



Equalization Department

Box 2806
211 Ninth Street South
Fargo, ND 58103

Telephone: 701-241-5616
Fax: 701-241-5729
assessor@casscountynd.gov

Staff Report for Abatement 4495 & 4496

Thursday, April 1, 2021

City: Fargo

Appellant: Plains Art Museum (Andy Maus, Director) – Represented by Fredrikson & Byron, P.A.

Location: 704 & 720 1st Ave N

Parcel Number: 01-2381-00891-010 & 01-2381-00911-000

Issue: The Plains Art Museum is questioning the exemption classification of their property

Summary

The item was tabled at the March 1st, 2021 commission meeting to allow additional time for the State Tax Department to review our request of the appropriate exemption status for the Plain Art Museum.

Analysis

The legal team for the State Tax Department reviewed our request regarding the exemption status of the Plains art museum. They emailed our office on March 18th recommending that the museum does not meet the definition of a “public charity,” or a “religious or charitable organization,” as provided for in NDCC § 57-02-08(8). They also stated that the museum’s 501(c)(3) status was considered while researching our inquiry. The ended the email stating that this is only a recommendation, and the ultimate decision is a local one.

Recommendation

It is my recommendation to follow the guidance of our State’s Attorney’s Office and the legal team representing the Office of the State Tax Commissioner and classify the Plains Art Museum under NDCC § 57-02-08.11.

Suggested motion

Grant the Plains Art Museum an exemption under NDCC § 57-02-08.11.



Equalization Department

Box 2806
211 Ninth Street South
Fargo, ND 58103

Telephone: 701-241-5616
Fax: 701-241-5729
assessor@casscountynd.gov

Staff Report for Abatement 4495 & 4496

Thursday, February 18, 2021

City: Fargo

Appellant: Plains Art Museum (Andy Maus, Director) – Represented by Fredrikson & Byron, P.A.

Location: 704 & 720 1st Ave N

Parcel Number: 01-2381-00891-010 & 01-2381-00911-000

Issue: The Plains Art Museum is questioning the exemption classification of their property

Summary

The Plains Art Museum has historically been classified under NDCC § 57-02-08.11, which includes but is not limited to, property owned by lodges, clubs, fraternities. Properties under this subsection shall be subject to taxation for the cost of fire protection services. The appellant is requesting to be classified under NDCC § 57-02-08.08, “institutions of public charity, including public hospitals and nursing homes.” Property under this classification is fully exempt from taxation.

City of Fargo Assistant City Attorney, William Wischer submitted a memo to the Fargo City Commission at their January 11th, 2021 meeting, concluding that the Plains Art Museum was properly categorized under NDCC § 57-02-08.11. City Assessor, Mike Splonskowki, also provided testimony recommending no change to the classification of the property.

Mr. Raum, representing the Plains Art Museum, presented verbal appeal and provided a memorandum that he feels supports classifying the Plains Art Museum as public charity.

A motion was made at the Fargo City Commission to deny the abatement. After discussion on the motion, it failed on a 3-2 vote.

Analysis

As this appeal is not a valuation issue but involves the interpretation of Century Code and legal precedence, I found it prudent to reach out to Chief Deputy, Tracy Peters, Cass County State’s Attorney. Since the exemption status of a museum is not clearly defined in Century Code, Mrs. Peters reached out to the North Dakota Attorney General’s Office for additional direction. Unfortunately, there has not been a response from the AG as of today’s date. However, Mrs. Peters has reviewed the information submitted, and provided a memorandum concluding that the Plains Art Museum was property categorized under NDCC § 57-02-08.11.

In my review of the information presented, I find myself focused on North Dakota's two-part test. In order to qualify as a public charity, a property must be:

1. Owned by a charitable organization
2. Devoted to a charitable purpose

The Plains Art Museum satisfies the criteria for being a charitable organization, as they hold a 501(c)(3). The burden of proof for being "devoted to a charitable purpose" is much more complex. A "charitable purpose" while a seemingly broad term, has been defined much more narrowly through legal precedence. It has been established in North Dakota courts that there must be a "demonstrated need" for the services provided, which has also been defined through legal precedence. (Additional details relating to this precedence are outlined in Mr. Wischer's attached memo.) After reviewing the information provided, it is my opinion that the Plains Art museum doesn't satisfy the second criteria, and therefore cannot be exempt as a public charity.

Recommendation

It is my recommendation to follow the guidance of our State's Attorney's Office and continue to classify the Plains Art Museum under NDCC § 57-02-08.11.

Suggested Motion: ***Retain the 2018 classification of both parcels under NDCC § 57-02-08.11.***

MEMORANDUM

TO: Paul Fracassi
FROM: Tracy Peters
Chief Deputy - Cass County State's Attorney
DATE: February 18, 2021
RE: Plains Art Museum

* * * * *

This memo is in response to your question of whether the Plains Art Museum is property classified for tax purposes under N.D.C.C. section 57-02-08(11) as property owned by “lodges, chapters, commanderies, consistories, farmers’ clubs, commercial clubs, and like organizations.” The Plains Art Museum is arguing it should be classified as a “public charity” under N.D.C.C. section 57-02-08(8).

This matter was brought before the Fargo City Commission on January 11, 2021. Attorney William Wischer submitted a memo in which he concluded the Plains Art Museum was properly categorized under N.D.C.C. section 57-02-08(11). The Fargo City Commission, notwithstanding Wischer’s memo, elected to move the Plains Art Museum to a “public charity” under N.D.C.C. section 57-02-08(8). The matter is now being brought before the Cass County Commission for a final decision.

I have reviewed Wischer’s memo including all information referenced and concluded there is nothing with which I disagree contained in his memo. His legal analysis is sound, reasonable, and appears to come to the proper legal conclusion. There does not appear to be any authority directly on point on the issue.

Because there is some lack of clear direction on this issue, I reached out to the North Dakota Attorney General’s Office. I was advised their legal department is looking into the matter. As of today’s date, I have not heard back from the Attorney General’s Office. Due to the North Dakota Legislature being in session at this time, and the demands of the session on their office, we will not likely have an answer by the date this issue needs to be presented to the Cass County Commission for review at its 3/1 meeting. Therefore, I am submitting this to you now with the information I have thus far. I will keep you updated if more information is available.

