



West Fargo City Commission Meeting
Monday, May 4, 2020
Virtual Meeting via Zoom 5:30 PM

- A. Pledge of Allegiance
- B. Approve Order of Agenda
- C. Approval of Minutes – April 20, 2020 **(Pg. 2-3)**
- D. Building Permits

Consent Agenda – Approve the Following:

- a. Bills **(Pg. 4-9)**
- b. 2020 Mosquito Control Agreement **(Pg. 10-11)**
- c. Gaming Site Authorization for Red River Human Services Foundation. Games to be conducted: Pull Tab Jar, Pull Tab Dispensing Device, Electronic Pull Tab Device, Twenty-One, Paddlewheel Table from 7/1/20 to 6/30/21 at Town Hall Bar, 103 Main Avenue West **(Pg. 12)**
- d. Games of Chance for the American Foundation Suicide Foundation. Games to be conducted: Calendar Raffle from 7/20/20 to 8/31/20 at Spicy Pie, 745 31st Avenue East, #110 **(Pg. 13)**
- e. Designate the Fargo Forum as the official newspaper for the City of West Fargo

Regular Agenda

- 1. Utility Rate Study Presentation – **AE2S (Pg. 14)**
- 2. Discuss Neighborhood Revitalization Program partnership with Gate City Bank – **Malachi Petersen (Pg. 15-17)**
- 3. Review Development Agreement for TIF District 2020-1 – **Tina Fisk (Pg. 18-40)**
- 4. Review Petition for Improvements for Westport Investments, LLC for the Wilds 20th Addition – **Dustin Scott (Pg. 41-53)**
- 5. Second Reading of Ordinance No. 1155 – **John Shockley (Pg. 54-62)**
- 6. Review and discuss current truck routes – **Brad Olson (Pg. 63-64)**
- 7. Construction Updates – **Dustin Scott**
- 8. City Administrator's Report – **Tina Fisk**
- 9. Correspondence
- 10. Non-Agenda
- 11. Adjourn



**West Fargo City Commission Meeting
Monday, April 20, 2020
Virtual Meeting via Zoom 5:30 PM**

The West Fargo City Commission met on Monday, April 20, 2020, at 5:30 pm. Those present via Zoom were Bernie Dardis, Brad Olson, Mark Simmons, Eric Gjerdevig, and Mike Thorstad. The President of the Board Bernie Dardis called the meeting to order.

The Pledge of Allegiance was recited.

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

Commissioner Olson moved and Commissioner Simmons seconded to approve the minutes of April 6, 2020 as presented. No opposition. Motion carried.

Commissioner Olson moved and Commissioner Simmons seconded to approve the special meeting minutes of March 25, 2020 as presented. No opposition. Motion carried.

The Commission reviewed the Building Department Activity Report dated April 20, 2020 and Building Permits #100-136. Commissioner Olson moved and Commissioner Gjerdevig seconded to approve the Building Permits as presented. No opposition. Motion carried.

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

- a. Bills
- b. Final Plat Approval of Oak Ridge 19th Addition, a Replat
- c. Plans & Specifications for Improvement Project No. 1330
- d. Proposals for 2019-2021 City of West Fargo audit services
- e. Application for Appropriation from Civil Asset Forfeiture Fund
- f. Gaming Site Authorization for WF Hockey. Games to be conducted: Bingo, Raffles, Pull Tab Jar, Electronic Pull Tab Jar, Pull Tab Dispensing Device, Club Special, Tip Board, Seal Board, Prize Board, Sports Pools, Twenty-One, Poker, Paddlewheels with Tickets from 5/1/20 to 6/30/20 at Traditions Restaurant & Bar, 333 Sheyenne Street #116

No opposition. Motion carried.

City Administrator Tina Fisk appeared before the Commission for the appointment of Jerry Boyer as the Interim Chief for the West Fargo Police Department effective 4/25/20. Commissioner Simmons moved and Commissioner Gjerdevig seconded to approve the appointment. No opposition. Motion carried.

Planning Director Tim Solberg, Finance Director Jim Larson and City Administrator Tina Fisk appeared for a 5:30pm Public Hearing for the proposed 15 year Tax Increment Finance District for redevelopment of the existing Bell Bank in Downtown. The Public Hearing was opened. There was no public comment. The Public Hearing was closed. After discussion, Commissioner Olson moved and Commissioner Simmons seconded to approve the 15 year TIF District as presented. No opposition. Motion carried.

City Attorney John Shockley appeared before the Commission for a Resolution for Southside Annexation of Parcels. Commissioner Gjerdevig moved and Commissioner Olson seconded to approve the resolution as presented. No opposition. Motion carried.



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Public Works Director Matt Andvik appeared before the Commission for a Snow Emergency Ordinance discussion. No action was requested of the Commission.

City Engineer Dustin Scott appeared before the Commission to Review the Task Order No. 16-2 for Project No. 6055 that was tabled at the 4/6/20 meeting. After discussion, Commissioner Simmons moved and Commissioner Olson seconded to table the item for further discussion at the 5/4/20 meeting. The motion was rescinded. After further discussion, Commissioner Simmons moved to approve the task order up to the design phase on 5/4/20. The motion died for a lack of a second.

Public Works Director Matt Andvik and City Engineer Dustin Scott appeared before the Commission to provide a spring flood update. No action was requested.

City Engineer Dustin Scott appeared before the Commission to provide construction updates. No action was requested.

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

1. CIP in progress, will be presented at a future meeting
2. Utility rate study being presented at a future commission meeting
2. Thank staff for work during COVID
 - a. Working on plan for re-opening
 - b. Safety of employees is most important factor
3. Announcement of Larry Weil's retirement, last day 4/24/20
4. Departure of Police Chief, Heith Janke
5. Introduction of Lauren Orchard, Economic Development Director

Commissioner Gjerdevig moved and Commissioner Simmons seconded to approve extending the Moratorium for Retail Alcohol Sales for two more weeks. No opposition. Motion carried.

Commissioner Dardis stated that the West Fargo Public Library will be implementing an employment assistance program available by appointment only. More information can be found on the West Fargo Public Library site.

There was no correspondence.

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

Bernie Dardis, Commission President

Tina Fisk, City Administrator

Consent Agenda Item: a

04/21/20
13:59:40

CITY OF WEST FARGO, ND
Check Register
For the Accounting Period: 4/20

Page: 1 of 6
Report ID: AP300

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86698	S	489 3-D SPECIALITIES	220.00	04/21/20			
						CL 90359	220.00
86699	S	3179 ADVANCED ENGINEERING & ENVIRONMENTAL SER	6458.20	04/21/20			
						CL 90395	6458.20
86700	S	3490 AMAZON CAPITAL SERVICES	621.03	04/21/20			
						CL 89996	141.18
						CL 90411	479.85
86701	S	317 AMERICAN WELDING & GAS, INC.	128.80	04/21/20			
						CL 90382	128.80
86702	S	1894 AUTOMATION PRODUCTS GROUP, INC	2935.64	04/21/20			
						CL 90391	2935.64
86703	S	1695 BAKER & TAYLOR	583.67	04/21/20			
						CL 90343	583.67
86704	S	1403 BLUE TARP FINANCIAL, INC	107.19	04/21/20			
						CL 90387	107.19
86705	S	26 BORDER STATES INDUSTRIES INC	5373.22	04/21/20			
						CL 90360	5373.22
86706	S	3512 BOUND TREE MEDICAL, LLC	4654.19	04/21/20			
						CL 90422	4654.19
86707	S	73 BRAUN INTERTEC	89665.75	04/21/20			
						CL 90305	70543.75
						CL 90314	19122.00
86708	S	351 BUSINESS ESSENTIALS	649.99	04/21/20			
						CL 90286	303.03
						CL 90423	346.96
86709	S	39 BUTLER MACHINERY	1020.65	04/21/20			
						CL 90346	1020.65
86710	S	51 CASS COUNTY ELECTRIC COOP	49982.77	04/21/20			
						CL 90312	326.07
						CL 90407	46997.00
						CL 90419	2659.70
86711	S	1512 CDW GOVERNMENT, INC	459.87	04/21/20			
						CL 90400	186.71
						CL 90412	273.16
86712	S	62 CENTRAL DOOR/HARDWARE	475.80	04/21/20			
						CL 90361	475.80
86713	S	1777 CENTURY LINK	288.96	04/21/20			
						CL 90342	224.54
						CL 90408	64.42
86714	S	3492 CHEMISTRY LAB	2793.72	04/21/20			
						CL 90370	2793.72
86715	S	2392 CHOICE FINANCIAL	20025.16	04/21/20			
						CL 90351	20025.16
86716	S	111 CITY OF FARGO	89625.60	04/21/20			
						CL 90267	56803.08
						CL 90341	31220.72
						CL 90366	560.00
						CL 90415	1041.80

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86717	S	2880 CITY OF FARGO	321289.05	04/21/20	_____	CL 90333 CL 90334 CL 90335	16.80 227906.25 93366.00
86718	S	3021 CIVICPLUS	2250.00	04/21/20	_____	CL 90409	2250.00
86719	S	1904 CODE 4 SERVICES, INC	2037.99	04/21/20	_____	CL 90274	2037.99
86720	S	3530 CONNECTWISE	16827.21	04/21/20	_____	CL 90345	16827.21
86721	S	229 CONSOLIDATED COMMUNICATIONS	1654.78	04/21/20	_____	CL 90406	1654.78
86722	S	3245 CORE & MAIN	161.42	04/21/20	_____	CL 90347	161.42
86723	S	856 DAVE'S WEST FARGO TIRE	79.10	04/21/20	_____	CL 90282 CL 90298	29.94 49.16
86724	S	2948 DELTA 54 AVIATION LLC	3420.66	04/21/20	_____	CL 90311	3420.66
86725	S	807 DISCOVERY BENEFITS, INC.	596.75	04/21/20	_____	CL 90266	596.75
86726	S	2225 DTN, LLC	392.00	04/21/20	_____	CL 90329	392.00
86727	S	2100 EAGLE RUN CROSSING LLC	568.21	04/21/20	_____	CL 90389	568.21
86728	S	1841 EMERGENCY AUTOMOTIVE TECHNOLOGIES, INC	2832.87	04/21/20	_____	CL 90371	2832.87
86729	S	2862 ESSENTIA HEALTH	2133.00	04/21/20	_____	CL 90327 CL 90404 CL 90421	325.00 732.00 1076.00
86730	S	650 FARGO CASS PUBLIC HEALTH	86.00	04/21/20	_____	CL 90424	86.00
86731	S	660 FARGO FREIGHTLINER	889.00	04/21/20	_____	CL 90367	889.00
86732	S	132 FARGO NORTHWEST PIPE	97.62	04/21/20	_____	CL 90384	97.62
86733	S	728 FARNAM'S GENUINE PARTS, INC	297.11	04/21/20	_____	CL 90376	297.11
86734	S	1812 FIRESTONE	1776.84	04/21/20	_____	CL 90299	1776.84
86735	S	3161 FIRST INTERNATIONAL BANK & TRUST #1	1212.74	04/21/20	_____	CL 90413	1212.74
86736	S	3162 FIRST INTERNATIONAL BANK & TRUST #2	317.66	04/21/20	_____	CL 90414	317.66
86737	S	3569 FIRST INTERNATIONAL FIRE DEPT 1	67.14	04/21/20	_____	CL 90431	67.14

