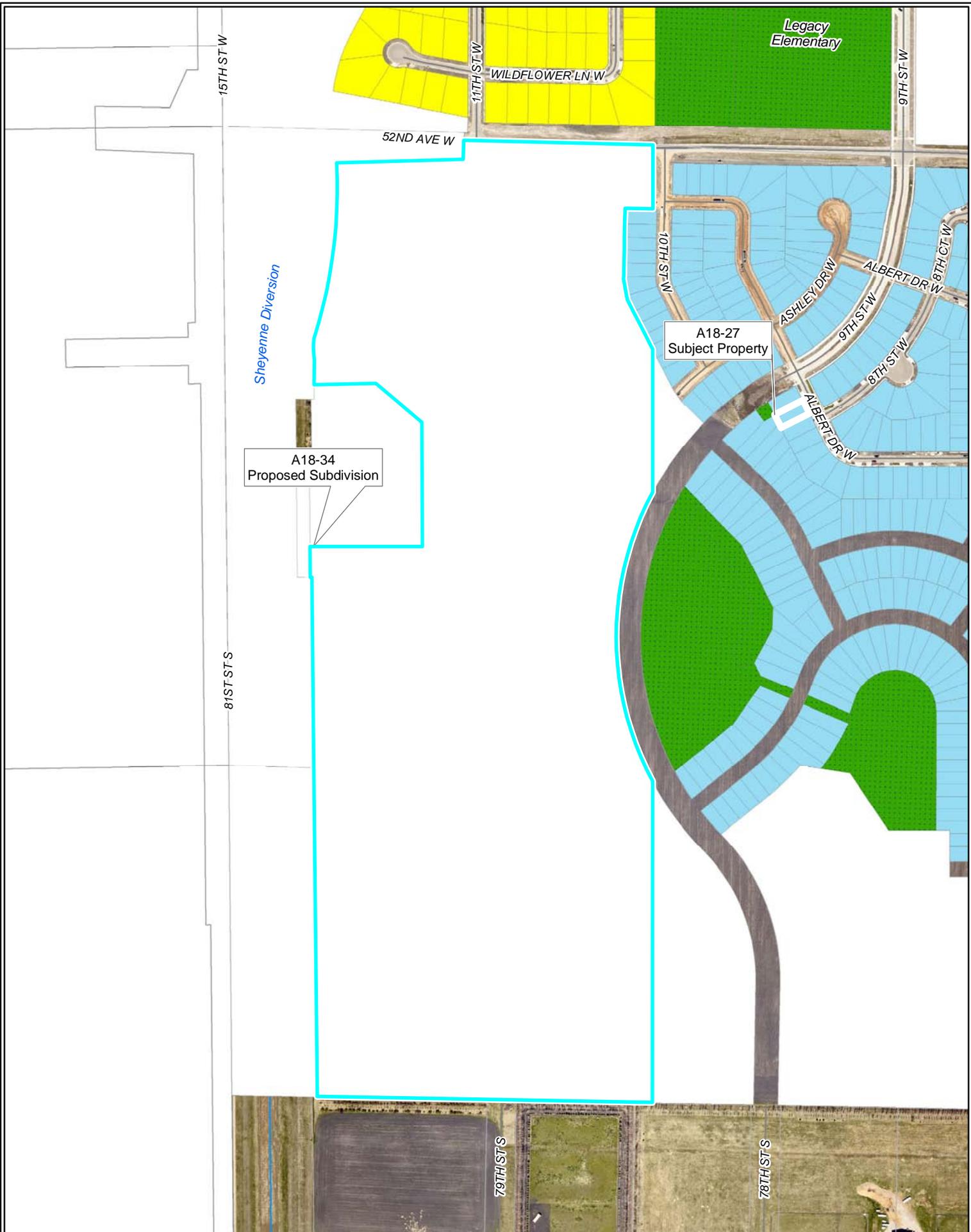
At their August 14, 2018 meeting, the Planning and Zoning Commission reviewed the proposed zoning change.



A18-34  
Proposed Subdivision

A18-27  
Subject Property





A18-34  
Proposed Subdivision

A18-27  
Subject Property



A: Agricultural	HC: Heavy Commercial	P-PUD: PUD in Public	R-15M: Mixed One and Two Family Dwelling	R-5: Manufactured Home Subdivision
C: Light Commercial	LI: Light Industrial	R-L1A: Large Lot Single Family Dwelling	R-2: Limited Multiple Dwelling	R-1E: Rural Estate
C-PUD: PUD in General Commercial	CM-PUD: PUD in Light Industrial	R-1A: Single Family Dwelling	R-3: Multiple Dwelling	R-R: Rural Residential
C-OP: Commercial Office Park	M: Heavy Industrial	R-1: One and Two Family Dwelling	R-4: Mobile Home	R-PUD: PUD in Residential
C-OP-PUD: PUD in Office Park	P: Public			





**PLAT OF  
THE WILDS ELEVENTH ADDITION  
TO THE CITY OF WEST FARGO, A PLAT OF PART OF GOVERNMENT LOT 3,  
A PART OF GOVERNMENT LOT 4 AND PART OF GOVERNMENT LOT 5,  
ALL IN SECTION 6, TOWNSHIP 138 NORTH, RANGE 49 WEST, 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 "THE WILDS ELEVENTH ADDITION" TO THE CITY OF WEST FARGO, A PLAT OF PART OF GOVERNMENT LOT 3, A PART OF GOVERNMENT LOT 4 AND A PART OF GOVERNMENT LOT 5, ALL IN SECTION 6, TOWNSHIP 138 NORTH, RANGE 49 WEST, CASS COUNTY, NORTH DAKOTA; THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE BOUNDARY 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 SAID ADDITION IS DESCRIBED AS FOLLOWS, TO WIT:

THAT PART OF GOVERNMENT LOT 3, A PART OF GOVERNMENT LOT 4 AND A PART OF GOVERNMENT LOT 5, ALL IN SECTION 6, TOWNSHIP 138 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

SAID TRACT CONTAINS 50.02 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 \_\_\_\_\_, 2018, 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 "THE WILDS EIGHTH ADDITION" TO THE CITY OF WEST FARGO, A PLAT OF PART OF GOVERNMENT LOT 3, A PART OF GOVERNMENT LOT 4 AND A PART OF GOVERNMENT LOT 5, ALL IN SECTION 6, TOWNSHIP 138 NORTH, RANGE 49 WEST, 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. WE HEREBY DEDICATE ALL STREETS, LANES, DRIVES, UTILITY EASEMENTS AND FENCE EASEMENTS SHOWN ON SAID PLAT TO THE USE OF THE PUBLIC AND ALL STORM SEWER EASEMENTS SHOWN ON SAID PLAT TO THE USE OF THE CITY OF WEST FARGO.

OWNER: WESTPORT INVESTMENTS, LLC

MORTGAGEE: STARION FINANCIAL

\_\_\_\_\_  
JIM BULLIS, SECRETARY

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED JIM BULLIS, SECRETARY, 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 WESTPORT INVESTMENTS, LLC.

\_\_\_\_\_  
NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED DAN STALLER, SENIOR VICE-PRESIDENT, 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 STARION FINANCIAL.

\_\_\_\_\_  
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 \_\_\_\_\_, 2018.

\_\_\_\_\_  
TOM MCDUGALL, CHAIRMAN

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, 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 \_\_\_\_\_, 2018.

\_\_\_\_\_  
BERNIE DARDIS, PRESIDENT OF  
THE WEST FARGO CITY COMMISSION

\_\_\_\_\_  
TINA FISK, CITY AUDITOR

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BERNIE 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

**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 \_\_\_\_\_, 2018.

\_\_\_\_\_  
JOHN T. SHOCKLEY, CITY ATTORNEY

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, 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

**CITY ENGINEER'S APPROVAL**

THIS PLAT IN THE CITY OF WEST FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
DUSTIN T. SCOTT, CITY ENGINEER

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, 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.

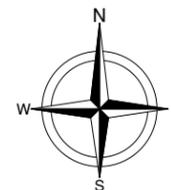
\_\_\_\_\_  
NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

D

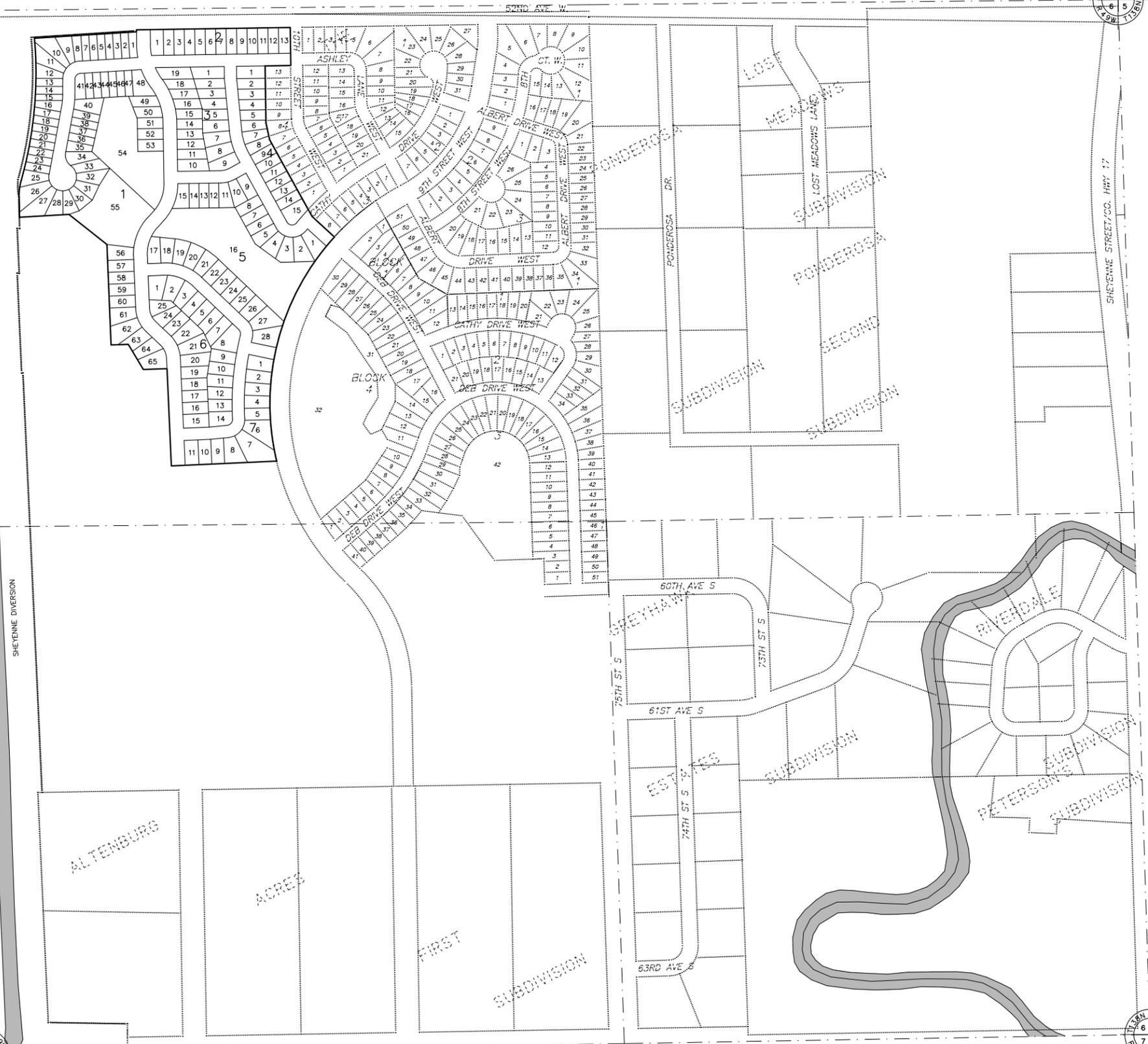
C

B

A



0 300  
Scale in Feet



AREA SKETCH PLAN  
THE WILDS ELEVENTH ADDITION  
WEST FARGO, NORTH DAKOTA

PROJECT No.	20343
DATE:	06.11.18
REVISED:	-
DRAWN BY:	MPL
CHECKED BY:	###



GOVT LOT

53RD AVENUE WEST

ALBERT DRIVE WEST

10TH STREET WEST

11TH STREET WEST

2.0 AC MR LOT

9TH STREET WEST

8TH STREET WEST

BLOCK FOUR

**LEGEND**

-  40' (R-2)
-  50' (R-1)
-  60' (R-1)
-  2.2 Acres (R-2)
-  Pond
-  Park

# WILDS 11TH

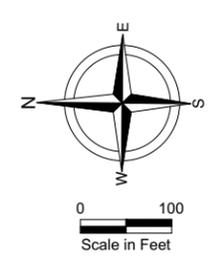
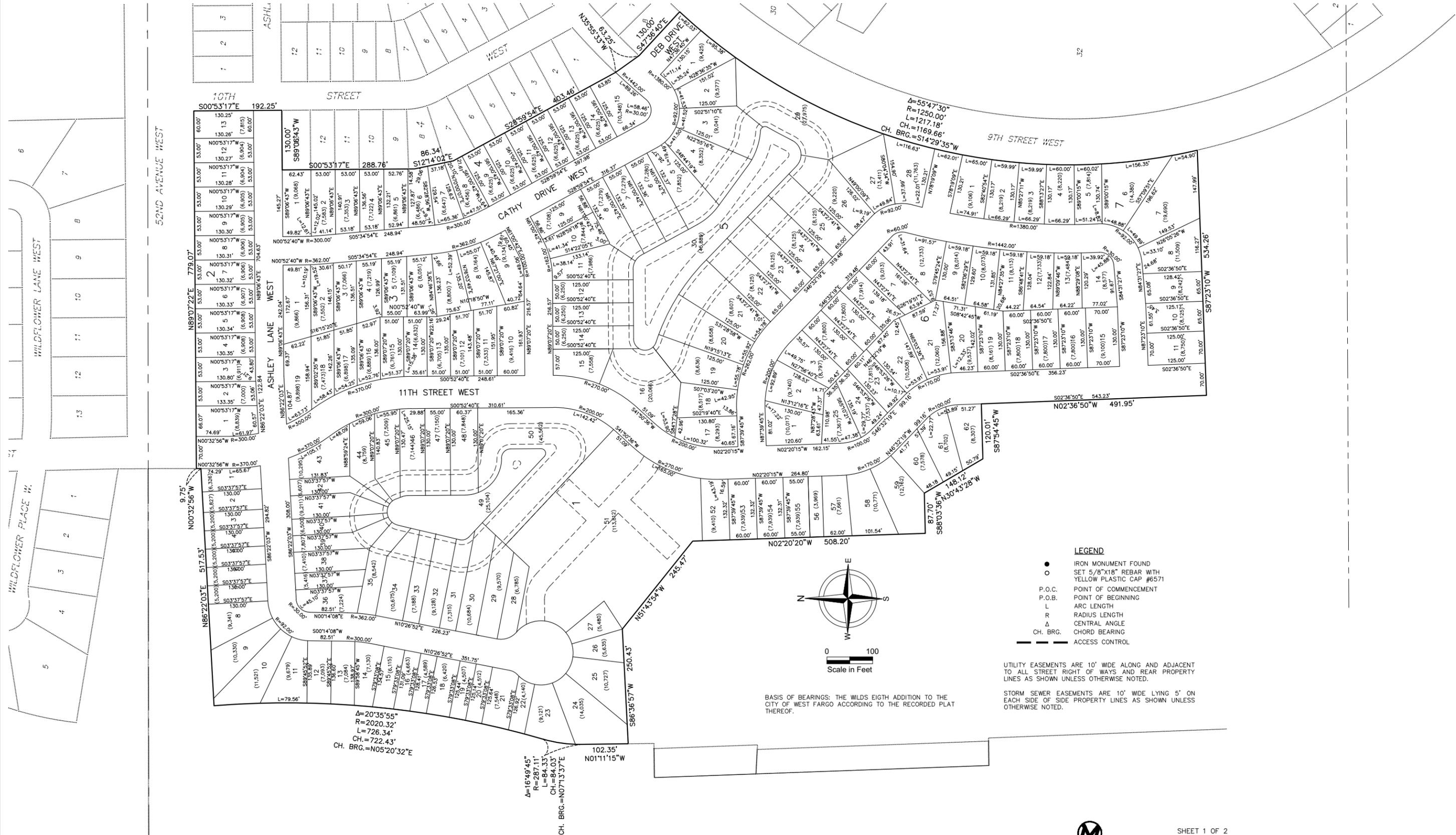


**LEGEND**

- 36' Lot (24)
- 46.1' Lot (6)
- 51' Lot (7)
- 60.1' Lot (4)



**PLAT OF  
THE WILDS ELEVENTH ADDITION**  
TO THE CITY OF WEST FARGO, A PLAT OF PART OF GOVERNMENT LOT 3,  
A PART OF GOVERNMENT LOT 4 AND PART OF GOVERNMENT LOT 5,  
ALL IN SECTION 6, TOWNSHIP 138 NORTH, RANGE 49 WEST, CASS COUNTY, NORTH DAKOTA



- LEGEND**
- IRON MONUMENT FOUND
  - SET 5/8"x18" REBAR WITH YELLOW PLASTIC CAP #6571
  - P.O.C. POINT OF COMMENCEMENT
  - P.O.B. POINT OF BEGINNING
  - L ARC LENGTH
  - R RADIUS LENGTH
  - Δ CENTRAL ANGLE
  - CH. BRG. CHORD BEARING
  - ACCESS CONTROL

UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT OF WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.

STORM SEWER EASEMENTS ARE 10' WIDE LYING 5' ON EACH SIDE OF SIDE PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.

BASIS OF BEARINGS: THE WILDS EIGHTH ADDITION TO THE CITY OF WEST FARGO ACCORDING TO THE RECORDED PLAT THEREOF.



AGENDA ITEM DESCRIPTION  
CITY COMMISSION  
WEST FARGO, NORTH DAKOTA

Agenda # 5

\*\*\*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
  
2. PHONE NUMBER: 433-5321      DATE: August 16, 2018
  
3. PLEASE **BRIEFLY** DESCRIBE YOUR REQUEST:  
Zoning Ordinance Amendment to Section 4-421 of the A: Agricultural Zoning District Regulations.
  
4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):  
N/A.
  
5. ACTION BEING REQUESTED FROM CITY COMMISSION:  
Second Reading on the Zoning Ordinance Amendment subject to conditions listed in the staff report.

STAFF REPORT

A18-31	ZONING ORDINANCE AMENDMENTS
Zoning Ordinance Amendment to Section 4-421 of the A: Agricultural Zoning District Regulations	
City of West Fargo	Staff Contact: Tim Solberg, AICP
Planning & Zoning Commission Introduction:	07-10-2018
Public Hearing:	07-10-2018 – Approval
City Commission Introduction:	07-16-2018
Public Hearing & & 1 <sup>st</sup> Reading:	08-06-2018
2 <sup>nd</sup> Reading	

**PURPOSE:**

Amendment to Section 4-421 of the A: Agricultural Zoning District Regulations.

**DISCUSSION AND OBSERVATIONS:**

- The current ordinance provides for non-farm single family dwellings on newly created lots of 40 acres or more as a conditional use.
- At the discussion and recommendation of the Planning Commission made at their June 12, 2018 meeting, staff has prepared proposed changes.
- A proposed amendment would offer a change to allow for lot sizes to as little as 2.5 acres with conditions that the property is platted in accordance with the subdivision regulations of the City of West Fargo; that the property is developed at a minimum of two and one half (2.5) acres in area with a larger plot size required by the City if necessary for the safe operation of individual wells; and that for any lot less than forty (40) acres in size, the property must deed restrict the surrounding quarter, quarter section of land or legal lot of record. A deed restriction will be in a form as approved by the City Planner, City Attorney, and President of the Board of City Commissioners with release to occur only at the time of rezoning accompanied by an area plan or release of the property from the zoning authority of the City of West Fargo.
- Staff believes that the proposed amendment would reduce the requests by those seeking non-farm single family dwellings in land which is currently zoned A: Agricultural to seek rezoning to zoning districts such as R-R: Rural Residential or R-1E: Rural Estate and therefore help to prevent premature development which is not within a serviceable area of the City.

**NOTICES:**

Sent to: Notice in the newspaper and City Departments

Comments Received:

- None to date.

**RECOMMENDATIONS:**

Following the public hearing and obtaining public comments, consider recommending approval of the ordinance amendments.

**PLANNING AND ZONING RECOMMENDATION:**

STAFF REPORT

At their July 10, 2018 meeting, the Planning and Zoning Commission recommended approval of the ordinance amendments

ORDINANCE NO. 1126

AN ORDINANCE TO AMEND AND REENACT SECTION 4-421.3 OF THE REVISED ORDINANCES OF 1990 OF THE CITY OF WEST FARGO RELATING TO CONDITIONALLY PERMITTED USES IN THE "A" DISTRICT OR AGRICULTURAL DISTRICT.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WEST FARGO, NORTH DAKOTA:

SECTION 1. Section 4-421.3 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-421.3. Conditionally Permitted Uses. Any conditional use located in this district shall be sited on a separately platted parcel in accordance with the subdivision regulations of the City of West Fargo, and the use shall not be one to which the noise, odor, dust, or chemical residues of commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass. The following conditional uses maybe located in the A District subject to the provisions and requirements hereinafter imposed for each use and subject further to review and approval by the City as required by Section 4-550 of this Ordinance:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry, or horticultural services on a fee or contract basis including, but not limited to hay-baling and threshing; horticultural services; crop dusting; grain cleaning and drying; harvesting and plowing; milling and storage of grain; veterinary services; boarding and training of horses; and roadside stands for the sale of agricultural produce grown on the site.
  - a. An agricultural service establishment shall be incidental and necessary to the conduct of agriculture within the district.
  - b. All agricultural service establishments shall be located at least 100 feet from any driveway affecting access to a farm dwelling or field and at least 500 feet from any single-family dwelling.
  - c. All agricultural service establishments shall be screened on the perimeter of the establishment by a

solid fence, wall, or natural vegetation not less than six feet in height.