City of Fargo Documents

City of Fargo Assessment Department

Plains Art Museum

2018 ~ Abatement Number 4495 & 4496



Assessment Department Recommendation
01-11-2021

Plains Art Museum

Parcel Numbers 01-2381-00891-010 & 01-2381-00911-000

704 & 720 1st Ave N

Andy Maus, Museum Director

Appeal Summary

The director of the Plains Art Museum has appealed, via authorized entity, the 2018 property tax classification of the museum under NDCC 57-02-08-11. The appealing entity, David Tibbals of Fredrikson & Byron, P.A, filed an Application for Abatement Refund of Taxes for the mentioned year.

This classification is for lodges, clubs, fraternities and other similar properties and exempts all property taxes, except fire protection. The current total value of these two parcels is \$8,623,000, with approximately 92% of the taxes being exempted.

Our records show the property has been under this classification for 27 years and paying the fire protection tax since 1993. Plains Art Museum holds that the properties should be classified under NDCC 57-02-08-08, which completely exempts institutions of public charity from property tax.

Analysis

According to NDCC 57-02-03, “All property in this state is subject to taxation unless expressly exempted by law.”

The law does not expressly exempt museums from property tax. North Dakota case law surrounding NDCC § 57-02-08.08 indicates that beneficiaries of the organization must show a demonstrable charitable need for its services. Without taking away from the worthiness of the mission and actions of the Plains Art Museum, it is very hard to show that it is devoted to a charitable purpose because it is unable to show a demonstrable charitable need for a disadvantaged group. First, an art museum does not appear similar to organizations which provide basic necessities like food, clothing, shelter, or hospitalization. In addition, the beneficiaries of the Plains Art Museum appear to be people interested in art, not a disadvantaged group. Since art and art appreciation is more of an elective subject, the Plains Art Museum fits better under the mantle of an organization with specific interests than a public charity.

Throughout the City of Fargo, there are a total of 39 parcels classified for fire protection only. They include the following property types: theaters, museums, fraternities, sororities, clubs and foundations. Many of these institutions look similar to the museum in their mission statements and their activities. Therefore, uniform application of the classification for similar properties has been applied. In view of these things, it does not appear that the classification is arbitrary, capricious, or unreasonable.

Suggested Motion:

Retain the 2018 classification of both parcels under 57-02-08-11.

MEMO

Date: September 4, 2020

To: City of Fargo Assessor Department

From: William Wischer

Re: Revised points on Great Plains Art Museum

ND Test: ND has a two part test: (1) charitable organization and (2) devoted to a charitable purpose. The ND Supreme Court had the option of adopting the Minnesota 6 factor test in 2011, but choose not to.

Charitable organization. This prong is likely satisfied. Great Plains' status as a 501(c)(3) and their Articles of Incorporation (exclusively for "charitable and educational purposes...") seem to be a good indicators the organization is charitable. It appears this threshold is pretty low, per case law.

Devoted to charitable purpose: This is not satisfied because there isn't a demonstrated need.

One theme is "demonstrated need." "Demonstrated need" was explained in *Riverview* when it discussed the 1974 case *Evangelical Lutheran Good Samaritan Soc'y v. Board of County Comm'rs, 1974 N.D. LEXIS 187*". *Riverview* explained how caring for the elderly is different than caring for the elderly that have special needs. In *Riverview*, the elderly were just...elderly. In *Evangelical Lutheran*, the residents had a demonstrated need for "considerable care and supervision." For example "Most residents had some sort of physical or mental affliction, and most residents at least received some minimal type of care and supervision in the form of dispensing medicines, giving therapy treatments, and the like. In *Evangelical*, it was the care given to the aged that was recognized as a charitable use."

What is demonstrated need? – (1) essential service and (2) a needy group

1. The service is something necessary to survive - Water, food, medicine, shelter. Shelter/housing has been the most commonly litigated topic in ND. Hospitals are expressly listed in the statute medicine). Art is discretionary. It is a form of entertainment. It is not a basic need.
2. The patron can't obtain the need on their own. There is something preventing the person from obtaining the need – elderly person with disabilities. The museum isn't focused on benefiting a disadvantaged group, it is benefiting people who like the arts – this is not a traditionally disadvantaged group.

Other reasons to deny exemption:

1. **Assume taxation unless clearly exempted:** "All property in North Dakota is subject to taxation unless expressly exempted by law." *Grand Forks Homes, Inc. v. Grand Forks Bd. Of County Comm'rs*, 2011 ND 50 ¶14. citing *Grand Forks Hous. Auth.*, 2010 ND 245, ¶ 8; see also N.D.C.C. § 57-02-03.

2. **Burden is on Great Plains art.** Burden is on claimant of a tax exemption to establish exempt status of property. *North Dakota Soc'y for Crippled Children & Adults v. Murphy*, 94 N.W.2d 343, 1959 N.D. LEXIS 64 (N.D. 1959).
3. **Any close calls must be resolved against Great Plains Art.** “Initially, we have noted that the burden of establishing that property comes within the tax-exemption statute is upon the person or entity who claims the exemption, and that any doubt as to whether the property is used for charitable or benevolent purposes so as to exempt it from taxation must be resolved against the claimant.” *Riverview Place, Inc. v. Cass County*, 448 N.W.2d 635, 640.
4. **Whether or not board acted “arbitrarily, capriciously, or unreasonably” and/or “arbitrarily, oppressively or unreasonably, or when it has not been shown that the evidence did not support the board's decision.”** Thus we concluded that the trial court could only view the evidence to determine whether or not the board of county commissioners acted arbitrarily, capriciously, or unreasonably. *Riverview* 639. In an appeal from a decision of a board of county commissioners denying a tax exemption, a trial court may not substitute its judgment for that of the board when there is no showing that the board acted arbitrarily, oppressively or unreasonably, or when it has not been shown that the evidence did not support the board's decision. *Appeal of Johnson*, 173 N.W.2d 475 (N.D. 1970). *Riverview*, 642.
5. **ND doesn't readily recognize the exemption:** “Charitable purpose” is a tough threshold to meet in ND. Even when it involves something essential as housing, the Court has routinely stated housing, by itself, wasn't enough:
 - Housing for the poor - *Grand Forks Homes, Inc.* (2011),
 - Housing for the old - *Riverview Place, Inc.* (1989),
 - *Housing for students - YMCA v. Board of County Comm'rs*, 198 N.W.2d 241 (1972)
 - Housing for the director of a charity - *North Dakota Soc'y for Crippled Children & Adults v. Murphy*, 94 N.W.2d 343 (1959)

The only case where the tax exemption was granted was *Evangelical Lutheran Good Samaritan Soc'y v. Board of County Comm'rs*, 219 N.W.2d 900 (1974), where the housing facility catered to the elderly who also had mental and physical issues.