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Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86738	S	3568 FIRST INTERNATIONAL FIRE DEPT 2	2608.63	04/21/20			
						CL 90430	2608.63
86739	S	104 FORUM COMMUNICATIONS	1318.42	04/21/20			
						CL 90272	768.95
						CL 90323	204.52
						CL 90330	94.95
						CL 90396	250.00
86740	S	155 GALLS, LLC	288.85	04/21/20			
						CL 90291	288.85
86741	S	939 GRAYBAR	3145.44	04/21/20			
						CL 90270	3011.64
						CL 90385	133.80
86742	S	2318 HABERDASHERY	282.99	04/21/20			
						CL 90324	282.99
86743	S	3087 IBM CORPORATION	230.00	04/21/20			
						CL 90271	230.00
86744	S	687 INFORMATION TECHNOLOGY DEPT	721.75	04/21/20			
						CL 90280	661.75
						CL 90313	60.00
86745	S	1660 INT'L CONFERENCE OF POLICE CHAPLAINS	125.00	04/21/20			
						CL 90277	125.00
86746	S	1076 IPMA - HR	194.00	04/21/20			
						CL 90416	194.00
86747	S	860 ISUZU DIESEL MIDWEST	123.04	04/21/20			
						CL 90369	123.04
86748	S	233 J & L SPORTS	911.50	04/21/20			
						CL 90365	911.50
86749	S	999999 KELLEN JORGENSON	182.70	04/21/20			
						CL 90418	182.70
86750	S	2122 KEY CONTRACTING	186475.00	04/21/20			
						CL 90316	186475.00
86751	S	3173 KIESLER'S POLICE SUPPLY, INC.	106.00	04/21/20			
						CL 90290	106.00
86752	S	693 KPH, INC	470632.70	04/21/20			
						CL 90315	470632.70
86753	S	2085 LANGUAGE LINE SERVICES	29.25	04/21/20			
						CL 90281	29.25
86754	S	260 LAR'S BODY SHOP	414.82	04/21/20			
						CL 90283	414.82
86755	S	277 LARSONS WELDING/MACHINE	345.63	04/21/20			
						CL 90381	345.63
86756	S	3527 LAUREN ORCHARD	2000.00	04/21/20			
						CL 90321	2000.00
86757	S	3418 LOFFLER	2065.64	04/21/20			
						CL 90273	2065.64
86758	S	3603 LOGAN JACOBSON	112.84	04/21/20			
						CL 90368	112.84

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86759	S	270 LOWE'S	474.05	04/21/20			
86760	S	711 LUTHER FAMILY FORD	825.05	04/21/20		CL 90268	474.05
86761	S	3304 MAC'S - FARGO	331.43	04/21/20		CL 90349	825.05
86762	S	3467 MALLORY SAFETY & SUPPLY LLC	195.00	04/21/20		CL 90354	331.43
86763	S	3384 MATHESON TRI-GAS INC	130.29	04/21/20		CL 90295	195.00
86764	S	3119 MATT RETKA	50.00	04/21/20		CL 90352	130.29
86765	S	999999 MATTHEW BROWN	76.50	04/21/20		CL 90308	50.00
86766	S	299 MENARDS	159.87	04/21/20		CL 90432	76.50
86767	S	102 MIDSTATES WIRELESS	3430.54	04/21/20		CL 90383 CL 90417	59.97 99.90
86768	S	772 MINNKOTA	75.00	04/21/20		CL 90297	3430.54
86769	S	305 MOORE ENGINEERING	78800.93	04/21/20		CL 90322	75.00
86770	S	1568 MORTON BUILDINGS, INC	111.00	04/21/20		CL 90405	78800.93
86771	S	335 ND DEPT OF TRANSPORTATION	326988.09	04/21/20		CL 90362	111.00
86772	S	333 ND MOTOR VEHICLE DEPT.	11.50	04/21/20		CL 90318	326988.09
86773	S	334 ND STATE RADIO COMM.	2340.00	04/21/20		CL 90275	11.50
86774	S	1600 NELSON AUTO CENTER FLEET DEPT	33138.12	04/21/20		CL 90288 CL 90289	1800.00 540.00
86775	S	364 NELSON INTERNATIONAL	535.07	04/21/20		CL 90276	33138.12
86776	S	2523 NEXUS INNOVATIONS, INC	3937.50	04/21/20		CL 90348	535.07
86777	S	2035 NORTH CENTRAL RENTAL & LEASING, INC	1500.00	04/21/20		CL 90344	3937.50
86778	S	141 NORTH STAR SAFETY, INC	542.61	04/21/20		CL 90356	1500.00
86779	S	1715 NORTHWEST TIRE INC	18.81	04/21/20		CL 90358	542.61
86780	S	753 O'DAY EQUIPMENT	20.62	04/21/20		CL 90377	18.81
86781	S	1774 O'REILLY AUTOMOTIVE STORES, INC	670.31	04/21/20		CL 90364	20.62
						CL 90375	670.31

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86782	S	276 OSTROMS ACE HARDWARE	2.99	04/21/20			
86783	S	563 PETRO SERVE USA	1793.62	04/21/20		CL 90380	2.99
						CL 90279	300.00
						CL 90390	838.79
						CL 90429	654.83
86784	S	2982 RDO EQUIPMENT CO	12700.00	04/21/20		CL 90353	12700.00
86785	S	3522 RJ'S TESORO	846.27	04/21/20			
86786	S	3353 SAM'S CLUB MC/SYNCB	436.89	04/21/20		CL 90420	846.27
						CL 90331	356.29
						CL 90372	80.60
86787	S	438 SHOTWELLS	153.55	04/21/20		CL 90374	153.55
86788	S	465 SPARTAN STORES LLC	14.95	04/21/20		CL 90427	14.95
86789	S	915 STACKS'	110.00	04/21/20		CL 90378	110.00
86790	S	31 STURDEVANT'S AUTO PARTS	290.01	04/21/20		CL 90388	290.01
86791	S	3436 SUPERIOR ELECTRIC	27744.05	04/21/20		CL 90317	27744.05
86792	S	733 SWANSTON EQUIPMENT CORP.	250.00	04/21/20		CL 90363	250.00
86793	S	2491 TEAM LABORATORY CHEMICAL, LLC	646.50	04/21/20		CL 90386	646.50
86794	S	665 TWIN CITY GARAGE DOOR	823.73	04/21/20		CL 90355	823.73
86795	S	784 UNITED POWER EQUIPMENT	189.24	04/21/20		CL 90350	157.44
						CL 90425	31.80
86796	S	3604 USDA-RURAL DEVELOPMENT	7080.00	04/21/20		CL 90433	7080.00
86797	S	2478 VALLI	6224.79	04/21/20		CL 90402	5362.99
						CL 90403	861.80
86798	S	1267 VERIZON WIRELESS	10230.60	04/21/20		CL 90285	251.48
						CL 90320	9854.86
						CL 90394	124.26
86799	S	3212 VISA ADMINISTRATION	692.64	04/21/20		CL 90401	692.64
86800	S	2437 VISA ASSESSING	1316.87	04/21/20		CL 90399	1316.87
86801	S	2436 VISA FINANCE	578.70	04/21/20		CL 90397	578.70

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
86802	S	2439 VISA IT	1561.15	04/21/20	_____		
86803	S	2438 VISA PLANNING	383.40	04/21/20	_____	CL 90398	1561.15
86804	S	2435 VISA POLICE #1	2910.37	04/21/20	_____	CL 90340	383.40
86805	S	3233 VISA POLICE #2	243.79	04/21/20	_____	CL 90303	2910.37
86806	S	3234 VISA POLICE #3	572.35	04/21/20	_____	CL 90304	243.79
86807	S	3244 VISA POLICE #4	53.75	04/21/20	_____	CL 90306	572.35
86808	S	2423 VISA PW	5240.42	04/21/20	_____	CL 90307	53.75
86809	S	576 WALMART COMMUNITY	60.59	04/21/20	_____	CL 90392	5240.42
						CL 90287	26.85
						CL 90319	23.08
						CL 90434	10.66
86810	S	2740 WASTE MANAGEMENT OF WI-MN	75276.07	04/21/20	_____	CL 90373	75276.07
86811	S	2184 WEST SIDE STEEL	10.68	04/21/20	_____	CL 90379	10.68
86812	S	569 WF ANIMAL HOSPITAL	2316.31	04/21/20	_____	CL 90296	2316.31
86813	S	549 WF PUB SCHOOLS DIST #6	155.72	04/21/20	_____	CL 90325	155.72
86814	S	338 XCEL ENERGY	24255.66	04/21/20	_____	CL 90269	223.24
						CL 90336	6745.25
						CL 90337	566.95
						CL 90338	230.89
						CL 90339	15237.04
						CL 90428	1252.29
86815	S	582 ZEP MANUFACTURING	1291.72	04/21/20	_____	CL 90357	1291.72
Total for Claim Checks			1948191.23				
Count for Claim Checks			118				

* denotes missing check number(s)

of Checks: 118 Total: 1948191.23

2020 MOSQUITO CONTROL AGREEMENT
CITY OF WEST FARGO AND CASS COUNTY GOVERNMENT

This is an agreement to formalize the partnership for mosquito control between the City of West Fargo and Cass County Government during the 2020 mosquito control season. The agreement is made between the City of West Fargo, whose office is located at 800 4 Ave East, West Fargo, ND 58078, hereinafter CITY, and Cass County Government, whose office is 211 Ninth Street South, Fargo, ND 58108, hereinafter COUNTY.

THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. COUNTY agrees to provide mosquito control activities throughout the Vector Control District commensurate with the funding available. For the 2020 season, approximately \$794,500 in Vector Control Mill funds has been designated for the Countywide Vector Program. County funds will be used within the City of West Fargo and in surrounding areas with the objective being to distribute products and services commensurate with the source of revenue.
2. In addition to service provided in paragraph 1, COUNTY will provide services within the City of West Fargo and adjacent area for various mosquito control activities such as but not limited to: making applications of pesticides using off-highway vehicles, spraying mosquitoes in West Fargo parks and schools, inspection of public and private property, collection of mosquito traps for population monitoring. The County Vector Director will provide technical direction and coordination of these activities. The Vector Director will also work in cooperation with CITY officials to provide other technical assistance as necessary.
3. CITY agrees to provide funding to support the activities referred to in paragraph 2. Total estimated cost for these activities is \$72,500. Estimated start date and end dates for activities is April 15th to October 1st respectively.
4. COUNTY will provide services within the predetermined "Extra-territorial" area for various mosquito control activities such as but not limited to: making applications of pesticides using off-highway vehicles, inspection of public and private property, and collection of mosquito traps for population monitoring.
5. CITY agrees to fund fifty percent (50%) of the activities described in paragraph 4. COUNTY agrees to fund fifty percent (50%) of the activities described in paragraph 4. Anticipated total cost of services defined in paragraph 3 are estimated to not exceed \$15,000.
6. COUNTY will provide monthly statements to CITY of time and materials, and invoice CITY monthly.
7. CITY agrees to fund the cost of City wide adult mosquito spraying at \$1,000 per application. Estimate between 5 and 10 applications per season dependent upon conditions. Adult mosquito spraying will be invoiced monthly.
8. If COUNTY costs significantly exceed any line items, COUNTY may request an additional funding to maintain activities in LINE 2. If at any time the amount charged to CITY exceeds funds available; the CITY can request a stoppage in service.
9. If at any time total charges to CITY exceeds \$85,000; the CITY can request a stoppage in service.

10. To request a stoppage in service, CITY must provide COUNTY written notice 14 days in advance of requested termination to Cass County Vector Control at the following address:
 - a. 1201 Main Ave West
West Fargo, ND 58078

11. CITY agrees to fund contract costs for aerial spraying when CITY requests the services of an aerial applicator. COUNTY will coordinate the aerial spray operation upon the CITY's approval.

12. COUNTY will fund all contract costs for aerial spraying in unincorporated areas and all other areas within the district when determined necessary.

