



Planning Department

Telephone: 701-298-2370

Fax: 701-298-2395

planning@casscountynd.gov

MEMORANDUM

TO: Cass County Board of Commissioners

FROM: Cole Hansen, County Planner

DATE: April 29, 2024

SUBJECT: Regular Agenda Topic for the May 6, 2024 Commission Meeting:
911 ET Area Addressing JPA with the City of West Fargo

A JPA currently exists regarding 911 addressing within West Fargo's ET. This JPA is to update agreements that are currently in place and ensure that the language is the same between other JPAs.

SUGGESTED MOTION: To approve the Joint Powers Agreement between Cass County and the City of West Fargo.

JOINT POWERS AGREEMENT
Extraterritorial 911 Address Assignment

THIS AGREEMENT is made and entered into this _____ day of _____, 2024, by and between the **CITY OF WEST FARGO, NORTH DAKOTA**, a municipal corporation (the “City”), and **CASS COUNTY, NORTH DAKOTA**, a Home Rule county under North Dakota law (the “County”) (together, the City and County are referred to as the “parties”).

WHEREAS, City is a home rule city organized and operating under a Home Rule Charter duly adopted pursuant to Chapter 40-05.1, North Dakota Century Code; and,

WHEREAS, City currently has planning authority for subdivisions and zoning within its incorporated limits and their extraterritorial area; and,

WHEREAS, County is a home rule county organized and operating under a Home Rule Charter duly adopted pursuant to Chapter 11-09.1, North Dakota Century Code; and,

WHEREAS, County currently has the authority to assign, change, and maintain 911 property addresses outside the incorporated limits of the City, including the extraterritorial area.

NOW, THEREFORE, the parties agree as follows:

1. **GENERAL PURPOSE.** This agreement is made pursuant to N.D.C.C. § 54-40.3-01, which authorizes the joint and cooperative exercise of power common to the contracting parties. The parties do not intend to create a separate political subdivision by entering into this agreement.
2. **AUTHORIZATION TO ASSIGN, CHANGE, AND MAINTAIN 911 PROPERTY ADDRESSES.** The County effectively authorizes the City, by executing this agreement, the power to solely assign, change, and maintain 911 property addresses within their extraterritorial area.
 - a. The City’s authority to assign, change, and maintain 911 property addresses will help to ensure the areas outside City’s incorporated limits, but within the extraterritorial area that will likely become part of the City, will have consistent 911 addresses with the incorporated area. This allows emergency responders to accurately and quickly locate emergency calls.
 - b. The City will retain this authority to solely assign, change, and maintain 911 addresses in their extraterritorial area from the date set forth in the agreement.
 - c. The County will retain the official naming rights and accountability of any roads on the County highway road system within the City’s extraterritorial area until the road is removed from the County highway road network and placed on the City’s road network.
 - d. The County will maintain and pay for signage along the County highway road system.
 - e. The City will in a timely manner inform the County of any changes to previously assigned addresses, newly assigned addresses, and newly created streets to make certain the 911 databases are accurate and current, ensuring public safety.

3. **GENERAL LIABILITY; INDEMNIFICATION.** Each party is responsible for its own actions. To the extent permitted by law, the addressing entity agrees to hold harmless the non-addressing entity against any claims brought or actions filed against the addressing entity or any employee of the addressing entity for personal injury or damage to property of any third person or persons, arising from the performance pursuant to this Agreement within the limits of liability as set forth in N.D.C.C. Ch. 32 12.1, as amended from time to time.
4. **NON-EXCLUSIVE AGREEMENT.** Nothing within this agreement shall prevent any of the parties herein from entering into similar agreements with any other entity.
5. **TERM; TERMINATION.** This Agreement shall become effective when approved and executed by the appropriate political subdivision of each party to this Agreement. The Agreement shall remain in effect between each and every party until participation in this Agreement is terminated by the party. Termination of participation in this Agreement by a response entity shall not affect the continued operation of this Agreement between and among the remaining parties. Any party to this Agreement may terminate participation in this Agreement upon thirty (30) days written notice addressed to the designated public official of each of the other signatory political subdivisions that are parties to this Agreement.
6. **BINDING EFFECT.** This Agreement is binding on future political subdivisions boards and commissions and participating response entities unless affirmative measures have been taken to terminate the Agreement as defined herein.
7. **DISPUTE RESOLUTION.** The parties agree that any and all disputes, claims, or controversies arising out of or relating in any way to this Agreement, must first be mediated between the parties with a mutually agreeable mediator. If the parties are unable to agree upon a mediator, a mediator shall be appointed by the American Arbitration Association. The parties agree to split the costs of mediation between them on an equal basis. If the parties are unable to resolve their dispute, claim, or controversy at mediation, the parties agree that any and all disputes, claim, or controversies arising out of or relating in any way to this Agreement shall be exclusively brought in an arbitration. If the parties cannot agree upon an arbitrator, the parties agree to an arbitration with the American Arbitration Association. The parties specifically agree that the laws of the State of North Dakota shall exclusively apply to this Agreement and any arbitration, and that any arbitration shall exclusively be held in Fargo, North Dakota.
8. **NO WAIVERS.** The parties do not waive any governmental immunity or limitations of liability by entering into this Agreement and specifically retain all immunities and defenses as set forth in N.D.C.C. § 32-12.1-03 and all other applicable law. Nothing herein shall be deemed a waiver of by the parties of the limits of the liability set forth in N.D.C.C. § 32-12.1-03. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of governmental immunity.
9. **NO THIRD PARTY BENEFICIARIES.** This Agreement shall not be construed as or deemed to be an Agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action whatsoever hereunder, for any cause whatsoever.