6. **Consistency:** Fargo Air Museum? Yacht club? Golf driving range? Wine Club? Music club? Compare those examples with a nursing home for the elderly with mental problems. The former are not essential. They are likely not targeted to a disadvantaged group. The later meets both prongs of demonstrated need: essential service (housing) and disadvantaged group (elderly with handicaps).

Appellant Documents

**MEMORANDUM IN SUPPORT OF
APPLICATIONS FOR ABATEMENT OR REFUND OF TAXES
AND APPLICATIONS FOR PROPERTY TAX EXEMPTION
PLAINS ART MUSEUM**

Plains Art Museum (“Applicant”) has filed Applications for Abatement or Refund of Taxes and Applications for Property Tax Exemption (the foregoing collectively, the “Applications”) to claim exemption under N.D.C.C. § 57-02-08(8) for the 2018 tax year on two parcels of real estate owned by Applicant and more particularly described in the Applications (the “Property”). Applicant now submits this memorandum to further describe its use of the Property and state its claim as presented in the Applications.

Applicant and Its Use of the Property

Applicant is a nonprofit corporation organized under the laws of the State of North Dakota.¹ Applicant is recognized as a tax-exempt organization pursuant to § 501(c)(3) of the Internal Revenue Code.²

Applicant operates the largest and only accredited art museum in North Dakota (the “Museum”), of which the Property is a part. In furtherance of Applicant’s mission to connect art with audiences to foster creative, resilient, and welcoming communities, the Museum functions as a teaching museum, with its facilities open to the public for general admission free of charge.

The Property, as a part of the Museum campus in downtown Fargo, is entirely used for public charitable purposes and to advance the educational goals of Applicant. This includes housing the Museum’s permanent collection for public viewing; regularly hosting special exhibitions; and providing and sponsoring classes, lectures, social events, performances, and other community events. The Property is also used to promote teaching, creativity, humanitarian, and other educational programming developed by Applicant.³ From time to time, portions of the Property are leased or rented to other nonprofit organizations whose activities align with the educational goals of Applicant.

Applicant’s commitment to operating the Museum, including the Property, as a resource for the public’s use is demonstrated by the broad and enabling financial support provided by the community.⁴ Via private gifts of individuals, businesses, and philanthropic organizations; grants issued by the City of Fargo, the State of North Dakota, and other public-sector partners; and proceeds generated through Applicant’s operation of charitable gaming at Big Top Bingo in Fargo and other sites, Applicant has been able to maintain its free-of-charge general admission policy and further expand its educational programming.

¹ Attached hereto as Exhibit A and Exhibit B, respectively, are copies of Applicant’s Second Amended and Restated Articles of Incorporation and Applicant’s Bylaws.

² Proof of such recognition is attached hereto as Exhibit C.

³ Such programming is further described in the attached Exhibit D.

⁴ This support is quantified in the summary budget attached hereto as Exhibit E.

Applicant’s Claim for Exemption

Applicant makes its claim for exemption pursuant to N.D.C.C. § 57-02-08(8), which provides that the following property is exempt from taxation:

“All buildings belonging to institutions of public charity, including public hospitals and nursing homes licensed pursuant to section 23-16-01 under the control of religious or charitable institutions, used wholly or in part for public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit. The exemption provided by this subsection includes any dormitory, dwelling, or residential-type structure, together with necessary land on which such structure is located, owned by a religious or charitable organization recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code which is occupied by members of said organization who are subject to a religious vow of poverty and devote and donate substantially all of their time to the religious or charitable activities of the owner.”

(Emphasis added.) Although much of this text is dedicated to explaining the exemption’s application to hospitals, nursing homes, and residential structures owned by religious or charitable organizations, the core operative language extends the exemption to “[a]ll buildings belonging to institutions of public charity . . . used wholly or in part for public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit.”

That is to say, the exemption is not exclusive to hospitals, nursing homes, and residential-type structures; it contemplates *all* buildings and land of a public charity to the extent used for public charitable purposes. As such, Applicant maintains that this exemption applies to the Property, as it encompasses buildings owned and land occupied by Applicant, an institution of public charity, that are used for public charity and not with a view to profit.

The not-for-profit character of the Property should be evident from the descriptions above. As for the nature of Applicant itself and its use of the Property as being that of a “public charity,” it must first be noted that the statute itself does not define “public charity” for purposes of the exemption. Nor have North Dakota courts dealt specifically with the questions of whether a museum operator is a “public charity” or whether a museum open to the public is being used “for public charity;” the case law interpreting the current statute focuses almost exclusively on the extent to which the exemption applies to residential structures.⁵ As a result, then, there is very little guidance under North Dakota law as to how this statute should be applied to a museum.

⁵ See, e.g., *North Dakota Soc. for Crippled Children and Adults v. Murphy*, 94 N.W.2d 343 (N.D. 1959) (residence for executive director); *Young Men’s Christian Ass’n of North Dakota State University v. Board of County Com’rs, Cass County*, 198 N.W.2d 241 (N.D. 1972) (residence for college students); *Evangelical Lutheran Good Samaritan Society v. Board of County Com’rs, Ramsey County*, 219 N.W.2d 900 (N.D. 1974) (residence for the aged and infirm); *Riverview Place, Inc. v. Cass County By and Through Cass County Bd. Of Com’rs*, 448 N.W.2d 635 (N.D. 1989) (residence for the elderly).

In analyzing this question, a North Dakota court would seek to determine the plain meaning of the words “public” and “charity.” Per *Black’s Law Dictionary* (11th ed., 2019), “public” is defined as “[o]pen or available for all to use, share, or enjoy.” *Black’s* further defines “charity” as “[a]id given to . . . the general community for religious, educational, economic, public-safety, or medical purposes.” As explained above, these two definitions are met here, because the Applicant holds out its Property to the entire public for educational purposes.

In the absence specific guidance from North Dakota courts, the approach of neighboring states can be instructive. In particular, Minnesota has a very similar statute (M.S. § 272.02, subd. 7(a)) that exempts “[i]nstitutions of purely public charity” that are recognized as tax exempt organizations pursuant to § 501(c)(3) of the Internal Revenue Code.

The classification of buildings under the two statutes is, therefore, essentially identical: “institutions of public charity.” The only difference is Minnesota’s addition of the word “purely,” which is effectively captured later in the North Dakota statute by the phrase “*used wholly or in part for public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit.*” For all practical purposes, then, the two statutes are the same, and so Minnesota’s statute can provide a helpful framework for applying North Dakota’s virtually identical standard.

