

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at www.FargoND.gov/streaming. They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at www.FargoND.gov/citycommission.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, July 30, 2018).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Receive and file the following Ordinances:
 - a. Amending Section 25-1513, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
 - b. Amending Section 01-0305, of Article 01-03 of Chapter 01 of the Fargo Municipal Code Relating to Classification of Ordinance Violations.
- 2. 2nd reading of the following Ordinances; 1st reading 7/30/18:
 - a. Rezoning Certain Parcels of Land Lying in 19th Avenue Southwest Pond Addition.
 - b. Rezoning Certain Parcels of Land Lying in Laverne's Addition.
 - c. Rezoning Certain Parcels of Land Lying in Legacy I 2nd Addition.
 - d. Rezoning Certain Parcels of Land Lying in 19th Avenue Northeast Pond Addition.
 - e. Rezoning Certain Parcels of Land Lying in Grayland First Addition.
- 3. Settlement Agreement and Release with Gary M. and Susan D. Cavett.
- 4. Authorize the City Attorney to evaluate the collection of City Sales Tax in the wake of the Wayfair decision and to draft any Ordinance amendments, as may be appropriate, for consideration.
- 5. Receive and file General Fund – Budget to Actual through July 31, 2018 (unaudited).
- 6. Gaming Site Authorization:
 - a. Metro Sports Foundation at the Scheels Arena.
 - b. Fargo Youth Hockey Association at H.A. Thompson and Sons Arena.
- 7. Applications for Games of Chance:
 - a. St. John Paul II Catholic Schools for a raffle on 4/27/19.
 - b. Solberg Family Benefit for a raffle on 9/16/18; Public Spirited Resolution.
 - c. YWCA Cass Clay for a raffle on 9/6/18.
 - d. Fargo South High School for a calendar raffle from 8/24/18 to 9/28/18.
 - e. Fargo South High School for a calendar raffle from 8/28/18 to 2/23/19.
 - f. Fargo South High School for a calendar raffle from 12/7/18 to 2/5/19.
 - g. Dakota Medical Foundation-Lend A Hand Up for a raffle and raffle board on 9/8/18.

- h. Diamond in the Ruff Pet Rescue for a raffle and raffle board on 9/8/18.
 - i. El Zagal Escort Motor Patrol for a raffle on 10/1/18.
 - j. Fargo Air Museum for a raffle on 9/8/18.
 - k. Nativity Church of Fargo for bingo and a raffle on 11/4/18.
8. Bid award for Merchant Credit Card Processing (RFP18207).
 9. Contract Extension with Duncan Solutions Company to December 31, 2018.
 10. Parking Services Contract with Passport Labs Inc. until December 31, 2023 subject to final legal review.
 11. Extension of the Class "A" Alcoholic Beverage License until February 28, 2019 for the Firebox.
 12. Applications for property tax exemptions for improvements made to buildings:
 - a. Lisa Marie Wiley Artz, 1706 1st Street North (5 year).
 - b. Charlie J. and Desiree J. Wilson, 105 Woodland Drive North (5 year).
 - c. Roy V., Jr. and Lisa A. Sander, 3005 9th Street North (5 year).
 - d. Paul D. and Linda S. Kegel, 910 12th Street North (5 year).
 - e. BSAR Enterprises, 2308 Willow Road North (5 year).
 - f. Randy S. and Kendra Ball, 244 30th Avenue North (5 year).
 13. Contract Agreement with Fargo Public Library to provide a breastfeeding friendly environment for their employees.
 14. Contract Agreement with WeeKare ChildKare Center to provide a breastfeeding friendly environment for their employees.
 15. Agreement for Services with Samantha Nienow.
 16. Contract Agreement with Anchor Ingredients to provide a breastfeeding friendly environment for their employees.
 17. Community Faculty Contract with UND School of Medicine and Health Sciences for medical school student training in the clinic
 18. Bid award for 2019 spring tree order (RFP18240).
 19. Resolution Approving Designating Signatory for HUD Environmental Reviews – Community Development Block Grant (CDBG) and Home Funds to Tia Braseth and Nicole Crutchfield.
 20. Standard Form of Agreement with Western Specialty Contractors for parking facility restoration repairs.
 21. Standard Form of Agreement with Shultz and Associates, Ltd. (RFQ18172).
 22. Engineering Services Agreement Amendment No. 3 with HDR Engineering in the amount of \$91,683.05 (Project No. FM-15-J0).
 23. Receive and file the El Zagal Flood Mitigation Project update (Project No. FM-14-5).

24. Authorization of Engineering staff to secure appraisals and negotiate, the acquisition of 28 properties potentially affected by the 37-foot in-town project, with property owners wishing to sell in advance of the project authorization.
25. Three Access Easements (Street Easement), an Access Easement (Levee Easement) and a Utility Permit with Southeast Cass Water Resource District to support Laverne's Addition Plat.
26. Transit Public Comment Process on Fare/Service Changes.
27. Service Agreement Addendum 1 with DoubleMap, Inc. (TapRide) and Amendment to the Joint Powers Agreement for Transit Support with NDSU to extend the contract for the 2018/2019 school year.
28. Section 5310 Transit Grant Agreements with the ND Department of Transportation.
29. Bid advertisement for Filter-to-Waste Improvements at the Water Treatment Plant (Project No. WA1753).
30. Contract and bond for Project No. WA1854 (Valve Vault Improvements at Water Tower Nos. 4 and 9).
31. Bills.
32. Change Order No. 1 for an increase of \$102,651.00 and time extension to 10/1/18 for Improvement District No. AN-17-G1.
33. Change Order No. 2 for an increase of \$54,136.00 and No. 3 in the amount of -\$17,480.00 for Improvement District No. NR-17-A1.
34. Change Order No. 1 for an increase of \$41,200.00 for Improvement District No. NR-17-B.
35. Final Balancing Change Order No. 1 for an increase of \$17,837.04 for Improvement District No. SL-16-A1.
36. Final Balancing Change Order No. 1 for an increase of \$8,684.90 for Improvement District No. SL-16-B1.
37. Final Balancing Change Order No. 1 for an increase of \$43.12 for Improvement District No. SL-17-F1.
38. Final Balancing Change Order No. 3 for an increase of \$34,316.88 for Improvement District No. BR-16-C1.
39. Negative Final Balancing Change Order No. 1 in the amount of -\$1,682.76 for Improvement District No. SL-17-E1.
40. Negative Final Balancing Change Order No. 1 in the amount of -\$53.90 for Improvement District No. SL-17-G1.
41. Bid award for Improvement District No. SN-18-C2.
42. Create Improvement District Nos. FM-14-8 and NN-18-A.

43. Appointments to the Planning Commission.
44. Public Hearings - 5:15 pm:
 - a. Black Mountain Addition (3149, 3151 and 3185 Main Avenue); approval recommended by the Planning Commission on 6/5/18:
 1. Zoning Change from GC, General Commercial to LI, Limited Industrial and P/I, Public and Institutional with a C-O Conditional Overlay and AG, Agricultural to P/I, Public and Institutional with a C-O, Conditional Overlay.
 2. 1st reading of rezoning Ordinance.
 3. Plat of Black Mountain Addition.
 - b. Plat of Minnkota Section 16 First Subdivision a replat of Minnkota Section 16 Subdivision (5181 76th Avenue South); approval recommended by the Planning Commission on 5/1/18.
 - c. Special assessment of nuisance abatement fees.
 - d. Hearing on a dangerous building located at 427 15th Avenue South.
45. Resolution Authorizing the Issuance and Sale of \$126,500,000.00 City of Fargo Sewer Revenue Bond, Series 2018A and Resolution Authorizing the Issuance and Sale of \$20,229,000.00 City of Fargo Sewer Revenue Bond, Series 2018B.
46. Resolution Authorizing the Issuance and Sale of \$23,950,000.00 City of Fargo Water Revenue Bond, Series 2018C.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.


Minutes are available on the City of Fargo website at www.FargoND.gov/citycommission.



Dr. Timothy J. Mahoney, Mayor
Fargo City Hall
200 3rd Street North
Fargo, ND 58102
Phone 701.241.1310 | Fax: 701.476.4136
TMahoney@FargoND.gov

AB

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: MAYOR TIMOTHY J. MAHONEY 
DATE: AUGUST 8, 2018
SUBJECT: PLANNING COMMISSION APPOINTMENTS

The terms of Kelly Steffes, Shara Fischer and Maranda Tasa on the Planning Commission expired on June 30, 2018. Ms. Fischer and Ms. Tasa are willing to continue their service on the Board; however, Ms. Steffes does not wish to be reappointed.

My recommendation is to reappoint Ms. Fischer and Ms. Tasa and to replace Ms. Steffes I am recommending the appointment of Jennifer Holtz. I have attached her web application for your information.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: Approve the reappointment of Shara Fischer and Maranda Tasa and the appointment of Jennifer Holtz to the Planning Commission for three-year terms ending June 30, 2021.

Attachment
wwappt18plc

Kember Anderson

From: noreply@cityoffargo.com
Sent: Monday, June 11, 2018 1:02 PM
To: Commissions Applications
Subject: New Form Submission: Getting involved in government
Attachments: JHoltz.Resume.pdf

Name:
[Jennifer Holtz]
Mailing Address:
[1826 3rd St N]
City:
[Fargo]
State:
[North Dakota]
Zip:
[58102]
Work Phone:
[(701) 298-4669]
Home Phone:
[(701) 306-3203]
E-mail:
[jholtz@nd.gov]

Which boards or commissions would you like to be considered for?
[Community Development Committee, Human Relations Commission, Planning Commission]

Briefly state why you would like to be on this panel:
[As a professional of mental health working in Fargo, I believe I would be able to bring an open minded, unique and creative perspective to the issues addressed by these committees. My personal passion is to promote education of socioeconomic and cultural challenges to remove barriers to sustaining a close-knit community.]

How many hours per month could you volunteer as a panel member?
[I am able to commit up to eight hours per month.]

Please list any past experience you have with city government here or in other cities:
[I have been actively involved as a voter, volunteer, and patron in Fargo as well as Grand Forks during my undergraduate studies.]

Please describe any professional experience you have related to the responsibilities of the panel you are interested in:
[I have 18 years of experience working in health and human services. I also have a master's degree in public administration where my focus of study was public policy.]

We will retain your application for three years and consider you for the board you have indicated interest in when a vacancy arises.

City of Fargo Staff Report			
Title:	Black Mountain Addition	Date: Updated:	5/30/2018 8/8/2018
Location:	3149, 3151, and 3185 Main Avenue	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lot 1 and part of Lot 2, Goodman's Subdivision; Lot 1, Teigen's Subdivision; and part of the South Half of Section 2, Township 139 North, Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	Vantage Properties, Southeast Cass Water Resource District, Mike Arnold / Mike Arnold	Engineer:	Moore Engineering, Inc.
Entitlements Requested:	Minor Subdivision (Replat of Lot 1 and part of Lot 2, Goodman's Subdivision; Lot 1, Teigen's Subdivision; and part of the South Half of Section 2, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, to the City of Fargo, Cass County, North Dakota to include a Subdivision Waiver on Lot 2, Block 1. of the proposed plat) Zone Change from GC, General Commercial to LI, Limited Industrial and AG, Agricultural to P/I, Public and Institutional with a C-O, Conditional Overlay for portions of the lots within this subdivision		
Status:	City Commission Public Hearing: August 13, 2018		

Existing	Proposed
Land Use: Retail sales and service; County Drain No. 10	Land Use: Retail sales and service; County Drain No. 10
Zoning: LI, Limited Industrial; GC, General Commercial; AG, Agricultural	Zoning: LI, Limited Industrial; P/I, Public/Institutional for Lot 2 (County Drain No. 10)
Uses Allowed: LI allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation: GC allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited	Uses Allowed: L/I no change P/I Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events; with a C-O, conditional overlay to restrict uses as shown

<p>vehicle service, aviation, surface transportation, and major entertainment events. AG allows detached houses, parks and open space, safety services, basic utilities, and crop production.</p>	
<p>Maximum Lot Coverage Allowed: 85% in LI and GC: AG allows maximum density of one dwelling unit every 10 acres.</p>	<p>Maximum Lot Coverage Allowed: No change (85% for both GC and LI); P/I Zoning District takes on the dimensional standards of the adjacent zoning district</p>

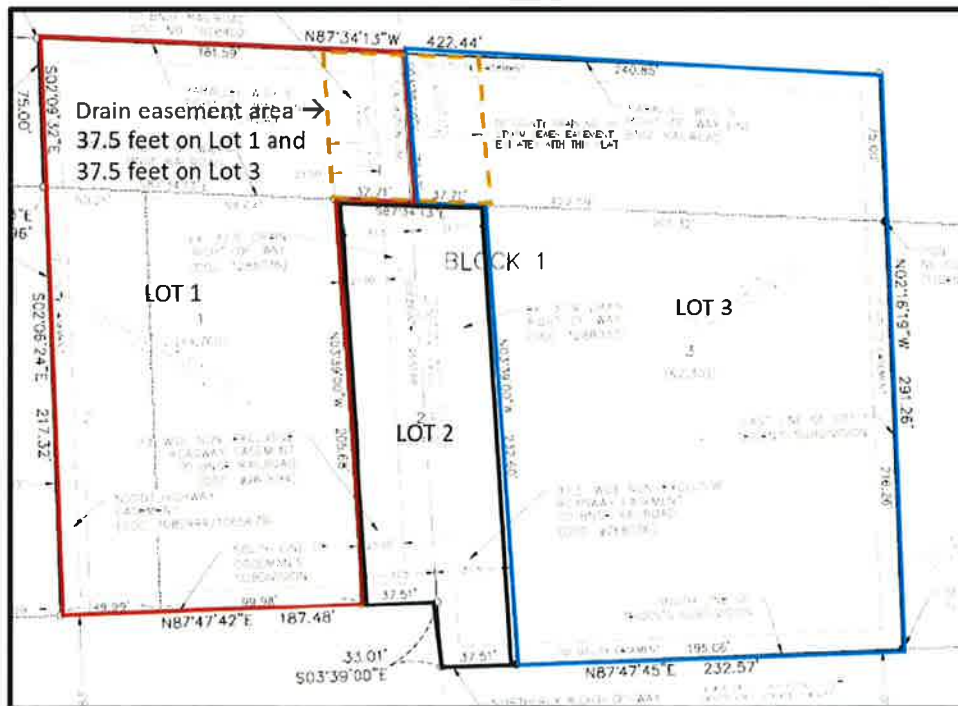
<p>Proposal:</p> <p>The applicant requests two entitlements:</p> <ol style="list-style-type: none"> 1. A minor subdivision, entitled Black Mountain Addition which is a replat of Lot 1 and part of Lot 2, Goodman’s Subdivision; Lot 1, Teigen’s Subdivision; and part of the South Half of Section 2, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, to the City of Fargo, Cass County, North Dakota. The applicant also requests a Subdivision Waiver for drain setback to reduce the setback from 175 feet on either side of the drain centerline (total of 350 feet) to 37.5 feet on either side of the drain centerline (total of 75 feet). This is in reference to Section 20-0610 of the LDC (referenced below). 2. A zone change from GC, General Commercial to LI, Limited Industrial and AG, Agricultural to P/I, Public and Institutional with a C-O, Conditional Overlay for portions of the lots within this subdivision <p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: GC, General Commercial, with warehouse and office uses and county drain Burlington Northern Santa Fe railroad tracks • East: LI, Limited Industrial with warehouse and vacant land uses • South: Across Main Avenue LI, Limited Industrial with warehouse, light manufacturing, and vacant land uses • West: LI, Limited Industrial with warehouse, light manufacturing, and vacant land uses
<p>Area Plans:</p> <p>No area plans apply.</p>
<p>Schools and Parks:</p> <p>Schools: The subject property is located within the Fargo School District and is served by Madison Elementary, Ben Franklin Middle and North High schools.</p> <p>Neighborhood: The subject property is not located within a designated neighborhood.</p> <p>Parks: Jefferson Park (1904 4th Avenue S South) is located approximately over ¾ of a mile southeast of the subject property and offers the amenities of basketball , picnic table, playgrounds, and recreational trails, soccer, skatepark.</p> <p>Pedestrian / Bicycle: The nearest on-road bike facility is located along 25th Street South and is a component of the metro area trail system.</p>

Staff Analysis:

PLAT AND ZONE CHANGE

The plat will create a total of three lots in one block, owned and zoned as noted in the chart below.

BLOCK	LOT	CURRENT ZONING	PROPOSED ZONING	LAND USE
1	1	LI and GC	LI	Expansion of existing commercial/limited industrial development. SE Cass Water Resource District will have a 37.5 foot wide drain easement on part of the east side of this property.
1	2	AG	P/I with a with a C-O, Conditional overlay to restrict uses to "detention facilities" and "commercial parking"	Owned by Southeast Cass Water Resource District; Cass County Drain No. 10 runs through this lot. Not intended for development
1	3	LI and GC	LI	Expansion of existing commercial/limited industrial development. SE Cass Water Resource District will have a 37.5 foot wide drain easement on part of the west side of this property.



The northerly portion of proposed Lots 1 and 3 is composed of an area that was formerly owned by the Burlington Northern Santa Fe railroad, which was zoned GC, General Commercial in 2001 by Ordinance

4146. A zone change from GC to LI, Limited Industrial for the northerly portion of Lots 1 and 3 is necessary in order to make the zoning of Lots 1 and 3 consistent. Proposed Lot 2 is currently zoned AG. A zone change from AG to P/I with a C-O, Conditional Overlay for Lot 2 is the appropriate zoning for this government-owned utility lot.

ACCESS: The lots will take access from Main Avenue, an existing dedicated public street.

PUBLIC WATER AND SEWER: Public water and sewer are available in Main Avenue

SUBDIVISION WAIVER FOR DRAIN SETBACK: Cass County Drain No. 10 passes through the center portion of the subject property underground as one 72-inch wide pipe approximately 15 feet deep. As this is a legal drain, a 175 foot setback from either side of the centerline of the drain would be required at the time of platting pursuant to Section 20-0610 of the Land Development Code (LDC). The subdivision waiver is for modification of this drain setback requirement; specifically, that the requirement for the 175 foot setback from the centerline of the drain be reduced to a setback of 37.5 feet on either side of the drain centerline, for a total of 75 feet. This is the dimension that currently exists, and the City Engineer has determined that no additional setback is required. While the drain is part of the legal storm water requirements and governed by the Southeast Cass Water Resource District, the pipes are within the city limits. Thus, the City of Fargo is required to maintain access and also be prepared to maintain and replace the pipe if needed. Lot 2, Block 1, and the easement area of Lots 1 and 3, Block 1 of this plat encompass the underground drain and its setback. Lot 2 will be owned by Southeast Cass Water Resource District. No development, other than vehicular parking and circulation, will be allowed on Lot 2. SE Cass has created an encroachment agreement with the adjacent property owners to allow vehicular circulation and parking on this lot, and to accommodate the existing encroachment of the existing buildings into the SE Cass property. No development is allowed on the drain setback area of Lots 1 and 3.

Zoning

Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?

Staff is unaware of any error in the zoning map as it relates to this property. The property currently has three different zonings on it—LI, Limited Industrial; GC, General Commercial; and AG, Agricultural. The property is being rezoned so that Lots 1 and 3 are entirely zoned LI and Lot 2 is entirely zoned P/I, with a C-O, conditional overlay. **(Criteria Satisfied)**

2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. Lots in the subdivision front on an existing dedicated public street. This street provide access and public utilities to serve the development. **(Criteria satisfied)**

3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received

two phone inquiries about the project. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." No growth plan applies to this area. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

SUBDIVISION

The LDC stipulates that the following criteria are met before a minor plat can be approved:

- 1. Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The subject property is not located within an area plan. The property currently has three different zonings on it—LI, Limited Industrial; GC, General Commercial; and AG, Agricultural. The property is being rezoned so that Lots 1 and 3 are entirely zoned LI, to accommodate expansion of the existing businesses, and so that Lot 2 is entirely zoned P/I, with a C-O, conditional overlay to accommodate County Drain No. 10, a government-owned facility. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one phone call from the public regarding this property. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. These departments have found that the plat meets the standards of Article 20-06 and other applicable requirements of the Land Development Code, and depicts the reduced drain setback requirement of a 37.5-foot setback on either side of the drain centerline established by the city engineer.

(Criteria Satisfied)

- 2. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

SUBDIVISION WAIVER FOR DRAIN SETBACK

The LDC stipulates that the following criteria are met before a subdivision waiver can be approved:

- 1. Section 20-0907.D.3.a of the LDC stipulates that a Subdivision Waiver must not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the area in which the property is located.**

The City Engineer has determined that the existing 37.5-foot setback on either side of the drain centerline is sufficient to provide access for maintenance to this underground drain. **(Criteria Satisfied)**

2. Section 20-0907.D.3.b of the LDC stipulates that a Subdivision Waiver must represent the least deviation from this Land Development Code that will mitigate the hardship or practical difficulty that exists on the subject property.

As this is an underground drain, the City Engineer has determined that the 37.5-foot wide setback on either side of the drain centerline, to provide access for maintenance, is sufficient. The full 175 foot setback on either side of the drain centerline is not necessary in this case. **(Criteria Satisfied)**

3. Section 20-0907.D.3.c of the LDC stipulates that a Subdivision Waiver shall not have the effect of waiving any provisions of this development code other than the Subdivision Design and Improvement Standards of Article 20-06.

This subdivision waiver applies only to the drain setback requirements of Section 20-0610 of the LDC for this particular property. **(Criteria Satisfied)**

Staff Recommendation

Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on the first reading, and move to approve the proposed 1) zoning change from GC, General Commercial to LI, Limited Industrial and AG, Agricultural to P/I, Public and Institutional with a C-O, Conditional Overlay for portions of the lots within this subdivision and 2) **Black Mountain Addition** subdivision plat, including Subdivision Waiver for drain setback, as presented, as the proposal complies with the Go2030 Plan, Standards of Article 20-06, Section 20-0906.F (1-4), and Section 20-0907(D)(3) of the LDC and all other applicable requirements of the LDC."

Planning Commission Recommendation: June 5, 2018

On June 5, 2018, by a vote of 8-0 with two Commissioners absent, the Planning Commission voted to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed 1) zoning change from GC, General Commercial to LI, Limited Industrial and AG, Agricultural to P/I, Public and Institutional with a C-O, Conditional Overlay for portions of the lots within this subdivision and 2) **Black Mountain Addition** subdivision plat, including Subdivision Waiver for drain setback, as presented, as the proposal complies with the Go2030 Plan, Standards of Article 20-06, Section 20-0906.F (1-4), and Section 20-0907(D)(3) of the LDC and all other applicable requirements of the LDC."

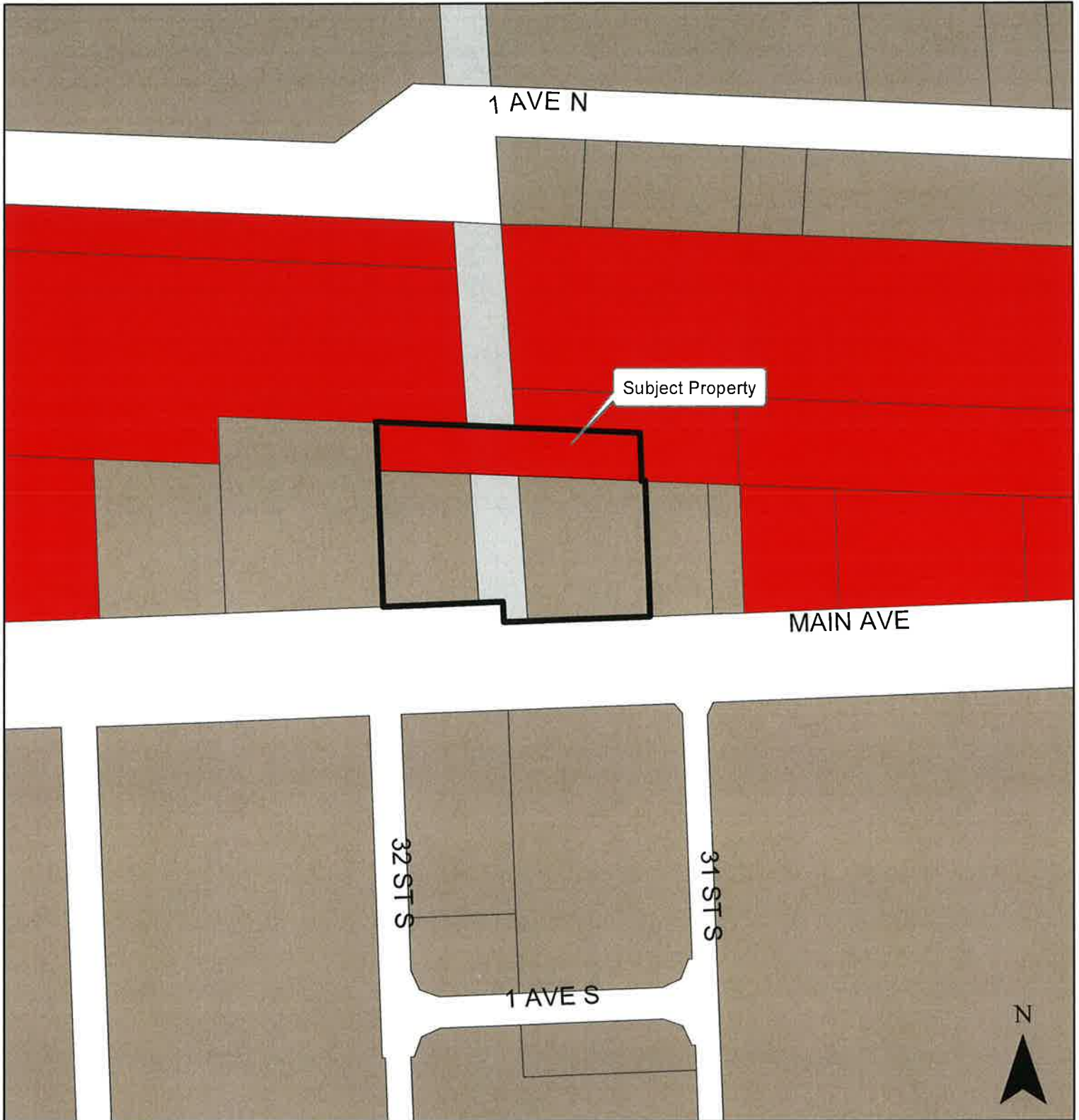
Attachments:

1. Zoning Map
2. Location Map
3. Preliminary Plat

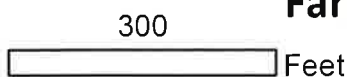
Plat (Minor) and Zone Change (GC and AG to LI and P/I with C/O)

Black Mountain Addition

3149, 3151 & 3185 Main Avenue



AG	LC	MHP	SR-1
DMU	LI	NCI	SR-2
GC	MR-1	NO	SR-3
GI	MR-2	P/I	SR-4
GO	MR-3	UMU	SR-5



Fargo Planning Commission
June 5, 2018

Plat (Minor) and Zone Change (GC and AG to LI and P/I with C/O)

Black Mountain Addition

3149, 3151 & 3185 Main Avenue



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

44a:2

ORDINANCE NO. _____

1 AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
2 LYING IN BLACK MOUNTAIN ADDITION
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

4 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
5 City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain
6 parcels of land lying in the proposed Black Mountain Addition to the City of Fargo, Cass County,
7 North Dakota; and,

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
9 request on June 5, 2018; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on August 13,
11 2018,

12 NOW, THEREFORE,

13 Be It Ordained by the Board of City Commissioners of the City of Fargo:

14 Section 1. The following described property:

15 Lots One (1) and Three (3), Block One (1), Black Mountain Addition to the City of
16 Fargo, Cass County, North Dakota;

17 is hereby rezoned from "LI", Limited Industrial, District and "GC", General Commercial, District
18 to "LI", Limited Industrial, District;

19 Section 2. The following described property:

20 Lot Two (2), Block One (1), Black Mountain Addition to the City of Fargo, Cass County,
21 North Dakota;

22 is hereby rezoned from "AG", Agricultural, District to "PI", Public and Institutional, District with a
23 "C-O", Conditional Overlay as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- Permitted uses are limited to detention facilities and commercial parking.