2. Churches, religious institutions and places of worship, cemeteries, airports, fairgrounds, archery ranges, gun clubs, schools, local government buildings and facilities, and government-owned facilities for the maintenance of roads and highways when necessary to serve the immediate vicinity.
3. Non-farm single-family residential dwellings may be permitted on lots or parcels of land for which a deed has been recorded in the office of the Cass County Register of Deeds upon or prior to ~~the effective date of this Ordinance~~ [INSERT DATE], or a lot or parcel of land that would have been a lot of record if the document conveying the lot had been recorded on the date of its execution, provided they meet all applicable standards and requirements of this Ordinance and all other applicable city, township, and county regulations and ordinances, subject to the following:
  - a. The property shall be platted in accordance with the subdivision regulations of the City of West Fargo.
  - b. Each lot developed shall contain no more than one (1) single-family home.
  - c. Each lot developed shall be a minimum of one acre in area. A larger plot size may be required by the City if necessary for the safe operation of individual wells and septic systems.
  - d. The driveway serving the property shall meet City access standards.
  - e. All non-farm residential buildings shall be set back a minimum of 300 feet from the nearest farm building.
4. Above ground petroleum storage tanks. Such above ground petroleum storage tanks are prohibited in all other districts other than the A and M Districts.
5. Non-farm Single-family residential dwellings and accessory structures on newly created lots created or platted after \_\_\_\_\_, 2018, under the following conditions: ~~of forty (40) or more acres provided that the~~

~~property is platted in accordance with the subdivision regulations of the City of West Fargo.~~

- a. The property is platted in accordance with the subdivision regulations of the City of West Fargo.
  - b. The property is developed at a minimum of one (1) acre in area with a larger plot size required by the City if necessary for the safe operation of individual wells and septic systems.
  - c. The property is less than forty (40) acres in size, the property has a deed restriction recorded against it and the surrounding quarter-quarter section of land or legal lot of record to prohibit further development of non-farm single family residential dwellings. The deed restriction shall be in a form as approved by the City Planner, City Attorney, and President of the Board of City Commissioners and will terminate/release only at the time of rezoning, or accompanied by an area plan, annexation by the City of West Fargo, or release of the property from the zoning authority of the City of West Fargo.
6. Landscaping businesses, greenhouses, and plant nurseries.
  7. Temporary or permanent industrial wood burners, including air curtain destructors, subject to the following conditions:
    - a. For a permanent site, the site is fenced with a sight obscuring fence and screened if necessary to keep materials out of sight.
    - b. The site is located a minimum of 2,640 feet from any residential or neighboring business structure.
    - c. The waste wood products may not be stored on the site for more than two (2) months. For a permanent site, all waste wood products on site must be disposed of within a two (2) month period. At the time the site is completely cleared, another two-month cycle of storage may begin. An extension to the two-month period may be granted by the Fire Chief during the high fire risk times when burning is not allowed.
    - d. The use has received State Health Department and local Fire Department approval.

- e. A permit for a temporary site may not exceed sixty (60) days, and only two (2) temporary permits may be granted for the same site in any year. The 60-day period may be extended by the Fire Chief if during that period burning is not allowed because of high risk conditions.
- f. Other conditions as deemed necessary.

8. Animal kennels and shelters.

SECTION 2. 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:

## **DEVELOPMENT DEED RESTRICTION**

**THIS AGREEMENT** (the “Agreement”) is entered into on \_\_\_\_\_, 20\_\_\_\_ (the “Effective Date”) by and between the City of West Fargo, a North Dakota political subdivision, whose principal address is 800 4<sup>th</sup> Avenue East, Suite 1, West Fargo, North Dakota 58078 (the “City”), and \_\_\_\_\_, whose principal address is \_\_\_\_\_ (the “Owner”).

### **RECITALS**

**WHEREAS**, the City desires to encourage orderly and economically feasible growth and prevent new developments from creating economic strains on rural residents; and

**WHEREAS**, the City desires to promote development that will more easily convert to an urban environment and implement the goals and objectives established by the City’s Comprehensive Plan; and

**WHEREAS**, in order to promote these objectives, the City desires to restrict the uses of certain properties in the City’s extraterritorial zone pursuant to N.D.C.C. Chapters 40-47 and 40-48; and

**WHEREAS**, Section 4-421.3 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota (the “Revised Ordinances”) restricts the use of property in the Agricultural District through enforcement of conditionally permitted uses, including non-farm, single family residential dwellings; and

**WHEREAS**, to obtain approval of a conditionally permitted use in the Agricultural District, the non-farm, single family residential dwelling property must comply with certain conditions, including acknowledgement of a deed restriction recorded against the property and the surrounding quarter-quarter section of land or legal lot of record prohibiting further development of non-farm, single family residential dwellings.

**NOW THEREFORE**, in consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## AGREEMENT

1. **Purpose.** The purpose of this Agreement is to promote small, truly rural development that will mesh more easily with existing agricultural land and activities, and will encourage larger urban style subdivisions to develop in the urban fringe and other areas with supporting infrastructure, ensuring developments that will more easily transition into an urban development upon annexation without extensive and costly infrastructure upgrades.
2. **Property.** The restricted parcel covered by this Agreement, located in the County of Cass, State of North Dakota, is further described as follows:

*[Insert legal description]*

(the “Restricted Parcel”).

3. **Deed Restriction.** The deed restriction provided under this Agreement applies to the Restricted Parcel because it is a non-farm, single family residential dwelling less than forty (40) acres in size in the Agricultural District. The deed restriction prohibits the Restricted Parcel from further development of non-farm single family residential dwellings. The Owner understands and acknowledges that this Agreement limits any further divisions or new residences, divisions, or nonagricultural development on the Restricted Parcel, except as permitted by Section 4-421 of the Revised Ordinances and any amendment thereto. The deed restriction may terminate or be released upon any of the following conditions:
  - (a) At such time the Restricted Parcel is rezoned or accompanied by an area plan;
  - (b) At such time the Restricted Parcel is released from the zoning authority of the City;
  - (c) At any time the City desires to release or terminate; or
  - (d) Any further subdivision of the Restricted Parcel will conform to full urban design standards, including but not limited to, paved streets with curb and gutters, paved access streets, municipal sewer system, public water supply system with functioning fire hydrants, storm water facilities, street lights, boulevard trees, street signs, sidewalks, multiuse paths, and municipal or park land dedication.
4. **Release – Satisfaction.** In the event any of the conditions in Section 3 are satisfied, the Owner shall give notice to the City and the City and Owner may execute a Release of Deed Restriction or Satisfaction of Deed Restriction releasing the Restricted Parcel from the conditions of this Agreement. An example Release of Deed Restriction is attached

hereto as **Exhibit A**. The Release of Deed Restriction or Satisfaction of Deed Restriction will then be recorded in the Cass County Recorder's Office.

5. **Runs with the Land.** This Agreement runs with the land in perpetuity and is binding on all owners, successors, heirs, assigns, lessees, users, or parties having or acquiring any right, title, or interest in the Restricted Parcel or any part thereof or until such time as the deed restrictions are terminated or released.
6. **Compliance.** The Restricted Parcel complies with the criteria established under Section 4-421.3(5) of the Revised Ordinances, as amended from time to time.
7. **Termination.** In the event this Agreement is terminated, the parties agree to record a written Release of Deed Restriction or Satisfaction of Deed Restriction, signed by both parties, indicating the parties' intent to terminate or release this Agreement.
8. **Violation.** In the event of a violation of this Agreement, the penalties and remedies provided under Section 1-0211 of the Revised Ordinances and North Dakota law apply.
9. **Waiver.** The failure of the City to enforce any of the provisions of this Agreement, or to exercise any option which is herein provided, or to require performance by the Owner of any of the provisions hereof, will in no way be construed as a waiver of such provisions, nor in any way affect the validity of this Agreement, or any part thereof, or the right of the City to thereafter enforce each and every such provision.
10. **Modification of Agreement.** This Agreement cannot be altered, modified, cancelled, or amended without the written consent of all parties to this Agreement.
11. **Severability.** In the event that any term, part, or provision of this Agreement is held to be invalid or unenforceable, all other terms, parts, or provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable term, part, or provision severed from the remainder of this Agreement.
12. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of North Dakota.
13. **Recording.** This Agreement and any subsequent Release of Deed Restriction or Satisfaction of Deed Restriction will be recorded in the Cass County Recorder's Office.
14. **Counterparts.** This Agreement may be executed 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.

**IN WITNESS WHEREOF** the parties have duly affixed their signatures under hand and seal on the Effective Date first written above.

*[Signatures appear on the following pages.]*

The Legal Description contained herein was prepared by:

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

This Agreement was prepared by:

OHNSTAD TWICHELL, P.C.  
John T. Shockley, City Attorney  
444 Sheyenne Street, Suite 102  
West Fargo, ND 58078  
(701) 282-3249





EXHIBIT A

EXAMPLE RELEASE OF DEED RESTRICTION

**RELEASE OF DEED RESTRICTION**

**THIS INDENTURE** is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the “Effective Date”), by and between *[insert company/name]* (the “Owner”), whose principal address is \_\_\_\_\_; and the City of West Fargo, a North Dakota political subdivision, whose principal address is 800 4<sup>th</sup> Ave. E, Suite 1, West Fargo, North Dakota 58078 (the “City”).

**WHEREAS**, the parties entered into a Deed Restriction Agreement in order for the City to restrict the uses of certain properties in the City’s extraterritorial zone; and

**WHEREAS**, there is a Deed Restriction dated \_\_\_\_\_, which was recorded in the office of the Cass County Recorder on \_\_\_\_\_, as Document Number \_\_\_\_\_, against the following described parcel of land located in Cass County, North Dakota, described as follows:

*[insert legal description of Restricted Parcel]*

(the “Restricted Parcel”); and

**WHEREAS**, at least one of the conditions contained in the Deed Restriction has been satisfied; and

**WHEREAS**, City approves the release and termination of the Deed Restriction described herein.

**NOW THEREFORE**, City, for and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby Release and Terminate the above-described Deed Restriction, as hereinbefore granted over the above described Restricted Parcel, as well as any other rights or privileges under the above described Deed Restriction.

Owner, for itself and its successors in interest, hereby agrees to release the City, and its successors in interest, from any liability related to the Deed Restriction described above. This release includes releasing the City from any duties set forth in the Deed Restriction subject to the Deed Restriction that is now being terminated.





AGENDA ITEM DESCRIPTION  
CITY COMMISSION  
WEST FARGO, NORTH DAKOTA

Agenda # 6

\*\*\*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

2. PHONE NUMBER: 433-5321 DATE: August 16, 2018

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

JB Subdivision, a subdivision and conditional use permit to allow for single family dwelling in an agriculturally zoned district.

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

Property located in the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 33, T140N, R50W, Cass County, North Dakota.

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Approval of the subdivision and conditional use permit, subject to conditions listed in the staff report.

CITY OF WEST FARGO PLANNING & COMMUNITY DEVELOPMENT

STAFF REPORT

A18-32		Subdivision/Conditional Use Permit	
JB Subdivision			
Property located in the NE¼ SE¼ of Section 33, T140N, R50W, Cass County, North Dakota			
Applicant: Jessica Berg Owner: Rosalind Vigen		Staff Contact: Tim Solberg, AICP	
Planning & Zoning Commission Introduction:		07-10-2018	
Public Hearing:		07-10-2018 - Approval	
City Commission:		08-20-2018	

**PURPOSE:**

Plat to allow for a single family dwelling in an agriculturally zoned district.

**STATEMENTS OF FACT:**

Land Use Classification:	C-1: Deferred Development Sector
Existing Land Use:	Vacant
Current Zoning District(s):	A: Agricultural
Zoning Overlay District(s):	NA
Total area size:	2.51 acres
Adjacent Zoning Districts:	A: Agricultural
Adjacent street(s):	166 <sup>th</sup> Avenue NE – Section Line Township Road
Adjacent Bike/Pedestrian Facilities:	None
Available Parks/Trail Facilities:	None

**DISCUSSION AND OBSERVATIONS:**

- The property is located in the City’s extraterritorial (ET) area about two miles northwest of West Fargo.
- The proposed use of a non-farm single family dwelling is considered a conditional use within the Agricultural District subject to the property being platted. Additional conditions are being proposed as an amendment to the A: Agricultural District as Item A18-31 which if approved would allow for a lot size of less than 40 acres if the surrounding ¼, ¼ section or legal lot of record is deed restricted to prevent development until the area is annexed and city services are extended to the area.
- The area is within a Special Flood Hazard Area (SFHA) Zone A however a preliminary flood map has been released which appears currently to indicate the area will be in SFHA Zone AE with a base flood elevation (BFE) of 901.3’. The new building will be required to meet all applicable Federal, State, and Local regulations and may be required to perform a flood study prior to building if preliminary maps have not been adopted at the time of seeking a building permit. City of West Fargo Floodplain Development Regulations will require the applicant to construct the home at 2.5’ above BFE which does not appear to be an issue as the site grading plan show elevations ranging from 900.89’ to 903.83’.

STAFF REPORT

- Access at times of flooding is necessary and the applicant should provide sufficient evidence prior to final consideration by the City Commission that access is available at a 1% chance flooding event in the area.
- A conditional use permit agreement is required to be signed prior to issuance of a building permit and may include conditions deemed appropriate by the Commission.

**CRITERIA FOR GRANTING CONDITIONAL USE PERMIT:**

With reference to the criteria for granting conditional uses, the following is noted:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - The property has adequate access and the improvements will not affect this access. The applicant should provide sufficient evidence prior to final consideration by the City Commission that access is available at a 1% chance flooding event in the area.
2. Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district.
  - No concerns noted
3. Refuse and service areas, with particular reference to the items in (1) and (2) above.
  - 4-448.8 would prohibit exterior storage of equipment or materials used in the occupation.
4. Utilities, with reference of locations, availability, and compatibility.
  - No concerns noted
5. Screening and buffering with reference to type, dimensions, and character.
  - No concerns noted
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
  - No concerns noted
7. Required yards and other open space.
  - No concerns noted.
8. Soil conditions, as they relate to on-site sewage disposal, water supply, basement excavating, road construction and related land use.
  - County Sanitarian stated that the owners will need to obtain a soil sample and apply for their system construction prior to building.
9. General compatibility with adjacent properties and other property in the district.
  - The land adjacent to this area is tilled farm land.

**NOTICES:**

Sent to:	Property owners within 350', Raymond Township officials, Cass County Planning and the Cass County Sanitarian.
----------	---

Comments Received:

- The county health department indicated this appears to be farmland, and isn't affected by any nearby surface water which would impact the placement of the septic. Since the proposed subdivision is over 40,000 square feet, there should be no issues with placing a septic system on

STAFF REPORT

the lot. The owners will need to obtain a soil sample and apply for their system construction prior to building.

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

- Reducing development pressure within the Deferred Development Sector and still allowing reasonable use may be considered consistent with the Comprehensive Plan.

**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. Applicant will need to obtain a soil sample and apply for their system construction prior to building.
2. Applicant provide sufficient evidence prior to final consideration by the City Commission that access to the site is available at a 1% chance flooding event in the area.
3. Proposed text amendment allowing lots less than 40 acres with deed restriction be considered and approved by the City Commission.
4. Signed deed restriction as approved by City Attorney, City Planner, and City Commission be received.
5. Signed Conditional Use Permit Agreement is received.
6. A drainage plan is received and approved by the City Engineer.
7. An Attorney Title Opinion to the City of West Fargo is received.
8. Signed Final Plat is received with any necessary easements.
9. A certificate is received showing taxes are current.

**PLANNING AND ZONING RECOMMENDATION:**

At their July 10, 2018 meeting, the Planning and Zoning Commission approved the subdivision and conditional use permit, subject to the nine conditions listed above. Staff has determined in review of the preliminary flood map that the township road used to access this property is above the 1% chance flooding event and should be useable during spring flooding.

35TH ST SE

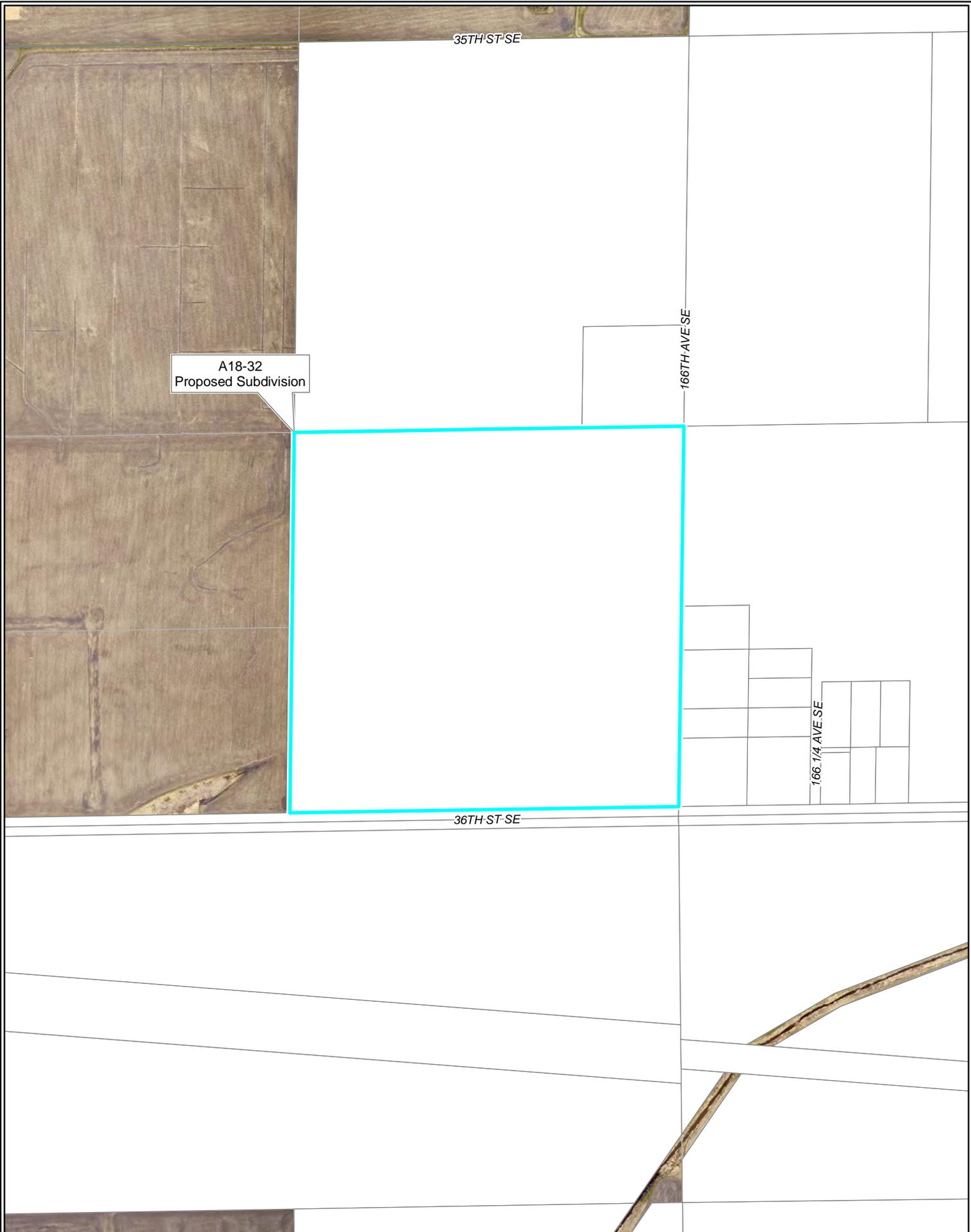
A18-32  
Proposed Subdivision

166TH AVE SE

166 1/4 AVE SE

36TH ST SE





A18-32  
Proposed Subdivision



- |                                  |                                 |   |  |                                    |
|----------------------------------|---------------------------------|---|--|------------------------------------|
| A: Agricultural                  | HC: Heavy Commercial            | P-PUD: PUD in Public                    | R-1SM: Mixed One and Two Family Dwelling | R-5: Manufactured Home Subdivision |
| C: Light Commercial              | LI: Light Industrial            | R-L1A: Large Lot Single Family Dwelling | R-2: Limited Multiple Dwelling           | R-1E: Rural Estate                 |
| C-PUD: PUD in General Commercial | CM-PUD: PUD in Light Industrial | R-1A: Single Family Dwelling            | R-3: Multiple Dwelling                   | R-R: Rural Residential             |
| C-OP: Commercial Office Park     | M: Heavy Industrial             | R-1: One and Two Family Dwelling        | R-4: Mobile Home                         | R-PUD: PUD in Residential          |
| C-OP-PUD: PUD in Office Park     | P: Public                       |   |  |                                    |





# *Conditional Use Permit*

State of North Dakota,  
County of Cass,  
City of West Fargo

WHEREAS, **Jessica Berg** (hereinafter referred to as the “**Applicant**”) has paid the sum of two hundred dollars (\$200.00) to the City of West Fargo, as required by the City of West Fargo Zoning Ordinance, and has complied with all the requirements of said ordinance necessary for obtaining this permit; and

WHEREAS, the **Applicant** is the legal owner of property located in the NE ¼, of the SE ¼, of Section 33, T140N, R50W, legally described as (hereinafter referred to as the “**Property**”):

## **Lot 1, Block 1 of JB Subdivision**

and, WHEREAS, the **Property** is adjacent to right of way which is not improved, nor is likely to be improved due to a retention pond which is immediately east of said right of way within Fargo City Limits therefore the required side yard setback is not subject to requirements of corner lots facing a public way;

NOW, THEREFORE, by order of the West Fargo City Commission, the said applicant is hereby issued a Conditional Use Permit to:

## **Construct a non-farm single family dwelling in the Agricultural Zoning District.**

on the above-described Property with the following conditions:

1. Applicant obtain a soil sample and apply for their system construction prior to building.
2. Signed deed restriction as approved by City Attorney, City Planner, and City Commission be received.
3. Final plat be approved and recorded for JB Subdivision.
4. Any and all claims that arise or may arise against Applicant, its agents, servants, or employees while engaged in the use of the Property, shall in no way be the obligation of the City of West Fargo. Furthermore, Applicant, its agents servants, employees, or assigns shall indemnify, hold harmless, and defend the City, its officers and employees against any and all liability, loss, costs, damages, expenses, claims, actions, or judgments, including attorneys’ fees which the City, its officers or employees may hereafter sustain, incur, or be required to pay, in any way connected with the use of the Property or City actions related to the granting of this Conditional Use Permit.
5. Any improvements made to the property in connection with this Conditional Use Permit shall be at the sole expense of the Owner and shall not be the obligation of the City.



Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**WEST FARGO BOARD OF CITY  
COMMISSIONERS:**

\_\_\_\_\_  
Bernie L. Dardis, President of the Board

STATE OF NORTH DAKOTA    )  
  )  
COUNTY OF CASS            )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Bernie L. Dardis, known to me to be the person who is described in and who executed the above and foregoing document and acknowledged to me that he executed the same.

[SEAL]

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

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**WEST FARGO PLANNING & COMMUNITY  
DEVELOPMENT DEPARTMENT:**

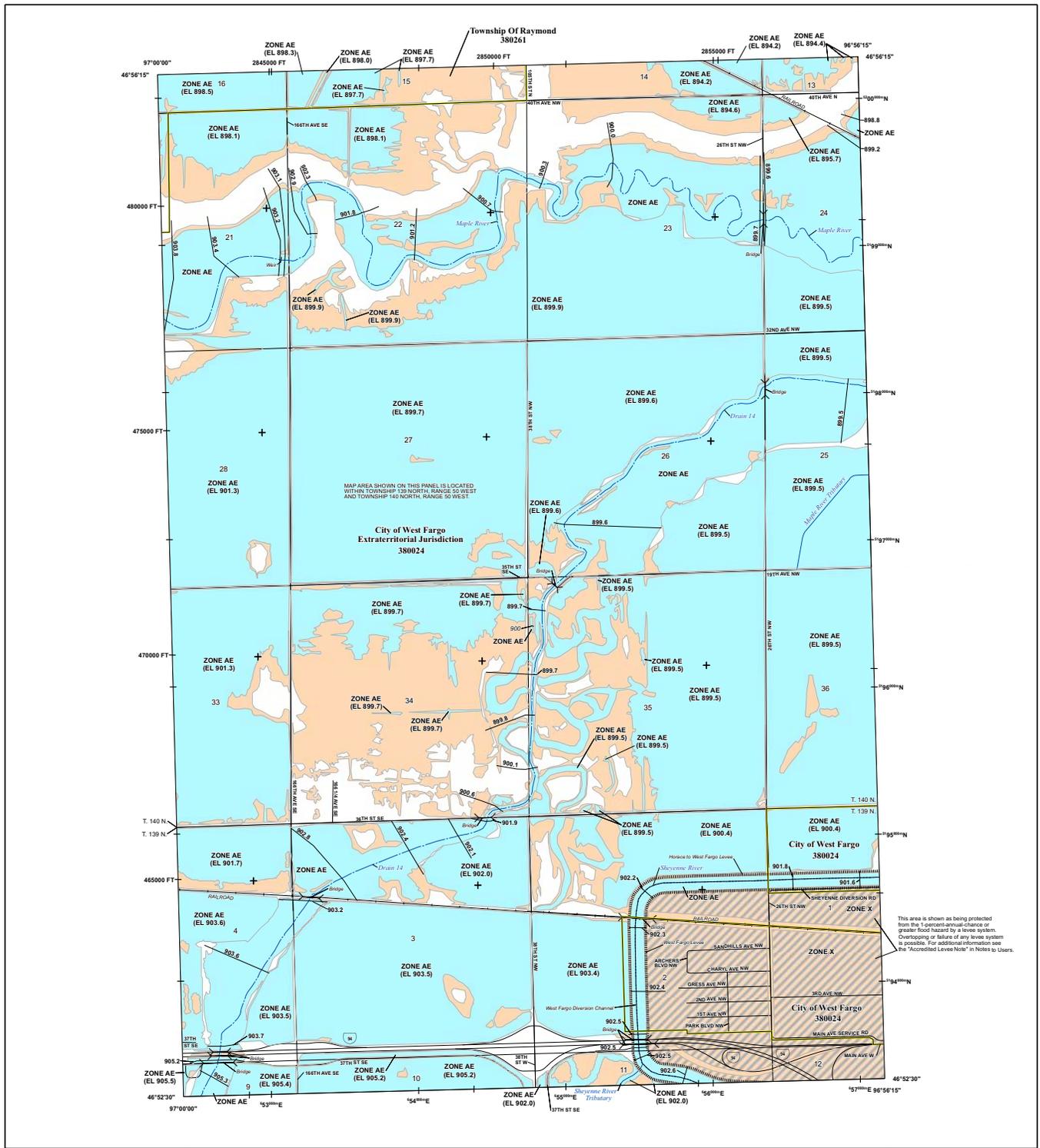
\_\_\_\_\_  
Tim Solberg, Director of Planning and Zoning

STATE OF NORTH DAKOTA    )  
  )  
COUNTY OF CASS            )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Tim Solberg, known to me to be the person who is described in and who executed the above and foregoing document and acknowledged to me that he executed the same.

[SEAL]

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



**FLOOD HAZARD INFORMATION**

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT. THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT [HTTP://MSC.FEMA.GOV](http://MSC.FEMA.GOV)

	Without Base Flood Elevation (BFE)
	Zone A, X, AE
	With BFE or Depth Regulatory Floodway
	0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile
	Future Conditions 1% Annual Chance Flood Hazard
	Area with Reduced Flood Risk due to Levee
	NO SCREEN
	Area of Minimal Flood Hazard
	Area of Undetermined Flood Hazard
	Channel, Culvert or Storm Sewer
	Levee, Dike or Floodwall
	Cross Sections with 1% Annual Chance Water Surface Elevation (BFE)
	Cross Sections with 1% Annual Chance Water Surface Elevation (BFE)
	Coastal Transect
	Coastal Transect Baseline
	Profile Baseline
	Hydrographic Feature
	Base Flood Elevation Line (BFE)
	Limit of Study
	Jurisdiction Boundary

**NOTES TO USERS**

For information and questions about this map, available products associated with this FIRM including historic versions of this FIRM, flow to other products or the National Flood Insurance Program in general, please call the FEMA Map Information eXchange at 1-877-FEMA-MAP (1-877-338-2627) or visit the FEMA Map Service Center website at <http://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the website. Users may determine the current map date for each FIRM panel by visiting the FEMA Map Service Center website or by calling the FEMA Map Information eXchange.

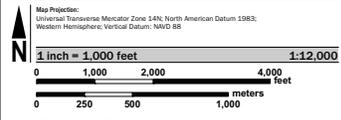
Comments regarding land on adjacent FIRM panels must obtain a current copy of the adjacent panel as well as the current FIRM index. These may be ordered directly from the Map Service Center at the number listed above.

For community and countywide map dates refer to the Flood Insurance Study report for this jurisdiction. To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

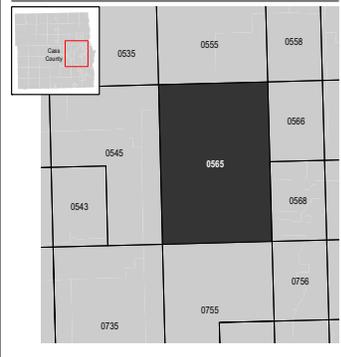
Base map information shown on this FIRM was provided in digital format by the Cass County GIS Department dated January 2009. Corporate Boundaries and Transportation features were updated January 2010 based on Cass County GIS Department data.

**ACCREDITED LEVEE:** Check with your local community to obtain more information, such as the estimated level of protection provided (which may exceed the "certified-annual-chance level) and Emergency Action Plan, on the levee system(s) shown as providing protection for areas on this panel. To mitigate flood risk in residual risk areas, property owners and residents are encouraged to consider flood insurance and floodproofing or other protective measures. For more information on flood insurance, interested parties should visit <http://www.fema.gov/national/flood-insurance-program>.

**SCALE**



**PANEL LOCATOR**



**NATIONAL FLOOD INSURANCE PROGRAM**  
FLOOD INSURANCE RATE MAP

**CASS COUNTY, NORTH DAKOTA**  
(All Jurisdictions)  
PANEL 565 of 995

**FEMA**  
National Flood Insurance Program

Panel Contains:  
COMMUNITY: RAYMOND, TOWNSHIP OF WEST FARGO, CITY OF  
NUMBER: 380261  
PANEL: 0565  
SUFFIX: H

**PRELIMINARY**  
1/29/2016

VERSION NUMBER: 2.3.3.2  
MAP NUMBER: 38017C0565H  
MAP REVISED



Larry M. Weil, Director of Community Development  
Tim Solberg, AICP, Director of Planning and Zoning  
Lisa Sankey, Assistant Planner

**- Memorandum -**

TO: West Fargo City Commission  
FROM: Tim Solberg, AICP, Director of Planning and Zoning  
RE: August 20, 2018 City Commission Agenda  
DATE: August 16, 2018

The CO: Corridor Overlay District standards require a higher construction standard than other areas of the City (section 4-431.5.2). In areas of the Corridor Overlay District, which is zoned Light Commercial, any exposed metal or fiberglass on all buildings shall be limited to no more than thirty (30) percent of any wall which fronts on a public street, provided that it is coordinated into the architectural design. Seventy percent (70%) of any wall (facade area) which fronts on a public street shall be constructed of glass, brick, wood, stone, architectural concrete cast in place or precast concrete panels, or, as approved by the Commission(s), other integrated materials per the architectural design.

Building plans have been submitted for review to the City for a Dollar General located along the south side of 32<sup>nd</sup> Ave W at 425 32<sup>nd</sup> Ave W. The building is faced with HardiePlank Lap Siding with a "Cedarmill" finish on two elevations, and simple metal panel on the other two elevations. Staff believes Commission consideration is required because the proposed siding type is not identified within the requirements stated above. HardiePlank lap siding is more typical of residential structures, and staff does not feel it is a material included in the requirements of the CO district standards.

This is the company's first revision to the original permit. The previous submittal was faced primarily with metal panel and was returned by staff to be revised.

Staff sought a motion regarding the interpretation from the Planning and Zoning Commission to the City Commission for their consideration. At their August 14, 2018 meeting, the Planning and Zoning Commission indicated that HardiePlank does not meet requirements as presented; however, could be acceptable with changes to the architectural design to break up the façade.

TPS

enclosures



11827 W. 12th Street  
Suite 102  
Owensboro, KY 40301  
Kansas: 66510

**Abeln & Associates**  
Architects, P.A.

(913) 345-8833

HLH/MLA

**DOLLAR GENERAL**  
425 32nd Ave. W  
West Fargo, North Dakota

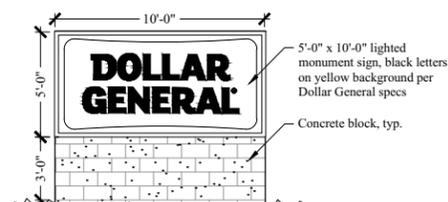
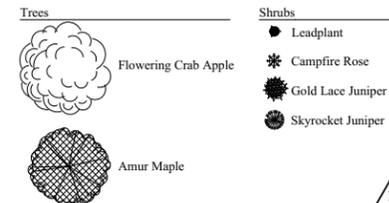
Project # - 1747

**DATE**  
May 18, 2018  
revisions  
July 09, 2018

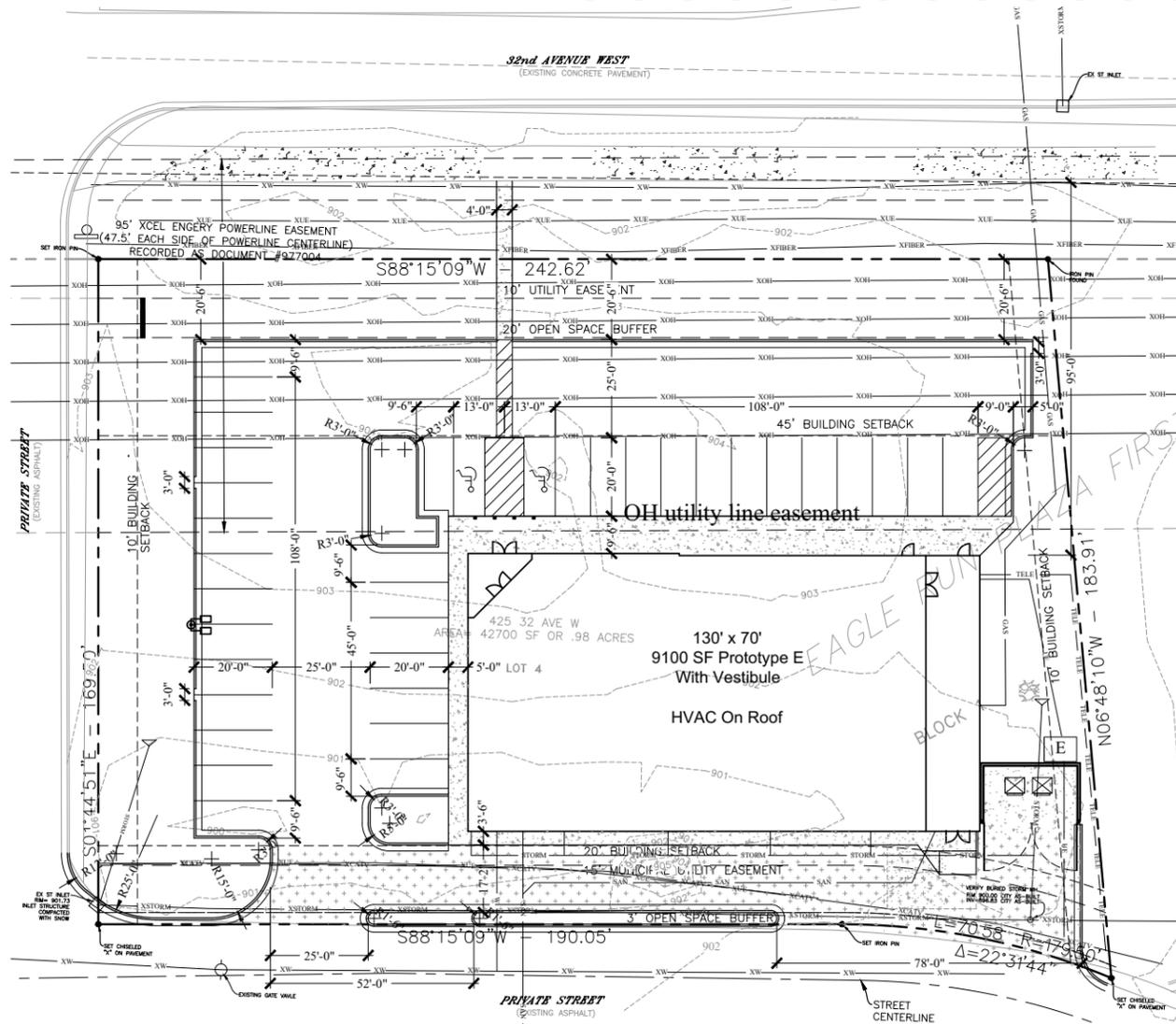
**SHEET NUMBER**  
**SP-3**  
Landscape & Dimension Plans

Landscape Calculations		
Units Required: 42,700/1,000 = 42.7 x 4 = <b>170.8</b>		
	units possible	units provided
Small, Deciduous Tree	7	35 (20%)
Shrubs	5	140 (80%)
<b>Total Provided</b>		<b>175</b>

Landscape Schedule					
Key	Common Name	Botanical Name	Qty	Size	Cond.
ARM	Maple - Amur	Acer ginnala	3	1.5" caliper	Ball & Burlap
FCA	Crabapple - Flowering	Malus Hybrids	2	1.5" caliper	Ball & Burlap
SHJ	Juniper - Sky High	Juniperus scopulorum 'Bailligh'	27	2 gallon	Potted
CFR	Campfire Rose	Rosa 'CA 29'	37	2 gallon	Potted
LDP	Leadplant	Amorpha canescens	43	2 gallon	Potted
GLJ	Juniper - Gold Lace	Juniperus chinensis 'Gold Lace'	33	12" - 18" high	Potted
	Kentucky Bluegrass	Poa pratensis			Seed / Sod
	Mulch				

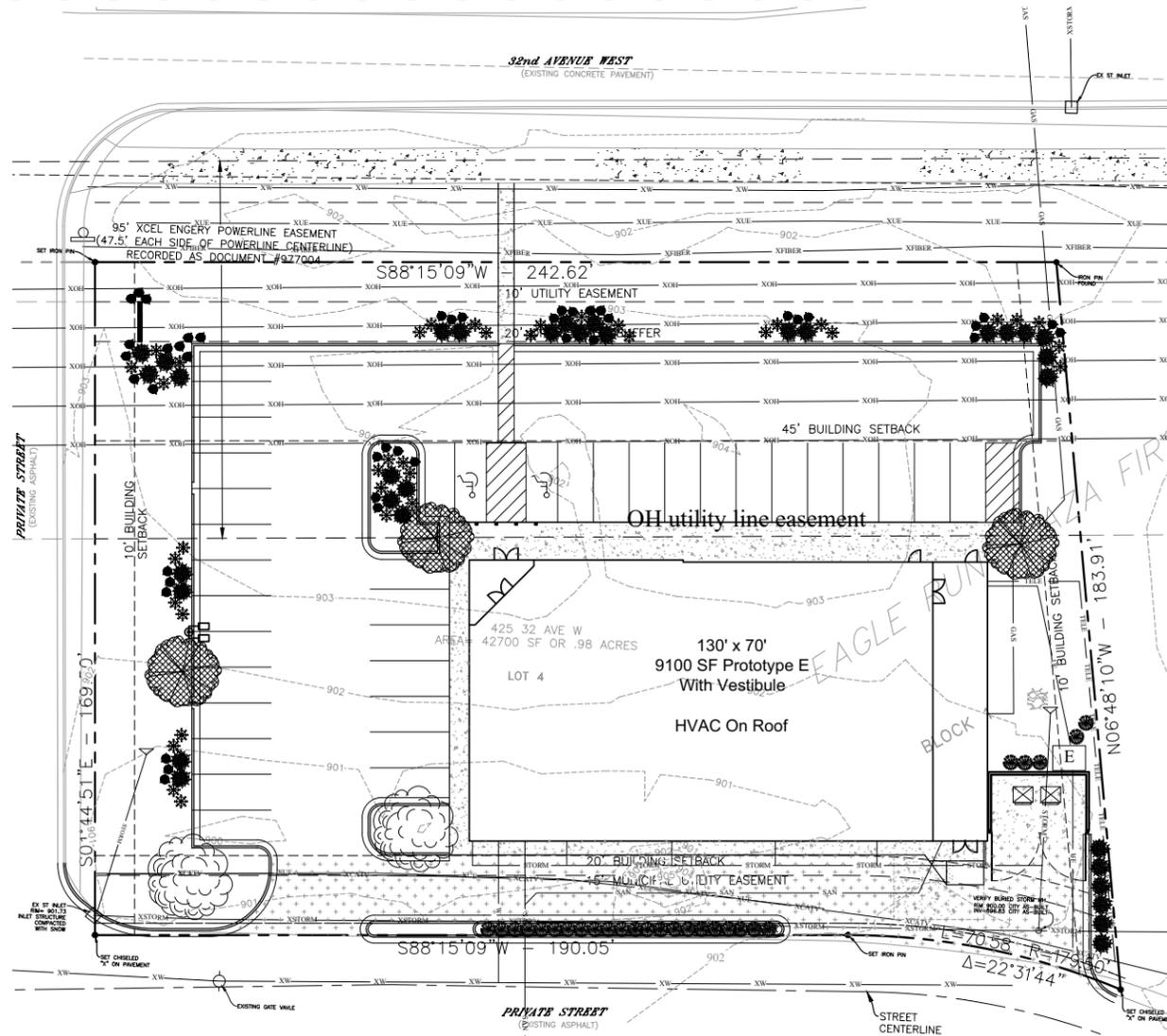
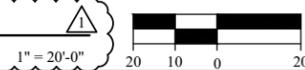


**16 Monument Sign**  
1/4" = 1'-0"



**2 Dimension Plan**

Prototype changed to "E", and site plan updated accordingly.



