

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Developer Agreement

Location: Horizon Addition

Date of Hearing: 6/15/2026

<u>Routing</u>	<u>Date</u>
City Commission	<u>6/22/2026</u>
PWPEC File	<u>X</u>
Project File	<u>Nathan Boerboom</u>

The Committee reviewed a communication from Assistant City Engineer, Nathan Boerboom, regarding a Developer Agreement with Rising Investments, LLC for Lot 1, Block 1, Horizon Addition.

The City of Fargo and the Developer, Rising Investments LLC, have established a Developer Agreement related to the maintenance and future improvement of the existing alley.

On a motion by Ben Dow, seconded by Ryan Erickson, the Committee voted to recommend approval of the Developer Agreement for Horizon Addition.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Developer Agreement for Horizon Addition.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: None

Developer meets City policy for payment of delinquent specials
Agreement for payment of specials required of developer
Letter of Credit required (per policy approved 5-28-13)

<u>Yes</u>	<u>No</u>
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>

COMMITTEE

Tim Mahoney, Mayor
Nicole Crutchfield, Director of Planning
Gary Lorenz, Fire Chief
Brenda Derrig, Assistant City Administrator
Ben Dow, Director of Operations
Tom Knakmuhs, City Engineer
Susan Thompson, Finance Director

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
☐	☐	☐	☒
☒	☒	☐	
☒	☒	☐	<u>Ryan Erickson</u>
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☒	☒	☐	

ATTEST:

C: Kristi Olson


Tom Knakmuhs, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Nathan Boerboom, Assistant City Engineer
Date: June 8, 2026
Re: Developer Agreement – Horizon Addition

Background:

Staff has coordinated with the Developer of the Horizon Addition to establish a Developer Agreement related to the maintenance and future improvement of the existing alley adjacent to Lot 1, Block 1 of Horizon Addition.

Key items within the Developer Agreement include:

- The Developer will be responsible to complete and fund maintenance and upkeep of the southern twenty-feet of the existing dedicated alley right of way. Examples of the required maintenance include snow removal and pothole repairs.
- Developer acknowledges that future alley improvements may be necessary and agrees to waive its right to protest future special assessments related to any alley improvement projects.

Attached with this Memorandum is the full Developer Agreement, which outlines all terms and conditions.

Recommended Motion:

Approve the Developer Agreement between the City of Fargo and Rising Investments, LLC for Lot 1, Block 1 of Horizon Addition.

NAB/klb
Attachment



Developer Agreement

This Agreement, made and entered into between Rising Investments, LLC (“Developer”), and the City of Fargo, a municipal corporation (“City”), is for the purpose of establishing rights and responsibilities related to an alleyway adjacent to the property identified below and legally described on the attached Exhibit A (the “Development Property”). For good and valuable consideration hereby acknowledged, the parties agree as follows:

1. Developer holds all right, title, and interest in the Development Property, known as:

Lot 1, Block 1 of Horizon Addition to the City of Fargo, County of Cass, State of North Dakota

Developer intends to develop the Development Property.

2. Developer shall be solely responsible for the maintenance and upkeep of the alley described as the full width of the southern twenty feet (20’) of the existing dedicated alley right-of-way (hereafter the “alley”). Such maintenance and upkeep shall include, but not necessarily be limited to, snow removal, filling and repairing potholes, drainage maintenance, and weed control. Developer shall be responsible for the costs and expenses associated with the maintenance and upkeep responsibilities identified herein. Developer’s maintenance and upkeep responsibilities described herein shall continue until such time as the alley right-of-way is vacated.

3. While the timing of alley improvement projects is presently unknown, the parties hereby acknowledge and agree that the present condition of the alley necessitates future alley improvement projects, including but not limited to reconstruction of the alley (“Future Projects”). Developer hereby waives its right to protest the resolutions of necessity for Future Projects for which such resolutions are required pursuant to North Dakota Century Code, Section 40-22-17, and specifically consents to the Future Projects and to the assessment of the costs thereof to the Development Property. Developer further waives its right to protest the amount, benefit, or any

other assessment attribute related to the installation and construction of the Future Projects. The project costs which may be assessed against the Development Property, which will be in accordance with the City's Infrastructure Funding Policy in effect at the time of creation of the improvement district, include all costs of completing the construction of the Future Projects.

4. This Agreement shall be binding upon the respective successors and assigns of the parties hereto, including a purchaser of any portion of the Development Property. Developer agrees to inform any purchaser of any portion of the Development Property of the existence and content of this Agreement. Developer also hereby agrees to notify the City no later than 10 days prior to an assignment or sale of the Development Property.

5. The parties hereby agree that this Agreement may be recorded against the Development Property.

6. This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in District Court in Cass County, North Dakota, and the parties waive any objection to personal jurisdiction.

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

8. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable, and the parties' obligations under this Agreement will remain binding and enforceable.

9. This Agreement, together with any related documents, as well as any amendments to those agreements and documents, constitutes the entire agreement between the parties regarding the matters described in this Agreement.

10. Any modifications or amendments of this Agreement must be in writing and signed by both parties to this Agreement.

Developer

Rising Investments, LLC

Dated: 6/2/26

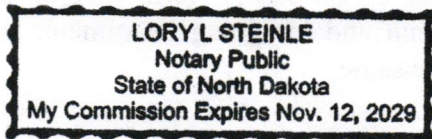


By: Justin Berg

Its: President

STATE OF ND)
COUNTY OF Cass) ss.

On this 2 day of June, 2026, before me, a notary public in and for said county and state, personally appeared Justin Berg, an authorized signatory of Rising Investments, LLC, the person described in and that executed the within and foregoing instrument, and acknowledged to me that said person executed the same.





Notary Public

Nov 12, 2029

My Commission expires:

(SEAL)

City of Fargo, a municipal corporation

Dated: _____

Timothy J. Mahoney, Mayor

ATTEST

Angie Bear, Deputy Auditor
on behalf of City Auditor

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

On this ____ day of _____, 2025, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY and ANGIE BEAR, to me known to be the Mayor and Deputy Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

NOTARY PUBLIC
STATE OF NORTH DAKOTA
MY COMMISSION EXPIRES NOV. 12, 2026

Notary Public
Cass County, ND
My Commission expires:

(SEAL)

City of Fargo, a municipal corporation

Dated: _____

Timothy J. Mahoney, Mayor

ATTEST

Angie Bear, Deputy Auditor
on behalf of City Auditor

STATE OF NORTH DAKOTA)
) ss.
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Notary Public
Cass County, ND
My Commission expires:

(SEAL)

Exhibit A- Development Property

Lot 1, Block 1 of Horizon Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.

The tract contains 2.08 acres, more or less.