13. COUNTY agrees to assume all liability and agrees to indemnify and defend the CITY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the COUNTY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of COUNTY, its employees or contractors and any party from which COUNTY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by COUNTY in furtherance of this agreement.

14. CITY agrees to assume all liability and agrees to indemnify and defend the COUNTY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the CITY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CITY, its employees or contractors and any part from which CITY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CITY in furtherance of this agreement.

Chair, Cass County Commission

Date

Mayor, City of West Fargo

Date



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 **Red River Human Services Foundation**

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 Town Hall Bar			
Street 103 Main Ave. W.	City West Fargo	ZIP Code 58078	County Cass
Beginning Date(s) Authorized 7/1/20	Ending Date(s) Authorized 6/30/21	Number of twenty-one tables if zero, enter "0": 1	
Specific location where games of chance will be conducted and played at the site (required) North part of building, Gaming area is entire bar (except restroom/office/storage areas)			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known			

RESTRICTIONS (City/County Use Only)

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

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

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

APPROVALS

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

INSTRUCTIONS:

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

RETURN ALL DOCUMENTS TO:

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

*CK # 22664
 pdl 4-21-20
 #100.00*



APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT

OFFICE OF ATTORNEY GENERAL
SFN 9338 (08/2016)

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

Name of Non-profit Organization <i>American Foundation Suicide Prevention</i> <small>AFSP</small>		Date(s) of Activity <i>July 20th to Aug 31st</i>		For a raffle, provide drawing date(s): <i>Everyday in August</i>	
Person Responsible for the Gaming Operation and Disbursement of Net Income <i>Samantha Bruers</i>		Title <i>Area Director</i>		Business Phone Number <i>701 371 1194</i>	
Business Address <i>P.O. Box 11295</i>		City <i>Fargo</i>		State <i>ND</i>	Zip Code <i>58106</i>
Mailing Address (if different) <i>307 Francis St.</i>		City <i>West Fargo</i>		State <i>ND</i>	Zip Code <i>58076</i>
Name of Site Where Game(s) will be Conducted <i>Spicy Pie</i>		Site Address <i>745 31st Ave E # 110</i>			
City <i>West Fargo.</i>		State <i>ND</i>	Zip Code <i>58078</i>	County <i>Cass</i>	
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 type="checkbox"/> Raffle <input type="checkbox"/> Raffle Board <input checked="" 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
<i>Calendar</i>	<i>Money</i>	<i>\$50, \$150</i>			
Total:					(Limit \$12,000 per year) <i>\$ 98,000</i>

Intended uses of gaming proceeds: *Supporting AFSP ND Chapter - Mental Health Research - Education, Advocacy & Support*

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 <i>3/23/20</i>	Title <i>Area Director</i> <small>AFSP</small>	Business Phone Number <i>701-371-1194</i>
--	------------------------	---	--

ck# 1082 \$10.00



City Commission Agenda Item Request

Please Note: The following information must be completed and submitted before noon on the Thursday preceding the City Commission Meeting. Failure to comply may delay action being taken on your request.

Office Use:

Regular Agenda Item #:

Consent Agenda Item #:

Agenda Item Information:

Contact Name: *

Jim Larson

Phone Number: *

701-433-5302

Email Address:

jim.larson@westfargond.gov

Date *

4/30/2020

Topic for Consent or Regular Agenda?

Please select one option:

Consent Agenda

Regular Agenda

Please Briefly Describe Your Request *

Presentation of Utility Rate Study by AE2S - Nexus

Site Address or Legal Description (if applicable)

Action Being Requested from City Commission *

No action, informational only

Upload Additional Documentation (Optional):



City Commission Agenda Item Request

Please Note: The following information must be completed and submitted before noon on the Thursday preceding the City Commission Meeting. Failure to comply may delay action being taken on your request.

Office Use:

Regular Agenda Item #:

Consent Agenda Item #:

Agenda Item Information:

Contact Name: *

Malachi Petersen

Phone Number: *

7123013822

Email Address:

Malachi.Petersen@westfargond.gov

Date *

4/30/2020

Topic for Consent or Regular Agenda?

Please select one option:

Consent Agenda

Regular Agenda

Please Briefly Describe Your Request *

City of West Fargo staff would like to once again enter into a partnership with Gate City Bank in support of the West Fargo Neighborhood Revitalization Program. The program allows residents to apply for low-interest loans and technical assistance for major home improvement projects for existing homes. As part of its role in the program, city staff will process applications, conduct construction inspections, and approve payment requests from the home owner to Gate City Bank.

Site Address or Legal Description (if applicable)

N/A

Action Being Requested from City Commission *

Direct City of West Fargo staff to continue the City's partnership in 2020 with Gate City Bank in support of the West Fargo Neighborhood Revitalization Program.

Upload Additional Documentation (Optional):

WFRRevitalizationProgramCoverSheet.pdf

57.67KB

RevitalizationProgramMemo.pdf

122.46KB



April 30, 2020

TO: City Commissioners
FROM: Malachi Petersen, Planner
RE: West Fargo Neighborhood Revitalization Program

Last year the City of West Fargo partnered with Gate City Bank to provide residents with the ability to apply for low-interest loans for major home improvement projects. This year the City of West Fargo and Gate City Bank are seeking to continue to strengthen local neighborhoods with the continuation of the program.

This year's program will include the following interest rates:

- 10 year loan – 2.25%
- 15 year loan – 3%
- Initial rate is .01% until homeowner's first payment which must be made within 6 months after the loan is received. There is no application fee and all hard costs, along with the costs of appraisal, are passed on to the homeowner.

The minimum loan amount is \$10,000 and the maximum loan is \$75,000. Homes must have an assessed value lower than \$250,000 and must be located outside of the 100-year flood plain. The maximum loan-to-value is 90%. Projects must consist of one of the following:

- Foundation work (drain tile, bracing, new foundation)
- Major exterior improvements (siding, roofing, windows)
- Addition of bedroom or new living space
- Major interior remodeling or replacement of major mechanical systems (furnace, electrical system)
- Conversion of rental unit to owner-occupied home

Applications will be reviewed on a first-come, first-served basis as funds are available.

AGENDA ITEM DESCRIPTION
CITY COMMISSION
WEST FARGO, NORTH DAKOTA

Agenda # _____

1. CONTACT PERSON: Malachi Petersen

2. PHONE NUMBER: 712-301-3822 DATE: April 30, 2020

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

City of West Fargo staff would like to once again enter into a partnership with Gate City Bank in support of the West Fargo Neighborhood Revitalization Program. The program allows residents to apply for low-interest loans and technical assistance for major home improvement projects for existing homes. As part of its role in the program, city staff will process applications, conduct construction inspections, and approve payment requests from the home owner to Gate City Bank.

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

Not Applicable

5. ACTION BEING REQUESTED FROM CITY COMMISSION:

Direct City of West Fargo staff to continue the City's partnership with Gate City Bank in support of the West Fargo Neighborhood Revitalization Program.



City Commission Agenda Item Request

Please Note: The following information must be completed and submitted before noon on the Thursday preceding the City Commission Meeting. Failure to comply may delay action being taken on your request.

Office Use:

Regular Agenda Item #:

Consent Agenda Item #:

Agenda Item Information:

Contact Name: *

Jim Larson

Phone Number: *

7014335302

Email Address:

jim.larson@westfargond.gov

Date *

4/30/2020

Topic for Consent or Regular Agenda?

Please select one option:

Consent Agenda

Regular Agenda

Please Briefly Describe Your Request *

Development Agreement relating to TIF District 2020-1

Site Address or Legal Description (if applicable)

Action Being Requested from City Commission *

Consideration of approval of the agreement.

Upload Additional Documentation (Optional):

DEVELOPMENT AGREEMENT

**CITY OF WEST FARGO
AND
EPIC HOLDINGS, INC.**

Dated as of _____, 2020

Relating to:

TIF District 2020-1

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

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SIGNATURE PAGESS-1 THROUGH S-2

- EXHIBIT A – MAP OF PROPERTY
- EXHIBIT B – TIF DISTRICT FINANCIAL MODEL
- EXHIBIT C – MEMORANDUM OF AGREEMENT

DRAFT

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered into this ____ day of _____, 2020 (the “Effective Date”), by and between the City of West Fargo, a North Dakota municipal corporation and political subdivision, having an address of 800 4th Avenue East, Suite 1, West Fargo, North Dakota 58078 (the “City”), and EPIC Holdings, Inc., a North Dakota corporation, having an address of 745 31st Ave E #105, West Fargo, North Dakota 58078 (the “Developer”).

WHEREAS, the City has adopted a General Development Plan for Urban Renewal and Urban Development Plan for the City of West Fargo in accordance with the provisions of N.D.C.C. § 40-58-06; and

WHEREAS, the West Fargo City Commission has determined and elected to exercise the urban renewal project powers set forth in Chapter 40-58 of the North Dakota Century Code; and

WHEREAS, the Developer has requested that the Property be included within TIF District 2020-1; and

WHEREAS, pursuant to N.D.C.C. § 40-58-06, the City has prepared the Urban Development Plan for TIF District 2020-1; and

WHEREAS, the City held a public hearing regarding the creation of TIF District 2020-1 and the approval of this Agreement on May 4, 2020; and

WHEREAS, the Developer has proposed that the Property be developed into a mixed-use building, offering underground parking, mixed retail on the first floor, Public Parking on floors two through four, residential apartments on floors five and six, and residential condominiums on floors seven and eight (the “Project”); and

WHEREAS, the Developer will be responsible for all costs associated with the design, construction, and installation of the Public Parking, and following the completion of the Public Parking, the City will purchase the Public Parking from the Developer; and

WHEREAS, the City will utilize sales tax funds on hand and proceeds from the issuance of TIF Revenue Bonds, secured by a pledge of tax increment revenue from TIF District 2020-1 and special assessments, to finance the purchase of the Public Parking; and

WHEREAS, the City has determined it to be in the best interests of the City to create TIF District 2020-1 for the Property to aid in development in the City; and

WHEREAS, it is necessary for the Developer and the City to enter into this Agreement pursuant to N.D.C.C. § 40-58-20.1.

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

1. **Definitions.**

“Change in Law” means the introduction or repeal (in whole or in part) of, the amendment, alteration or modification to, or the change in interpretation of (in each case including, to the extent applicable, by retroactive effect), any applicable laws, standards, practices, or guidelines issued or published by any governmental entity that occur after the Effective Date that are binding on the City, the Developer, or the Property.

“City” means the City of West Fargo, North Dakota, a municipal corporation and political subdivision of the State of North Dakota.

“Completion” means a certificate of occupancy, or like certificate, has been issued by the City.

“Developer” means EPIC Holdings, Inc., a North Dakota corporation.

“Parking Level 2” means public parking, with approximately 105 spaces, constructed on the second floor of the Project.

“Parking Level 3” means public parking, with approximately 105 spaces, constructed on the third floor of the Project.

“Parking Level 4” means public parking, with approximately 105 spaces, constructed on the fourth floor of the Project.

“Party” means either the City or the Developer, as the context requires, and its respective representatives, successors, and assigns, and if reference is made to the Parties, **“Parties”** means both the City and the Developer, and their respective representatives, successors, and assigns.

“Project” means the proposed development of the Property with an 8-story building, incorporating underground parking, a floor of mixed-retail, Parking Level 2, Parking Level 3, Parking Level 4, 2-floor residential apartments, and 2-floor residential condominiums.