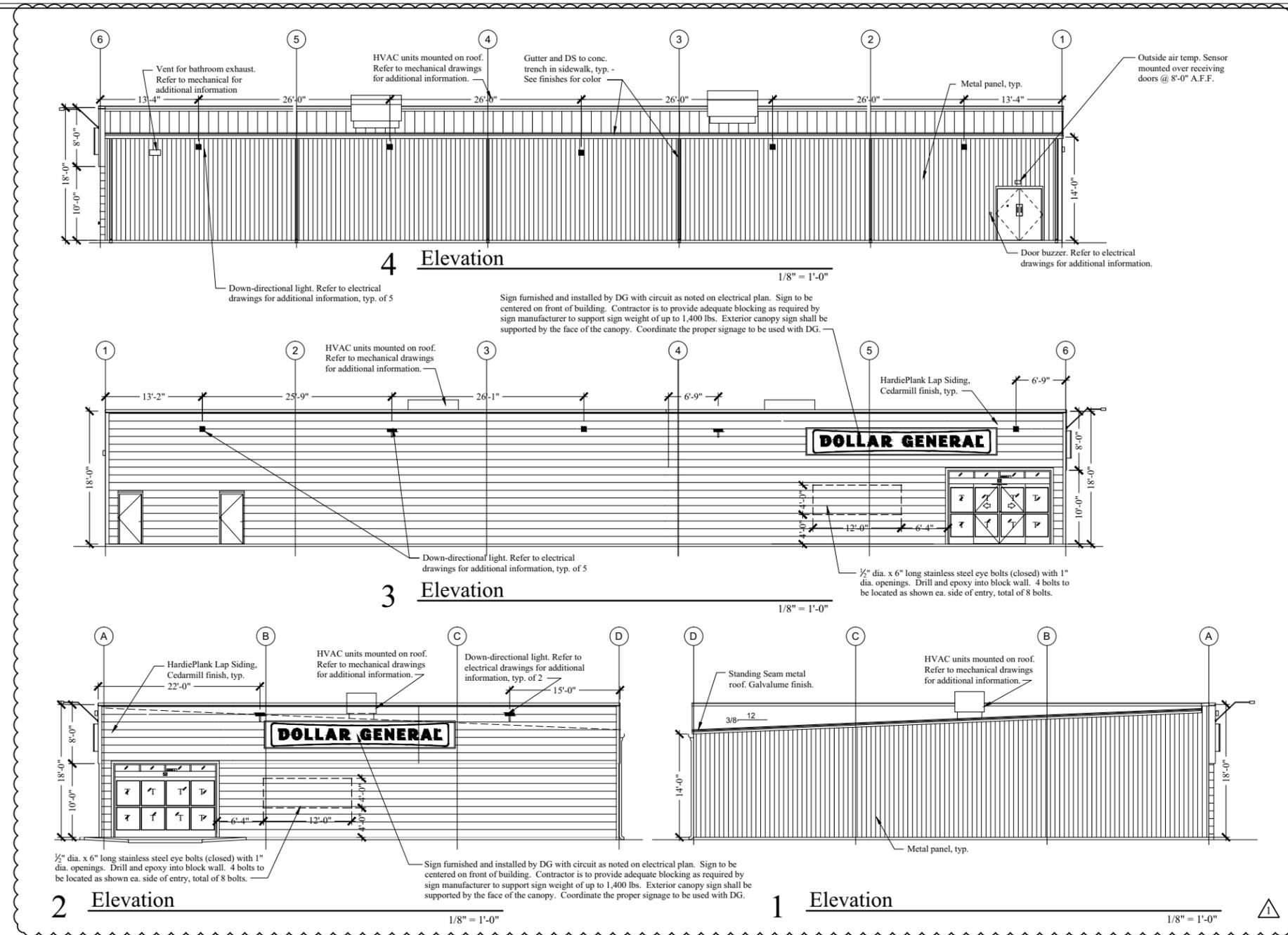
**1 Landscaping Plan**

Prototype changed to "E" & added additional plantings as requested by City.



# General Notes

- All exterior metal shall be primed and painted, including gas piping, steel bollards, dock bumpers, doors and frames, handrails, guardrails, electrical boxes and conduits, vents, etc. Color by Architect.
- "T" at Storefront indicates Tempered Plate Glass per local ordinance.
- No exposed metal fasteners allowed per city.



Building Sign				
Size	Weight	# of Circuits	Amps	Voltage
3'-9" x 26'-0" box	441 lbs	(1) 15 A	5.0	115
Pylon Sign				
Size	Weight	# of Circuits	Amps	Voltage
5'-0" x 10'-0"	375 lbs	(1) 15 A	3.4	115

\*Standard signs shown, sign size subject to change at Dollar General's discretion.

	PRE-ENGINEERED METAL BUILDING VENDOR	VP BUILDINGS ATTN: DAVID ENGLISH (901) 748-6103	STAR BUILDING SYSTEMS ATTN: RODNEY BURF (800) 879-7827	NUCOR BUILDING SYSTEMS ATTN: BOB BARRY (315) 622-4440 (260) 837-7891	BIG BEE STEEL BUILDINGS, INC. ATTN: KEVIN BUSLER (800) 633-3378	CHIEF BUILDINGS ATTN: ERIN SULLIVAN (308) 385-4628 (308) 390-8199
<b>EXTERIOR FINISHES</b>						
EXTERIOR FINISHES ARE TO MATCH OR BE EQUAL TO VP METAL BUILDING SYSTEMS FINISH SELECTION.	COOL EGYPTIAN WHITE	COOL DARK BRONZE	BRONZE	COOL COTTON WHITE	GALVALUME	LIGHTSTONE
GUTTERS	•	•	•	•	•	•
DOWN SPOUTS	•	•	•	•	•	•
SIDE AND REAR METAL PANELS "A" & TRIM, RECEIVING & EMERGENCY EXIT DOORS	•	•	•	•	•	•
FLAT METAL SOFFIT AT STOREFRONT VESTIBULE AREA						
METAL PANEL "R", REVERSE RIB PANEL @ VESTIBULE	•	•	•	•	•	•
STOREFRONT SYSTEM						
STANDING SEAM METAL ROOF PANELS						
LINER PANELS (INTERIOR SALES FLOOR AND RECEIVING)						

- FINISH NOTES:**
- REFER TO SHEET T-1 FOR ADDITIONAL INFORMATION ON RECOMMENDED NATIONAL ACCOUNT VENDORS.
  - NATIONAL ACCOUNT AND CONTACT INFORMATION SUBJECT TO CHANGE.
  - IF ALTERNATE IS REQUIRED FOR "LIGHT STONE" COLOR, SW 6149 "RELAXED KHAKI" SHALL BE USED FOR PINNACLE BUILDINGS & SW 7051 "ANALYTICAL GRAY" SHALL BE USED FOR VP BUILDINGS AS ALLOWED BY AHJ.
  - IF ALTERNATE MATERIAL IS REQUIRED FOR "DARK BRONZE" PANEL COLOR IT SHALL BE PAINTED TO MATCH SW 7055 "ENDURING BRONZE" FOR PINNACLE BUILDINGS & SW7020 "BLACK FOX" SHALL BE USED FOR VP BUILDINGS AS ALLOWED BY AHJ.

- PRE-ENGINEERED METAL BUILDING NOTES**
- METAL BUILDING NOTES:**
- THE PRE-MANUFACTURED METAL BUILDING STRUCTURE, CONCRETE FOUNDATION, AND INTERIOR CONCRETE SLAB SHALL BE DESIGNED, DETAILED, FABRICATED, AND CONSTRUCTED IN ACCORDANCE WITH ALL APPLICABLE CODES, STANDARDS AND REGULATIONS. THE MOST STRINGENT REQUIREMENTS APPLY WHERE INCONSISTENCIES OCCUR BETWEEN THE APPLICABLE STANDARDS. IN THE ABSENCE OF OTHER CRITERIA, LOADINGS SHALL CONFORM TO THE EDITION OF THE INTERNATIONAL BUILDING CODE LISTED ON THE COVER SHEET T1.
  - THE SCOPE OF THE PRE-MANUFACTURED METAL BUILDING STRUCTURE SHALL INCLUDE THE DESIGN, ENGINEERING, FABRICATION, DELIVERY, AND ERECTION OF THE COMPLETE STRUCTURAL STEEL FRAMING AND EXTERIOR SKIN PACKAGE. THE METAL BUILDING MANUFACTURER SHALL BE CERTIFIED BY AMERICAN INSTITUTE OF STEEL CONSTRUCTION (AISC) METAL BUILDING CERTIFICATION PROGRAM.
  - THE FRONT FASCIA SHALL HAVE (3) 12" PURLINS (MOUNTED VERTICALLY SO THAT THE 12" FACE IS AGAINST THE BUILDING METAL SIDING. THESE PURLINS SHALL BE CENTERED OVER THE ENTRANCE AND SPACED 96" APART TO PROVIDE ADEQUATE SUPPORT FOR SIGNAGE WHICH MAY WEIGH UP TO 1,400 LBS.
- ROOF NOTES:**
- METAL ROOF MUST BE A STRUCTURAL STANDING SEAM METAL ROOF WITH MECHANICALLY ROLLED SEAMS. SEAMS TO BE A MINIMUM 1 1/2" HIGH. ALL FASTENERS TO BE CONCEALED.
  - ROOF PANELS TO BE A MINIMUM 24 GAUGE.
  - METAL ROOF SYSTEM TO BE EQUAL TO VP BUILDING SSR ROOF.
  - CONDENSATE FROM HVAC UNITS TO BE PIPED TO GUTTERS.

- SIGN SPECIFICATIONS**
- BUILDING SIGNS:** PROVIDE CONDUIT FROM ELECTRICAL PANEL TO THE CENTER OF THE SIGN CANOPY. THE CONDUIT IS TO BE 1" AND HAVE ONE SET OF 10/2 WIRE WITH GROUND. BUILDING CANOPY MUST BE SUFFICIENTLY BUILT TO SUPPORT THE DOLLAR GENERAL SIGN OF UP TO 1400 LBS. NOTE: IF THE LEASE SPECIFIES A 5'-0" X 40'-0" BUILDING SIGN OR 24" LETTER SET (OR LARGER), 2 qty. - 10/2 WIRE WITH GROUND.
  - MONUMENT SIGNS:** PROVIDE CONDUIT FROM ELECTRICAL PANEL TO LOCATION OF THE SIGN BASE. BURY CONDUIT UNDER PARKING AREA. THE CONDUIT IS TO BE 1" AND HAVE ONE SET OF 10/2 WIRE WITH GROUND. PROVIDE CONCRETE MONUMENT SIGN BASE 6" WIDER THAN SIGN IN ALL DIRECTIONS, AND 42" DEEP.
  - FINAL ELECTRICAL CONNECTIONS FOR SIGN SHALL BE THE G.C. RESPONSIBILITY AFTER SIGNS ARE INSTALLED.
  - SIGN PERMITS TO BE APPLIED FOR AND OBTAINED BY DOLLAR GENERAL.



11827 W. 12th Street  
Suite 102  
Owensboro, KY 40301  
Kansas 66210

**Abeln & Associates**  
Architects, P.A.

(913) 345-8833

HLH/MLA

**DOLLAR GENERAL**  
425 32nd Ave. W  
West Fargo, North Dakota

Project # - 1747

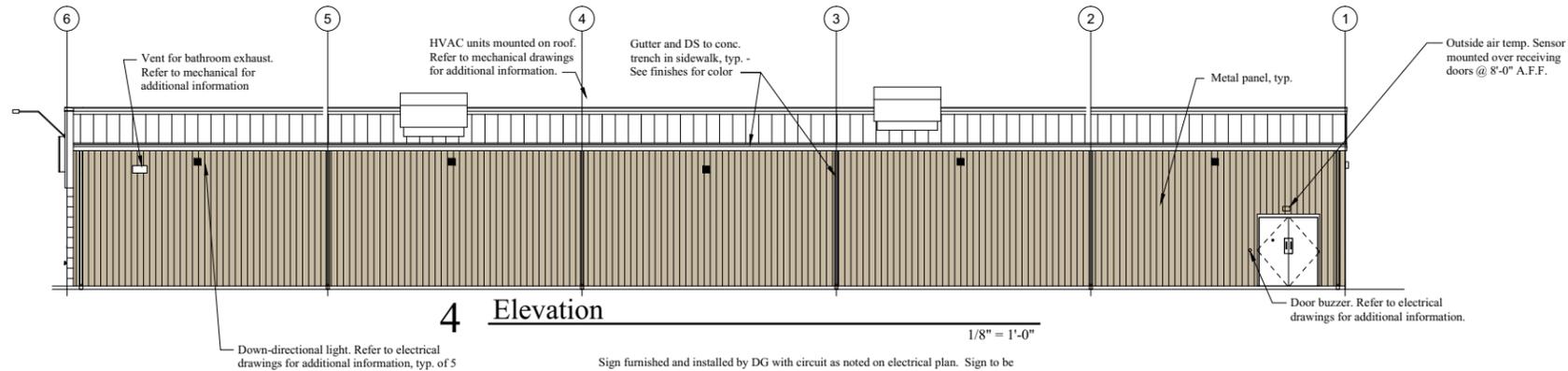
**DATE**

May 18, 2018  
revisions  
July 09, 2018

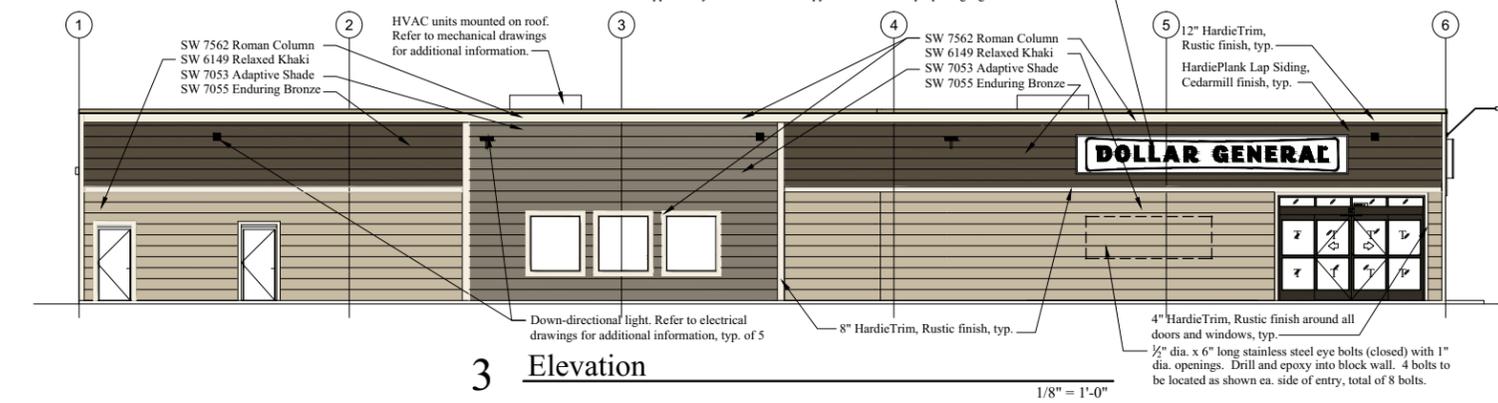
**SHEET NUMBER**

**A-301**

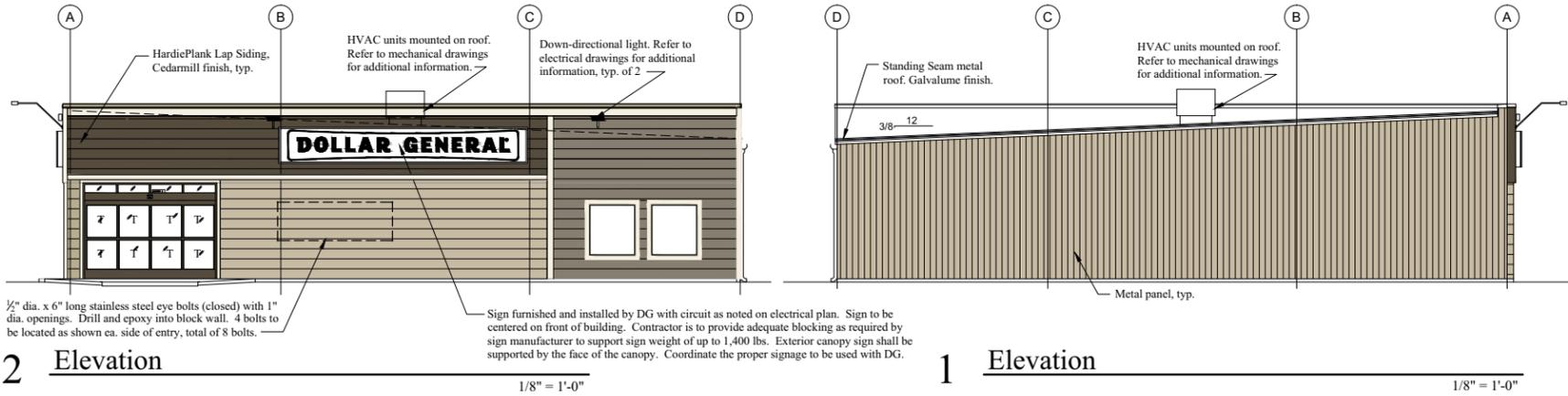
Elevations



4 Elevation  
1/8" = 1'-0"



3 Elevation  
1/8" = 1'-0"



2 Elevation  
1/8" = 1'-0"

1 Elevation  
1/8" = 1'-0"

11827 W. 112th Street  
Suite 102  
Overland Park, Kansas 66210  
**Abeln & Associates**  
Architects, P.A.  
(913) 345-8833

HLH/MLA

**DOLLAR GENERAL**  
425 32nd Ave. W  
West Fargo, North Dakota

Project # - 1747

DATE

May 18, 2018	revisions
▲ July 09, 2018	
▲ August 16, 2018	

SHEET NUMBER  
**A-301**  
Elevations

**AGENDA ITEM DESCRIPTION**  
**CITY COMMISSION**  
**WEST FARGO, NORTH DAKOTA**

\*\*\*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: James R. Bullis
  
2. PHONE NO. 282-4692 DATE: August 20, 2018
  
3. PLEASE BRIEFLY DESCRIBE YOUR REQUEST: \_\_\_\_\_  
Review the Developer's Petition to add Wilds 11<sup>th</sup> Addition improvements to Sewer, Water,  
Storm and Street Improvement District No. 1305 via Work Change Directive to the General Contract.  
Review Engineer's Opinion of Estimated Cost for additional improvements to Sewer, Water,  
Storm and Street Improvement District No. 1305 per Petition request.
  
4. SITE ADDRESS OR LEGAL DESCRIPTION (if applicable):  
The Wilds 9th Addition & Sanitary Lift Station (SA 46)
  
5. ACTION BEING REQUESTED FROM CITY COMMISSION: \_\_\_\_\_  
Accept the Petition for adding improvements to Sewer, Water, Storm and Street Improvement  
District No. 1305 via Work Change Directive to the General Contract.  
Authorize Engineer to prepare Final Work Change Directive documents.  
Authorize City Staff to review and approve Final Work Change Directive for Sewer, Water,  
Storm and Street Improvement District No. 1305.

Sewer, Water, Storm and Street Improvement District No. 1305  
The Wilds 9th Addition & Sanitary Lift Station (SA 46)  
West Fargo ND  
Project No. 19729

Engineer's Opinion of Estimated Cost - Wilds 11th Addition Phase 1 Underground

BID ITEM NO. & DESCRIPTION	UNIT	ESTIMATED QUANTITY	BID UNIT PRICE	BID PRICE
<b>CONTRACT 1 - GENERAL CONSTRUCTION</b>				
<b><u>Sanitary Sewer Items</u></b>				
1. Sanitary Sewer - Connect To Existing	Each	2	\$500.00	\$1,000.00
2. Sanitary Sewer - 8" PVC SDR 35	LF	4,399	\$26.00	\$114,377.38
3. Sanitary Sewer - 8" PVC SDR 26	LF	250	\$57.00	\$14,250.00
4. Sanitary Sewer Manhole - 48"	Each	19	\$4,200.00	\$79,800.00
5. External Manhole Chimney Seal	Each	19	\$0.01	\$0.19
6. Sanitary Sewer Cleanout	Each	1	\$450.00	\$450.00
7. Sanitary Sewer Service Connection - 6" PVC SDR 26	Each	115	\$220.00	\$25,300.00
8. Sanitary Sewer Service - 6" PVC SDR 26	LF	5,290	\$12.75	\$67,447.50
9. Sanitary Sewer Televising Riser	Each	115	\$350.00	\$40,250.00
10. Televising - Sanitary Sewer Main	LF	4,649	\$1.00	\$4,649.13
11. Televising - Sanitary Sewer Service	Each	115	\$30.00	\$3,450.00
<b><u>Water Main Items</u></b>				
1. Water Main - Connect To Existing	Each	3	\$200.00	\$600.00
2. Water Main - 8" PVC C900	LF	4,621	\$19.00	\$87,799.00
3. Specials	Lbs	4,000	\$2.15	\$8,600.00
4. Gate Valve & Box - 6"	Each	10	\$875.00	\$8,750.00
5. Gate Valve & Box - 8"	Each	11	\$1,300.00	\$14,300.00
6. Hydrant - 10'	Each	10	\$3,550.00	\$35,500.00
7. Hydrant Lead - 6" PVC C900	LF	100	\$17.00	\$1,700.00
8. Corporation - 1"	Each	115	\$150.00	\$17,250.00
9. Curb Stop & Box - 1"	Each	115	\$290.00	\$33,350.00
10. Water Service Line - 1"	LF	5,290	\$9.00	\$47,610.00
<b><u>Storm Sewer Items</u></b>				
1. Storm Sewer - Connect To Existing	Each	1	\$1,000.00	\$1,000.00
2. Storm Sewer - 12" PP	LF	1,300	\$20.00	\$26,000.00
3. Storm Sewer - 15" RCP	LF	1,589	\$30.00	\$47,670.00
4. Storm Sewer - 18" RCP	LF	670	\$33.00	\$22,110.00
5. Storm Sewer - 24" RCP	LF	599	\$42.00	\$25,158.00
6. Storm Sewer - 27" RCP	LF	609	\$55.00	\$33,495.00
7. Storm Sewer - 42" RCP	LF	142	\$115.00	\$16,330.00
8. Storm Sewer - 72" RCP	LF	350	\$290.00	\$101,500.00

Sewer, Water, Storm and Street Improvement District No. 1305  
The Wilds 9th Addition & Sanitary Lift Station (SA 46)  
West Fargo ND  
Project No. 19729

Engineer's Opinion of Estimated Cost - Wilds 11th Addition Phase 1 Underground

BID ITEM NO. & DESCRIPTION	UNIT	ESTIMATED QUANTITY	BID UNIT PRICE	BID PRICE
9. Storm Sewer Force Main - 30" DIP	LF	300	\$325.00	\$97,500.00
10. Storm Sewer Manhole - 60"	Each	21	\$3,700.00	\$77,700.00
2. Storm Sewer Control Structure	Each	1	\$23,000.00	\$23,000.00
3. Storm Sewer Catch Basin - 2' x 3'	Each	22	\$1,750.00	\$38,500.00
4. Storm Sewer Catch Basin - 30"	Each	10	\$1,050.00	\$10,500.00
5. External Manhole Chimney Seal	Each	53	\$0.01	\$0.53
6. End Section - 72" RCP Flared	Each	2	\$3,500.00	\$7,000.00
<b>General Items</b>				
1. Cleaning	LSum	1	\$1,000.00	\$1,000.00
2. Storm Water Management	LSum	1	\$1,000.00	\$1,000.00
3. Traffic Control	LSum	1	\$1,000.00	\$1,000.00
4. Mowing	Acre	15.0	\$100.00	\$1,500.00
5. Excavation - 6" Topsoil Stripping	CY	24,500	\$1.00	\$24,500.00
6. Rear Yard Grading	SY	7,500	\$2.00	\$15,000.00
7. Inlet Protection Device	Each	32	\$85.00	\$2,720.00
8. Sedimentation Control Fence	LF	4,000	\$1.50	\$6,000.00
9. Stabilized Construction Entrance	Each	1	\$500.00	\$500.00
10. Seeding - Type II	Acre	10.0	\$900.00	\$9,000.00
11. Mulch - Type B - Hydromulch	Acre	5.0	\$950.00	\$4,750.00
12. Mulch - Type A - Permanent Straw	Acre	25.0	\$250.00	\$6,250.00
Construction Subtotal				\$1,207,116.73
Contingencies				\$122,883.27
<b>Total Change Order Construction Cost</b>				<b>\$1,330,000.00</b>
Engineering				\$146,300.00
Legal & Administration				\$133,000.00
Bond Discount				\$53,200.00
<b>TOTAL CHANGE ORDER COST</b>				<b>\$1,662,500.00</b>

## **Matt Welle**

---

**From:** Jon Youness <jyouness@eagleridgecompanies.com>  
**Sent:** Monday, July 02, 2018 4:22 PM  
**To:** Matt Welle; Dustin T. Scott  
**Cc:** Jim Bullis  
**Subject:** Wilds 11th  
**Attachments:** Wilds 11th Phasing Plan.pdf

Matt/Dustin,

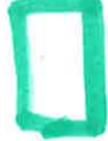
Thank you for taking to time to meet today to discuss Wilds 11<sup>th</sup>. I would like to request the utilities and paving for phase 1 of Wilds 11<sup>th</sup> (shown on the attached exhibit) be change ordered onto the Wilds 9<sup>th</sup> contract with Dakota Underground. Between completing the pond grading, constructing the bike trails, completing the storm sewer lift station, and coordinating the construction/install of phase 3 power to the storm sewer lift station and all the potential water and sewer utility conflicts, I think it make sense to only have one contractor working in that area. Please let me know if you have any questions or if you need any additional information from me for this request. A subsequent request will be made for phase 2. Thanks again.