1 Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his
 2 office so as to conform with and carry out the provisions of this ordinance.

3 Section 4. This ordinance shall be in full force and effect from and after its passage and
 4 approval.

5
6
7 (SEAL)

Timothy J. Mahoney, Mayor

8 Attest:

9
10
11 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

446

City of Fargo Staff Report			
Title:	Minnkota Section 16 First Subdivision	Date: Updated:	4/26/2018 8/8/2018
Location:	5181 76th Avenue South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Minnkota Section 16 Subdivision and a portion of the NW 1/4 of Section 16, Township 138 North, Range 49 West, Cass County, North Dakota		
Owner(s)/Applicant:	Minnkota Power Cooperative/Kurt Kisch	Engineer:	Ulteig
Entitlements Requested:	Major Subdivision (Replat of Minnkota Section 16 Subdivision and a portion of the NW 1/4 of Section 16, Township 138 North, Range 49 West, Cass County, North Dakota)		
Status:	City Commission Public Hearing: August 13, 2018		

Existing	Proposed
Land Use: Electrical substation	Land Use: No change
Zoning: AG, Agricultural	Zoning: No change
Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production	Uses Allowed: No change
Maximum Density Allowed (Residential): AG allows a maximum of 1 dwelling unit per 10 acres.	Maximum Density Allowed: AG allows a maximum of 1 dwelling unit per 10 acres.

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A major subdivision, entitled Minnkota Section 16 First Subdivision, one block, one lot subdivision that combines the existing Minnkota Section 16 Subdivision with additional adjacent land recently purchased by Minnkota. This is an electrical substation. No residential or commercial development is intended for this subdivision. This property is located within the City's extra-territorial jurisdiction. <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: AG, undeveloped • East: AG, undeveloped • South: AG, undeveloped • West: AG, undeveloped <p>Area Plans:</p> <p>This property is located within the City's extra-territorial jurisdiction. The 2007 South Fargo Tier 1 West Growth Plan designates this area for "medium to high density" residential development. However, this is an existing utility facility and is not intended for residential use. Thus, the AG zoning is appropriate as utility uses are allowed in the AG zone and the lot meets the minimum required lot area for the AG zone pursuant to the LDC</p>

Context:

Schools: The subject property is located within the Horace School District.

Neighborhood: The subject property is not located within a designated neighborhood.

Parks: There are no parks within one mile of the subject property.

Pedestrian / Bicycle A future trail is proposed within the public right of way along 76th Avenue South.

Staff Analysis:

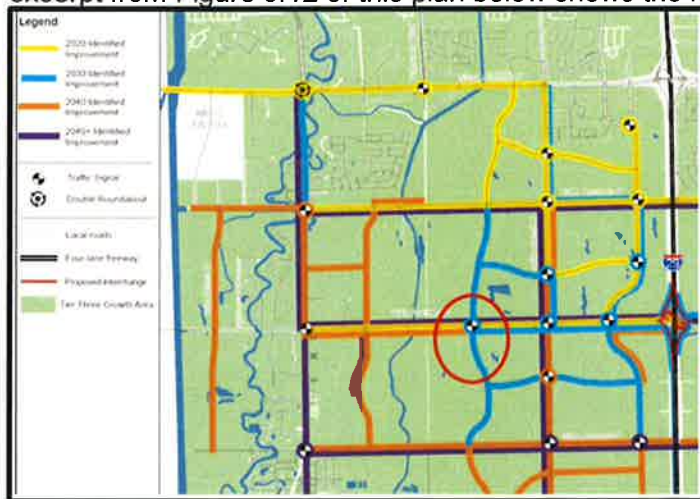
PLAT AND ZONE CHANGE

The plat will create one lot. This is an expansion of the existing lot that is occupied by a Minnkota Power substation. The plat adds additional area and a larger street dedication for 76th Avenue South and dedication for a future collector street on the east side of the plat, which is a half-section line.

ACCESS: The lot is currently accessed from 76th Avenue South, though there is a negative access easement along the property frontage along 76th. An item of the approval of the underlying plat, Minnkota Section 16 Subdivision, was an allowance to cross the negative access easement along 76th Avenue South until such time as the right of way on the east side of the plat is developed. This access is noted on that plat as “Temporary access subject to full or partial closure by the City of Fargo,” and that note carries through to the current proposed plat. This authorization comes from a letter from former City of Fargo senior planner Cindy Gray to Minnkota Power dated May 30, 2000. Item 5 of that letter states the requirement for the note about temporary access described above, and also states, “Eventually, we [City of Fargo] would expect property access to be from the future collector street along the east side of the property.” As that collector has not been developed yet, it seems access will continue to be from 76th Avenue.

This plat vacates the previous negative access easement along 76th Avenue South and adds a new one that cover the increased length of property frontage of the new plat.

STREET DEDICATIONS: This plat includes two street dedications. The dedication along the north side is for the future widening of 76th Avenue South (100 feet). The dedication on the east side (50 feet) is for a future improvement depicted on the Southwest Metro Transportation Plan (adopted in 2016). The excerpt from Figure 6.12 of this plan below shows the location of this improvement (circled in red):



EXTRA-TERRITORIAL JURISDICTION: This project site is located in the City's extra-territorial jurisdiction (ETJ). The City has the responsibility for planning and zoning, including subdivisions, in the ETJ. This property is not being annexed into the City.

Subdivision

The LDC stipulates that the following criteria are met before a major plat can be approved

- 1. Section 20-0907(C)(1)(Development Review Procedures—Subdivisions—Major Subdivisions) of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**

The zoning on this property is AG, Agricultural. No zone change is proposed. The AG zone will accommodate the proposed utility facility land use. The 2007 South Fargo Tier 1 West Growth Plan designates this area for "medium to high density" residential development. However, this is an existing utility facility and is not intended for residential use. Thus, the AG zoning is appropriate as utility uses are allowed in the AG zone and the lot meets the minimum required lot area for the AG zone pursuant to the LDC. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one phone inquiry about the project.

(Criteria Satisfied)

- 2. Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The zoning on this property is AG, Agricultural. No zone change is proposed. The AG zone will accommodate the proposed utility facility land use. 2007 South Fargo Tier 1 West Growth Plan designates this area for "medium to high density" residential development. However, this is an existing utility facility and is not intended for residential use. Thus, the AG zoning is appropriate as utility uses are allowed in the AG zone and the lot meets the minimum required lot area for the AG zone pursuant to the LDC. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code.

(Criteria Satisfied)

- 3. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

As there are no dedicated public streets or utilities within the subdivision, no amenities plan was required. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles.

(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission and move to approve the proposed **Minnkota Section 16 First Subdivision** plat as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and all other applicable requirements of the LDC."

(continued on next page)

Planning Commission Recommendation: May 1, 2018

On May 1, 2019, by a vote of 10-0 with one Commissioners absent, the Planning Commission voted to accepted the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed **Minnkota Section 16 First Subdivison** plat as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and all other applicable requirements of the LDC.”

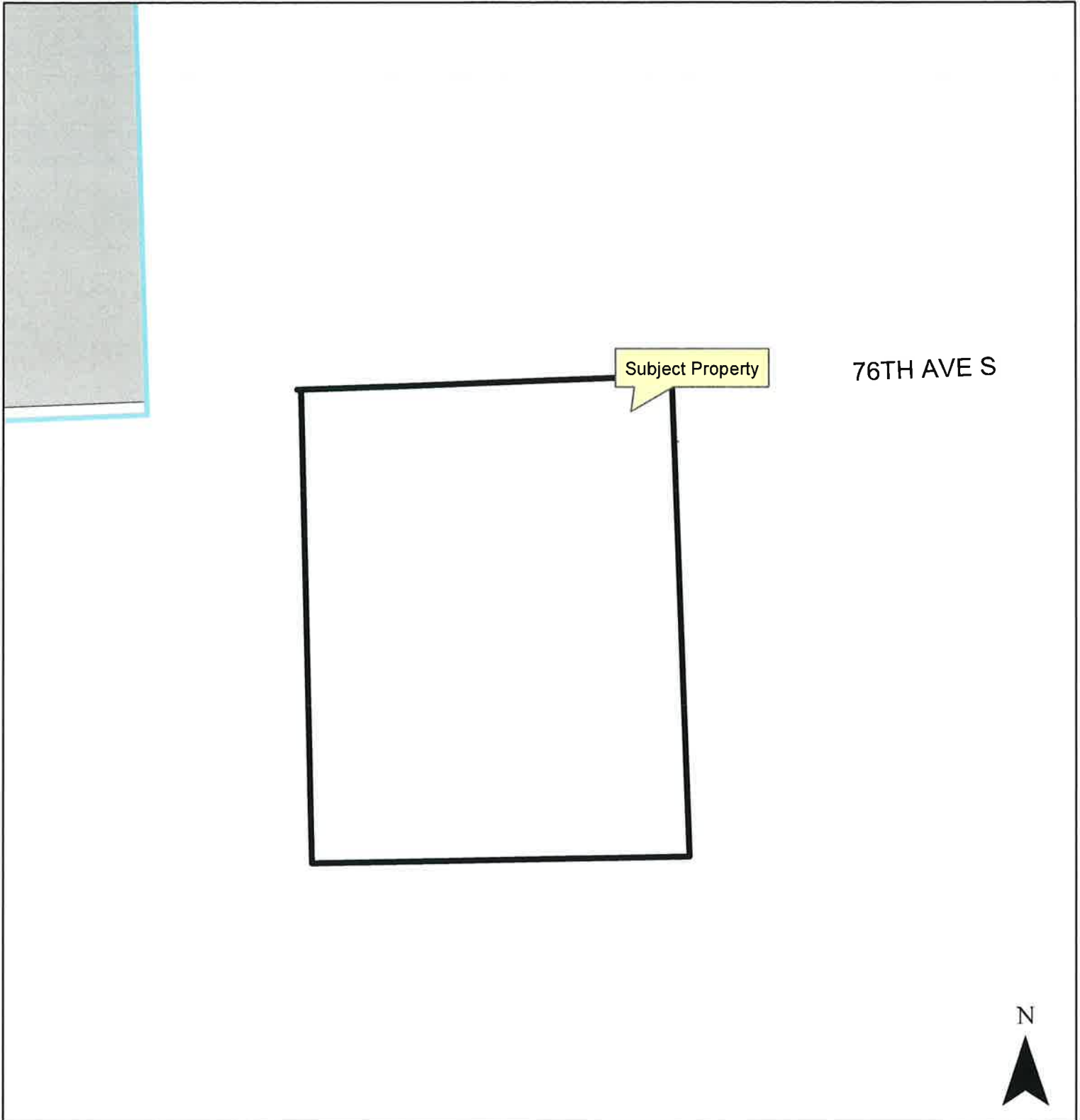
Attachments:

1. Zoning Map
2. Location Map
3. Preliminary Plat

Plat (Major)

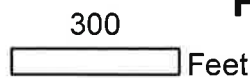
Minnkota Section 16 1st Subdivision

5181 76th Avenue South



Legend

AG	LC	MHP	S
DD	ML	NO	SR
DM	ML-1	P/I	SR-1
GO	MR-2	UML	SR-2
GO	MR-3	City Limits	SR-3



Fargo Planning Commission
May 1, 2018

Plat (Major)

Minnkota Section 16 1st Subdivision

5181 76th Avenue South





NOTICE OF HEARING
FOR SPECIAL ASSESSMENT OF
NUISANCE ABATEMENT FEES

The Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing on special assessments for Nuisance Abatement fees, provided in the list below, on Monday, August 13, 2018, at 5:15 o'clock p.m. in the City Commission Room, City Hall, Fargo, North Dakota.

Address	Parcel	Assessment	Reason
1410 1st Ave S	01-0700-00750-000	200.00	Code Enforcement
2822 8th St N	01-4181-00280-000	300.00	Code Enforcement
18 8th Ave N	01-3260-00670-000	3,402.90	Code Enforcement
1016 7th Ave N	01-2382-03370-000	950.00	Dutch Elm Removal
433 22nd St S	01-0740-02660-000	3,000.00	Dutch Elm Removal
1120 Broadway	01-0440-00171-000	1,750.00	Dutch Elm Removal
1829 Broadway	01-2100-00280-000	1,775.00	Dutch Elm Removal
1833 Broadway	01-2100-00290-000	1,775.00	Dutch Elm Removal
1530 3rd St N	01-1280-00740-000	850.00	Dutch Elm Removal
1549 2nd Ave S	01-0980-00890-000	3,100.00	Dutch Elm Removal
1306 3rd Ave S	01-0700-01940-000	1,800.00	Dutch Elm Removal
305 S University Dr	01-0700-01950-000	1,500.00	Dutch Elm Removal
1511 3rd St N	01-1280-00870-000	2,250.00	Dutch Elm Removal
1509 3rd St N	01-1280-00880-000	2,250.00	Dutch Elm Removal
315 18th St S	01-0060-00510-000	750.00	Dutch Elm Removal
1326 3rd Ave S	01-0710-00130-000	500.00	Dutch Elm Removal
1120 28th Ave N	01-0010-00090-000	300.00	Dutch Elm Removal
911 6th Ave N	01-2382-01860-000	2,000.00	Dutch Elm Removal
1339 11th Ave N	01-1640-01660-000	4,650.00	Dutch Elm Removal
4171 Clubhouse Dr	01-8435-00010-000	450.00	Tree Planting
4173 Clubhouse Dr	01-8340-00070-000	225.00	Tree Planting
4175 Clubhouse Dr	01-8340-00080-000	450.00	Tree Planting
4227 Clubhouse Dr	01-8340-00100-000	900.00	Tree Planting
4116 Houkum Ct	01-7020-00920-000	675.00	Tree Planting
4295 Houkom Ct	01-7020-00980-000	225.00	Tree Planting
4440 58th St S	01-7080-00340-000	450.00	Tree Planting
4456 58th St S	01-7080-00350-000	225.00	Tree Planting
4051 66th St S	01-7020-01960-000	225.00	Tree Planting
4229 66th St S	01-7020-02040-000	450.00	Tree Planting
4384 66th St S	01-7020-02160-000	1,575.00	Tree Planting
6589 Christianson Pkwy	01-7020-02170-000	1,125.00	Tree Planting
4108 58th St S	01-7020-00010-000	450.00	Tree Planting
4575 Beach Lane	01-8446-00060-000	225.00	Tree Planting
6571 Christianson Pkwy	01-7020-02200-000	225.00	Tree Planting
4141 Furnberg Place	01-7020-01550-000	225.00	Tree Planting
6155 Osgood Pkwy	01-7020-01310-000	225.00	Tree Planting
6587 Osgood Pkwy	01-7020-01480-000	225.00	Tree Planting
3505 Harrison St S	01-6950-00400-000	900.00	Tree Planting

3528 Harrison St S	01-6950-00100-000	450.00	Tree Planting
3593 Harrison St S	01-6950-00303-000	225.00	Tree Planting
3596 Harrison St S	01-6950-00023-000	225.00	Tree Planting
3537 Lincoln St S	01-6950-01410-000	450.00	Tree Planting
3554 Lincoln St S	01-6950-01240-000	450.00	Tree Planting
3557 Lincoln St S	01-6950-01430-000	225.00	Tree Planting
3536 Polk St S	01-6950-00450-000	225.00	Tree Planting
1645 1st St N	01-1890-00600-000	460.28	Mowing
3800 56th Ave S	01-8511-01130-000	2,561.50	Mowing
6125 24th St S	01-6350-00580-000	272.50	Mowing
1530 Broadway	01-0380-00070-000	165.75	Mowing
4756 39 St S	01-8517-00210-000	107.50	Mowing
4734 39 St S	01-8517-00200-000	107.50	Mowing
4712 39 St S	01-8517-00190-000	107.50	Mowing
4795 39 St S	01-8517-00910-000	107.50	Mowing
4813 39 St S	01-8517-00900-000	207.50	Mowing
4888 39 St S	01-8517-00270-000	107.50	Mowing
4866 39 St S	01-8517-00260-000	107.50	Mowing
4793 40 St S	01-8517-00720-000	207.50	Mowing
4811 40 St S	01-8517-00710-000	107.50	Mowing
4746 40 St S	01-8517-00790-000	107.50	Mowing
4751 40 St S	01-8517-00740-000	107.50	Mowing
4826 40 St S	01-8517-00830-000	107.50	Mowing
4701 41 St S	01-8517-00550-000	107.50	Mowing
4706 41 St S	01-8517-00560-000	107.50	Mowing
4742 41 St S	01-8517-00580-000	107.50	Mowing
4758 41 St S	01-8517-00590-000	107.50	Mowing
4776 41 St S	01-8517-00600-000	107.50	Mowing
4834 41 St S	01-8517-00630-000	207.50	Mowing
4841 41 St S	01-8517-00470-000	107.50	Mowing
3870 47 Ave S	01-8517-00180-000	107.50	Mowing
3856 47 Ave S	01-8517-00170-000	107.50	Mowing
3855 47 Ave S	01-8517-00150-000	157.50	Mowing
3869 47 Ave S	01-8517-00140-000	157.50	Mowing
3881 47 Ave S	01-8517-00130-000	157.50	Mowing
3901 47 Ave S	01-8517-00110-000	257.50	Mowing
3957 47 Ave S	01-8517-00090-000	107.50	Mowing
3924 49 Ave S	01-8517-00450-000	107.50	Mowing
3949 49 Ave S	01-8517-00860-000	107.50	Mowing
4041 49 Ave S	01-8517-00670-000	107.50	Mowing
4085 49 Ave S	01-8517-00650-000	107.50	Mowing
4920 Avery Lane	01-8591-00010-000	107.50	Mowing
4922 Avery Lane	01-8591-00020-000	107.50	Mowing
4928 Avery Lane	01-8591-00040-000	107.50	Mowing
4930 Avery Lane	01-8591-00030-000	107.50	Mowing
754 49th St S	01-3880-00490-000	190.78	Mowing
4239 39th Ave S	01-6600-00093-000	329.25	Mowing
2402 Broadway	01-3060-00040-000	654.00	Mowing
5419 Justice Dr S	01-8573-00180-000	190.78	Mowing

3017 8th St N	01-1660-00240-000	163.50	Mowing
1418 1st Ave N	01-2340-03339-000	386.75	Mowing
1009 5th St N	01-3280-00150-000	163.50	Mowing
916 5th Ave S	01-2140-00870-000	165.75	Mowing
32 Birch Ln S	01-2330-00440-000	353.00	Snow Removal
905 University Dr N	01-2900-00020-000	90.00	Snow Removal
2414 7th Ave N	01-3300-01181-000	262.50	Snow Removal
1514 4th St N	01-1280-00450-000	100.00	Snow Removal
1510 3rd Ave N	01-2340-02010-000	87.50	Snow Removal
1530 Broadway	01-0380-00070-000	100.00	Snow Removal
804 Universtiy Dr N	01-1620-00440-000	100.00	Snow Removal
1011 University Dr N	01-0440-01780-000	100.00	Snow Removal
1341 1st Ave N	01-2340-02900-000	42.00	Snow Removal
520 15th St S	01-0340-00770-000	87.50	Snow Removal
1101 7th St N	01-0440-00120-000	250.00	Snow Removal
2301 18th St S	01-3750-00220-000	100.00	Snow Removal
1331 1st Ave N	01-2340-02910-000	200.00	Snow Removal
1040 University Dr N	01-1640-01310-000	100.00	Snow Removal
524 15th St S	01-0340-00780-000	189.42	Snow Removal
1402 17th St S	01-2040-02060-000	450.40	Snow Removal
1642 Broadway	01-0380-03150-000	132.00	Snow Removal
825 Kennedy Ct S	01-0440-02950-000	87.50	Snow Removal
730 2nd St N	01-1760-00220-000	100.00	Snow Removal
1260 8th St N	01-2220-01430-000	187.50	Snow Removal
1021 10th St N	01-0440-02550-000	100.00	Snow Removal
1905 12th Ave S	01-1270-02370-000	83.75	Snow Removal
3307 18th St S	01-2831-00652-000	239.61	Snow Removal
607 2nd St N	01-1540-03260-000	100.00	Snow Removal
6125 24th St S	01-6350-00580-000	190.00	Snow Removal
1010 5th Ave S	01-2140-00670-000	87.50	Snow Removal
1346 1st Ave N	01-2340-03310-000	247.68	Snow Removal
1042 University Dr N	01-1640-01320-000	422.00	Snow Removal
517 23rd Ave N	01-2080-00580-000	241.61	Snow Removal
1221 12th ST N	01-2220-05080-000	143.75	Snow Removal
823 10th St N	01-1130-00140-000	50.00	Snow Removal
1022 7th Ave S	01-2400-00600-000	203.13	Snow Removal
1501 15th St S	01-2040-04450-000	200.40	Snow Removal
2313 5th Ave S	01-0740-02590-000	100.00	Snow Removal
1402 15th St S	01-2040-02830-000	250.00	Snow Removal
1514 3rd Ave N	01-2340-02020-000	50.00	Snow Removal
4332 39th Ave S	01-6600-00523-000	175.00	Snow Removal
1701 Park Blvd S	01-2840-01210-000	252.95	Snow Removal
1221 21st St S	01-1200-00330-000	190.00	Snow Removal
1128 9th St N	01-0440-00660-000	100.00	Snow Removal
1637 13th Ave S	01-0960-00250-000	250.00	Snow Removal
1123 University Dr S	01-0020-00970-000	235.50	Snow Removal
1642 7th St N	01-0380-02910-000	50.00	Snow Removal
1701 5th St S	01-0820-00010-000	248.63	Snow Removal
1634 Broadway	01-0380-03120-000	100.00	Snow Removal

825 7th Ave N	01-1120-00010-000	50.00	Snow Removal
915 University Dr N	01-2900-00040-000	90.00	Snow Removal
624 10th Ave N	01-8676-00030-000	87.50	Snow Removal
1218 Broadway	01-2220-00050-000	137.50	Snow Removal
709 31st St N	01-2020-00240-000	175.00	Snow Removal
2730 33 1/2 Ave S	01-0518-00612-000	100.00	Snow Removal
610 10th St N	01-2382-03410-000	175.00	Snow Removal
1445 14 1/2 St S	01-2040-02730-000	250.00	Snow Removal
722 2nd St N	01-1760-00190-000	100.00	Snow Removal
924 8th St N	01-1130-00700-000	198.00	Snow Removal
821 College St N	01-1620-00520-000	87.50	Snow Removal
902 College St N	01-1620-00660-000	50.00	Snow Removal
1001 College St N	01-1640-01180-000	50.00	Snow Removal
810 11th Ave N	01-0440-02880-000	100.00	Snow Removal
1107 7th St N	01-0440-00200-000	100.00	Snow Removal
1201 9th St N	01-2220-01130-000	250.00	Snow Removal
2201 30th Ave S	01-2350-01350-000	225.00	Snow Removal
825 7th Ave N	01-1120-00010-000	235.13	Snow Removal
230 21st Ave N	01-1110-00240-000	185.00	Snow Removal
921 4th St N	01-1160-02570-000	200.08	Snow Removal
921 6th Ave N	01-2382-01830-000	195.00	Snow Removal
6298 55th Ave S	01-8449-03660-000	75.00	Snow Removal
6298 58th Ave S	01-8449-05160-000	75.00	Snow Removal
1229 11 1/2 St N	01-2220-02690-000	187.50	Snow Removal
1409 15th St S	01-2040-02350-000	100.00	Snow Removal
805 3rd St N	01-3260-00160-000	100.00	Snow Removal
1103 8th Ave S	01-2400-00380-000	243.00	Snow Removal
1445 3rd Ave N	01-2340-01270-000	200.00	Snow Removal
1810 4th St N	01-2100-01340-000	100.00	Snow Removal
2114 26 1/2 Ave S	01-0505-00870-000	199.76	Snow Removal
2694 57 Ave S	01-8386-00657-000	87.50	Snow Removal
710 10th St N	01-1120-00490-000	115.50	Snow Removal
1647 Broadway	01-2100-00140-000	87.50	Snow Removal
1641 5th St N	01-2100-00800-000	87.50	Snow Removal
714 9th Ave N	01-1130-00470-000	87.50	Snow Removal
505 10th St S	01-2140-00690-000	25.00	Snow Removal
1357 12th St N	01-2220-04551-000	75.00	Snow Removal
1239 12th St N	01-2220-05000-000	50.00	Snow Removal
1502 7th St S	01-1400-02730-000	50.00	Snow Removal
1641 8th St N	01-0380-02930-000	50.00	Snow Removal
1641 7th St N	01-0380-03170-000	50.00	Snow Removal
3006 20th St S	01-2350-00709-000	100.00	Snow Removal

Any person aggrieved may appeal from the action of the Board of City Commissioners by filing with the City Auditor, prior to August 13, 2018, a written Notice of Appeal stating therein the grounds upon which the appeal is based. Any person having filed such a Notice may appear

before the Board of City Commissioners to present reasons why the action of the Board of City Commissioners should not be confirmed.