“Property” means Lots 15, 16, 17, 18, 19 and 20, Block 26, and that portion of the vacated alley in said Block 26 being described as follows, to-wit: Commencing at the Northeast corner of Lot 20 of said Block 26, thence South on the East boundary line of Lots 15 through 20, inclusive, to the Southeast corner of Lot 15, thence East 10 feet, thence North to a point 10 feet East of the point of beginning, thence West 10 feet to the point of beginning, all in Sukut’s Third Subdivision of a part of the Northwest Quarter (NW1/4) of Section 8, in Township 139 North of Range 49 West of the Fifth Principal Meridian, situate in the City of West Fargo, the County of Cass, and the State of North Dakota. The Property is shown on the map attached as **Exhibit A**.

“Public Parking” means Parking Level 2, Parking Level 3, and Parking Level 4, collectively.

“TIF District” means Tax Increment Financing District 2020-1 created by the City on April 20, 2020, by way of resolution.

“TIF Revenue Bonds” means tax increment financing gross revenue bonds issued by the City, which the City will pledge tax increment revenue from the TIF District and special assessments for debt service thereof.

2. **Creation of TIF District.** The City, by a separate resolution, has created Tax Increment Financing District 2020-1 (the “TIF District”) in the City as permitted by the General Development Plan for Urban Renewal and Urban Development for the City. The TIF District includes the Property. The TIF District financial model is attached as **Exhibit B**.

3. **Term of TIF District.** Pursuant to N.D.C.C. § 40-58-20, tax increments will be collected from the TIF District for not more than fifteen (15) years, commencing on the Effective Date and terminating on December 31, 2035. The Parties acknowledge that during the initial years of construction of the business on the Property, tax increments will be lower due to partial construction and the resulting partial valuation with respect to the taxable value of the Property.

4. **Consent.** The Developer requests, consents to, and approves the creation of the TIF District. Further, the Developer waives all rights to appeal, pursuant to N.D.C.C. § 28-34-01, such action of the City to a court. This waiver is express, and the Developer acknowledges that it is waiving any and all right of appeal regarding any regularity with regard to the creation of the TIF District.

5. **Valuation.** The Developer understands and agrees that the increased value of the Property, as a result of the Project, will be taxed as a general real estate tax in the City, as all other property, and that the tax based on the increased value will be placed into the TIF District fund of the City. The Developer will have the same right as all other taxpayers in the State of North Dakota to contest the valuation placed on its property pursuant to the procedures under North Dakota law.

6. **Payment of General Property Taxes.** The Developer agrees to pay the appropriate general real estate taxes assessed against the Property on an annual basis in accordance with the provisions of the applicable law in the State of North Dakota.

7. **Project and Public Parking Transfer.**

- A. The Developer will be responsible for the design, construction, and installation of the Project at its sole cost and expense. The Developer will obtain all required permits, licenses, and approvals, and will meet all requirements of all local, state, and federal laws and regulations which must be obtained or met in connection with the necessary infrastructure improvements. Without limitation to the foregoing, the Developer will request and seek to obtain from the City all necessary variances, conditional use permits, or zoning changes. The Parties agree and acknowledge that this Agreement does not constitute review or approval of any permits, approvals, or licenses required by the City.
- B. The Developer will construct the Public Parking in accordance with engineering plans and specifications to which the City has mutually agreed. The Public Parking plans will be prepared by a professional engineer and approved by a professional engineer in North Dakota. Additionally, the plans for the Public Parking must be reviewed and approved by the City Engineer. The Public Parking will be

constructed by the Developer under the supervision of a professional engineer; inspected by a professional engineer licensed in North Dakota; and, upon its completion and inspection, must be expressly approved in writing by the City Engineer.

- C. The Developer will require that the contractor or contractors constructing the Public Parking have payment and performance bonds in the amount of the total construction for the Public Parking, which is payable to the Developer and the City and that is enforceable by the Developer and the City. Such payment and performance bonds shall contain all terms normally contained in the contract bonds entered into by the City and contractors for improvement projects in the City.
- D. All public streets, water, sanitary, and storm sewer improvements shall be constructed on property platted as public right of way so as to allow the City to service said infrastructure. All plans and specifications and other information pertinent to the Project shall be furnished to the City.
- E. The City shall have the right to oversee, and approve of, all proposed construction costs for the Public Parking.
- F. At the Completion of the Public Parking, the Developer shall provide the City with lien waivers from any and all of the contractors, subcontractors, and all suppliers who worked on or supplied material for the Public Parking, provided that the Developer retains the right to challenge any lien.
- G. The Developer shall not engage in negotiations for leases of the Public Parking prior to the purchase of the Public Parking by the City.
- H. Within ninety (90) calendar days of the Developer's estimated Completion of the Public Parking, it shall provide written notification to the City. Such notice will prompt the City to inspect the Public Parking for compliance with the agreed upon plans and specifications for the Public Parking and to provide written notice to the Developer of any objection to the work performed. Failure to provide said objection within ninety (90) calendar days shall be deemed approval and acceptance by the City. The Developer must have the City re-inspect the Public Parking to receive a certificate of Completion.
- I. The City will purchase the Public Parking from the Developer following Completion. To effectuate the purchase, the Developer must create condominiums with the Project, separating the Public Parking from the other areas of the Project. The Developer will give the City to opportunity to review and approve of the condominium documentation prior to finalizing. The Developer will warrant the construction of the Public Parking for a period of one (1) year, commencing on the date of purchase by the City.
- J. Although the City will be purchasing the Public Parking from the Developer in its entirety, the Developer will be responsible for the costs and expenses associated with Parking Level 2 and the City will be responsible for the costs and expenses

associated with Parking Level 3 and Parking Level 4. The City will utilize available sales tax funds to purchase Parking Level 3 for a maximum of \$2,249,603, and will utilize proceeds from the TIF Revenue Bonds to purchase Parking Level 4 for a maximum of \$2,646,397. The final purchase prices for Parking Level 3 and Parking Level 4 will be determined based on written documentation provided by the Developer to the City of the costs and expenses associated with the construction of Parking Level 3 and Parking Level 4, respectively. The Developer will submit such written documentation, along with support, to the City prior to the purchase. The City reserves the right to request additional documentation from the Developer. The City will review all documentation, once submitted to its satisfaction, within thirty (30) calendar days to determine a purchase price. Once the City arrives at a purchase price, up to the maximum amounts set forth herein, the City will remit payment to the Developer within thirty (30) calendar days.

8. **Public Parking Use.** Parking Level 3 and Parking Level 4 will be open to the public at all times. The Developer, upon prior notification to the City, has the authority to reserve Parking Level 2 for tenants of the retail floor of the Project between the hours of 8 am and 5 pm on Monday through Friday. At all other times, Parking Level 2 will be open to the public.

9. **Property Maintenance.** Although the City will own a portion of the Property by virtue of its purchase of the condominium created for the Public Parking, the City will have no responsibility to contribute to taxes, maintenance, or other expenses incurred for the Property.

10. **Future Special Assessments.** The Developer acknowledges that future special assessments for later improvement districts benefitting the Property may be levied and apportioned against the Property.

11. **Application of Funds.** The Developer agrees that the tax increment revenue generated from the TIF District will be applied to the costs of TIF Revenue Bonds issued by the City for the first fifteen (15) years (levied 2022 through 2036 and collected 2023 through 2037) of the TIF District or until the debt service of the TIF Revenue Bonds is paid in full, whichever occurs first. The Developer agrees and acknowledges that any excess increment remaining in the City's fund for the TIF District following the payments for the TIF Revenue Bonds will belong to the City.

12. **Access to the Property.** The Developer agrees to allow the City and any of its officers, employees, or agents, access to the Property for the purpose of inspection of all work being performed in connection with the improvements on the Property, if the City so desires.

13. **Termination.** This Agreement will terminate and be of no further force and effect after the TIF Revenue Bonds issued relating to the TIF District, or any later bond issued to fund other assessments issued against the TIF District, have been paid in full, or December 31, 2037, whichever event occurs first.

14. **Interpretation and Administration.** The City Commission will have full power and authority to interpret, construe, and administer this Agreement, and its interpretations and construction thereof and action thereunder will be binding and conclusive on the Parties for all purposes.

15. **Governing Law.** This Agreement will be controlled by the laws of the State of North Dakota.

16. **Change in Law.** The Developer will ensure that the Project, including but not limited to the construction of the Public Parking, is performed in accordance with the terms of this Agreement following any Change in Law. If a Change of Law occurs or will occur within ninety (90) calendar days, either Party may notify the other Party and include in such notification: (i) an opinion on its likely effects; (ii) any necessary changes to the Project or implementation of this Agreement, including the full detail of the procedure for implementing such changes; and (iii) amendments (if any) required by this Agreement. After either Party delivers a notice of a Change in Law, the Parties shall meet and discuss the issues referred to in such notice and any ways in which the Developer can mitigate the effect of the relevant Change in Law.

17. **Legislative and Tax Law Disclosure.** The Developer acknowledges and agrees that the authority of the City to create, impose, and administer the TIF District is derived from North Dakota statutory authority and the North Dakota Legislature has the power to amend, repeal, and replace any and all laws relating to tax increment financing, property tax valuation, and collection.

18. **Indemnification.** The Developer agrees it will indemnify, defend, and hold harmless the City, its officers, employees, agents, and contractors from any and all claims or causes of action, of any nature, arising or purportedly arising out of actions of Developer, its officers, employees, agents, or contractors in connection with this Agreement.

19. **Assignment.** Except as otherwise expressly provided in this Agreement, the Developer agrees, on behalf of itself, its officers, and partners and the personal representatives of the same, and any other person or persons claiming any benefits under the Developer by virtue of this Agreement, that this Agreement and the rights, interests, and benefits hereunder will not be assigned, transferred, pledged, or hypothecated in any way by the Developer or by any other person claiming under it by virtue of this Agreement, and will not be subject to execution, attachment, or similar process. Any attempt at assignment, transfer, pledge, or hypothecation or other disposition of this Agreement or of such rights, interests, and benefits contrary to the foregoing provisions or the levy of any attachment or similar process, will be null and void and without effect. Notwithstanding the foregoing, the Developer may assign this Agreement with the written consent of the City.

20. **Discontinued Business Operation.** In the event the Developer discontinues its business operations on the Property, this Agreement will terminate and be of no force or effect except for periods of remodeling/renovation or in the event of damage caused by fire, flood, or natural disaster.

21. **Administrative Fee.** The Developer agrees that the City may charge the TIF District an annual administrative fee of three percent (3%) of the total proceeds generated by the TIF District as and for an administrative fee.

22. **Insufficient Revenue.** The Developer agrees that in the event there is inadequate revenue generated from the TIF District and dedicated gross revenue to cover the costs incurred by the City for acquisition of the Property, including for debt service on the TIF Revenue Bonds and the administrative fee in a particular year, the amount of said delinquency shall be specially assessed against the Property, aside from the Public Parking, levied and certified as a special assessment.

23. **Entire Agreement.** This Agreement contains the entire understanding of the Parties. It may not be changed orally, but only upon an agreement in writing approved by the City Commission and signed by the President of the Board of City Commissioners and City Auditor. It may be modified as to terms and conditions from time to time upon the mutual consent of the Parties; however, such modification must be reduced to writing, signed by the Parties and the document appended to and made a part of this Agreement.

24. **Notice.** All notices, certificates or other communications required under this Agreement will be deemed sufficiently given when delivered or deposited in the United States mail in certified form with postage fully prepaid and addressed as follows:

If to the City: City Auditor
 City of West Fargo
 800 4th Avenue East, Suite 1
 West Fargo, ND 58078

If to the Developer: Attn: Todd Berning
 EPIC Holdings, Inc.
 745 31st Ave E #105
 West Fargo, ND 58078

Each such mailed notice or communication will be deemed to have been given on the date the same is deposited in the United States mail. Each such delivered notice or communication will be deemed to have been given upon the delivery. Any Party may change its address for service of notice in the manner specified in this Agreement.

