



**CITY COUNCIL
MEETING AGENDA
AUGUST 26, 2024 AT 5:30 PM
HJEMKOMST CENTER AUDITORIUM**

City Council Meeting

Disclaimer: Voting requirements may be subject to changes in the law, parliamentary procedural matters, or other unforeseen issues. The City Attorney provides opinion on questions of voting requirements in accordance with the Moorhead City Code, Minnesota State Statutes, and parliamentary procedure.

1. Call to Order and Roll Call
2. Pledge of Allegiance
3. Agenda Amendments
4. Consent Agenda

*All items listed with an asterisk (*) are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in accordance with the "Council Rules of Procedure". In such event, the item will be removed from the General Order of Business and considered in its normal sequence on the agenda.*
5. Recognitions - Presentations
 - A. Presentation: Pastor Devlyn Brooks, Interim CEO at Churches United
 - B. Presentation: 2024C Bond Sale Issuance, Baker Tilly Municipal Advisors
6. Approve Minutes
 - A. August 12, 2024 Meeting Minutes
7. Citizens Addressing the Council (Time Reserved: 15 Minutes)

During "Citizens Addressing the Council", the Mayor will invite residents to share issues, concerns and opportunities. Individuals must limit their comments to three minutes. The Mayor may limit the number of speakers on the same issue in the interest of time and topic. Individuals should not expect the Mayor or Council to respond to their comments tonight.
8. *Mayor and Council Appointments
9. Public Hearings (5:45 pm)

During "Public Hearings", the Mayor will ask for public testimony after staff and/or applicants make their presentations. The following guidelines are in place to ensure an efficient, fair, and respectful hearing; limit your testimony to three minutes and to the matter under consideration; the Mayor may modify times, as deemed necessary; avoid repeating remarks or points of view made by previous speakers. The use of signs, clapping, cheering or booing or any other form of verbal or nonverbal communication is not allowed.

 - A. Public Hearing to Consider 2024 Border City Enterprise Zone Program
 - B. Resolution to Approve 2024 Border City Enterprise Zone Program
10. Economic Development
 - A. *Resolution to Approve Second Amendment to the Master Development Agreement for the

Compass Apartment TIF Project

11. Community Development Department
 - A. *Second Reading of Ordinance 2024-09: An Ordinance to Rezone 4020 35th Ave S (Parcel 58.900.2310) from TZ: Transitional to MU-2: Neighborhood Mixed Use
 - B. *Resolution to Approve Title & Summary of Ordinance 2024-09
 - C. *Second Reading of Ordinance 2024-07: An Ordinance to Amend and Reenact Title 3, Chapter 7, Section 10, Animals Prohibited in City, of the Moorhead Municipal Code Relating to the Keeping of Chickens
 - D. *Resolution to Approve Title and Summary of Ordinance 2024-07
 - E. *Resolution to Enter into a Memorandum of Understanding to Workshop the City of Duluth's Solar and Resilience Toolkit
12. Moorhead Public Service
 - A. *Resolution to Award Bid for 2024 Lead Service Line Replacement Pilot Project
13. Administration
 - A. *Resolution to Approve Contracts with Moorhead Higher Education Institutions for 2024-25 MATBUS U-Pass Program
 - B. Resolution to Approve Interim Joint Powers Agreement with the City of Fargo for Implementation of the Transit Reorganization Study
 - C. Resolution Providing for the Competitive Sale of General Obligation Temporary Tax Increment Financing Bonds, Series 2024C
 - D. Consider actions relating to the City Hall Renovation
 - E. Resolution to approve an Agreement with McGough Construction for Construction Manager At Risk Services for the Moorhead City Hall Renovation
 - F. Resolution to approve Lease Agreement with Frederick Martin Building, LLC group for temporary City Hall relocation during the renovation project
14. Mayor and Council Reports
15. City Manager Reports
16. Executive Session
17. New Business
18. Adjourn



**CITY COUNCIL
MEETING MINUTES
AUGUST 12, 2024 AT 5:30 PM
HJEMKOMST CENTER AUDITORIUM**

1. Call to Order and Roll Call

Roll call of the members was made as follows:

Present: Council Member: Ryan Nelson
Council Member: Matthew Gilbertson
Council Member: Heather Nesemeier
Council Member: Laura Caroon
Council Member: Deb White
Council Member: Larry Seljevold
Council Member: Sebastian McDougall
Mayor: Shelly Carlson
Absent: Council Member: Chuck Hendrickson

2. Pledge of Allegiance

3. Agenda Amendments

4. Consent Agenda

Motion to Approve Consent Agenda made by Heather Nesemeier and seconded by Laura Caroon

Motion Passed

For: 8; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, McDougall, Carlson

Against: 0;

Abstain/Recuse: 0;

Absent: 1; Hendrickson

5. Recognitions - Presentations

A. MoorHeart Recognition: Troy and Diane DeLeon

Governmental Affairs Director Lisa Bode presented the MoorHeart award to Troy and Diane DeLeon. As owners of the historic Dairy Queen on 8th Street and great citizens, the DeLeon's have contributed much to the community through their work and generosity over the years.

6. Approve Minutes

A. July 22, 2024 Meeting Minutes

Motion to Approve July 22, 2024 Meeting Minutes made by Matthew Gilbertson and seconded by Sebastian McDougall

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, McDougall

Against: 0;

Abstain/Recuse: 0;

Absent: 1; Hendrickson

7. Citizens Addressing the Council (Time Reserved: 15 Minutes)

Moorhead resident addressed the council regarding a rezoning of property east of Village Green South

8. *Mayor and Council Appointments

9. Public Hearings (5:45 pm)

10. Community Development Department

A. First Reading of Ordinance 2024-09: An Ordinance to Rezone 4020 35th Ave S from TZ: Transitional to MU-2: Neighborhood Mixed Use

City Planner Robin Huston shared information on the proposed rezoning for 4020 35th Ave S. Discussion took place regarding the possibility of residential construction in the area.

Motion to Approve First Reading of Ordinance 2024-09: An Ordinance to Rezone 4020 35th Ave S from TZ: Transitional to MU-2: Neighborhood Mixed Use made by Larry Seljevold and seconded by Deb White

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, McDougall

Against: 0

Abstain/Recuse: 0

Absent: 1; Hendrickson

B. *First Reading of Ordinance 2024-07: An Ordinance to Amend and Reenact Title 3, Chapter 7, Section 10, Animals Prohibited in City, of the Moorhead Municipal Code Relating to the Keeping of Chickens

C. *Resolution to Approve Minnesota Pollution Control Agency Climate Action Grant and Related Agreement for the Replacement of Turf Grass Areas Along the Red River Corridor (Budget Adjustment #24-026)

D. *Resolution to Approve Vacation of a portion of a Prescriptive Right of Way Easement near Village Green South First Addition

E. *Resolution Approving 2024 Alternative Urban Areawide Review (AUAR) Updates for North, East and South Moorhead Growth Areas

11. Public Works

A. *Resolution to Approve Guaranteed Maximum Price Agreement with Gast Construction Company for Reimagine Romkey Park Project

B. *Resolution to Authorize Advertisement for Construction Manager at Risk (CMAR) Services for the Matson Field Stadium Project

12. Administration

- A. *Resolution to Approve a Minnesota Lawful Gambling Premise Permit for Moorhead Youth Baseball Association
- B. *Resolution to Approve New Liquor License to Starbird Lounge
- C. Resolution to Authorize Agreement with JLG Architects for Architectural and Engineering Services for the City Hall Renovation/Civic Plaza Project

City Manager Dan Mahli shared the recommendation of JLG Architects for City Hall renovations including schematic design through construction with approvals at each step in the project. Rob Remark, JLG Architects was in attendance to answer questions.

Motion to Approve Resolution to Authorize Agreement with JLG Architects for Architectural and Engineering Services for the City Hall Renovation/Civic Plaza Project made by Heather Nesemeier and seconded by Laura Caroon

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, McDougall

Against: 0

Abstain/Recuse: 0

Absent: 1; Hendrickson

13. Mayor and Council Reports

Council member Caroon attended the Fargo-Moorhead Navy Week proclamation ceremony and other events with the Blue Angels.

Council member White thanked everyone that made Fargo Moorhead Pride Week a success. She stated on August 18 the indigenous Association is hosting the Native American Community Picnic at M.B. Johnson Park.

Council member Nesemeier thanked the City staff for their hard work and mentioned the Employee Appreciation Picnic on August 1. Council member Nesemeier updated and thanked residents that hosted and attended Night to Unite events.

Council member Gilbertson attended the Vietnam War Memorial Wall at the American Legion and shared a few touching reflections.

Mayor Carlson provided an update on the Metro Flood Diversion Authority. Mayor Carlson read a proclamation declaring July 27 as Veterans Honor Flight of MN/ND Day. She thanked public safety officials and staff for another series of successful Safe Cities Night events this summer. Mayor Carlson was a judge for the pet competition at the Moorhead Public Library. She stated CCRI's Annual Picnic was a success and shared appreciation for its great work in the community. Mayor Carlson stated the Chamber of Commerce's Moorhead Dilworth Business Round Table discussion was a great way to connect with the community prior to the 2025 legislative session in Minnesota. Mayor Carlson attended a ribbon cutting at Farm in the Dell. Mayor Carlson also attended the Coalition of Greater Minnesota Cities' Annual Conference and is now serving as President of the CGMC.

14. City Manager Reports

City Manager Mahli thanked Troy and Diane DeLeon for their dedication in the community. Mr. Mahli stated the Sunset on the Riverfront event was a big success. He added the Reimagine Romkey groundbreaking is scheduled on August 15 at 1:00pm at Romkey Park.

15. Executive Session

16. New Business

17. Adjourn

Meeting adjourned at 6:08pm.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson
Mayor

Christina Rust
City Clerk

The proceedings of this meeting are digitally recorded and are available for public review.



City Council Communication

August 26, 2024

SUBJECT:

Public Hearing to Consider 2024 Border City Enterprise Zone Program

RECOMMENDATION:

The Mayor and City Council are asked to conduct a public hearing and consider a resolution to approve the final credit amount for the 2023 Border City Enterprise Zone Tax Credit Program.

BACKGROUND/KEY POINTS:

The Border City Program is the State's legislative response to the unique competitive issues faced by five cities located on Minnesota's northwest border with North Dakota. The five designated border cities are East Grand Forks, Dilworth, Moorhead, Breckenridge, and Ortonville. Border City Statutes allow jurisdictions to develop local programs which best suit their city's needs within certain parameters. During the legislative session, updates are provided by city leaders on proposals being advocated by the City or others which may affect the Border City Program. In the 2019 Legislative Session, legislation was passed making an ongoing annual allocation of \$750,000 to the Border City Enterprise Zone Fund and in 2023, Moorhead's pro rata share was \$525,176.

One Border City Enterprise Zone Tax Credit Program created to support current businesses is the "Worker's Compensation Rebate Program" which provides an income tax credit for a portion of a business's actual workers compensation expense. This program is reviewed annually by the Moorhead Economic Development Authority and City Council. On July 1, 2024, the Moorhead Economic Development Authority reviewed and unanimously recommended to hold the credit amount at 25% of a business's workers compensation expense and to cap the credit at a maximum of \$30,000 per business.

Enterprise Zone 2024 Program Year (July 2024 – April 2025)

Around this time each year, the City Council holds a public hearing to review the Enterprise Zone Program and authorize local officials' signatures (or designee) on the state's tax credit form which the business ultimately submits with their Minnesota income tax filing.

In 2023, we launched an online application system supported by our own IT staff to simplify the process and provide better communication with businesses. We continue to streamline that process to be as responsive as possible while continuing to meet the standards set forth in state statute.