City Auditor's Office
(July 23 & July 30, 2018 - Legals)

INSTRUCTIONS TO THE FORUM

Please publish on Monday, July 23 & July 30, 2018 – Legals.

I will need an affidavit of publication.

Bill to: CITY AUDITOR'S OFFICE
 ATTN MICHELLE
 P.O. BOX 2083
 FARGO ND 58107

If you have any questions, please call 241-1301.
Steve Sprague



Fargo Inspections

City of Fargo
200 Third Street North
701-241-1561
fax 701-241-1526



Memorandum

DATE: August 9, 2018
TO: Mayor Mahoney and Board of City Commissioners
FROM: Bruce Taralson, Inspections Administrator
SUBJECT: Dangerous Building Notice and Order at 427 15 Avenue S., Fargo, ND

The property owner of 427 15 Avenue S., Fargo, ND, the property that is subject of the attached Notice, has failed to comply with my order to obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, a hearing date has been set for August 13, 2018 for this order at which time the property owner will be able to appear and show cause why the building should not be removed and the costs of that removal assessed against this property.

The recommendation is to **make a motion determining this to be a dangerous building, direct staff and City Attorney to take action, order its removal before August 31, 2018, and direct appropriate staff to secure the removal of this building at that time, should the owner fail to do so.**

Fargo Inspections

City of Fargo
200 Third Street North
701-241-1561
701-476-6779 fax



NOTICE OF DANGEROUS BUILDING

TO: JAMES PETER SABO

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings. This Notice of Dangerous Building takes precedence over the Notice of Substandard Building Order dated June 14, 2018.

2. That the building with which this Notice is concerned is commonly known as 427 15 Avenue South, Fargo, North Dakota, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Lot 113, ADDN# 0120, (Belmont Park)

(hereinafter referred to as "the building")

3. That an inspection was made of the building on June 12, 2018 by Joseph Girdner, Building Inspector, and on June 22, 2018 by Robert Harshberger, Deputy Assessor, of the City of Fargo.

4. That the building inspector for the City of Fargo has found the building, consisting of a multistory, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 108.1.5 concerning Dangerous Structures.

5. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.

6. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

A. Robert Harschberger, Deputy Assessor, of the City of Fargo has deemed that the building has been damaged or deteriorated to the extent of more than fifty (50) percent of its original value prior to the damage or deterioration.

Source: Fargo Municipal Code, Article 21-0402 concerning Dangerous Buildings.

7. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and Section 116 of the International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

8. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Building Code and the owner will be assessed such costs as are provided for therein.

9. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 108.2 of the International Property Maintenance Code, 2015 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 25th day of June, 2018.

10. Order to secure building. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

Dated this 25th day of June, 2018.

A handwritten signature in black ink, appearing to read "Bruce Taralson". The signature is written in a cursive style with a horizontal line underneath it.

Bruce Taralson
Inspections Administrator

Conditions Found Statement

This statement has been updated on this 25th day of June, 2018 to reflect new information obtained after June 12, 2018 for the Notice of Dangerous Building. Added information has been underlined.

On June 12, 2018, inspector, Joseph Girdner, was present at the 427 15 Avenue S., Fargo, ND 58103 for a consultation. The following violations were found:

- Building is structurally unsound.
- Many and various code violations.
- Multiple permits filed as incomplete.
- Work completed without necessary permits.
- Substandard workmanship.

Added June 25, 2018:

- All existing conditions of building need to be exposed in order to be inspected to determine if the building is allowed to remain. This may include removing all existing interior finishes.

Permits BL20180708 and BL20180955 (added June 25, 2018), are hereby voided.

The following actions must be taken:

- Provide engineering on structure, mechanical, plumbing and electrical.
- Provide structural plans, floor plans and truss drawings (added June 25, 2018).
- Provide list of licensed trades with plans.
- Obtain a new permit and follow through with all necessary inspections.



Joseph Girdner
Building Inspector
City of Fargo, ND

6/25/18
Date Signed

DATE: June 22, 2018
TO: Joseph Girdner, Residential Building Inspector
FROM: Robert E Harshberger, Deputy Assessor
SUBJECT: 01-0120-01070-000 / 427 15 Ave S / Sabo, James Peter (Owner)

On June 22, 2018, I inspected the exterior of the subject residential building and reviewed numerous interior photographs of the subject residential building provided by the inspections department to determine if the deterioration of the above referenced structure would qualify it as a dangerous building as defined in city ordinance. One requirement of that classification is that the cost to repair would exceed fifty percent (50%) of the building value as established by the Fargo Assessment Department.

Based on observed component conditions and the interior photographs, I have estimated a cost to repair that exceeds the minimum fifty- percent.



DANGEROUS BUILDING ORDER TO COMMISSION- Detail and Timeline regarding 427 15 Avenue South, Fargo, ND.

The hearing scheduled for August 13, 2018, is required under Article 21-0405 for the purpose of allowing any interested parties the opportunity to comment, and to allow the Owner of the said property the opportunity to appear and show cause why the City of Fargo should not cause the removal of this building.

The Inspections Department is requesting that the City Commission deem this building as a Dangerous Building and order the demolition of the building due to the extent of damage found. This building meets 9 of the 10 criteria found in the ordinance which only one might be required. Our report on ordinance requirements is as follows:

1. Inspections Department received complaint on property.
2. Inspections Department inspected the property.
3. Inspections placed notice on the building.
4. Inspections provided notice to Owner giving 30 days.
5. Inspections report to City Commission today.

In your packets, you will find the Dangerous Building Notice. Article 21-0404 requires the Inspections Department give a 30-day notice to the Owner of the property prior to any action by the City Commission or staff. Our timeline shows the building was placarded with the Dangerous Building Order on 6/14/2018; on 6/25/2018, the Dangerous Building order was updated. The updated Dangerous Building notice was posted on the property and mailed via registered mail on 6/26/18. The action taken by the Owner did not comply with requirements of the notice within the 30-day deadline given, which expired on 7/25/18.

Also in your packets, you will find copies of the photos taken of the property as well as a copy of the letter of determination of value from Assessors office. Article 21-0401 stipulates that if this building meets the definition of a dangerous building, it must be demolished or repaired. The assessor's letter states that repairs will exceed or are in excess of 50% of the current value. Article 21-0402 stipulates that if costs to repair the building exceed 50% or more of the current value, the building can be ordered demolished or repaired. We have taken the path of demolition due to the amount of repair the building requires to be habitable.

PROPERTY INFORMATION- Building is currently vacant and is uninhabitable due to condition and current Inspections order. Deterioration is extensive. Building constructed in 1929.

Description: Multi-story, wood-framed structure.

Description of damage: Building is structurally unsound, many and various code violations, multiple permits have expired and are filed as incomplete, work has been completed without necessary permits and inspections, substandard workmanship, etc.

Timeline of events-

12/7/2001 – The first rental inspection for this property was completed on 12/7/2001. There were 27 violations noted at this rental property. One violation in particular would have caused great danger and was ordered repaired immediately.

There have been 9 mechanical permits issued for this property. Heating permit HT20020595, issued in 2002, was for a furnace that was illegally installed without a permit. The venting was dangerous and could have caused a fire had the violation not been found and corrected.

8/30/2005 – Inspections received a complaint regarding junk accumulation, leaning garage that needs paint and new roof.

10/7/2005 – Permit BL20051931 was issued to raise the roof of the North side of the building.

3/28/2008 – Permit BL20051931 final building inspection passed.

4/20/2006 – Inspections received illegally parked vehicle complaint

4/21/2006 - Vehicle parking violation notice mailed to Owner – Blue Dodge Caravan & Red Buick LeSabre.

11/24/2006 – Plumbing permit PL20061963 was issued in 2006. There is no record of a request for a plumbing inspection at this property.

9/14/2009 – Inspections received a junk vehicle complaint

9/15/2009 – Junk vehicle removal notice mailed to Owner – 1987 Brown Buick.

8/30/2010 – Inspector investigated major remodeling going on without permits. New electrical work had been covered, structural framing had been moved and rocked. Inspector issued a stop work order.

9/7/2010 – Permit BL20101654 was issued to replace interior sheathing on entire main level, update electrical, construct new stairs to second and lower level.

8/19/2014 – Permit BL20101654 permit was filed as incomplete.

10/20/2010 – Junk removal notice mailed to property owner – building materials, scrap lumber, scrap sheetrock, chairs, car seats, tables, junk, broken toys, trailer full of junk and debris, tarps, grills, junk cabinets, windows and boards.

7/6/2011 – Junk removal notice mailed to Owner. – Junk and building debris on back yard grass – Building not secure.

6/5/2012 – Received neighborhood complaint regarding excessive foot traffic coming in and out of house, but no electricity at house and mostly vacant. Citizen suspected illegal activity at residence.

6/6/2012 – Building was placarded as a Dangerous Building.

8/12/2014 – Permit BL20141507 was issued to repair structural issues caused by work done without inspections under previous permit.

1/18/2017 – Permit BL20141507 was filed as incomplete.

1/13/2017 – Permit BL20170039 was issued to repair structural damage caused by previous work done without permits. Add trusses to the front of the home for a new roofed area.

12/12/2017 – Permit BL20170039 was filed as incomplete.

5/21/2018 – Permit BL20180708 issued to finish work permitted under permit BL20170039.

6/14/2018 – Permit BL20180708 was voided after initial consultation at property on 6/12/18. After consultation, a stop work order was issued, the building was placarded and dangerous building notice was attached to entryways of house.

6/18/2018 – Inspector checked on security of building. Back door was secured shut with one bent-over nail. All old asbestos siding and rock face was removed without a permit. Junk in back yard. Weeds growing tall.

6/19/2018 – Inspectors met with police to clear structure. Rear entry secured by an independent contractor. Front door was locked upon leaving property.

6/21/2018 – Inspector spoke with Sandman Engineering on what information is required for Owner to obtain a permit to repair entire structure and all systems.

6/22/2018 – Inspector verified no work being done at property.

6/25/2018 – Dangerous Building Notice was updated.

6/26/2018 – Updated Dangerous Building Notice was posted at property and mailed via registered mail to Owner.

7/17/2018 – Received engineering report from Sandman Engineering for structure and systems.

7/18/2018 – Sent Owner reminder that additional information is needed aside from the engineering report provided by Sandman Engineering in order to obtain a permit to repair. (Letter is enclosed in packet.)

7/25/2018 – The owner was required to comply with the Dangerous Building Notice by deadline given of 7/25/2018. The Owner failed to provide the Inspections Department with all information required to obtain a permit to repair.

8/7/2018 – As per Sarah at Xcel Energy, Gas was shut off in 2006 and turned on in 2009 for approximately three months. Gas has been shut off since 2009. Electricity has been shut off since 2011.

8/7/2018 – As per the City of Fargo Water Billing Department, the water has been shut off since 1/5/2011. Nine tenants, who rented previous to 2011, are in collections due to unpaid water bills at this address.

There has been new electrical work done at this property. There are records going back 7 years for electrical permits/certificates and there is no record of electrical permits or inspections at this property.

This report does not include complaints received by other departments regarding this property such as the Health Department, Forestry Department, etc. Many resources and City staff time have been spent on this property.

Upon your finding for Owner to comply with this demolition order, you are required by Article 21-04, to notify Owner of your determination, and that if an Owner fails to comply with that order for demolition within 10 days, The City Commission can order city staff to take action on demolition and assess costs back to the property.

I suggest you agree with my notice and find this to be a dangerous building, and direct the City Attorney to prepare findings of fact in this matter. I also ask that you direct staff to proceed with all necessary measures to secure removal of this building should the Owner fail to do so. Commission action requires a 10 day allowance for action per Article 21-0405.E. Article 21-0406 also allows court action if that is the course the commission chooses to take. Article 21-0412 is allowance for Owner appeal to City Commission action.

Thank you,

Respectfully submitted,
Dated this 9th day of August, 2018.

Bruce Taralson
Inspections Administrator

Permit history- Last 10 years for 427 15th Ave S.

The property at 427 15 Ave S., in Fargo has wasted many hours of staff time to complete the following permits for this property. The permits below have taken staff time to write the permit, monitor the permit, make phone calls and write letters regarding the permit, and drive time and inspection time for the permit. Eventually, the permits have been filed as incomplete for non-compliance or 'no work completed' on the permit. Some permits were written after-the-fact due to the Owner or Owners Representative performing work without a permit. None of the permits shown below were ever completed thus causing issues with the next permit. This permit 'flipping' has wasted valuable staff time and resources.

BL20101654. STATUS- FILED INCOMPLETE. Replace interior sheeting and update electrical.

Notes for Permit: [BL20101654](#) [New](#) | Work Class: IRR

Owner: SABO, JAMES PETER

Establishment:

Address: 427 15 AVE S

Type	Details	Inspector	Violations / Notes		
[FI]	<u>Passed</u> 8/19/2014	James Showalter	Location	Violation	Note
			All - Whole Building	Filed Incomplete [FI] \ Filed Incomplete	new permit taken out to repair the work that was done wrong and without inspection.
[IN]	<u>Passed</u> 4/24/2012	James Showalter	Location	Violation	Note
			All - Whole Building	Investigation [IN] \ Investigation	The inside has been cleaned Up somewhat
[IN]	<u>Passed</u> 11/21/2011	James Showalter	Location	Violation	Note
			All - Whole Building	Investigation [IN] \ Investigation	front door was open. property appears abandoned but who knows. power and water off. Framing is wrong and partially covered with rock

BL20141507. STATUS- FILED INCOMPLETE. Repair structural issues by work done without permit.

Notes for Permit: [BL20141507](#) [New](#) | Work Class: IRR

Owner: SABO, JAMES PETER

Establishment:

Address: 427 15 AVE S

Type	Details	Inspector	Violations / Notes		
[FI]	<u>Passed</u> 1/18/2017	Joseph Girdner	No Violations / Notes		
[CN]	<u>Passed</u> 8/19/2014	James Showalter	Location	Violation	Note
			All - Whole Building	Consultation [CN] \ Discussed Violations	discussed with Pete that all of the drywall on the main floor needs to be removed for a framing and electrical inspection, knowing that things are wrong. once corrections have been made, a new permit will be required.

BL20170039. STATUS- FILED INCOMPLETE. Repair structural issues by work done without permit.

Notes for Permit: [BL20170039](#) [New](#) | Work Class: IRR

Owner: SABO, JAMES PETER

Establishment:

Address: 427 15 AVE S

Type	Details	Inspector	Violations / Notes		
[FI]	Passed 12/12/2017	Joseph Girdner	Location All - Whole Building	Violation Filed Incomplete [FI] \ Filed Incomplete	Note It is the responsibility of the permit holder to request all required inspections. One or more required inspections have not been requested or performed. This permit has been filed incomplete as though the work was never completed.
[IN]	Passed 2/14/2017	Joseph Girdner	Location All - Whole Building	Violation Investigation [IN] \ Investigation	Note back door has been changed out looks like some work has started.
[IN]	Passed 1/18/2017	Joseph Girdner	Location All - Whole Building	Violation Investigation [IN] \ Investigation	Note looking for signs of construction activity. walks and stoops shoveled in front. vehicle tracks in back some old appliances, no construction materials

BL20180708- FILED INCOMPLETE- Finish work permitted under BL20170039.

Notes for Permit: [BL20180708](#) [New](#) | Work Class: IRR

Owner: SABO, JAMES PETER

Establishment:

Address: 427 15 AVE S

Type	Details	Inspector	Violations / Notes		
[FI]	Passed 6/14/2018	Joseph Girdner	Location All - Whole Building	Violation Filed Incomplete [FI] \ Filed Incomplete	Note Permit has been void
[CN]	Passed 6/12/2018	Joseph Girdner	Location All - Whole Building	Violation Consultation [CN] \ Consultation	Note framing



INSPECTIONS

200 3RD STREET NORTH
FARGO, NORTH DAKOTA 58102
PHONE: 701-241-1561
FAX: 701-476-6779

July 18, 2018

James Pete Sabo
1221 9 Avenue N.
Fargo, ND 58102

RE: 427 15 Avenue S., Fargo, ND

Dear Mr. Sabo,

In addition to the corrections required by Sandman Engineering's report from 7/2/2018, the following criterial must be met before a permit for 427 15 Avenue S. in Fargo can be issued.

- A complete permit application must be submitted including accurate project valuation.
- The permit application will include a list of licensed subcontractors performing work at 427 15 Avenue S., Fargo
- If you will be the individual obtaining the building permit, written statements from all trades/subcontractors verifying their involvement in the project must be submitted to the Inspections department *prior to the issuance of any permits*. The subcontractors must state their acknowledgement that the entire building will need to come into compliance including all existing, previously installed systems.
- Detailed plans for each floor must be submitted; plans must include locations and measurements of all rooms, bearing walls, stairs, etc.
- If trusses are used, a full set of truss plans are required.
- Provide engineering for steel beam.

Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Joseph Girdner".

Joseph Girdner
Building Inspector



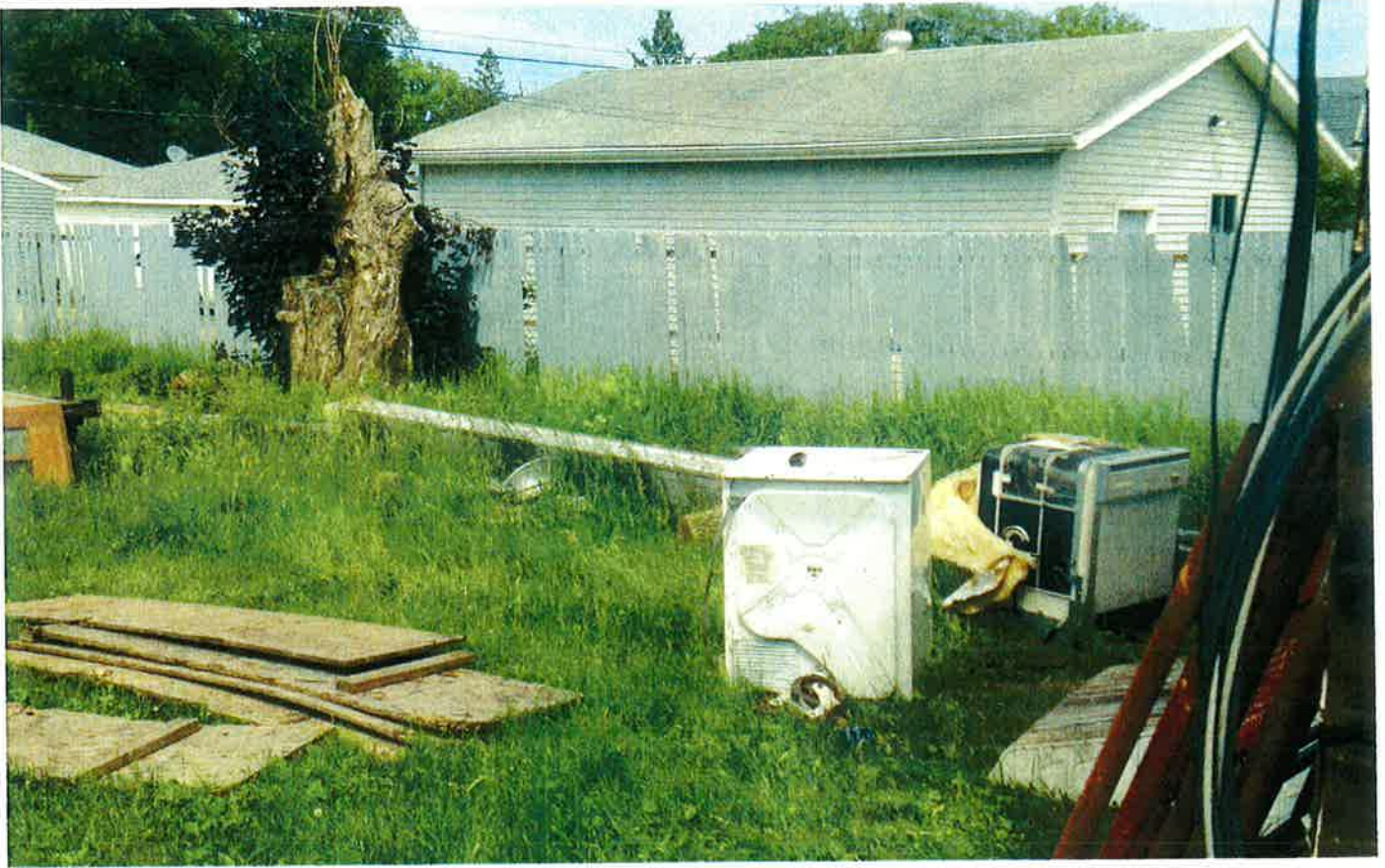




427 15 Street S., Fargo, ND 58103—Pictures from 6/19/2018



427 15 Street S., Fargo, ND 58103—Pictures from 6/19/2018



427 15 Street S., Fargo, ND 58103—Pictures from 6/19/2018

Bottom picture shows nail holding door shut.



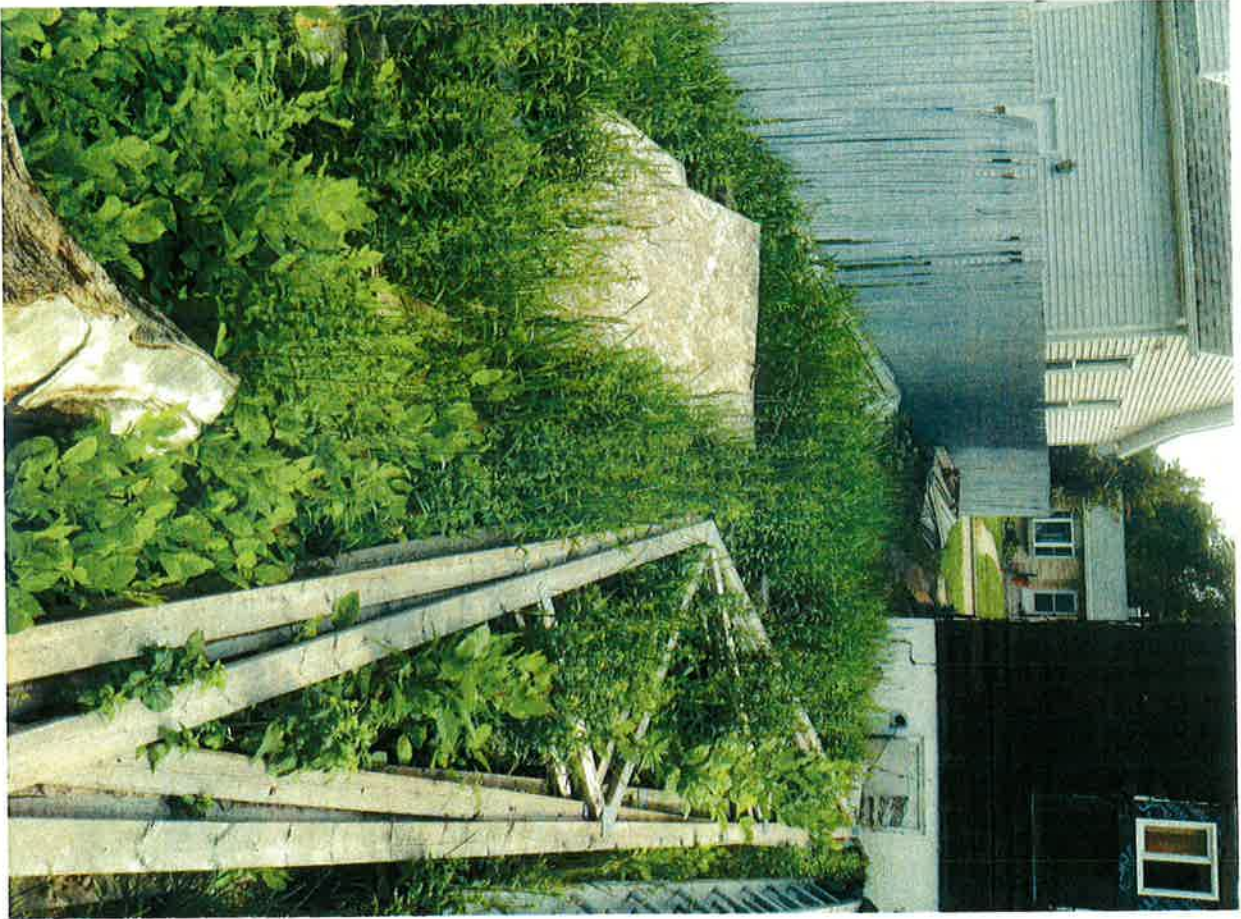
427 15 Street S., Fargo, ND 58103—Pictures from 6/19/2018