25. **Binding Effect.** This Agreement will inure to the benefit of and will be binding upon the City and Developer, their respective successors, and assigns.

26. **Severability.** If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable; however, the Parties agree that this Agreement will be reformed to replace any invalid, illegal, or unenforceable provision or portion of this Agreement with an alternative provision that is enforceable and bears as close resemblance as possible to any provision determined to be invalid, illegal, or unenforceable.

27. **Amendments, Changes, and Modifications.** This Agreement may be amended or any of its terms modified only by the written amendment authorized and executed by the City and Developer.

28. **Cooperation.** The Parties agree to cooperate fully, to execute any and all additional documents, and to take any and all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement and to accomplish the purposes of this Agreement.

29. **Memorandum of Agreement.** The City and the Developer agree to execute and deliver on the date of the signing of this Agreement a memorandum or short form of this Agreement in a form sufficient to put all contractors, suppliers, and the public on notice of the existence of the Agreement with respect to the Property. The memorandum of this Agreement shall otherwise be substantially similar to the form attached hereto and incorporated as **Exhibit C**, and it shall be recorded in the official records of Cass County, North Dakota. No copy of this Agreement shall be affixed to the Memorandum of Agreement. The Developer shall pay all costs charged by the State of North Dakota and Cass County to record the memorandum of Agreement. The Developer agrees that within ten (10) calendar days following the expiration or earlier termination of this Agreement, the Developer shall deliver to the City an executed termination of such memorandum, which shall be executed by the City and recorded in the official records of Cass County, North Dakota, at the City's sole cost and expense.

30. **Representation.** The Parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Agreement and agree they have not been influenced by any representations or statements made by any other parties.

31. **Waiver of Jury Trial.** THE CITY AND THE DEVELOPER HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING, COUNTERCLAIM, OR DEFENSE BASED ON THIS CONTRACT, OR IN ARISING OUT OF, UNDER OR IN ANY CONNECTION WITH THIS CONTRACT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS CONTRACT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR CITY AND DEVELOPER ENTERING INTO THIS CONTRACT. THE PARTIES STIPULATE AND AGREE THAT THE DISTRICT COURT OF CASS COUNTY, NORTH DAKOTA, SHALL BE THE SOLE AND EXCLUSIVE VENUE FOR ANY LAWSUIT PERTAINING TO THIS CONTRACT AND CONSENT TO THE PERSONAL JURISDICTION IN SAID COURT IN THE EVENT OF ANY SUCH LAWSUIT.

32. **Authority to Execute Agreement.** The Developer agrees and acknowledges that the person or persons executing this Agreement on behalf of the Developer have been duly authorized by the Developer to execute this Agreement on its behalf.

33. **Execution Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

34. **Headings.** The headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections of this Agreement.

35. **No Waiver or Remedies.** The failure of the City to enforce at any time any of the provisions of this Agreement, or to exercise any option which is herein provided, or to require at any time performance by the Developer of any of the provisions hereof, shall no way be construed a waiver of such provisions, nor in any way to affect the validity of this Agreement or any part thereof, or the right of the City to thereafter enforce each and every such provision.

36. **Recording.** The Parties agree that this Agreement shall be recorded on the Property at the Cass County Recorder's office and shall run with the land and be binding upon any successors or assigns.

IN WITNESS WHEREOF, the City and the Developer caused this Agreement to be executed.

(Remainder of page intentionally left blank.)

CITY OF WEST FARGO,
a North Dakota municipal corporation
and political subdivision

By: _____
President of the Board of City
Commissioners

By: _____
City Auditor

DRAFT

EPIC HOLDINGS, LLC,
a limited liability company

By: _____
President

DRAFT

EXHIBIT A
MAP OF PROPERTY

DRAFT

EXHIBIT B
TIF Financial Model

DRAFT

City of West Fargo

4/2/2020

TIF Calculation - 2020-1 Bell Down Town Tower

Entity:	Mills: (2019)	Existing Value:	Taxes Collected:	New Value:	New Taxes Collected:	Additional Value dedicated to TIF :
City	77.98	\$1,263,900	\$4,927.95	\$18,506,542	\$72,157.01	\$67,229.06
School	137.25	\$1,263,900	\$8,673.51	\$18,506,542	\$127,001.14	\$118,327.63
Park	27.06	\$1,263,900	\$1,710.06	\$18,506,542	\$25,039.35	\$23,329.29
County	52.31	\$1,263,900	\$3,305.73	\$18,506,542	\$48,403.86	\$45,098.13
State	1.00	\$1,263,900	\$63.20	\$18,506,542	\$925.33	\$862.13
Garrison	0.38	\$1,263,900	\$24.01	\$18,506,542	\$351.62	\$327.61
Water	4.11	\$1,263,900	\$259.73	\$18,506,542	\$3,803.09	\$3,543.36
Total:	300.09	\$1,263,900	\$18,964.19	\$18,506,542	\$277,681.41	\$258,717.22
Less City 3% Fee					3.00%	\$ (7,761.52)
Less County 5% Discount					5.00%	\$ (12,935.86)
Net Available for TIF Project						\$238,019.84

Project Support Max	Rate	4.00%	\$2,646,397
----------------------------	------	-------	-------------

Name	PIN	Land	Building	Total	
Bell Bank parcel	02-2300-01110-000	\$ 135,000.00	\$ 1,128,900.00	\$ 1,263,900	Valuation from City Property info for 2019 as of 1/8/2020
Total all parcels				\$ 1,263,900	

TIF Financing Terms	
Term	15
Rate	4.00%
Bond Payment per Year	\$238,019.86

Item	Description	Public Improvements, non-taxable			Taxable Improvements Developer Paid	
		Developer Paid	Paid by City	Paid by TIF funds		
Use by residential apts and condo's	Basement				\$ 1,931,640	Per Todd B on 2/4/2020
Commercial - two units - Bell and leasable	Floor 1				\$ 2,592,600	Per Todd B on 2/4/2020
Public Parking Ramp-100 spots	Floor 2	\$ 2,448,000				Per Todd B on 2/4/2020
Public Parking Ramp-100 spots	Floor 3		\$ 2,249,603			Per Todd B on 2/4/2020
Public Parking Ramp-100 spots	Floor 4			\$ 2,646,397		Per Todd B on 2/4/2020
Floor #1 of two story apartments	Floor 5				\$ 2,411,331	Per Todd B on 2/4/2020
Floor #2 of two story apartments-26	Floor 6				\$ 2,411,331	Per Todd B on 2/4/2020
Total					\$ 4,579,820	Per Todd B on 2/4/2020
Floor #1 of condos - 11	Floor 7				\$ 4,579,820	Per Todd B on 2/4/2020
Floor #2 of condos - 11	Floor 8				\$ 4,579,820	Per Todd B on 2/4/2020
Totals		\$ 2,448,000	\$ 2,249,603	\$ 2,646,397	\$ 18,506,542	

Source of funds for Public Improvements	
Developer Contribution	\$ 2,448,000
Direct City Contribution	\$ 2,249,603
TIF District Contribution	\$ 2,646,397
	\$ 7,344,000

EXHIBIT C

FORM OF MEMORANDUM OF AGREEMENT

This MEMORANDUM OF AGREEMENT (“Memorandum”) is entered into and effective as of _____, 2020, by and between EPIC Holdings, LLC, a limited liability company organized and existing under the laws of the State of North Dakota (the “Developer”), and the City of West Fargo, a municipal corporation and political subdivision under the laws of the State of North Dakota (the “City”).

WHEREAS, on or about _____, 2020, the Developer and the City entered into a Development Agreement for the design, construction, and operation of an 8-story development project, incorporating underground parking, one floor of mixed retail, three levels of public parking, two levels of residential apartments, and two levels of residential condominiums (the “Project”) located on property legally described as:

Lots 15, 16, 17, 18, 19 and 20, Block 26, and that portion of the vacated alley in said Block 26 being described as follows, to-wit: Commencing at the Northeast corner of Lot 20 of said Block 26, thence South on the East boundary line of Lots 15 through 20, inclusive, to the Southeast corner of Lot 15, thence East 10 feet, thence North to a point 10 feet East of the point of beginning, thence West 10 feet to the point of beginning, all in Sukut’s Third Subdivision of a part of the Northwest Quarter (NW1/4) of Section 8, in Township 139 North of Range 49 West of the Fifth Principal Meridian, situate in the City of West Fargo, the County of Cass, and the State of North Dakota.

(the “Property”);

WHEREAS, following the completion of the public parking, the Developer will sell the public parking levels of the Project to the City; and

WHEREAS, the City will utilize sales tax funds on hand and proceeds from the issuance of TIF Revenue Bonds, secured by a pledge of tax increment revenue from TIF District 2020-1 (the “TIF District”) and special assessments, to finance the purchase of the Public Parking; and

WHEREAS, the City and the Developer desire to execute this Memorandum to provide constructive notices of the rights and obligations under the Development Agreement to third parties.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the Developer agree as follows:

1. Term. The Agreement will terminate and be of no further force and effect after the TIF Revenue Bond issues relating to the TIF District, or any later bond issued to fund other assessments issued against the TIF District, have been paid in full, or December 31, 2035, whichever event occurs first.

2. Parties. The Agreement sets forth the names, authorized representatives, and addresses of the parties thereto.
3. Project. The Developer will be responsible for the design and construction of the Project, and will own, operate, and maintain the Project, aside from the public parking levels, following their completion. The City will participate in the design of the public parking levels, and following their completion by the Developer, the Developer will sell ownership and control of the public parking levels to the City.
4. TIF District. The City has created the TIF District to fund the purchase of the public parking levels of the Project.
5. Special Assessment Deficiency. The Developer has agreed that in the event there is inadequate revenue generated from the TIF District and dedicated gross revenue to cover the costs incurred by the City for acquisition of the public parking, including for debt service on the TIF Revenue Bonds and the administrative fee in a particular year, the amount of said delinquency shall be specially assessed against the Property, aside from the public parking levels, levied and certified as a special assessment.
6. Governing Law. This Memorandum and the Development Agreement are governed by the laws of the State of North Dakota.
7. Conflict. This Memorandum describes only selected provisions of the Development Agreement and reference must be made to the text of the Development Agreement for the full terms and conditions. This Memorandum shall not in any way amend or supersede the terms and conditions of the Development Agreement. In the event of a conflict between this Memorandum and the actual Development Agreement, the Development Agreement shall prevail.

IN WITNESS WHEREOF, this Memorandum has been executed by the parties hereto as of the day and year first above written or consented to and ratified the same as if executed on such date.

(Signatures on the following page.)



Dustin T. Scott - City Engineer
Jerry Wallace – Civil Engineer
Andrew Wrucke – Transportation Engineer
Kayla Volness – Engineering Office Manager

Engineering Department
800 4th Ave E
West Fargo, ND 58078
701-433-5330
www.westfargond.gov

AGENDA ITEM REQUEST
BOARD OF CITY COMMISSIONERS
WEST FARGO, NORTH DAKOTA

OFFICE USE: AGENDA ITEM # <u> 4 </u>

** "Consent" or "Regular" Agenda Item? **Regular** **

1. CONTACT PERSON(s):
 - Dustin T. Scott, City Engineer (433-5425)

2. DATE OF MEETING:
 - **May 4th 2020**

3. DESCRIPTION OF REQUEST:
 - Review the attached "Petition for Improvements" submitted by the developer, Westport Investments, LLC

4. LOCATION (address; legal; etc.):
 - The Wilds 20th Addition

5. ACTION(s) REQUESTED:
 - Direct City Engineer to evaluate infrastructure needs and create an Improvement District for the Wild's 20th Addition.
 - *NOTE: District boundary for special assessment benefits may include existing residential properties.*
 - Direct City Engineer to prepare and execute Task Order in accordance to the MSA with Moore Engineering, Inc. for preliminary engineering and surveying services.