FINANCIAL CONSIDERATIONS:

Agenda Item 9.A.



The Worker's Compensation Rebate Program is funded through state-paid tax credits to the Border City Enterprise Zone fund. Annual allocations to that fund are fixed in the state budget for which Moorhead's share based on population is generally around \$585,000. Program administration, including mailings and online implementation costs, are the only direct expenses incurred. Based on participation in previous years, it is estimated that the reduction to Moorhead's Enterprise Zone Fund (credits paid to businesses) will be in the range of \$425,000 to \$450,000.

City Council Communication

August 26, 2024

Voting Requirements: 4/5 of Council (7)

Submitted By:

Dan Mahli, City Manager

Amy Thorpe, Economic Development Program Administrator

Attachments: Draft Resolution

RESOLUTION

Resolution to Approve 2024 Border City Enterprise Zone Program

WHEREAS, the State of Minnesota passed legislation providing for the designation of certain cities as Border City Enterprise Zones to retain and attract businesses and jobs to thereby enhance the economic vitality of the City as well as the State of Minnesota; and

WHEREAS, the City of Moorhead through an Implementation Task Force for Enterprise Zone legislation developed the procedures and regulations by which Enterprise Zone Credits would be made available to eligible businesses within the City of Moorhead; and

WHEREAS, upon review and approval of this program, the State of Minnesota Department of Employment and Economic Development designated the City of Moorhead a Border City Enterprise Zone; and

WHEREAS, the Minnesota Legislature passed law in 2019 making an ongoing annual appropriation of \$750,000 to the Border City Enterprise Zone Fund. Moorhead's pro rata share allocated in July 2024 was \$525,476; and

WHEREAS, a notice of public hearing was published on August 2, 2024, in the legal newspaper and letters were sent by US Mail to the Clay County Administrator and the Moorhead Public School Superintendent, as required by state statute; and

WHEREAS, a public hearing was held by the Moorhead City Council on August 26, 2024, at 5:45 pm.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, upon the unanimous recommendation of the Moorhead Economic Development Authority:

1. The businesses on the attached report, if any, include new businesses to the program and those with a change in status, name or ownership, are designated as eligible to receive State-paid job credits; and
2. Those businesses which were so designated in any year between 1983 and 2023 which have applied in 2024 are eligible to receive State-paid job credits for the applicable income tax year per the percentage indicated, subject to legislated maximums of \$1,500 per employee, as follows: Citywide applicants are approved for a credit level of 25% of their earned workers compensation expense with a program maximum of \$30,000 per business; and

The Mayor and City Manager are herein authorized and directed to enter into and execute, for and on behalf of the City of Moorhead, agreements which will stipulate the terms and conditions by which State-paid credits will be provided.

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

August 26, 2024

SUBJECT:

Resolution to Approve Second Amendment to the Master Development Agreement for the Compass Apartment TIF Project

RECOMMENDATION:

The Mayor and City Council are asked to consider approval of a Second Amendment to the Master Development Agreement relating to the Days Inn Redevelopment Project and Tax Increment Financing Plan

BACKGROUND/KEY POINTS:

In December 2021, the Moorhead Economic Development Authority (EDA) and City Council reviewed and approved a redevelopment plan for the Days Inn Redevelopment Project Area and Tax Increment Financing Plan for Tax Increment Financing (TIF) District No. 30 (Days Inn Redevelopment Project). This plan included the construction of a new multi-family apartment with at-grade structured parking and other TIF qualifying expenses such as land acquisition and site preparation / improvement costs (demolition) of the former Days Inn motel.

On August 29, 2022, the Moorhead Economic Development Authority (EDA) and City Council reviewed and approved an amendment to the plan which gave the developer some flexibility in the number of units constructed and allowed the project to be constructed in two phases (one apartment building per phase) to secure private financing to keep the project moving forward.

On August 12, 2024, the EDA recommended approval of a second amendment which further clarifies the ownership of the phases and assigns Phase I development (600 30th Ave S – 93 units) to Compass Apartment I, LLC, and Phase 2 development (500 30th Ave S – 83 units) to Compass Apartments II, LLC. This will allow the issuance of separate TIF notes, one to each entity. All other terms and conditions remain the same.

FINANCIAL CONSIDERATIONS:

The approved financial assistance is a pay-as-you-go tax increment financing district for a maximum term of 18 years. The City of Moorhead provided a \$600,000 upfront loan to assist in the extraordinary costs of demolition which will be repaid with interest from future TIF proceeds.

Voting Requirements: 3/4 of Council (6)

Submitted By:

Dan Mahli, City Manager

Derrick LaPoint, President/CEO, Downtown Moorhead Inc.

Amy Thorpe, Economic Development Program Administrator

Attachments: General Location Map
Draft Resolution

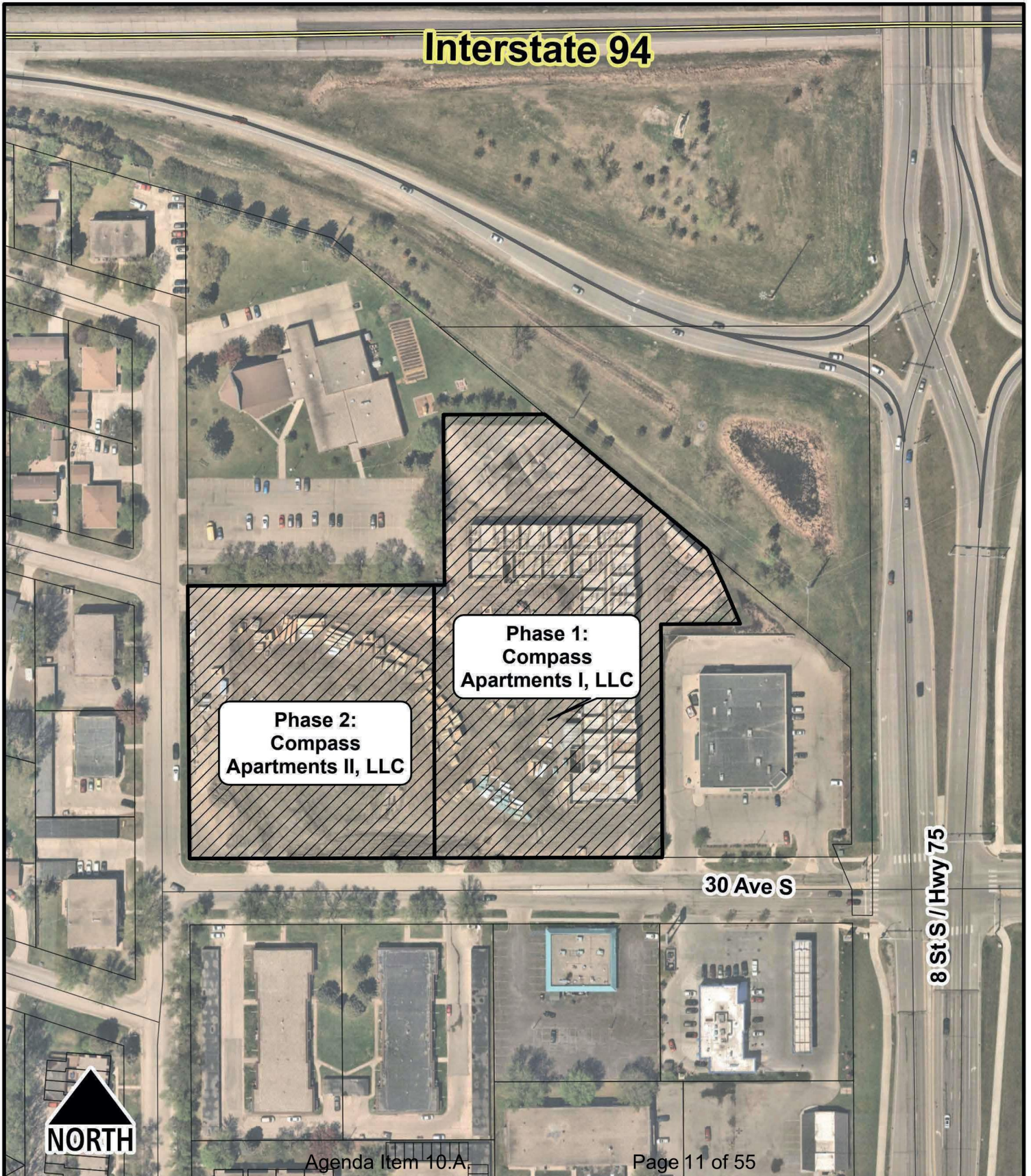


GENERAL LOCATION MAP

Days Inn Redevelopment TIF Project

Phase I - 600 30 Ave S

Phase 2 - 500 30 Ave S



RESOLUTION

Resolution to Approve a Second Amendment to the Master Development Agreement relating to the Days Inn Redevelopment Project and Tax Increment Financing Plan

WHEREAS, the City of Moorhead, Minnesota (the “City”), heretofore adopted the area of the Days Inn Redevelopment Project (the “Redevelopment Project”); approved and accepted the Redevelopment Plan for Days Inn Redevelopment Project (the “Redevelopment Plan”), dated December 13, 2021, for the Redevelopment Project; established Tax Increment Financing (Redevelopment) District No. 30 (Days Inn Redevelopment Project) (the “TIF District”) therein; and approved and accepted the Tax Increment Financing Plan for Tax Increment Financing (Redevelopment) District No. 30 (Days Inn Redevelopment Project), dated December 13, 2021, for the TIF District (the “TIF Plan”), all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.001 through 469.047 and Sections 469.174 through 469.1794 (the “Act”), Laws of Minnesota 1986, Chapter 341 and the Home Rule Charter of the City; and

WHEREAS, the Moorhead Economic Development Authority, Minnesota (the “EDA”), is the entity with the authority over the Redevelopment Project and has negotiated a Master Development Agreement with Compass Apartments LLC (the “Developer”) for the Redevelopment Project; and

WHEREAS, due to the City’s involvement with the Redevelopment Project, the Redevelopment Plan, the TIF District, and the TIF Plan, the City is granted rights in the Master Development Agreement; and

WHEREAS, the Authority and the Developer’s affiliate, Compass Apartments, LLC, previously entered into the Master Development Agreement, dated December 14, 2021, and attached hereto as Exhibit A (the “Agreement”), setting forth their roles and responsibilities in relation to the Days Inn Redevelopment Project (the “Project”); and

WHEREAS, the Authority and Compass Apartments I, LLC, previously entered into the First Amendment to the Master Development Agreement, dated September 12, 2022, attached hereto as Exhibit B (the “First Amendment”), addressing the phasing of the Minimum Improvements for the Project; and

WHEREAS, the Parties desire to amend the Agreement to address the assignment of interests and ownership of the phasing of Minimum Improvements for the Project; and

WHEREAS, Compass Apartments I, LLC, now desires to assign its rights interest and ownership in Phase II interest to Compass Apartments II, LLC.

WHEREAS, the City has had the opportunity to review the Second Amendment to the Master Development Agreement and desires to consent to its approval and execution by the EDA.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Moorhead, Minnesota, as follows:

1. Plans. The City hereby finds the Second Amendment to the Master Development Agreement accurately sets forth the Redevelopment Project and TIF District and conforms to the requirements of the Redevelopment Plan and the TIF Plan.

2. Consent. The City hereby consents to the approval and execution of the Second Amendment to the Master Development Agreement, as drafted and approved by the City Attorney, by the EDA.

3. Governing Law. This Resolution will be governed by, and construed and enforced in accordance with, the laws of the State of Minnesota.

4. Electronic Signature. The electronic signature of a party on this Resolution will be as valid as an original signature of such party and will be binding. For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; and (ii) "transmitted by electronic means" means sent in a form of a facsimile or sent via the internet as a portable document format ("pdf") or other replicating image attached to an electronic mail or internet message.