Minnesota’s statute identifies six factors, originally developed through case law, to be considered in determining whether the exemption applies:

- (1) “[W]hether the stated purpose of the undertaking is to be helpful to others without immediate expectation of material reward;
- (2) whether the institution of public charity is supported by material donations, gifts, or government grants for services to the public in whole or in part;
- (3) whether a material number of the recipients of the charity receive benefits or services at reduced or no cost, or whether the organization provides services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government;
- (4) whether the income received, including material gifts and donations, produces a profit to the charitable institution that is not distributed to private interests;
- (5) whether the beneficiaries of the charity are restricted or unrestricted, and, if restricted, whether the class of persons to whom the charity is made available is one having a reasonable relationship to the charitable objectives; and
- (6) whether dividends, in form or substance, or assets upon dissolution, are not available to private interests.”

We recognize that these are not binding for purposes of North Dakota law, but they are logical factors one would consider when deciding if a building is, in fact, used as an institution of public charity. Applying them here clearly demonstrates that the Property should be exempt:

- (1) As discussed above, Applicant's stated mission is to use art to foster creative, resilient, and welcoming communities, furthering that aim by operating the Museum, including the Property, as a teaching museum open to the public, free of charge. It has no immediate expectation of a material reward.
- (2) As quantified in Exhibit E, Applicant relies on donations, gifts, and grants in order to operate the Museum and maintain its free-of-charge general admission policy. Thus, it funds its operations not through the conduct of business in the traditional sense but rather through various forms of public support.
- (3) As further described in Exhibit D, Applicant operates the Museum as a teaching museum, offering all members of the public free admission for viewing exhibitions through its PlainsArt4All Initiative. It also offers discounted classes to members of the public and maintains a robust system of offering services at discounted or free prices.
- (4) As stated in Article VIII of Applicant's Second Amended and Restated Articles of Incorporation, and as required as a condition of being a § 501(c)(3) nonprofit, "[n]o part of the net earnings of [Applicant] shall inure to the benefit of or be distributable to its members, trustees, officers, or other private persons" There is no "owner" here lurking behind the scenes and profiting from a tax exemption.
- (5) Applicant does not restrict access to the Museum to any particular class of persons; as more particularly described in Exhibit D, it offers programming for individuals of all ages and abilities, and it views the Museum as an open community space without financial barrier.
- (6) In addition to the restriction on distributions to private interests in Article VIII described above, Article IX of Applicant's Second Amended and Restated Articles of Incorporation calls for Applicant, upon dissolution, to "distribute any remaining assets of [Applicant] exclusively for charitable or educational purposes"

Conclusion

Commitment to serving as an educational resource for the community is a core organizational tenet of Applicant. Indeed, Applicant's recognition in 2016 by the Bush Foundation as a recipient of the Bush Prize for Community Innovation speaks to this civic mindset and charitable mission. As an institution of public charity that is supported by the public itself, Applicant operates the Museum as a means to educate and engage the community via the medium of art. Because the Property is central to this purpose, Applicant claims exemption pursuant to N.D.C.C. § 57-02-08(8).

71808063.1

EXHIBIT A

SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION

[see attached]

RECEIVED
JUN 13 2016
SEC. OF STATE

410570

**ARTICLES OF AMENDMENT
TO ARTICLES OF INCORPORATION OF
PLAINS ART MUSEUM**

1420307

Pursuant to the provisions of Chapter 10-33 of the North Dakota Century Code (the "Act"), Plains Art Museum (the "Corporation") adopts these Articles of Amendment to the Restated and Amended Articles of Incorporation of the Corporation.

Article 1.

The name of the Corporation is: Plains Art Museum.

Article 2.

The Articles of Incorporation of the Corporation are hereby amended and restated as set forth in the Second Amended and Restated Articles of Incorporation of the Corporation as attached to Schedule 1 attached hereto.

Article 3.

The amendments reflected in the attached Second Amended and Restated Articles of Incorporation:

(A) are intended to amend and supersede all provisions in the Articles of Incorporation of the Corporation, and all amendments thereto, including the amendments reflected in the previously filed Restated and Amended Articles of Incorporation of the Corporation, and

(B) were adopted pursuant to and in accordance with the requirements of the Act.

Article 4.

This amendment is to be effective on the date these Articles of Amendment are accepted by the North Dakota Secretary of State.

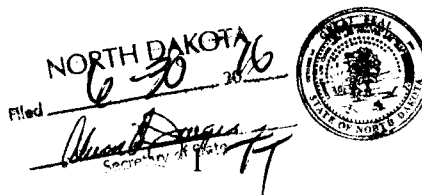
Dated this day of May, 2016.

PLAINS ART MUSEUM

By: *A. Maus*

Name Printed: Andrew (Andy) Maus

Office: Director / CEO



SCHEDULE 1

SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION FOR THE PLAINS ART MUSEUM

These Second Amended and Restated Articles of Incorporation are adopted for the purposes of amending and superseding the Restated and Amended Articles of Incorporation of Plains Art Museum, a nonprofit corporation (the "Corporation") pursuant to N.D.C.C. Chapter 10-33 (the "Act").

ARTICLE I.

The name of the Corporation shall be the Plains Art Museum.

ARTICLE II.

The Corporation was organized effective on the date its original articles of incorporation were issued by the North Dakota Secretary of State. The period of the Corporation's duration is perpetual.

ARTICLE III.

The Corporation is organized exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954. Within this general limitation, the Corporation shall have the power to engage in any or all types of activities or enterprises which are legal and authorized for a corporation organized under the Act by the laws of the State of North Dakota, which shall include, but not be limited to:

- A. Operating and maintaining an art museum.
- B. Providing facilities for the exhibition and conservation of art.
- C. Providing a repository for the artistic heritage of this area.
- D. Promoting education in the arts and fostering and promoting a knowledge of art.
- E. Encouraging and promoting the creation of art.

ARTICLE IV.

The board of directors may establish one or more classes of non-voting members with members having such rights and obligations and as are established by the board of directors or bylaws of the Corporation. Members will not have the right to vote or to exercise any governance rights with respect to the Corporation.

ARTICLE V.

The principal executive office of the Corporation is located at 704 First Avenue North, Fargo, ND 58108-2338.

ARTICLE VI.

The registered office of the Corporation is P.O. Box 2338, 704 First Avenue North, Fargo, ND 58108-2338. The name of the registered agent at such address is Andrew J. Maus.