ADDITIONAL INFORMATION:

City of West Fargo

“Petition for Improvements” Submittal Form

The following is a template for Property Owner(s) to complete and submit to the City Administrator

I/ we, Westport Investments, LLC are the legal and equitable owners of the following described property, to-wit:

All of Wilds 20th addition to the City of West Fargo

(hereinafter the “**Property**”)

I/we hereby petition the City Commission of the City of West Fargo, Cass County, North Dakota, to create an improvement district for the purpose of constructing the following municipal improvements: underground municipal utilities, streets, sidewalks and streetlights__ (hereinafter the “**Improvements**”)

I/We hereby request that the City Commission of the City of West Fargo, Cass County, North Dakota, determine by resolution that a written petition for the **Improvements** signed by the owners of a majority of the area of the **Property** included within the district, has been received and that the resolution declaring work necessary shall not be required for said improvement district.

I/we hereby certify that I/we am/are the legal and equitable owner(s) of the **Property** and have the authority to grant the City of West Fargo all necessary easements, rights of ways, fee simple, dedications and other interests in the **Property** that may be required to complete the construction of the **Improvements**.

I/We agree that pursuant to North Dakota Century Code Chapters 40-23 through 40-32 that the City shall assess the entire cost of the Improvements against my/our Property and hereby agree to pay the entire cost as levied and apportioned by the city.

Dated January 21, 2020.

OWNERS:

Westport Investments, LLC

By 
James R. Bullis, Secretary



James R. Bullis, Attorney at Law
3280 Veterans Boulevard South Suite 300
Fargo ND 58104
jim@bullislaw.com
(701) 936-8087
Licensed in ND and MN

Karissa Rude, Legal Assistant
karissa@bullislaw.com
(701) 936-8093
Teresa Kuznia, Legal Assistant
teresa@bullislaw.com
(701) 936-8090

February 24, 2020

City of West Fargo
Attn: Dustin Scott
800 4th Ave E, Ste 1
West Fargo ND 58078

RE: PRELIMINARY TITLE OPINION
Proposed Plat of The Wilds 20th Addition to the City of West Fargo
File No. JRB-1665

Dear Mr. Scott:

In accordance with your request, we have examined Abstract of Title to the following described real property:

SEE ATTACHED LEGAL DESCRIPTION.

It is our opinion that, subject to the qualifications contained herein, the record title to this property was in:

Westport Investments, LLC

by virtue of a Warranty Deed dated August 7, 2010 and recorded August 30, 2010 at 9:04 a.m. as Document No. 1303348.

There appears of record a right of way easement in favor of Northwestern Bell Telephone Company, dated December 18, 1970 and recorded January 17, 1972 at 4:33 p.m. in Book "R-5" of Misc., page 220, and as Document No. 455116. The easement is for telephone communications systems. From the legal description contained within the body of the document I am unable to ascertain whether or not this actually encroaches upon the property being opined hereto. A physical inspection of the property would be necessary to make that determination.

There appears of record an easement in favor of Cass Rural Water Users, Inc., dated March 31, 1998 and recorded October 9, 1998 at 1:00 p.m. as Document No. 912982. The easement is for a rural water system. From the legal description contained within the body of the document I am unable to ascertain whether or not this actually encroaches upon the property being opined hereto. A physical inspection of the property would be necessary to make that determination.

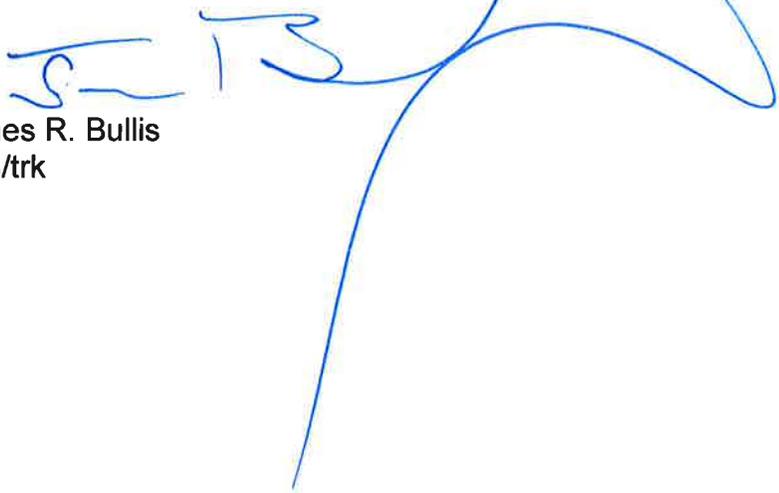
There appears of record an easement in favor of Cass Rural Water Users, Inc., dated April 16, 1998 and recorded October 9, 1998 at 1:0 p.m. as Document No. 912983. The easement is for a rural water system. From the legal description contained within the body of the document I am unable to ascertain whether or not this actually encroaches upon the property being opined hereto. A physical inspection of the property would be necessary to make that determination.

This opinion does not extend to, and you should satisfy yourself as to the following matters which may affect the title of the property although they are not matters of record and thus not included in the Abstract:

- a. Unrecorded liens of persons who have furnished labor or materials in the improvements of the premises. Such liens may be effective although not recorded until 90 days after the last item of labor or materials is furnished;
- b. The rights of persons in possession of the premises or any portion thereof;
- c. Any alleyways, easements, right of ways, buried transmission facilities, streets or judicial monuments actually located upon the ground;
- d. Encroachment of buildings or other improvements on the premises and any discrepancies in measurements or distance which an accurate survey would disclose;
- e. Rights which may have accrued since the date of the last continuation of the Abstract;
- f. Federal, state or municipal laws restricting the use of the premises, including the provisions of any applicable subdivision, zoning and building ordinances;
- g. Rights of local municipalities arising from unpaid assessments for local improvements;
- h. Access to the described property by public roadway, easement or other right of ingress and egress; and

- i. Claims or liability arising from the deposit of hazardous waste material in or on the soil or arising from underground storage tanks.

Very truly yours,



James R. Bullis
JRB/trk

LEGAL DESCRIPTION

A parcel of land located in that part of the Northeast Quarter of the Southwest Quarter and the Southeast Quarter of the Northwest Quarter of Section 6, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, and more particularly described as follows:

Beginning at the most southerly corner of Lot 41, Block Three, THE WILDS NINTH ADDITION, according to the plat thereof, on file and of record in the Office of the County Recorder, Cass County, North Dakota; thence North 49 degrees 17 minutes 11 seconds East, plat bearing, along a southerly line of said Block Three, a distance of 254.23 feet to the most easterly corner of Lot 37 of said Block Three; thence northeasterly, continuing along said southerly line and along a tangential curve concave to the northwest having a radius of 915.00 feet and a central angle of 10 degrees 55 minutes 37 seconds a distance of 174.50 feet to the most easterly corner of Lot 34 of said Block Three; thence South 82 degrees 53 minutes 51 seconds East, continuing along said southerly line, 206.72 feet to a corner of Lot 42 of said Block Three; thence South 36 degrees 01 minute 36 seconds East, continuing along said southerly line, 279.36 feet to a corner of said Lot 42; thence North 88 degrees 01 minute 46 seconds East, continuing along said south line, 250.00 feet to the west line of Lot 3, said Block Three; thence South 01 degree 58 minutes 14 seconds East, along a west line of said Block Three, 192.00 feet to the south line of 60th/ Avenue West, as dedicated on said THE WILDS NINTH ADDITION; thence South 88 degrees 01 minute 46 seconds East, along said south line, 322.02 feet to the west line of GREYHAWK ESTATES SUBDIVISION, according to the plat thereof, on file and of record in the Office of the County Recorder, Cass County, North Dakota; thence South 01 degree 58 minutes 22 seconds East, along said west line, 950.44 feet to the north line of ALTENBURG ACRES FIRST SUBDIVISION, according to the plat thereof, on file and of record in the Office of the County Recorder, Cass County, North Dakota; thence South 89 degrees 00 minutes 19 seconds West, along said north line, 1022.34 to the east line of 9th Street West, as dedicated on said THE WILDS NINTH ADDITION; thence North 00 degrees 58 minutes 44 seconds West, along said east line, 499.47 feet; thence northwesterly, continuing along said east line and along a tangential curve concave to the west having a radius of 849.85 feet and a central angle of 45 degrees 22 minutes 08 seconds a distance of 672.94 feet to the point of beginning.

Containing 28.567 acres, more or less, and is subject to easements of record.



1303348

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WD \$22.00

MONTGOMERY, GOFF & BULLIS, PC

WARRANTY DEED

THIS INDENTURE, is made August 27, 2010, between Westport Beach, LLC, a limited liability company organized under the laws of the State of North Dakota, grantor, whether one or more, and Westport Investments, LLC, a limited liability company under the laws of the State of North Dakota, grantee, whether one or more, whose post office address is 4265 45th St S Ste 200, Fargo, ND 58104, who together agree as follows:

WITNESSETH, for and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration, grantor does hereby GRANT to the grantee all of the following real property lying and being in the County of Cass, State of North Dakota, and described as follows, to-wit:

Lots Twenty-five (25) and Twenty-six (26), Block One (1), Westport Beach First Addition to the City of West Fargo; a part of the Northwest Quarter of Section 31, Township 139 North, Range 49 West, Cass County, North Dakota.

AND

A tract of land located in a portion of the Northwest Quarter of Section 6, Township 138 North of Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, more particularly described as follows: Commencing at the Northeast corner of the Northwest Quarter of said Section 6; thence South 1°58'20" East along the East line of said Northwest Quarter a distance of 63.22 feet to a point on 52nd Avenue and the point of beginning; thence continuing South 1°58'20" East along the East line of said Northwest Quarter a distance of 1,767.97 feet; thence North 89°47'11" West a distance of 1,536.17 feet; thence North 1°58'20" West a distance of 1,767.97 feet to a point on 52nd Avenue; thence South 89°47'11" East along 52nd Avenue a distance of 1,536.17 feet to the point of beginning.

AND

All that part of the Northwest Quarter and the North Half of the Southwest Quarter of Section Six, Township One Hundred Thirty-eight North of Range Forty-nine West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows: Commencing at the Northwest corner of the Northwest Quarter of Section Six; thence North 89°27'06" East along the North line of said Northwest Quarter a distance of 1,000.00 feet; thence South 0°33'16" East a distance of 32.69 feet to a point on 52nd Avenue and the point of beginning; thence South 89°47'11" East along 52nd Avenue a distance of 757.83 feet; thence South 1°58'20" East a distance of 3,902.70 feet; thence South 89°00'16" West a distance of 1368.06 feet to a point on the East right-of-way line of the Horace Diversion; thence North 2°37'05" West along the East right-of-way line of the Horace Diversion a distance of 2122.04 feet;



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MONTGOMERY, GOFF & BULLIS, PC

thence South 88°50'37" West along the East right-of-way line of the Horace Diversion a distance of 6.76 feet; thence North 2°29'57" West along the East right-of-way of the Horace Diversion a distance of 125.63 feet; thence North 87°55'04" East along the South line of Auditor's Lot Three of said Section Six a distance of 457.17 feet; thence North 2°20'02" West along the East lines of Auditor's Lots One and Three of said Section Six a distance of 508.17 feet; thence North 51°43'49" West a distance of 245.47 feet to a point on the North line of Auditor's Lot One of said Section Six; thence South 86°41'39" West along the North line of Auditor's Lot One of said Section Six a distance of 250.38 feet to a point on the East right-of-way line of the Horace Diversion; thence North 1°11'48" West along the East right-of-way line of the Horace Diversion a distance of 101.98 feet; thence North 7°15'47" East on the chord of a curve to the right on the East right-of-way line of the Horace Diversion a distance of 84.06 feet, said curve has a radius of 287.11 feet; thence North 5°20'07" East on the chord of a curve to the left on the East right-of-way line of the Horace Diversion a distance of 722.39 feet, curve has a radius of 725.00 feet; thence North 86°22'10" East along the South right-of-way line of the Horace Diversion a distance of 517.56 feet; thence North 0°33'16" West along the East right-of-way line of the Horace Diversion a distance of 82.46 feet to the point of beginning.

