

SUBJECT: ORDINANCE #2009-1 (COURTHOUSE WEST ADDITION)

ADOPTED DATE: OCTOBER 19, 2009

Page 1 of 3

**CONSTRUCTION AND FINANCING OF THE WEST ADDITION TO THE CASS COUNTY
COURTHOUSE
CASS COUNTY ORDINANCE #2009-1**

PURPOSE:

It is the purpose of this Ordinance to facilitate the construction and financing of an addition to the Cass County Courthouse at 211 9th Street South in Fargo, North Dakota. It is also the purpose of this ordinance to provide for the construction and financing through a process and manner that is different from and supersedes that provided in North Dakota Century Code 11-11-16, 11-11-18 and 21-03-07.

DEFINITIONS:

Cass County Courthouse - the Cass County Courthouse is a building located at 211 9th Street South in Fargo, North Dakota that houses the administrative offices of Cass County, the state office of Clerk of District Court, and the state offices and courtrooms of the East Central Judicial District.

HISTORY:

Over the past ten (10) years the county has spent considerable funds and time in studying the space needs of county departments and the East Central Judicial District Court and has determined that a need for additional space for county administrative offices and meeting rooms, improved mechanical and maintenance facilities, improved prisoner holding facilities and secure corridors for movement of prisoners between the holding facility and the courtrooms, and additional offices and courtrooms for the East Central Judicial District Court. Cass County Government also seeks to improve the Information Technology infrastructure of the Courthouse.

The County Commission will during its deliberations for the 2011 budget dedicate sufficient mills against the taxable valuation of the county for a period of up to twelve years for the purpose of retiring debt incurred to plan and construct an addition to the Cass County Courthouse.

AUTHORITY:

The County is operating under a Home Rule Charter approved by the voters of Cass County on November 1, 1994 with 57.75% positive vote. Paragraph 2 of Article 2, Home Rule Powers of County, reads in part:

“Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of Article 9, levy and collect taxes, excises, fees and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law, and establish debt and mill levy limitations subject to Article 9.”

SUBJECT: ORDINANCE #2009-1 (COURTHOUSE WEST ADDITION)

ADOPTED DATE: OCTOBER 19, 2009

Page 2 of 3

Article 9 of the Home Rule Charter deals with revenue authority and Section 2 - Limitations, Subsection 1 reads in part:

“No ordinance or resolution may be adopted by the Board of County Commissioners levying property taxes in excess of 75 mills in total until referred by the Board of County Commissioners for approval by the electorate at any regular county election.”

The tax levied to retire the debt contracted for these buildings will be dedicated by the County Commission within its 75 mill levy authority for up to and including two mills for a period not exceeding twelve years for the addition to the County Courthouse. The current (2008) mill levy for the county is 61.00 mills, or 14.00 mills below its current authority. This process and manner of financing is different from and supersedes that provided in North Dakota Century Code 11-11-16, 11-11-18 and 21-03-07.

BUILDING COMMITTEE:

A building committee was appointed by then Chairman of the Cass County Commission, Scott Wagner, and approved by the County Commission on December 15, 2003. The committee is made up of the following individuals and any other members as subsequently appointed by the County Commission:

Scott Wagner, County Commissioner and Chairman of the committee
Darrel Vanyo, County Commissioner
Michael Montplaisir, County Auditor
Bonnie Johnson, County Administrator
Judge Douglas R. Herman, East Central Judicial District

The building committee will be known as the Building Committee and will undertake the responsibility of supervising the construction of the addition to the Cass County Courthouse. The tasks of the Building Committee include, but are not limited to, the following items:

Prepare plans and specifications and submit to the County Commission for approval prior to bidding the project.

Receive, review, and recommend bids for the building project to the County Commission.

Review and approve change orders for the building project amounting to less than \$5,000 per change order or change orders in the aggregate that do not exceed 5% of the bid award. In change orders over \$5,000 individually or change orders in the aggregate that exceed 5%, the committee must seek approval from the County Commission.

Supervise the construction of the building project.

Conduct the final walk-through prior to accepting the building project.

SUBJECT: ORDINANCE #2009-1 (COURTHOUSE WEST ADDITION)

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Page 3 of 3

Research and recommend a financing method for the project not to exceed \$14,700,000 in total (including \$5,800,000 from the Building Fund) nor more than twelve years in length for the addition to the Courthouse, keeping in mind the taxing authority and County levy limitations under the North Dakota Century Code and Cass County's Home Rule Charter.

TIMELINE:

The Building Committee is directed to start work on this project immediately upon adoption of this ordinance. The Building Committee is directed to report to the County Commission the status of this project through monthly written reports and/or appearances at a regularly scheduled Commission meeting. The Building Committee is directed to substantially complete the addition to the Courthouse during the calendar year 2011.

SEVERABILITY:

Should any section, provision or part of this Ordinance be adjudged invalid or unconstitutional, such adjudication should not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

APPROVED:

ss/Robyn Sorum
Robyn Sorum, Chairwoman
Board of Commissioners of the
County of Cass

ATTEST:

ss/Michael Montplaisir
Michael Montplaisir, County Auditor

First Reading: September 21, 2009
Second Reading: October 19, 2009
Final Passage: October 19, 2009
Publication: September 28, 2009

(SEAL)

HISTORICAL REFERENCE DATE: OCTOBER 19, 2009