427 15 Street S., Fargo, ND 58103—Pictures from 6/19/2018



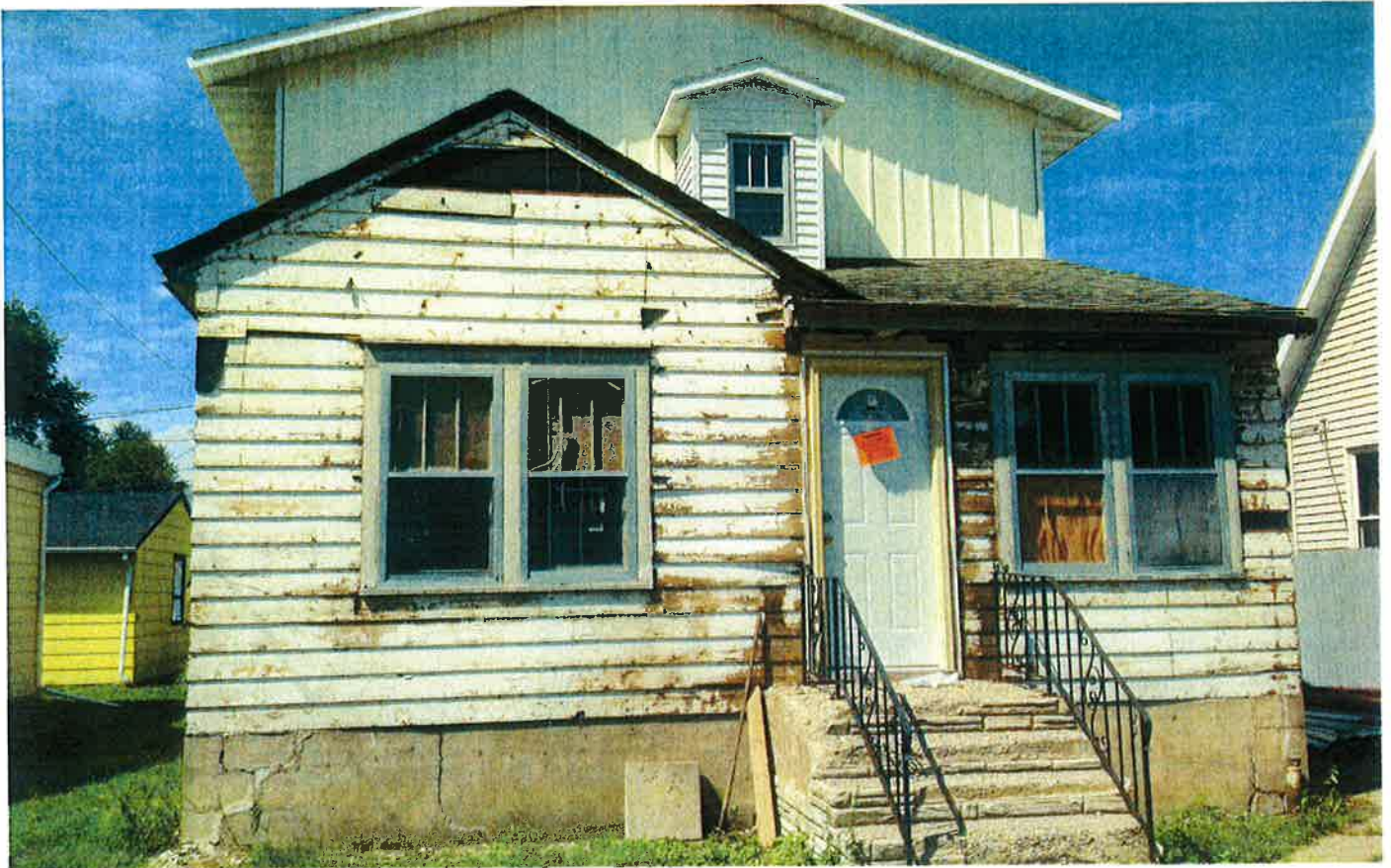
Top of Picture



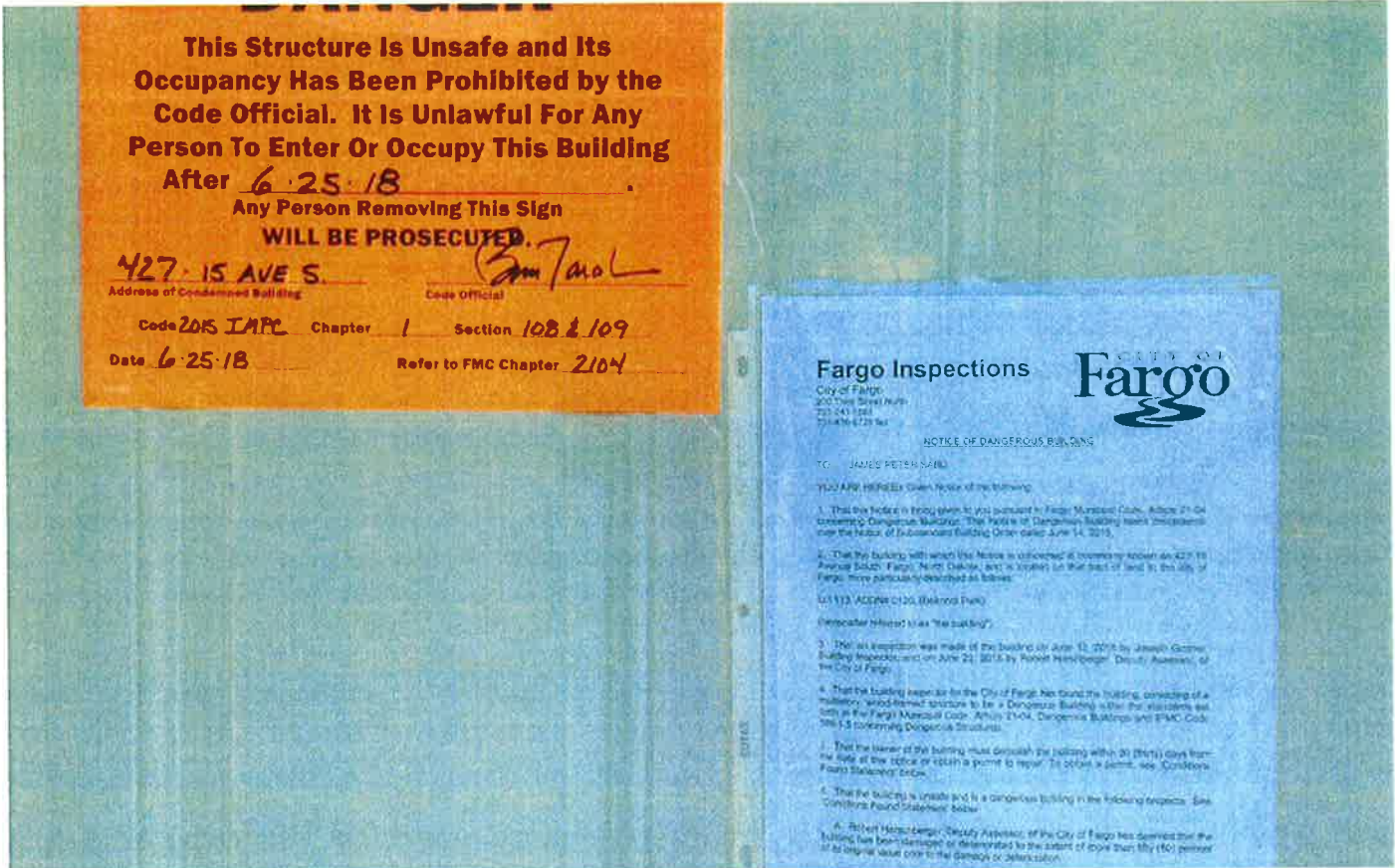
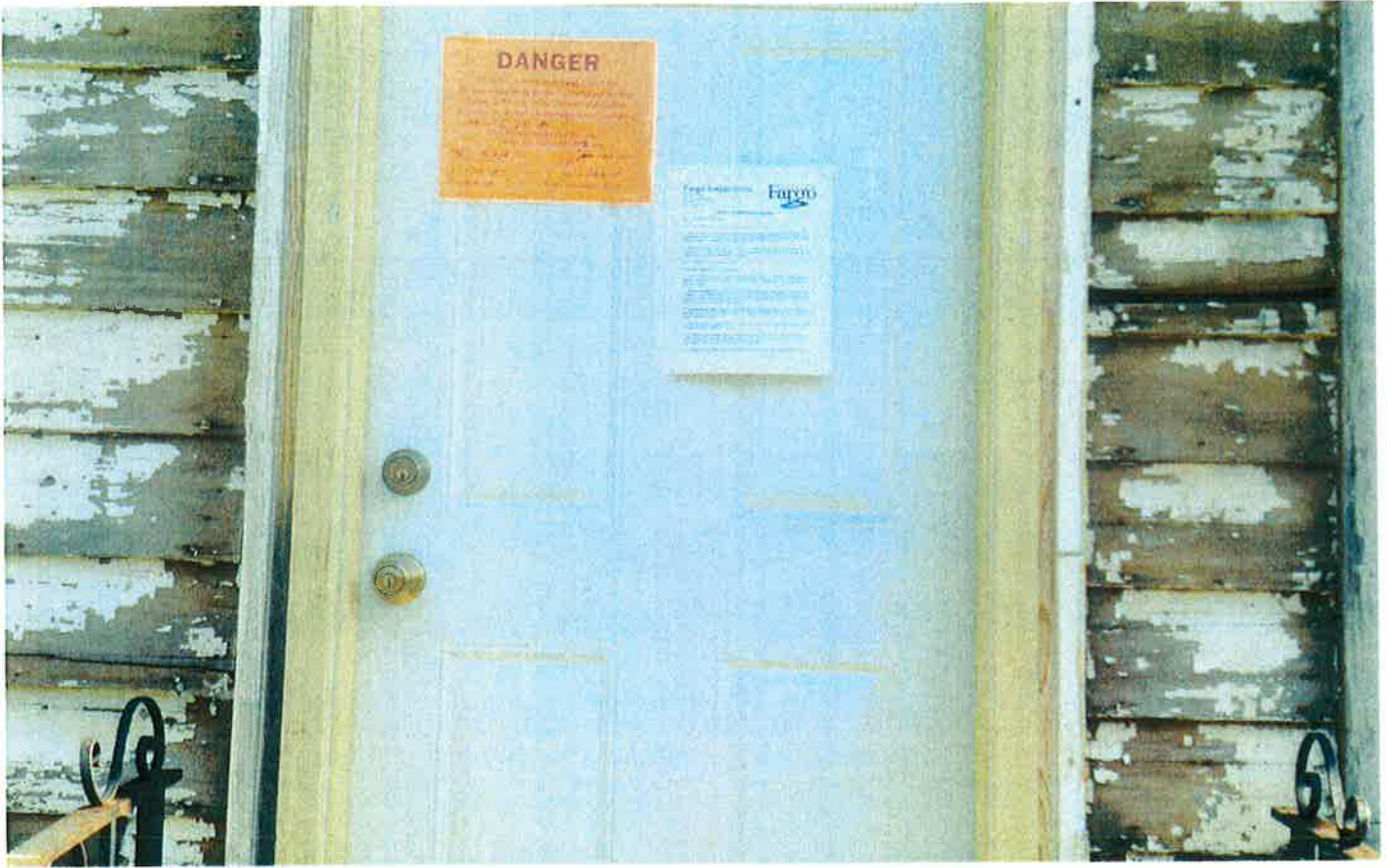


427 15 Street S., Fargo, ND 58103—Pictures from 6/19/2018

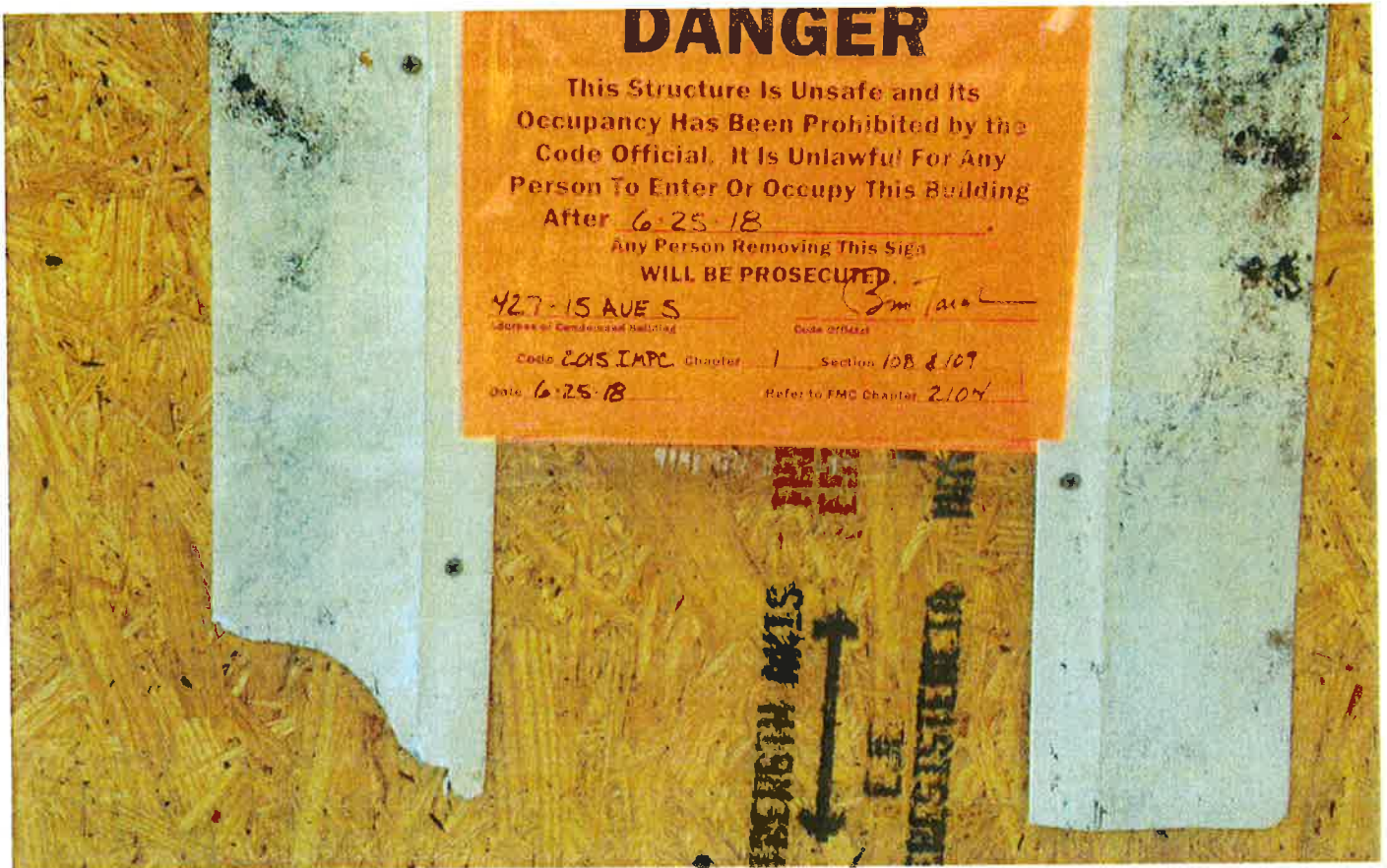
Building being secured by independent contractor.



427 15 Street S., Fargo, ND 58103—Pictures from 6/19/2018



427 15 Street S., Fargo, ND 58103—Pictures from 6/26/2018



427 15 Street S., Fargo, ND 58103—Pictures from 6/26/2018



427 15 Street S., Fargo, ND 58103—Pictures from 6/26/2018

45

TO: BOARD OF CITY COMMISSIONERS

FROM: KENT COSTIN, DIRECTOR OF FINANCE *KAC*

RE: RESOLUTION AUTHORIZING THE ISSUANCE OF CITY OF FARGO SEWER REVENUE BONDS, SERIES 2018A AND 2018B (CWSRF) FOR WASTEWATER TREATMENT PLANT EXPANSION

DATE: AUGUST 6, 2018

The State of North Dakota Industrial Commission approved our loan application totaling \$146,729,000 for the wastewater facility expansion on March 28, 2018. A copy of the approval letters is attached.

The terms of the both loans include a 1.5% interest rate payable over a 30-year period. Wastewater utility revenues will be the primary source of repayment for this obligation. Work on this project will begin in 2018 and is expected to be completed by 2022.

Your approval of the resolutions authorizing the issuance of these SRF loans is requested.

Suggested Motion:

Approve a resolution authorizing the issuance and sale of \$126,500,000 to City of Fargo Sewer Revenue Bond, Series 2018A and the issuance and sale of \$20,229,000 to City of Fargo Sewer Revenue Bond, Series 2018B.

CITY OF FARGO, STATE OF NORTH DAKOTA
RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
\$126,500,000
CITY OF FARGO SEWER REVENUE BOND, SERIES 2018A

RECITATIONS

The City of Fargo, North Dakota (the “City”), hereby recites that by resolution of its governing body the City has:

1. Found and determined that it is necessary for the City to plan, design and construction to expand the City’s existing wastewater treatment facility (the “Project”) to accommodate growth, regionalization and future regulations.
2. Directed its engineer to prepare a report as to the general nature, purpose and feasibility of the Project and an estimate of the probable cost of the Project.
3. After receiving and approving the engineer’s report, directed the engineer to prepare detailed plans and specifications for construction of the Project.
4. Approved the engineer’s detailed plans and specifications for construction of the Project and caused a copy of such plans and specifications to be filed in the office of the City Auditor.
5. By publication, advertised for bids for construction of the Project.
6. Opened and made public the bids, entered them in the minutes of the meeting of the governing body at which they were considered and caused them to be kept by the City Auditor.
7. After requiring the engineer to make a careful and detailed statement of the estimated cost of the Project, awarded the contract to the lowest responsible bidder and approved the contractor’s performance bond.
8. Applied to the North Dakota Department of Health (the “Department”) and the North Dakota Public Finance Authority (the “Public Finance Authority”) for financial assistance to finance a portion of the cost of the Project, which application has been approved.
9. Performed all other acts required by the Constitution and laws of North Dakota prerequisite to the issuance and sale of revenue bonds and required by the Home Rule Charter and ordinances of the City of Fargo for the purpose of providing money to pay for the cost of the Project in the manner required of the City by law with full power and authority conferred on it as a political subdivision and municipality of North Dakota.

RESOLUTION

Be it resolved by the governing body of the City:

SECTION 1. Authorization and Sale.

1.01. Ratification of Prior Acts. All acts performed, resolutions, motions, or ordinances adopted or passed, and all publications incidental to the construction and financing of the Project, whether or not reflected in the official minutes and records of the City, are hereby ratified and confirmed, and all resolutions and other acts or proceedings of the City which are in any way inconsistent with this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

1.02. Authorization. It is hereby found and determined to be necessary for the City to issue \$126,500,000 in principal amount of its CITY OF FARGO SEWER REVENUE BOND, SERIES 2018A (the "Municipal Securities"), pursuant to N.D.C.C. ch. 40-35, upon the terms as set forth in this Resolution.

1.03. Offer and Acceptance. The governing body of the City, in response to its application for financial assistance from the Department and the Public Finance Authority, has received an offer from the Public Finance Authority, subject to the approval of the Industrial Commission of North Dakota, to purchase the Municipal Securities at a price equal to the principal amount plus accrued interest, if any, to the date of purchase, which offer is more fully set out in a loan agreement to be entered into between the City and the Public Finance Authority (the "Loan Agreement"). It is hereby found and determined that the offer of the Public Finance Authority to purchase the Municipal Securities is reasonable and advantageous to the City and is hereby accepted, and the Loan Agreement, in substantially the form presented to the City at this meeting, is hereby accepted and authorized to be executed on behalf of the City by its Mayor and City Auditor (the "Authorized Officers"), with such modifications as may be approved by the Authorized Officers. The Authorized Officers are authorized and directed to execute the Loan Agreement and to deliver it to the Public Finance Authority, which execution and delivery shall be conclusive evidence of the approval of any modifications with respect to the Loan Agreement.

SECTION 2. Term of Bonds.

2.01. Form. The Municipal Securities issued under this Resolution shall be designated CITY OF FARGO SEWER REVENUE BOND, SERIES 2018A, and shall be issued to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as Exhibit A.

2.02. Terms. The City authorizes the issuance of the Municipal Securities in the aggregate principal amount not to exceed \$126,500,000, dated the date of issuance and delivery to the Public Finance Authority.

The Municipal Securities shall bear interest commencing on the date of delivery thereof at the rate of 1.50% per year (plus an administrative fee as set out in the Loan Agreement), with principal payable in installments on September 1 of each of the years and in the amounts set forth below. Interest shall be payable semiannually on each March 1 and September 1 commencing September 1, 2018. Interest will be payable only on funds actually advanced to the City by the Public Finance Authority as a draw on the Municipal Securities. The schedule below and attached to the Municipal Securities will be revised to reflect the actual principal amount loaned to the City

at the completion of the Project. The Municipal Security is subject to mandatory sinking fund redemption together with accrued interest to the Redemption Date on September 1 of the following years and in the following principal amounts:

<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>	<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>
2022	\$ 135,000	2038	\$4,190,000
2023	3,115,000	2039	4,275,000
2024	3,175,000	2040	4,360,000
2025	3,240,000	2041	4,445,000
2026	3,305,000	2042	4,535,000
2027	3,370,000	2043	4,625,000
2028	3,435,000	2044	4,720,000
2029	3,505,000	2045	4,810,000
2030	3,575,000	2046	4,910,000
2031	3,645,000	2047	5,005,000
2032	3,720,000	2048	5,105,000
2033	3,795,000	2049	5,210,000
2034	3,870,000	2050	5,315,000
2035	3,950,000	2051	5,420,000
2036	4,025,000	2052*	5,610,000
2037	4,105,000		

*maturity

2.03. Payment to Registered Holders. The principal of and interest on the Municipal Securities shall be payable to the registered holder thereof at the address appearing on the registration books of the registrar in any coin or currency of the United States of America, which on the respective dates of payment is legal tender for the payment of public or private debts or by check or draft delivered to the registered holder thereof at the address appearing on the registration books of the registrar.

2.04. Registration. The Municipal Securities shall be registered as to both principal and interest and shall be initially registered in the name of and payable to the North Dakota Public Finance Authority. While so registered, principal of and interest on the Municipal Securities shall be payable at the office of the Bank of North Dakota, in Bismarck, North Dakota (the "Bank"), or such other place as may be designated by the Public Finance Authority in writing, delivered to the Registrar. The Bank shall act as Registrar and as such shall establish and maintain a register for the purpose of recording the names and addresses of the registered holders or assigns, and the date of such registration.

2.05. Transfer and Exchange. The Municipal Securities are transferable upon the books of the City at the principal office of the Bank of North Dakota, as bond registrar, or a successor bond registrar appointed by the Bank of North Dakota (the "Bond Registrar"), by the registered owner thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Municipal

Securities of other authorized denominations. Upon such transfer or exchange, the City will cause new Municipal Securities to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange. No transfer of Municipal Securities shall be required to be made during the 15 days next preceding an interest payment date, nor during the 45 days next preceding the date fixed for redemption of such Municipal Securities.

2.06. Registered Owner Deemed Owner. The City, the Bond Registrar and the paying agent may deem and treat the person in whose name any Municipal Securities are registered as the absolute owner thereof, whether the Municipal Securities are overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City, the Bond Registrar nor the paying agent shall be affected by any notice to the contrary. The City shall pay the fees and expenses of the Bond Registrar and the paying agent.

2.07. Execution and Delivery. The Municipal Securities shall forthwith be prepared under the direction of the City Auditor and when so prepared shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Auditor and shall be authenticated by the manual signature of the Registrar. When the Municipal Securities have been so executed and authenticated, they shall be delivered by the City to the Public Finance Authority.

2.08. Redemption. The Municipal Securities shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Public Finance Authority, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

2.09. Authorization of Related Documents. The Mayor, City Auditor, and other authorized officers of the City are hereby authorized to execute such additional agreements, certificates, and documents required or appropriate in connection with the issuance of the Municipal Securities and the transactions contemplated by the issuance thereof.

2.10. Draws of Municipal Security Proceeds. The proceeds of the Municipal Securities are irrevocably appropriated to pay expenses necessarily incurred in the construction and completion of the Project and to pay costs associated with the issuance of the Municipal Securities. Draws on the Municipal Securities, in the form of Requisitions for Payment, shall be submitted by the City to the Department from time to time in accordance with procedures established by the Department. Requisitions for Payment approved by the Department shall be forwarded to the Public Finance Authority for approval and funding.

SECTION 3. Source of Payment. The City hereby dedicates and pledges the Net Revenues (as defined in Section 4.02 hereof) of the City's wastewater treatment facility (the "Sewer Utility") to the payment of the principal of and interest on the Municipal Securities on a parity basis with bonds previously issued or to be issued and secured by a pledge of the Net Revenues and permitted herein. There are currently no outstanding bonds secured by the Net Revenues on a parity basis with the Municipal Securities; however, the City's Sales Tax Revenue Bonds, Series 2008A; Sales Tax Revenue Bonds, Series 2008C; Sales Tax Revenue Bonds, Series 2010A and Sales Tax Revenue Bonds, Series 2010D, are secured by a pledge of the Net Revenues in the event that the

primary security for such bonds is insufficient. In addition, concurrently with the Municipal Securities, the City will issue its Sewer Revenue Bonds, Series 2018B (the "Series 2018B Bonds"; together with the Municipal Securities and any other obligations secured by the Net Revenues on a parity therewith, the "Bonds").

The Net Revenues are to be deposited in the funds set forth in Section 4 hereof.

SECTION 4. Funds.

4.01. Sewer Utility Fund. The City has created, and will maintain, a SEWER UTILITY FUND (the "Sewer Utility Fund"). The City shall credit and pay to the Sewer Utility Fund, as received, the entire gross revenues derived from the operation of the City's Sewer Utility, including any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees and charges for services, facilities, products and by-products of the Sewer Utility furnished or sold to the City and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the Sewer Utility not necessary to be retained, and from the investment of any of the money so collected. On the books and records of the Sewer Utility Fund there shall be established and maintained the following funds as a part of the Sewer Utility Fund. Amounts on deposit in the Sewer Utility Fund from time to time shall be apportioned among said funds at least once in each calendar month and shall thereafter be held and administered and disbursed from the several funds established in this section.

4.02. Operation and Maintenance Fund. The City has created, and will maintain, an OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). Upon each such monthly apportionment, as a first lien and charge on the gross revenue, the City shall transfer to the Operation and Maintenance Fund from amounts on deposit in the Sewer Utility Fund such sum as shall be needed, over and above any credit balance held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for contingencies. Monies in the Operation and Maintenance Fund shall be used only to pay expenses of the foregoing type and not for major repairs, replacements, or capital improvements which are properly chargeable to replacement and depreciation reserves or surplus funds. All revenues in excess of such amount deposited to the Operation and Maintenance Fund shall be the Net Revenues (the "Net Revenues") of the Sewer Utility.

4.03. Sewer Revenue Bond Fund. The City has created, and will maintain, a SEWER REVENUE BOND FUND (the "Sewer Revenue Bond Fund"). Upon each such monthly apportionment, out of the Net Revenues on hand at the time of each such distribution, an amount equal to not less than one-sixth (1/6) of the amount necessary to pay interest which becomes due on the next interest payment dates and an amount equal to not less than one-twelfth (1/12) of the sum of principal payments to become due on the next principal payment dates for the Bonds. These amounts may be reduced by an amount equal to the interest earnings on the Sewer Revenue Bond Fund credited to the Sewer Revenue Bond Fund subsequent to the last monthly apportionment. If Net Revenues on hand at any time are insufficient to permit the transfer to the Sewer Revenue Bond Fund of the full amount so required, such deficiencies shall be restored out of the next Net Revenues thereafter received. There shall also be credited to said fund the accrued

interest, if any, paid on each subsequent issue of Additional Bonds and Additional SRF Bonds, if any. The money in said fund shall be solely for the purposes of paying principal of, and premium, if any, and interest on Bonds, as such principal, premium and interest respectively come due. Subordinate Bonds (hereinafter defined) shall not be payable from the Sewer Revenue Bond Fund.