10. **COMPLETE AGREEMENT.** This Agreement contains the entire and exclusive understanding of the parties with respect to the subject matter contained in the Agreement and supersedes all prior written or oral agreements, understandings, statements, representations, and negotiations between the Parties.
11. **COUNTERPARTS.** This instrument may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
12. **AMENDMENTS.** This Agreement may be amended only by written instrument duly executed by the parties or their respective successors or assigns, except to the extent expressly provided otherwise in this Agreement.
13. **SEVERABILITY AND SAVINGS CLAUSE.** Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, or word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, the illegality or invalidity will not affect the validity of the remainder of this Agreement.
14. **GOVERNING LAW AND VENUE.** This Agreement will be controlled by the laws of the State of North Dakota and any action brought as a result of any claim, demand or cause of action arising under the terms of this Agreement will be brought in an appropriate venue in the State of North Dakota.
15. **NOTICE.** Any notice or election required or permitted to be given or served by any party to this Agreement upon any other will be deemed given or served in accordance with the provisions of this Agreement if said notice or election is (a) delivered personally, or (b) mailed by United States certified mail, return receipt requested, postage prepaid and in any case properly addressed as follows:

If to City: City of West Fargo
 Attn: City Administrator
 800 4th Ave E, Suite 1
 West Fargo, ND 58078

If to County: Cass County
 Attn: County Administrator
 211 9th St. S
 Fargo, ND 58103

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

16. **ELECTRONIC SIGNATURE.** The parties agree that an electronic signature to this Agreement shall be as valid as an original signature of the parties and shall be effective to bind the signatories to this Agreement. For purposes hereof: (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means or an electronic acknowledgment which provides the signatory the ability to validate and affix a

digital signature that is then transmitted by electronic means; and (ii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (“pdf”), via DocuSign, or other replicating image attached to an electronic mail or internet message.

IN WITNESS WHEREOF, this Agreement has been executed and approved and is effective and operative as to each of the parties as herein provided.

[Remainder of page intentionally left blank.]

CASS COUNTY, NORTH DAKOTA

By: _____
Chad M. Peterson, Chairman
Board of Commissioners

ATTEST:

By: _____
Brandy Madrigga, Finance Director

[Remainder of page intentionally left blank.]

**CITY OF WEST FARGO, NORTH
DAKOTA**

By: _____
Bernie L. Dardis, President of the
Board of City Commissioners

ATTEST:

By: _____
Dustin Scott, City Auditor

JOINT POWERS AGREEMENT
Extraterritorial 911 Address Assignment

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between the following political subdivisions: **THE CITY OF WEST FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter referred to as “City” and **CASS COUNTY, NORTH DAKOTA**, a Home Rule county under North Dakota law, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, City is a home rule city organized and operating under a Home Rule Charter duly adopted pursuant to Chapter 40-05.1, North Dakota Century Code; and,

WHEREAS, City currently has planning authority for subdivisions and zoning within its incorporated limits and their extraterritorial area; and,

WHEREAS, County is a home rule county organized and operating under a Home Rule Charter duly adopted pursuant to Chapter 11-09.1, North Dakota Century Code; and,

WHEREAS, County currently has the authority to assign, change, and maintain 911 property addresses outside the incorporated limits of the City, including the extraterritorial area.

NOW, THEREFORE, the parties agree as follows:

1. The County would effectively authorize the City, by executing this agreement, the power to solely assign, change, and maintain 911 property addresses within their extraterritorial area; and,

2. The City’s authority to assign, change, and maintain 911 property addresses will help to ensure the areas outside City’s incorporated limits, but within the extraterritorial area that will likely become part of the City, will have consistent 911 addresses with the incorporated area. This allowing emergency responders to accurately and quickly locate emergency calls; and,

3. The City will retain this authority to solely assign, change, and maintain 911 addresses in their extraterritorial area from the date set forth in the agreement; and,

4. The County will retain the official naming rights and accountability of any roads on the County highway road system within the City’s extraterritorial area until the road is removed from the County highway road network and placed on the City’s road network; and,

5. The County will maintain and pay for signage along the County highway road system; and,

6. The County will maintain the 911 Master Street Address Guide (MSAG) for the City’s extraterritorial area until the land is annexed into the City’s incorporated boundaries, thus changing the responsibility for emergency response to the City; and,

7. The City will in a timely manner inform the County of any changes to previously assigned addresses, newly assigned addresses, and newly created streets to make certain the 911 databases are accurate and current, ensuring public safety;

IN WITNESS WHEREOF, the parties have executed this agreement to become effective this _____ day of _____, 20_____.

CASS COUNTY GOVERNMENT, NORTH DAKOTA

By _____
Scott Wagner, Chairman
Cass County Board of Commissioners

ATTEST:

By _____
Michael Montplaisir, County Auditor
Cass County, North Dakota

THE CITY OF WEST FARGO, NORTH DAKOTA
A municipal corporation

By _____
Richard Mattern, Mayor
West Fargo, North Dakota

ATTEST:

By _____
James Brownlee, City Auditor
West Fargo, North Dakota