ARTICLE VII.

The Corporation will have no fewer than twelve (12) and no more than nineteen (19) voting members on its board of directors.

ARTICLE VIII.

No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its members, trustees, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III hereof. No substantial part of the activities of the Corporation shall be carrying on of propaganda, or otherwise attempting, to influence legislation; and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office. Notwithstanding any provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on (a) by corporations exempt from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue Law), or (b) by corporations, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue Law); or (c) any activity prohibited for corporations organized under the Act..

ARTICLE IX.

Upon dissolution of the Corporation, the Corporation's board of directors shall, after paying or making provision for the payment of all liabilities of the Corporation, distribute any remaining assets of the Corporation exclusively for charitable or educational purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue Law). Any of such assets not so disposed of shall be disposed of by the District Court of the County in which the principal office of the Corporation has been located exclusively for such charitable or educational purposes or any such organizations that may at the time qualify for exemption under the provisions of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue Law).

ARTICLE X.

Any action of the board may be taken by written action signed in one or more counterparts, or consented to by authenticated electronic communication, by the number of directors that would be required to take the same action at a meeting of the board at which all directors were present.

ARTICLE XI.

These Second Amended and Restated Articles of Incorporation supersede the Articles of Incorporation of the Corporation, as previously amended.

vogel-#2556096-v2-restated_and_amended_articles_of_incorporation_for_the_plains_are_museum

State of North Dakota

SECRETARY OF STATE



RESTATED ARTICLES OF INCORPORATION OF

PLAINS ART MUSEUM

The undersigned, as Secretary of State of the State of North Dakota, hereby certifies that Restated Articles of Incorporation of

PLAINS ART MUSEUM

duly signed and executed pursuant to the provisions governing a North Dakota Nonprofit Corporation, have been received in this office and are found to conform to law.

ACCORDINGLY the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Restated Certificate of Incorporation to

PLAINS ART MUSEUM

Effective Date: June 30, 2016

Issued: June 30, 2016

A handwritten signature in cursive script, reading "Alvin A. Jaeger".

Alvin A. Jaeger
Secretary of State

EXHIBIT B

BYLAWS

[see attached]

**PLAINS ART MUSEUM
BYLAWS**

**I.
OFFICES**

The principal office of the corporation shall be located at 704 1st Avenue North, Fargo, North Dakota, or such other place as the board of directors may designate. The corporation may have such other offices, either within or out of the state of its incorporation, as the board of directors may designate or as the business of the corporation may require from time to time.

**II.
MEMBERS**

Section 1. Classification and Dues

In order to provide a means of attracting interest in and support for the activities of the Museum, the board of directors may establish from time to time one or more classes of membership as it deems fit, on such terms and conditions as the Board by resolution shall determine.

Section 2. Membership Rights

Members of Museum will have no governance rights and not be entitled to vote, unless the board of directors, by resolution, elects to submit any matter to the members for an advisory vote.

**III.
BOARD OF DIRECTORS**

Section 1. General Powers

The business and affairs of the corporation shall be managed by its board of directors.

Section 2. Number, Tenure, and Qualifications

The number of directors constituting the entire board of directors shall be not less than twelve (12) nor more than nineteen (19), and shall be fixed by resolution of the board of directors. The board of directors, by a two-thirds (2/3) vote of all members of the board, may resolve to increase or decrease the number of directors, provided that no decrease may reduce the existing term of any member of the board. Directors shall be elected for a term of three (3) years, but not to serve more than three (3) full successive terms. Directors must be members in good standing of the Plains Art Museum. Directors need not be residents of the state of North Dakota.

Section 3. Election

- a. At its annual meeting, the board of directors shall elect directors for each seat which is to be elected that year.
- b. Nominations shall be made by a nominating committee consisting of the corporation's chairperson and other directors as designated by the board. In addition, nominations may be made from the floor at any meeting of the membership or any board of directors meeting at which a director is to be elected.

Section 4. Absences

If any director shall fail to attend three (3) consecutive meetings of the board of directors without excuse accepted as satisfactory by the board, such director may be removed by the board of directors.

Section 5. Removal

Directors may be removed and replaced at any time, without cause, upon a vote of no less than a majority of the entire board of directors then qualified to serve.

Section 6. Meetings

- a. Annual Meeting - The annual meeting of the board of directors shall be held during the month of May at a date, time, and location determined by the board of directors.
- b. Special Meetings - Special meetings of the directors may be called by the chairperson and shall be called by the chairperson upon written request of one-third (1/3) of the directors. The time and place of any special meeting, either within or out of the state of incorporation, shall be fixed by the chairperson.
- c. Regular Meetings - Regular meetings of the board of directors shall be held according to a schedule adopted by the board.

Section 7. Notice

Notice of any special meeting shall be given at least three (3) but not more than thirty (30) calendar days in advance of the meeting by written notice delivered personally or mailed to each director at his or her address on record or by means of facsimile or electronic mail or messaging service at an to an address provided to the corporation by the director.. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If sent electronically, notice will be deemed given as of the date transmitted. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular

or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting.

Section 8. Quorum

One-half (1/2) of all directors currently holding office shall constitute a quorum for the transaction of business at any meeting of the directors.

Section 9. Telephone Meeting

A board meeting may be conducted by conference among directors using any means of communication through which the directors may simultaneously hear each other during the conference if the number of directors participating in the conference constitutes a quorum. Any director's participation at any meeting by means of communication through which the director, other directors so participating, and all directors physically present at the meeting may simultaneously hear each other shall constitute presence and participation at the meeting of the board.

Section 10. Absent Directors

A director may give advance written consent or opposition to a proposal to be acted on at any board meeting. Such consent or opposition must be counted as a vote in favor of, or against, the proposal and must be entered in minutes or other record of the action of the meeting if the proposal acted on is substantially the same, or has substantially the same effect, as the proposal to which the director has consented or objected. Any such written consent shall contain the following information: (a) the name of the absent director; (b) a brief statement of the proposal which the absent director consents to or opposes; (c) whether the absent director consents to or opposes the proposal; (d) the date of the meeting to which the consent or opposition applies; and (e) the signature of the absent director. No written consent or opposition is valid for any meetings other than the single meeting specified in the notice and continuation of any meeting temporarily adjourned prior to the completion of the business before the board at such meeting. Notice in writing of such written consent or opposition must be provided to the presiding officer prior to the beginning of the board meeting. A written consent which otherwise satisfies the requirements of this Section 10 may be delivered via facsimile to the principal office of the corporation or through the use of an authenticated electronic communication containing an electronic signature as defined in Section 16.