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

August 26, 2024

SUBJECT:

Second Reading of Ordinance 2024-09: An Ordinance to Rezone 4020 35th Ave S (Parcel 58.900.2310) from TZ: Transitional to MU-2: Neighborhood Mixed Use

RECOMMENDATION:

The Mayor and City Council are asked to consider a Second Reading of Ordinance 2024-09: An Ordinance to Rezone 4020 35th Ave S (Parcel 58.900.2310) from TZ: Transitional to MU-2: Neighborhood Mixed Use to facilitate residential development.

BACKGROUND/KEY POINTS:

The applicant is requesting the rezone to facilitate housing development and this parcel has been identified for mixed use development in the 2022 Onward Moorhead! Comprehensive Plan. The site can support up to 40 residential dwelling units with existing infrastructure.

This parcel is currently zoned TZ: Transitional, which is a placeholder for properties annexed into the city, until they are developed. This property was annexed in 2006 and multi-family development is a compatible use in this mixed-use area. Whereas a final site plan has not been approved at this point, the applicant has indicated townhome or senior apartments.

The Planning Commission held a public hearing on August 5, 2024 and unanimously recommended approval of the rezoning. Several public comments were received from residents from the adjacent neighborhood including concerns about density, appearance, increased crime and traffic, safety at the 34th Ave S/Hwy 52 intersection, drainage, disruption to their quiet enjoyment of the area and comments that there is already enough multi-family in Moorhead and that there are other areas in Moorhead better suited for this type of use.

The complete Planning Commission Packet is available at: [City of Moorhead : Planning Commission](#)

The City Council approved a First Reading of this Ordinance on August 12, 2024.

FINANCIAL CONSIDERATIONS:

Not Applicable

Voting Requirements: Majority of Council

Submitted By:

Dan Mahli, City Manager
Robin Huston, City Planner / Zoning Administrator
Brittany Cameron, Assistant City Planner

Attachments: Ordinance 2024-09 – Rezoning
Draft Resolution – Title & Summary

ORDINANCE 2024-09

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP IN ACCORDANCE WITH
CHAPTER 3 OF TITLE 10 OF THE MOORHEAD CITY CODE REZONING 4020 35TH
AVENUE SOUTH (PARCEL 58.900.2310) FROM TZ: TRANSITIONAL TO MU-2:
NEIGHBORHOOD MIXED USE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOORHEAD AS
FOLLOWS:

WHEREAS, Barrier Homes, Inc. has requested to rezone 4020 35th Avenue S (Parcel 58.900.2310) from TZ: Transitional to MU-2: Neighborhood Mixed Use, legally described as:

Two tracts of land in the Southwest Quarter of Section 23, in Township 139 North of Range 48 West of the Fifth Principal Meridian, situate in the County of Clay and the State of Minnesota, described as follows: (1) Beginning at a point which lies on the West line of said Section 23 at a distance of 628.11 feet South of the point of intersection of said West section line with the Southwest Right-of-Way line of Trunk Highway 52; thence South along the said West line of said Section 23 a distance of 122.11 feet; thence North 71°55' East a distance of 465.74 feet to a point of intersection with the Southwest Right-of-Way line of Trunk Highway 52; thence Northwesterly along said Southwest Right-of-Way line a distance of 122.11 feet; thence South 71°55' West a distance of 389.93 feet, more or less, to the point of beginning; AND (2) Beginning at a point of intersection of the Southwest Right-of-Way line of Trunk Highway 52 and the West line of said Section 23; thence South along the West line of said Section 23 a distance of 628.11 feet; thence North 71°55' East a distance of 389.93 feet to a point of intersection with the said Southwest Right-of-Way line of Trunk Highway 52; thence Northwesterly along said Southwest Trunk Highway Right-of-Way line a distance of 628.11 feet to the Point of Beginning; and

WHEREAS, the Moorhead Planning Commission held a public hearing on August 5, 2024 regarding said rezoning and voted unanimously to recommend approval; and

WHEREAS, the City Council of the City of Moorhead finds pursuant to the purpose and intent found in Title 10, Chapter 3 of the Moorhead City Code that the proposed rezoning of property would promote health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Official Zoning Map of the City of Moorhead, in accordance with Chapter 3 of Title 10 of the City Code of Moorhead, Minnesota is hereby amended to rezone 4020 35th Avenue S (Parcel 58.900.2310) from TZ: Transitional to MU-2: Neighborhood Mixed Use, described as:

Two tracts of land in the Southwest Quarter of Section 23, in Township 139 North of Range 48 West of the Fifth Principal Meridian, situate in the County of Clay and the State of Minnesota, described as follows: (1) Beginning at a point which lies on the West line of said Section 23 at a distance of 628.11 feet South of the point of intersection of said West section line with the Southwest Right-of-Way line of Trunk Highway 52; thence South along the said West line of said Section 23 a distance of 122.11 feet; thence North 71°55' East a distance of 465.74 feet to a point of intersection with the Southwest Right-of-Way line of Trunk Highway 52; thence Northwesterly along said Southwest Right-of-Way line a distance of 122.11 feet; thence South 71°55' West a distance of 389.93 feet, more or less, to the point of beginning; AND (2) Beginning at a point of intersection of the Southwest Right-of-Way line of Trunk Highway 52 and the West line of said Section 23; thence South along the West line of said Section 23 a distance of 628.11 feet; thence North 71°55' East a distance of 389.93 feet to a point of intersection with the said Southwest

Right-of-Way line of Trunk Highway 52; thence Northwesterly along said Southwest Trunk Highway Right-of-Way line a distance of 628.11 feet to the Point of Beginning.

This Ordinance shall take effect upon publication in accordance with the Moorhead City Charter.

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

First Reading: 8/12/2024
E-Post Date: 08/16/2024
Second Reading: 08/26/2024
Publication:

RESOLUTION

Resolution to Approve Title and Summary of Ordinance 2024-09

WHEREAS, the City Council of the City of Moorhead did pass a Second Reading of Ordinance 2024-09: An Ordinance to Rezone 4020 35th Avenue S (Parcel 58.900.2310) from TZ: Transitional to MU-2: Neighborhood Mixed Use; and

WHEREAS, a Title and Summary for publication of the above Ordinance was submitted to the City Council for its review in accordance with Section 3.07 of the Moorhead City Charter; and

WHEREAS, the City Council has reviewed the Title and Summary for said Ordinance for approval and has determined that the Title and Summary informs the public of the intent and effect of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Title and Summary for Ordinance 2024-09: An Ordinance to Rezone 4020 35th Avenue S (Parcel 58.900.2310) from TZ: Transitional to MU-2: Neighborhood Mixed Use is hereby approved. A copy of said Title and Summary was before the City Council and is now of record and on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED by the City Council of the City of Moorhead, Minnesota that the City Clerk is hereby authorized and directed to publish said Title and Summary in accordance with Section 3.08 of the Moorhead City Charter.

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

TITLE AND SUMMARY OF ORDINANCE 2024-09

The following Ordinance is hereby published by Title and Summary:

1. Title of Ordinance

An Ordinance to Amend the Official Zoning Map in accordance with Chapter 3 of Title 10 of the Moorhead City Code rezoning 4020 35th Avenue S (Parcel 58.900.2310) from TZ: Transitional to MU-2: Neighborhood Mixed Use.

2. Summary of Ordinance

An Ordinance which rezones 4020 35th Avenue S (Parcel 58.900.2310) from TZ: Transitional to MU-2: Neighborhood Mixed Use.

3. Availability of Ordinance

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the Office of the City Clerk, Third Floor, City Hall, 500 Center Avenue, Moorhead, MN.

The Ordinance was passed by the City Council of the City of Moorhead this 28th day of August, 2024.

First Reading: 08/12/2024
E-Post: 08/16/2024
Second Reading: 08/26/2024
Publication:



City Council Communication

August 26, 2024

SUBJECT:

Second Reading of Ordinance 2024-07: An Ordinance to Amend and Reenact Title 3, Chapter 7, Section 10, Animals Prohibited in City, of the Moorhead Municipal Code Relating to the Keeping of Chickens

RECOMMENDATION:

The Mayor and City Council are asked to consider a Second Reading of Ordinance 2024-07: An Ordinance to Amend and Reenact Title 3, Chapter 7, Section 10, Animals Prohibited in City, of the Moorhead Municipal Code Relating to the Keeping of Chickens

BACKGROUND/KEY POINTS:

The current chicken ordinance was adopted in 2023 allowing residents to keep up to six chickens with a permit. Throughout the past year, feedback from residents and research into chicken best practices have highlighted opportunities for updates to the code.

The following are the main updates:

1. **Enlarged Run Area** – Currently, the run area must be a minimum of 4 – 10 sq. ft. per chicken. The proposed change would increase this minimum to 15 sq. ft. per chicken with a maximum run area capped at 200 sq. ft. for all areas except RLD-1, where there would be no run maximum (Oakport and Americana Estates annexation areas).
2. **Increased Number of Chickens** – To accommodate requests from residents in the Oakport area, the proposed amendment would divide permits into a Tier I and Tier II permit.
 - a. Tier I – Available to all residents who meet requirements for keeping up to 6 chickens.
 - b. Tier II – Available to RLD-1 properties, 1 acre or more, for keeping up to 12 chickens.
3. **Fencing and Screening:**
 - a. Light permeable fencing permitted in addition to solid fencing, provided the light permeable fence is screened by landscaping.
 - b. Clarifications made for permitted and prohibited fence materials.
 - c. Fencing/Screening waived for RLD-1 properties.
4. **Coop & Run Materials** – Clarifications have been made for permitted and prohibited materials.
5. **Run Height** – Adjusted from 6 to 7 feet to be consistent with the maximum coop height.



6. Free-range Chickens – Language added to allow chickens to roam on permitted property outside a coop/run as long as they are contained.

City Council Communication

7. Existing Permits – Those with approved permits would not be required to make any modifications based on the proposed code changes. Currently, there are 20 active chicken permits with five complaints made in 2023 for non-permitted chickens.

Moorhead Police has reviewed the proposed amendments and had no comment.

The City Council approved a First Reading of this Ordinance on August 12, 2024. Since the first reading, clarifications were made to the fence/screening requirements as follows:

Table footnote #2, *Screening/fence height must be at least the height of the coop/run*, changed to match other residential screening requirements:

2. Residential Protection Screening: Where any chicken coop/run abuts property zoned for residential use, screening along the boundary of the residential property shall be provided. All fencing and screening specifically required by this title shall be subject to title 10-19-5, Fences, and shall consist of either a:

- a. Six (6) foot solid fence; or
- b. Solid fence less than 6 feet in height or light permeable fence 4-7 feet in height shall have a greenbelt planting strip provided as follows:
 1. A greenbelt planting strip shall consist of evergreen and/or deciduous trees and plants, and shall be:
 - a. Of sufficient width and density to provide an effective visual screen, as approved by zoning administrator.
 - b. Minimum height of six (6) feet.
 - c. Earth mounding or berms may be used but shall not be used to achieve more than three (3) feet of the required screen.

FINANCIAL CONSIDERATIONS:

Not Applicable

Voting Requirements: Majority of Council

Submitted By:

Dan Mahli, City Manager

Robin Huston, City Planner / Zoning Administrator

Attachments: Draft Ordinance 2024-07
Draft Resolution - Title and Summary

ORDINANCE 2024-07

AN ORDINANCE TO AMEND AND REENACT TITLE 3, CHAPTER 7, SECTION 10, ANIMALS PROHIBITED IN CITY, OF THE MOORHEAD MUNICIPAL CODE RELATING TO KEEPING OF CHICKENS

BE IT ORDAINED by the City Council of the City of Moorhead as follows:

NEW

DELETE

SECTION 1. Title 3, Chapter 7, Section 10, Animals Prohibited in City, of the Moorhead Municipal Code is hereby amended and reenacted to read as follows (unchanged portions of this chapter have been omitted from the text below):

3-7-10: ANIMALS PROHIBITED IN CITY:

...