Jon

Jonathan Youness, PE  
Director of Development  
Eagle Ridge Development  
4631 40<sup>th</sup> Avenue South, Ste 150  
Fargo, ND 58104  
(c) 701-306-0799  
(f) 701-281-8007  
(e) jyouness@eagleridgecompanies.com

PHASE III POWER FOR STS LIGHT STATION 52ND AVENUE WEST



-  - WILDS I/IIA
-  - PHASE I BOUNDARY
-  - WILDS I/IIA
-  - PHASE II BOUNDARY
-  - EXISTING PAVEMENT

$\Delta = 20^{\circ}35'55''$   
 $R = 2020.32'$   
 $L = 726.34'$   
 $CH. = 722.43'$   
 $CH. BRG. = N05^{\circ}20'32''E$

$\Delta = 16^{\circ}48'45''$   
 $R = 287.17'$   
 $L = 84.83'$   
 $CH. = 80.03'$   
 $CH. BRG. = N071^{\circ}35'7''E$

$102.35'$   
 $N01^{\circ}11'15''W$

DETENTION POND #4  
TRAIL SYSTEM

DETENTION POND #3

PACK W/ TRAILS

9TH STREET WEST

11TH STREET WEST

10TH STREET

ASHLEY

CATHY DRIVE WEST

DEB DRIVE WEST

ASHLEY LANE WEST

130.00'

S89^{\circ}08'43''W

130.00'

S00^{\circ}53'17''E

288.76'

S12^{\circ}14'02''E

130.00'

S00^{\circ}53'17''E

130.00'

130.00'

S00^{\circ}53'17''E

130.00'

130.00'

S00^{\circ}53'17''E

130.00'

130.00'

S00^{\circ}53'17''E

130.00'

130.00'

S00^{\circ}53'17''E

130.00'

130.00'

S00^{\circ}53'17''E

# Regular Agenda Item #9

## STAFF REPORT

**Project Name:** Henco Properties LLC

**Project Location:** 1433 Main Ave. East

**Contact Name:** Odee Henrickson

**Contact Phone:** 320-979-0757

**Email:** ohenrickson@charter.net

**Purpose:** Renaissance Zone Project

**Background:** New build on vacant lot to land a comercial operator.

**Timeline:** 2018 Start

Assessment Department	YES	NO
Property Taxes Current	✓	
Additional Notes: <i>NPL 7/9/18</i>		
Planning Department	YES	NO
Property in Corridor Overlay District <i>Redevelopment overlay</i>	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 <i>Not yet determined</i>		
Landscape Submitted/Reviewed <i>Not yet determined</i>		
Additional Notes: <i>- Have not received final plans - no concerns</i>		
Economic Development Department	YES	NO
Project Located in Existing Incentive Program	✓	
Project Eligible for Local Incentives	✓	
Project Eligible for State Incentives	✓	
Project Operator Received Tax Incentives within Past 5 years	✓	
City Granted Tax Incentive on Similar Project within Past 5 years	✓	
Is there Precedent for Proposed Tax Incentive	✓	
Does City Recommend Approval of Application	✓	
Score: <i>NA</i>		
Reasons:		
Additional Notes:		

*at this time,  
T.P.S.*

*[Signature]*

*7-5-2018*

**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?

Gellers 2nd Addition Lot 4 Block 1  
1433 Main Ave. East  
West Fargo, ND 58078

Who are the current property owners?

Henco Properties LLC  
\_\_\_\_\_  
\_\_\_\_\_

Contact phone number where you may be reached 320-979-0757

Email address you can be reached at ohenrickson@charter.net

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

Applicant's Name: Henco Property Leasing LLC  
Tax ID #: 06-1709589  
SSN: \_\_\_\_\_

What is the current use of property?

Vacant lot  
\_\_\_\_\_  
\_\_\_\_\_

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

Lot - 295' wide by 300' deep  
\_\_\_\_\_  
\_\_\_\_\_

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.

Financed by loan or personal financing

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

The owner is working on constructing a 10,184 SF office building, suitable for

multipliable tenants. The building will be constructed will LED Energy efficient lights sensors, high efficient furnance, energy efficient windows and doors and insulated to meet or exceed local construction codes.

The building will have (four) building entrances, and a poured concrete parking lot to accommodate parking for 70 vehicles.

Provide a break out of capital improvements.

The building, parking lot, landscaping, sprinkler system, architectural fee, site excavation, interior fit up allowance will total \$1,525,000.

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.

Value of completed improvements \$1,525,000.

Local property tax savings anually - \$18,278.

Estimated annual state income tax savings \$3,200.

Five year total benefit is estimated to total \$107,390.

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

Encourage new development  
Improve Appearance  
Create high-quality jobs

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

Site plan and rendering of building is attached.

---

---

---

---

---

A building permit must be obtained for the work. If known at this time, please include the permit number \_\_\_\_\_ <sup>Have not</sup> applied. \_\_\_\_\_ and permit date: \_\_\_/\_\_\_/\_\_\_.

Provide documentation that the project cost meets the city's minimum criteria.

Please attach copies of all cost estimates.

See attached exhibit 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.

Income and property taxes are current.

Tax statement enclosed reflecting payment of real estate taxes.

---

---

---

Applicant is a register LLC in MN.

**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)?

Henco Property Leasing LLC  
Odette B. Henrickson

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

N/A

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

417 19th St NW  
Willmar, MN 56201

*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 / Partnership

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.

Construction would begin this fall with completion during  
December 2019. First rental is expected February 2020.

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



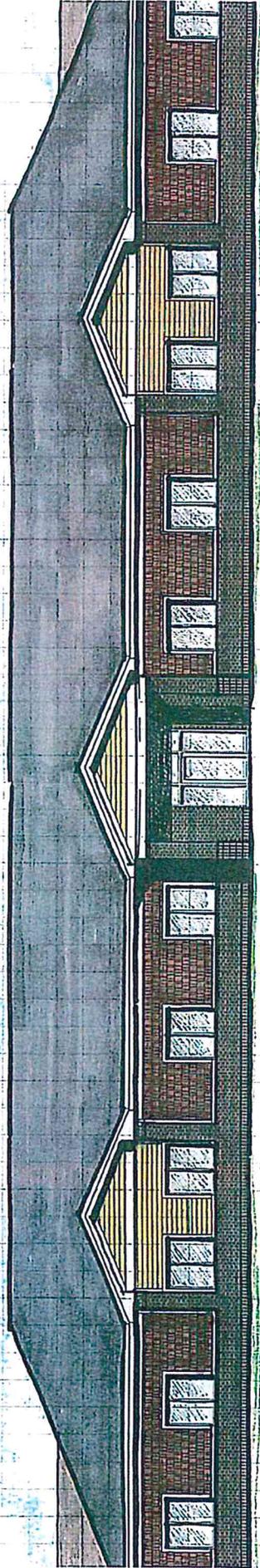
Name CONCEPTUAL ELEVATION / MATERIALS

HENCO

Date MARCH 1 / 2017

Page of

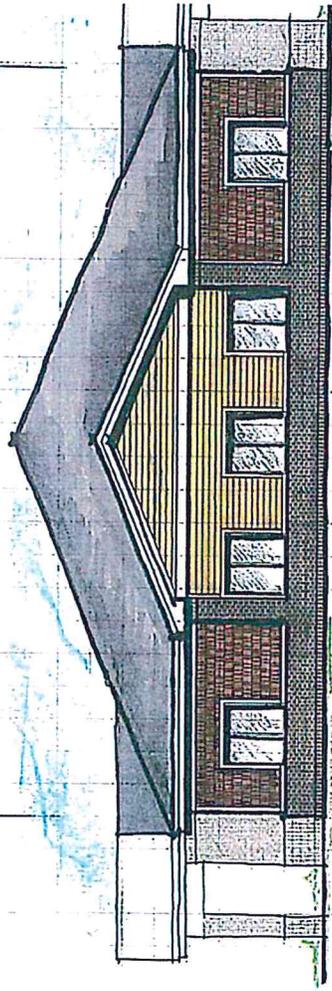
160'-0"



NORTH AND SOUTH ELEVATION

3/32" = 1'-0"

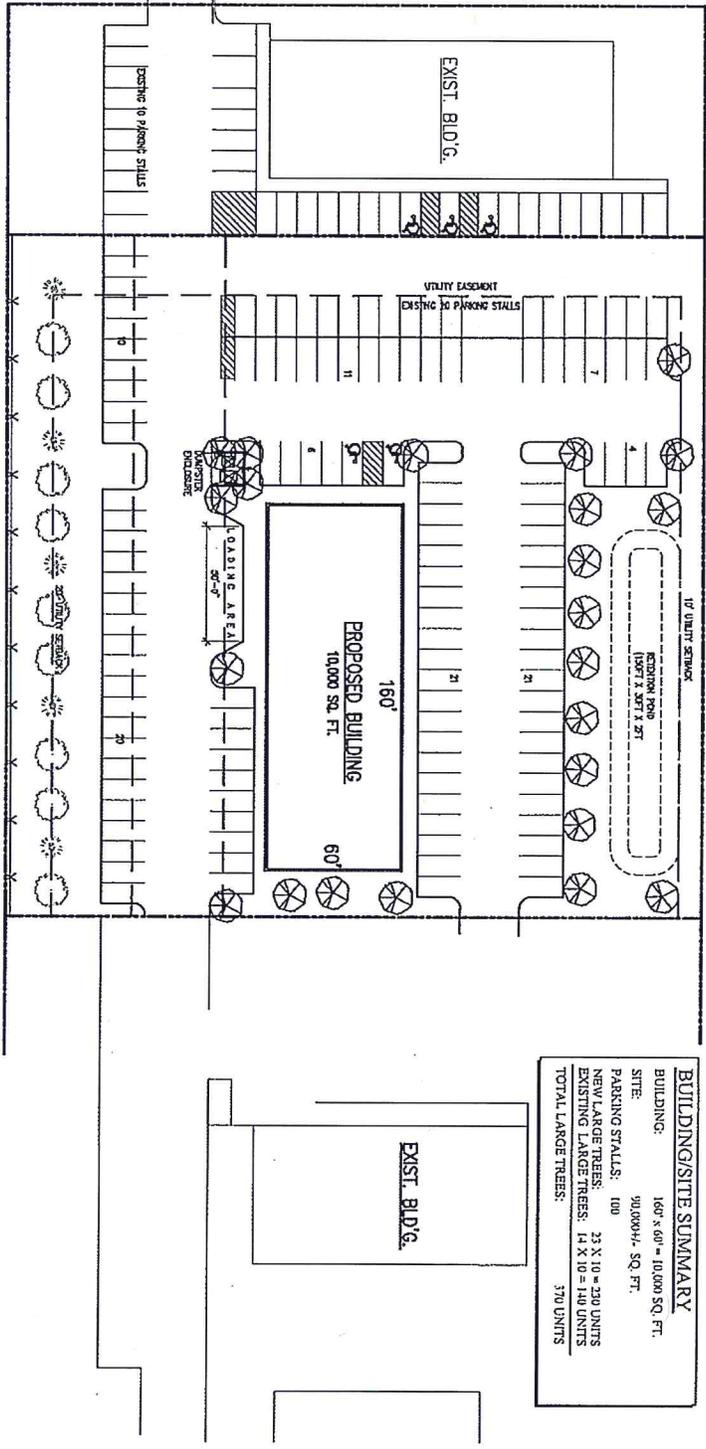
60'-10"



EAST AND WEST ELEVATION

3/32" = 1'-0"

**1**  
 SITE PLAN  
 1" = 50'-0"



**BUILDING/SITE SUMMARY**

BUILDING:	160' x 60' = 10,000 SQ. FT.
SITE:	90,000± SQ. FT.
PARKING STALLS:	100
NEW LARGE TREES:	23 X 10 = 230 UNITS
EXISTING LARGE TREES:	14 X 10 = 140 UNITS
TOTAL LARGE TREES:	370 UNITS



PROJECT: HENCO PROPERTY  
 LOT 4, BLOCK 1 GELLERS  
 2ND ADDITION  
 PROJECT NO: OPTION B

DRAWING  
**G1.B**

## Exhibit A

1433 E Main Ave, West Fargo

### Bid Outline

	<u>10,184 SF</u>
Building and 6" Parking lot, landscaping	\$937,000
Fit up added to shell bid	\$23,692
Add sprinkler system	\$75,000
Lawn sprinkler, excavating, permits architectural fee, 5ft of sand fill bldg..	
Fitup allowance/specifications @\$43.94 SF	<u>\$439,548</u>
Cat 5 wiring, carpet, vinyl, tile, ceiling LED lights (Green)	
Construction Subtotal	\$1,475,240
Incidentals	<u>\$ 50,000</u>
Total Costs	\$1,525,240

**Parcel #:** 02-0704-00040-000  
**Owner:** HENCO PROPERTY LEASING LLC  
**Address:** 417 19TH ST NW  
 WILLMAR MN 56201-2430

**Mail To:** HENCO PROPERTY LEASING LLC  
 417 19TH ST NW  
 WILLMAR MN 56201-2430

**2017**  
**Statement #170137608**

**Mill Levy Rate:** 284.33  
**Consolidated:** \$1,791.28  
**Specials:** \$10,353.07  
**Drains:** \$248.18  
**Other:** \$0.00  
**Discounts:** \$89.56  
**Pen/Int:** \$0.00  
**1st Due:** \$0.00  
**2nd Due:** \$0.00  
**Amount Due:** \$0.00  
**Grand Total Due:** \$0.00

[Map View](#) - [Legal Description](#) - [Property details](#)

Statements

Year	Statement #	Type	Tax	Penalty	Interest	Discount *	Paid	Balance	Add to Cart
2017	<u>170137608</u>	Real Estate	\$12,392.53	\$0.00	\$0.00	\$89.56	\$12,302.97	\$0.00	Paid
2016	<u>160137313</u>	Real Estate	\$12,582.71	\$0.00	\$0.00	\$81.14	\$12,501.57	\$0.00	Paid
2015	<u>150137064</u>	Real Estate	\$13,080.23	\$0.00	\$0.00	\$88.09	\$12,992.14	\$0.00	Paid
2014	<u>140136666</u>	Real Estate	\$13,521.46	\$0.00	\$0.00	\$92.19	\$13,429.27	\$0.00	Paid
2013	<u>130136932</u>	Real Estate	\$13,923.42	\$0.00	\$0.00	\$93.67	\$13,829.73	\$0.00	Paid

## Business Record Search »

### Business Name

Henco property

Search Scope:

Begins With

Filing Status:

Active

Include Prior Names:

Exclude

Not finding your business name? When searching a business name, only a portion of the name is required. You may change the search criteria with the options above.

## Search Results

### Business Name

Henco Property Leasing, LLC

[Details](#)

Business Status:

Active

Business Type:

Limited Liability Company  
(Domestic)

Name Type:

Minnesota Business  
Name

## Business Record Details »

Minnesota Business Name

**Henco Property Leasing, LLC**

**Business Type**

Limited Liability Company (Domestic)

**MN Statute**

322C

**File Number**

43527-LLC

**Home Jurisdiction**

Minnesota

**Filing Date**

07/11/2003

**Status**

Active / In Good Standing

**Renewal Due Date**

12/31/2019

**Registered Office Address**

417 NW 19th Str  
Willmar, MN 56201  
USA

**Registered Agent(s)**

(Optional) None provided

**Manager**

Odee B Henrickson  
417 NW 19th St  
Willmar, MN 56201  
USA

**Principal Executive Office Address**

417 19th St NW  
Willmar, MN 56201  
USA

### Filing History

## Filing History

Select the item(s) you would like to order: Order Selected Copies

<input type="checkbox"/>	Filing Date	Filing	Effective Date
<input type="checkbox"/>	07/11/2003	Original Filing - Limited Liability Company (Domestic)	

<input type="checkbox"/>	Filing Date	Filing	Effective Date
<input type="checkbox"/>	07/11/2003	Limited Liability Company (Domestic) Business Name (Business Name: Henco Property Leasing, LLC)	
<input type="checkbox"/>	02/02/2005	Administrative Termination - Limited Liability Company (Domestic)	
<input type="checkbox"/>	10/06/2006	Annual Reinstatement - Limited Liability Company (Domestic)	
<input type="checkbox"/>	10/06/2006	Registered Office and/or Agent - Limited Liability Company (Domestic)	
<input type="checkbox"/>	01/07/2008	Administrative Termination - Limited Liability Company (Domestic)	
<input type="checkbox"/>	01/20/2010	Annual Reinstatement - Limited Liability Company (Domestic)	
	1/1/2018	Conversion to 322C Due to Statute Mandate - Limited Liability Company (Domestic)	







## Parcel Information Report

Parcel Number: 02070400040000

### General Information

City/Township:	West Fargo City
Taxpayer Name:	HENCO PROPERTY LEASING LLC
Property Address:	1433 MAIN AVE E
Section:	1
Subdivision:	Gellers 2nd Addition
Extra Territorial Area:	
Lot:	4
Legal Description:	GELLERS 2ND ADDN LT 4 BLK 1 **8-28-02 SPL FRM 02-0703-00020-000 & 02-0703-00030-000
Lot Area:	0
Frontage Length:	
Depth Factor:	
Recorded Acres:	0

### District Information

School District:	S006 (West Fargo Public School District #6)
Water District:	W060 (Southeast Water Resource District)
Fire District:	()



# PARCEL INFORMATION

Parcel #: 02-0704-00040-000  
Tax Year: 2018  
Date Printed: 07/10/2018

## General Information:

Legal Owner: HENCO PROPERTY LEASING  
Mailing Address: 417 19 ST NW WILLMAR, MN 56201-0000  
Property Address: 1433 MAIN AVE E  
DBA:  
Legal Description: Addition: 0704: GELLERS 2ND  
Lot: 4 Block: 1  
Full Legal: LOT 4 BLK 1 GELLERS 2ND

## Property Valuation:

	Land	Improvements	Total
Full Certified Value:	\$355,700.00	\$0.00	\$355,700.00
Exemptions:	Homestead Credit:	Vet Credit:	

## Building Information:

Year Built: Building SF:  
Property Type: Commercial  
Story Height:  
Garage SF: # Apt Units: 0

## Lot Size:

Front Width: Depth Side 1: GIS Land SF: 90,039  
Back Width: Depth Side 2:  
Zoning: C-PUD - PUD in General Commercial

## City Information:

Garbage Date: Wednesday

## Taxes:

Property Tax Amount: \$1,791.28

## Specials:

Project Number	Description	Type	Amount	Annual Installment
01-1226	MAIN AVE PHASE II	Certified	\$39,266.30	\$3,427.95
05-4036	MAIN AVE	Certified	\$204.21	\$111.50

02-2161	GELLERS 2	Certified	\$5,492.69	\$5,756.34
02-2196	7TH AVE E	Certified	\$7,097.53	\$698.79
		<b>Total</b>	<b>\$52,060.73</b>	<b>\$9,994.58</b>



## Assessor's Department

800 4th Ave. E, Suite 1  
 West Fargo, ND 58078  
[assessor@westfargond.gov](mailto:assessor@westfargond.gov)

Telephone: 701-433-5340  
 Fax: 701-433-5319  
[assessments.westfargond.gov](http://assessments.westfargond.gov)

**Project Name:** HENCO OFFICE  
**Situs Address:** 1433 Main Ave E  
**Exemption Type:** Renaissance Zone

### Current 2018 Valuation\*

*\*subject to change in future years*

Parcel #	Land Value	Building Value	Total T&F
02-0704-00040-000	\$ 355,700	\$ -	\$ 355,700

	Land Value	Original Bldg Value	Exemption	Total
True & Full	\$ 355,700	\$ -	\$ 1,500,000	\$ 1,855,700
Taxable	\$ 17,785	\$ -	\$ 75,000	\$ 92,785
Tax Estimate	\$ 5,057	\$ -	\$ 21,325	\$ 26,382

Tax Year	Tax Payable Estimate	Exemption Estimate	Cummulative Tax Paid	Cummulative Tax Savings
2019	\$ 5,057	\$ 21,325	\$ 5,057	\$ 21,325
2020	\$ 5,057	\$ 21,325	\$ 10,114	\$ 42,650
2021	\$ 5,057	\$ 21,325	\$ 15,170	\$ 63,974
2022	\$ 5,057	\$ 21,325	\$ 20,227	\$ 85,299
2023	\$ 5,057	\$ 21,325	\$ 25,284	\$ 106,624
2024	\$ 26,382	\$ -	\$ 51,666	\$ 106,624

*\*Taxes Payable does NOT include any specials or drain/diversion payments*

*\*Tax estimate is provided using 2018 mill rate for all future years.*

Programs: None

Estimate of completed building value: **\$ 1,500,000**

*\*Estimate is based off of numbers provided by applicant*

Provided By: Nick R. Lee, City Assessor

7/10/2018

**Mill Rate**

0.28433

Regular Agenda Item #10

AUG 16 2018

When completed please mail to: West Fargo City Hall  
800 4th AVE E STE 1  
West Fargo ND, 58078  
If you have any questions, please call: (701)433-5300



LIQUOR LICENSE APPLICATION - PRE-APPROVAL REVIEW (FORM A)

All licenses expire each year on June 30th. (New license fees will be prorated with the number of months remaining in a license year)

Requests for Liquor Licenses require an administrative review prior to consideration by the City Commission. Administrative fees are utilized to offset the cost of this process and are non-refundable. If your license request is granted, you will be asked to complete a Post Approval Liquor License form to calculate final license fees.