Section 11. Presumption of Assent

A director of the corporation who is present at a meeting of the board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her director's dissent shall be entered in the minutes of the meeting or unless the director shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation

immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 12. Action Without a Meeting

Any action to be, or which may be, taken at a meeting of the board of directors may be taken without a meeting by written action signed in one or more counterparts, or consented to by authenticated electronic communication, by the number of directors that would be required to take the same action at a meeting of the board at which all directors were present. Such consent may take the form of an authenticated electronic communication containing one or more electronic signatures as defined in Section 16.

Section 13. Vacancies

Vacancies on the board of directors resulting from the death, resignation, removal, or disqualification of a director may be filled by the affirmative vote of the majority of the remaining directors even though the remaining directors constitute less than a quorum. All directors shall serve until replaced or until their successor is elected.

Section 14. Committees

The board of directors, by resolution adopted by a majority of the directors then in office, may designate and appoint one or more committees, each consisting of two or more directors. Such committees shall have and exercise the authority of the board of directors in the management of the corporation to the extent provided in such resolution other than as prohibited by NDCC § 10-33-44.

Section 15. Honorary Members

The board of directors may elect individual(s) to serve as honorary member(s) by a vote of two-thirds (2/3) of the entire board of directors. The term of the honorary member(s) shall be established by the board of directors at the time of election. Honorary member(s) may be removed without cause, upon a vote of no less than a majority of the entire board of directors then qualified to serve. Honorary member(s) shall have full voting rights.

Section 16. Authenticated Electronic Communications and Signatures

For purposes of Article III of these Bylaws, any action which may be taken in writing may be taken through the use of an "authenticated electronic communication," including but not limited to electronic mail, and any document which requires a signature may be signed through the use of an "electronic signature," as those terms are defined in Chapter 10-33 of the North Dakota Century Code.

**IV.
OFFICERS**

Section 1. Number

The officers of the corporation shall be a chairperson, vice chairperson, secretary, and treasurer, each of whom shall be elected by the board of directors. Such other officers and assistant officers, as may be deemed necessary, may be elected or appointed by the board of directors. Any two or more offices may be held by the same person.

Section 2. Election and Term of Office

The board of directors shall elect the officers of the corporation at the annual board meeting held in May. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the officer's successor shall have been duly elected and qualified, until the officer's death, or until the officer shall resign or shall have been removed in the manner hereafter provided.

Section 3. Removal

Any officer or agent elected or appointed by the board of directors may be removed by the board of directors whenever in its judgment the best interest of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Chairperson

The chairperson shall be the principal executive officer of the corporation and, subject to the control of the board of directors, shall in general supervise and control all of the business and affairs of the corporation. The chairperson may sign, individually or with any proper officer of the corporation thereunto authorized by the board of directors, any deeds, mortgages, bonds, contracts, or other instruments which the board of directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the board of directors or by these bylaws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed, and in general shall perform all duties incident to the office of chairperson, and such other duties as maybe prescribed by the board of directors from time to time.

Section 5. Vice Chairperson

In the absence of the chairperson or in the event of his/her death, inability, or refusal to act, the vice chairperson in the order of his/her election, shall perform the duties of the chairperson, and when so acting, shall have all the powers of and be subject to all the restrictions upon the chairperson.

Section 6. Secretary

The secretary shall: (a) keep the minutes of the membership meetings and the board of directors meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these bylaws or as

required by law; (c) be custodian of the corporate records; (d) keep a register of the post office address of each member, which shall be furnished to the secretary by such member; and (e) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him or her by the chairperson or by the board of directors.

Section 7. Treasurer

If required by the board of directors, the treasurer shall give a bond for the faithful discharge of the treasurer's duties in such sum, and with such surety, as the board of directors shall determine. The treasurer shall: (a) have charge and custody of, and be responsible for, all funds and securities of the corporation; (b) receive and give receipts for moneys due and payable to the corporation; and (c) deposit all such moneys in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the board of directors.

Section 8. Salaries

The salaries of the officers shall be fixed from time to time by the board of directors, and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the corporation.

**V.
FISCAL YEAR**

The fiscal year of the corporation shall begin on the first day of July and end on the 30th day of June.

**VI.
INDEMNIFICATION OF DIRECTORS AND OFFICERS**

Section 1. Indemnification

The Museum shall indemnify (a) any person made or threatened to be made a party to any action or proceeding by reason of the fact that such a person is or was a member of the board of directors or corporate officer of the corporation and (b) any member of the board of directors or corporate officer who served any other corporation of any type or kind, or any partnership, joint venture, trust, employee benefit plan, or other enterprise, association, or entity in any capacity at the request of the corporation, in the manner and to the maximum extent permitted by the Nonprofit Corporation Act of North Dakota currently codified in North Dakota Century Code Chapter 10-33, as it may be amended from time to time. The corporation may, in the discretion of the board of directors, purchase and maintain insurance pursuant to such indemnification and indemnify all other corporate personnel to the extent permitted by law. The foregoing article of indemnification shall extend not only to the officers and directors, but also to the estates and to the personal representatives of the officers and directors and shall be in addition to, and not exclusive of, all other rights to which the officer or

director may be entitled by statute, bylaw, contract, agreement, or vote of the membership of this corporation or otherwise. Indemnification shall not extend beyond the limits permissible under applicable common or statutory laws, state or federal. The corporation shall not be required to indemnify any officer or director if the officer or director has been indemnified by another organization or plan for the same judgment, penalty, fine, or cost with respect to the same proceeding in the same acts or omissions.

VII. PRESIDENT/CEO

Section 1. President/CEO

The board of directors may appoint and employ a chief administrator of the Museum, designated as president/CEO. The president/CEO shall serve at the pleasure of the board.

Section 2. Duties of President/CEO

The president/CEO shall have the responsibility and authority for carrying out the policies and procedures that have been adopted and approved by the board of directors. The president/CEO shall be the chief officer of the staff of the Museum, and shall appoint, supervise, and when necessary, discharge individuals who occupy staff positions. The president/CEO shall have such additional powers and duties as may be designated by the board.