~~B. Keeping of Chickens: It is unlawful for any person to own, control, keep, maintain, or harbor chickens on any premises within the city unless that person has a permit to do so as provided in this chapter. A permit will not be issued for the keeping or harboring of more than six (6) chickens on any premises. The keeping or harboring of male chickens or roosters is prohibited.~~

~~1. Permit: A person shall not maintain a coop or run unless granted a permit by the city. The permit is subject to all terms and conditions of this chapter and any additional conditions deemed necessary by the city to protect public health, safety, and welfare.~~

~~a. Annual Permit: Permits will not exceed one (1) year and are subject to annual renewal. The initial permit automatically expires at the end of the initial calendar year and, thereafter, renewals of said permit extend for calendar-year periods. The annual permit fee is set by resolution of the City Council, as amended from time to time.~~

~~b. Permit Requirements: An application for a permit includes a complete application with a scaled diagram that indicates the location of the coop and run, approximate size and distance of the coop and run from adjoining structures and property lines, the number and species of chickens to be maintained at the premises, and a signed statement that the applicant will, at all times, keep the chickens in accordance with this chapter and comply with all the conditions within the application and permit. Failure to comply with said conditions, or modification thereof, will constitute a violation of the provisions of this chapter and are grounds for revocation or suspension of the permit. Chickens may be slaughtered on the premises, out of view of the general public and only if for consumption by the occupants of the premises.~~

~~c. A property with three (3) or more residential dwelling units, commercial, mixed use, and industrial properties is prohibited from keeping chickens.~~

~~2. Confinement: A person who owns, controls, keeps, maintains, or harbors chickens must keep them confined at all times in a coop and run and may not allow the chickens to run at large. Chickens must be secured in a chicken coop from sunset to sunrise each day.~~

~~a. The following conditions apply to both coops and runs:~~

~~(1) Must not be located within the front yard;~~

~~(2) Must be setback a minimum of three (3) feet from any adjacent structures;~~

~~(3) Must be setback a minimum of ten (10) feet from all property lines;~~

~~(4) Must not be located on any public easements;~~

~~(5) Must be a minimum of four (4) square feet per chicken and may not exceed ten (10) square feet per chicken;~~

~~(6) Fencing for coops and runs may not exceed six (6) feet in total height from adjacent ground level;~~

~~(7) Must not be located in any part of a dwelling unit or garage;~~

~~(8) Feed must be kept within a coop, run, shed or garage and must be kept in animal proof containers; and~~

~~(9) Manure must be removed frequently, and use of quality bedding material is recommended.~~

~~Manure which is not properly disposed of and/or causes odor issues will result in revocation of the permit.~~

~~(10) To provide a buffer from adjacent properties, Coops and runs shall be enclosed by a solid opaque fence or wall measuring a minimum of five feet (5') in height and not more than four inches (4") from~~

the ground or other surface. A solid opaque fence or wall around the rear yard that meet these measurements, shall also be sufficient to meet this requirement.

— b. The following conditions apply to coops:

— (1) Must be either elevated with a clear open space of at least sixteen (16) inches between the ground surface and grading/floor of the coop or;

— (2) Must not exceed seven (7) feet in total height from adjacent ground level;

— (3) May be a commercially purchased chicken coop that substantially conforms with the requirements of this ordinance. Substantially conforms means that it may not differ more or less than twenty percent (20%) of the noted chicken coop standards.

— (4) The coop floor, foundation and footings must be constructed using rodent resistant construction.

— c. The following apply to runs:

— (1) Must not exceed ten (10) square feet per chicken;

— (2) Fencing must not exceed six (6) feet in total height from adjacent ground level; and

— (3) May be enclosed with wood, woven wire materials, or a combination thereof.

— 3. Conditions and Inspections: A person who owns, controls, keeps, maintains, or harbors chickens must not permit the premises where the chickens are kept to be maintained in an unhealthy, unsanitary, or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent properties. Any coop or run authorized by permit under this chapter may be inspected at any reasonable time by the animal control officer, law enforcement officer, public health official, or other employee or agent of the city.

— 4. Private Restrictions/Covenants: A permit issued to a person whose premises is subject to private restrictions and/or covenants that prohibit the keeping of chickens is the sole responsibility of the person applying for the permit. The interpretation and enforcement of the private restrictions and/or covenants is the sole responsibility of the private parties involved, the city is in no way responsible for interpreting or enforcing private restrictions and/or covenants.

— 5. Refusal to Grant Permit: The city may refuse to grant or renew a permit to keep or maintain chickens for failure to comply with the provisions of this chapter, submitting an inaccurate or incomplete application, failure to comply with permit conditions, creation of a nuisance condition, or if the public health and safety is unreasonably endangered by the granting or renewing of such permit. Any coop or run constructed or maintained on any premises must be removed from said premises within thirty (30) days after the suspension, expiration, or revocation of the permit for said premises or after a period of thirty (30) days from which chickens have not been lawfully kept on the premises.

— 6. Suspension and Appeal: A permit for keeping of chickens may be revoked or suspended by the city for any violation of this chapter following written notice or, upon request for renewal, the renewal permit may be refused by the city. The applicant may appeal the revocation, suspension, or refusal to renew the permit to the city clerk by requesting a hearing before the City Council within seven (7) days of the date of the notice. The City Council shall hear testimony from the permittee and city staff and render a decision on the matter or request additional information.

— 7. Violation: A person who owns, controls, keeps, maintains, or harbors chickens without obtaining or maintaining a current permit or after a permit has been suspended or revoked is guilty of an infraction as provided under City Code §§ 1-4-2 and 1-4-4.

— 8. A person who had a permit to harbor chickens and who no longer harbors chickens must remove any related structures (coop, run, or other) within ten (10) days of no longer harboring chickens.

...

B. Keeping of Chickens: It is unlawful for any person to own, control, keep, maintain, or harbor chickens on any premises within the city unless that person has a permit to do so as provided in this chapter. The keeping or harboring of male chickens or roosters is prohibited.

1. Permit: A person shall not maintain a coop or run unless granted a permit by the city. The permit is subject to all terms and conditions of this chapter and any additional conditions deemed necessary by the city to protect public health, safety, and welfare.

a. Annual Permit: Permits will not exceed one (1) year and are subject to annual renewal. The initial permit automatically expires at the end of the initial calendar year and, thereafter, renewals of said permit

extend for calendar-year periods. The annual permit fee is set by resolution of the City Council, as amended from time to time.

b. Number of chickens:

i. Tier I Permit: One to Six (1 – 6) chickens: Permit may be issued to any property that meets requirements for keeping chickens.

ii. Tier II Permit: Seven to Twelve (7 – 12) chickens: Permit may be issued to properties zoned RLD-1: Residential Low Density – 1 that are one (1) acre or more and meets requirements for keeping chickens.

c. Permit Requirements: A completed application for a permit includes:

- i. Applicant and property information;
- ii. The number and species of chickens to be maintained at the premise;
- iii. A signed statement that the applicant will, at all times, keep the chickens in accordance with this chapter and comply with all the conditions within the application and permit. Failure to comply with said conditions, or modification thereof, will constitute a violation of the provisions of this chapter and are grounds for the revocation or suspension of the permit.
- iv. Fee
- v. A scaled drawing with the following:
 - a. The location and dimensions of the coop, run, fence and landscape screening (where required);
 - b. Approximate distance of the coop and run from adjoining structures and property lines;
 - c. If coop or run is intended to be moveable, indicate area or areas where they may be moved;

d. A property with three (3) or more residential dwelling units or zoned for commercial, mixed-use, institutional, or industrial use is prohibited from keeping chickens.

i. Exception: Single and two-family homes in mixed-use districts may keep chickens.

2. Chickens may be slaughtered on the premises if out of view of the general public and only for consumption by the occupants of the premises.

3. Confinement: A person who owns, controls, keeps, maintains, or harbors chickens must keep them confined in a coop and/or run and may not allow the chickens to run at large, which means chickens roaming off permitted property.

a. Exception: Chickens may roam outside of their coop or run within yards with perimeter fencing or coop/run perimeter fencing between sunrise and sunset with adult supervision.

b. Coops and Runs

	<u>Location</u>	<u>Setbacks</u>	<u>Materials</u>	<u>Height</u>
<u>Coop and Run</u>	<u>-May not be located in front yard (beyond front façade of house)</u> <u>-May not be located in easements</u> <u>-May not be located in dwelling or garage</u>	<u>-3 feet from onsite structures</u> <u>-10 feet from property lines</u>	<u>-Must be predator-proof and constructed from durable materials which are compatible with the principal structure.</u> <u>- Runs must be entirely enclosed and allow airflow and sunlight with non-opaque materials such as chicken-wire.</u> <u>-Coop floor, foundation and footings must be constructed using rodent resistant materials</u>	<u>-May not exceed 7 feet</u>

			-Materials such as <u>exposed plywood, particle board, unfinished metal, plastic sheets or tarps and snow fencing are not permitted</u>	
Feed	-Must be kept within <u>coop, run or other structure on site within animal-proof containers</u>			
Fencing¹	-Must be either around <u>perimeter of yard or around perimeter of coop and run</u>	-Perimeter fencing is <u>permitted up to the property line</u>	-Must be either: <u>6-foot solid fence consisting of typical residential fence materials such as wood or vinyl²</u> <u>or</u> <u>4-6 foot light permeable fence with landscaping sufficient to screen from neighbors and/or street²</u> -Materials such as <u>exposed plywood, particle board, pallets, snow fences and other materials not customarily associated with residential fence materials are prohibited</u>	-Minimum: 4 feet ² -Maximum: 7 feet ² -Fence bottom must be <u>no more than 4 inches from the ground or surface</u>
	Size³	Clearance from ground to coop floor	Bedding	Manure
Coop	-Minimum: 4 square feet per chicken -Maximum: 10 square feet per chicken -Chickens must be secured in a chicken coop from sunset to sunrise each day	-2 feet -The area under the coop may be used as <u>up to 50% of required run space if at least 2 feet in height and open to airflow</u>	-To be layered with <u>quality bedding such as straw, hay or hemp that is clean and changed frequently to prevent odor, pests and other nuisances</u>	-Must be removed frequently - Manure which is not <u>properly disposed of and/or causes odor issues will result in revocation of the permit.</u>
Run	- Minimum: 15 square feet per chicken -Maximum: cannot exceed 200 square feet except in RLD-1 where there is <u>no maximum</u> -At least 50% of run must be in <u>direct sunlight</u>			

1. Exception: Properties in RLD-1: Residential Low Density – 1 are exempt from fence/screening requirements except that chickens that roam outside of coop/run must roam in a contained area.
2. Residential Protection Screening: Where any chicken coop/run abuts property zoned for residential use, screening along the boundary of the residential property shall be provided. All fencing and screening specifically required by this title shall be subject to title 10-19-5, Fences, and shall consist of either a:
 - a. Six (6) foot solid fence; or
 - b. Solid fence less than six (6) feet in height or light permeable fence four to seven (4-7) feet in height shall have a greenbelt planting strip provided as follows:
 1. A greenbelt planting strip shall consist of evergreen and/or deciduous trees and plants, and shall be:

- a. Of sufficient width and density to provide an effective visual screen, as approved by zoning administrator.
- b. Minimum height of six (6) feet.
- c. Earth mounding or berms may be used but shall not be used to achieve more than three (3) feet of the required screen.