For period beginning November 1, 2018 and ending June 30, \_\_\_\_\_  
Business Name: Rainbow Point Fargo, LLLP  
DBA/Name: Mackenzie River Pub & Grille  
Business Address: 819 24th Avenue East, West Fargo 58078  
Phone #: 406-493-4631 Cell Phone: 406-493-4631 Email: lanceandshoni@hotmail.com

I. TYPE OF LICENSE(S) APPROVED:

(CIRCLE THE APPROPRIATE LICENSES AND CALCULATE TOTAL FEES)

Application Review Fees

Retail On and Off Premises Liquor	\$375
Retail On and Off Premises Beer/Wine	\$100
<u>Retail On Premises Liquor</u>	<u>\$275 ✓</u>
<u>Retail On Premises Beer/Wine</u>	<u>\$150 ✓</u>
Retail Off Premises Liquor	\$275
Retail Off Premises Beer/Wine	\$150
Retail Club/Lodge On Sale Liquor	\$250
Retail Club/Lodge On Sale Beer/Wine	\$38
Wholesale	\$250
Total Due	<u>\$425.00</u>

- \* If you are applying for a **Club License**, how many members do you have at this time? NO
- \* If you are applying for a **On-Premises Liquor License** and plan to serve food:  
Will you allow people under the age of 21 in your establishment? yes If yes, do you anticipate that the sale of food will exceed the sale of alcoholic beverages? yes  
(in future years you will be required to provide proof of food to alcohol sales)

CK# 2034 1  
\$425.00  
8/16/18

II. APPLICANT DATA: (individual filling out application for license):

Your Full Name: (First, Middle, Last): Lance M. Robinson  
Applicant Legal Address: 5840 Canyon River Road, Missoula, MT 59802  
Date of Birth: 5/11/1971 Social Security # [REDACTED] US Citizen:  Y or N  
Applicant Email Address: lanceandshoni@hotmail.com  
Applicant Phone #: (406) 493-4631 How long have you been a resident of ND? Never Have you ever been convicted of any violation, or any law, other than a traffic offense in the U.S.? No If yes, what crime?

What Court? N/A  
Have you ever been convicted of any violation of laws governing the manufacture, sale, consumption or possession of intoxicating beverages? NO If yes provide details: N/A

Please list any current or previous liquor licenses held: Montana Beer and Wine License No. 04-801-5279-301; Montana Beer and Wine License No. 04-801-5259-301; Montana All-Alcoholic Beverage License No. 15-860-3967-001  
Have you ever had a liquor license revoked or rejected by any municipality or state? No  
If yes, provide details: N/A

Will you be engaged in any other form of business besides the sale of liquor under the applied license? yes If yes provide details: Full Service Restaurant

List names, addresses and phone numbers of three business references (at least one bank), and state the extent of your business relations with each:

1. See attached
2. \_\_\_\_\_
3. \_\_\_\_\_

III. RESIDENT MANAGER INFORMATION:

Name: Jeff Bretherton Date of Birth: \_\_\_\_\_  
Address: 1046 Wildflower Lane W, West Fargo, ND 58078 Phone #: (406) 529-6609

List resident manager's previous employment for past five years:

Athletic Director Concordia College 2017-2018  
Director of Heart of the Rockies Initiative 2015-2017

IV. BUSINESS DATA:

Name of Business (DBA): Mackenzie River Pub & Grille

Mailing Address of Licensed Establishment: \_\_\_\_\_

Establishment Phone #: \_\_\_\_\_

Business Type: (Sole Proprietorship, Partnership, Corporation) Partnership

Based on the business type above provide below the **names, addresses and dates of birth of ALL individuals, partners, officers and directors**. Include all persons with 1% or more interest in the business and indicate percentage of ownership: (add additional pages if necessary):

See attached Schedule I listing Partners of Rainbow Point Fargo, LLLP. Also attached are flow charts for each partner entity.

If Incorporated: Date of Charter: N/A State of Charter: N/A

List any person (including name, address, date of birth and association with business), other than the applicants listed, with any right, title, estate or interest in the leasehold, furniture, fixtures or equipment in the premises for which the license is requested:

N/A

Does the business have any interest, directly or indirectly, with any other liquor establishment in any state? NO

If yes give names and addresses of the establishments: underlying individual owners do have ownership in licensed establishments in Montana, but Rainbow Point Fargo, LLLP does not.

V. ATTACH A DETAILED FLOOR-PLAN OF BUSINESS  
(HAND DRAWN FLOOR PLANS WILL NOT BE ACCEPTED)

VI. EMPLOYEE ROSTER LIST - SERVER TRAINING (SEE ATTACHED FORM)

For new establishments, you will be given 90 days from date of opening to submit a server training roster which will list servers with completed training, as well as a detailed plan for completion of training for those who have not . Employee server training must be kept current and is subject to periodic review.

Information on signup and training is available online at Fargo Cass Public Health Department's Website:  
[www.fargocasspublichealth.com](http://www.fargocasspublichealth.com)

VII. VALIDATION/SIGNATURES

Do you agree not to permit the sale of alcohol on said premises to a minor, incompetent person, or a person who is inebriated or a habitual drunkard?  Yes  No

Do you understand that any license granted with this application will not be transferable except by specific authority of the governing body and will authorize the sale of products as applied for only at the place and premises designated in the application and said license?  Yes  No

Have you reviewed the Alcoholic Beverage Ordinances(s) of the City of West Fargo and are familiar with the conditions and requirements of these ordinances?  Yes  No

If granted an alcoholic beverage license, will you comply with the State of North Dakota Liquor Control Act and the City of West Fargo Alcoholic Beverage Ordinances, as well as any amendments to either of these, which may be made in the future?  Yes  No  
(copy of current ordinance provided with application)

Do you understand that approval of license application is contingent upon having completed successful inspections from the Police Department, Fire Department, Building Inspection Department and Cass County Health Department? Yes

Do you certify that property owned in connection with this license does not have real and/or personal property taxes that are delinquent?  Yes  No

For leased/rented property, do you certify that all payments are current?  Yes  No

I(We) am (are) familiar with the information in this completed application, the answers and information contained herein are, to the best of my (our) knowledge true, complete and accurate

All signatures must be notarized.

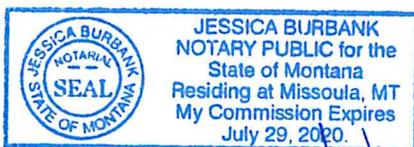
List owner(s) names (In case of a Corporation only President and Secretary are required):

Name: Lance M. Robinson  
Title: Member of Golden Dome Management Company, LLC  
Signature: [Signature]  
Date: 8-8-18  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Name: Shoni D. Robinson  
Title: Member of GoldenDome Management Company, LLC  
Signature: [Signature]  
Date: 8-8-18  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Before me personally appeared: (list names from above) Lance M. Robinson and Shoni D. Robinson

Subscribed and sworn before me on this 8<sup>th</sup> day of August, 2018



[Signature]  
(Signature of Notary Public)

My Commission expires: July 29, 2020

Notary Public for \_\_\_\_\_, \_\_\_\_\_ 4

VIII. BACKGROUND CHECK AUTHORIZATION

To: \_\_\_\_\_

(Please leave blank - for use of WF Police Department)

YOU ARE HEREBY AUTHORIZED to release to the bearer of this authorization, any and all information concerning my dealings as a customer of your institution. Said information is to be given in connection with the investigation by the West Fargo Police Department in relation to a liquor license request.

PRINTED NAME OF APPLICANT: Lance Robinson

By releasing this information to the West Fargo Police Department, I understand that my information may be subject to North Dakota open record laws.

Signature of Applicant:  Date: 8/8/18

Please forward the records for the above investigation for a City liquor license to:

West Fargo Police Department  
ATTN: License Investigations  
800 4th Avenue East, Ste 2  
West Fargo, ND 58078  
Fax: 701-433-5508

## Business References

1) Brad Ridgway, 284 Flathead Avenue, Whitefish, MT 59937; 406-862-5246. President of Glacier Restaurant Group. I have had a franchise under his company for 8 years.

2) Pat Kelling, 288 Expressway, Missoula, MT 59808; 406-360-7107. Pat is the Head of Equipment at Bargreen Ellingson. I have bought restaurant equipment from Pat for three MacKenzie River restaurants. I have known Pat for 8 years.

3) Jason Erickson, 3660 Mullan Road, Missoula, MT 59808; 406-258-1701. Vice President First Security Bank. Jason has been the lender on two other restaurant builds. I have known Jason for 4 years.

## Schedule 1

GENERAL PARTNERS			
Name and Address	Initial Capital Contribution	Contribution Percentage	Partnership Percentage
Golden Dome Management Company, LLC 5540 Canyon River Road Missoula, MT 59802	\$0.00	0%	25%
LIMITED PARTNERS			
Name and Address	Initial Capital Contribution	Contribution Percentage	Partnership Percentage
John Boyle 140 East Central Missoula, MT 59801	\$202,500.00 Cash	15%	11.25%
Oz Cap LLC 1665 Liberty Street SE Suite 100 Salem, OR 97302	\$202,500.00 Cash	15%	11.25%
Rowling-Robbins Investments LLC 775 Kelly Lane Missoula, MT 59804	\$202,500.00 Cash	15%	11.25%
John Richard Orizotti 928 Bandmann Trail Missoula, MT 59802	\$135,000.00 Cash	10%	7.5%
Reely Family Investments, LLC 3819 Stephens Avenue, Suite 201 Missoula, MT 59801	\$135,000.00 Cash	10%	7.5%
Ekegren Enterprises, LLC 31 1 <sup>st</sup> Street NW Choteau, MT 59422	\$135,000.00 Cash	10%	7.5%
Craig Ekegren, Trustee of the Craig A. Ekegren Revocable Living Trust 1028 Anglers Bend Way Missoula, MT 59802	\$67,500.00 Cash	5%	3.75%
Riley B. Hoyt 4145 Clarissa Lane South Salem, OR 97302	\$67,500.00 Cash	5%	3.75%
Windborne 401k Profit Sharing Plan fbo Mark C. Hoyt c/o Mark C. Hoyt, Trustee 693 Chemeketa Street NE Salem, OR 97301	\$67,500.00 Cash	5%	3.75%
Robinson Investments, LLC 815 E Second St. Butte, MT 59701	\$67,500.00 Cash	5%	3.75%
Starboard Properties, LLC 2825 Stockyard Road, Suite F-1 Missoula, MT 59808	\$67,500.00 Cash	5%	3.75%
<b>TOTAL</b>	<b>\$1,350,000.00 Cash</b>	<b>100.00%</b>	<b>100.00%</b>

## RAINBOW POINT FARGO, LLLP

Breakdown of percentage of Ownership for each individual

<b>Name</b>	<b>Address</b>	<b>Date of Birth</b>	<b>% of IndividualOwnership</b>
Lance M. Robinson	5540 Canyon River Road, Missoula, MT 59802	5/11/1971	12.5
Shoni D. Robinson	5540 Canyon River Road, Missoula, MT 59802	11/16/1968	12.5
John Boyle	140 East Central, Missoula, MT 59801	9/7/1952	11.25
Michael J. Orizotti	5954 Pikes Pass Street SE, Salem OR 97306	10/9/1976	3.75
Hong Zhuang	2170 Dalke Ridge Drive NW, Salem OR 97304	11/19/1971	3.75
Mark J. Burnham	3558 Gandon Lane S., Salem OR 97302	8/23/1962	3.75
Kristen J. Robbins	775 Kelly Lane, Missoula, MT 59804	2/21/1974	11.25
John Richard Orizotti	928 Danmann Trail, Missoula MT 59802	6/17/1955	7.5
Shane N. Reely	689 Spanish Peaks Drive, Missoula MT 59803	9/12/1966	3.75
Denise M. Reely	689 Spanish Peaks Drive, Missoula,MT 59803	2/22/1965	3.75
Chad Ekegren	P.O. Box 864, Choteau, MT 59422	7/4/1984	3.75
Jenna Ekegren	P.O. Box 864, Choteau, MT 59422	6/29/1987	3.75
Craig A. Ekegren	1028 Anglers Bend Way, Missoula MT 59802	12/23/1958	3.75
Riley B. Hoyt	4145 Clarissa Lane South, Salem OR 97302	8/25/1995	3.75
Mark C. Hoyt	4145 Clarissa Lane South, Salem OR 97302	12/31/1965	3.75
William J. Robinson	815 East Second Street, Butte MT 59701	3/10/1964	0.93
Jadeen M. Robinson	200 Aspen Loop, Butte MT 59701	1/21/1943	0.93
Mari L. Proffitt	Rr 3 Box 3561, Piedmont MO 63957	2/25/1965	0.93
D. Ladd Lincoln	2825 Stockyard Road Suite F-1, Missoula MT 59808	2/8/1965	3.75

**GOLDEN DOME MANAGEMENT  
COMPANY, LLC**

LANCE ROBINSON  
50% Member

SHONI ROBINSON  
50% Member

# OZ CAP, LLC

GAPCAP, LLC  
50% Membership

MICHAEL ORIZOTTI  
25% Membership

HONG ZHUANG  
25% Membership

MARK BURNHAM  
100% of GAPCAP, LLC

ROWLING-ROBBINS  
INVESTMENTS, LLC

KRISTEN J. ROBBINS

100%

REELY FAMILY INVESTMENTS,  
LLC

SHANE REELY  
50% Member

DENISE REELY  
50% Member

# EKEGREN ENTERPRISES, LLC

CHAD EKEGREN

50% Member

JENA EKEGREN

50% Member

# ROBINSON INVESTMENTS, LLC

William Robinson  
25%

Jadean Robinson  
25%

Lance Robinson  
25%

Mari Profit  
25%

STARBOARD PROPERTIES, LLC

LADD LINCOLN

100%

STARBOARD PROPERTIES, LLC

D. LADD LINCOLN

100%







**FOREIGN LIMITED PARTNERSHIP / FOREIGN LIMITED LIABILITY LIMITED PARTNERSHIP  
 CERTIFICATE OF AUTHORITY APPLICATION  
 SECRETARY OF STATE  
 SFN 07938 (01-2016)**

**RECEIVED**  
 JUN 29 2017  
 SEC. OF STATE

For Office Use Only  
 ID Number: 43,531,900 PLLP  
 WO Number: 1541485  
 Filled: 7/14/2017 By: BSR

SEE INSTRUCTIONS FOR FEE, FILING AND MAILING INFORMATION

1A. The application **MUST** be accompanied by **ALL** of the following:

- Filing fee of \$110
- Current certificate verifying the identity, existence, and status of a foreign limited partnership or foreign limited liability limited partnership certified by the government officer of the state or country under the laws of which it is organized

1B. The following **MAY** be required:

- Signed Consent to Use Business Name and fee of \$10
- Fictitious Name Certificate and fee of \$25
- Fees and registrations to register general partners (see Instruction #12)

TYPE OR PRINT LEGIBLY

For reference, see North Dakota Century Code, Sections 45-10.2-79 and 45-23-07.

2. This application applies to: (check one)			
<input type="checkbox"/> Limited Partnership		<input checked="" type="checkbox"/> Limited Liability Limited Partnership	
3. Name of limited partnership or limited liability limited partnership EXACTLY as it appears on the certificate from the state of origin Rainbow Point Fargo, LLLP		4. Federal ID Number 82-1535953	
5. If applicable, provide the fictitious name and complete the Partnership Fictitious Name Certificate form if the selected fictitious name is not already registered in North Dakota. <u>Only provide the fictitious name in this line if:</u>			
a) The limited partnership or foreign limited liability limited partnership name is not in the form as required of limited partnerships or foreign limited liability limited partnerships in North Dakota. b) The Secretary of State has notified the limited partnership or foreign limited liability limited partnership that its name is the same as or deceptively similar to a name already registered, and the limited partnership or limited liability limited partnership is unable to obtain consent to use business name from the previous filer or a certified copy of a final decree of a court of competent jurisdiction establishing prior right of this limited partnership or limited liability limited partnership to use of the name in North Dakota. c) The limited partnership or foreign limited liability limited partnership does not wish to use or protect its name in North Dakota and chooses to use a name other than its limited partnership or foreign limited liability limited partnership name.			
6. State or Country of Origin Montana		7. Telephone Number (406) 493-4631	8. Toll-Free Telephone Number
9. Nature of business or activities the limited partnership or limited liability limited partnership intends to conduct in North Dakota Restaurant Operations			
10A. Name of <u>commercial</u> registered agent in <u>North Dakota</u>		OR 10B. Name of <u>noncommercial</u> registered agent in <u>North Dakota</u> Brent Kuehne	
10C. Address of <u>noncommercial</u> registered agent in North Dakota (Street/RR, PO Box, City, State, ZIP+4) Street address <b>MUST</b> be provided; may not be only a post office box. 1711 Gold Drive, Suite 100, Fargo, ND, 58103			
11. Complete address of principal executive office (Street/RR, PO Box, City, State, ZIP+4) Street address <b>MUST</b> be provided; may not be only a post office box. 5540 Canyon River Road, Missoula, MT 59802			
12. General partners, their social security/federal ID numbers, and the addressee of their principal places of business (attach additional sheet, if necessary)			
Name		Social Security/ Federal ID Number	COMPLETE MAILING ADDRESS Street/Rural Route Post Office Box City State ZIP+4
Golden Dome Management Company, LLC		46-5757048	5540 Canyon River Road, Missoula, MT 59802
13. "I, the undersigned, a general partner of the limited partnership or limited liability limited partnership authorized to sign this application, have read the foregoing application, know the contents thereof, and believe the statements made thereon to be true. I further authorize the Secretary of State to correct numbers 3, 6, 10A, 10B, and 10C if not correctly reflected."			
Signature <i>Lance Robinson</i>		Date 6/27/17	
14. Name of Person to Contact About This Document Lance Robinson		Email Address lanceandshon@hotmail.com	Daytime Telephone Number (406) 493-4631



**CERTIFICATE OF AUTHORITY APPLICATION**  
**FOREIGN LIMITED LIABILITY COMPANY RECEIVED**  
 SECRETARY OF STATE  
 SFN 10381 (09-2015)

JUN 29 2017

For Office Use Only

ID Number:	43,531,800FLC
WO Number:	1541484
Filed:	7/14/2017
By:	BSP

SEE INSTRUCTIONS FOR FEE, FILING AND MAILING INFORMATION SEC. OF STATE

TYPE OR PRINT LEGIBLY For reference, see North Dakota Century Code, Sections 10-31-01, 10-31-13.1 and 10-32.1-75

1. The application is accompanied by the following:	
<input checked="" type="checkbox"/> *Filing fee of \$135	<input type="checkbox"/> Certificate of professional license
<input checked="" type="checkbox"/> *Current CERTIFICATE OF GOOD STANDING or CERTIFICATE OF EXISTENCE duly authenticated by the organizing officer of the state or country of organization	<input type="checkbox"/> Signed Consent to Use Business Name and fee of \$10
	<input type="checkbox"/> Trade Name Registration and fee of \$25
2. Type of limited liability company applying for certificate of authority (check one)	
<input checked="" type="checkbox"/> Foreign Business	<input type="checkbox"/> Foreign Professional
3. Federal ID Number 46-5757048	
4. Name of limited liability company EXACTLY as it appears on Certificate of Good Standing from state or country of origin Golden Dome Management Company, LLC	
5. If applicable, provide the trade name and complete the Trade Name Registration form if selected trade name is not already registered in North Dakota. Only provide the trade name in this line if:	
a) The "new" limited liability company name is not in the form as required of limited liability companies in North Dakota. b) The Secretary of State has notified the limited liability company that its "new" name is the same or deceptively similar to a name already registered, and the limited liability company is unable to obtain Consent to Use Business Name from the previous filer or a certified copy of a final decree of a court of competent jurisdiction establishing prior right of this limited liability company to use of the name in North Dakota. c) The limited liability company does not wish to use or protect its "new" name in North Dakota and chooses to use a name other than its limited liability company name.	
6. Complete address of principal executive office (Street/RR, PO Box, City, State, ZIP+4) Street address <u>MUST</u> be provided; may not be only a post office box. 5540 Canyon River Road, Missoula, MT 59802	
7. State or Country Where Organized Montana	8. Limited liability company will expire in state or country of origin (check one) <input checked="" type="checkbox"/> Perpetual <input type="checkbox"/> Expires - Specify date: _____
9. Telephone Number (406) 493-4631	10. Toll Free Telephone Number
11A. Name of <u>commercial</u> registered agent in North Dakota	OR 11B. Name of <u>noncommercial</u> registered agent in North Dakota Brent Kuehne
11C. Address of <u>noncommercial</u> registered agent in North Dakota (Street/RR, PO Box, City, State, ZIP+4) Street address <u>MUST</u> be provided; may not be only a post office box. 1711 Gold Drive, Suite 100, Fargo, ND 58103	
12. Nature of business or activities the limited liability company conducts or intends to conduct in North Dakota General Partner of Rainbow Point Fargo LLLP which will operate a Restaurant	
13. Managers and governors of the limited liability company (attach additional sheet, if necessary)	
MANAGERS	Manager also serves as Governor COMPLETE MAILING ADDRESS Street/Rural Route Post Office Box City State ZIP+4
	<input type="checkbox"/>
Managing Member Lance M. Robinson	5540 Canyon River Road Missoula MT 59802
Managing Member Shoni D. Robinson	5540 Canyon River Road Missoula MT 59802
14. "The undersigned has read the foregoing application, knows the contents, and believes the statements to be true. I further authorize the Secretary of State to correct numbers 4, 7, 11A, 11B, and 11C if not correctly reflected. I understand that if I make a false statement in this document, I may be subject to criminal penalties."	
Signature 	Date 6/21/17
15. Name of Person to Contact About This Document Lance Robinson	Email Address lanceandshoni@hotmail.com
	Daytime Telephone Number (406) 493-4631

# *State of North Dakota*

## SECRETARY OF STATE



### CERTIFICATE OF AUTHORITY OF

GOLDEN DOME MANAGEMENT COMPANY, LLC  
Secretary of State ID#: 43,531,800

The undersigned, as Secretary of State of the State of North Dakota, hereby certifies that an application of

GOLDEN DOME MANAGEMENT COMPANY, LLC

for a Certificate of Authority to transact business in this State, duly signed and executed as required by North Dakota statutes governing a FOREIGN LIMITED LIABILITY COMPANY, have been received in this office and are 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 Authority to

GOLDEN DOME MANAGEMENT COMPANY, LLC

to transact business in this State under the name of

GOLDEN DOME MANAGEMENT COMPANY, LLC

Issued: July 14, 2017

Alvin A. Jaeger  
Secretary of State

---

**PROGRAM MANAGEMENT AGREEMENT**

**BY AND BETWEEN  
THE CITY OF WEST FARGO, NORTH DAKOTA  
AND  
WEST FARGO EVENTS, INC.**

**Dated as of \_\_\_\_\_, 2018**

**Relating to:**

**An agreement pertaining to the program management of the POW/MIA Plaza and the  
Lights on 32 Plaza.**

---

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

# TABLE OF CONTENTS

<b>ARTICLE I</b> .....	<b>1</b>
<b>DEFINITIONS AND INTERPRETATION</b> .....	<b>1</b>
<b>SECTION 1.01</b> DEFINITIONS .....	1
<b>SECTION 1.02</b> INTERPRETATION .....	3
<b>ARTICLE II</b> .....	<b>3</b>
<b>ENGAGEMENT</b> .....	<b>3</b>
<b>SECTION 2.01</b> ENGAGEMENT .....	3
<b>SECTION 2.02</b> WFE TAX STATUS .....	3
<b>ARTICLE III</b> .....	<b>4</b>
<b>AUTHORITY AND OBLIGATIONS</b> .....	<b>4</b>
<b>SECTION 3.01</b> SERVICES .....	4
<b>SECTION 3.02</b> EXTRA SERVICES .....	5
<b>SECTION 3.03</b> STANDARDS OF PERFORMANCE .....	5
<b>SECTION 3.04</b> TIME AND EFFORTS REQUIREMENTS .....	5
<b>SECTION 3.05</b> KEY PERSONNEL .....	5
<b>SECTION 3.06</b> NO PREFERENCE .....	6
<b>SECTION 3.07</b> RECORDS AND REPORTS .....	6
<b>SECTION 3.08</b> FINANCIAL STATEMENTS .....	6
<b>SECTION 3.09</b> FIDELITY BOND .....	6
<b>SECTION 3.10</b> ANNUAL OPERATING BUDGET .....	6
<b>SECTION 3.11</b> LIGHT AND NOISE PLAN .....	6
<b>ARTICLE IV</b> .....	<b>6</b>
<b>CITY INVOLVEMENT</b> .....	<b>6</b>
<b>SECTION 4.01</b> CITY STAFF .....	6
<b>SECTION 4.02</b> CITY EVENTS .....	6
<b>SECTION 4.03</b> MARKETING .....	7
<b>SECTION 4.04</b> POWERS RESERVED TO CITY .....	7
<b>ARTICLE V</b> .....	<b>8</b>
<b>COMPENSATION</b> .....	<b>8</b>
<b>SECTION 5.01</b> MONTHLY MANAGEMENT FEE .....	8
<b>SECTION 5.02</b> OTHER FEES AND EXPENSES .....	8
<b>SECTION 5.03</b> BENEFITS .....	8
<b>SECTION 5.04</b> NOT AN EMPLOYEE .....	8
<b>SECTION 5.05</b> SPONSORSHIP COMMISSION .....	8
<b>ARTICLE VI</b> .....	<b>8</b>
<b>EVENTS</b> .....	<b>8</b>
<b>SECTION 6.01</b> TYPE OF EVENTS .....	8
<b>SECTION 6.02</b> FUNDING .....	9

SECTION 6.03	PERMITTING AND NOTICE .....	9
SECTION 6.04	MARKS .....	9
SECTION 6.05	EVENT QUOTA.....	9
SECTION 6.06	WFE EMPLOYEE AT EVENT .....	9
SECTION 6.07	DEBTS AND LIABILITIES .....	10
SECTION 6.08	CITY PROMOTION .....	10
SECTION 6.09	SECURITY PERSONNEL .....	10
SECTION 6.10	NET PROFITS .....	10
SECTION 6.11	EVENT SCHEDULE .....	10
<b>ARTICLE VII.</b>	.....	<b>10</b>
<b>MAINTENANCE</b>	.....	<b>10</b>
SECTION 7.01	MAINTENANCE .....	10
<b>ARTICLE VIII.</b>	.....	<b>10</b>
<b>LIABILITIES</b>	.....	<b>10</b>
SECTION 8.01	INDEMNIFICATION .....	10
SECTION 8.02	WFE INSURANCE .....	10
SECTION 8.03	CITY INSURANCE.....	12
<b>ARTICLE IX.</b>	.....	<b>12</b>
<b>REPRESENTATIONS AND WARRANTIES</b>	.....	<b>12</b>
SECTION 9.01	WFE REPRESENTATIONS.....	12
SECTION 9.02	CITY REPRESENTATIONS .....	13
<b>ARTICLE X.</b>	.....	<b>13</b>
<b>TERM AND TERMINATION</b>	.....	<b>13</b>
SECTION 10.01	TERM .....	13
SECTION 10.02	TERMINATION.....	13
SECTION 10.03	TURN OVER OF FUNDS .....	14
<b>ARTICLE XI.</b>	.....	<b>14</b>
<b>CONFIDENTIALITY</b>	.....	<b>14</b>
SECTION 11.01	GENERALLY.....	14
SECTION 11.02	NORTH DAKOTA OPEN RECORDS REQUEST.....	14
<b>ARTICLE XII.</b>	.....	<b>14</b>
<b>MISCELLANEOUS</b>	.....	<b>14</b>
SECTION 12.01	ASSIGNMENT .....	14
SECTION 12.02	MODIFICATION .....	14
SECTION 12.03	GOVERNING LAW .....	14
SECTION 12.04	INDEPENDENT CONTRACTOR .....	14
SECTION 12.05	SEVERABILITY .....	15
SECTION 12.06	WAIVER .....	15
SECTION 12.07	NO THIRD PARTY BENEFICIARIES.....	15
SECTION 12.08	ENTIRE AGREEMENT .....	15
SECTION 12.09	COUNTERPARTS.....	15

**SECTION 12.10** SURVIVAL..... 15  
**SECTION 12.11** AUTHORIZED REPRESENTATIVES ..... 15  
**SECTION 12.12** NOTICES ..... 16  
**SECTION 12.13** WAIVER OF JURY TRIAL..... 17  
**SECTION 12.14** FORCE MAJEURE ..... 17

**SIGNATURE PAGES** .....**S-1 THROUGH S-2**

**EXHIBIT A – JOB DESCRIPTION FOR PLAZA MANAGER**

DRAFT

## PROGRAM MANAGEMENT AGREEMENT

**THIS PROGRAM MANAGEMENT AGREEMENT** (the “Agreement”) is entered this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the CITY OF WEST FARGO, a Home Rule City and political subdivision of the State of North Dakota (the “City”), and WEST FARGO EVENTS, INC., a nonprofit corporation organized and existing under the laws of the State of North Dakota (“WFE”).

**WHEREAS**, the City has undertaken numerous community engagement amenities and projects throughout the City, including the Plazas, to revitalize the community;

**WHEREAS**, to promote community involvement and well-being through these amenities and projects, the City desires to hold community events and programs;

**WHEREAS**, WFE is organized to create, organize, and implement community events for all ages; and

**WHEREAS**, the City and WFE desire to enter into this Agreement to provide for the management of the Plazas by WFE.

**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 WFE 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 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 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) WFE, or (c) the Services.

**“Best Efforts”** means an entity will act in Good Faith, act in accordance with generally accepted commercial practices, and use reasonable due diligence to undertake all action contemplated by this Agreement, in accordance with Applicable Law.

“**City**” means the City of West Fargo, North Dakota, a Home Rule City and political subdivision of the State of North Dakota.

“**City Event**” means an event that the City desires to be held in the POW/MIA Plaza or the Lights on 32 Plaza pursuant to Section 4.02 hereof.

“**City Representative**” means as defined in Section 12.11.

“**City Share**” means the portion of a City Event that will be paid for by the City.

“**City Staff**” means those individuals identified in Section 4.01 hereof.

“**Effective Date**” means the date on which both Parties have executed this Agreement.

“**Event**” means either a City Event or a WFE Event, as the context may require, and whenever a reference in this Agreement is made to any Events, “**Events**” means City Events and WFE Events, collectively.

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

“**Good Industry Practice**” means the industry practices and standards that would be exercised by a prudent and experienced service provider engaged in the same kind of undertakings and under similar circumstances as those applying to the Services.

“**Key Personnel**” means those individuals identified in Section 3.05 hereof.

“**Lights on 32 Plaza**” means the plaza located within the Lights at Sheyenne 32 development.

“**Maintenance Fee**” means the fees established by Section 7.01 hereof.

“**Maintenance Fund**” means the fund established by Section 7.01 hereof.

“**Net Profits**” means the total revenue from an Event less the total expenses for the Event.

“**Party**” means either the City or WFE, as the context may require, and its respective legal representatives, successors, and permitted assigns, and whenever a reference in this Agreement is made to any Parties hereto, “**Parties**” means the City and WFE, collectively, and their respective legal representatives, successors, and permitted assigns.

“**Plazas**” means the Lights on 32 Plaza and the POW/MIA Plaza, collectively.

“**POW/MIA Plaza**” means the plaza located immediately to the north of the Sheyenne Plaza.

“**Services**” means as defined in Section 3.01.

“**Sheyenne Plaza**” means the mixed-use development constructed along the west side of Sheyenne Street in West Fargo, North Dakota, located at 444 Sheyenne Street.

“**Sponsorship**” mean a monetary or in-kind product or service to support an Event.

“**State**” means the State of North Dakota.

“**WFE**” means West Fargo Events, Inc.

“**WFE Event**” means an event to be held in the POW/MIA Plaza or the Lights on 32 Plaza that is not a City Event.

**Section 1.02** INTERPRETATION. 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 (a) 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), (b) any reference herein to any person shall be construed to include such person’s permitted assigns, (c) 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, (d) 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 (e) 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.

## **ARTICLE II. ENGAGEMENT**

**Section 2.01** ENGAGEMENT. The City hereby engages WFE as its agent to supervise, manage, direct, and control programming services in the Plazas, in accordance with the terms and conditions hereof. WFE hereby accepts such engagement as the program manager of the Plazas during the term of this Agreement.

**Section 2.02** WFE TAX STATUS. The City’s engagement of WFE is dependent upon its status as a nonprofit, 501(c)(3) organization. WFE represents and covenants that it is, and will continue to be, a nonprofit, 501(c)(3) organization and that the purpose for which the City is engaging WFE fits within WFE’s nonprofit, 501(c)(3) purpose.

**ARTICLE III.  
AUTHORITY AND OBLIGATIONS**

**Section 3.01 SERVICES.** For the benefit of the City and in performance of this Agreement, WFE shall perform the following specific responsibilities (collectively referred to as “Services”):

- (a) Advertise, promote, and/or market the Plazas to secure Events in the Plazas;
- (b) Solicit and secure funds, including Sponsorships, necessary to hold Events in the Plazas;
- (c) Coordinate with the City Representative in an effort to meet the City’s programming quotas;
- (d) Coordinate with City Staff as provided in Section 4.01 herein;
- (e) Manage and book Events in the Plazas;
- (f) Set rental structure and other fees and charges for rentals of the Plazas except as otherwise provided herein;
- (g) Work with the City to establish a Maintenance Fee structure;
- (h) Coordinate the calendar for Events in the Plazas;
- (i) Showcase the Plazas as valuable assets to the community;
- (j) Secure any necessary approvals, governmental or otherwise, for Events, including licensing, liquor, and noise, and follow all Applicable Laws;
- (k) Ensure all persons or entities renting the Plazas are aware of, and follow, Applicable Laws and secure any necessary approvals, governmental or otherwise, for Events, including licensing, liquor, and noise; and
- (l) Advertise, promote, and/or market any Events secured for the Plazas;
- (m) Secure security personnel, as necessary, for Events in accordance with Section 6.09 hereof;
- (n) Secure emergency medical personnel, as necessary, for Events;
- (o) Secure trash receptacles, restrooms, and other related facilities for Events;
- (p) Secure and coordinate any vendors desired for Events;
- (q) Coordinate and oversee set-up and tear down of Events;

- (r) Clean and restore the Plazas to their pre-Event condition following an Event;
- (s) Attend meetings at the request of the City upon reasonable notice of the same; and
- (t) Coordinate, as needed, on how alcohol and liquor and outside food and beverage consumption is handled.

**Section 3.02 EXTRA SERVICES.** The City reserves the right to request that WFE perform services in addition to the Services set forth in Section 3.01. In requesting that WFE perform additional services, the City, in its sole discretion, will determine whether WFE shall receive compensation, fees, or benefits as a result of the performance of such services. WFE shall, in its sole discretion, have the right to deny performing any additional services requested by the City. Such a denial by WFE, however, does not preclude the City from engaging a separate organization to perform such services.

**Section 3.03 STANDARDS OF PERFORMANCE.** In performing the powers and authorities conferred upon it by this Agreement, WFE and all of its employees and representatives shall serve the City in Good Faith and shall:

- (a) Protect and promote the City's interests;
- (b) Provide Services in an economically sound manner;
- (c) Observe all Applicable Laws relevant to the Services; and
- (d) Follow Good Industry Practice.

**Section 3.04 TIME AND EFFORTS REQUIREMENTS.** WFE shall devote sufficient time and its Best Efforts to fulfilling the Services as set forth in this Agreement such as to permit ample time for the performance of all duties normally associated therewith, to meet the needs of the City and of its residents, and to perform duties and conduct the Services in accordance with the standards of performance set forth in Section 3.03. In performing the Services as set forth in this Agreement, WFE shall use its Best Efforts to perform each of its duties in a competent and timely fashion. In the event WFE engages third parties to perform one or more Services contemplated hereunder under the supervision of WFE, WFE shall use its Best Efforts to cause such third parties to deliver each Service in a competent and timely fashion.

**Section 3.05 KEY PERSONNEL.** WFE agrees and acknowledges that the following individuals shall be assigned to perform Services for this Agreement (hereinafter "Key Personnel"): Plaza Manager. WFE shall use its Best Efforts to assure that Key Personnel are available to provide Services and as points of contact for the City. In the event that any of the Key Personnel are not available to provide Services, WFE shall notify the City within ten (10) calendar days of the Key Personnel's non-availability. WFE shall provide the resumes of the individual(s) it is proposing to replace the non-available Key Personnel and the City will review the resume and approve the new Key Personnel. The City will act in Good Faith and in a reasonable manner when

reviewing and approving new Key Personnel. In the event the City determines that the new Key Personnel are not acceptable, WFE will propose new Key Personnel.

**Section 3.06** NO PREFERENCE. WFE shall be entitled to provide program management services to other companies or entities during the term of this Agreement. Nonetheless, WFE shall not afford preference to any company or entities related to WFE or under its ownership but shall, so far as practicable, ensure a fair distribution of service to all such companies and entities from time to time under its management.

**Section 3.07** RECORDS AND REPORTS. WFE shall keep, or cause to be kept, accurate, full, and complete books and accounts showing all operations and transactions relating to its Services. The City may, at its option and during customary business hours, conduct audits of the books, records, and accounts relating to its Services. The City may also, in its sole discretion, require WFE to be responsible for or supervise the entry of financial information concerning the Plazas into the business records of the City.

**Section 3.08** FINANCIAL STATEMENTS. WFE shall furnish to the City a detailed monthly financial statement of all revenues and expenditures for the Plazas. Each monthly financial statement shall be submitted within five (5) calendar days after the close of the applicable month.

**Section 3.09** FIDELITY BOND. WFE shall provide a fidelity bond in an amount not less than \$100,000 in favor of and for the protection of the City. The fidelity bond shall be issued by a North Dakota licensed and admitted property and casualty insurance company and subject to the approval of the City. The fidelity bond shall be in effect on or prior to the Effective Date of this Agreement.

**Section 3.10** ANNUAL OPERATING BUDGET. WFE, no later than July 10, shall submit a budget outlining the anticipated income and expenses of WFE for the subsequent calendar year for the Plazas to the City. WFE shall include a plan to solicit and secure Sponsorships and proposed rental rates with said operating budget.

**Section 3.11** LIGHT AND NOISE PLAN. On or prior to the Effective Date, WFE shall submit a plan to the City for review and approval outlining the actions WFE will take to comply with City ordinances pertaining to light and noise.

#### **ARTICLE IV. CITY INVOLVEMENT**

**Section 4.01** CITY STAFF. The City reserves the right to utilize its staff or hire additional staff to be present and work with WFE at Events (“City Staff”). City Staff will be employees of the City, and the City will determine the roles and hours of City Staff at Events. If the City intends to have City Staff present at an Event, the City will provide reasonable notice of such to WFE and will include the identity of the City Staff and a description of the role he or she will play at the Event.

**Section 4.02** CITY EVENTS.

(a) The City reserves the right to hold City Events in the Plazas and shall at all times have first priority to utilize the Plazas.

(b) If the City desires to hold a City Event, it will use its Best Efforts to notify WFE at least ninety (90) calendar days prior to the desired date for the event. The notification will include a description of the City Event and a percentage of the overall budget for the City Event in which the City expects WFE to obtain Sponsorships. WFE will then prepare a budget for planning, marketing, and fundraising for the proposed City Event, including setting forth the City Share, and will submit the same to the City for approval.

(c) Once the City has approved a budget, WFE may move forward with planning the City Event. Following the City Event, WFE shall submit invoices to the City for reimbursement of the City Share. The City reserves the right to request additional information to support an invoice.

(d) The City will not reimburse WFE for any amounts greater than the City Share approved in WFE's budget for the City Share unless WFE has received written approval for such expenses from the City prior to the City Event. The City will remit payment on the invoices to WFE within thirty (30) calendar days of the receipt of invoices.

(e) All City Events shall be free to the public unless otherwise directed by the City. WFE shall not charge the City a rental fee or a Maintenance Fee for utilizing the Plazas.

**Section 4.03** MARKETING. WFE may utilize City marketing channels, including the City website, for the marketing and promotion of City Events. WFE must follow City policies and procedures when utilizing any City marketing channels. WFE may not utilize City marketing channels to market or promote a WFE Event unless otherwise authorized by the City.

**Section 4.04** POWERS RESERVED TO CITY. In addition to other rights specified in this Agreement, the City shall have the right in connection with the following:

(a) To approve the annual operating budget, proposed rental rates, and the plan to solicit and secure Sponsorships prepared by WFE for the Plazas, as provided in Section 3.10 of this Agreement;

(b) To reserve dates for use of the Plazas for the upcoming calendar year at the time the City approves the annual operating budget, which the City will use its Best Efforts to do to facilitate preplanning by WFE;

(c) To set policies and procedures for use of the Plazas;

(d) To approve the content and display of all advertising and signage in or about the Plazas; and

(e) To grant use of the Plazas, or any part thereof, in according with City policies. Such uses of the Plazas shall not compete with, nor conflict with, events booked by WFE and shall be booked in advanced with WFE. Upon request by the City, WFE shall provide a list of available

dates to the City for use of the Plazas. When the Plazas are not in use by WFE, they remain public spaces.