VIII. WAIVER OF NOTICE

Whenever any notice is required to be given to any member or director of the corporation under the provisions of these bylaws, under the provisions of the articles of incorporation, or under the provision of the laws of the state of incorporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

EXHIBIT C

PROOF OF IRC § 501(c)(3) RECOGNITION

[see attached]

Internal Revenue Service

Department of the Treasury

Date: July 21, 2003

Plains Art Museum
P. O. Box 2338
Fargo, ND 58108-2338

P. O. Box 2508
Cincinnati, OH 45201

Person to Contact:
Shirley Rudolph 31-03949
Customer Service Specialist

Toll Free Telephone Number:
8:00 a.m. to 6:30 p.m. EST
877-829-5500

Fax Number:
513-263-3756

Federal Identification Number:
41-1260780

Dear Sir or Madam:

This is in response to your request of July 21, 2003 regarding your organization's tax exempt status.

In November 1997 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

Based on information subsequently submitted, we classified your organization as one that is not a private foundation within the meaning of section 509(a) of the Code because it is an organization described in section 509(a)(2).

This classification was based on the assumption that your organization's operations would continue as stated in the application. If your organization's sources of support, or its character, method of operations, or purposes have changed, please let us know so we can consider the effect of the change on the exempt status and foundation status of your organization.

Your organization is required to file Form 990, Return of Organization Exempt from Income Tax, only if its gross receipts each year are normally more than \$25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of the organization's annual accounting period. The law imposes a penalty of \$20 a day, up to a maximum of \$10,000, when a return is filed late, unless there is reasonable cause for the delay.

All exempt organizations (unless specifically excluded) are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more paid to each employee during a calendar year. Your organization is not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, these organizations are not automatically exempt from other federal excise taxes.

Donors may deduct contributions to your organization as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to your organization or for its use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Plains Art Museum
41-1260780

Your organization is not required to file federal income tax returns unless it is subject to the tax on unrelated business income under section 511 of the Code. If your organization is subject to this tax, it must file an income tax return on the Form 990-T, Exempt Organization Business Income Tax Return. In this letter, we are not determining whether any of your organization's present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

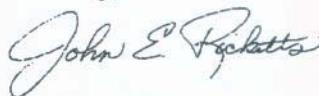
Section 6104 of the Internal Revenue Code requires you to make your organization's annual return available for public inspection without charge for three years after the due date of the return. The law also requires organizations that received recognition of exemption on July 15, 1987, or later, to make available for public inspection a copy of the exemption application, any supporting documents and the exemption letter to any individual who requests such documents in person or in writing. Organizations that received recognition of exemption before July 15, 1987, and had a copy of their exemption application on July 15, 1987, are also required to make available for public inspection a copy of the exemption application, any supporting documents and the exemption letter to any individual who requests such documents in person or in writing. For additional information on disclosure requirements, please refer to Internal Revenue Bulletin 1999 - 17.

Because this letter could help resolve any questions about your organization's exempt status and foundation status, you should keep it with the organization's permanent records.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

This letter affirms your organization's exempt status.

Sincerely,



John E. Ricketts, Director, TE/GE
Customer Account Services

EXHIBIT D

MUSEUM BACKGROUND AND PROGRAMMING

[see attached]

PLAINS ART MUSEUM

Plains Art Museum is a center for education, (a [501c3 charitable organization](#)), and is the largest, most dynamic, and only AAM-Accredited art museum in North Dakota. In addition, North Dakota-native Museum Director Andrew Maus is a member of the Association of Art Museum Directors (AAMD), which upholds the highest educational and operating standards for nonprofit and public sector museums nationwide.



As a teaching museum, education is central to everything that Plains Art Museum does in engaging almost 50,000 people each year. In 2016, the Museum received one of the region's highest philanthropic honors for nonprofits – the Bush Prize for Community Innovation. This support was provided by the Bush Foundation due to the Museum's development of the [Katherine Kilbourne Burgum Center for Creativity](#), which opened in 2012 to increase the availability of programming designed to improve creativity and problem solving through art creation.

Supported by over 800 households, businesses and philanthropic organizations – including grants through the City of Fargo and the State of North Dakota and several others – Plains Art Museum is general admission free and open to the public thanks to our ongoing [PlainsArt4All](#)* Initiative. The Museum exists to educate and engage the community using art as the foundation via a: 1.) teaching museum, 2.) the Katherine Kilbourne Burgum Center for Creativity, and 3.) a teaching garden called The Pollinator Garden. All of these facilities are entirely used to advance the educational mission of the Museum. None of these entities and functions would exist if it were not from the charitable support of many people and businesses who see the value that we provide in moving the North Dakota forward. In addition, Plains Art Museum owns and operates Big Top Bingo as part of ND's nonprofit charitable gaming program. All proceeds of Big Top Bingo go to support Plains Art Museum's charitable mission.



Mission & Values

Plains Art Museum connects art, artists, and audiences to foster creative, resilient, and welcoming communities. We live this mission through articulated values of 1. *Learning*, 2. *Access*, 3.

Commitment, 4. Stewardship, 5. Integrity, 6. Excellence, and 7. Cultivating a Dynamic Workplace.

Charitable Status

The Museum's Articles of Incorporation explain our charitable purpose: "The Corporation is organized exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954.

School Education, Curricula & Teacher Resources

(Values: Learning, Excellence)

Several studies have proven the effectiveness of art museum education in nurturing more skillful, confident, and empathetic students. These improvements extend across disciplines. For example, a major study by Michigan State University showed that entrepreneurs and patent holders had 8 times more art experiences as children than the average American citizen. A separate study at the University of Arkansas showed that a single guided educational experience in a museum with school children showed increases in cultural curiosity and empathy.



At Plains Art Museum, art is not a means to an end, but rather a vehicle for building important critical thinking skills, self awareness, creativity, and for humanitarian purposes of nurturing empathy and multicultural understanding. These are the reasons that school programs encompass the largest program series of the Museum, engaging over 10,000 students each year. Much of our school program curricula includes inquiry-based gallery teaching designed to increase critical thinking skills and art making activities designed to increase problem solving skills. These include programs like:

- [Tours](#) and activities led by professional teaching artists for rural and Fargo-metro schools
- Partnership Programs like our exemplary program with Fargo Public Schools
- [Plains Art Inside & Out](#), which takes ceramics to rural schools in need of an arts curriculum
- [School Spirit: Celebrating Youth Art Month](#) exhibition and reception, giving students the confidence of a museum exhibition
- [Teacher Resources](#) like our free Plains Art Cases, which deliver educational materials into classrooms

Creativity Enhancing Programs (Values: Learning, Excellence)