3. Commercially purchased coops/runs that substantially conform with the requirements of this ordinance may be permitted. "Substantially conforms" means it may not differ more or less than thirty percent (30%) of the noted coop/run standards, as approved by the Zoning Administrator.

4. Conditions and Inspections: A person who owns, controls, keeps, maintains, or harbors chickens must keep premises in a healthy, sanitary, and non-nuisance condition. Premises may not create noxious odors that may affect adjacent properties. Any coop or run authorized by permit under this chapter may be inspected at any reasonable time by an animal control officer, law enforcement officer, public health official, or other employee or agent of the City.

5. Private Restrictions/Covenants: A permit issued to a person whose premises is subject to private restrictions and/or covenants that prohibit the keeping of chickens is the sole responsibility of the person applying for the permit. The interpretation and enforcement of the private restrictions and/or covenants is the sole responsibility of the private parties involved, the city is in no way responsible for interpreting or enforcing private restrictions and/or covenants.

6. Refusal to Grant Permit: The city may refuse to grant or renew a permit to keep or maintain chickens for failure to comply with the provisions of this chapter, submitting an inaccurate or incomplete application, failure to comply with permit conditions, creation of a nuisance condition, or if the public health and safety is unreasonably endangered by the granting or renewing of such permit. Any coop or run constructed or maintained on any premises must be removed from said premises within thirty (30) days after the suspension, expiration, or revocation of the permit for said premises or after a period of thirty (30) days from which chickens have not been lawfully kept on the premises.

7. Suspension and Appeal: A permit for keeping of chickens may be revoked or suspended by the city for any violation of this chapter following written notice or, upon request for renewal, the renewal permit may be refused by the city. The applicant may appeal the revocation, suspension, or refusal to renew the permit to the city clerk by requesting a hearing before the City Council within seven (7) days of the date of the notice. The City Council shall hear testimony from the permittee and city staff and render a decision on the matter or request additional information.

8. Violation: A person who owns, controls, keeps, maintains, or harbors chickens without obtaining or maintaining a current permit or after a permit has been suspended or revoked is guilty of an infraction as provided under City Code §§ 1-4-2 and 1-4-4.

9. A person who had a permit to harbor chickens and who no longer harbors chickens must remove any related structures (coop, run, or other) within ten (10) days of no longer harboring chickens.

...

This Ordinance shall take effect after publication in accordance with the Moorhead City Charter.

PASSED: August 12, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

First Reading: 08/12/2024
E-Post: 08/16/2024

Second Reading: 08/26/2024
Publication:

RESOLUTION

Resolution to Approve Title and Summary of Ordinance 2024-07

WHEREAS, the City Council of the City of Moorhead did pass Ordinance 2024-07: An Ordinance to Amend and Reenact Title 3, Chapter 7, Section 10, Animals Prohibited in City, of the Moorhead Municipal Code Relating to the Keeping of Chickens; and

WHEREAS, a title and summary for publication of the above Ordinance was submitted to the City Council for its review in accordance with Section 3.07 of the Moorhead City Charter; and

WHEREAS, the City Council has reviewed the Title and Summary for said Ordinance for approval and has determined that the Title and Summary informs the public of the intent and effect of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Title and Summary for Ordinance 2024-07: An Ordinance to Amend and Reenact Title 3, Chapter 7, Section 10, Animals Prohibited in City, of the Moorhead Municipal Code related to the Keeping of Chickens is hereby approved. A copy of said Title and Summary was before the City Council and is now of record and on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED by the City Council of the City of Moorhead, Minnesota that the City Clerk is hereby authorized and directed to publish said Title and Summary in accordance with Section 3.08 of the Moorhead City Charter.

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

TITLE AND SUMMARY OF ORDINANCE 2024-07

The following Ordinance is hereby published by Title and Summary:

1. Title of Ordinance

An Ordinance to Amend and Reenact Title 3, Chapter 7, Section 10 of the Moorhead City Code relating to the Keeping of Chickens

2. Summary of Ordinance

An Ordinance which Amends and Reenacts Title 3, Chapter 7, Section 10 of the Moorhead City Code relating to the Keeping of Chickens.

3. Availability of Ordinance

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the Office of the City Clerk, Third Floor, City Hall, 500 Center Avenue, Moorhead, MN.

The Ordinance was passed by the City Council of the City of Moorhead this 26th day of August 2024.

E-Post: 08/16/2024
Second Reading: 08/26/2024
Publication:



City Council Communication

August 26, 2024

SUBJECT:

Resolution to Enter into a Memorandum of Understanding to Workshop the City of Duluth's Solar and Resilience Toolkit

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution to enter into a Memorandum of Understanding to Workshop the City of Duluth's Solar and Resilience Toolkit.

BACKGROUND/KEY POINTS:

In August 2023, the City of Duluth was awarded the Renewables Advancing Community Energy (RACER) Grant by the Department of Energy Solar Energy Technologies Office to develop a toolkit for cold climate municipalities to help evaluate assets and generate community input to determine how best to create community resilience.

As part of the award, Duluth is working with other communities to workshop and refine the toolkit. This will include identification of potential hazard disruptors and how to prevent and mitigate them along with creating a solar siting rubric and asset evaluation. Duluth has selected Moorhead as one of the partnering communities. The MOU is consistent with the Onward Moorhead Comprehensive Plan.

FINANCIAL CONSIDERATIONS:

The toolkit and stakeholder engagement will be developed by Duluth staff and there are no financial obligations for Moorhead to participate in the program.

Voting Requirements: Majority of Council

Submitted By:

Dan Mahli, City Manager
Robin Huston, City Planner/Zoning Administrator
Ethan Johnk, Assistant City Planner

Attachments: Draft Resolution

RESOLUTION

Resolution to Enter into a Memorandum of Understanding to Workshop the City of Duluth's Solar and Resilience Toolkit

WHEREAS, the City of Duluth has selected the City of Moorhead to help refine their solar and resilience toolkits that were created through the Renewables Advancing Community Energy (RACER) Grant; and

WHEREAS, Goal 5.2 of the Sustainability & Resiliency chapter of the Onward Moorhead! Comprehensive Plan encourages the City to “*Promote the reduction of greenhouse gas emissions through alternative energy sources by exploring and encouraging implementation of reduced and renewable energy options for businesses, institutions, residents, and public facilities*”; and

WHEREAS, the proposed Memorandum of Understanding supports the exploration of renewable energy alternatives.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the City Council does hereby authorize and direct the Mayor and City Manager to enter said Memorandum of Understanding.

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

August 26, 2024

SUBJECT:

Resolution to Award Bid for 2024 Lead Service Line Replacement Pilot Project

RECOMMENDATION:

The Moorhead Public Service Commission respectfully requests the Mayor and Moorhead City Council award the bid for Moorhead Public Service's 2024 Lead Service Line Replacement Pilot Project to Randall's Excavating, Inc., in the amount of \$136,577. The agreement and cost for this project are contingent upon final approval by the Minnesota Public Facilities Authority.

BACKGROUND/KEY POINTS:

Moorhead Public Service's (MPS') Water Division proposes completing a pilot project to replace 10 private portions of lead service lines. The 2024 Lead Service Line Replacement Pilot Project (Pilot Project) will establish the foundation of lead service line replacement projects and will allow for budget planning for future, year-round projects. Since the spring of 2022, MPS has submitted applications to be included on the Project Priority List for funding through the Minnesota Public Facilities Authority (MPFA) Drinking Water Revolving Fund. Funding for lead service line replacements has become available through the Bipartisan Infrastructure Law and State of Minnesota matching funds. MPS has prepared applications to seek funds to replace identified lead service lines.

Ten private lead service lines were identified by staff following two watermain replacement projects that were completed during the summer of 2023. MPS staff replaced MPS' portion of the 10 lead service lines. Through the Pilot Project, the remaining private portions of the lead service lines will be replaced, which will eliminate a partial replacement of these lines.

The MPFA requires a loan/grant agreement for the Pilot Project to be funded as MPS works to remove lead service lines as a part of the Lead and Copper Rule Revision requirements. The agreement with the MPFA, due to all service lines being entirely private, will ultimately result in a reimbursable grant for 100 percent of the project costs, which will include construction, administrative, and engineering expenses required to complete the Pilot Project. The agreement and cost for the project are contingent upon final approval by the MPFA.

Bids were opened on August 20, 2024, for the Pilot Project and MPS received three qualified bids. MPS staff and Apex Engineering Group staff reviewed the bids and recommend that the bid be awarded to the lowest, qualified bidder, Randall's Excavating, Inc. (Randall's), in the amount of \$136,577 (see attached recommendation letter and Bid Tabulation). Randall's has successfully completed work for MPS in the past and has demonstrated that they can complete this project as specified.

FINANCIAL CONSIDERATIONS:

Although there is no cost to the City of Moorhead (directly), the total cost to the Moorhead Public Service Commission for the 2024 Lead Service Line Replacement Pilot Project is



\$136,577. The final contract and cost of the Pilot Project will be 100 percent reimbursable through the MFPA and are contingent upon final approval of the funds.

City Council Communication

August 26, 2024

Voting Requirements: Majority of Quorum

Submitted By:

Dan Mahli, City Manager

Travis Schmidt, General Manager

Jake Long, Water Distribution Manager

Attachments: Recommendation Letter and Bid Tabulation Sheet from Apex Engineering Group

August 21, 2024

Mr. Jake Long
Water Distribution Manager
500 Center Avenue; P.O. Box 779
Moorhead, MN 56561-0779

via email: jlong@mpsutility.com

RE: 2024 Service Line Replacement
Lead Service Line Replacement Pilot Project (24-07)
Moorhead, Minnesota
Apex Project No. 24.109.0117

Dear Mr. Long:

Bids for the above referenced project were received and opened on Tuesday, August 20, 2024, at 10:00 AM. Three (3) bids were received for the proposed access improvements. The bids received were from the contractors listed below:

- Randall's Excavating Inc.
- Red Rock Tiling & Excavating, Inc
- Key Contracting, Inc.

The bids received have been outlined in the table below:

Bidder	Bid
Randall's Excavating, Inc.	\$136,577.00
Red Rock Tiling & Excavating, Inc.	\$161,500.00
Key Contracting, Inc.	\$243,200.00

Due to the unique nature of the project, the range of estimated bidding was expected with the variation of the work to be completed.

Randall's Excavating, Inc. has successfully completed work with Moorhead Public Service in the past and has demonstrated they have the ability to complete this project as specified. The Public Service Commission and City Council can consider award of this contract pending approval of the Public Facilities Authority funding, to Randall's Excavating, Inc. if they wish to proceed with the proposed work.

Please feel free to contact me with any questions.

Sincerely,

Apex Engineering Group, Inc.



Jade A. Berube, PE

Enc: Bid Tabulation

Preliminary Bid Tabulation

2024 Service Line Replacement | Lead Service Line Replacement Pilot Project – 24-07

City of Moorhead, Minnesota

August 20, 2024 | 10:00 AM | Moorhead Public Service (MPS) Second Floor, Moorhead City Hall

Planholder	Bid Bond	Acknowledged Addendum(s)	Total Bid
Key Contracting, Inc.	5%	Yes	\$243,200.00
Randall's Excavating Inc	5%	Yes	\$136,577.00
Red Rock Tiling and Excavating	5%	Yes	\$161,500.00

I certify that these bids were received on 8/20/2024, 10:00 AM, Moorhead Public Service (MPS) Second Floor, Moorhead City Hall



Jake Long

RESOLUTION

Resolution to Award Bid for 2024 Lead Service Line Replacement Pilot Project

WHEREAS, on August 20, 2024, bids were opened for Moorhead Public Service's (MPS') 2024 Lead Service Line Replacement Pilot Project; and,

WHEREAS, MPS staff has and Apex Engineering Group staff evaluated the bids and submitted a Bid Tabulation Sheet and recommendation letter.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead to award the bid for MPS' 2024 Lead Service Line Replacement Pilot Project to the lowest, qualified bidder meeting the specifications, as shown on the attached Bid Tabulation Sheet, contingent upon approval by the Moorhead Public Service Commission on or about August 27, 2024, and final approval by the Minnesota Public Facilities Authority.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota, that the City Council does hereby authorize and direct the Mayor and City Manager to execute the contract for MPS' 2024 Lead Service Line Replacement Pilot Project.