In the event Net Revenues on deposit in the Sewer Revenue Bond Fund and amounts on deposit in the Surplus Fund available for transfer to the Sewer Revenue Bond Fund are insufficient to pay the principal of, and premium, if any, and interest on the Bonds then due, such Net Revenues and the transfers from the Surplus Fund shall be apportioned among each series of Bonds in proportion to the amount of principal, premium, if any, and interest then payable on the Bonds of each series. Transfers from any SRF Reserve Fund, including the Reserve Account established hereunder, shall be applied only to principal, premium, if any, and interest payable on the related series of SRF Bonds.

4.04. Surplus Fund. All surplus Net Revenues from time to time received in excess of the current requirements of the Sewer Revenue Bond Fund and any SRF Reserve Fund shall be credited on the books of the City to the Surplus Fund of the Sewer Utility Fund, provided that City reserves the right to create additional funds within said fund for the purpose of segregating any of such surplus Net Revenues which may be pledged and appropriated to the payment of any Subordinate Bonds hereafter issued to finance improvements, replacements, or repairs of the Sewer Utility, subject to the prior lien on the Net Revenues of the Bonds. Surplus Net Revenues on hand from time to time shall be available and shall be used to the full extent necessary to restore a deficiency in the Operation and Maintenance Fund, the Sewer Revenue Bond Fund, the Reserve Account and any other SRF Reserve Fund, but when not so needed may be used to pay for capital improvements, replacements, or repairs to the Sewer Utility, or to pay principal and interest on Subordinate Bonds hereafter issued for such purposes, or they may be used to redeem and pay prior to maturity Bonds (other than Subordinate Bonds) when and as such bonds become redeemable according to their terms, or purchase Bonds (other than Subordinate Bonds) in the secondary market when deemed advisable. The City shall maintain in the Surplus Fund such cash or investments as it shall from time to time determine to constitute an adequate reserve for operation or maintenance emergencies and for depreciation and contemplated improvement or replacement of the Sewer Utility. At the end of the City's fiscal year, if there are no deficiencies in the Operation and Maintenance Fund, the Sewer Revenue Bond Fund, or any SRF Reserve Fund and there is an adequate reserve for operation and maintenance emergencies and for depreciation, contemplated improvements and replacements of the Sewer Utility, the City may transfer monies in excess of such requirements to other funds of the City in accordance with and subject to the limitations contained in the ordinances of the City and the provisions of state law.

4.05. Rebate Fund. There is hereby established a Rebate Fund. The City shall from time to time, and as required by Section 148 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated in connection therewith, as amended (collectively, the "Code"), calculate the amount of rebate payable with respect to Bonds to the United States of America pursuant to Section 148 of the Code. The City may from time to time, and shall upon payment being due to the United States of America, withdraw the amount of such payment from the Surplus Fund and any SRF Reserve Fund, the Sewer Revenue Bond Fund and the Operation and Maintenance Fund, in such order, the amount of such payment notwithstanding any provision to the contrary in this Resolution. Amounts in the Rebate Fund shall be used solely to make required

payments to the United States of America and shall not be pledged to the payment of the Bonds. All interest earnings on investments in the Rebate Fund shall be retained in the Rebate Fund.

4.06. Reserve Account. A separate SRF Reserve Fund (the “Reserve Account”) is established within the Sewer Utility Fund and shall be funded to the total amount of **[\$5,694,150.00]**, in five installments of **[\$1,138,830.00]**, payable on each September 1 beginning September 1, 2022, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$126,500,000.

SECTION 5. Additional Net Revenues Parity Pledges.

5.01. Parity Bonds. The City reserves the right to issue one or more series of bonds with a parity of lien on the Net Revenues as to both principal and interest with the Bonds (herein referred to as “Additional Bonds”). The term Additional Bonds does not include Subordinate Bonds issued pursuant to Section 5.03 hereof, but does include Additional Bonds issued for refunding purposes issued pursuant to Section 5.04 hereof. In the event the City shall at any time determine it to be necessary and expedient to issue Additional Bonds to finance capital improvements of the Sewer Utility, such Additional Bonds will be made payable from the Net Revenues of the Sewer Utility on a parity as to both principal and interest with the then outstanding Bonds. Except as provided in Section 5.04, Additional Bonds or Additional SRF Bonds may be issued only if the annual Net Revenues received during the fiscal year of the City next preceding such issuance shall have equaled or exceeded 120% of the average annual principal and interest to become due and payable on all Bonds to be outstanding during the term of the proposed Additional Bonds.

If any of the rates and charges for sewer service shall have been increased or reduced at any time subsequent to the commencement of the fiscal year immediately preceding the issuance of additional Bonds as contemplated above, the Net Revenues for the period prior to such change shall be deemed, for the purpose of the computation required above, to be those which would have been received by applying the revised rates and charges to the service actually provided during such period, less the estimated amount of decrease in service, if any, due to an increase in said rates and charges, and by deducting from the gross revenues so determined the actual operating expenses of the Sewer Utility, together with reasonably expected increases in operating expenses resulting from the improvements financed by such Additional Bonds, as determined by the report of an independent engineer selected by the City, for said period.

So long as Bonds are outstanding pursuant to resolutions which require greater coverage for the issuance of additional parity bonds, the provisions of such resolutions shall govern.

5.02. Additional SRF Bonds. The City reserves the right to issue one or more series of bonds with a parity pledge of Net Revenues (hereinafter referred to as “Additional SRF Bonds”), so long as such bonds can be issued in compliance with the requirements of Section 5.01 or 5.04. The Additional SRF Bonds may be secured by a separate reserve fund (an “SRF Reserve Fund”), funded either by proceeds of such bonds or from Net Revenues, provided such separate reserve fund shall not be a greater amount than that required generally by the Public Finance Authority of the State of North Dakota for its similar loans. All Additional SRF Bonds must be sold to the Public Finance Authority of the State of North Dakota pursuant to its state revolving loan fund

program and shall bear interest at rates determined by the City to be less than available on publicly offered Additional Bonds at the time such bonds are issued.

5.03. Subordinate Lien Bonds. Except as authorized in Sections 5.01, 5.02 and 5.03, the City will issue no additional bonds or other obligations of any kind payable from or constituting a lien upon said Net Revenues of the Sewer Utility, unless the lien thereof is expressly made junior and subordinate to the lien on the then outstanding Bonds issued hereunder (“Subordinate Bonds”), and such additional bonds or obligations shall not be payable from the Sewer Revenue Bond Fund or any SRF Reserve Fund but may be payable from funds permitted to be transferred from the Surplus Fund to other funds of the City pursuant to Section 4.04 of this Resolution.

5.04. Refunding Bonds. The City reserves the right to issue one or more series of Additional Bonds or Additional SRF Bonds to refund any and all Bonds then outstanding. The additional bond requirements set forth in Section 5.01 as to 120% coverage shall not apply to the issuance of Refunding Bonds if in each fiscal year of the City the regularly scheduled debt service on the Refunding Bonds is not more than 105% of the debt service on the Bonds to be refunded thereby in the same fiscal year.

SECTION 6. Sewer Utility Covenants.

6.01. Rate Covenant. The City will establish, impose and collect rates and charges for the services, facilities, products, and by-products of the Sewer Utility, according to a schedule projected to generate Net Revenues in each fiscal year at least equal to, together with other revenues expected to be available therefor, including sales tax revenues, 120% of the actual annual debt service on all Bonds outstanding, and to pay all amounts owed to any insurer of the Bonds outstanding. If the actual Net Revenues fail to meet this level, the City shall promptly increase its rates and charges to a level so that Net Revenues are projected to meet the required level. Annual debt service shall be determined for each fiscal year on the basis of a bond year ending on the January 1 immediately following the end of each fiscal year.

6.02. Covenant to Maintain Sewer Utility. The City will continue to own, operate and maintain the Sewer Utility, and will not sell or otherwise dispose of any properties thereof; provided, that any properties of the Sewer Utility not essential to continued operation of the Sewer Utility in satisfaction of other covenants herein prescribed may be sold or otherwise disposed of at their market value, and the proceeds thereof used to purchase other property required for the Sewer Utility or to pay principal and interest on obligations issued with respect to the Sewer Utility. The City will continue to maintain the Sewer Utility in good and efficient operating condition, supplying wastewater service and facilities to the City and its inhabitants, and will not authorize or enfranchise the establishment of any other utility for such purpose.

6.03. General. The City covenants and agrees with the Holders from time to time of all the Municipal Securities that until all the Municipal Securities are fully discharged as provided in this Resolution, it will continue to hold, maintain and operate the Sewer Utility as a public convenience, free from all liens thereon or on the income therefrom, and will maintain, expend and account for its Sewer Utility Fund and the several funds therein as provided in Section 4, and will not issue bonds, notes or other indebtedness secured by or payable from the income or revenues of the Sewer Utility except upon the conditions and in the manner prescribed in Section 5,

and will perform and cause all officers and employees of the City to perform and enforce each and all of the additional covenants and agreements set forth in this Section 6. The City further covenants to cause the Sewer Utility to be properly maintained and no free service shall be provided to any person or corporation.

6.04. Competing Service. The City will not establish or enfranchise any other facilities in competition with the facilities of the Sewer Utility.

6.05. Property Insurance. The City will cause all buildings, properties, fixtures and equipment constituting a part of the Sewer Utility to be kept insured with a reputable insurance carrier or carriers, qualified under the laws of North Dakota, in such amounts as are ordinarily carried, and against loss or damage by such hazards and risks as are ordinarily insured against, by public bodies owning and operating properties of a similar character and size; provided that if at any time the City is unable to obtain insurance, it will obtain insurance in such amounts and against risks as are reasonably obtainable. The proceeds of all such insurance shall be available for the repair, replacement or reconstruction of damaged or destroyed property, and until paid out in making good such loss or damage, are pledged as security for the outstanding Bonds. All insurance proceeds received in excess of the amount required for restoration of the loss or damage compensated thereby shall be and become part of the revenues appropriated to the Sewer Utility Fund. If for any reason insurance proceeds are insufficient for the repair, replacement and reconstruction of the insured property, the City shall supply the deficiency from revenues on hand in the Surplus Fund.

6.06. Liability Insurance and Surety Bonds. The City will carry insurance against liability of the City and its employees for damage to persons and property resulting from the operation of the Sewer Utility in such amounts as the City determines from time to time to be necessary or advisable by reason of the character and extent of such operation. It will also cause all persons handling money and other assets of the Sewer Utility Fund to be adequately bonded for the faithful performance of their duties and to account for and pay over such money to the City. All amounts received under such insurance and bonds shall be applied to the payment of the loss or damage covered thereby. The premiums for all insurance and bonds required by this Section 6.06 and Section 6.05 constitute part of the operating expenses of the Sewer Utility, but no insurance liabilities of the City in excess of amounts received under such insurance and bonds shall constitute a lien or charge on revenues or any other assets herein or otherwise pledged to the Sewer Utility Fund.

6.07. Cost of Insurance and Accounting. The insurance and fidelity bond premiums and the cost of the bookkeeping and audits herein provided for and of the billings and collection of the gross revenues shall be payable from the Operation and Maintenance Fund.

6.08. General Covenants. The City hereby covenants and agrees with the owners of all outstanding Municipal Securities as follows:

- a. That it will, to the extent the Net Revenues are sufficient, promptly cause the principal and interest on all Municipal Securities to be paid as they become due.

- b. That it will maintain complete books and records relating to the operation of the Sewer Utility, the Sewer Revenue Bond Fund, Reserve Account, Operation and Maintenance Fund, and Surplus Fund, in accordance with generally accepted accounting principles, and will cause such books and records to be audited annually at the end of each fiscal year, and an audit report prepared and made available for inspection of owners of the Municipal Securities.
- c. That it will not issue bonds or other obligations having a claim superior to the claim of the Municipal Securities upon the Net Revenues of the Sewer Utility.
- d. That it will promptly deposit into the Sewer Revenue Bond Fund all sums required to be so deposited.
- e. That it will operate the Sewer Utility in a sound, efficient and economic manner.

SECTION 7. Miscellaneous.

7.01. Limited Obligations. The Municipal Securities issued hereunder shall not constitute a charge, lien or encumbrance upon any property of the City, and no holder or holders thereof shall ever have the right to compel any exercise of the taxing power of the City to pay the principal and interest on the Municipal Securities. The principal and interest of the Municipal Securities shall not be a general obligation of the City but are payable solely from the Net Revenues as set forth in this resolution.

7.02. Federal Tax Laws. The City hereby covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the holders of the Municipal Securities of the interest on the Municipal Securities under Section 103 of the Code. The City also covenants that it will not directly or indirectly use or permit the use of any of the proceeds of the Municipal Securities or any other funds or any facilities refinanced thereby or take or omit to take any action which would cause the Municipal Securities to be "arbitrage bonds" within the meaning of Section 148(a) of the Code or "private activity bonds" within the meaning of Section 141 of the Code. The City will comply with all requirements of Section 148 of the Code to the extent applicable to the Municipal Securities. The City shall comply with all requirements set forth in any tax compliance certificate executed in connection with the issuance of the Municipal Securities. The covenants and obligations of the City set forth in this Section 7.02 shall survive the payment, redemption and defeasance of the Municipal Securities until the expiration of all statutes of limitation applicable to the City with respect to the Municipal Securities.

The City recognizes that the provisions of this Section 7.02 are intended to comply with provisions of the Code applicable to the Municipal Securities and if as a result of a change in an applicable section of the Code or in the interpretation thereof, a change in this Section 7.02 shall be permitted or necessary to assure continued compliance with provisions of the Code, then the City shall be empowered to amend this Section 7.02 upon receipt of a written opinion of bond counsel satisfactory of the City to the effect that either (i) such amendment is required to maintain the exclusion from gross income under Section 103 of the Code of interest paid and payable on

the Municipal Securities, or (ii) such amendment shall not adversely affect the exclusion from gross income under Section 103 of the Code of interest paid or payable on the Municipal Securities.

This section shall be applicable only to the obligations, covenants, agreements, limitations, conditions and restrictions of and upon the City in relation to the holder of the Municipal Securities.

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Adopted _____, 2018.

CITY OF FARGO

By: _____
Tim Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

FORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA
 STATE OF NORTH DAKOTA
 COUNTY OF CASS

CITY OF FARGO

SEWER REVENUE BOND,
 SERIES 2018A

No. R-1 \$126,500,000

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
1.50%	September 1, 2052	[_____], 2018	NONE

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: ONE HUNDRED TWENTY-SIX MILLION FIVE HUNDRED THOUSAND DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS that the City of Fargo, North Dakota (the “City”), a political subdivision of and existing under and pursuant to the laws of the State of North Dakota, for value received, hereby promises to pay solely from the sources set forth herein to the Registered Owner specified above, or registered assigns, the Principal Amount (set forth above), or such lesser amount actually disbursed to the City, on or before the Maturity Date (set forth above). Interest shall accrue from the Date of Original Issuance at the annual rate of one and one half percent (1.50%) and shall be payable semiannually on March 1 and September 1, commencing September 1, 2018. The Principal Amount of this Bond is subject to mandatory redemption on the dates and in the amounts set forth in Attachment A to this Municipal Security, which Attachment A shall be revised in accordance with Section 2.02 of the Loan Agreement in the event funds are advanced to the City less than as originally set forth in the Loan Agreement. The City hereby promises to pay the Administrative Fee, as defined in the Loan Agreement (being one half of one percent (0.50%) per annum on the outstanding principal amount of the Bond), payable semi-annually on each March 1 and September 1. All payments due with respect to this Bond are payable in lawful money of the United States of America at the main office of the Bank of North Dakota, in Bismarck, North Dakota, as paying agent and Registrar under the Resolution hereinafter described or of its successor as such. Interest shall be paid by check or draft mailed to the Registered Owner at the Owner’s address set forth on the registration books or by wire or other electronic funds transfer.

This Municipal Security is issued pursuant to and in full conformity with the Constitution and laws of the State of North Dakota, including N.D.C.C. ch. 40-35 (the “Act”), and pursuant to a Resolution (the “Resolution”) and a Loan Agreement (the “Loan Agreement”) adopted and

entered into by the City. Reference is hereby made to the Resolution and the Loan Agreement for a description of the Funds and Accounts pledged to the payment of the Municipal Securities and the rights of the Registered Owner of the Municipal Securities. The principal and interest payments for this Bond and the Administrative Fee payable hereunder are not general obligations of the City, but are payable solely from Net Revenues received by the City from the operation of the wastewater treatment facility of the City of Fargo and from any future additions thereto and betterments thereof.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the City kept by the Bank of North Dakota, as bond registrar, by the Registered Owner hereof in person or by the Owner's duly authorized attorney, or it may be surrendered in exchange for new Municipal Securities of the same aggregate principal amount, maturity and interest rate, as provided in the Resolution.

This Municipal Security shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Registered Owner, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

It is further certified, recited and declared that all acts, conditions and things required by the Constitution and the statutes of the State of North Dakota to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Municipal Securities have been performed in due time, form and manner as required by law; and that the issuance of the Municipal Securities is within every debt and other limit prescribed by law.

IN WITNESS WHEREOF, the City has caused this Municipal Securities to be executed in its name by the manual or facsimile signatures of its Mayor and of its City Auditor, all as of the Date of Original Issue set forth above.

CITY OF FARGO, NORTH DAKOTA

By: _____
Tim Mahoney
Mayor

ATTEST:

Steven Sprague City
Auditor

CERTIFICATE OF AUTHENTICATION

This Municipal Security is one of the Municipal Securities described in and issued under the provisions of the within-mentioned Resolution.

BANK OF NORTH DAKOTA

By: _____
Authorized Representative

ASSIGNMENT

For Value received the undersigned hereby sells, assigns and transfers unto _____ the within-mentioned Municipal Security and hereby irrevocably constitutes and appoints _____ attorney-in-fact, to transfer the same on the books of registration thereof, with full power of substitution in the premises.

Dated: _____, 20__

Social Security or other identifying number of Assignee

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Municipal Security in every particular, without alteration or any change whatsoever.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

CERTIFICATE

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

I, Steven Sprague, the duly appointed City Auditor of the City of Fargo, North Dakota, do hereby certify that attached hereto is a full, true and correct copy of the Amended and Restated Resolution adopted by the governing body of the City of Fargo at the meeting held on [_____] , 2018, and that such Resolution is now a part of the permanent records of the City of Fargo, North Dakota, as such records are filed in the office of the City Auditor.

Dated this __ day of [_____] , 2018.

City Auditor

(SEAL)

Industrial Commission
of North Dakota

Doug Burgum
GOVERNOR

Wayne Stenehjem
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER



North Dakota Public Finance Authority

March 28, 2018

Steve Sprague
City of Fargo
200 North 3rd Street
Fargo, ND 58102

Dear Steve:

The Industrial Commission approved the City of Fargo's requested loan in the amount of \$126,500,000 on March 28, 2018. The financing will be provided under the Clean Water State Revolving Fund Program. This loan approval is contingent upon the ND Department of Health determining project eligibility and expires in one year. If the first draw of funds is not made within one year of the date of approval, the applicant must submit a new application and related attachments for consideration by the PFA and its' advisors, as applicable.

We are providing a copy of this letter and a preliminary debt service schedule to your bond counsel. Please contact your bond counsel to discuss and coordinate the completion of the loan documents. Once the form of the documents has been approved, you will receive a letter from the Health Department concerning the submissions of payment requests for draws against the approved loan amount.

Please be sure to alert your Independent Public Accounting Firm or the Office of the State Auditor that the Clean Water State Revolving Fund Program (Environmental Protection Agency's Capitalization Grants for State Revolving Funds, CFDA #66.458) is considered a federal award for auditing purposes. Your financial statements may be required to be audited in compliance with the Single Audit Act with respect to the receipt and expenditure of loan proceeds. In addition, any equipment purchased with SRF funds must comply with the federal equipment management requirements published in OMB Circular A-110 ('_.34). If you have any questions, please discuss this with your Independent Public Accounting Firm or the Office of the State Auditor.

A copy of the annual or biennial audited financial statements, or the annual report, as appropriate under N.D.C.C.' 54-10-14, **must be submitted to the Public Finance Authority every year that the loan is outstanding.** This requirement is set out in the form of the loan agreement.

Please feel free to call us or your bond counsel if you have any questions concerning the loan closing.

Sincerely,

Lisa Froelich
Business Manager

cc: Dorsey & Whitney LLP

CITY OF FARGO, STATE OF NORTH DAKOTA

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
\$20,229,000
CITY OF FARGO SEWER REVENUE BOND, SERIES 2018B

RECITATIONS

The City of Fargo, North Dakota (the "City"), hereby recites that by resolution of its governing body the City has:

1. Found and determined that it is necessary for the City to plan, design and construction to expand the City's existing wastewater treatment facility (the "Project") to accommodate growth, regionalization and future regulations.
2. Directed its engineer to prepare a report as to the general nature, purpose and feasibility of the Project and an estimate of the probable cost of the Project.
3. After receiving and approving the engineer's report, directed the engineer to prepare detailed plans and specifications for construction of the Project.
4. Approved the engineer's detailed plans and specifications for construction of the Project and caused a copy of such plans and specifications to be filed in the office of the City Auditor.
5. By publication, advertised for bids for construction of the Project.
6. Opened and made public the bids, entered them in the minutes of the meeting of the governing body at which they were considered and caused them to be kept by the City Auditor.
7. After requiring the engineer to make a careful and detailed statement of the estimated cost of the Project, awarded the contract to the lowest responsible bidder and approved the contractor's performance bond.
8. Applied to the North Dakota Department of Health (the "Department") and the North Dakota Public Finance Authority (the "Public Finance Authority") for financial assistance to finance a portion of the cost of the Project, which application has been approved.
9. Performed all other acts required by the Constitution and laws of North Dakota prerequisite to the issuance and sale of revenue bonds and required by the Home Rule Charter and ordinances of the City of Fargo for the purpose of providing money to pay for the cost of the Project in the manner required of the City by law with full power and authority conferred on it as a political subdivision and municipality of North Dakota.

RESOLUTION

Be it resolved by the governing body of the City:

SECTION 1. Authorization and Sale.

1.01. Ratification of Prior Acts. All acts performed, resolutions, motions, or ordinances adopted or passed, and all publications incidental to the construction and financing of the Project, whether or not reflected in the official minutes and records of the City, are hereby ratified and confirmed, and all resolutions and other acts or proceedings of the City which are in any way inconsistent with this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

1.02. Authorization. It is hereby found and determined to be necessary for the City to issue \$20,229,000 in principal amount of its CITY OF FARGO SEWER REVENUE BOND, SERIES 2018B (the "Municipal Securities"), pursuant to N.D.C.C. ch. 40-35, upon the terms as set forth in this Resolution.

1.03. Offer and Acceptance. The governing body of the City, in response to its application for financial assistance from the Department and the Public Finance Authority, has received an offer from the Public Finance Authority, subject to the approval of the Industrial Commission of North Dakota, to purchase the Municipal Securities at a price equal to the principal amount plus accrued interest, if any, to the date of purchase, which offer is more fully set out in a loan agreement to be entered into between the City and the Public Finance Authority (the "Loan Agreement"). It is hereby found and determined that the offer of the Public Finance Authority to purchase the Municipal Securities is reasonable and advantageous to the City and is hereby accepted, and the Loan Agreement, in substantially the form presented to the City at this meeting, is hereby accepted and authorized to be executed on behalf of the City by its Mayor and City Auditor (the "Authorized Officers"), with such modifications as may be approved by the Authorized Officers. The Authorized Officers are authorized and directed to execute the Loan Agreement and to deliver it to the Public Finance Authority, which execution and delivery shall be conclusive evidence of the approval of any modifications with respect to the Loan Agreement.

SECTION 2. Term of Bonds.

2.01. Form. The Municipal Securities issued under this Resolution shall be designated CITY OF FARGO SEWER REVENUE BOND, SERIES 2018B, and shall be issued to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as Exhibit A.

2.02. Terms. The City authorizes the issuance of the Municipal Securities in the aggregate principal amount not to exceed \$20,229,000, dated the date of issuance and delivery to the Public Finance Authority.

The Municipal Securities shall bear interest commencing on the date of delivery thereof at the rate of 1.50% per year (plus an administrative fee as set out in the Loan Agreement), with principal payable in installments on September 1 of each of the years and in the amounts set forth below. Interest shall be payable semiannually on each March 1 and September 1 commencing September 1, 2018. Interest will be payable only on funds actually advanced to the City by the Public Finance Authority as a draw on the Municipal Securities. The schedule below and attached to the Municipal Securities will be revised to reflect the actual principal amount loaned to the City

at the completion of the Project. The Municipal Security is subject to mandatory sinking fund redemption together with accrued interest to the Redemption Date on September 1 of the following years and in the following principal amounts:

<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>	<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>
2022	\$ 9,000	2038	\$670,000
2023	500,000	2039	685,000
2024	510,000	2040	700,000
2025	520,000	2041	710,000
2026	530,000	2042	725,000
2027	540,000	2043	740,000
2028	550,000	2044	755,000
2029	560,000	2045	770,000
2030	570,000	2046	785,000
3031	585,000	2047	800,000
2032	595,000	2048	820,000
2033	605,000	2049	835,000
2034	620,000	2050	850,000
2035	630,000	2051	870,000
2036	645,000	2052*	885,000
2037	660,000		

*maturity

2.03. Payment to Registered Holders. The principal of and interest on the Municipal Securities shall be payable to the registered holder thereof at the address appearing on the registration books of the registrar in any coin or currency of the United States of America, which on the respective dates of payment is legal tender for the payment of public or private debts or by check or draft delivered to the registered holder thereof at the address appearing on the registration books of the registrar.

2.04. Registration. The Municipal Securities shall be registered as to both principal and interest and shall be initially registered in the name of and payable to the North Dakota Public Finance Authority. While so registered, principal of and interest on the Municipal Securities shall be payable at the office of the Bank of North Dakota, in Bismarck, North Dakota (the "Bank"), or such other place as may be designated by the Public Finance Authority in writing, delivered to the Registrar. The Bank shall act as Registrar and as such shall establish and maintain a register for the purpose of recording the names and addresses of the registered holders or assigns, and the date of such registration.

2.05. Transfer and Exchange. The Municipal Securities are transferable upon the books of the City at the principal office of the Bank of North Dakota, as bond registrar, or a successor bond registrar appointed by the Bank of North Dakota (the "Bond Registrar"), by the registered owner thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Municipal

Securities of other authorized denominations. Upon such transfer or exchange, the City will cause new Municipal Securities to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange. No transfer of Municipal Securities shall be required to be made during the 15 days next preceding an interest payment date, nor during the 45 days next preceding the date fixed for redemption of such Municipal Securities.