Every year, the Katherine Kilbourne Burgum Center for Creativity at Plains Art Museum offers dozens of community [classes](#) and art making events for all ages and abilities led by teaching artists and professional educators designed to increase creativity and problem solving skills. Studies consistently show that making art in classes guided by professional artists and educators is successful at improving these skills and enhancing success in other disciplines. When there is cost to these programs, that cost is partially

subsidized by the Museum to make them accessible. In addition, [scholarships](#) are available for those in need of financial assistance. These include programs like:

- Artist-Led Summer Art Camps for kids
- Free [Kid Quest](#) family art making events
- Ceramics and pottery classes for all ages and abilities
- [Tuesdays for Toddlers](#)
- Littles Art Day

Humanitarian, Environmental and Leadership Programming (Values: Access, Integrity, and Commitment)

Plains Art Museum also uses our resources and programming for humanitarian and problem solving purposes, values that were reflected in Director Andrew Maus' TEDxFargo talk, "Art Museums: An Unlikely Community Problem Solver." These programs at the Museum include programs like:

- [Art + Autism and Low Sensory Mondays](#): programs designed specifically for families with children on the Autism spectrum which use art to further the communication skills of participants, as well as providing a positive bonding experience and space to lessen social isolation
- [International Potluck](#): community potluck events that use food to build community in partnership with other nonprofits that serve New Americans in Fargo. As the Museum has learned, one of the greatest needs of New Americans or anyone new to a location is to integrate into the community. In Fargo, this space is often the free, welcoming and diverse environment of the Museum.



- [Buzz Lab](#): Funded through grant support by the Institute of Museum and Library Services, this is a multi-disciplinary teen internship program that teaches participants about pollinators and the importance of creating sustainable spaces that are ecologically friendly. The program also empowers participants to co-create the curriculum and connects them with leaders in a variety of arts and science leaders.
- [Creative Community Leadership Institute](#): A leadership institute with other nonprofit partners throughout the region for creatives, artists, culture bearers, and community builders to advance their networks, engage in community projects, and grow their leadership skills.

Other Learning Programs (Values: Learning, Excellence)



Every year, Plains Art Museum organizes dozens of FREE public programs designed to transfer cultural knowledge, inspire creativity, and prompt dialogue. These include programs like:

- Creative Voices Talks, featuring Native American artists and culture bearers
- [Gallery Talks & Lectures](#)
- Symposia
- Native American Film Series

***PlainsArt4All Exhibitions are Learning Opportunities for Everyone** (Values: Access, Stewardship, Integrity, Commitment, and Excellence)

In 2017, Museum Director Andrew Maus brought a new level of value to increasing education and accessibility. At the beginning of that year, the Museum introduced [scholarships](#) – funded by the Creative Plains Foundation (a separate nonprofit) – for youth art classes, designed to ensure that cost would not be a barrier to nurturing creativity and problem solving. In that same year, we also made the bold move to offer the Museum’s [exhibitions](#) general admission free through our ongoing PlainsArt4All initiative. Exhibitions at Plains Art Museum are always centered in education through professionally researched information and interactive activities designed by professional educators. Every year, Plains Art Museum organizes and presents over 20 of these



exhibitions for people of all ages and abilities. These range from the historically significant to the work of regional artists – all of which are presented by the Museum’s team of professional curators and educators. PlainsArt4All has transformed the Museum into an open community space for learning experiences without financial barrier, making North Dakota a leader in educational access.

EXHIBIT E

SUMMARY BUDGET

[see attached]

Plains Art Museum
Budget 2020-2021

	2020 -2021 Budget
Revenue	
Grants	\$679,613
Membership and Community Support	\$236,960
Gala	\$86,000
Events, Café, Store and Rental Income	\$164,061
Classes, Tours and Firing	\$94,680
Fargo Public Schools	\$110,310
Total Revenue	\$1,371,624
Expenditures	
Wages & Salaries	\$1,136,257
Benefits & Payroll Taxes	\$165,258
Travel	\$43,200
Training	3,400
Hospitality	\$25,966
Supplies	\$129,130
Postage and Freight	\$87,210
Printing	\$32,024
Promotions	\$30,666
Insurance	\$28,148
Professional Fees	\$247,974
Utilities	\$135,320
Maintenance and Repairs	\$45,558
Other	\$14,856
Total Operating Expenditures	\$2,124,967
Change in Net Assets Operations	(\$753,343)
Gaming Operations Net	\$739,260
Change in Net Assets Operations with Gaming	(\$14,083)
Depreciation	(\$296,220)
Interest Expense	(\$26,947)
Investment Portfolio Income	\$136,476
Change in Net Assets	(\$200,774)

January 4, 2021

VIA EMAIL – msplonskowski@FargoND.gov

Mike Splonskowski, City Assessor
225 4th St. N.
Fargo, ND 58102

Re: Applications for Abatement or Refund of Taxes

Dear Mr. Splonskowski:

This letter is written to confirm that:

Michael S. Raum
David B. Tibbals
Christopher A. Stafford
Fredrikson & Byron, P.A.
51 Broadway, Suite 400
Fargo, ND 58102

are legally appointed and authorized as its duly authorized representatives and agents to the result that they may file an Application for Abatement or Refund of Taxes with respect to the 2018 assessment year with the Cass County Auditor on behalf of PLAINS ART MUSEUM (“Taxpayer”) for each of the parcels identified on the attached chart (the “Parcels”).

In that capacity, Michael Raum, David Tibbals and Christopher A. Stafford (“Representatives”) are individually and jointly appointed and authorized as attorney-in-law to represent the Taxpayer at any hearings before the Fargo City Council and/or the Cass County Commissioners.

All notices and other written communications involving the Parcels should be sent to Michael Raum, David Tibbals, and Christopher A. Stafford, Fredrikson & Byron, P.A., 51 Broadway, Suite 400, Fargo, ND 58102.


Attorneys & Advisors
main 701.237.8200
fax 701.237.8220
fredlaw.com

Fredrikson & Byron, P.A.
51 Broadway, Suite 400
Fargo, North Dakota
58102-4991

MEMBER OF THE WORLD SERVICES GROUP
A Worldwide Network of Professional Service Providers

OFFICES
Minneapolis / Bismarck / Des Moines / Fargo / St. Paul / Saltillo, Mexico / Shanghai,

PLAINS ART MUSEUM

By: 
Printed Name: Andy Maus
Its: Director + CEO
Date: 1/4/21

PARCEL LISTING

Parcel No.	Address
01-2381-00891-010	704 1 ST AVEN
01-2381-00911-000	720 1 ST AVEN

71799651.1