PASSED: August 26, 2024, by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

August 26, 2024

SUBJECT:

Resolution to Approve Contracts with Moorhead Higher Education Institutions for 2024-25
MATBUS U-Pass Program

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution approving contracts with Concordia College, MSUM and M State to pay fees for unlimited use of the MATBUS system by their students (as well as faculty and staff at Concordia), for the academic year 2024-25.

BACKGROUND/KEY POINTS:

Since 2002, the City of Moorhead and all major Moorhead higher education institutions have worked together to encourage student usage of the public transit system through the “U-Pass” unlimited ride program. Ridership increased rapidly for the first many years of this very successful program, and in years 2015 – 2022, ridership has generally been steady or slightly declining (COVID-19 impacts withstanding). College ridership across the MATBUS system was up 9% in 2023, and up another 11% as of June 2024.

All participating institutions have indicated that they would like to continue the U-Pass Program another year. Continued participation in the U-Pass program by Moorhead institutions of higher learning provides a comprehensive transportation package to students, assisting with parking congestion and transportation financial issues.

The U-Pass program has been a successful partnership over time. It guarantees farebox revenue for the City’s transit system, while making transit usage simple and convenient for the participating colleges.

Marketing to Moorhead students has included direct flyer distribution, presence at orientation fairs, radio remotes on campus, social media, on-campus digital marketing, and educational videos.

With implementation of the Transit Reorganization Study, all system revenues in 2025, including U-Pass, will be assigned to and paid to the City of Fargo and reallocated to participating jurisdictions based on ridership under a Cost Allocation Plan.

FINANCIAL CONSIDERATIONS:

The U-Pass fees were negotiated in collaboration between the City of Moorhead, City of Fargo and all participating metro institutions. Previous year’s enrollment data was used to calculate the fee at a cost per enrolled student. Using prior year real data works better than projections for the academic year budget process. The proposed fee was based on the actual 2023 unsubsidized cost per ride of \$9.93. This is a slight reduction in rate over the previous year, which correlates with reduced enrollment and ridership.



The U-Pass agreement is for the one-year period August 17, 2024 through August 16, 2025. U-Pass fees are due in two equal payments on November 1, 2024, and May 1, 2025.

City Council Communication

August 26, 2024		2024 Revenue	2025 Revenue	TOTAL CONTRACT
Name of Institution				
Minnesota State Community & Technical College		\$8,569.59	\$8,569.59	\$17,139.18
Concordia College		\$9,408.68	\$9,408.67	\$18,817.35
Minnesota State University Moorhead		\$19,944.40	\$19,944.41	\$39,888.81
TOTAL		\$37,922.67	\$37,922.67	\$75,845.34

The U-Pass fees are included in anticipated revenue in the proposed 2025 Mass Transit Budget through the Cost Allocation Plan formula used to purchase service from Fargo. The expectation is that all Moorhead system expense and revenue contracts that continue into 2025 will be assigned to the City of Fargo for distribution in 2025 between entities purchasing service from Fargo as outlined in the Interim Joint Powers Agreement currently being considered for approval.

Voting Requirements: 3/4 of Council (6)

Submitted By:

Dan Mahli, City Manager
 Lisa Bode, Governmental Affairs Director
 Lori Van Beek, Transit Manager

Attachments:

RESOLUTION

Resolution to Approve Contracts with Moorhead Higher Education Institutions for 2024-25 MATBUS U-Pass Program

WHEREAS, the City Council of the City of Moorhead, Minnesota State University Moorhead, Concordia College, and Minnesota State Community and Technical College desire to encourage and increase transit system participation by students so as to reduce vehicle congestion and parking in the college areas; and

WHEREAS, the aforementioned partners desire to continue participation in the “U-Pass” unlimited ride program whereby for an established fee paid to the City of Moorhead, “free” rides to currently enrolled students of the partner institutions will be provided on the Fargo-Moorhead MATBUS Fixed Route Bus System for the fiscal year; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota, that they do hereby authorize the Mayor and City Manager to enter into and execute contracts on behalf of the City of Moorhead with Minnesota State Community and Technical College, Concordia College, and Minnesota State University Moorhead, for the amounts established below, to provide free access to bus rides to students, as well as faculty and staff at Concordia College; said service to commence August 17, 2024, and terminate on August 16, 2025, until and unless extended by mutual agreement of the parties.

BE IT FURTHER RESOLVED by the City Council of the City of Moorhead, Minnesota, that said U-Pass payments shall be made in two equal payments due November 1, 2024 and March 1, 2025.

	<u>Contract Amount</u>
Minnesota State Community and Technical College for students	\$17,139.18
Concordia College for students, faculty and staff	\$18,817.35
Minnesota State University Moorhead for students	<u>\$39,888.81</u>
TOTAL	\$75,845.34

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

August 26, 2024

SUBJECT:

Resolution to Approve Interim Joint Powers Agreement with the City of Fargo for Implementation of the Transit Reorganization Study

RECOMMENDATION:

The Mayor and City Manager are asked to approve the Interim Joint Powers Agreement with the City of Fargo for implementation of the Transit Reorganization Study.

BACKGROUND/KEY POINTS:

On July 8, 2024, the Moorhead City Council adopted the MATBUS Transit Reorganization Study (Study) completed by KLJ, Inc. and authorized staff to implement the study recommendations, including transitioning City of Moorhead transit employees to the City of Fargo and drafting changes to the Joint Powers Agreement (JPA) with Fargo for future Council consideration.

The Interim JPA between Moorhead and Fargo establishes a reconstituted Metro Area Transit Board (MAT Board) and oversees implementation of an organization structure and operational practices recommended by the Study. The Interim JPA outlines the following:

- **Reconstituted MAT Board Membership:** Membership Includes two Moorhead City Council Members, the Moorhead Finance Director and one Moorhead Administrative designee.
- **Term of Agreement:** Until such time as new Joint Powers Agreement between Fargo and Moorhead and a Cost Allocation Plan are finalized.
- **Primary Functions of the Board:**
 - Develop new JPA;
 - Oversee transition to 2025 organizational structure / staffing plan;
 - Ensure implementation of budget principles for 2025/2026;
 - Continue ongoing coordination with the City of Dilworth, City of West Fargo, NDSU, Moorhead area colleges and other partners through the organizational transition;
 - Coordinate with MnDOT, NDDOT and Metro COG on state and Federal programming decisions and approval of the Cost Allocation Plan; and
 - Guidance and input on the pending Transit Development Plan (TDP) update.
- **Other Duties of the Board:** Review and recommend U-Pass contracts, NDSU and West Fargo service agreements, driver services contract, general contracts and agreements, marketing/outreach, capital planning and facility development, system operations and service planning, mobility management, emergency preparedness and vehicle leasing.



Staffing and Support Resources:

- Transition Moorhead staff to Fargo employment.
- Hire a Fargo Senior Accountant to replace the retiring Moorhead Transit Manager to manage state and federal grants applications, reports, and budgets for the MATBUS Public Transit System. This includes Moorhead compensating Fargo for expenses for securing and employing the Senior Accountant for the duration of 2024 for training under the Moorhead Transit Manager. Beginning in CY2025, MATBUS staffing costs will be shared across all participating entities.

- **Technical and Support Staff:** Fargo will provide technical reports and guidance to the Board and coordinate with the Metropolitan Council of Government.
- **Funding:** Fargo, as designated recipient for Federal transit grant funds, will coordinate allocation of funds in an equitable and cooperative manner between participating entities.
- **Existing JPA:** Existing JPA terms will remain in effect to the extent that the Interim Agreement does not supersede or replace the terms.

FINANCIAL CONSIDERATIONS:

Costs associated with implementation of the Interim JPA have been budgeted in both the approved 2024 and the draft 2025 Mass Transit Budgets.

Voting Requirements: 3/4 of Council (6)

Submitted By:

Dan Mahli, City Manager
Lisa Bode, Governmental Affairs Director
Lori Van Beek, Transit Manager

Attachments:

RESOLUTION

Resolution to Approve the Interim Joint Powers Agreement with the City of Fargo for Implementation of the Transit Reorganization Study

WHEREAS, on July 8, 2024, the Moorhead City Council adopted the MATBUS Transit Reorganization Study completed by KLJ, Inc. and authorized staff to work with the City of Fargo on implementation of the study recommendations, including addressing employment matters for the transition of transit staff and drafting changes to the Joint Powers Agreement for further consideration and approval; and

WHEREAS, an Interim Joint Powers Agreement has been drafted;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead that they do hereby authorize the Mayor and City Manager to enter into and execute the Interim Joint Powers Agreement with the City of Fargo, a copy of which is on file in the office of the Mass Transit Department in substantial form.

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

August 26, 2024

SUBJECT:

Resolution Providing for the Competitive Sale of General Obligation Temporary Tax Increment Financing Bonds, Series 2024C

RECOMMENDATION:

The Mayor and City Council are asked to consider resolutions to authorize Baker Tilly, the City's financial advisor, to solicit bids for the competitive negotiated sale of the following bond: \$27,595,000 General Obligation Temporary Tax Increment Financing Bonds, Series 2024C.

BACKGROUND/KEY POINTS:

Proceeds of the bonds will be used to finance (i) land acquisition, demolition and related costs of redevelopment of the properties within the City's Tax Increment Financing (Redevelopment) District No. 31 project area in anticipation of long-term financing; (ii) pay capitalized interest on the bonds; and (iii) pay costs of issuance on the bonds.

The Bonds are being issued pursuant to Minnesota Statutes Chapter 475 and 469, specifically 469.178 Subdivision 5. Pursuant to Minnesota Statutes, Section 469.178 subd. 5, the City may issue temporary bonds to mature no later than three years in anticipation of future long-term financing. At maturity, the City will either refinance the Bonds with another temporary bond issue or a long-term bond issue that would be supported by tax increment revenues. The total number of years that can be financed through temporary borrowing is six years.

Proposals for the bonds will be received on Monday, September 23rd until 10am, after which time proposals will be opened and tabulated. Consideration for award of the bonds will be made by the City Council at 5:30pm on the same day.

FINANCIAL CONSIDERATIONS:

The Bonds will be a general obligation of the City, secured by its full faith and credit and taxing power. In addition, and to the extent available, the City will pledge tax increment revenues from the City's Tax Increment Financing (Redevelopment) District No. 31 for the Downtown Moorhead Development Project.

Voting Requirements: 3/4 of Council (6)

Submitted By:

Dan Mahli, City Manager
Jenica Flanagan, Finance Director

Attachments:

EXTRACT OF MINUTES OF A MEETING OF
THE CITY COUNCIL OF THE CITY OF
MOORHEAD, MINNESOTA

HELD: August 26, 2024

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Moorhead, Clay County, Minnesota, was duly called and held at the City Hall in said City on Monday, August 26, 2024, at 5:30 p.m., for the purpose of calling for the competitive sale of \$27,595,000 General Obligation Temporary Tax Increment Financing Bonds, Series 2024C, of the City of Moorhead, Minnesota.