2.06. Registered Owner Deemed Owner. The City, the Bond Registrar and the paying agent may deem and treat the person in whose name any Municipal Securities are registered as the absolute owner thereof, whether the Municipal Securities are overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City, the Bond Registrar nor the paying agent shall be affected by any notice to the contrary. The City shall pay the fees and expenses of the Bond Registrar and the paying agent.

2.07. Execution and Delivery. The Municipal Securities shall forthwith be prepared under the direction of the City Auditor and when so prepared shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Auditor and shall be authenticated by the manual signature of the Registrar. When the Municipal Securities have been so executed and authenticated, they shall be delivered by the City to the Public Finance Authority.

2.08. Redemption. The Municipal Securities shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Public Finance Authority, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

2.09. Authorization of Related Documents. The Mayor, City Auditor, and other authorized officers of the City are hereby authorized to execute such additional agreements, certificates, and documents required or appropriate in connection with the issuance of the Municipal Securities and the transactions contemplated by the issuance thereof.

2.10. Draws of Municipal Security Proceeds. The proceeds of the Municipal Securities are irrevocably appropriated to pay expenses necessarily incurred in the construction and completion of the Project and to pay costs associated with the issuance of the Municipal Securities. Draws on the Municipal Securities, in the form of Requisitions for Payment, shall be submitted by the City to the Department from time to time in accordance with procedures established by the Department. Requisitions for Payment approved by the Department shall be forwarded to the Public Finance Authority for approval and funding.

SECTION 3. Source of Payment. The City hereby dedicates and pledges the Net Revenues (as defined in Section 4.02 hereof) of the City's wastewater treatment facility (the "Sewer Utility") to the payment of the principal of and interest on the Municipal Securities on a parity basis with bonds previously issued or to be issued and secured by a pledge of the Net Revenues and permitted herein. There are currently no outstanding bonds secured by the Net Revenues on a parity basis with the Municipal Securities; however, the City's Sales Tax Revenue Bonds, Series 2008A; Sales Tax Revenue Bonds, Series 2008C; Sales Tax Revenue Bonds, Series 2010A and Sales Tax Revenue Bonds, Series 2010D, are secured by a pledge of the Net Revenues in the event that the

primary security for such bonds is insufficient. In addition, concurrently with the Municipal Securities, the City will issue its Sewer Revenue Bonds, Series 2018A (the "Series 2018A Bonds"; together with the Municipal Securities and any other obligations secured by the Net Revenues on a parity therewith, the "Bonds").

The Net Revenues are to be deposited in the funds set forth in Section 4 hereof.

SECTION 4. Funds.

4.01. Sewer Utility Fund. The City has created, and will maintain, a SEWER UTILITY FUND (the "Sewer Utility Fund"). The City shall credit and pay to the Sewer Utility Fund, as received, the entire gross revenues derived from the operation of the City's Sewer Utility, including any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees and charges for services, facilities, products and by-products of the Sewer Utility furnished or sold to the City and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the Sewer Utility not necessary to be retained, and from the investment of any of the money so collected. On the books and records of the Sewer Utility Fund there shall be established and maintained the following funds as a part of the Sewer Utility Fund. Amounts on deposit in the Sewer Utility Fund from time to time shall be apportioned among said funds at least once in each calendar month and shall thereafter be held and administered and disbursed from the several funds established in this section.

4.02. Operation and Maintenance Fund. The City has created, and will maintain, an OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). Upon each such monthly apportionment, as a first lien and charge on the gross revenue, the City shall transfer to the Operation and Maintenance Fund from amounts on deposit in the Sewer Utility Fund such sum as shall be needed, over and above any credit balance held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for contingencies. Monies in the Operation and Maintenance Fund shall be used only to pay expenses of the foregoing type and not for major repairs, replacements, or capital improvements which are properly chargeable to replacement and depreciation reserves or surplus funds. All revenues in excess of such amount deposited to the Operation and Maintenance Fund shall be the Net Revenues (the "Net Revenues") of the Sewer Utility.

4.03. Sewer Revenue Bond Fund. The City has created, and will maintain, a SEWER REVENUE BOND FUND (the "Sewer Revenue Bond Fund"). Upon each such monthly apportionment, out of the Net Revenues on hand at the time of each such distribution, an amount equal to not less than one-sixth (1/6) of the amount necessary to pay interest which becomes due on the next interest payment dates and an amount equal to not less than one-twelfth (1/12) of the sum of principal payments to become due on the next principal payment dates for the Bonds. These amounts may be reduced by an amount equal to the interest earnings on the Sewer Revenue Bond Fund credited to the Sewer Revenue Bond Fund subsequent to the last monthly apportionment. If Net Revenues on hand at any time are insufficient to permit the transfer to the Sewer Revenue Bond Fund of the full amount so required, such deficiencies shall be restored out of the next Net Revenues thereafter received. There shall also be credited to said fund the accrued

interest, if any, paid on each subsequent issue of Additional Bonds and Additional SRF Bonds, if any. The money in said fund shall be solely for the purposes of paying principal of, and premium, if any, and interest on Bonds, as such principal, premium and interest respectively come due. Subordinate Bonds (hereinafter defined) shall not be payable from the Sewer Revenue Bond Fund.

In the event Net Revenues on deposit in the Sewer Revenue Bond Fund and amounts on deposit in the Surplus Fund available for transfer to the Sewer Revenue Bond Fund are insufficient to pay the principal of, and premium, if any, and interest on the Bonds then due, such Net Revenues and the transfers from the Surplus Fund shall be apportioned among each series of Bonds in proportion to the amount of principal, premium, if any, and interest then payable on the Bonds of each series. Transfers from any SRF Reserve Fund, including the Reserve Account established hereunder, shall be applied only to principal, premium, if any, and interest payable on the related series of SRF Bonds.

4.04. Surplus Fund. All surplus Net Revenues from time to time received in excess of the current requirements of the Sewer Revenue Bond Fund and any SRF Reserve Fund shall be credited on the books of the City to the Surplus Fund of the Sewer Utility Fund, provided that City reserves the right to create additional funds within said fund for the purpose of segregating any of such surplus Net Revenues which may be pledged and appropriated to the payment of any Subordinate Bonds hereafter issued to finance improvements, replacements, or repairs of the Sewer Utility, subject to the prior lien on the Net Revenues of the Bonds. Surplus Net Revenues on hand from time to time shall be available and shall be used to the full extent necessary to restore a deficiency in the Operation and Maintenance Fund, the Sewer Revenue Bond Fund, the Reserve Account and any other SRF Reserve Fund, but when not so needed may be used to pay for capital improvements, replacements, or repairs to the Sewer Utility, or to pay principal and interest on Subordinate Bonds hereafter issued for such purposes, or they may be used to redeem and pay prior to maturity Bonds (other than Subordinate Bonds) when and as such bonds become redeemable according to their terms, or purchase Bonds (other than Subordinate Bonds) in the secondary market when deemed advisable. The City shall maintain in the Surplus Fund such cash or investments as it shall from time to time determine to constitute an adequate reserve for operation or maintenance emergencies and for depreciation and contemplated improvement or replacement of the Sewer Utility. At the end of the City's fiscal year, if there are no deficiencies in the Operation and Maintenance Fund, the Sewer Revenue Bond Fund, or any SRF Reserve Fund and there is an adequate reserve for operation and maintenance emergencies and for depreciation, contemplated improvements and replacements of the Sewer Utility, the City may transfer monies in excess of such requirements to other funds of the City in accordance with and subject to the limitations contained in the ordinances of the City and the provisions of state law.

4.05. Rebate Fund. There is hereby established a Rebate Fund. The City shall from time to time, and as required by Section 148 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated in connection therewith, as amended (collectively, the "Code"), calculate the amount of rebate payable with respect to Bonds to the United States of America pursuant to Section 148 of the Code. The City may from time to time, and shall upon payment being due to the United States of America, withdraw the amount of such payment from the Surplus Fund and any SRF Reserve Fund, the Sewer Revenue Bond Fund and the Operation and Maintenance Fund, in such order, the amount of such payment notwithstanding any provision to the contrary in this Resolution. Amounts in the Rebate Fund shall be used solely to make required

payments to the United States of America and shall not be pledged to the payment of the Bonds. All interest earnings on investments in the Rebate Fund shall be retained in the Rebate Fund.

4.06. Reserve Account. A separate SRF Reserve Fund (the “Reserve Account”) is established within the Sewer Utility Fund and shall be funded to the total amount of **[\$898,275.00]**, in five installments of **[\$179,655.00]**, payable on each September 1 beginning September 1, 2022, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$20,229,000.

SECTION 5. Additional Net Revenues Parity Pledges.

5.01. Parity Bonds. The City reserves the right to issue one or more series of bonds with a parity of lien on the Net Revenues as to both principal and interest with the Bonds (herein referred to as “Additional Bonds”). The term Additional Bonds does not include Subordinate Bonds issued pursuant to Section 5.03 hereof, but does include Additional Bonds issued for refunding purposes issued pursuant to Section 5.04 hereof. In the event the City shall at any time determine it to be necessary and expedient to issue Additional Bonds to finance capital improvements of the Sewer Utility, such Additional Bonds will be made payable from the Net Revenues of the Sewer Utility on a parity as to both principal and interest with the then outstanding Bonds. Except as provided in Section 5.04, Additional Bonds or Additional SRF Bonds may be issued only if the annual Net Revenues received during the fiscal year of the City next preceding such issuance shall have equaled or exceeded 120% of the average annual principal and interest to become due and payable on all Bonds to be outstanding during the term of the proposed Additional Bonds.

If any of the rates and charges for sewer service shall have been increased or reduced at any time subsequent to the commencement of the fiscal year immediately preceding the issuance of additional Bonds as contemplated above, the Net Revenues for the period prior to such change shall be deemed, for the purpose of the computation required above, to be those which would have been received by applying the revised rates and charges to the service actually provided during such period, less the estimated amount of decrease in service, if any, due to an increase in said rates and charges, and by deducting from the gross revenues so determined the actual operating expenses of the Sewer Utility, together with reasonably expected increases in operating expenses resulting from the improvements financed by such Additional Bonds, as determined by the report of an independent engineer selected by the City, for said period.

So long as Bonds are outstanding pursuant to resolutions which require greater coverage for the issuance of additional parity bonds, the provisions of such resolutions shall govern.

5.02. Additional SRF Bonds. The City reserves the right to issue one or more series of bonds with a parity pledge of Net Revenues (hereinafter referred to as “Additional SRF Bonds”), so long as such bonds can be issued in compliance with the requirements of Section 5.01 or 5.04. The Additional SRF Bonds may be secured by a separate reserve fund (an “SRF Reserve Fund”), funded either by proceeds of such bonds or from Net Revenues, provided such separate reserve fund shall not be a greater amount than that required generally by the Public Finance Authority of the State of North Dakota for its similar loans. All Additional SRF Bonds must be sold to the Public Finance Authority of the State of North Dakota pursuant to its state revolving loan fund

program and shall bear interest at rates determined by the City to be less than available on publicly offered Additional Bonds at the time such bonds are issued.

5.03. Subordinate Lien Bonds. Except as authorized in Sections 5.01, 5.02 and 5.03, the City will issue no additional bonds or other obligations of any kind payable from or constituting a lien upon said Net Revenues of the Sewer Utility, unless the lien thereof is expressly made junior and subordinate to the lien on the then outstanding Bonds issued hereunder (“Subordinate Bonds”), and such additional bonds or obligations shall not be payable from the Sewer Revenue Bond Fund or any SRF Reserve Fund but may be payable from funds permitted to be transferred from the Surplus Fund to other funds of the City pursuant to Section 4.04 of this Resolution.

5.04. Refunding Bonds. The City reserves the right to issue one or more series of Additional Bonds or Additional SRF Bonds to refund any and all Bonds then outstanding. The additional bond requirements set forth in Section 5.01 as to 120% coverage shall not apply to the issuance of Refunding Bonds if in each fiscal year of the City the regularly scheduled debt service on the Refunding Bonds is not more than 105% of the debt service on the Bonds to be refunded thereby in the same fiscal year.

SECTION 6. Sewer Utility Covenants.

6.01. Rate Covenant. The City will establish, impose and collect rates and charges for the services, facilities, products, and by-products of the Sewer Utility, according to a schedule projected to generate Net Revenues in each fiscal year at least equal to, together with other revenues expected to be available therefor, including sales tax revenues, 120% of the actual annual debt service on all Bonds outstanding, and to pay all amounts owed to any insurer of the Bonds outstanding. If the actual Net Revenues fail to meet this level, the City shall promptly increase its rates and charges to a level so that Net Revenues are projected to meet the required level. Annual debt service shall be determined for each fiscal year on the basis of a bond year ending on the January 1 immediately following the end of each fiscal year.

6.02. Covenant to Maintain Sewer Utility. The City will continue to own, operate and maintain the Sewer Utility, and will not sell or otherwise dispose of any properties thereof; provided, that any properties of the Sewer Utility not essential to continued operation of the Sewer Utility in satisfaction of other covenants herein prescribed may be sold or otherwise disposed of at their market value, and the proceeds thereof used to purchase other property required for the Sewer Utility or to pay principal and interest on obligations issued with respect to the Sewer Utility. The City will continue to maintain the Sewer Utility in good and efficient operating condition, supplying wastewater service and facilities to the City and its inhabitants, and will not authorize or enfranchise the establishment of any other utility for such purpose.

6.03. General. The City covenants and agrees with the Holders from time to time of all the Municipal Securities that until all the Municipal Securities are fully discharged as provided in this Resolution, it will continue to hold, maintain and operate the Sewer Utility as a public convenience, free from all liens thereon or on the income therefrom, and will maintain, expend and account for its Sewer Utility Fund and the several funds therein as provided in Section 4, and will not issue bonds, notes or other indebtedness secured by or payable from the income or revenues of the Sewer Utility except upon the conditions and in the manner prescribed in Section 5,

and will perform and cause all officers and employees of the City to perform and enforce each and all of the additional covenants and agreements set forth in this Section 6. The City further covenants to cause the Sewer Utility to be properly maintained and no free service shall be provided to any person or corporation.

6.04. Competing Service. The City will not establish or enfranchise any other facilities in competition with the facilities of the Sewer Utility.

6.05. Property Insurance. The City will cause all buildings, properties, fixtures and equipment constituting a part of the Sewer Utility to be kept insured with a reputable insurance carrier or carriers, qualified under the laws of North Dakota, in such amounts as are ordinarily carried, and against loss or damage by such hazards and risks as are ordinarily insured against, by public bodies owning and operating properties of a similar character and size; provided that if at any time the City is unable to obtain insurance, it will obtain insurance in such amounts and against risks as are reasonably obtainable. The proceeds of all such insurance shall be available for the repair, replacement or reconstruction of damaged or destroyed property, and until paid out in making good such loss or damage, are pledged as security for the outstanding Bonds. All insurance proceeds received in excess of the amount required for restoration of the loss or damage compensated thereby shall be and become part of the revenues appropriated to the Sewer Utility Fund. If for any reason insurance proceeds are insufficient for the repair, replacement and reconstruction of the insured property, the City shall supply the deficiency from revenues on hand in the Surplus Fund.

6.06. Liability Insurance and Surety Bonds. The City will carry insurance against liability of the City and its employees for damage to persons and property resulting from the operation of the Sewer Utility in such amounts as the City determines from time to time to be necessary or advisable by reason of the character and extent of such operation. It will also cause all persons handling money and other assets of the Sewer Utility Fund to be adequately bonded for the faithful performance of their duties and to account for and pay over such money to the City. All amounts received under such insurance and bonds shall be applied to the payment of the loss or damage covered thereby. The premiums for all insurance and bonds required by this Section 6.06 and Section 6.05 constitute part of the operating expenses of the Sewer Utility, but no insurance liabilities of the City in excess of amounts received under such insurance and bonds shall constitute a lien or charge on revenues or any other assets herein or otherwise pledged to the Sewer Utility Fund.

6.07. Cost of Insurance and Accounting. The insurance and fidelity bond premiums and the cost of the bookkeeping and audits herein provided for and of the billings and collection of the gross revenues shall be payable from the Operation and Maintenance Fund.

6.08. General Covenants. The City hereby covenants and agrees with the owners of all outstanding Municipal Securities as follows:

- a. That it will, to the extent the Net Revenues are sufficient, promptly cause the principal and interest on all Municipal Securities to be paid as they become due.

- b. That it will maintain complete books and records relating to the operation of the Sewer Utility, the Sewer Revenue Bond Fund, Reserve Account, Operation and Maintenance Fund, and Surplus Fund, in accordance with generally accepted accounting principles, and will cause such books and records to be audited annually at the end of each fiscal year, and an audit report prepared and made available for inspection of owners of the Municipal Securities.
- c. That it will not issue bonds or other obligations having a claim superior to the claim of the Municipal Securities upon the Net Revenues of the Sewer Utility.
- d. That it will promptly deposit into the Sewer Revenue Bond Fund all sums required to be so deposited.
- e. That it will operate the Sewer Utility in a sound, efficient and economic manner.

SECTION 7. Miscellaneous.

7.01. Limited Obligations. The Municipal Securities issued hereunder shall not constitute a charge, lien or encumbrance upon any property of the City, and no holder or holders thereof shall ever have the right to compel any exercise of the taxing power of the City to pay the principal and interest on the Municipal Securities. The principal and interest of the Municipal Securities shall not be a general obligation of the City but are payable solely from the Net Revenues as set forth in this resolution.

7.02. Federal Tax Laws. The City hereby covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the holders of the Municipal Securities of the interest on the Municipal Securities under Section 103 of the Code. The City also covenants that it will not directly or indirectly use or permit the use of any of the proceeds of the Municipal Securities or any other funds or any facilities refinanced thereby or take or omit to take any action which would cause the Municipal Securities to be “arbitrage bonds” within the meaning of Section 148(a) of the Code or “private activity bonds” within the meaning of Section 141 of the Code. The City will comply with all requirements of Section 148 of the Code to the extent applicable to the Municipal Securities. The City shall comply with all requirements set forth in any tax compliance certificate executed in connection with the issuance of the Municipal Securities. The covenants and obligations of the City set forth in this Section 7.02 shall survive the payment, redemption and defeasance of the Municipal Securities until the expiration of all statutes of limitation applicable to the City with respect to the Municipal Securities.

The City recognizes that the provisions of this Section 7.02 are intended to comply with provisions of the Code applicable to the Municipal Securities and if as a result of a change in an applicable section of the Code or in the interpretation thereof, a change in this Section 7.02 shall be permitted or necessary to assure continued compliance with provisions of the Code, then the City shall be empowered to amend this Section 7.02 upon receipt of a written opinion of bond counsel satisfactory of the City to the effect that either (i) such amendment is required to maintain the exclusion from gross income under Section 103 of the Code of interest paid and payable on

the Municipal Securities, or (ii) such amendment shall not adversely affect the exclusion from gross income under Section 103 of the Code of interest paid or payable on the Municipal Securities.

This section shall be applicable only to the obligations, covenants, agreements, limitations, conditions and restrictions of and upon the City in relation to the holder of the Municipal Securities.

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Adopted _____, 2018.

CITY OF FARGO

By: _____
Tim Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

FORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA
 STATE OF NORTH DAKOTA
 COUNTY OF CASS

CITY OF FARGO

SEWER REVENUE BOND,
 SERIES 2018B

No. R-1 \$20,229,000

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
1.50%	September 1, 2052	[_____], 2018	NONE

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: TWENTY MILLION TWO HUNDRED TWENTY-NINE THOUSAND DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS that the City of Fargo, North Dakota (the “City”), a political subdivision of and existing under and pursuant to the laws of the State of North Dakota, for value received, hereby promises to pay solely from the sources set forth herein to the Registered Owner specified above, or registered assigns, the Principal Amount (set forth above), or such lesser amount actually disbursed to the City, on or before the Maturity Date (set forth above). Interest shall accrue from the Date of Original Issuance at the annual rate of one and one half percent (1.50%) and shall be payable semiannually on March 1 and September 1, commencing September 1, 2018. The Principal Amount of this Bond is subject to mandatory redemption on the dates and in the amounts set forth in Attachment A to this Municipal Security, which Attachment A shall be revised in accordance with Section 2.02 of the Loan Agreement in the event funds are advanced to the City less than as originally set forth in the Loan Agreement. The City hereby promises to pay the Administrative Fee, as defined in the Loan Agreement (being one half of one percent (0.50%) per annum on the outstanding principal amount of the Bond), payable semi-annually on each March 1 and September 1. All payments due with respect to this Bond are payable in lawful money of the United States of America at the main office of the Bank of North Dakota, in Bismarck, North Dakota, as paying agent and Registrar under the Resolution hereinafter described or of its successor as such. Interest shall be paid by check or draft mailed to the Registered Owner at the Owner’s address set forth on the registration books or by wire or other electronic funds transfer.

This Municipal Security is issued pursuant to and in full conformity with the Constitution and laws of the State of North Dakota, including N.D.C.C. ch. 40-35 (the “Act”), and pursuant to a Resolution (the “Resolution”) and a Loan Agreement (the “Loan Agreement”) adopted and

entered into by the City. Reference is hereby made to the Resolution and the Loan Agreement for a description of the Funds and Accounts pledged to the payment of the Municipal Securities and the rights of the Registered Owner of the Municipal Securities. The principal and interest payments for this Bond and the Administrative Fee payable hereunder are not general obligations of the City, but are payable solely from Net Revenues received by the City from the operation of the wastewater treatment facility of the City of Fargo and from any future additions thereto and betterments thereof.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the City kept by the Bank of North Dakota, as bond registrar, by the Registered Owner hereof in person or by the Owner's duly authorized attorney, or it may be surrendered in exchange for new Municipal Securities of the same aggregate principal amount, maturity and interest rate, as provided in the Resolution.

This Municipal Security shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Registered Owner, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

It is further certified, recited and declared that all acts, conditions and things required by the Constitution and the statutes of the State of North Dakota to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Municipal Securities have been performed in due time, form and manner as required by law; and that the issuance of the Municipal Securities is within every debt and other limit prescribed by law.

IN WITNESS WHEREOF, the City has caused this Municipal Securities to be executed in its name by the manual or facsimile signatures of its Mayor and of its City Auditor, all as of the Date of Original Issue set forth above.

CITY OF FARGO, NORTH DAKOTA

By: _____
Tim Mahoney
Mayor

ATTEST:

Steven Sprague City
Auditor

CERTIFICATE OF AUTHENTICATION

This Municipal Security is one of the Municipal Securities described in and issued under the provisions of the within-mentioned Resolution.

BANK OF NORTH DAKOTA

By: _____
Authorized Representative

ASSIGNMENT

For Value received the undersigned hereby sells, assigns and transfers unto _____ the within-mentioned Municipal Security and hereby irrevocably constitutes and appoints _____ attorney-in-fact, to transfer the same on the books of registration thereof, with full power of substitution in the premises.

Dated: _____, 20__

Social Security or other identifying number of Assignee

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Municipal Security in every particular, without alteration or any change whatsoever.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

ATTACHMENT A

Date	Principal	Interest	Total Principal & Interest	Annual P&I Payment	Outstanding Balance	Adm. Fee	Total Payment	Annual Total Payments	Debt Service Reserve Pending
					20,229,000.00				
9/1/2018	-	70,000.00	70,000.00	70,000.00	20,229,000.00	25,000.00	95,000.00	95,000.00	-
9/1/2019	-	(51,717.50)	151,717.50	151,717.50	20,229,000.00	50,372.50	202,290.00	202,290.00	-
9/1/2020	-	(51,717.50)	151,717.50	151,717.50	20,229,000.00	50,372.50	202,290.00	404,580.00	-
9/1/2021	-	(51,717.50)	151,717.50	151,717.50	20,229,000.00	50,372.50	202,290.00	607,170.00	-
9/1/2022	-	(51,717.50)	151,717.50	151,717.50	20,229,000.00	50,372.50	202,290.00	809,760.00	-
9/1/2023	9,000.00	(51,717.50)	160,717.50	160,717.50	21,241.00	20,229,000.00	50,372.50	211,290.00	179,655.00
9/1/2024	500,000.00	(51,650.00)	151,650.00	151,650.00	20,230,000.00	50,350.00	202,200.00	413,490.00	179,655.00
9/1/2025	510,000.00	(47,900.00)	147,900.00	147,900.00	19,720,000.00	49,700.00	197,300.00	610,790.00	179,655.00
9/1/2026	-	(44,075.00)	144,075.00	144,075.00	19,210,000.00	48,025.00	192,100.00	802,890.00	179,655.00
9/1/2027	510,000.00	(40,175.00)	140,175.00	140,175.00	18,690,000.00	46,725.00	186,900.00	989,790.00	179,655.00
9/1/2028	540,000.00	(36,200.00)	136,200.00	136,200.00	18,160,000.00	45,400.00	181,600.00	1,171,390.00	-
9/1/2029	550,000.00	(32,150.00)	132,150.00	132,150.00	17,620,000.00	44,050.00	176,200.00	1,347,590.00	-
9/1/2030	560,000.00	(28,025.00)	128,025.00	128,025.00	17,070,000.00	42,675.00	170,700.00	1,518,290.00	-
9/1/2031	570,000.00	(23,825.00)	123,825.00	123,825.00	16,510,000.00	41,275.00	165,100.00	1,683,390.00	-
9/1/2032	585,000.00	(19,550.00)	119,550.00	119,550.00	15,940,000.00	40,000.00	159,400.00	1,842,790.00	-
9/1/2033	595,000.00	(15,162.50)	115,162.50	115,162.50	15,355,000.00	38,800.00	153,962.50	2,006,752.50	-
9/1/2034	605,000.00	(10,700.00)	110,700.00	110,700.00	14,760,000.00	37,675.00	148,375.00	2,175,127.50	-
9/1/2035	620,000.00	(6,162.50)	106,162.50	106,162.50	14,155,000.00	36,600.00	142,762.50	2,347,890.00	-
9/1/2036	640,000.00	(1,512.50)	101,512.50	101,512.50	13,535,000.00	35,575.00	137,087.50	2,524,977.50	-
9/1/2037	660,000.00	(6,787.50)	96,787.50	96,787.50	12,905,000.00	34,600.00	131,387.50	2,706,365.00	-
9/1/2038	680,000.00	(11,950.00)	91,950.00	91,950.00	12,260,000.00	33,675.00	125,625.00	2,891,990.00	-
9/1/2039	690,000.00	(16,900.00)	87,000.00	87,000.00	11,600,000.00	32,800.00	119,800.00	3,081,790.00	-
9/1/2040	695,000.00	(21,625.00)	81,975.00	81,975.00	10,920,000.00	31,975.00	113,950.00	3,275,740.00	-
9/1/2041	700,000.00	(26,125.00)	76,875.00	76,875.00	10,245,000.00	31,200.00	108,075.00	3,474,815.00	-
9/1/2042	710,000.00	(30,387.50)	71,587.50	71,587.50	9,585,000.00	30,475.00	102,062.50	3,678,477.50	-
9/1/2043	720,000.00	(34,425.00)	66,262.50	66,262.50	8,940,000.00	29,800.00	95,862.50	3,887,340.00	-
9/1/2044	730,000.00	(38,150.00)	60,825.00	60,825.00	8,310,000.00	29,175.00	89,600.00	4,099,940.00	-
9/1/2045	740,000.00	(41,575.00)	55,275.00	55,275.00	7,700,000.00	28,600.00	83,275.00	4,315,215.00	-
9/1/2046	745,000.00	(44,700.00)	49,800.00	49,800.00	7,110,000.00	28,075.00	77,075.00	4,533,290.00	-
9/1/2047	750,000.00	(47,525.00)	44,275.00	44,275.00	6,540,000.00	27,600.00	70,875.00	4,753,165.00	-
9/1/2048	755,000.00	(50,050.00)	38,725.00	38,725.00	6,000,000.00	27,175.00	64,600.00	4,974,265.00	-
9/1/2049	760,000.00	(52,275.00)	33,450.00	33,450.00	5,490,000.00	26,800.00	58,350.00	5,195,615.00	-
9/1/2050	765,000.00	(54,200.00)	28,250.00	28,250.00	5,010,000.00	26,475.00	52,125.00	5,417,240.00	-
9/1/2051	770,000.00	(55,825.00)	23,125.00	23,125.00	4,570,000.00	26,200.00	46,025.00	5,639,265.00	-
9/1/2052	775,000.00	(57,150.00)	18,075.00	18,075.00	4,170,000.00	26,000.00	40,075.00	5,861,540.00	-
9/1/2053	780,000.00	(58,175.00)	13,125.00	13,125.00	3,800,000.00	25,875.00	34,300.00	6,083,840.00	-
9/1/2054	785,000.00	(58,900.00)	8,275.00	8,275.00	3,460,000.00	25,800.00	28,875.00	6,305,715.00	-
9/1/2055	790,000.00	(59,325.00)	3,450.00	3,450.00	3,150,000.00	25,775.00	23,625.00	6,526,340.00	-
9/1/2056	795,000.00	(59,450.00)	(1,400.00)	(1,400.00)	2,870,000.00	25,800.00	18,400.00	6,745,740.00	-
9/1/2057	800,000.00	(59,575.00)	(6,575.00)	(6,575.00)	2,620,000.00	25,875.00	13,225.00	6,963,965.00	-
Total	\$ 20,229,000.00	\$ 6,431,890.00	\$ 26,660,890.00	\$ 26,660,890.00	\$ 2,145,610.00	\$ 24,896,520.00	\$ 24,896,520.00	\$ 24,896,520.00	\$ 819,375.00

CERTIFICATE

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

I, Steven Sprague, the duly appointed City Auditor of the City of Fargo, North Dakota, do hereby certify that attached hereto is a full, true and correct copy of the Amended and Restated Resolution adopted by the governing body of the City of Fargo at the meeting held on [_____], 2018, and that such Resolution is now a part of the permanent records of the City of Fargo, North Dakota, as such records are filed in the office of the City Auditor.

Dated this __ day of [_____], 2018.

City Auditor

(SEAL)

Industrial Commission
of North Dakota

Doug Burgum
GOVERNOR

Wayne Stenehjem
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER



North Dakota Public Finance Authority

March 28, 2018

Steve Sprague
City of Fargo
200 North 3rd Street
Fargo, ND 58102

Dear Steve:

The Industrial Commission approved the City of Fargo's requested loan in the amount of \$20,229,000 on March 28, 2018. The financing will be provided under the Clean Water State Revolving Fund Program. This loan approval is contingent upon the ND Department of Health determining project eligibility and expires in one year. If the first draw of funds is not made within one year of the date of approval, the applicant must submit a new application and related attachments for consideration by the PFA and its' advisors, as applicable.

We are providing a copy of this letter and a preliminary debt service schedule to your bond counsel. Please contact your bond counsel to discuss and coordinate the completion of the loan documents. Once the form of the documents has been approved, you will receive a letter from the Health Department concerning the submissions of payment requests for draws against the approved loan amount.

Please be sure to alert your Independent Public Accounting Firm or the Office of the State Auditor that the Clean Water State Revolving Fund Program (Environmental Protection Agency's Capitalization Grants for State Revolving Funds, CFDA #66.458) is considered a federal award for auditing purposes. Your financial statements may be required to be audited in compliance with the Single Audit Act with respect to the receipt and expenditure of loan proceeds. In addition, any equipment purchased with SRF funds must comply with the federal equipment management requirements published in OMB Circular A-110 ('__34). If you have any questions, please discuss this with your Independent Public Accounting Firm or the Office of the State Auditor.

A copy of the annual or biennial audited financial statements, or the annual report, as appropriate under N.D.C.C.' 54-10-14, **must be submitted to the Public Finance Authority every year that the loan is outstanding.** This requirement is set out in the form of the loan agreement.

Please feel free to call us or your bond counsel if you have any questions concerning the loan closing.

Sincerely,

Lisa Froelich
Business Manager

cc: Dorsey & Whitney LLP

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TO: BOARD OF CITY COMMISSIONERS

FROM: KENT COSTIN, DIRECTOR OF FINANCE *Ksc*

RE: RESOLUTION AUTHORIZING THE ISSUANCE OF CITY OF FARGO WATER REVENUE BOND, SERIES 2018C (DWSRF) FOR WATER TREATMENT FACILITY IMPROVEMENTS, INCLUDING IMPROVEMENTS TO THE RAW WATER SUPPLY AND TREATMENT PROCESS

DATE: AUGUST 6, 2018

The State of North Dakota Industrial Commission approved our loan application totaling \$23,950,000 for water treatment facility improvements, including improvements to the raw water supply and treatment process on March 28, 2018. A copy of the approval letter is attached.

The terms of the loan include a 1.5% interest rate payable over a 30-year period. Water utility revenues will be the primary source of repayment for this obligation. Work on this project will begin in 2018 and is expected to be completed by 2022.

Your approval of the resolutions authorizing the issuance of this SRF loan is requested.

Suggested Motion:

Approve a resolution authorizing the issuance and sale of \$23,950,000 to City of Fargo Water Revenue Bond, Series 2018C.

CITY OF FARGO, STATE OF NORTH DAKOTA
RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
\$23,950,000
CITY OF FARGO WATER REVENUE BOND, SERIES 2018C

RECITATIONS

The City of Fargo, North Dakota (the “City”), hereby recites that by resolution of its governing body the City has:

1. Found and determined that it is necessary for the City to construct improvements to the City’s existing water treatment facility, including improvements to the raw water supply and treatment process (the “Project”).
2. Directed its engineer to prepare a report as to the general nature, purpose and feasibility of the Project and an estimate of the probable cost of the Project.
3. After receiving and approving the engineer’s report, directed the engineer to prepare detailed plans and specifications for construction of the Project.
4. Approved the engineer’s detailed plans and specifications for construction of the Project and caused a copy of such plans and specifications to be filed in the office of the City Auditor.
5. By publication, advertised for bids for construction of the Project.
6. Opened and made public the bids, entered them in the minutes of the meeting of the governing body at which they were considered and caused them to be kept by the City Auditor.
7. After requiring the engineer to make a careful and detailed statement of the estimated cost of the Project, awarded the contract to the lowest responsible bidder and approved the contractor’s performance bond.
8. Applied to the North Dakota Department of Health (the “Department”) and the North Dakota Public Finance Authority (the “Public Finance Authority”) for financial assistance to finance a portion of the cost of the Project, which application has been approved.
9. Performed all other acts required by the Constitution and laws of North Dakota prerequisite to the issuance and sale of revenue bonds and required by the Home Rule Charter and ordinances of the City of Fargo for the purpose of providing money to pay for the cost of the Project in the manner required of the City by law with full power and authority conferred on it as a political subdivision and municipality of North Dakota.

RESOLUTION

Be it resolved by the governing body of the City:

SECTION 1. Authorization and Sale.

1.01. Ratification of Prior Acts. All acts performed, resolutions, motions, or ordinances adopted or passed, and all publications incidental to the construction and financing of the Project, whether or not reflected in the official minutes and records of the City, are hereby ratified and confirmed, and all resolutions and other acts or proceedings of the City which are in any way inconsistent with this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

1.02. Authorization. It is hereby found and determined to be necessary for the City to issue \$23,950,000 in principal amount of its CITY OF FARGO WATER REVENUE BOND, SERIES 2018C (the "Municipal Securities"), pursuant to N.D.C.C. ch. 40-35, upon the terms as set forth in this Resolution.

1.03. Offer and Acceptance. The governing body of the City, in response to its application for financial assistance from the Department and the Public Finance Authority, has received an offer from the Public Finance Authority, subject to the approval of the Industrial Commission of North Dakota, to purchase the Municipal Securities at a price equal to the principal amount plus accrued interest, if any, to the date of purchase, which offer is more fully set out in a loan agreement to be entered into between the City and the Public Finance Authority (the "Loan Agreement"). It is hereby found and determined that the offer of the Public Finance Authority to purchase the Municipal Securities is reasonable and advantageous to the City and is hereby accepted, and the Loan Agreement, in substantially the form presented to the City at this meeting, is hereby accepted and authorized to be executed on behalf of the City by its Mayor and City Auditor (the "Authorized Officers"), with such modifications as may be approved by the Authorized Officers. The Authorized Officers are authorized and directed to execute the Loan Agreement and to deliver it to the Public Finance Authority, which execution and delivery shall be conclusive evidence of the approval of any modifications with respect to the Loan Agreement.

SECTION 2. Term of Bonds.

2.01. Form. The Municipal Securities issued under this Resolution shall be designated CITY OF FARGO WATER REVENUE BOND, SERIES 2018C, and shall be issued to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as Exhibit A.

2.02. Terms. The City authorizes the issuance of the Municipal Securities in the aggregate principal amount not to exceed \$23,950,000, dated the date of issuance and delivery to the Public Finance Authority.

The Municipal Securities shall bear interest commencing on the date of delivery thereof at the rate of 1.50% per year (plus an administrative fee as set out in the Loan Agreement), with principal payable in installments on September 1 of each of the years and in the amounts set forth below. Interest shall be payable semiannually on each March 1 and September 1 commencing September 1, 2018. Interest will be payable only on funds actually advanced to the City by the Public Finance Authority as a draw on the Municipal Securities. The schedule below and attached to the Municipal Securities will be revised to reflect the actual principal amount loaned to the City

at the completion of the Project. The Municipal Security is subject to mandatory sinking fund redemption together with accrued interest to the Redemption Date on September 1 of the following years and in the following principal amounts:

<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>	<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>
2021	\$590,000	2036	\$ 795,000
2022	600,000	2037	810,000
2023	615,000	2038	825,000
2024	625,000	2039	845,000
2025	645,000	2040	860,000
2026	655,000	2041	880,000
2027	665,000	2042	895,000
2028	680,000	2043	915,000
2029	690,000	2044	930,000
2030	705,000	2045	950,000
3031	720,000	2046	970,000
2032	735,000	2047	990,000
2033	755,000	2048	1,010,000
2034	770,000	2049	1,030,000
2035	780,000	2050*	1,015,000

*maturity

2.03. Payment to Registered Holders. The principal of and interest on the Municipal Securities shall be payable to the registered holder thereof at the address appearing on the registration books of the registrar in any coin or currency of the United States of America, which on the respective dates of payment is legal tender for the payment of public or private debts or by check or draft delivered to the registered holder thereof at the address appearing on the registration books of the registrar.

2.04. Registration. The Municipal Securities shall be registered as to both principal and interest and shall be initially registered in the name of and payable to the North Dakota Public Finance Authority. While so registered, principal of and interest on the Municipal Securities shall be payable at the office of the Bank of North Dakota, in Bismarck, North Dakota (the "Bank"), or such other place as may be designated by the Public Finance Authority in writing, delivered to the Registrar. The Bank shall act as Registrar and as such shall establish and maintain a register for the purpose of recording the names and addresses of the registered holders or assigns, and the date of such registration.

2.05. Transfer and Exchange. The Municipal Securities are transferable upon the books of the City at the principal office of the Bank of North Dakota, as bond registrar, or a successor bond registrar appointed by the Bank of North Dakota (the "Bond Registrar"), by the registered owner thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Municipal Securities of other authorized denominations. Upon such transfer or exchange, the City will cause

new Municipal Securities to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange. No transfer of Municipal Securities shall be required to be made during the 15 days next preceding an interest payment date, nor during the 45 days next preceding the date fixed for redemption of such Municipal Securities.

2.06. Registered Owner Deemed Owner. The City, the Bond Registrar and the paying agent may deem and treat the person in whose name any Municipal Securities are registered as the absolute owner thereof, whether the Municipal Securities are overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City, the Bond Registrar nor the paying agent shall be affected by any notice to the contrary. The City shall pay the fees and expenses of the Bond Registrar and the paying agent.

2.07. Execution and Delivery. The Municipal Securities shall forthwith be prepared under the direction of the City Auditor and when so prepared shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Auditor and shall be authenticated by the manual signature of the Registrar. When the Municipal Securities have been so executed and authenticated, they shall be delivered by the City to the Public Finance Authority.

2.08. Redemption. The Municipal Securities shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Public Finance Authority, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

2.09. Authorization of Related Documents. The Mayor, City Auditor, and other authorized officers of the City are hereby authorized to execute such additional agreements, certificates, and documents required or appropriate in connection with the issuance of the Municipal Securities and the transactions contemplated by the issuance thereof.

2.10. Draws of Municipal Security Proceeds. The proceeds of the Municipal Securities are irrevocably appropriated to pay expenses necessarily incurred in the construction and completion of the Project and to pay costs associated with the issuance of the Municipal Securities. Draws on the Municipal Securities, in the form of Requisitions for Payment, shall be submitted by the City to the Department from time to time in accordance with procedures established by the Department. Requisitions for Payment approved by the Department shall be forwarded to the Public Finance Authority for approval and funding.

SECTION 3. Source of Payment. The City hereby dedicates and pledges the Net Revenues (as defined in Section 4.02 hereof) of the City's water treatment facility (the "Water Utility") to the payment of the principal of and interest on the Municipal Securities on a parity basis with bonds previously issued or to be issued and secured by a pledge of the Net Revenues and permitted herein. There are currently no outstanding bonds secured by the Net Revenues on a parity basis with the Municipal Securities; however, the City's Sales Tax Revenue Bonds, Series 2008B; Sales Tax Revenue Bonds, Series 2008D and Amended and Restated Sales Tax Revenue Bonds, Series 2013B, are secured by a pledge of the Net Revenues in the event that the primary security

for such bonds is insufficient (such obligations, together with the Municipal Securities and any other obligations secured by the Net Revenues on a parity therewith, the "Bonds").

The Net Revenues are to be deposited in the funds set forth in Section 4 hereof.

SECTION 4. Funds.

4.01. Water Utility Fund. The City has created, and will maintain, a WATER UTILITY FUND (the "Water Utility Fund"). The City shall credit and pay to the Water Utility Fund, as received, the entire gross revenues derived from the operation of the City's Water Utility, including any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees and charges for services, facilities, products and by-products of the Water Utility furnished or sold to the City and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the Water Utility not necessary to be retained, and from the investment of any of the money so collected. On the books and records of the Water Utility Fund there shall be established and maintained the following funds as a part of the Water Utility Fund. Amounts on deposit in the Water Utility Fund from time to time shall be apportioned among said funds at least once in each calendar month and shall thereafter be held and administered and disbursed from the several funds established in this section.

4.02. Operation and Maintenance Fund. The City has created, and will maintain, an OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). Upon each such monthly apportionment, as a first lien and charge on the gross revenue, the City shall transfer to the Operation and Maintenance Fund from amounts on deposit in the Water Utility Fund such sum as shall be needed, over and above any credit balance held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for contingencies. Monies in the Operation and Maintenance Fund shall be used only to pay expenses of the foregoing type and not for major repairs, replacements, or capital improvements which are properly chargeable to replacement and depreciation reserves or surplus funds. All revenues in excess of such amount deposited to the Operation and Maintenance Fund shall be the Net Revenues (the "Net Revenues") of the Water Utility.

4.03. Water Revenue Bond Fund. The City has created, and will maintain, a WATER REVENUE BOND FUND (the "Water Revenue Bond Fund"). Upon each such monthly apportionment, out of the Net Revenues on hand at the time of each such distribution, an amount equal to not less than one-sixth (1/6) of the amount necessary to pay interest which becomes due on the next interest payment dates and an amount equal to not less than one-twelfth (1/12) of the sum of principal payments to become due on the next principal payment dates for the Bonds. These amounts may be reduced by an amount equal to the interest earnings on the Water Revenue Bond Fund credited to the Water Revenue Bond Fund subsequent to the last monthly apportionment. If Net Revenues on hand at any time are insufficient to permit the transfer to the Water Revenue Bond Fund of the full amount so required, such deficiencies shall be restored out of the next Net Revenues thereafter received. There shall also be credited to said fund the accrued interest, if any, paid on each subsequent issue of Additional Bonds and Additional SRF Bonds, if any. The money in said fund shall be solely for the purposes of paying principal of, and premium,

if any, and interest on Bonds, as such principal, premium and interest respectively come due. Subordinate Bonds (hereinafter defined) shall not be payable from the Water Revenue Bond Fund.

In the event Net Revenues on deposit in the Water Revenue Bond Fund and amounts on deposit in the Surplus Fund available for transfer to the Water Revenue Bond Fund are insufficient to pay the principal of, and premium, if any, and interest on the Bonds then due, such Net Revenues and the transfers from the Surplus Fund shall be apportioned among each series of Bonds in proportion to the amount of principal, premium, if any, and interest then payable on the Bonds of each series. Transfers from any SRF Reserve Fund, including the Reserve Account established hereunder, shall be applied only to principal, premium, if any, and interest payable on the related series of SRF Bonds.

4.04. Surplus Fund. All surplus Net Revenues from time to time received in excess of the current requirements of the Water Revenue Bond Fund and any SRF Reserve Fund shall be credited on the books of the City to the Surplus Fund of the Water Utility Fund, provided that City reserves the right to create additional funds within said fund for the purpose of segregating any of such surplus Net Revenues which may be pledged and appropriated to the payment of any Subordinate Bonds hereafter issued to finance improvements, replacements, or repairs of the Water Utility, subject to the prior lien on the Net Revenues of the Bonds. Surplus Net Revenues on hand from time to time shall be available and shall be used to the full extent necessary to restore a deficiency in the Operation and Maintenance Fund, the Water Revenue Bond Fund, the Reserve Account and any other SRF Reserve Fund, but when not so needed may be used to pay for capital improvements, replacements, or repairs to the Water Utility, or to pay principal and interest on Subordinate Bonds hereafter issued for such purposes, or they may be used to redeem and pay prior to maturity Bonds (other than Subordinate Bonds) when and as such bonds become redeemable according to their terms, or purchase Bonds (other than Subordinate Bonds) in the secondary market when deemed advisable. The City shall maintain in the Surplus Fund such cash or investments as it shall from time to time determine to constitute an adequate reserve for operation or maintenance emergencies and for depreciation and contemplated improvement or replacement of the Water Utility. At the end of the City's fiscal year, if there are no deficiencies in the Operation and Maintenance Fund, the Water Revenue Bond Fund, or any SRF Reserve Fund and there is an adequate reserve for operation and maintenance emergencies and for depreciation, contemplated improvements and replacements of the Water Utility, the City may transfer monies in excess of such requirements to other funds of the City in accordance with and subject to the limitations contained in the ordinances of the City and the provisions of state law.

4.05. Rebate Fund. There is hereby established a Rebate Fund. The City shall from time to time, and as required by Section 148 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated in connection therewith, as amended (collectively, the "Code"), calculate the amount of rebate payable with respect to Bonds to the United States of America pursuant to Section 148 of the Code. The City may from time to time, and shall upon payment being due to the United States of America, withdraw the amount of such payment from the Surplus Fund and any SRF Reserve Fund, the Water Revenue Bond Fund and the Operation and Maintenance Fund, in such order, the amount of such payment notwithstanding any provision to the contrary in this Resolution. Amounts in the Rebate Fund shall be used solely to make required payments to the United States of America and shall not be pledged to the payment of the Bonds. All interest earnings on investments in the Rebate Fund shall be retained in the Rebate Fund.

4.06. Reserve Account. A separate SRF Reserve Fund (the “Reserve Account”) is established within the Water Utility Fund and shall be funded to the total amount of **[\$1,060,675.00]**, in five installments of **[\$212,135.00]**, payable on each September 1 beginning September 1, 2021, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$23,950,000.

SECTION 5. Additional Net Revenues Parity Pledges.

5.01. Parity Bonds. The City reserves the right to issue one or more series of bonds with a parity of lien on the Net Revenues as to both principal and interest with the Bonds (herein referred to as “Additional Bonds”). The term Additional Bonds does not include Subordinate Bonds issued pursuant to Section 5.03 hereof, but does include Additional Bonds issued for refunding purposes issued pursuant to Section 5.04 hereof. In the event the City shall at any time determine it to be necessary and expedient to issue Additional Bonds to finance capital improvements of the Water Utility, such Additional Bonds will be made payable from the Net Revenues of the Water Utility on a parity as to both principal and interest with the then outstanding Bonds. Except as provided in Section 5.04, Additional Bonds or Additional SRF Bonds may be issued only if the annual Net Revenues received during the fiscal year of the City next preceding such issuance shall have equaled or exceeded 120% of the average annual principal and interest to become due and payable on all Bonds to be outstanding during the term of the proposed Additional Bonds.

If any of the rates and charges for water service shall have been increased or reduced at any time subsequent to the commencement of the fiscal year immediately preceding the issuance of additional Bonds as contemplated above, the Net Revenues for the period prior to such change shall be deemed, for the purpose of the computation required above, to be those which would have been received by applying the revised rates and charges to the service actually provided during such period, less the estimated amount of decrease in service, if any, due to an increase in said rates and charges, and by deducting from the gross revenues so determined the actual operating expenses of the Water Utility, together with reasonably expected increases in operating expenses resulting from the improvements financed by such Additional Bonds, as determined by the report of an independent engineer selected by the City, for said period.

So long as Bonds are outstanding pursuant to resolutions which require greater coverage for the issuance of additional parity bonds, the provisions of such resolutions shall govern.

5.02. Additional SRF Bonds. The City reserves the right to issue one or more series of bonds with a parity pledge of Net Revenues (hereinafter referred to as “Additional SRF Bonds”), so long as such bonds can be issued in compliance with the requirements of Section 5.01 or 5.04. The Additional SRF Bonds may be secured by a separate reserve fund (an “SRF Reserve Fund”), funded either by proceeds of such bonds or from Net Revenues, provided such separate reserve fund shall not be a greater amount than that required generally by the Public Finance Authority of the State of North Dakota for its similar loans. All Additional SRF Bonds must be sold to the Public Finance Authority of the State of North Dakota pursuant to its state revolving loan fund program and shall bear interest at rates determined by the City to be less than available on publicly offered Additional Bonds at the time such bonds are issued.

5.03. Subordinate Lien Bonds. Except as authorized in Sections 5.01, 5.02 and 5.03, the City will issue no additional bonds or other obligations of any kind payable from or constituting a lien upon said Net Revenues of the Water Utility, unless the lien thereof is expressly made junior and subordinate to the lien on the then outstanding Bonds issued hereunder (“Subordinate Bonds”), and such additional bonds or obligations shall not be payable from the Water Revenue Bond Fund or any SRF Reserve Fund but may be payable from funds permitted to be transferred from the Surplus Fund to other funds of the City pursuant to Section 4.04 of this Resolution.

5.04. Refunding Bonds. The City reserves the right to issue one or more series of Additional Bonds or Additional SRF Bonds to refund any and all Bonds then outstanding. The additional bond requirements set forth in Section 5.01 as to 120% coverage shall not apply to the issuance of Refunding Bonds if in each fiscal year of the City the regularly scheduled debt service on the Refunding Bonds is not more than 105% of the debt service on the Bonds to be refunded thereby in the same fiscal year.

SECTION 6. Water Utility Covenants.

6.01. Rate Covenant. The City will establish, impose and collect rates and charges for the services, facilities, products, and by-products of the Water Utility, according to a schedule projected to generate Net Revenues in each fiscal year at least equal to, together with other revenues expected to be available therefor, including sales tax revenues, 120% of the actual annual debt service on all Bonds outstanding, and to pay all amounts owed to any insurer of the Bonds outstanding. If the actual Net Revenues fail to meet this level, the City shall promptly increase its rates and charges to a level so that Net Revenues are projected to meet the required level. Annual debt service shall be determined for each fiscal year on the basis of a bond year ending on the January 1 immediately following the end of each fiscal year.

6.02. Covenant to Maintain Water Utility. The City will continue to own, operate and maintain the Water Utility, and will not sell or otherwise dispose of any properties thereof; provided, that any properties of the Water Utility not essential to continued operation of the Water Utility in satisfaction of other covenants herein prescribed may be sold or otherwise disposed of at their market value, and the proceeds thereof used to purchase other property required for the Water Utility or to pay principal and interest on obligations issued with respect to the Water Utility. The City will continue to maintain the Water Utility in good and efficient operating condition, supplying water service and facilities to the City and its inhabitants, and will not authorize or enfranchise the establishment of any other utility for such purpose.

6.03. General. The City covenants and agrees with the Holders from time to time of all the Municipal Securities that until all the Municipal Securities are fully discharged as provided in this Resolution, it will continue to hold, maintain and operate the Water Utility as a public convenience, free from all liens thereon or on the income therefrom, and will maintain, expend and account for its Water Utility Fund and the several funds therein as provided in Section 4, and will not issue bonds, notes or other indebtedness secured by or payable from the income or revenues of the Water Utility except upon the conditions and in the manner prescribed in Section 5, and will perform and cause all officers and employees of the City to perform and enforce each and all of the additional covenants and agreements set forth in this Section 6. The City further

covenants to cause the Water Utility to be properly maintained and no free service shall be provided to any person or corporation.