AND

All that tract of land located in a portion of the Northwest Quarter and a portion of the North Half of the Southwest Quarter of Section 6, Township 138 North of Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, more particularly described as follows: Commencing at the Northeast corner of the Northwest Quarter of said Section 6; thence South 1°58'20" East along the East line of said Northwest Quarter a distance of 1,831.19 feet to the point of beginning; thence continuing South along the East line of said Northwest Quarter and the East line of the North Half of the Southwest Quarter a distance of 2,102.31 feet; thence South 89°00'16" West a distance of 1,535.28 feet; thence North 1°58'20" West a distance of 2,134.73 feet; thence North 89°47'11" East a distance of 1,536.17 feet to the point of beginning.

AND

Part of Auditor's Lot One of the South Half of the Northeast Quarter of Section Thirty-one and part of the Southeast Quarter of Section Thirty-one, Township One Hundred Thirty-nine North, Range Forty-nine West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows: Commencing at the Southeast corner of Section Thirty-one; thence North 02°59'44" West along the East line of said Section Thirty-one for a distance



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MONTGOMERY, GOFF & BULLIS, PC

of One Thousand Six Hundred Eighty-five and Twenty-nine hundredths feet to the point of beginning; thence continue North 02°59'44" West along the East line of said Section Thirty-one for a distance of One Thousand Eighty-six and Fifty hundredths feet to the Northeast corner of Auditor's Lot No. One of the Northeast Quarter of said Section Thirty-one; thence North 89°34'44" West along the North line of said Auditor's Lot No. One for a distance of Four Hundred Ninety-five feet; thence South 00°46'34" East for a distance of One Thousand One Hundred Nine and Eight hundredths feet; thence North 87°50'02" East for a distance of Five Hundred Thirty-seven and Twenty-three hundredths feet to a point on the East line of said Section Thirty-one, the point of beginning.

AND

That part of the Southeast Quarter (SE1/4) of Section Thirty One (31), Township One Hundred Thirty Nine (139) North, Range Forty Nine (49) West, Cass County, North Dakota, described as follows: Beginning at the Northwest corner of (the unfiled plat of) Nitschke/Giess Subdivision of said Southeast Quarter (SE 1/4); Thence S 02°51'00" E along the west line of said Nitsche/Giess Subdivision for a distance of One Thousand Six Hundred Ten and Forty Two Hundredths (1,610.42) feet; Thence S 89°27'14" W for a distance of Three Hundred Eighty and Twenty Four Hundredths (380.24) feet; Thence N 02°51'00" W parallel to the West line of said Nitschke/Giess Subdivision for a distance of One Thousand Six Hundred Two and Forty Nine Hundredths (1,602.49) Feet to a point on the South line of Nelson Acres Subdivision; Thence N 88°15'33" E along the South line of said Nelson Acres Subdivision for a distance of Three Hundred Eighty (380.00) feet to the point of beginning. Said tract contains 14.01 acres, more or less.

AND

That part of the Southeast Quarter (SE1/4) of Section Thirty-one (31), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West, Cass County, North Dakota, described as follows: Commencing at the Northwest Corner of (the unfiled plat of) Nitschke/Giess Subdivision of said Southeast Quarter (SE1/4); thence S 88°20'49" W along the South line of Nelson Acres Subdivision for a distance of three hundred eighty (380.00) feet to the point of beginning; thence S 02°51'00" E parallel to the West line of said Nitschke/Giess Subdivision for a distance of eight hundred thirty-five (835.00) feet; thence S 88°20'49" W parallel to the South line of said Nelson Acres Subdivision a distance of eight hundred thirty-five (835.00) feet; thence N 02°51'00" W parallel to the West line of said Nitschke/Giess Subdivision for a distance of eight hundred thirty-five (835.00) feet to a point on the South line of Nelson Acres Second Subdivision of said Southeast Quarter (SE1/4) and the South line of said Nelson Acres Subdivision; thence N



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MONTGOMERY, GOFF & BULLIS, PC

88°20'49" E along South line of said Nelson Acres Second Subdivision and said Nelson Acres Subdivision for a distance of eight hundred thirty-five (835.00) feet to the point of beginning. Said tract contains 16.00 acres, more or less.

The foregoing legal descriptions were obtained from previously recorded instruments.

And the said grantor for itself, its successors and assigns, does covenant with the grantee that it is well seized in fee of the land and premises aforesaid and has good right to sell and convey the same in manner and form aforesaid; that the same are free from all encumbrances, except installments of special assessments or assessments for special improvements which have not been certified to the County Auditor for collection, and the above granted lands and premises in the quiet and peaceable possession of said grantee, against all persons lawfully claiming or to claim the whole or any part thereof, the said grantor will warrant and defend.

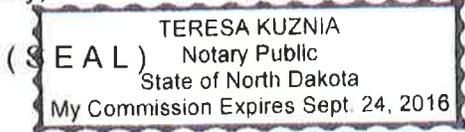
WITNESS, The hand of the grantor:

WESTPORT BEACH, LLC, Grantor

By: 
James R. Bullis, Secretary

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

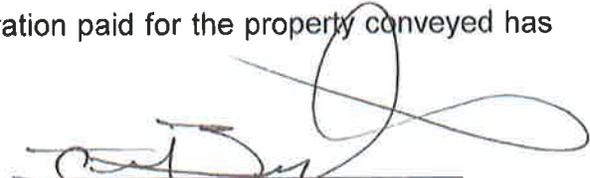
The foregoing instrument was acknowledged before me August 27, 2010 by James R. Bullis, the Secretary of Westport Beach, LLC, a North Dakota limited liability company, on behalf of the limited liability company.




Notary Public
Expires:

___ I certify that the full consideration for this transaction is \$ _____.

X I certify that a report of the full consideration paid for the property conveyed has been filed with the State Board of Equalization.


GRANTEE OR GRANTEE'S AGENT



1303348

Page: 5 of 5
8/30/2010 9:04 AM
WD \$22.00

MONTGOMERY, GOFF & BULLIS, PC

Tax Parcel Nos. _____

Delinquent taxes and special assessments or installments of special assessments paid and transfer entered this 30th day of August, 2010.

County Auditor
Michael Montplaisir
By _____ Deputy

This document was prepared by:

James R. Bullis
Montgomery, Goff & Bullis, P.C.
4650 38th Ave S Ste 110
Fargo, ND 58104



02-3375-00250-000
02-3375-00260-000
02-3000-02015-000
02-3000-02030-000
02-3000-~~01~~01272-000
02-3000-01260-015
02-3000-01250-000

RECORDER'S OFFICE, CASS COUNTY, ND 8/30/2010 9:04 AM
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.
JEWEL A. SPIES, COUNTY RECORDER

by *Teresa A. Kuley, Dep* **1303348**



ORDINANCE NO. 1155

AN ORDINANCE TO AMEND AND REENACT SECTION 3-0204.A, 12-0402, CHAPTER 12-06, SECTIONS 13-0101.1.a, 13-1004, 13-1015, 13-1204, AND 13-1207, AND TO CREATE AND ENACT SECTION 13-1021 OF THE REVISED ORDINANCES OF 1990 OF THE CITY OF WEST FARGO, RELATING TO NUISANCES, POSSESSION OF MARIJUANA AND DRUG PARAPHERNALIA, SALE OF TOBACCO PRODUCTS, AUTHORIZED EMERGENCY VEHICLES, VEHICLES ON SIDEWALK PROHIBITED, CHILD RESTRAINT DEVICES, AUTHORITY TO PLACE RESTRICTED TURN SIGNS AND TURNING MARKERS, AND DISTRACTED DRIVING.

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

SECTION 1. Section 3-0204.A of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

3-0204. NUISANCES. The following conditions are public nuisances whenever they may be found in the City:

- A. Any living or standing elm tree or part thereof infected to any degree with the dutch elm disease, fungus, *Ceratocystis ulmi*, and which harbors any of the elm bark beetles, *Scolytus multistriatus*, or *Hylurgopinus rufipes*, or other tree species infected by a disease, invasive species or insect, is determined a nuisance ~~by the Urban Forestry Committee.~~

SECTION 2. Section 12-0402 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

12-0402. POSSESSION OF MARIJUANA AND DRUG PARAPHERNALIA.

1. It shall be unlawful to possess marijuana within the jurisdiction of the City of West Fargo, North Dakota, unless permitted under Chapter 19-24.1 of the N.D.C.C. For purposes of this section, possession includes actual or constructive possession. Constructive possession shall mean the power and capability to exercise dominion and control over the marijuana. ~~A person in possession of less than one half ounce [14.175 grams] of marijuana is guilty of an infraction. A person in possession of at least one half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.~~

A. A person in possession of less than one-half ounce [14.175 grams] of marijuana is guilty of an infraction.

B. A person in possession of at least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.

2. It shall be unlawful to use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce marijuana into the human body or possess with the intent to use drug paraphernalia to store or contain marijuana, unless permitted under Chapter 19-24.1 of the N.D.C.C. Any person violating this section shall be guilty of an infraction.

SECTION 3. Chapter 12-06 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

CHAPTER 12-06

SALE OF TOBACCO PRODUCTS TO MINORS AND USE BY MINORS PERSONS UNDER THE AGE OF TWENTY-ONE PROHIBITED

SECTIONS:

- 12-0601. Procuring Tobacco Product for Persons Under Twenty-One Years of Age~~Minor~~.
12-0602. Persons Under Twenty-One Years of Age ~~Minor~~ Possessing Tobacco Products.
12-0603. Fee.
12-0604. Payment Procedure.
12-0605. Burden of Proof.
12-0606. Notice to Parent or Legal Guardian.
12-0607. Penalty for Contempt.

12-0601. PROCURING TOBACCO PRODUCT FOR PERSON UNDER TWENTY-ONE YEARS OF AGE ~~MINOR~~. For the purpose of this section, the definitions in Section 10-0601 shall apply. It is an infraction for any person to sell or furnish to a person under twenty-one (21) years of age ~~minor~~, or procure for a person under twenty-one (21) years of age ~~minor~~, cigarettes, cigarette papers, cigars, e-cigarettes, electronic cigarettes, electronic smoking devices, snuff, or tobacco products in any other form in which it may be utilized for smoking or chewing. As used in this section, "sell" includes dispensing from a vending machine under the control of the actor.

12-0602. PERSON UNDER TWENTY-ONE YEARS OF AGE ~~MINOR~~
POSSESSING TOBACCO PRODUCTS.