The following members were present: _____;
and the following were absent: _____.

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION PROVIDING FOR THE
COMPETITIVE SALE OF
\$27,595,000 GENERAL OBLIGATION TEMPORARY TAX
INCREMENT FINANCING BONDS, SERIES 2024C

A. WHEREAS, the City Council of the City of Moorhead, Minnesota, has heretofore determined that it is necessary and expedient to issue its \$27,595,000 General Obligation Temporary Tax Increment Financing Bonds, Series 2024C (the “Bonds”), to finance land acquisition, demolition and related costs for redevelopment of properties within Tax Increment Financing (Redevelopment) District 31 of the City;

B. WHEREAS, the City has retained Baker Tilly Municipal Advisors, LLC, in Saint Paul, Minnesota (“Baker Tilly”), as its independent financial advisor and is therefore authorized to sell these obligations by a competitive sale in accordance with Minnesota Statutes, Section 475.60, Subdivision 2(9).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota, as follows:

(1) Authorization; Findings. The City Council hereby authorizes Baker Tilly to solicit bids for the competitive sale of the Bonds.

(2) Meeting; Bid Opening. This City Council shall meet at the time and place specified in the Terms of Proposal attached hereto as **Exhibit A** for the purpose of considering sealed bids for, and awarding the sale of, the Bonds. The City Manager, or his designee, shall open bids at the time and place specified in such Terms of Proposal.

(3) Terms of Proposal. The terms and conditions of the Bonds and the negotiation thereof are fully set forth in the “Terms of Proposal” attached hereto as **Exhibit A** and hereby approved and made a part hereof.

(4) Official Statement. In connection with said competitive sale, the City Manager and other officers or employees of the City are hereby authorized to cooperate with Baker Tilly and participate in the preparation of an official statement for the Bonds, and to execute and deliver it on behalf of the City upon its completion.

(5) Electronic Signatures. In the event that any signature required to execute this Resolution, the Bond documents, or other closing documents is delivered by facsimile transaction or by e-mail delivery of a “pdf” format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “pdf” signature page were an original thereof. The Moorhead Mayor, Moorhead City Manager, and Moorhead Finance Director are authorized to executed documents with electronic signatures as permitted by law or regulation.

APPROVED BY:

Mayor

ATTEST:

City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by Member _____, and after a full discussion thereof and upon a vote being taken thereon, the following voted in favor thereof: _____
_____. The following voted against the same: _____,
whereupon said resolution was declared duly passed and adopted.

EXHIBIT A

TERMS OF PROPOSAL

(See Following Pages)

THE CITY HAS AUTHORIZED BAKER TILLY MUNICIPAL ADVISORS, LLC TO NEGOTIATE THIS ISSUE ON ITS BEHALF. PROPOSALS WILL BE RECEIVED ON THE FOLLOWING BASIS:

TERMS OF PROPOSAL

\$27,595,000*

CITY OF MOORHEAD, MINNESOTA

GENERAL OBLIGATION TEMPORARY TAX INCREMENT FINANCING BONDS, SERIES 2024C

(BOOK ENTRY ONLY)

Proposals for the above-referenced obligations (the "Bonds") will be received by the City of Moorhead, Minnesota (the "City") on Monday, September 23, 2024 (the "Sale Date") until 10:00 A.M., Central Time (the "Sale Time") at the offices of Baker Tilly Municipal Advisors, LLC ("Baker Tilly MA"), 30 East 7th Street, Suite 3025, Saint Paul, MN 55101, after which time proposals will be opened and tabulated. Consideration for award of the Bonds will be by the City Council at its meeting commencing at 5:30 P.M., Central Time, of the same day.

SUBMISSION OF PROPOSALS

Baker Tilly MA will assume no liability for the inability of a bidder or its proposal to reach Baker Tilly MA prior to the Sale Time, and neither the City nor Baker Tilly MA shall be responsible for any failure, misdirection or error in the means of transmission selected by any bidder. All bidders are advised that each proposal shall be deemed to constitute a contract between the bidder and the City to purchase the Bonds regardless of the manner in which the proposal is submitted.

(a) **Sealed Bidding.** Completed, signed proposals may be submitted to Baker Tilly MA by email to bids@bakertilly.com, and must be received prior to the Sale Time.

OR

(b) **Electronic Bidding.** Proposals may also be received via PARITY[®]. For purposes of the electronic bidding process, the time as maintained by PARITY[®] shall constitute the official time with respect to all proposals submitted to PARITY[®]. *Each bidder shall be solely responsible for making necessary arrangements to access PARITY[®] for purposes of submitting its electronic proposal in a timely manner and in compliance with the requirements of the Terms of Proposal.* Neither the City, its agents, nor PARITY[®] shall have any duty or obligation to undertake registration to bid for any prospective bidder or to provide or ensure electronic access to any qualified prospective bidder, and neither the City, its agents, nor PARITY[®] shall be responsible for a bidder's failure to register to bid or for any failure in the proper operation of, or have any liability for any delays or interruptions of or any damages caused by the services of PARITY[®]. The City is using the services of PARITY[®] solely as a communication mechanism to conduct the electronic bidding for the Bonds, and PARITY[®] is not an agent of the City.

If any provisions of this Terms of Proposal conflict with information provided by PARITY[®], this Terms of Proposal shall control. Further information about PARITY[®], including any fee charged, may be obtained from:

PARITY[®], 1359 Broadway, 2nd Floor, New York, New York 10018
Customer Support: (212) 849-5000

*The City reserves the right, after proposals are opened and prior to award, to increase or reduce the principal amount of the Bonds in multiples of \$5,000. In the event the amount of the Bonds is modified, the aggregate purchase price will be adjusted to result in the same gross spread per \$1,000 of Bonds as that of the original proposal. Gross spread for this purpose is the differential between the price paid to the City for the new issue and the prices at which the proposal indicates the securities will be initially offered to the investing public.

Baker Tilly Municipal Advisors, LLC is a registered municipal advisor and controlled subsidiary of Baker Tilly Advisory Group, LP. Baker Tilly Advisory Group, LP and Baker Tilly US, LLP, trading as Baker Tilly, operate under an alternative practice structure and are members of the global network of Baker Tilly International Ltd., the members of which are separate and independent legal entities. Baker Tilly US, LLP is a licensed CPA firm and provides assurance services to its clients. Baker Tilly Advisory Group, LP and its subsidiary entities provide tax and consulting services to their clients and are not licensed CPA firms. ©2024 Baker Tilly Municipal Advisors, LLC

DETAILS OF THE BONDS

The Bonds will be dated as of the date of delivery and will bear interest payable on April 1 and October 1 of each year, commencing April 1, 2025. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Bonds will mature on October 1, 2027.

BOOK ENTRY SYSTEM

The Bonds will be issued by means of a book entry system with no physical distribution of Bonds made to the public. The Bonds will be issued in fully registered form and one Bond, representing the aggregate principal amount of the Bonds maturing in each year, will be registered in the name of Cede & Co. as nominee of The Depository Trust Company ("DTC"), New York, New York, which will act as securities depository for the Bonds. Individual purchases of the Bonds may be made in the principal amount of \$5,000 or any multiple thereof through book entries made on the books and records of DTC and its participants. Principal and interest are payable by the registrar to DTC or its nominee as registered owner of the Bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants will be the responsibility of such participants and other nominees of beneficial owners. The lowest bidder (the "Purchaser"), as a condition of delivery of the Bonds, will be required to deposit the Bonds with DTC.

REGISTRAR/PAYING AGENT

U.S. Bank Trust Company, National Association, Saint Paul, Minnesota will serve as Registrar/Paying Agent (the "Registrar") for the Bonds, and shall be subject to applicable regulations of the Securities and Exchange Commission. The City will pay for the services of the Registrar.

OPTIONAL REDEMPTION

The City may elect on April 1, 2027, and on any day thereafter, to redeem the Bonds. Redemption may be in whole or in part and if in part at the option of the City and in such manner as the City shall determine. If less than all Bonds are called for redemption, the City will notify DTC of the particular amount to be redeemed. DTC will determine by lot the amount of each participant's interest to be redeemed and each participant will then select by lot the beneficial ownership interests to be redeemed. All redemptions shall be at a price of par plus accrued interest.

SECURITY AND PURPOSE

The Bonds will be general obligations of the City for which the City will pledge its full faith and credit and power to levy direct general ad valorem taxes. In addition and to the extent available, the City will pledge tax increment revenues from the City's Tax Increment Financing (Redevelopment) District No. 31 for the Downtown Moorhead Development Project. The proceeds of the Bonds will be used to (i) finance land acquisition, demolition and related costs for redevelopment of the properties within the project area in anticipation of long-term financing, (ii) pay capitalized interest on the Bonds, and (iii) pay costs of issuance on the Bonds.

NOT BANK QUALIFIED TAX-EXEMPT OBLIGATIONS

The City will not designate the Bonds as qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

BIDDING PARAMETERS

Proposals shall be for not less than \$27,595,000 (Par) plus accrued interest, if any, on the total principal amount of the Bonds. Bidders shall specify a single rate of interest in integral multiples of 1/100 or 1/8 of 1%. The initial price to the public as stated on the proposal must be 98.0% or greater.

No proposal can be withdrawn or amended after the time set for receiving proposals on the Sale Date unless the meeting of the City scheduled for award of the Bonds is adjourned, recessed, or continued to another date without award of the Bonds having been made. No conditional proposals will be accepted.

ESTABLISHMENT OF ISSUE PRICE

In order to provide the City with information necessary for compliance with Section 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder (collectively, the "Code"), the Purchaser will be required to assist the City in establishing the issue price of the Bonds and shall complete, execute, and deliver to the City prior to the closing date, a written certification in a form acceptable to the Purchaser, the City, and Bond Counsel (the "Issue Price Certificate") containing the following for the Bonds: (i) the interest rate; (ii) the reasonably expected initial offering price to the "public" (as said term is defined in Treasury Regulation Section 1.148-1(f) (the "Regulation")) or the sale price; and (iii) pricing wires or equivalent communications supporting such offering or sale price. Any action to be taken or documentation to be received by the City pursuant hereto may be taken or received on behalf of the City by Baker Tilly MA.

The City intends that the sale of the Bonds pursuant to this Terms of Proposal shall constitute a "competitive sale" as defined in the Regulation based on the following:

- (i) the City shall cause this Terms of Proposal to be disseminated to potential bidders in a manner that is reasonably designed to reach potential bidders;
- (ii) all bidders shall have an equal opportunity to submit a bid;
- (iii) the City reasonably expects that it will receive bids from at least three bidders that have established industry reputations for underwriting municipal bonds such as the Bonds; and
- (iv) the City anticipates awarding the sale of the Bonds to the bidder who provides a proposal with the lowest true interest cost, as set forth in this Terms of Proposal (See "AWARD" herein).

Any bid submitted pursuant to this Terms of Proposal shall be considered a firm offer for the purchase of the Bonds, as specified in the proposal. The Purchaser shall constitute an "underwriter" as said term is defined in the Regulation. By submitting its proposal, the Purchaser confirms that it shall require any agreement among underwriters, a selling group agreement, or other agreement to which it is a party relating to the initial sale of the Bonds, to include provisions requiring compliance with the provisions of the Code and the Regulation regarding the initial sale of the Bonds.