## **ARTICLE V. COMPENSATION**

**Section 5.01** MONTHLY MANAGEMENT FEE. By the first of each month, the City shall pay a management fee to WFE for the performance of Services the ensuing month. The amount of the monthly management fee will be based upon the amount approved by the City for the annual operating budget, with the annual operating budget figure divided by twelve (12) to account for each month. For six (6) calendar months following the Effective Date, the monthly management fee will be \$5,000.00. If the Effective Date occurs during a calendar month, the first payment made by the City will include \$5,000.00 for the ensuing month as well as a prorated amount for the time period from and including the Effective Date until the last day of that calendar month. During this initial 6-month period, the City and WFE will engage in Good Faith negotiations to determine a monthly management fee through December 2019. The Plaza Manager may work at or for other facilities operated by WFE; provided, however, that the monthly management fee will be reduced accordingly. The reduction amount will be based upon the number of hours worked by the Plaza Manager at or for the other facility multiplied by the calculated hourly rate of the Plaza Manager. WFE will provide a written report detailing the facility and the hours of any non-Plaza work to the City.

**Section 5.02** OTHER FEES AND EXPENSES. WFE shall not be entitled to, nor shall it receive, any compensation, fees, or expenses from the City for its performance of the Services other than the monthly management fee outlined in Section 5.01 and compensation outlined elsewhere in this Agreement.

**Section 5.03** BENEFITS. WFE shall not be entitled to, nor shall it receive, any benefits from the City for its performance of the Services.

**Section 5.04** NOT AN EMPLOYEE. At no time during the term of this Agreement shall WFE be considered an employee of the City. Instead, in accordance with Section 12.04 hereof, WFE shall at all times be considered an independent contractor of the City.

**Section 5.05** SPONSORSHIP COMMISSION. WFE may take a commission of twenty five percent (25%) of the gross amount of each monetary Sponsorship secured for Events in the Plazas.

## **ARTICLE VI. EVENTS**

**Section 6.01** TYPE OF EVENTS. The Parties agree that WFE shall seek to secure Events that promote community involvement and well-being. WFE shall not seek to secure Events including:

- (a) Profane, obscene, or violent content and/or language;
- (b) Sexual content;

- (c) Content that promotes, fosters, or perpetuates discrimination on the basis of race, color, age, religion, gender, or national origin;
- (d) Content relating to any political activity;
- (e) Content that threatens any person or organization;
- (f) Content that violates intellectual property rights;
- (g) Content promoting any illegal activity;
- (h) Content which might compromise the safety and security of the public or public systems; or
- (i) Content that violates any federal, State, or local law.

**Section 6.02 FUNDING.** WFE is solely responsible for raising funds, including Sponsorships, to carry out its Services, including for marketing and for advertising, and for holding Events in the Plazas.

**Section 6.03 PERMITTING AND NOTICE.**

(a) In the event WFE seeks to hold a WFE Event in the POW/MIA Plaza or the Lights on 32 Plaza that requires a permit from the City in accordance with City Ordinances, WFE or its designee must secure any and all necessary permits from the City prior to holding the Event.

(b) If a WFE Event does not require permitting from the City in accordance with City Ordinances, WFE shall provide advanced written notice of the WFE Event and its intended content to the City Representative no less than seven (7) calendar days prior to the scheduled date of the WFE Event. The City reserves the right to suspend or cancel a WFE Event in the event it determines the WFE Event violates any of the subsections provided in Section 6.01 hereof. If the City suspends or cancels such an event, WFE shall be responsible for any and all expenses or costs incurred as a result of such suspension or cancellation.

**Section 6.04 MARKS.** During the term of this Agreement, WFE is authorized to utilize any marks, indicators, or names of the Plazas to carry out its Services. WFE shall not, however, use any marks, indicators, or names of the City without obtaining prior written consent from the City. Upon the expiration or termination of this Agreement for any reason, such license to utilize any marks, indicators, or names of the Plazas shall immediately cease, and WFE shall have no further rights to use such marks, indicators, or names.

**Section 6.05 EVENT QUOTA.** WFE shall program at least six (6) City Events per calendar year and shall program at least two (2) Events per calendar month.

**Section 6.06 WFE EMPLOYEE AT EVENT.** WFE shall have at least one (1) employee readily available or on-site for any Event held at the POW/MIA Plaza or the Lights on 32 Plaza.

**Section 6.07** DEBTS AND LIABILITIES. All debts and liabilities incurred by WFE in the course of its Services shall be the debts and liabilities of WFE and in no event shall they be the debts and liabilities of the City unless otherwise expressly agreed to by the City.

**Section 6.08** CITY PROMOTION. The City, in its sole discretion, may promote Events.

**Section 6.09** SECURITY PERSONNEL. When securing security personnel for an Event, WFE shall first inquire whether the West Fargo Police Department will staff an Event and then may seek to hire a private security firm.

**Section 6.10** NET PROFITS. WFE will establish a separate budget for each Event. Following an Event, WFE will remit any Net Profits to the City to be used by the City in its discretion.

**Section 6.11** EVENT SCHEDULE. At least seven (7) calendar days prior to the first calendar day of a month, WFE shall provide a schedule of Events booked for the upcoming calendar month to the City Representative. The furnishing of this schedule to the City does not preclude WFE from modifying the schedule or adding or removing Events from the schedule. The schedule is intended for informational purposes only, but it does not relieve WFE from abiding by any other term or condition of this Agreement.

## **ARTICLE VII. MAINTENANCE**

**Section 7.01** MAINTENANCE. Following the Effective Date of this Agreement, the City and WFE will work cooperatively to establish a schedule of Maintenance Fees to be charged for all WFE Events held in the Plazas. City Events will not be subject to any Maintenance Fees. WFE will be responsible for collecting Maintenance Fees for all WFE Events, and the City will deposit the Maintenance Fees into the Maintenance Fund, which the City will establish and administer. The City will be responsible for maintenance of the Plazas and will utilize funds deposited in the Maintenance Fund solely for the maintenance and improvement of the Plazas.

## **ARTICLE VIII. LIABILITIES**

**Section 8.01** INDEMNIFICATION. WFE will indemnify, protect, defend, and hold harmless the City, and its officers and employees, from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the City to the extent caused by the Services provided by WFE, the negligence of or the breach of any provisions of this Agreement by WFE or a person employed or contracted by WFE, or from a third party claim arising during WFE's use of the POW/MIA Plaza or the Lights on 32 Plaza for an Event.

**Section 8.02** WFE INSURANCE.

(a) WFE will obtain and maintain the following insurance during the term of this Agreement:

(1) Workers' compensation insurance as required by the State of North Dakota.

(2) Commercial general liability insurance, personal injury, bodily injury, and property damage on an occurrence basis with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. The City shall be named as an additional insured on a primary, non-contributory basis.

(3) Business automobile liability insurance covering all owned, hired, and non-owned vehicles with personal protection insurance to comply with the provisions of the North Dakota No Fault Insurance Law including residual liability insurance with minimum bodily injury limits of \$1,000,000 each person and \$1,000,000 each occurrence and minimum property damage limits of \$1,000,000 each occurrence. The City shall be named as an addition insured on a primary, non-contributory basis.

(4) Commercial umbrella insurance with a minimum limit of \$1,000,000. The City shall be named as an additional insured on a primary, non-contributory basis.

(b) All policies shall be issued by companies authorized to do business in the State of North Dakota, name WFE as the insured, and shall be accompanied by a commitment from the insurer that such policies shall not be canceled or reduced without at least thirty (30) calendar days' prior notice to the City.

(c) Certificates evidencing the above-described insurance shall be submitted to the City prior to the commencement of Services under this Agreement and at least fifteen (15) calendar days prior to the expiration dates of expiring policies. A current certificate of insurance must be on file with the City for the duration of this Agreement. Said coverage shall be primary coverage rather than any policies and insurance owned or maintained by the City. Policies shall be issued by insurers who endorse the policies to reflect that, in the event of payment of any loss or damages, subrogation rights under those contract documents will be waived by the insurer with respect to claims against the City.

(d) WFE shall be responsible for the payment of all deductibles contained in any insurance hereunder.

(e) WFE shall also secure the fidelity bond as required by Section 3.09 hereof.

(f) If, during the term of this Agreement, changed conditions or other pertinent factors should, in the reasonable judgment of the City, render inadequate the above-described insurance limits, WFE will furnish on demand such additional coverage as may reasonably be required by the City under the circumstances. All such insurance shall be effected at WFE's expense, under valid and enforceable policies, issued by the insurers of recognized responsibility which are well-rated by national rating organizations and are acceptable to the City.

(g) The provisions requiring WFE to carry said insurance shall not be construed in any manner as waiving or restricting the liability of WFE under this Agreement.

(h) The City has the authority to vary from the specified limits as deemed necessary.

**Section 8.03** CITY INSURANCE. The City will maintain liability and property insurance for the Plazas as determined in its discretion.

## **ARTICLE IX. REPRESENTATIONS AND WARRANTIES**

**Section 9.01** WFE REPRESENTATIONS. WFE hereby represents and warrants to the City as follows:

(a) WFE is a duly organized nonprofit company created under the laws of the State, is qualified to conduct 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) WFE 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 WFE has been or will at such time be duly authorized to execute each such document on behalf of WFE;

(d) This Agreement has been duly authorized, executed, and delivered by WFE and constitutes a valid and legally binding obligation on WFE, 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 WFE 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 WFE 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 WFE to perform its obligations under this Agreement;

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

(g) WFE is in material compliance with all Applicable Laws applicable to WFE or its activities connected with this Agreement; and

(h) To the best of WFE's knowledge after diligent inquiry, no event which, with the passage of time or the giving of notice, would constitute a default by WFE has occurred.

**Section 9.02** CITY REPRESENTATIONS. The City hereby represents and warrants to WFE as follows:

(a) The City has 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 transactions contemplated 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 X. TERM AND TERMINATION**

**Section 10.01** TERM. The initial term of this Agreement shall commence on the Effective Date and shall terminate on December 31, 2019. The City shall have the option to renew the Agreement for successive one (1) year periods running from January 1 to December 31. Each such renewal of the Agreement will be deemed exercised by the annual approval of WFE's annual operating budget by the City for the upcoming year. If the City does not approve of WFE's annual operating budget, this Agreement will terminate on December 31 of the current year, unless otherwise terminated earlier under the provisions of Section 10.02.

**Section 10.02** TERMINATION. In addition to the provisions of Section 10.01, this Agreement may terminate for any of the following reasons:

(a) The City retains the ability to terminate this Agreement in the event the City decides to sell, lease, or close the POW/MIA Plaza or the Lights on 32 Plaza. To exercise this option, the City shall provide not less than one hundred eighty (180) calendar days' advanced written notice to WFE that it has decided to sell, lease, or close the POW/MIA Plaza or the Lights on 32 Plaza.

(b) The City retains the ability to terminate this Agreement at any time within its discretion by providing WFE thirty (30) calendar days' written notice.

(c) Either Party may terminate this Agreement without termination fee, penalty, or liquidated damages if the other Party commits a breach of any material obligation under this Agreement; provided that if a Party shall, by any act or omission, be in breach of any material obligation under this Agreement and such breach shall continue for a period of fourteen (14) days

after written notice thereof has been given by the Party to the offending Party, the Party shall have the right to terminate this Agreement with immediate effect by notice to the offending Party. If the material breach constitutes malfeasance or misfeasance, the City shall not be obligated to provide an opportunity to cure. For purposes of this Agreement, malfeasance means evil doing, ill conduct, the commission of some act which is positively unlawful, the doing of an act which is wholly wrongful and unlawful, the doing of an act which the person ought not to do at all, or the unjust performance of some act which the party had no right or which he had contracted not to do. It includes any wrongful conduct that affects, interrupts, or interferes with the performance of official duties. For purposes of this Agreement, misfeasance means the improper performance of some at, which the party may lawfully do.

(d) The Parties may mutually agree, in writing, to terminate this Agreement, at any time, without termination fee, penalty, or liquidated damages.

**Section 10.03** TURN OVER OF FUNDS. In the event this Agreement terminates, WFE shall turn over all funds and rights to funds collected or promised to program Events in the Plazas as of the termination date to the City.

## **ARTICLE XI. CONFIDENTIALITY**

**Section 11.01** GENERALLY. All information furnished to, or developed by, WFE or any of its employees, directors, or sub-contractors pursuant to this Agreement shall be the property of the City and shall be kept confidential by WFE, both during and after the term of this Agreement.

**Section 11.02** NORTH DAKOTA OPEN RECORDS REQUEST. In the event WFE receives an open records request for any records relating to its Services or this Agreement, WFE shall notify the City of the request and shall secure an opinion from the City as to whether WFE shall release the records.

## **ARTICLE XII. MISCELLANEOUS**

**Section 12.01** ASSIGNMENT. Neither Party may assign this Agreement without the prior written consent of the other Party. The Parties' rights and obligations under this Agreement will be passed to the assignees to which those rights and obligations have been permissibly assigned.

**Section 12.02** MODIFICATION. This Agreement may be amended or modified only by mutual consent of both Parties, unless otherwise provided for herein.

**Section 12.03** GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State of North Dakota.

**Section 12.04** INDEPENDENT CONTRACTOR. In the performance of this Agreement, it is mutually understood and agreed that WFE, its directors, and its employees are at all times acting and performing as an independent contractor and not as an employee, joint venturer, agent, partner, or lessee of the City. The City shall not exercise control or direction over the specific methods by

which WFE performs its Services hereunder; the sole interest and responsibility of the City shall be to ensure that the Services covered by this Agreement are rendered in accordance with the terms and conditions hereof. WFE, its directors, and its employees shall not have any claim under this Agreement against the City for workers compensation, unemployment compensation, vacation pay, sick leave, retirement benefits, social security benefits, disability insurance benefits, unemployment insurance benefits, or other employee benefits, all of which shall be the sole responsibility of WFE. The City shall not withhold on behalf of WFE, its directors, or any of its personnel any sums for income tax, unemployment insurance, Social Security, or otherwise pursuant to any law or requirement of any government agency, and all such withholding, if any is required, shall be the sole responsibility of WFE. WFE shall indemnify and hold harmless the City from any and all loss or liability, if any, arising with respect to any of the foregoing benefits or withholding requirements.

**Section 12.05 SEVERABILITY.** In case any one or more of the provisions of this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby.

**Section 12.06 WAIVER.** No waiver of any Party of any right or remedy pursuant to this Agreement will be deemed to be a waiver of any other or subsequent right or remedy pursuant to this Agreement. The consent of one Party to any act by the other Party requiring such consent will not be deemed to render unnecessary the obtaining of consent to any subsequent act for which consent is required, regardless of whether similar to the act for which consent is given.

**Section 12.07 NO THIRD PARTY BENEFICIARIES.** Nothing contained in this Agreement is intended or will be construed as creating or conferring any right, benefits, 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 12.08 ENTIRE AGREEMENT.** This Agreement contains the entire and exclusive understanding of the Parties with respect to the subject matter thereof 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.

**Section 12.09 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 12.10 SURVIVAL.** The indemnifications, limitations, releases, obligations, and all other provisions which by their inherent character should survive expiration or earlier termination of this Agreement will survive the expiration or earlier termination of this Agreement.

**Section 12.11 AUTHORIZED REPRESENTATIVES.**

(a) The City and WFE hereby designate the following individuals as their initial representatives, respectively, to administer this Agreement on their respective behalves:

(1) City Representative: City Administrator

(2) WFE Representative: Plaza Manager

(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 and WFE, respectively, and will be the recipients of notices and other written communications from the other Party pursuant to this Agreement, except as otherwise provided in this Agreement. Such representatives, however, will not have the authority to make decisions or give instructions binding upon the City or WFE, except to the extent expressly authorized by the City or WFE, as the case may be, in writing.

(c) In the event either the City or WFE designates a different representative, it will give the other Party written notice of the identity of and contact information for the new representative, as the case may be.

**Section 12.12** 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 a 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 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  
Attn: City Representative  
800 Fourth Avenue East  
Suite 1  
West Fargo, ND 58078

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

West Fargo Events, Inc.  
Attn: Plaza Manager  
745 31st Avenue East, Suite 105  
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 Service, private courier, or other person making the delivery. Notwithstanding the foregoing, notices sent by facsimile after 4:00 p.m. Central time and all other notices received after 5:00 p.m. shall be deemed received on the first calendar day following delivery.

**Section 12.13** 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 upon this Agreement, or arising out of, under, or in connection with this Agreement, or with respect to any course of conduct, course of dealing, statements (whether oral or written), or actions of any Party hereto relating to this Agreement. This provision is a material inducement for all Parties entering into this Agreement. This provision applies only to suits between the Parties and does not apply to third party claims or suits.

**Section 12.14** FORCE MAJEURE. Neither 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 the delay must undertake reasonable action to notify the other Party of the same.

**IN WITNESS WHEREOF**, the Parties 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 \_\_\_\_\_, 2018.

THE CITY OF WEST FARGO, NORTH  
DAKOTA

By: \_\_\_\_\_  
Bernie Dardis, President of the Board of  
City Commissioners

ATTEST:

\_\_\_\_\_  
Tina Fisk, City Auditor

*Signature Page for West Fargo Events, Inc.*

The governing board of West Fargo Events, Inc., approved this Agreement on the \_\_\_\_ day of \_\_\_\_\_, 2018.

WEST FARGO EVENTS, INC.

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

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

DRAFT

## **EXHIBIT A**

### **JOB DESCRIPTION FOR PLAZA MANAGER**

#### **JOB DESCRIPTION – Plaza Manager / Event Coordinator**

**July 9, 2018**

**West Fargo Events / City of West Fargo POW/MIA Plaza**

**West Fargo Events is seeking a Park Manager / Event Coordinator for the POW/MIA Plaza located in downtown West Fargo. This 8,000 sq. ft. park will be utilized for concerts, weddings, markets, etc. The following information describes duties of the position:**

#### **Responsibilities**

- Client account maintenance and management
- Emailing and phone calling customers to collect and maintain deposits, insurance, and other administrative tasks
- The ideal candidate will be self-motivated, optimistic, detail-oriented, and have a strong sense of urgency as we are heavily deadline driven
- Answers phones to qualify potential leads for park
- Prepares all event contracts, pre-documentation and develops license agreements
- Researches new client information
- Promote the park to all potential clients
- Deal effectively with potential clients
- Make verbal presentations to groups of various sizes
- Prepare reports, correspondence, memoranda, agreements, and forecast projections
- Provide excellent customer service assistance to internal and external clients
- Conduct tours of park for potential licensees; answer questions and provide information regarding facility capabilities, policies, and procedures; and assist clients in finalizing booking arrangements

- Generate new business through cold calls, direct selling, attending industry and networking events, advertising and various other prospecting methods; position is to uncover new event opportunities
- Work in direct contact with West Fargo Events Board of Directors
- Assist in coordinating social media efforts with Marketing Department for park promotion
- Assist in coordinating efforts to give back to the community
- Coordinates customer surveys and results
- Recognizes opportunities to maximize revenue opportunities by up-selling and offering enhancements to create outstanding events
- Participate in the development and implementation of goals, objectives, policies, budgets, and priorities of West Fargo Events
- Prepare written proposals; reevaluate potential business value of various events and clients; initiate contractual arrangements
- Complies with attendance rules and is available to work on a regular basis
- Perform any other job related duties as assigned
- Communicate with tenants to obtain necessary technical requirements and other event related information
- Inspect buildings and specific meeting areas to evaluate suitability for occupancy, considering such factors as air circulation, lighting, location, and room size and event requirements
- Ensure that the equipment, physical set-up and personnel provided meet the requirements of the event and the tenant's contractual agreement
- Develop assignment schedules for all staffing requirements for the proper presentation of event
- Prepares cost estimates and monitors final billing
- Oversees all aspects of facility operations related to events

- Ensure all pertinent information is obtained, compiled in event files and distributed to proper entities. This includes but is not limited to compiling, filing, and distributing medical service reports, incident reports, ejections, arrests, parking lists, and staffing schedules.
- Oversee the participation of service vendors, such as operations, audio/video, housekeeping, guest services, police, traffic, for facility activities
- Manage the preparation for upcoming events
- Work irregular schedule to insure proper supervision of all events and activities scheduled in the facility, as required
- Compile hours for EMTs, police officers, or any contract staffing

### **Qualifications**

- To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

### **Education and Experience**

- Bachelor's or Associate's degree from an accredited university or program preferred
- Two (2) years related theatre/arena technical experience and/or training; or equivalent combination of education and experience preferred
- Knowledge of building operations, methods in setting up/tearing down events, all technical stage aspects which include, but are not limited to electrics, audio, rigging, crewing, and logistics for all stage systems, personnel, and equipment is useful
- Possess knowledge of building operations, maintenance, practices, and safety requirements

### **Skills and Abilities**

- Coordinate and satisfy the requirements of multiple events occurring simultaneously
- Respond to common inquiries or complaints from customers, regulatory agencies, or members of the business community

- Engage in decisions related to crowd management in a prompt and decisive manner during crisis situations
- Work independently, exercising judgment and initiative
- Maintain an effective working relationship with clients, employees, exhibitors, patrons, and others encountered in the course of employment
- Operate standard office equipment and personal computer(s) using MS Office
- Operate AutoCAD design software
- Define problems, collect data, establish facts, and draw valid conclusions
- Interpret an extensive variety of technical instructions in mathematical or diagram form and deal with several abstract and concrete variables
- Work effectively under pressure and/or stringent schedule and produce accurate results
- Organize and prioritize work to meet deadlines
- Follow oral and written instructions and communicate effectively with others in both oral and written form
- Remain flexible and adjust to situations as they occur
- Work in a fast paced environment
- Ability to work under limited supervision and to interact with all levels of staff including management
- Ability to work long and irregular hours that may vary due to functions and may include day, evening, weekends, and holidays

### **Computer Skills**

- To perform this job successfully, an individual should have some knowledge of computers

### **Physical Demands**

- The physical demands described here are representative of those that must be met by an employee to successfully perform the essential function of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.
- While performing the duties of this job, the employee may be required to work both indoors and outdoors as required by the function. Must have the physical ability to maneuver around facility, at times, walking and/or standing up to 8-10 hours daily.
- **NOTE:** The essential responsibilities of this position are described in the headings above. They may be subject to change at any time due to reasonable accommodation or other reasons. Also, this document in no way states or implies that these are the only duties to be performed by the employee occupying this position.