1. It is a noncriminal offense for a ~~minor~~ person under twenty-one (21) years of age to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, e-cigarettes, electronic cigarettes, electronic smoking devices, snuff, or tobacco products in any form in which it may be utilized for smoking or chewing.
2. Subsection 1 shall not apply to an individual under ~~eighteen~~ twenty-one (21) years of age who may purchase and possess tobacco products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco product retailer, or association of tobacco product retailers may also conduct compliance surveys, after coordination with the appropriate law enforcement authority.
3. Subsection 1 shall not apply to an employee less than ~~18~~ twenty-one (21) years of age employed by a licensed tobacco product dealer or distributor where said employee under the age of ~~18~~ twenty-one (21) years handles tobacco products listed in this section as part of that employee's employment.
4. Subsection 1 shall not apply if the ~~minor's~~ possession or use of tobacco products relates to a cultural or religious practice; including, without limitation, the use or possession of tobacco products during any religious or cultural ceremony.

12-0603. FEE. A fee of \$25 will be assessed for a ~~minor~~ person fourteen (14) years of age or older who has been charged with an offense under Section 12-0602 for the first offense. For a second offense within a year, a fee of \$50 and attendance at a tobacco cessation program approved by the West Fargo Municipal Court will be required. For third and subsequent offenses within a year the Municipal Court may impose a fee of up to \$250 and attendance at a tobacco cessation program. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance is punishable as a contempt of court, except a minor may not be imprisoned for contempt.

12-0604. PAYMENT PROCEDURE. A ~~minor~~ person fourteen (14) years of age or older found to have violated Section 12-0602 must pay a fee in the amount set out in Section 12-0603.

1. Any individual who has been cited for a violation of Section 12-0602 may appear before the West Fargo

Municipal Court and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited fails to follow the procedures of this section, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court is the same as the fee schedule set out in Section 12-0603. For a third or subsequent violation, the individual must appear before the Judge of the Municipal Court.

2. An individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed 90 days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
3. The failure to post bond or to pay an assessed fee, or attend a tobacco cessation class when required to do so is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.

12-0605. BURDEN OF PROOF. The prosecution must prove the commission of a cited violation under Section 12-0602 by a preponderance of the evidence.

12-0606. NOTICE TO PARENT OR LEGAL GUARDIAN. A law enforcement officer that cites a minor person under the age of eighteen (18) for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

12-0607. PENALTY FOR CONTEMPT. A person adjudged guilty of contempt for failure to pay a fee or fine or to attend a tobacco cessation class when required to do so may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or attendance at a tobacco cessation class to an alternative sentence or sanction including community service.

SECTION 4. Section 13-0101.1.a of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-0101. DEFINITIONS. The following words and phrases, when used in this title, shall have the meanings respectively ascribed to them except in those instances where the context clearly indicates a different meaning:

1. "Authorized Emergency Vehicles."

a. "Class A" authorized emergency vehicles means:

- (1) Vehicles of a governmentally owned fire department;
- (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles;
- (3) Vehicles clearly identifiable as property of the Department of Corrections and Rehabilitation when operated or under the control of the Director of the Department of Corrections and Rehabilitation.
- (4) Ambulances;
- (5) Vehicles operated by or under the control of the Director, District Deputy Director, or a District Deputy Game Warden of the Game and Fish Department;
- (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
- (7) Vehicles designated for the use of the Adjutant General and Assistant Adjutant General in cases of emergency;
- (8) Vehicles operated by or under the control of the ~~Director of the Parks and Recreation Department~~ West Fargo Park District.
- (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.

(10) Vehicles operated by or under the control of the state forester.

(11) Vehicles operated by or under the control of the Bureau of Criminal Investigation and used for law enforcement purposes.

SECTION 5. Section 13-1004 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-1004. VEHICLE SHALL NOT BE DRIVEN ON A SIDEWALK. The driver of a vehicle shall not drive on or within any sidewalk area except at a permanent or temporary driveway. This section does not apply to any government agency or designee of such government agency.

SECTION 6. Section 13-1015 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-1015. CHILD RESTRAINT DEVICES - PENALTY - EVIDENCE.

1. If a child, under ~~four (4)~~ eight (8) years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one (1) child restraint system for each such child. However, a child under the age of eight (8) who is at least fifty-seven (57) inches [1.45 meters] tall is not required to use a child restraint system, but must be correctly buckled in a safety belt. The child restraint system must meet the standards adopted by the United States Department of Transportation for those systems (49 CFR 571.213). While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. While the motor vehicle is moving, each child of eight (8) through seventeen (17) years of age who is in the motor vehicle must be in an approved child restraint system in accordance with the manufacturer's instructions or correctly buckled in a safety belt. ~~If a child who is at least four (4) and at most seventeen (17) years of age is present in a motor vehicle, unless properly secured in an approved child restraint system, the child must be buckled in a seatbelt whenever the car is moving.~~ Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when manufactured. If a child is being transported in an emergency situation, this section does not apply.

2. Violation of this ordinance is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

(Source: North Dakota Century Code Section 39-21-41.2)

SECTION 7. Section 13-1204 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-1204. AUTHORITY TO PLACE RESTRICTED TURN SIGNS. ~~The Police Department~~ City Administrator, or authorized designee, is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or "U" turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

SECTION 8. Section 13-1207 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

13-1207. AUTHORITY TO PLACE AND OBEDIENCE TO TURNING MARKERS. ~~The police department~~ City Administrator, or authorized designee, may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by the vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

SECTION 9. Section 13-1021 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby created and enacted to read as follows:

13-1021. DISTRACTED DRIVING.

1. An operator of a motor vehicle shall maintain control of that motor vehicle without distraction at all times. An individual is in violation of this section if that individual:

- A. Commits an offense under this chapter or Title 39 of the North Dakota Century Code and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or
 - B. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 39-08-09 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.
- 2. The elements of an offense under this section are the elements of the offense for a violation of this chapter or Title 39 of the North Dakota Century Code and the additional elements that create an offense under the above subsection.
 - 3. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of this traffic offense.
 - 4. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
 - A. Is not necessary to the operation of the vehicle; and
 - B. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.

SECTION 10. Effective Date. This ordinance shall be in full force and effect from and after the date of its final passage and publication.

 President of Board of City
 Commissioners of the City of
 West Fargo, North Dakota

ATTEST:

 City Auditor

Date of First Reading:

Date of Second Reading:

Date of Publication:



City Commission Agenda Item Request

Please Note: The following information must be completed and submitted before noon on the Thursday preceding the City Commission Meeting. Failure to comply may delay action being taken on your request.

Office Use:

Regular Agenda Item #:

Consent Agenda Item #:

Agenda Item Information:

Contact Name: *

Brad Olson

Phone Number: *

N/A

Email Address:

Date *

5/1/2020

Topic for Consent or Regular Agenda?

Please select one option:

Consent Agenda

Regular Agenda

Please Briefly Describe Your Request *

Review current truck route and truck route discussion

Site Address or Legal Description (if applicable)

Action Being Requested from City Commission *

Review truck routes

Upload Additional Documentation (Optional):

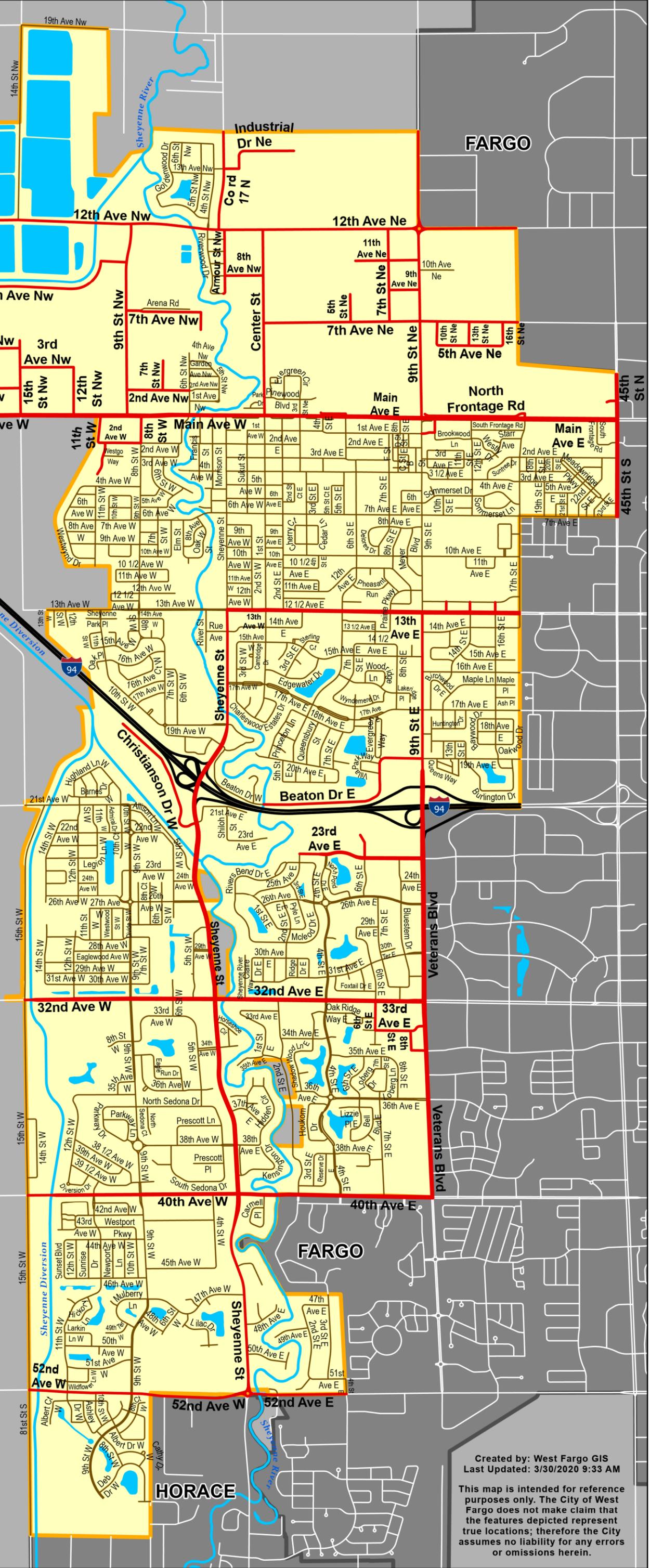
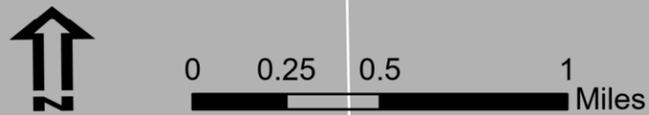
Road Restrictions

Trucking Routes

- Trucking Route
- Non-Trucking Route
- Interstate Highway System
- Other Jurisdiction Road
- Stream
- Waterbody
- City of West Fargo
- Other Municipality
- Rural Cass County

Normal Road Restrictions- Maximum Weight (lbs.)				
	Class 1	Class 2	Class 3	Class 4
Gross Weight	130,000	110,000	90,000	64,000
Single Axle	20,000	18,000	15,000	12,000
Tandem Axle	34,000	32,000	30,000	24,000
Triple Axle	48,000	42,000	36,000	30,000
Quad Axle	60,000	56,000	48,000	40,000
Five-Axle Grouping	75,000	70,000	60,000	50,000

Spring Road Restrictions- Maximum Weight (lbs.)				
	Class 1	Class 2	Class 3	Class 4
Gross Weight	110,000	90,000	64,000	Cars and unloaded trucks only
Single Axle	18,000	15,000	12,000	
Tandem Axle	32,000	30,000	24,000	
Triple Axle	42,000	36,000	30,000	
Quad Axle	56,000	48,000	40,000	
Five-Axle Grouping	70,000	60,000	50,000	



Created by: West Fargo GIS
Last Updated: 3/30/2020 9:33 AM

This map is intended for reference purposes only. The City of West Fargo does not make claim that the features depicted represent true locations; therefore the City assumes no liability for any errors or omissions herein.