6.04. Competing Service. The City will not establish or enfranchise any other facilities in competition with the facilities of the Water Utility.

6.05. Property Insurance. The City will cause all buildings, properties, fixtures and equipment constituting a part of the Water Utility to be kept insured with a reputable insurance carrier or carriers, qualified under the laws of North Dakota, in such amounts as are ordinarily carried, and against loss or damage by such hazards and risks as are ordinarily insured against, by public bodies owning and operating properties of a similar character and size; provided that if at any time the City is unable to obtain insurance, it will obtain insurance in such amounts and against risks as are reasonably obtainable. The proceeds of all such insurance shall be available for the repair, replacement or reconstruction of damaged or destroyed property, and until paid out in making good such loss or damage, are pledged as security for the outstanding Bonds. All insurance proceeds received in excess of the amount required for restoration of the loss or damage compensated thereby shall be and become part of the revenues appropriated to the Water Utility Fund. If for any reason insurance proceeds are insufficient for the repair, replacement and reconstruction of the insured property, the City shall supply the deficiency from revenues on hand in the Surplus Fund.

6.06. Liability Insurance and Surety Bonds. The City will carry insurance against liability of the City and its employees for damage to persons and property resulting from the operation of the Water Utility in such amounts as the City determines from time to time to be necessary or advisable by reason of the character and extent of such operation. It will also cause all persons handling money and other assets of the Water Utility Fund to be adequately bonded for the faithful performance of their duties and to account for and pay over such money to the City. All amounts received under such insurance and bonds shall be applied to the payment of the loss or damage covered thereby. The premiums for all insurance and bonds required by this Section 6.06 and Section 6.05 constitute part of the operating expenses of the Water Utility, but no insurance liabilities of the City in excess of amounts received under such insurance and bonds shall constitute a lien or charge on revenues or any other assets herein or otherwise pledged to the Water Utility Fund.

6.07. Cost of Insurance and Accounting. The insurance and fidelity bond premiums and the cost of the bookkeeping and audits herein provided for and of the billings and collection of the gross revenues shall be payable from the Operation and Maintenance Fund.

6.08. General Covenants. The City hereby covenants and agrees with the owners of all outstanding Municipal Securities as follows:

- a. That it will, to the extent the Net Revenues are sufficient, promptly cause the principal and interest on all Municipal Securities to be paid as they become due.
- b. That it will maintain complete books and records relating to the operation of the Water Utility, the Water Revenue Bond Fund, Reserve Account, Operation and Maintenance Fund, and Surplus Fund, in accordance with generally accepted

accounting principles, and will cause such books and records to be audited annually at the end of each fiscal year, and an audit report prepared and made available for inspection of owners of the Municipal Securities.

- c. That it will not issue bonds or other obligations having a claim superior to the claim of the Municipal Securities upon the Net Revenues of the Water Utility.
- d. That it will promptly deposit into the Water Revenue Bond Fund all sums required to be so deposited.
- e. That it will operate the Water Utility in a sound, efficient and economic manner.

SECTION 7. Miscellaneous.

7.01. Limited Obligations. The Municipal Securities issued hereunder shall not constitute a charge, lien or encumbrance upon any property of the City, and no holder or holders thereof shall ever have the right to compel any exercise of the taxing power of the City to pay the principal and interest on the Municipal Securities. The principal and interest of the Municipal Securities shall not be a general obligation of the City but are payable solely from the Net Revenues as set forth in this resolution.

7.02. Federal Tax Laws. The City hereby covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the holders of the Municipal Securities of the interest on the Municipal Securities under Section 103 of the Code. The City also covenants that it will not directly or indirectly use or permit the use of any of the proceeds of the Municipal Securities or any other funds or any facilities refinanced thereby or take or omit to take any action which would cause the Municipal Securities to be “arbitrage bonds” within the meaning of Section 148(a) of the Code or “private activity bonds” within the meaning of Section 141 of the Code. The City will comply with all requirements of Section 148 of the Code to the extent applicable to the Municipal Securities. The City shall comply with all requirements set forth in any tax compliance certificate executed in connection with the issuance of the Municipal Securities. The covenants and obligations of the City set forth in this Section 7.02 shall survive the payment, redemption and defeasance of the Municipal Securities until the expiration of all statutes of limitation applicable to the City with respect to the Municipal Securities.

The City recognizes that the provisions of this Section 7.02 are intended to comply with provisions of the Code applicable to the Municipal Securities and if as a result of a change in an applicable section of the Code or in the interpretation thereof, a change in this Section 7.02 shall be permitted or necessary to assure continued compliance with provisions of the Code, then the City shall be empowered to amend this Section 7.02 upon receipt of a written opinion of bond counsel satisfactory of the City to the effect that either (i) such amendment is required to maintain the exclusion from gross income under Section 103 of the Code of interest paid and payable on the Municipal Securities, or (ii) such amendment shall not adversely affect the exclusion from gross income under Section 103 of the Code of interest paid or payable on the Municipal Securities.

This section shall be applicable only to the obligations, covenants, agreements, limitations, conditions and restrictions of and upon the City in relation to the holder of the Municipal Securities.

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Adopted _____, 2018.

CITY OF FARGO

By: _____
Tim Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

FORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
COUNTY OF CASS

CITY OF FARGO

WATER REVENUE BOND,
SERIES 2018C

No. R-1 \$23,950,000

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
1.50%	September 1, 2050	[_____], 2018	NONE

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: TWENTY-THREE MILLION NINE HUNDRED FIFTY
THOUSAND DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS that the City of Fargo, North Dakota (the "City"), a political subdivision of and existing under and pursuant to the laws of the State of North Dakota, for value received, hereby promises to pay solely from the sources set forth herein to the Registered Owner specified above, or registered assigns, the Principal Amount (set forth above), or such lesser amount actually disbursed to the City, on or before the Maturity Date (set forth above). Interest shall accrue from the Date of Original Issuance at the annual rate of one and one half percent (1.50%) and shall be payable semiannually on March 1 and September 1, commencing September 1, 2018. The Principal Amount of this Bond is subject to mandatory redemption on the dates and in the amounts set forth in Attachment A to this Municipal Security, which Attachment A shall be revised in accordance with Section 2.02 of the Loan Agreement in the event funds are advanced to the City less than as originally set forth in the Loan Agreement. The City hereby promises to pay the Administrative Fee, as defined in the Loan Agreement (being one half of one percent (0.50%) per annum on the outstanding principal amount of the Bond), payable semi-annually on each March 1 and September 1. All payments due with respect to this Bond are payable in lawful money of the United States of America at the main office of the Bank of North Dakota, in Bismarck, North Dakota, as paying agent and Registrar under the Resolution hereinafter described or of its successor as such. Interest shall be paid by check or draft mailed to the Registered Owner at the Owner's address set forth on the registration books or by wire or other electronic funds transfer.

This Municipal Security is issued pursuant to and in full conformity with the Constitution and laws of the State of North Dakota, including N.D.C.C. ch. 40-35 (the "Act"), and pursuant to a Resolution (the "Resolution") and a Loan Agreement (the "Loan Agreement") adopted and

entered into by the City. Reference is hereby made to the Resolution and the Loan Agreement for a description of the Funds and Accounts pledged to the payment of the Municipal Securities and the rights of the Registered Owner of the Municipal Securities. The principal and interest payments for this Bond and the Administrative Fee payable hereunder are not general obligations of the City, but are payable solely from Net Revenues received by the City from the operation of the water treatment facility of the City of Fargo and from any future additions thereto and betterments thereof.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the City kept by the Bank of North Dakota, as bond registrar, by the Registered Owner hereof in person or by the Owner's duly authorized attorney, or it may be surrendered in exchange for new Municipal Securities of the same aggregate principal amount, maturity and interest rate, as provided in the Resolution.

This Municipal Security shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Registered Owner, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

It is further certified, recited and declared that all acts, conditions and things required by the Constitution and the statutes of the State of North Dakota to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Municipal Securities have been performed in due time, form and manner as required by law; and that the issuance of the Municipal Securities is within every debt and other limit prescribed by law.

IN WITNESS WHEREOF, the City has caused this Municipal Securities to be executed in its name by the manual or facsimile signatures of its Mayor and of its City Auditor, all as of the Date of Original Issue set forth above.

CITY OF FARGO, NORTH DAKOTA

By: _____
Tim Mahoney
Mayor

ATTEST:

Steven Sprague City
Auditor

CERTIFICATE OF AUTHENTICATION

This Municipal Security is one of the Municipal Securities described in and issued under the provisions of the within-mentioned Resolution.

BANK OF NORTH DAKOTA

By: _____
Authorized Representative

ASSIGNMENT

For Value received the undersigned hereby sells, assigns and transfers unto _____ the within-mentioned Municipal Security and hereby irrevocably constitutes and appoints _____ attorney-in-fact, to transfer the same on the books of registration thereof, with full power of substitution in the premises.

Dated: _____, 20__

Social Security or other identifying number of Assignee

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Municipal Security in every particular, without alteration or any change whatsoever.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

ATTACHMENT A

Date	Principal	Interest	Total Principal & Interest	Annual PMT Payment	Outstanding Balance	Annual Fee	Total Payment	Annual Total Payment	Debt Service Reserve Funding
9/1/2018	-	30,000.00	30,000.00	30,000.00	23,950,000.00	60,000.00	40,000.00	40,000.00	-
9/1/2019	-	179,625.00	179,625.00	179,625.00	23,950,000.00	60,000.00	219,500.00	219,500.00	-
9/1/2020	-	179,625.00	179,625.00	179,625.00	23,950,000.00	60,000.00	479,000.00	479,000.00	-
9/1/2021	-	179,625.00	179,625.00	179,625.00	23,950,000.00	60,000.00	738,500.00	738,500.00	-
9/1/2022	-	179,625.00	179,625.00	179,625.00	23,950,000.00	60,000.00	998,000.00	998,000.00	-
9/1/2023	590,000.00	179,625.00	769,625.00	769,625.00	23,360,000.00	60,000.00	1,068,000.00	1,068,000.00	212,134.00
9/1/2024	600,000.00	175,200.00	775,200.00	775,200.00	22,760,000.00	60,000.00	1,067,200.00	1,067,200.00	212,134.00
9/1/2025	615,000.00	170,700.00	785,700.00	785,700.00	22,160,000.00	60,000.00	1,070,200.00	1,070,200.00	212,135.00
9/1/2026	629,200.00	166,187.50	795,387.50	795,387.50	21,550,000.00	60,000.00	1,073,387.50	1,073,387.50	212,135.00
9/1/2027	645,000.00	161,400.00	806,400.00	806,400.00	20,920,000.00	60,000.00	1,077,400.00	1,077,400.00	212,134.00
9/1/2028	655,000.00	156,562.50	811,562.50	811,562.50	20,270,000.00	60,000.00	1,077,500.00	1,077,500.00	-
9/1/2029	665,000.00	151,650.00	816,650.00	816,650.00	19,600,000.00	60,000.00	1,079,650.00	1,079,650.00	-
9/1/2030	680,000.00	146,662.50	826,662.50	826,662.50	18,910,000.00	60,000.00	1,071,100.00	1,071,100.00	-
9/1/2031	690,000.00	141,562.50	831,562.50	831,562.50	18,200,000.00	60,000.00	1,063,500.00	1,063,500.00	-
9/1/2032	705,000.00	136,387.50	841,387.50	841,387.50	17,470,000.00	60,000.00	1,057,387.50	1,057,387.50	-
9/1/2033	720,000.00	131,100.00	851,100.00	851,100.00	16,720,000.00	60,000.00	1,052,100.00	1,052,100.00	-
9/1/2034	730,000.00	125,700.00	855,700.00	855,700.00	15,950,000.00	60,000.00	1,047,700.00	1,047,700.00	-
9/1/2035	745,000.00	120,200.00	865,200.00	865,200.00	15,160,000.00	60,000.00	1,044,200.00	1,044,200.00	-
9/1/2036	755,000.00	114,625.00	869,625.00	869,625.00	14,350,000.00	60,000.00	1,041,625.00	1,041,625.00	-
9/1/2037	770,000.00	108,987.50	878,987.50	878,987.50	13,520,000.00	60,000.00	1,039,987.50	1,039,987.50	-
9/1/2038	785,000.00	103,300.00	888,300.00	888,300.00	12,670,000.00	60,000.00	1,039,300.00	1,039,300.00	-
9/1/2039	795,000.00	97,562.50	892,562.50	892,562.50	11,800,000.00	60,000.00	1,039,562.50	1,039,562.50	-
9/1/2040	810,000.00	91,787.50	901,787.50	901,787.50	10,910,000.00	60,000.00	1,040,787.50	1,040,787.50	-
9/1/2041	825,000.00	85,987.50	910,987.50	910,987.50	10,000,000.00	60,000.00	1,042,987.50	1,042,987.50	-
9/1/2042	845,000.00	80,162.50	925,162.50	925,162.50	9,070,000.00	60,000.00	1,047,162.50	1,047,162.50	-
9/1/2043	860,000.00	74,312.50	934,312.50	934,312.50	8,130,000.00	60,000.00	1,052,312.50	1,052,312.50	-
9/1/2044	880,000.00	68,437.50	948,437.50	948,437.50	7,180,000.00	60,000.00	1,058,437.50	1,058,437.50	-
9/1/2045	900,000.00	62,537.50	962,537.50	962,537.50	6,220,000.00	60,000.00	1,065,537.50	1,065,537.50	-
9/1/2046	920,000.00	56,612.50	976,612.50	976,612.50	5,250,000.00	60,000.00	1,073,612.50	1,073,612.50	-
9/1/2047	940,000.00	50,662.50	990,662.50	990,662.50	4,270,000.00	60,000.00	1,082,662.50	1,082,662.50	-
9/1/2048	1,010,000.00	44,700.00	1,054,700.00	1,054,700.00	3,280,000.00	60,000.00	1,092,700.00	1,092,700.00	-
9/1/2049	1,030,000.00	38,712.50	1,068,712.50	1,068,712.50	2,280,000.00	60,000.00	1,099,712.50	1,099,712.50	-
9/1/2050	1,015,000.00	32,700.00	1,047,700.00	1,047,700.00	1,270,000.00	60,000.00	1,050,700.00	1,050,700.00	-
Total	\$ 21,950,000.00	\$ 6,440,150.00	\$ 28,390,150.00	\$ 28,390,150.00	\$ -	\$ 2,280,000.00	\$ 33,870,200.00	\$ 33,870,200.00	\$ 1,046,671.00

CERTIFICATE

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

I, Steven Sprague, the duly appointed City Auditor of the City of Fargo, North Dakota, do hereby certify that attached hereto is a full, true and correct copy of the Amended and Restated Resolution adopted by the governing body of the City of Fargo at the meeting held on [____], 2018, and that such Resolution is now a part of the permanent records of the City of Fargo, North Dakota, as such records are filed in the office of the City Auditor.

Dated this __ day of [____], 2018.

City Auditor

(SEAL)

Industrial Commission
of North Dakota

Doug Burgum
GOVERNOR

Wayne Stenehjem
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER



North Dakota Public Finance Authority

March 28, 2018

Steve Sprague
City of Fargo
200 North 3rd Street
Fargo, ND 58102

Dear Steve:

On March 28, 2018, the Industrial Commission approved a loan in the amount of \$23,950,000 requested by the City of Fargo. The loan will be made under the Public Finance Authority's Drinking Water State Revolving Fund Program. This loan approval is contingent upon the ND Department of Health determining project eligibility and expires in one year. If the first draw of funds is not made within one year of the date of approval, the applicant must submit a new application and related attachments for consideration by the PFA and its' advisors, as applicable.

We are providing a copy of this letter and a preliminary debt service schedule to your bond counsel. Please contact your bond counsel to discuss and coordinate the completion of the loan documents. Once the form of the documents have been approved, you will receive a letter from the Health Department concerning the submissions of payment requests for draws against the approved loan amount.

Please be sure to alert your Independent Public Accounting Firm or the Office of the State Auditor that the Drinking Water State Revolving Fund Program (Environmental Protection Agency's Capitalization Grants for Drinking Water State Revolving Funds, CFDA #66.468) is considered a federal award for auditing purposes. Your financial statements may be required to be audited in compliance with the Single Audit Act with respect to the receipt and expenditure of loan proceeds. In addition, any equipment purchased with SRF funds must comply with the Federal equipment management requirements published in OMB Circular A-110 ('__34). If you have any questions, please discuss this with your Independent Public Accounting Firm or the office of the State Auditor.

A copy of the annual or biennial audited financial statements, or the annual report, as appropriate under N.D.C.C.' 54-10-14, **must be submitted to the Public Finance Authority every year that the loan is outstanding.** This requirement is set out in the form of the loan agreement.

Please feel free to call your bond counsel or us if you have any questions concerning the loan closing.

Sincerely,

Lisa Froelich
Business Manager

CC: Dorsey & Whitney LLP

Drinking Water Loan Info - PRELIMINARY	
Loan #	97
Loan	Fargo
Interest Rate	1.50%
Administration Fee	0.50%
Approved Amount	23,950,000.00
Loan Amount	23,950,000.00
Fully Funded Amount	0.00
Issuance Denomination	5,000.00
Credit Rating	None
Security Type	Revenue
Closing Date	5/1/2018
First Maturity	9/1/2021
Term	30
Final Maturity	9/1/2050
First Interest	9/1/2018
First Interest Payment	30,000.00
First Admin. Payment	10,000.00
Debt Service Reserve Fund	1,060,675.00
First DSRF Payment	9/1/2021

Project Description
Raw Water Supply & Treatment Process Improvements

Date	Principal	Interest	Total Principal & Interest	Annual P&I Payment	Outstanding Balance	Admin. Fee	Total Payment	Annual Total Payment	Debt Service Reserve Funding
9/1/2018	-	30,000.00	30,000.00	30,000.00	23,950,000.00	10,000.00	40,000.00	40,000.00	-
3/1/2019	-	179,625.00	179,625.00	-	23,950,000.00	59,875.00	239,500.00	-	-
9/1/2019	-	179,625.00	179,625.00	359,250.00	23,950,000.00	59,875.00	239,500.00	479,000.00	-
3/1/2020	-	179,625.00	179,625.00	-	23,950,000.00	59,875.00	239,500.00	-	-
9/1/2020	-	179,625.00	179,625.00	359,250.00	23,950,000.00	59,875.00	239,500.00	479,000.00	-
3/1/2021	-	179,625.00	179,625.00	-	23,950,000.00	59,875.00	239,500.00	-	-
9/1/2021	590,000.00	179,625.00	769,625.00	949,250.00	23,360,000.00	59,875.00	829,500.00	1,069,000.00	212,135.00
3/1/2022	-	175,200.00	175,200.00	-	23,360,000.00	58,400.00	233,600.00	-	-
9/1/2022	600,000.00	175,200.00	775,200.00	950,400.00	22,760,000.00	58,400.00	833,600.00	1,067,200.00	212,135.00
3/1/2023	-	170,700.00	170,700.00	-	22,760,000.00	56,900.00	227,600.00	-	-
9/1/2023	615,000.00	170,700.00	785,700.00	956,400.00	22,145,000.00	56,900.00	842,600.00	1,070,200.00	212,135.00
3/1/2024	-	166,087.50	166,087.50	-	22,145,000.00	55,362.50	221,450.00	-	-
9/1/2024	625,000.00	166,087.50	791,087.50	957,175.00	21,520,000.00	55,362.50	846,450.00	1,067,900.00	212,135.00
3/1/2025	-	161,400.00	161,400.00	-	21,520,000.00	53,800.00	215,200.00	-	-
9/1/2025	645,000.00	161,400.00	806,400.00	967,800.00	20,875,000.00	53,800.00	860,200.00	1,075,400.00	212,135.00
3/1/2026	-	156,562.50	156,562.50	-	20,875,000.00	52,187.50	208,750.00	-	-
9/1/2026	655,000.00	156,562.50	811,562.50	968,125.00	20,220,000.00	52,187.50	863,750.00	1,072,500.00	-
3/1/2027	-	151,650.00	151,650.00	-	20,220,000.00	50,550.00	202,200.00	-	-
9/1/2027	665,000.00	151,650.00	816,650.00	968,300.00	19,555,000.00	50,550.00	867,200.00	1,069,400.00	-
3/1/2028	-	146,662.50	146,662.50	-	19,555,000.00	48,887.50	195,550.00	-	-
9/1/2028	680,000.00	146,662.50	826,662.50	973,325.00	18,875,000.00	48,887.50	875,550.00	1,071,100.00	-
3/1/2029	-	141,562.50	141,562.50	-	18,875,000.00	47,187.50	188,750.00	-	-
9/1/2029	690,000.00	141,562.50	831,562.50	973,125.00	18,185,000.00	47,187.50	878,750.00	1,067,500.00	-
3/1/2030	-	136,387.50	136,387.50	-	18,185,000.00	45,462.50	181,850.00	-	-
9/1/2030	705,000.00	136,387.50	841,387.50	977,775.00	17,480,000.00	45,462.50	886,850.00	1,068,700.00	-
3/1/2031	-	131,100.00	131,100.00	-	17,480,000.00	43,700.00	174,800.00	-	-
9/1/2031	720,000.00	131,100.00	851,100.00	982,200.00	16,760,000.00	43,700.00	894,800.00	1,069,600.00	-
3/1/2032	-	125,700.00	125,700.00	-	16,760,000.00	41,900.00	167,600.00	-	-
9/1/2032	735,000.00	125,700.00	860,700.00	986,400.00	16,025,000.00	41,900.00	902,600.00	1,070,200.00	-
3/1/2033	-	120,187.50	120,187.50	-	16,025,000.00	40,162.50	160,250.00	-	-
9/1/2033	755,000.00	120,187.50	875,187.50	995,375.00	15,270,000.00	40,162.50	915,250.00	1,075,500.00	-
3/1/2034	-	114,525.00	114,525.00	-	15,270,000.00	38,175.00	152,700.00	-	-
9/1/2034	770,000.00	114,525.00	884,525.00	999,050.00	14,500,000.00	38,175.00	922,700.00	1,075,400.00	-
3/1/2035	-	108,750.00	108,750.00	-	14,500,000.00	36,250.00	145,000.00	-	-
9/1/2035	780,000.00	108,750.00	888,750.00	997,500.00	13,720,000.00	36,250.00	925,000.00	1,070,000.00	-
3/1/2036	-	102,900.00	102,900.00	-	13,720,000.00	34,300.00	137,200.00	-	-
9/1/2036	795,000.00	102,900.00	897,900.00	1,000,800.00	12,925,000.00	34,300.00	932,200.00	1,069,400.00	-
3/1/2037	-	96,937.50	96,937.50	-	12,925,000.00	32,312.50	129,250.00	-	-
9/1/2037	810,000.00	96,937.50	906,937.50	1,003,875.00	12,115,000.00	32,312.50	939,250.00	1,068,500.00	-
3/1/2038	-	90,862.50	90,862.50	-	12,115,000.00	30,287.50	121,150.00	-	-
9/1/2038	825,000.00	90,862.50	915,862.50	1,006,725.00	11,290,000.00	30,287.50	946,150.00	1,067,300.00	-
3/1/2039	-	84,675.00	84,675.00	-	11,290,000.00	28,225.00	112,900.00	-	-
9/1/2039	845,000.00	84,675.00	929,675.00	1,014,350.00	10,445,000.00	28,225.00	957,900.00	1,070,800.00	-
3/1/2040	-	78,337.50	78,337.50	-	10,445,000.00	26,112.50	104,450.00	-	-
9/1/2040	860,000.00	78,337.50	938,337.50	1,016,675.00	9,585,000.00	26,112.50	964,450.00	1,068,900.00	-
3/1/2041	-	71,887.50	71,887.50	-	9,585,000.00	23,962.50	95,850.00	-	-
9/1/2041	880,000.00	71,887.50	951,887.50	1,023,775.00	8,705,000.00	23,962.50	975,850.00	1,071,700.00	-
3/1/2042	-	65,287.50	65,287.50	-	8,705,000.00	21,762.50	87,050.00	-	-
9/1/2042	895,000.00	65,287.50	960,287.50	1,025,575.00	7,810,000.00	21,762.50	982,050.00	1,069,100.00	-
3/1/2043	-	58,575.00	58,575.00	-	7,810,000.00	19,525.00	78,100.00	-	-
9/1/2043	915,000.00	58,575.00	973,575.00	1,032,150.00	6,895,000.00	19,525.00	993,000.00	1,071,200.00	-
3/1/2044	-	51,712.50	51,712.50	-	6,895,000.00	17,237.50	68,950.00	-	-
9/1/2044	930,000.00	51,712.50	981,712.50	1,033,425.00	5,965,000.00	17,237.50	998,950.00	1,067,900.00	-
3/1/2045	-	44,737.50	44,737.50	-	5,965,000.00	14,912.50	59,650.00	-	-
9/1/2045	950,000.00	44,737.50	994,737.50	1,039,475.00	5,015,000.00	14,912.50	1,009,650.00	1,069,300.00	-
3/1/2046	-	37,612.50	37,612.50	-	5,015,000.00	12,537.50	50,150.00	-	-
9/1/2046	970,000.00	37,612.50	1,007,612.50	1,045,225.00	4,045,000.00	12,537.50	1,020,150.00	1,070,300.00	-
3/1/2047	-	30,337.50	30,337.50	-	4,045,000.00	10,112.50	40,450.00	-	-
9/1/2047	990,000.00	30,337.50	1,020,337.50	1,050,675.00	3,055,000.00	10,112.50	1,030,450.00	1,070,900.00	-
3/1/2048	-	22,912.50	22,912.50	-	3,055,000.00	7,637.50	30,550.00	-	-
9/1/2048	1,010,000.00	22,912.50	1,032,912.50	1,055,825.00	2,045,000.00	7,637.50	1,040,550.00	1,071,100.00	-
3/1/2049	-	15,337.50	15,337.50	-	2,045,000.00	5,112.50	20,450.00	-	-
9/1/2049	1,030,000.00	15,337.50	1,045,337.50	1,060,675.00	1,015,000.00	5,112.50	1,050,450.00	1,070,900.00	-
3/1/2050	-	7,612.50	7,612.50	-	1,015,000.00	2,537.50	10,150.00	-	-
9/1/2050	1,015,000.00	7,612.50	1,022,612.50	1,030,225.00	-	2,537.50	1,025,150.00	1,035,300.00	-
Total	\$ 23,950,000.00	\$ 6,840,150.00	\$ 30,790,150.00	\$ 30,790,150.00		\$ 2,280,050.00	\$ 33,070,200.00	\$ 33,070,200.00	\$ 1,060,675.00