If all of the requirements of a "competitive sale" are not satisfied, the City shall advise the Purchaser of such fact prior to the time of award of the sale of the Bonds to the Purchaser. **In such event, any proposal submitted will not be subject to cancellation or withdrawal.** Within twenty-four (24) hours of the notice of award of the sale of the Bonds, the Purchaser shall advise the City and Baker Tilly MA if 10% of the Bonds has been sold to the public and the price at which it was sold. The City will treat such sale price as the "issue price". The City will not require the Purchaser to comply with that portion of the Regulation commonly described as the "hold-the-offering-price" requirement for the remaining maturities, but the Purchaser may elect such option. If the Purchaser exercises such option, the City will apply the initial offering price to the public provided in the proposal as the issue price for such maturities. If the Purchaser does not exercise that option, it shall thereafter promptly provide the City and Baker Tilly MA the prices at which 10% of such maturities are sold to the public; provided such determination shall be made and the City and Baker Tilly MA notified of such prices whether or not the closing date has occurred, until the 10% test has been satisfied as to the Bonds or until all of the Bonds have been sold.

GOOD FAITH DEPOSIT

To have its proposal considered for award, the Purchaser is required to submit a good faith deposit via wire transfer to the City in the amount of \$275,950 (the "Deposit") no later than 1:00 P.M., Central Time on the Sale Date. The Purchaser shall be solely responsible for the timely delivery of its Deposit, and neither the City nor Baker Tilly MA have any liability for delays in the receipt of the Deposit. If the Deposit is not received by the specified time, the City may, at its sole discretion, reject the proposal of the lowest bidder, direct the second lowest bidder to submit a Deposit, and thereafter award the sale to such bidder.

A Deposit will be considered timely delivered to the City upon submission of a federal wire reference number by the specified time. Wire transfer instructions will be available from Baker Tilly MA following the receipt and tabulation of proposals. The successful bidder must send an e-mail including the following information:

(i) the federal reference number and time released; (ii) the amount of the wire transfer; and (iii) the issue to which it applies.

Once an award has been made, the Deposit received from the Purchaser will be retained by the City and no interest will accrue to the Purchaser. The amount of the Deposit will be deducted at settlement from the purchase price. In the event the Purchaser fails to comply with the accepted proposal, said amount will be retained by the City.

AWARD

The Bonds will be awarded on the basis of the lowest interest rate to be determined on a true interest cost (TIC) basis calculated on the proposal prior to any adjustment made by the City. The City's computation of the interest rate of each proposal, in accordance with customary practice, will be controlling.

The City will reserve the right to: (i) waive non-substantive informalities of any proposal or of matters relating to the receipt of proposals and award of the Bonds, (ii) reject all proposals without cause, and (iii) reject any proposal that the City determines to have failed to comply with the terms herein.

BOND INSURANCE AT PURCHASER'S OPTION

The City has **not** applied for or pre-approved a commitment for any policy of municipal bond insurance with respect to the Bonds. If the Bonds qualify for municipal bond insurance and a bidder desires to purchase a policy, such indication, the maturities to be insured, and the name of the desired insurer must be set forth on the bidder's proposal. The City specifically reserves the right to reject any bid specifying municipal bond insurance, even though such bid may result in the lowest TIC to the City. All costs associated with the issuance and administration of such policy and associated ratings and expenses (other than any independent rating requested by the City) shall be paid by the successful bidder. Failure of the municipal bond insurer to issue the policy after the award of the Bonds shall not constitute cause for failure or refusal by the successful bidder to accept delivery of the Bonds.

CUSIP NUMBERS

If the Bonds qualify for the assignment of CUSIP numbers such numbers will be printed on the Bonds; however, neither the failure to print such numbers on any Bond nor any error with respect thereto will constitute cause for failure or refusal by the Purchaser to accept delivery of the Bonds. Baker Tilly MA will apply for CUSIP numbers pursuant to Rule G-34 implemented by the Municipal Securities Rulemaking Board. The CUSIP Service Bureau charge for the assignment of CUSIP identification numbers shall be paid by the Purchaser.

SETTLEMENT

On or about October 16, 2024, Ohnstad Twichell, P.C. of West Fargo, North Dakota, and of customary closing papers, including a no-litigation certificate. On the date of settlement, payment for the Bonds shall be made in federal, or equivalent, funds that shall be received at the offices of the City or its designee not later than 12:00 Noon, Central Time. Unless compliance with the terms of payment for the Bonds has been made impossible by action of the City, or its agents, the Purchaser shall be liable to the City for any loss suffered by the City by reason of the Purchaser's non-compliance with said terms for payment.

CONTINUING DISCLOSURE

On the date of actual issuance and delivery of the Bonds, the City will execute and deliver a Continuing Disclosure Undertaking (the "Undertaking") whereunder the City will covenant for the benefit of the owners of the Bonds to provide certain financial and other information about the City and notices of certain occurrences to information repositories as specified in and required by SEC Rule 15c2-12(b)(5).

OFFICIAL STATEMENT

The City has authorized the preparation of a Preliminary Official Statement containing pertinent information relative to the Bonds, and said Preliminary Official Statement has been deemed final by the City as of the date thereof within the meaning of Rule 15c2-12 of the Securities and Exchange Commission. For an

electronic copy of the Preliminary Official Statement or for any additional information prior to sale, any prospective purchaser is referred to the Municipal Advisor to the City, Baker Tilly Municipal Advisors, LLC, by telephone (651) 223-3000, or by email bids@bakertilly.com.

A Final Official Statement (as that term is defined in Rule 15c2-12) will be prepared, specifying the maturity dates, principal amounts, and interest rates of the Bonds, together with any other information required by law. By awarding the Bonds to the Purchaser, the City agrees that, no more than seven business days after the date of such award, it shall provide to the Purchaser an electronic copy of the Final Official Statement. The City designates the Purchaser as its agent for purposes of distributing the Final Official Statement to each syndicate member, if applicable. The Purchaser agrees that if its proposal is accepted by the City, (i) it shall accept designation and (ii) it shall enter into a contractual relationship with its syndicate members for purposes of assuring the receipt of the Final Official Statement by each such syndicate member.

Dated August 26, 2024

BY ORDER OF THE CITY COUNCIL
/s/ Christina Rust
City Clerk



City Council Communication

August 26, 2024

SUBJECT:

Consider actions relating to the City Hall Renovation

RECOMMENDATION:

The Mayor and City Council are asked to consider approval of two resolutions relating to the City Hall Renovation:

A. Resolution to approve an Agreement with McGough Construction for Construction Manager At Risk Services for the Moorhead City Hall Renovation

B. Resolution to approve Lease Agreement with Frederick Martin Building, LLC group for temporary City Hall relocation during the renovation project

BACKGROUND/KEY POINTS:



City Council Communication
August 26, 2024

With the Downtown Moorhead redevelopment project underway, the City has been working on plans for City Hall when the old building is demolished and remodeling of the City Hall building to upgrade both outdated utility infrastructure and office spaces to serve the community into the future. To advance these efforts, the City Council authorized Agreements with JLG Architects for Architectural/Engineering Services for Predesign on April 22, 2024 and Architectural/Engineering Services for Schematic Design through Construction on August 12, 2024. The City Council also authorized advertisement for a Construction Manager At Risk (CMAR) at their June 24, 2024 meeting.

Construction Manager At Risk (CMAR) is a project delivery method which includes a construction manager providing a Guaranteed Maximum Price (GMP) for a project based on the construction documents and specifications provided by the Architect/Engineering team. The CMAR stands in as the owner's representative and advocate, managing every step of the construction process, providing pre-construction services in the design phase, and overseeing all bidding, subcontractor hiring, construction oversight, insurance and health/safety measures for the project during the construction phase.

There were three CMAR teams/proposals that were reviewed and interviewed by a five-member review team. Following the interviews, the CMAR review team recommended that the City Council consider contracting with McGough Construction Co., LLC for CMAR services. McGough has provided CMAR services for 68 years and the McGough team has worked on many CMAR projects in the Fargo-Moorhead area, including the Fargo Parks Sports Complex, Block 9, Concordia College Integrated Science Complex and is currently working on the Moorhead Community Center Library project, Hector Airport Terminal and Parking Ramp, and NDSU Richard Offerdahl Engineering Complex.

The anticipated Agreement with McGough includes:

- Phase I of II: Pre-construction services (price estimating, procurement plan, schedule, site logistics, etc.)
- Phase II of II – Amendment to the contract noted above once the project scope, schedule and GMP are known for Project Management (ie: coordinating all site/building activities, meeting regularly with project team, management of overall project budget, monitor/adjust schedule, specification review, inspections, quality control, full-time on-site supervision – this will include fees and staffing costs and items such as required bond and insurance.

To facilitate the City Hall Renovation project, staff will need to relocate to another location. The proposed lease with FM Building, LLC for floors 1, 5 and 7 of the Frederick-Martin Center (or FM Center Building) at 403 Center Avenue includes the following terms:

- Term: 1 year 11 months with option to extend
- Maintenance: Landlord responsible for common area elements and City responsible for furnishing, data cabling, signage, and other equipment.

FINANCIAL CONSIDERATIONS:

CMAR:

- Phase I of II: Pre-Construction fee of \$49,000 (Resolution before Council tonight)
- Phase II of II: GMP Amendment will include building construction costs including CMAR Fee (1.95% of GMP); Staffing (based on GMP and timeline); Job Site Costs, Subcontractor Costs, Facilities/Controls, Project Safety, Onsite Equipment, Clean Up/Trash Removal, etc. (based on GMP and timeline); Builders Risk Insurance (0.2% of GMP); and Bond (0.65% of GMP). The



City Council Communication

August 26, 2024

final overall project cost will be established once the project scope, schedule, and GMP value are known, but is estimated to be approximately \$20 million. Of note, there may be three phases depending on how the work proceeds (exp: interior demolition and remainder of the remodeling/construction may be two separate GMP's).

Frederick-Martin Building Lease:

\$28,966 per month (\$15/SF) for all operating expenses including heating, electricity, water/sewer/garbage, snow removal, taxes, common area janitorial, and insurance. This payment will be financed with the City Hall renovation project through a bond.

Voting Requirements: 3/4 of Council (6)

Submitted By:

Dan Mahli, City Manager

Mike Rietz, Assistant City Manager

Attachments:

Draft Resolution – CMAR

Draft Resolution – Frederick-Martin Center Building Lease

RESOLUTION

Resolution to approve an Agreement with McGough Construction for Construction Manager At Risk Services for the Moorhead City Hall Renovation

WHEREAS, the City of Moorhead hired a design firm for architectural and engineering services to prepare design, planning and construction cost estimating for the City Hall Renovation as outlined in Resolution 2024-013-2; and

WHEREAS, the City of Moorhead desires to hire a Construction Manager at Risk for preconstruction and construction services for the project; and

WHEREAS, a Request for Proposals for a Construction Manager at Risk was issued on June 27, 2024 and three proposals were received and evaluated; and

WHEREAS, three firms were interviewed on July 29, 2024.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead as follows:

1. The Mayor and City Manager are hereby authorized and directed to execute an agreement with McGough for Construction Manager At Risk Services beginning with Pre-Construction Services for the Moorhead City Hall Renovation project for a cost not to exceed \$49,000.00.
2. Following the completion of Pre-Construction services, the Mayor and City Council will consider an amendment(s) to the above noted Construction Manager At Risk agreement outlining the construction services to be provided during construction of the Moorhead City Hall Renovation project.

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

RESOLUTION

Resolution to approve Lease Agreement with Frederick Martin Building, LLC group for temporary City Hall relocation during the renovation project

WHEREAS, the City of Moorhead hired a design firm for architectural and engineering services to prepare design, planning and construction cost estimating for the City Hall Renovation as outlined in Resolution 2024-013-2; and

WHEREAS, to facilitate the City Hall renovation project, staff within City Hall will need to relocate to another building.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead that the Mayor and City Manager are hereby authorized and directed to execute a lease agreement and related amendments with Frederick Martin Building (FM) Building, LLC.

PASSED: August 26, 2024 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk