

FARGO CITY COMMISSION AGENDA  
Monday, April 9, 2018 - 5:00 p.m.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at [www.FargoND.gov/streaming](http://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](http://www.FargoND.gov/citycommission).

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, March 26, 2018).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Receive and file an Ordinance Amending Section 25-1504.3, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 2. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Diamond Willow Addition, a Replat of Portions of Douglas Addition.
- 3. Applications for Games of Chance:
  - a. Mark Paulson Benefit for a raffle on 5/11/18; Public Spirited Resolution.
  - b. Saddle and Sirloin Club for a raffle on 4/18/18.
  - c. Tri-City Storm Soccer Club for a raffle on 7/10/18.
  - d. YWCA Cass Clay for a raffle on 4/30/18.
  - e. American Legion Post 2 Baseball for a calendar raffle from 7/1/18 through 8/30/18.
- 4. Applications for property tax exemptions for improvements made to buildings:
  - a. Dacia C. and Danny J. Meckle, 19 Birch Lane South (3 year).
  - b. Startup House LLC, 721 9th Street North (5 year).
- 5. Six-month extension of the Class "FA" Alcoholic Beverage License for Perla's Fresh Mexican.
- 6. Sole Source Procurement to Tyco SimplexGrinnell for upgrading/updating the existing Simplex 4100+ fire alarm control panel at the FARGODOME.
- 7. Submittal of a letter of support to the Governor of ND for the Opportunity Zone applications submitted by the City of Fargo.
- 8. Lease of Property with Cass County for Lots 4, 5 and 6, Block 1, Chrisan 1st Subdivision.
- 9. Adopt Resolutions Approving the following Plats:
  - a. Urban Plains Northeast Retail 3rd Addition.
  - b. BLU Water Creek Third Addition.
- 10. Forward Contract with Northdale Oil, Inc. for fuel purchasing in the 3rd and 4th Quarters of 2018.

11. Private Utility Maintenance Agreement with Edgewood Development LLC and Edgewood Master Association Inc.
12. Extension of the Services Agreements – Lawn Maintenance Services with Glacier Snow Management Company and Valley Green & Associates for the 2018 mowing season (RFP17063 and RFP17155).
13. Purchase of one stump cutter from RDO Equipment in the total amount of \$41,000.00.
14. CPM Agreement with the NDDOT for the Dill Hill Shared Use Path Project (Project No. SN-18-A1).
15. Installation of utility box artwork wraps and Agreement with the Fargo BID.
16. Bid award for chemicals at the Water Treatment Plant for the remainder of 2018.
17. Change Orders for Project No. WA1301:
  - a. No. 16 for an increase of \$118,636.00 for the general construction contract.
  - b. No. 14 for an increase of \$17,841.25 for the mechanical construction contract.
  - c. No. 8 for an increase of \$52,468.00 for the electrical construction contract.
18. Agreement with KLJ, Inc. for professional services outlined in Exhibit A.
19. Contracts and bonds for Project No. PR-18-A1, FARGODOME Suite Remodel and FARGODOME Handicap Seating.
20. Bills.
21. Infrastructure request to create Improvement District No. BN-18-B1.
22. Contract Amendment No. 3 for an increase of \$33,008.00 for Improvement District No. PR-17-B0.
23. Easement (Temporary Construction Easement) from Rabanus West, LLC in association with Improvement District No. BR-18-C1.
24. Bid award for Improvement District Nos. BN-18-J1 and SL-17-B1.
25. Create Improvement District Nos. BN-18-A, BN-18-B, BR-18-G2, NR-18-A, PN-18-A and TN-18-A.
26. Contracts and bonds for Improvement District Nos. BN-18-G1 and PR-18-E1.

**REGULAR AGENDA:**

27. Presentation of MATBUS eco benefits in commemoration of Earth Week 2018.
28. Update on the Sound the Alarm Event.
29. Public Hearings - 5:15 pm:
  - a. Special assessments of sewer repairs.

- b. Transfer of a Class "B" Alcoholic Beverage License from Main Liquors Inc. d/b/a Main Liquors to Dakota Liquors LLC d/b/a Main Liquors at 4000 Main Avenue; continued from the 3/26/18 Regular Meeting.
  - c. Transfer of a Class "FA" Alcoholic Beverage License from B.A.B 32nd Avenue South, LLC d/b/a Moe's Southwest Grill to HRP Fargo LLC d/b/a The Tavern Grill at 3233 45th Street South; continued from the 3/26/18 Regular Meeting.
  - d. Transfer of a Class "FA-RZ" Alcoholic Beverage License from Mosaic Foods LLC d/b/a Mezzaluna to Snelling Hospitality LLC d/b/a Mezzaluna at 309 Roberts Street North; continued from the 3/26/18 Regular Meeting.
  - e. Transfer of a Class "A" Alcoholic Beverage License from Classic Foods, LTD d/b/a Ground Round Restaurant to FSB Associates, LLC d/b/a Cowboy Jack's at 506 Broadway North; continued from the 2/26/18 and 3/26/18 Regular Meetings.
30. Update on the Mayor's Blue Ribbon Commission on Addiction.
31. State Water Commission requests for Cost Reimbursement for FM Diversion Flood Project Costs:
- a. Costs totaling \$772,390.00.
  - b. Costs totaling \$901,954.00.
32. Consider Adopting Amended and Restated Resolution Authorizing the Issuance and Sale of \$98,000,000.00 City of Fargo Water Revenue Bond, Series 2013B and Amended and Restated Loan Agreement with the North Dakota Public Finance Authority relating to the Water Treatment Plant Project.

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](http://www.FargoND.gov/citycommission).



27

## MATBUS benefits the environment

- Public transportation provides additional benefits for people who do not use it. It makes the entire transportation system work more efficiently. Every ten people on a bus or train in your community during rush hour means there are nine fewer cars on the roads. By providing extra capacity, public transportation use can move more people around metro areas, thereby increasing the efficiency of the entire transportation network. That means less traffic congestion, fewer carbon emissions, and a safer community for all.
- Riding public transportation is the single most effective way for an individual to reduce harmful carbon emissions. It's 10 times more effective than any other efforts!
- One bus carrying 85 people saves 55 gallons of gas in one day, reducing our city's dependence on gasoline and removing a line of traffic about seven city blocks long.
- Transit is often on the cutting edge of adopting innovative clean technologies and fuels such as electricity, hybrids, electric storage, biofuels, natural gas, and hydrogen fuel cells. Fargo currently owns eight diesel-electric hybrid fixed route buses and is looking at additional eco-friendly buses, such as electric, for the future.
- In addition to the direct fuel and emissions savings transit creates by providing an alternative to personal vehicles, public transportation indirectly supports greenhouse gas (GHG) reductions by influencing development patterns to support walking, biking, shorter trips, and transportation trip reduction; Transit ridership also relieves on-road congestion, which enables drivers to get to their destinations more efficiently and use less fuel.
- Public transportation plays an important role in reducing the nation's energy use and greenhouse gas emissions. Due to the combined reduction in private passenger vehicle miles, reduced automobile congestion, and reduced travel distances due to the land use impact of public transportation, more than 4 billion gallons of gasoline are saved and 37 million metric tons of carbon dioxide emissions are avoided **nationally**. With passengers taking 10 billion trips and traveling 54 billion miles, transit removes a significant number of cars from the road.
- MATBUS provided approximately 2 million fixed route rides in 2017, which is approximately 7,800 rides per day.
- There are 25 routes linking Fargo, Moorhead, West Fargo and Dilworth – just think about how significant our contribution to removing cars from the roads is! We are doing our part and can do more 😊

*"Provide people a choice so that those who wish to take public transit can do so, and those that wish to drive can do so, and both benefit by that choice."*

**" A developed country is not a place where the poor have cars. It's where the rich use public transportation."**

**-- Gustavo Petro, mayor of Bogota**

29a

NOTICE OF HEARING  
FOR SPECIAL ASSESSMENT OF  
SEWER REPAIRS

The Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing on special assessments for Sewer Repairs, provided in the list below, on Monday, April 9, 2018, at 5:15 o'clock p.m. in the City Commission Room, City Hall, Fargo, North Dakota.

Address	Parcel	Assessment
1123 11th St S	01-1860-00130-000	8,228.75
1118 9th St S	01-0780-00780-000	12,200.00
1705 5th Ave S	01-0060-00870-000	10,289.75
1533 8th St S	01-1400-03060-000	7,500.00
1314 9th Ave S	01-0540-00390-000	9,474.00
820 9th Ave n	01-1130-00290-000	14,952.50
1514 10th St S	01-1400-03450-000	5,654.00
1005 26th St N	01-0480-01640-000	7,775.00
2409 8th St N	01-3060-00150-000	9,500.00
1022 5th St N	01-1160-02500-000	9,300.00
1626 7th Ave S	01-0560-00700-000	10,790.00
205 24th Ave N	01-2080-00770-000	6,125.00
1433 18th St N	01-1240-00600-000	5,789.75
1509 Broadway	01-1280-00100-000	6,500.00
710 11th St N	01-1120-00820-000	13,025.00
1310 9th St S	01-1400-00690-000	7,550.00
806 18th Ave S	01-2660-00120-000	5,000.00
810 18th Ave S	01-2660-00110-000	12,500.00
1813 8th Ave S	01-1270-00930-000	9,374.00
1642 6th Ave S	01-0560-00410-000	2,600.00
1326 7th Ave S	01-0540-00180-000	10,403.00
1206 7th St S	01-0780-01220-000	11,487.50
815 8th St N	01-1130-00490-000	10,769.00
821 14th St S	01-0540-01090-000	9,600.00
1001 5th St S	01-0780-01890-000	11,026.25
910 42nd Ave N	01-2366-00150-000	3,875.00
402 Forest Ave N	01-0720-01120-000	7,850.00
913 17th St S	01-1270-01000-000	9,020.00
1434 14 1/2 St S	01-2040-03010-000	6,875.00
2002 11th Ave S	01-1270-02270-000	7,557.50
1509 7th St N	01-0380-00210-000	11,615.00
917 University Dr S	01-3140-00020-000	8,630.00
366 7th Ave S	01-1440-00640-000	12,000.00
1003 14th St S	01-0020-00300-000	10,500.00
1541 Broadway	01-1280-00020-000	4,801.25
602 18th Ave S	01-2660-00360-000	15,650.00
1601 13 1/2 St S	01-2040-05660-000	5,115.00
1139 2nd St N	01-1160-00890-000	9,400.00
315 14th St S	01-0700-01880-000	14,750.00
1425 7th St S	01-1400-01860-000	7,900.00
920 5th St S	01-4100-00600-000	9,800.00
1462 11th St N	01-2220-03520-000	5,000.00

310 Oakland Ave S	01-0120-00770-000	7,880.00
114 25th Ave N	01-2120-00830-000	4,500.00
1415 9th St S	01-1400-01320-000	9,900.00
1731 Park Blvd S	01-2840-01260-000	6,820.00
1514 Broadway N	01-0380-00040-000	7,000.00
1201 20th St S	01-1200-00280-000	9,275.00
1018 13th Ave S	01-5060-00030-000	2,950.00
521 15th St S	01-0340-01050-000	10,000.00
1012 8th St S	01-0780-02130-000	11,475.00
1913 16th St S	01-0163-02920-000	9,134.75
1448 1450 15th St S	01-2040-02740-000	8,570.00
1237 9th St N	01-2220-01330-000	6,125.00
1537 3rd Ave S	01-0980-01280-000	8,825.00
348 9th Ave S	01-4100-00715-000	8,536.25
2309 10th St N	01-3100-00730-000	8,543.75
1108 6th St S	01-0780-01060-000	11,200.00
1109 5th Ave S	01-2140-00560-000	11,116.00
1335 8th Ave S	01-0540-00290-000	10,098.75
1351 6th St S	01-1400-00160-000	10,000.00
1505 9th St N	01-0380-00690-000	4,000.00
1261 Broadway N	01-1370-00210-000	5,975.00
213 20th Ave N	01-1110-00190-000	6,875.00
1007 11th St N	01-0440-02430-000	5,500.00
1213 7th St N	01-2220-00070-000	4,700.00
1106 10th St S	01-0780-00660-000	22,250.00
1254 5th St N	01-1370-00240-000	4,300.00
1205 10th St S	01-2180-00020-000	8,500.00
1329 16 1/2 St S	01-2040-01620-000	8,150.00
1629 Broadway	01-2100-00090-000	5,000.00
1424 2nd Ave S	01-0700-01610-000	7,900.00
1021 4th Ave S	01-2240-03220-000	11,800.00
514 21st ave N	01-1100-00360-000	6,500.00
1333 5th St N	01-1360-00360-000	7,000.00
1823 3rd Ave N	01-3300-02480-000	7,300.00
1105 7th St S	01-0780-00830-000	14,675.00
2808 Southgate Dr S	01-4000-02030-000	9,000.00
313 20th Ave N	01-1100-00550-000	6,875.00
1001 16th Ave S	01-1400-03600-000	4,176.00
711 Oak St N	01-1760-00810-000	5,500.00
918 18th St S	01-1270-01180-000	6,771.50
812 10th St N	01-1140-00280-000	7,223.75
1014 1st St N	01-1160-01980-000	9,000.00
3406 2nd St N #C17	01-3540-00372-010	945.50
3406 2nd St N #C18	01-3540-00372-020	945.50
3406 2nd St N #C19	01-3540-00372-030	945.50
3406 2nd St N #C20	01-3540-00372-040	945.50
3406 2nd St N #C21	01-3540-00372-050	945.50
3406 2nd St N #C22	01-3540-00372-060	945.50
3406 2nd St N #C23	01-3540-00372-070	945.50
3406 2nd St N #C24	01-3540-00372-080	945.50

3410 2nd St N #D25	01-3540-00373-010	945.50
3410 2nd St N #D26	01-3540-00373-020	945.50
3410 2nd St N #D27	01-3540-00373-030	945.50
3410 2nd St N #D28	01-3540-00373-040	945.50
3410 2nd St N #D29	01-3540-00373-050	945.50
3410 2nd St N #D30	01-3540-00373-060	945.50
3410 2nd St N #D32	01-3540-00373-080	945.50
1442 7th Ave S	01-0540-00800-000	4,033.00
1240 Elm St N	01-1320-00560-000	10,625.00
1829 7th St S	01-2660-00710-000	7,025.00
1306 Elm St N	01-1320-00400-000	9,230.00
717 3rd Ave N	01-2382-01450-000	7,609.00
719 3rd Ave N	01-2382-01440-000	13,374.50
307 8th St M	01-2382-01420-000	10,111.00

Any person aggrieved may appeal from the action of the Board of City Commissioners by filing with the City Auditor, prior to April 9, 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  
(March 26 & April 2, 2018- Legals)

---

INSTRUCTIONS TO THE FORUM

Please publish on Monday, March 26 & April 2, 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



COPY

296

## APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): Dakota Liquors LLCDoing business as: MAIN LIQUORSBusiness address (location): 4000 MAIN AVE. FARGO, ND 58103Mailing address: 4115 47<sup>TH</sup> ST. N. FARGO, ND 58102Business e-mail address: owner@dakotaliquors.comPhone number: (701) 793-5482 Other number: (701) 306-0000**The following section to be completed by City Staff:**Date Received by Auditor's Office: 2/20/18Investigations Fee Paid (\$250) ☒ Yes ☐ NoDate Paid: 2/20/18 \$ 125 Check # 10681 - Submitt  
Gray  
Rest  
Bottom

Reviewed – Police Department by: \_\_\_\_\_ Date: \_\_\_\_\_

Comments (or see attached report):

\_\_\_\_\_ Approval Recommendation

\_\_\_\_\_ Denial Recommendation

\_\_\_\_\_  
Chief of Police\_\_\_\_\_  
Date

Reviewed – Liquor Control Committee on (date): \_\_\_\_\_

\_\_\_\_\_ Approval Recommendation

\_\_\_\_\_ Denial Recommendation

(See attached comments or minutes)

Reviewed – City Commission on (date): \_\_\_\_\_

\_\_\_\_\_ Approval

\_\_\_\_\_ Denial

# ANDERSON, BOTTRELL, SANDEN & THOMPSON

ATTORNEYS AT LAW

4132 30th Avenue South, Suite 100 • P.O. Box 10247 • Fargo, ND 58106-0247  
Phone 701-235-3300 • Fax 701-237-3154 • [www.andersonbottrell.com](http://www.andersonbottrell.com)

Email: [rknoll@andersonbottrell.com](mailto:rknoll@andersonbottrell.com)

February 7, 2018

City of Fargo  
Licensing Department  
200 3<sup>rd</sup> Street North  
Fargo, ND 58102

Re: Main Liquors, Inc.  
Liquor License #AA-02297  
Licensee #X-01650

To Whom It May Concern:

I represent David Lundeen and Main Liquors, Inc. and am assisting in the process of selling/transferring Main Liquors' liquor license. This letter is sent to put the City on notice that Mr. Lundeen and Main Liquors, Inc. intend to sell the liquor license to the following individuals:

Robert and Brenda Bohmert  
4115 47<sup>th</sup> Street North  
Fargo, ND 58102

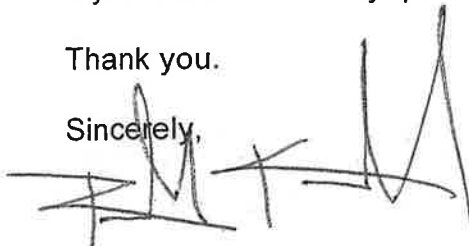
Shawn and Carmen Gray  
4108 Osgood Parkway South  
Fargo, ND 58104

Please let me know if you need any additional information to process the transfer of the above liquor license. I thank you for all of the assistance you have provided and continue to provide in finding our way through the process.

If you should have any questions or concerns, please feel free to contact me.

Thank you.

Sincerely,



Ronald J. Knoll

RJK\jae  
cc: David Lundeen  
f:\552\113\c\fargo ltr 2-7-18

Richard P. Anderson  
Lowell P. Bottrell\*  
James M. Sanden  
Gregory L. Thompson\*  
Daniel L. Hull\*  
David J. Hauff\*  
Michelle M. Donarski\*  
Ronald J. Knoll\*  
Krista L. Andrews\*  
Michael L. Gust\*  
Michael T. Andrews\*\*  
Ann E. Miller\*  
Joshua M. Feneis\*  
Matthew D. Kirschenmann\*  
Ashley K. Champ

\*Also licensed in Minnesota  
\*\*Also licensed in South Dakota

**This application is for the Class or Classes of Licenses checked:**

- ☐ Class A Authorizes the licensee to sell "on-sale" only.
- ☒ Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- ☐ Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- ☐ Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- ☐ Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- ☐ Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- ☐ Class D Authorizes the licensee to sell beer "off-sale" only.
- ☐ Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- ☐ Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- ☐ Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- ☐ Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.
- ☐ Class G Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.

- ( ) Class H Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.
- ( ) Class I Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.
- ( ) Class I Entertainment Authorizes the Licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.
- ( ) Class J Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
- ( ) Class L Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.
- ( ) Class M Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.
- ( ) Class N Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.
- ( ) Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- ( ) Class P Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.
- ( ) Class RZ-V Authorizes the licensee to sell "on-sale" only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The Venue must derive 60% or more of its annual gross receipts from the sale of tickets.
- ( ) Class W Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.
- ( ) Class Y Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.
- ( ) Class Z Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

**The following section to be completed by the applicant:**

**ALL APPLICANTS** must initial #1 - #9 and sign in the space provided below.

- BB 56  
BMB 1. Cg All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
- BB 56  
SMB 2. Cg I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
- BB 56  
SMB 3. Cg If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
- BB 56  
SMB 4. Cg I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
- BB 56  
SMB 5. Cg I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
- BB 56  
SMB 6. Cg I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
- BB 56  
SMB 7. Cg I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
- BB 56  
SMB 8. Cg I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
- BB 56  
SMB 9. Cg I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

SHAWN M. GRAY  
Applicant printed name: Shawn M. Gray Signature: Shawn M. Gray

CARMEN R. GRAY  
Applicant printed name: CARMEN R. GRAY Signature: Carmen Gray

Robert W. Bohmert  
Applicant printed name: Robert W. Bohmert Signature: Robert W. Bohmert

Brenda M. Bohmert  
Brenda M. Bohmert



List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

Foxy's BAR & GRILL, INC ON/OFF-SALE  
PARK RAPIDS, MN

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2004 to present Business name: Self-Employed - Graylo USA, LLC  
Address: PO Box 9221 Fargo, ND Position/Title: PRESIDENT

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?

☒ Yes ☐ No If "yes", list each business below:

Owner, PRESIDENT - Foxy's BAR & GRILL, PARK RAPIDS, MN

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?

☒ Yes ☐ No If "yes", indicate where, when, and for whom below:

OFF-SALE AT Foxy's

Do you have any current or prior management experience working for a business that sells or serves alcohol?

☒ Yes ☐ No If "yes", describe below:

Foxy's

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Applicant Information:** (2 pages)

Name: CARMEN RENEE GRAY (SCHULZ)  
(first) (middle) (last) (maiden name)

Address: PO Box 9221 FARGO ND 58106  
(address) (city) (state & zip)

How long have you lived at this address? 10 YEARS

Provide your address history for the past 5 years:

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: asianexpansion@gmail.com

Home phone number: (701) 306-0100 Other number: (\_\_\_\_) \_\_\_\_\_

Date of Birth: 1-31-70 Place of Birth: BISMARCK, ND

List each driver's license you have ever had and the state of issue:

DL#: GRA-70-8500 State of Issue: ND Dates: \_\_\_\_\_

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes X No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes MA No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes X No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes X No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

Foxy's Bar & Grill, Inc Off Sale  
Park Rapids, MN

Have any of the above named licenses ever been suspended or revoked? \_\_\_\_ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2004 to present Business name: Self-Employed - GrayCo USA, LLC

Address: PO Box 9221 Fargo, ND Position/Title: Vice President

From: \_\_\_\_ to \_\_\_\_ Business name: \_\_\_\_

Address: \_\_\_\_ Position/Title: \_\_\_\_

From: \_\_\_\_ to \_\_\_\_ Business name: \_\_\_\_

Address: \_\_\_\_ Position/Title: \_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?

☒ Yes \_\_\_\_ No If "yes", list each business below:

Owner, Vice-President - Foxy's Bar & Grill, Park Rapids

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?

☒ Yes \_\_\_\_ No If "yes", indicate where, when, and for whom below:

Off Sale At Foxy's

Do you have any current or prior management experience working for a business that sells or serves alcohol?

☒ Yes \_\_\_\_ No If "yes", describe below:

Foxy's

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.



List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

Certified Public Accountant

Have any of the above named licenses ever been suspended or revoked?      Yes X No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 1996 to present Business name: Accounting Inc./Self-employed

Address: 4115 47th St. N. Position/Title: Owner

Fargo, ND 58102  
From:      to      Business name:     

Address:      Position/Title:     

From:      to      Business name:     

Address:      Position/Title:     

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
     Yes X No If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?  
     Yes X No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?  
     Yes X No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Applicant Information:** (2 pages)

Name: Robert William Bohmert  
 (first) (middle) (last) (maiden name)

Address: 4115 47th ST. N. FARGO ND 58102  
 (address) (city) (state & zip)

How long have you lived at this address? 22 years

Provide your address history for the past 5 years:

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: RBohmert@juno.com

Home phone number: (701) 281-8898 Cell (701) 318-6739

Date of Birth: 07/27/1967 Place of Birth: ST. PAUL, MN

List each driver's license you have ever had and the state of issue:

DL#: Bolt-67-7899 State of Issue: ND Dates: 1995- TO present

DL#: ? State of Issue: MN Dates: 1980-1995

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes ☒ No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes ☒ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) ☒ Yes \_\_\_\_\_ No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge of each conviction.

(2002 or so)  
 MISDEAMOR THEFT 15 years ago MOOREHEAD, MN  
 CITATION - NO ARREST

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2009 to present Business name: ARVIG  
 Address: 102 2nd ST perham mn. Position/Title: media MANAGER  
 From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_  
 Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_  
 From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_  
 Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
☐ Yes ☒ No If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?  
☐ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?  
☒ Yes ☐ No If "yes", describe below:

MANAGED A RESTAURANT IN WILLCROFT, MN  
1983-1994

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Operator/Manager Information**

Are you going to operate/manage this business personally?

~~X~~ Yes \_\_\_\_\_ No If "no", who will operate/manage it?

Name: BRENDA BOHMERT (OWNER)  
(first) (middle) (last) (maiden name)

Address:

\_\_\_\_\_  
(address) (city) (state & zip)

Home phone number: (\_\_\_\_) N/A Other number (\_\_\_\_) \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

**(Important:** The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

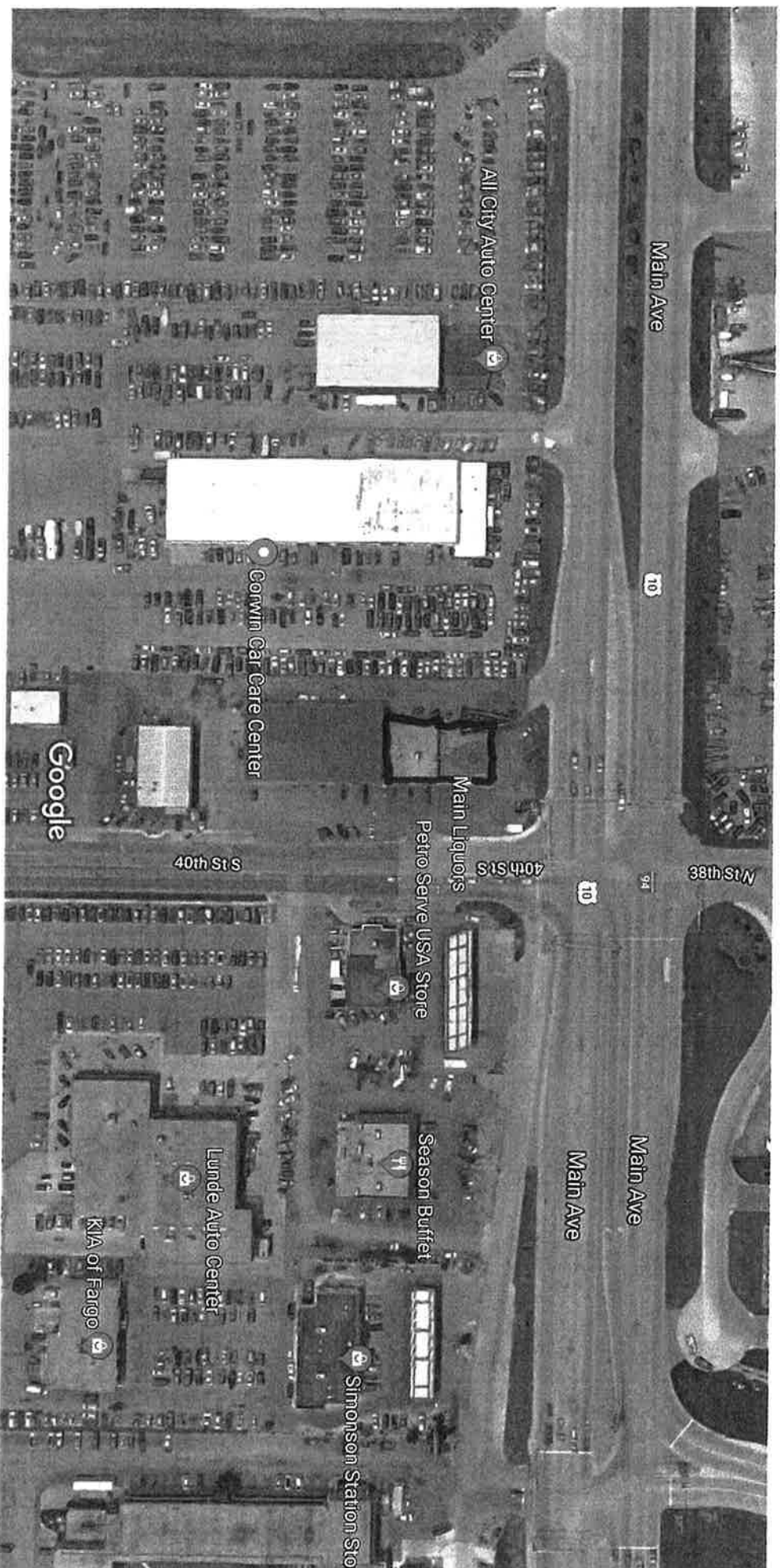
**Business Site Plan**

On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

MAIN LIQUORS WILL BE OPERATING IN THE EXISTING BUILDING, AT THE EXISTING LOCATION AND IN THE SAME CAPACITY. IF FURTHER SITE PLAN INFORMATION IS NECESSARY, PLEASE ADVISE: WE WILL PROVIDE

# Google Maps Main Liquors



Imagery ©2018 Google, Map data ©2018 Google

100 ft

### Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

MAIN LIQUORS IS AN ESTABLISHED BRAND AND HAS BEEN AN EXISTING BUSINESS IN THE FARGO AREA, AT THIS LOCATION, FOR DECADES. WE PLAN TO CONTINUE OPERATIONS "AS IS" WHILE IMPROVING ALL FUNCTIONAL AREAS POSSIBLE.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

MANY THINGS BELOW PERTAIN MORE TO ON-SALE ESTABLISHMENT  
Over-serving, intoxicated or disorderly patrons: HOWEVER WE HAVE SOME BASIC ANSWERS

- WE WILL RESERVE THE RIGHT TO REFUSE <sup>SALES/</sup> SERVICE TO ANYONE
- USE POLICE SERVICES IF/WHEN NECESSARY

Safety and security issues, including crowd control:

- CAMERA SYSTEM ON SITE
- CROWD CONTROL WON'T BE A CONCERN SINCE WE ARE SOLELY OFF-SALE

Minors on the premises, including consumption by minors:

- CARDING EVERYONE
- PROPER TRAINING FOR EACH EMPLOYEE
- ZERO TOLERANCE ON THIS ISSUE FOR US

Noise concerns, especially from nearby residences of other businesses:

- SHOULD BE A CONCERN SINCE WE ARE OFF-SALE

Do you plan to feature live entertainment? \_\_\_\_ Yes ☒ No If "yes", describe what you envision at the time, including how often such entertainment will take place.



296

# APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): HRP Fargo LLC

Doing business as: The Tavern Grill

Business address (location): 3233 45th St. South Fargo, ND 58104

Mailing address: 1501 Washington Ave S #300, Mpls, MN 55454

Business e-mail address: alikelka@hrprestaurants.com

Phone number: (612) 238-2163 Other number: (612) 859-5606

## The following section to be completed by City Staff:

Date Received by Auditor's Office: 2/26/18

Investigations Fee Paid (\$250) ☒ Yes ☐ No Date Paid: 2/26/18 Check # 3907

Reviewed – Police Department by: \_\_\_\_\_ Date: \_\_\_\_\_

Comments (or see attached report):

\_\_\_\_\_ Approval Recommendation

\_\_\_\_\_ Denial Recommendation

\_\_\_\_\_  
Chief of Police

\_\_\_\_\_  
Date

Reviewed – Liquor Control Committee on (date): \_\_\_\_\_

\_\_\_\_\_ Approval Recommendation

\_\_\_\_\_ Denial Recommendation

(See attached comments or minutes)

Reviewed – City Commission on (date): \_\_\_\_\_

\_\_\_\_\_ Approval

\_\_\_\_\_ Denial

**This application is for the Class or Classes of Licenses checked:**

- ☐ Class A Authorizes the licensee to sell "on-sale" only.
- ☐ Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- ☐ Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- ☐ Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- ☐ Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- ☐ Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- ☐ Class D Authorizes the licensee to sell beer "off-sale" only.
- ☐ Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- ☐ Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- ☐ Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☒ Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- ☐ Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.
- ☐ Class G Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.

- Class H Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.
- ( ) Class I Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.
- ( ) Class I Entertainment Authorizes the Licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.
- ( ) Class J Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
- ( ) Class L Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.
- ( ) Class M Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.
- ( ) Class N Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.
- ( ) Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- ( ) Class P Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.
- ( ) Class RZ-V Authorizes the licensee to sell "on-sale" only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The Venue must derive 60% or more of its annual gross receipts from the sale of tickets.
- ( ) Class W Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.
- ( ) Class Y Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.
- ( ) Class Z Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

**The following section to be completed by the applicant:**

**ALL APPLICANTS** must initial #1 - #9 and sign in the space provided below.

1. PMA All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. PMA I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. PMA If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. PMA I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. PMA I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. PMA I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. PMA I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. PMA I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. PMA I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: Peter Ahn Signature: PMA

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

**Applicant Information:** (2 pages)

Name: Anoushiravan Azarbayd Ansari  
 (first) (middle) (last) (maiden name)

Address: 4680 Monitou Rd Tonka Bay MN 55331  
 (address) (city) (state & zip)

How long have you lived at this address? 15+ yrs

Provide your address history for the past 5 years:

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: anoushansari@gmail.com

Home phone number: (612) 963-8252 Other number: (\_\_\_\_) \_\_\_\_\_

Date of Birth: 10-25-62 Place of Birth: Shiraz, Iran

List each driver's license you have ever had and the state of issue:

DL#: K551165838911 State of Issue: MN Dates: Iss. 11/16, Exp 10-25-20

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes ☒ No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

SEE Attached - Exhibit A

Have any of the above named licenses ever been suspended or revoked? \_\_\_\_ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2002 to \_\_\_\_ Business name: Hemisphere Restaurant Partners

Address: 1501 Washington Ave S. Mpls MN Position/Title: Managing Partner

From: \_\_\_\_ to \_\_\_\_ Business name: \_\_\_\_

Address: \_\_\_\_ Position/Title: \_\_\_\_

From: \_\_\_\_ to \_\_\_\_ Business name: \_\_\_\_

Address: \_\_\_\_ Position/Title: \_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
☒ Yes \_\_\_\_ No If "yes", list each business below:

SEE Attached - Exhibit A

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?  
\_\_\_\_ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?  
☒ Yes \_\_\_\_ No If "yes", describe below:

SEE Attached - Exhibit A

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Applicant Information:** (2 pages)

Name: Reza Pour Alizadeh  
 (first) (middle) (last) (maiden name)

Address: 2749 skyline Dr. Eagan MN 55121  
 (address) (city) (state & zip)

How long have you lived at this address? 20+ yrs

Provide your address history for the past 5 years:

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: drreza@comcast.net

Home phone number: (612) 868-6894 Other number: (\_\_\_\_) \_\_\_\_\_

Date of Birth: 10-25-65 Place of Birth: Rezaan Iran

List each driver's license you have ever had and the state of issue:

DL#: N444155319712 State of Issue: MN Dates: Iss - 7.17, 10.25.21

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes ☒ No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes ☒ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

SEE Attached - Exhibit A

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 1998 to Present Business name: Align Chiropractic

Address: 33 Hamline Ave S #100 St. Paul MN 55105 Position/Title: Chiropractor

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
☒ Yes ☐ No If "yes", list each business below:

SEE Attached - Exhibit A

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?  
☐ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?  
☐ Yes ☒ No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Applicant Information:** (2 pages)

Name: Ali Pour Alizadeh  
 (first) (middle) (last) (maiden name)

Address: 16 Evergreen Rd North Oaks MN 55416  
 (address) (city) (state & zip)

How long have you lived at this address? 15+ years

Provide your address history for the past 5 years:

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: aalizadeh@hcmgroup.com

Home phone number: (612) 859-7999 Other number: (612) 338-8121

Date of Birth: 6-24-63 Place of Birth: Kerman shah Iran

List each driver's license you have ever had and the state of issue:

DL#: RS98166100722 State of Issue: MN Dates: Iss - 7/15 Exp 6-24-19

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes ☒ No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes ☒ No  
 If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

SEE Attached - Exhibit A

Have any of the above named licenses ever been suspended or revoked? \_\_\_\_ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2002 to Present Business name: Hemisphere Restaurant Partners

Address: 1501 Washington Ave S Mpls, MN 55454 Position/Title: CEO

From: \_\_\_\_ to \_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

From: \_\_\_\_ to \_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
☒ Yes \_\_\_\_ No If "yes", list each business below:

SEE Attached - Exhibit A

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?  
\_\_\_\_ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?  
\_\_\_\_ Yes ☒ No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Applicant Information:** (2 pages)

Name: Peter Wesley Ann /  
 (first) (middle) (last) (maiden name)

Address: 3900 Zenith Ave S Minneapolis MN 55416  
 (address) (city) (state & zip)

How long have you lived at this address? 20+

Provide your address history for the past 5 years:

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: peter.ahn@hamgroup.com

Home phone number: (612) 860-7574 Other number: (612) 338-8123

Date of Birth: 4.9.65 Place of Birth: St. Paul, MN

List each driver's license you have ever had and the state of issue:

DL#: R568125810 719 State of Issue: MN Dates: ISS 3.15 EXP 4.19

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes ☒ No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

~~Liquor License~~

SEE Attached - Business's that I have hold the attached licenses  
~~Schedule A~~ Exhibit

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2002 to Present Business name: Hemisphere Restaurant Partners

Address: 1501 Washington Ave S Position/Title: Owner / CFO  
Minneapolis, MN 55454

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?

☒ Yes ☐ No If "yes", list each business below:

SEE Attached - Exhibit - A

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?

☐ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?

☐ Yes ☒ No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Applicant Information:** (2 pages)

Name: Timothy Randel Cary  
 (first) (middle) (last) (maiden name)

Address: 20 Oriole Ln North Oaks MN 55127  
 (address) (city) (state & zip)

How long have you lived at this address? 8 years

Provide your address history for the past 5 years:

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: tcary@hrprestaurants.com

Home phone number: (612) 859-5606 Other number: (\_\_\_\_) \_\_\_\_\_

Date of Birth: 9-27-67 Place of Birth: MN

List each driver's license you have ever had and the state of issue:

DL#: T380276680911 State of Issue: MN Dates: Iss-11/16 Exp-9/20

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes ☒ No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

SEE Attached Exhibit A

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2008 to present Business name: Hemisphere Restaurant Partners

Address: 1501 Washington Ave S Mpls, MN 55454 Position/Title: COO

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

From: \_\_\_\_\_ to \_\_\_\_\_ Business name: \_\_\_\_\_

Address: \_\_\_\_\_ Position/Title: \_\_\_\_\_

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
☒ Yes ☐ No If "yes", list each business below:

SEE Attached - Exhibit A

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?  
☐ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?  
☒ Yes ☐ No If "yes", describe below:

SEE Attached - Exhibit A

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Operator/Manager Information**

Are you going to operate/manage this business personally?

X Yes \_\_\_\_\_ No If "no", who will operate/manage it?

Name:

Timothy Randal Cary  
(first) (middle) (last) (maiden name)

Address:

20 Oriole Ln North Oaks MN 55127  
(address) (city) (state & zip)

Home phone number: (612) 859-5606 Other number (\_\_\_\_) \_\_\_\_\_

Date of Birth: 9.27.67 Place of Birth: MN

(Important: The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

age 41

Legal Name of Business	State	License Held				Managing/Operating responsibilities			Financial interest				
		Liquor	Liquor Catering	Food	Food Catering	Timothy Cary	Anoush Ansari	Timothy Cary	Anoush Ansari	Ali Alizadeh	Peter Ahn	Reza Alizadeh	
HRP Edina LLC	MN	x		x		x	x		x	x		x	
HRP Arden Hills LLC	MN	x		x		x	x		x	x		x	
HRP Woodbury II LLC	MN	x		x		x	x		x	x		x	
Tavern West LLC	MN	x		x		x	x		x	x		x	
Atlas Restaurants, LLC	MN	x	x	x					x	x	x	x	
Good To Go Deli, LLC	MN			x					x	x	x	x	
Watermark Restaurants, LLC	MN	x	x	x		x	x		x	x	x	x	
Sphere LLC	MN	x		x		x	x			x	x	x	

Exhibit A

**Operational and Financial Issues**

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).  
(Use additional pages if necessary)

SEE ATTACHE 1

Describe in detail how you intend to address/prevent each of the following concerns at your Business:  
(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons:

Safety and security issues, including crowd control:

Minors on the premises, including consumption by minors:

Noise concerns, especially from nearby residences of other businesses:

Do you plan to feature live entertainment? \_\_\_\_\_ Yes X No If "yes", describe what you envision at the time, including how often such entertainment will take place.

## Operational and Functional Issues

Briefly describe your business concept:

The Tavern Grill falls under the Hemisphere Restaurant Partners umbrella and this group has been in the hospitality industry for over 16 years. They currently own 7 full service restaurant locations in MN; 3 are inside the downtown Minneapolis area (Mission American Kitchen, Atlas Grill and Sphere) and 4 within 30 minutes of downtown (All 4 are the same concept called The Tavern Grill-this is the concept we will be bringing to Fargo). This year we are very excited to be opening a location in Fargo, ND. Prior to our opening we will be leasing the kitchen and grotto space in Hair Success (Hair Success will be our next-door neighbor after we open). Using this space, we will provide an atmosphere that brings people together to enjoy an amazing meal or just a small bite while they wait. We will also have a delicious yet approachable wine and beer selection. When we do complete our space right next door we will continue to cater to Hair Success with our permanent residence only a driveway away. In MN our Taverns have a loyal following and have become the "place to go" in each of their respective neighborhoods. We boast some of the largest and most beautiful patios in the twin cities and we are very excited to bring our concept to Fargo and look forward to serving you.

Describe in detail how you intend to address/prevent each of the following concerns at you business:

Over-serving, intoxicated of disorderly patrons:

- We have a lot of experience serving alcohol. We own and operate 7 restaurants in MN that hold full liquor licenses. We have mandatory detailed training we go through with all new hires and then mandatory annual liquor awareness training. You cannot serve alcohol without completing this course each year. We will do the same in Fargo. We discuss the laws of liquor service, signs of intoxication and the best way to refuse the sale of liquor to prevent any over service. We also require our employees involve a manager in all refusal of service cases or in any event the employee is uncomfortable with a patron. We will not hesitate to refuse the sale of alcohol to any guest. We also have a section that discusses consumption of alcohol in our policies and procedures. If a patron becomes disorderly we will ask them politely to leave the premises and if they refuse we will not hesitate to get authorities involved.

Safety and Security Issues, including crowd control:

- We go to great lengths to ensure the safety of our employees and our guests, it is of utmost importance to us. We again have training on how to keep yourself and guests safe. Most of the time our guests will be the patrons of Hair Success and will not consist of crowds. In the event we host a private party for Hair Success we will ensure we have the proper staff on hand, we will ensure there is not over service of alcohol by adhering to all laws and the standards we have set forth for The Tavern Grill. There will always be a manager on site and at least two people will remain until the end of shift in which they both will lock up together. In the event there is suspected illegal activity of an emergency we will reach out to local authorities immediately.

Minors on premises, including consumption by minors:

- We will not serve any alcohol to any persons under the age of 21. We will require valid ID for the service of all alcohol. We will refuse the sale of alcohol to anyone who can not provide valid ID. We will train all service staff on the characteristics of a valid ID and have resources (I.D, Checking Guides) available should there be questions.

Noise concerns

- We do not think the business model we are operating has much risk of noise concerns. In the event a patron becomes disorderly or noisy, we will politely ask them to leave the premises and if they refuse we will call the local authorities. We will not offer entertainment.



COPY

29d

## APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): Snelling Hospitality, LLCDoing business as: MezzalunaBusiness address (location): 309 Roberts St. N. Fargo, ND 58102Mailing address: 309 Roberts St. N. Fargo, ND 58102Business e-mail address: Taylor@mosaicfoodgroup.comPhone number: (320) 699-1915 Other number: (701) 364-9479**The following section to be completed by City Staff:**Date Received by Auditor's Office: 2/20/18Investigations Fee Paid (\$250) ☒ Yes ☐ No Date Paid: 2/20/18 Check # 1214

Reviewed – Police Department by: \_\_\_\_\_ Date: \_\_\_\_\_

Comments (or see attached report): \_\_\_\_\_

\_\_\_\_\_  
Approval Recommendation\_\_\_\_\_  
Denial Recommendation\_\_\_\_\_  
Chief of Police\_\_\_\_\_  
Date

Reviewed – Liquor Control Committee on (date): \_\_\_\_\_

\_\_\_\_\_  
Approval Recommendation\_\_\_\_\_  
Denial Recommendation

(See attached comments or minutes)

Reviewed – City Commission on (date): \_\_\_\_\_

\_\_\_\_\_  
Approval\_\_\_\_\_  
Denial



January 19<sup>th</sup>, 2018

Greetings Mr. Sprague,

This is our formal letter stating our intention to transfer the liquor license issued to Mosaic Foods LLC, DBA Mezzaluna from Eric & Sara Watson to Taylor Snelling/Snelling Hospitality LLC pending the sale of Mezzaluna.

Please let us know if you have any question or need further information at this time.

Thank you!

A handwritten signature in cursive script that reads 'Sara Watson'.

Sara Watson  
Owner

**This application is for the Class or Classes of Licenses checked:**

- ☐ Class A Authorizes the licensee to sell "on-sale" only.
- ☐ Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- ☐ Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- ☐ Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- ☐ Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- ☐ Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- ☐ Class D Authorizes the licensee to sell beer "off-sale" only.
- ☐ Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- ☐ Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- ☐ Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☒ Class FA **RZ** Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- ☐ Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

- ( ) Class G Authorizes the licensee to sell wine and sparkling wine “on-sale” only, served at table or booth, no bar. Requires 50% food sales.
- ( ) Class H Authorizes the licensee to sell beer “on-sale” only, served at table or booth, with no bar allowed and requires 50% food sales.
- ( ) Class I Authorizes the licensee to sell beer, wine, and sparkling wine “on-sale” only. A physical bar is allowed and requires 65% food sales.
- ( ) Class I Entertainment Authorizes the Licensee to sell “on-sale” only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.
- ( ) Class J Authorizes the licensee to sell “on-sale” only at a non-profit organization for military purposes.
- ( ) Class L Authorizes the licensee to sell “on-sale” only on an excursion boat operating on the Red River.
- ( ) Class M Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell “on-sale” and “off-sale” offered in conjunction with another license. Allows the sale of Growlers.
- ( ) Class N Authorizes the licensee to sell “on-sale” only at a stadium with a minimum seating capacity of 2500.
- ( ) Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- ( ) Class P Authorizes the licensee to operate a domestic winery and to sell wine “on-sale” and “off-sale”. Allows limited beer sales.
- ( ) Class RZ-V Authorizes the licensee to sell “on-sale” only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The Venue must derive 60% or more of its annual gross receipts from the sale of tickets.
- ( ) Class W Authorizes the licensee to sell wine and sparkling wine “on-sale” only. A physical bar is allowed and no food sales required.
- ( ) Class Y Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.
- ( ) Class Z Authorizes the licensee to sell “on-sale” only issued to individuals not currently holding another “A”, “AB”, “ABH”, or “ABH-RZ”. A physical bar is allowed and no food sales required.

The following section to be completed by the applicant:

ALL APPLICANTS must initial #1 - #9 and sign in the space provided below.

1. TS All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. TS I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. TS If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. TS I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. TS I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. TS I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. TS I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. TS I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. TS I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: Taylor Snelling Signature: Taylor Snelling

Applicant printed name: Valerie Snelling Signature: Valerie Snelling

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

**Applicant Information:** (2 pages)

Name: Taylor Douglas Snelling  
 (first) (middle) (last) (maiden name)

Address: 10 8<sup>th</sup> St. N. #301 Fargo ND 58102  
 (address) (city) (state & zip)

How long have you lived at this address? 1 year 6 months

Provide your address history for the past 5 years:

From 3-1-15 to 6-30-16 Address: 6-128 48<sup>th</sup> Ave E West Fargo, ND 58078

From 3-1-13 to 2-28-15 Address: 654 4<sup>th</sup> Ave N Unit 500 Fargo, ND 58102

E-mail address: tsnelling9@gmail.com

Home phone number: (320) 699-1915 Other number: ( )

Date of Birth: 10-04-1991 Place of Birth: St. Louis Park, MN

List each driver's license you have ever had and the state of issue:

DL#: SNE-91-8338 State of Issue: ND Dates: ISS: 10/3/16 - EXP: 10/4/21

DL#: E915097658315 State of Issue: MN Dates: ISS: 10-2012 - EXP: 10/4/2016

Has your driver's license ever been suspended or revoked?      Yes   X   No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?

     Yes   X   No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed)      Yes   X   No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense?   X   Yes      No

If "yes", provide the date of arrest, location, charge of each conviction.

Nov. 2011 - Minor consumption.

Issued citation, NO Arrest, charge dropped in court.

Location: Moorhead, MN

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in: none

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☐ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 8/1/14 to current Business name: Mezzaluna

Address: 309 Roberts St. Fargo, ND 58102 Position/Title: Restaurant Manager

From: 8/2012 to 7/31/14 Business name: Fargo Billiards & Gastropub

Address: 3234 93rd St S. Fargo, ND 58104 Position/Title: Server, Bartender, Manager

From: 2011 to 8/2012 Business name: Apple Bee's

Address: Fargo, ND - no longer there Position/Title: Host/Server

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
☐ Yes ☒ No If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?  
☐ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?

☒ Yes ☐ No If "yes", describe below: Gastropub: Served as Shift Manager multiple nights a week.  
Mezzaluna: Run restaurant as only F&B manager for 1 1/2 years

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Applicant Information:** (2 pages)

Name: Valerie Kay Snelling Glynn  
 (first) (middle) (last) (maiden name)

Address: 10 8<sup>th</sup> St N #301 Fargo, ND 58102  
 (address) (city) (state & zip)

How long have you lived at this address? 1 year 6 months

Provide your address history for the past 5 years:

From 8-1-15 to 8-1-16 Address: 711 NP Ave N #1209 Fargo, ND 58102

From 11-1-14 to 7-31-15 Address: 2815 32<sup>nd</sup> St S Moorhead, MN 56560

5-1-13 10-31-14 128 48<sup>th</sup> Ave E West Fargo, ND 58078

E-mail address: glynnva@gmail.com

Home phone number: (701) 535-0131 Other number: ( )

Date of Birth: 02-21-1989 Place of Birth: Aberdeen, SD

List each driver's license you have ever had and the state of issue:

DL#: GLY-89-9719 State of Issue: ND Dates: Iss: 9/18/17 - Exp: 2/21/21

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes ☒ No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes ☒ No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

ND Speech Language Pathology License #1271

Have any of the above named licenses ever been suspended or revoked? \_\_\_\_ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 04.16.14 to Present Business name: Independence Speech Therapy, Inc  
Address: 7274 108th Ave SE Position/Title: Speech-Language Pathologist/Director  
Lamoure, ND 58458

From: 01.01.14 to 04.15.14 Business name: Thielges Therapy, Inc  
Address: 7274 108th Ave SE Position/Title: Speech Language Pathologist  
Lamoure, ND 58458

From: 10.01.14 to Present Business name: Aegis Therapies  
Address: 1351 Broadway N Position/Title: Speech Language Pathologist  
Fargo, ND 58102

143-3113 Beyond Boundaries Therapy Speech Language Pathologist 3001 11th St S Fargo, ND 58102  
Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?  
\_\_\_\_ Yes ☒ No If "yes", list each business below: 5113- Onword Therapy 1330 Paige Dr Ste 10  
022114 Speech Language Pathologist Fargo ND 58104

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?

\_\_\_\_ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?

\_\_\_\_ Yes ☒ No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

### Operator/Manager Information

Are you going to operate/manage this business personally?

~~X~~ Yes \_\_\_\_\_ No If "no", who will operate/manage it?

Name:

(first)	(middle)	(last)	(maiden name)

Address:

(address) (city) (state & zip)

Home phone number: (\_\_\_\_) \_\_\_\_\_ Other number (\_\_\_\_) \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

**(Important:** The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

**Operator/Manager Information**

Are you going to operate/manage this business personally?

\_\_\_\_\_ Yes ☒ No If "no", who will operate/manage it?

Name:

Taylor Douglas Snelling  
(first) (middle) (last) (maiden name)

Address:

10 8<sup>th</sup> St N #301 Fargo ND 58102  
(address) (city) (state & zip)

Home phone number: (320) 699-1915 Other number (\_\_\_\_) \_\_\_\_\_

Date of Birth: 10-04-91 Place of Birth: St. Louis Park, MN

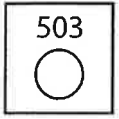
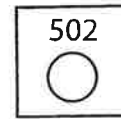
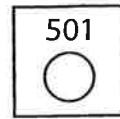
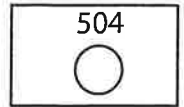
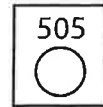
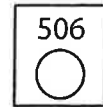
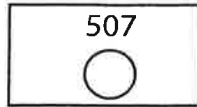
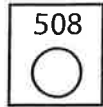
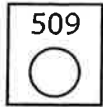
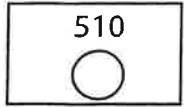
(**Important:** The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

**Business Site Plan**

On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

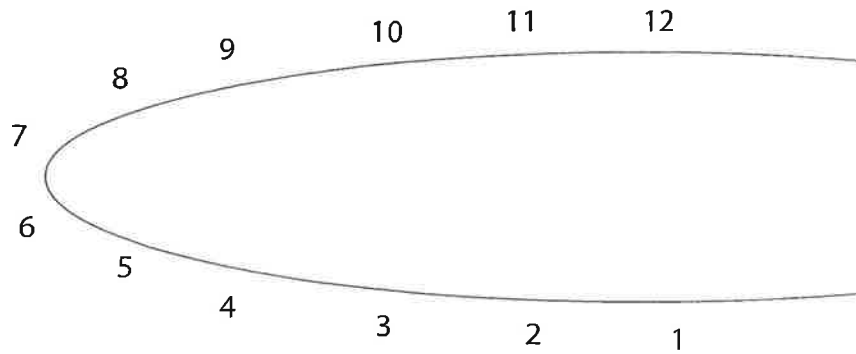
- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

East

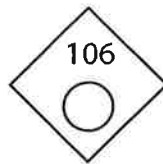
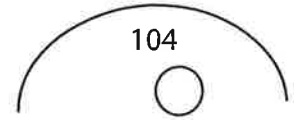
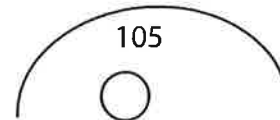
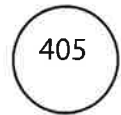
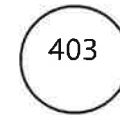
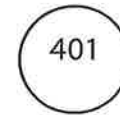
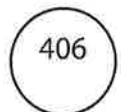
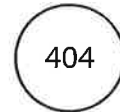
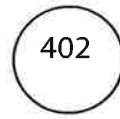


7 steps

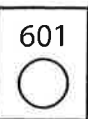
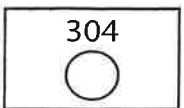
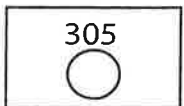
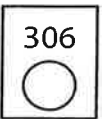
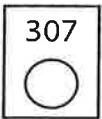
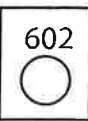
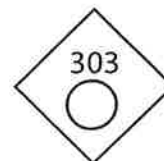
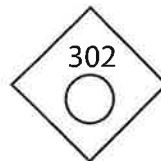
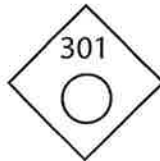
Bar Area



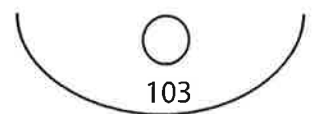
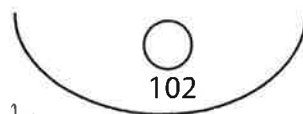
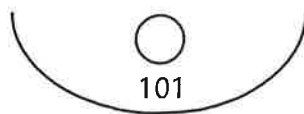
Main Level



Dining Space



Kitchen



West

Exit

North

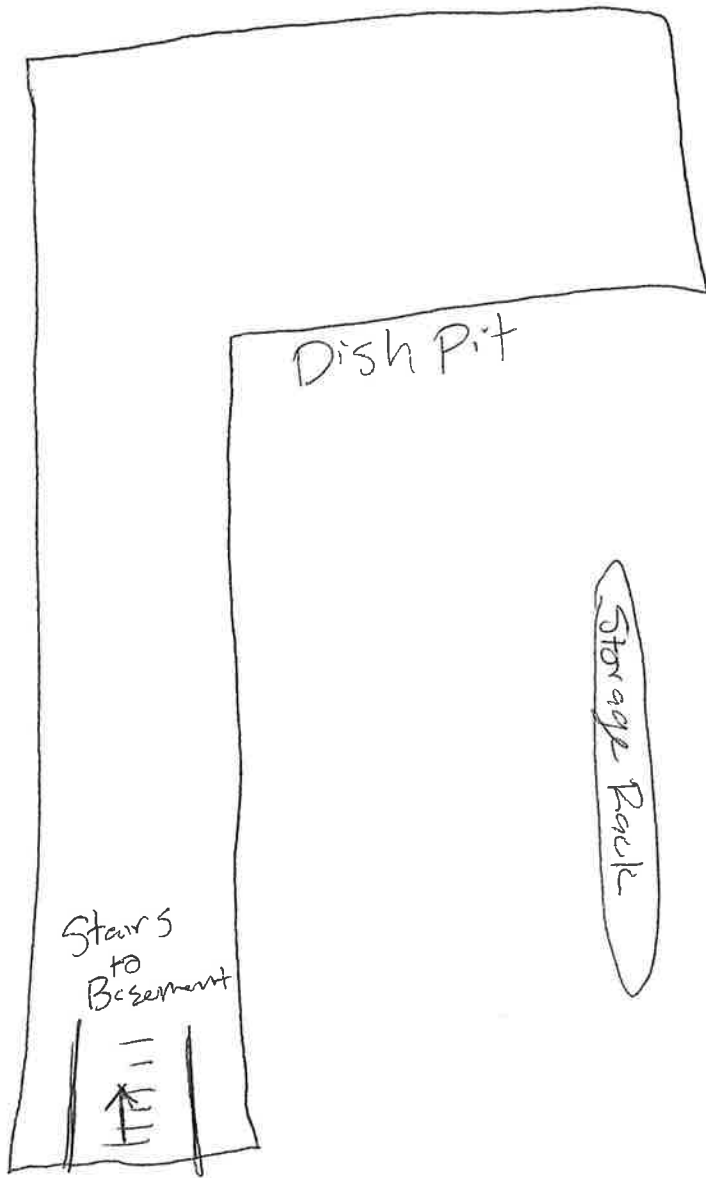
South

Dining room

Main level:  
Kitchen

East

Server POS Station



Hood vents →

[South]

← Hood vents

[Coolers]

[EXIT]

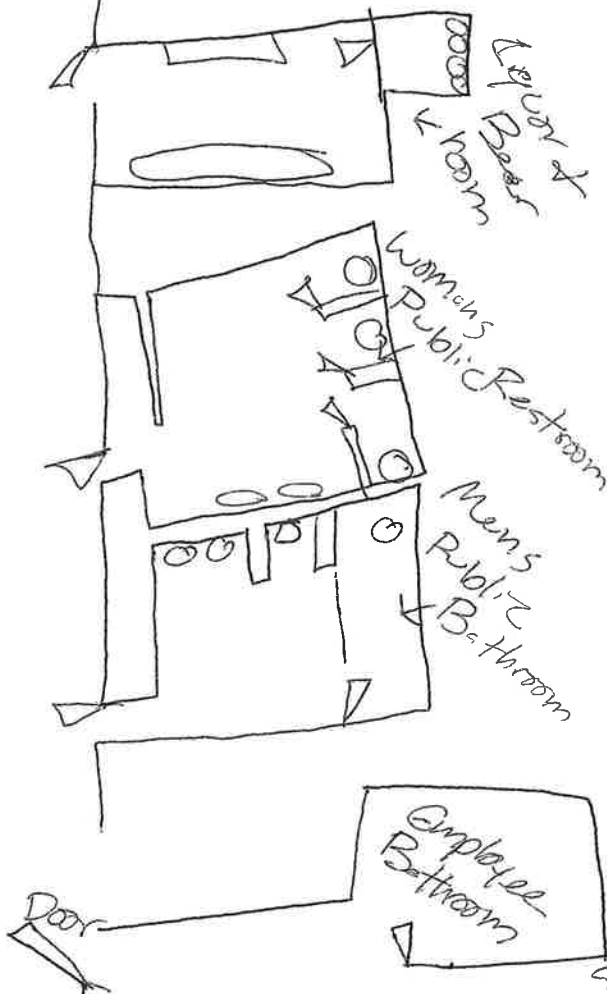
[west]

Prep Table

East

# Basement Level

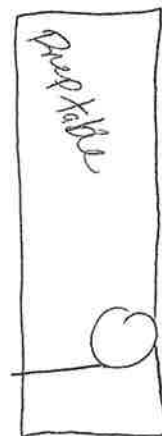
South



North

Employee lockers

Stairs

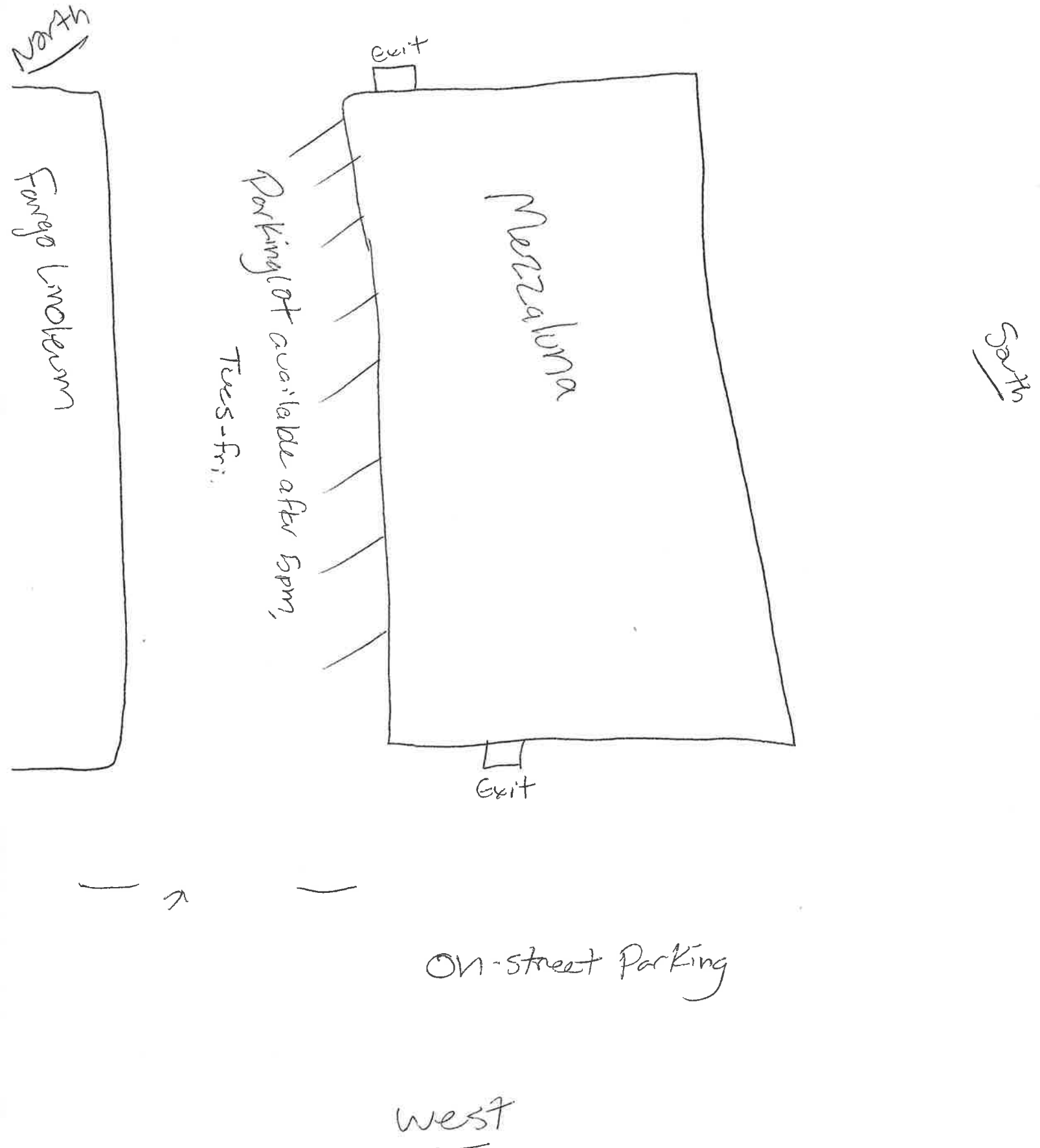


Cooler Freezer

Office

West

Parking Lot Premises East



### Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area). Mezzaluna is a 96 seat fine dining restaurant with a 30 seat bar/lounge area situated in the middle of the restaurant space. Our business focuses on top quality American food with a European cooking influence. Our model fits in its current location within Fargo's downtown district. With numerous retail shops, bars, coffee shops, music venues we have a lot of opportunity to catch foot traffic. We will continue to carry the existing business model by keeping our focus on quality food, service, & Atmosphere.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:  
(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons: We stress on preventing over serving for the health of our customers and business. We serve drinks that are properly measured and promote service of 1 drink per guest. Water is served along with each alcoholic beverage. We promote & serve non and low ABV alternatives. In the event of over-serving/intoxicated guest we will kindly inform they will not be served alcohol and offered water and food.

Safety and security issues, including crowd control:

please see attached information

Minors on the premises, including consumption by minors:

please see attached information

Noise concerns, especially from nearby residences of other businesses:

please see attached information

Do you plan to feature live entertainment? \_\_\_\_\_ Yes X No If "yes", describe what you envision at the time, including how often such entertainment will take place.

## **OPERATION AND FINANCIAL ISSUES**

### **Over serving, intoxicated or disorderly patrons:**

We stress on preventing over serving for the health of our guests and business. Each drink we serve is properly measured and promote service of one drink per guest at any one time. Water is served along with each alcoholic beverage. We offer low and non ABV alternatives as well. In the event of over serving/intoxicated guest we will kindly inform them that they will not be served another alcoholic beverage and be offered water and food as an alternative. In the event of a disorderly patron we will talk to them in a way not to further aggravate them. We follow procedure of bringing the patron into the hallway to not disturb other diners of our establishment. If a common ground cannot be met and the guest is insistent we will have their group bring them home or call the police to take them off of our premises.

### **Safety and security issues, including crowd control:**

We take numerous steps to ensure the safety of our staff and guests. We have security cameras installed in numerous spots of the restaurant and outside to deter any possible safety issues before they enter the restaurant. These same cameras keep staff and guests accountable and deter any theft that may occur. We regularly check security lights, electronic equipment, hoods & vents, alarms, and windows in case of any event that may happen. Being located in downtown Fargo there are many people walking the streets of downtown. Our bartenders and servers are trained to always be on their toes and keep an eye out for anyone that may be looking for trouble. In the event we have numerous steps to keep these events at bay. We stress the use (currently and plan to) of a buddy system when leaving the restaurant at the end of the night.

In the event of a loud and/or unruly crowd we have numerous exit points that we can funnel people out of and into our hallways or alleys. Our main focus is making sure our dinner guests will not feel harmed or disrupted in any way. We will take numerous staff off of the floor to help address the situation. We will have a person by the phone to call police if the situation cannot be controlled by us.

### **Noise concerns, especially from nearby residences of other businesses:**

Our main hours of service are from 5pm-11pm. Our biggest concern of noise is our music late night. We do not want to disturb the renters of the apartments above our restaurant. We will not turn up music above the designated volume that we use during dinner service. We will make sure the kitchen staff will not play music near vents or above the designated appropriate noise level. We do not intend to have live music so that is not an issue for us.

29e

## MEMORANDUM

---

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Cowboy Jacks

DATE: April 3, 2018

Commissioners, the Liquor Control Board met on March 28 regarding the transfer of a Class A license from Ground Round to Cowboy Jacks, the requested location would be 506 N Broadway. We heard more than one hour of testimony listing reasons for and against the transfer request. Listed below are the major points of discussion:

Speaking against the transfer, representing the Downtown Neighborhood Association, Carol Schlossman, Arlette Preston, Josie Danz and Greg Danz.

- Presented a Fargo liquor density study and map, comparing downtown to 13<sup>th</sup> Ave and 45<sup>th</sup> Street
- Support the Downtown Master Plan
- The investment in downtown over the last 15 years
- Existing behaviors on Broadway, especially at the Empire and Bismarck
- Desired balance between Residential, Business and Entertainment
- Police Department has limited resources
- Uncertainty of operations of a new business

Speaking in favor of the transfer, Sally Loeffler, Trevor Hill, Jeremy Horst, Ben Nolan and Melissa Rademacher

- Limited Family Friendly options currently in downtown, this is a family friendly facility
- Franchised operation requires adhering to strict guidelines
- FA license requires disclosing sales and penalties if food percentages not reached
- Increased foot traffic after 5 pm, better clientele
- Realtor found space difficult to promote north of tracks
- Issues with intoxicated people downtown not entirely related to bars
- DCP welcomes new businesses

Included you will find:

- Copy of the Liquor Control Board minutes of March 28, 2018
- Fargo Municipal Code 25-1508 C listing the areas to consider when issuing any liquor license
- Three letters in opposition and three letters of support
- Fargo Municipal Code 25-1509 C & D listing when minors are allowed in a liquor establishment

The vote of the Liquor Control Board was split 2 voting in favor of transferring the license and 2 voting against (In Favor, Piepkorn and Sprague; Against Todd and Larson; absent and not voting Gehrig) (Both Chief Todd and Mr. Larson indicated they would vote in favor if this was an FA license)

Questions raised:

- Are we punishing a new business because of the actions of 2 existing businesses
- Are we confusing license class?
- If you are saying no because this is an A license, would you also say no if Red Lobster wanted to move downtown because they have an A license
- What is the appropriate density for downtown? Does a NO for this application mean NO for all requests moving forward?

**LIQUOR CONTROL COMMITTEE MEETING  
March 28, 2018 1:30 P.M.**

Present: Commissioner Piepkorn, Police Chief Dave Todd, City Auditor Sprague,  
Grant Larson, Environmental Health,  
Absent: Commissioner Gehrig  
Others Present: Asst. City Attorney Nancy Morris; Rick Carik, Rick's; Dustin Mitzel,  
Happy Harry's; Carol & Brad Schlossman, Arlette Preston, Downtown  
Neighborhood Assn; Greg & Josi Danz, Zambroz; Sally Loeffler, Beyond  
Running; Rick Nymark; Dave Glessner; Doug Restemeyer, D S  
Beverages; Jim Swanick, Empire; Dave Schlossman; Dave Erickson,  
Bulldog Tap; Other members of the media, concerned citizens and other  
members of the industry.

Meeting was called to order at 1:30 P.M.

1. Commissioner Piepkorn called the meeting to order and asked if there were any additions or corrections to the minutes of February 21, 2018. There were no additions or corrections to the minutes of February 21, 2018. Moved by Larson, seconded by Todd to approve the minutes of the February 21, 2018 meeting of the Liquor Control Board all voted in favor, motion passed unanimously.

Sprague reviewed the eight items listed in 25-1508 C used in determining the appropriateness of a location for a liquor license. Including convenience of police regulation, proximity to other businesses selling alcohol, proximity to schools and churches, protests of neighboring property, zoning, interference with neighboring properties, suitability of the premise and number of licenses in existence.

2. A. The first application to be considered today is for the transfer of a Class "B" alcoholic beverage license from Main Liquors, Inc. d/b/a Main Liquors located at 4000 Main Ave to Dakota Liquors LLC d/b/a Main Liquors to be located at 4000 Main Ave. There were no questions or comments regarding this application. Moved by Sprague, seconded by Larson approve the transfer of a Class "B" alcoholic beverage license from Main Liquors, Inc. d/b/a Main Liquors located at 4000 Main Ave to Dakota Liquors LLC d/b/a Main Liquors to be located at 4000 Main Ave, all voted in favor, motion passed unanimously.
- B. The second application to be considered today is for the transfer of a Class "FA-RZ" alcoholic beverage license from Mosaic Foods d/b/a Mezzaluna located at 309 Roberts to Snelling Hospitality LLC d/b/a Mezzaluna to be located at 309 Roberts. There were no questions or comments regarding this application. Moved by Larson, seconded by Todd approve the transfer of a Class "FA-RZ" alcoholic beverage license from Mosaic Foods d/b/a Mezzaluna located at 309 Roberts to Snelling Hospitality LLC d/b/a Mezzaluna to be located at 309 Roberts, all voted in favor, motion passed unanimously.

C. The third application to be considered today is for the transfer of a Class "FA" alcoholic beverage license from B.A.B. 32<sup>nd</sup> Ave S LLC d/b/a Moe's Southwest Grill located at 2511 Kirsten Lane Suite 101 to HRP Fargo LLC d/b/a The Tavern Grill to be located at 3233 45<sup>th</sup> Street South.

There were no questions or comments regarding this application.

Moved by Larson, seconded by Todd approve the transfer of a Class "FA" alcoholic beverage license from B.A.B. 32<sup>nd</sup> Ave S LLC d/b/a Moe's Southwest Grill located at 2511 Kirsten Lane Suite 101 to HRP Fargo LLC d/b/a The Tavern Grill to be located at 3233 45<sup>th</sup> Street South, all voted in favor, motion passed unanimously.

D. The fourth application to be considered today is for the transfer of a Class "A" alcoholic beverage license from Classic Foods, LTD d/b/a Ground Round located at 2902 13<sup>th</sup> Ave S to FSB Associates LLC d/b/a Cowboy Jack's to be located at 506 Broadway.

Sprague said Cowboy Jacks is requesting a transfer of a Class "A" license, the packets have been updated with a map showing locations of various liquor licenses in the downtown area, a floor plan of the business, a proposed menu from Cowboy Jacks, an alcohol density study and various letters of support and opposition. Cowboy Jacks is a franchise and the background shows no concerns. The concerns come down to the location of the business. Piepkorn commented that one concern is there would be 3 Class "A" licenses in one block, the comments he's received people are not concerned with a bar/restaurant the concern is the class of license.

Carol Schlossman from the Downtown Neighborhood Association (DNA), they support the Downtown Master Plan. We are here today to talk about license density, to many liquor establishments can threaten the health and investment in the downtown. The DNA studied three commercial district, downtown, 13<sup>th</sup> Avenue South and 45<sup>th</sup> Street South. Even though the 13<sup>th</sup> Ave and 45<sup>th</sup> St districts are much larger in geographic size, the downtown has more liquor establishments. Not only were number of licenses reviewed but also the type of license. What is the negative tipping point, when is it too much? There has been a huge investment in downtown in the last 15 years, let's not ruin it with over density. Research shows areas with the largest concentration of liquor licenses often are in the poorest neighborhoods; downtown is a poor area. We have seen the negative drunken and criminal behavior that is spilling out into our neighborhood. There have been 378 calls for service in the last 9 months. Before living downtown, she had never called for assistance, now she has called 9 times. Every day we see pushing, shoving and foul language that can intimidate someone walking on the sidewalk. We encourage the Liquor Board to develop a best practice considering density in the downtown, also please consider the current negative behaviors that are not being addressed. The DNA urges a denial on this application.

Josi Danz, Zambroz gave the Liquor Board a list of signatures of downtown property owners who are opposed to this transfer. She lives and works downtown for 27 years. She has had to make many calls for service for drunk and disorderly conduct. She has

witnessed the growth of downtown, it used to be mostly bars, and it was not an area of pride or a destination, people were afraid to go downtown. Now it is the community front porch, it is the entertainment district in Fargo. The recently completed Downtown Master Plan stressing a family friendly environment increased housing and more green space and a balance of different businesses all of which lead to greater economic stability. We are concerned about maintaining balance with the future growth of new businesses in downtown. Not all liquor license operate the same, we need to carefully consider how the business operates and want contributions it will make to downtown. The area this business is requesting to locate is already an area the Police Department expends many of their limited resources. Her research shows this business model operates as a nightclub and will further stress the PD's limited resources. Their business model is focused on drinking. We request that you deny this request and develop a policy that considers density and operations before you allow more licenses in the downtown.

Sally Loeffler, Beyond Running/Outermost Layer, the businesses are located between the Empire and the Bismarck and next to the proposed location. Initially, she had reservations about another bar entering block; certainly, another establishment operating in a similar manner would cause additional problems. She fears we may be having the wrong discussion; we may be talking about issues not related to a family friendly option to join the North end of Broadway. Her research indicates Cowboy Jacks does not operate the type of businesses that are currently exists in the neighborhood. The business does focus on family friendly atmosphere; she listed examples from her research. She failed to find outrageous drink discounting. She understands there will be late night clientele and they can accommodate that. She felt it would be unfair to assume that Cowboy Jacks will draw the customers with drinking issues. They will have to follow franchise guidelines and rules. She understands the limitations of a liquor license and some licenses requiring reporting of sales and why someone might not want to report their sales. She expressed concern about safety with the applicant and she believes he has the best intentions. With two nearby businesses closing, she would welcome a family friendly business. She would encourage the committee to approve the license transfer.

Piepkorn asked Sprague to explain how minors can be in a Class "A" liquor license business. Sprague indicated that there is often confusion between the class of liquor license and what is allowed. He continued that years ago, the only license available was a Class "A", so businesses like Red Lobster have a Class "A" license and certainly no one would have concerns about minors in Red Lobster. The Class "A" licenses do not require food sales, however, there are no restrictions that say the Class "A" license cannot serve food. When you look at the general alcohol provisions of North Dakota Century Code and Fargo Municipal Code, we start with if you are under 21 you cannot be where alcohol is served. Then the exceptions come into play. The first exception is; if you are in a restaurant where food sales exceed alcohol sales and the alcohol is mixed in a separate area you can remain in the restaurant even though you may be under 21. The second exception is if you are in a restaurant accompanied by your parents or

guardian you may remain where the alcohol is regardless is the food sales exceed alcohol sales or where the drinks are mixed or poured. Piepkorn said with this restaurant food sales would not exceed alcohol but food sales will be significant. Sprague indicated that conversations with the applicant revealed he was not assured his food sales will exceed alcohol sales therefore he is hesitant to apply for an "FA", he does not want to be bound by the 50%, what would happen to his business if he didn't reach the 50%. In the past in the downtown, we have seen restaurants really well supported. We've seen Wurst, JL Beer, Vinyl Taco all started with licenses that didn't require food sales and switch to licenses that do require food sales. Piepkorn indicated he feels the neighbors would be more supportive if the license required 50% food sales.

Gregg Danz, Zambroz, stated he has been in restaurants where after a certain hour minors are no longer allowed. Sprague responded that is a management decision, if minors are not allowed, if the business is not a restaurant, then minors would never be allowed. Danz continued by asking about the floor plan of the proposed restaurant, he stated his research showed an emphasis on alcohol, his concern is good intentions are one thing but if the reality is that it ends up being a nightclub we can't go back. He urged the committee to take a hard look at the license and get clarity on how they would run a Class "A" establishment. Josi Danz emphasized the main concern is the location, she also was told the minors would not be allowed after 2 p.m.

Assistant City Attorney Morris stepped forward to clarify that minors are allowed in a restaurant, if food sales do not exceed alcohol sales and if the pour area is not separate, their parents must accompany them.

Trevor Hill said he had concerns about walking downtown because of the liquor issues but would favor a new establishment that might bring in a better set of customers to the area especially one that is open past 5 p.m. Carol Schlossman indicated she had concerns about parking and she heard there was a 2 p.m. time limit for minors.

Jeremy Horst is a realtor that has tried very hard to lease that space for over a year now. He visited with office, retail and commercial and the feedback was about the foot traffic north of the tracks. He is hopeful that more traffic will push out some of the trouble people. Cowboy Jacks looked at a number of properties in downtown Fargo and in the end they felt this was a good location.

Chief Todd stated he does have two establishments that are pushing them to their limits. Talking about adding a third is a concern. What it tells him is they may need to hold the existing businesses more accountable for what is happening not only inside but outside around their businesses. The Downtown Master Plan should have a balance of businesses, destination and neighborhood. Not all businesses are following the plan to have that balance. Are we focusing on destination and ignoring the other two? To have a neighborhood we need to have more residence and we are getting out of balance. We need restaurant and bars but we need to have balance. Granted empty storefronts are not as safe, full storefronts make safer neighborhoods. The applicant is a bit of a victim of the two existing establishments, he would probably be approving the application if

we didn't have the problems we are facing currently. Chief Todd indicated if this were an FA he would approve the transfer.

Austin Morris, property owner, he feels the narrative today has painted the concept in colors that are untrue. He has difficulty finding family friendly restaurant in downtown Fargo. Cowboy Jacks is a restaurant franchise with over 100 menu items, they will be utilizing the entire building as well as adding on to the business. He questioned the call volume of a similar type business instead of comparing to a bar. He questioned what other cities the size of Fargo are doing with density of restaurants/bars. Downtown needs more housing because we are an event space; we draw from South Fargo, West Fargo and Moorhead. He is recommending support

Commissioner Piepkorn said this could have a positive effect on the establishments by introducing a different clientele, this could draw more foot traffic to the area of Broadway and reduce problem area. Chief Todd said the existing 2 neighbors should work to clean up their establishments before we introduce another "A" license. Todd said he can't support this type license until the area gets cleaned up. Piepkorn replied that isn't fair to punish the applicant because of someone else's behavior.

Arlette Preston challenges the owner to apply for an "FA", and the concerns of the neighborhood would disappear.

Dave Erickson, Cowboy Jacks, explained why the "FA" license is not a good option for this business at this time, beer and especially craft beer at this time has thrown the food ratio off balance. A craft beer can sell for as much or more than a burger making it difficult to stay in balance. Most of the other Cowboy Jacks are exceeding the 50% but it may get close and what would happen to his investment if he went under the 50%. An "FA" license would be half the investment. He indicated they would probably not allow minors in after 10 p.m. Sprague commented the discussion on expensive drinks and inexpensive food has been around for some time now. He also said he believes Cowboy Jacks is making a long-term investment, the applicant is going to be the franchisee for all of North Dakota, so it is unlikely that in a year he quits selling food and becomes just a street bar. Finally, Sprague asked if the applicant had reached out to the neighbors and if so what their response was. Erickson said he used social media to try to set up a meeting but was unsuccessful. Sprague commented that sometimes differences could be worked out through open communication. Finally, he said some of the people causing problems are not coming out of a bar; they are just passing through the area and causing issues.

Mr. Danz commented he feels another "A" license would just increase the problems with beer crawls and people walking around. He said he has problems renting his apartments to anyone not in their 20s because of the noise and disorderly conduct caused by the bars. Carol Schlossman asked how much the City wants to invest of taxpayer dollars to police the downtown.

Ben Nolan, Enclave Development, works in the Case building, he constantly deals with impaired people and the closest liquor establishment is a half mile away. There is a problem with drinking; people are going to find the alcohol wherever it is. We should focus on drinking as whole and not individual locations. Josi Danz said she feels the crowd will be like that of the OB and will cause additional problems. Arlette Preston said she has been more frightened by young people and negative behavior than with the homeless population. Melissa Rademacher, DCP, said she welcomes new businesses to the downtown and encourages development. Her research on the franchise shows they are held accountable, we need to not be swayed by gossip and focus on the facts. We need to hold the bars and restaurants accountable for overserving, what are the consequences for them. Brian Grammar, from Moorhead indicated they would love to have this franchise come to Moorhead.

Brian from Cowboy Jacks, said his business does not want to be a burden to the community. They have plans for well-lit buildings and would be willing to help police monitor their area to avoid conflicts with patron. He emphasized that Cowboy Jacks is not a nightclub and many locations do exceed the 50% food requirement. He spoke about their business and the involvement with communities and neighborhoods.

Piepkorn questioned the parking lot and was told the plans are still being finalized. Those plans should include the security cameras or anything else that will help with the safety of the area.

Larson acknowledged that alcohol abuse is a city wide issue and this Board should consider a main objective to make decisions based on public safety for the neighborhood. Sprague commented we need to clearly define what the saturation limit is and the parameters. It would not be fair to penalize this establishment and say no before those parameters are defined.

Moved by Sprague, seconded by Piepkorn to approve the transfer of a Class "A" alcoholic beverage license from Classic Foods, LTD d/b/a Ground Round located at 2902 13<sup>th</sup> Ave S to FSB Associates LLC d/b/a Cowboy Jack's to be located at 506 Broadway.

Voting in favor Piepkorn and Sprague; voting against Todd and Larson. The tie vote will be forwarded to the City Commission at the April 9 meeting. Chief Todd commented he would vote for approval if this was an "FA" license, Larson agreed.

3. Due to Commission Gehrig's absence, it was decided to continue the discussion about hiring an outside consultant for advice on our liquor ordinances.
4. Sprague commented on the mandatory meeting penalty. The proposed ordinance would provide that all licensees are required to attend the mandatory meeting; you can also send a representative or manager. Failure to attend one of the meetings will result

in a penalty of \$500 and the licensee must still attend at a liquor board meeting where the presentation will be repeated. Failure to attend will result in a second \$500 penalty and the licensee will have to complete an on line presentation and test. If the licensee fails to attend the meetings or complete the on line presentation their license would not be renewed on June 30.

Moved by Todd, seconded by Larson to direct City Attorney to prepare ordinance change and forward to the City Commission. All voted in favor.

There being no further business to come before the Liquor Control Board, the meeting was adjourned at 3:03 p.m. **The next regular meeting will be held Wednesday, April 18, 2018 at 1:30 p.m. in the City Commission Room.**

Liquor Control Board minutes are available on line at:

<http://www.FargoND.gov/Business/Licensing/Alcohollicensing/LiquorControlBoard/>

25-1508. - Issuance and transfer of licenses—Restrictions—Hearing required.

- A. No license, other than a Class "E" license, shall be issued or transferred without approval of the commission. A Class "E" license may be issued by the city auditor, without notice or hearing, provided, however that, application must be made seven (7) days before the planned event unless such requirement is waived for good cause shown.
- B. When an application for any license other than a Class "E" is filed with the commission pursuant to the provisions of § 25-1504 of this article, the city auditor shall cause notice to be published in a newspaper of general circulation within the city of Fargo, that the applicant has applied for a license to sell alcoholic beverages at the place named in the application or for the transfer of an existing license, and that the application will be acted upon by the commission on a certain day and time. A hearing on the application shall be held not less than 10 days nor more than 30 days after the date of publication. The expense of the publication, in addition to the license fee, shall be paid by the applicant to the city auditor prior to publication.
- C. At the time of the hearing on the application, the commission shall, in its discretion, determine if the issuance or transfer of the license is in the best interests of the public health, safety, morals and general welfare of the community. Among the factors to be considered by the commission in granting or denying a license or a transfer are the following:
  - 1. Public health and sanitation and the convenience of police regulation and the recommendations and reports of city officials, such as the chief of police, chief of the fire department, building inspector, health officer, and any other official submitting a recommendation or report at the request of the board of city commissioners.
  - 2. The proximity of other businesses licensed to sell alcoholic beverages.
  - 3. The proximity of schools, churches, funeral homes, public buildings or buildings used by or for minors.
  - 4. Protests of neighboring property owners or occupants.
  - 5. Zoning regulations.
  - 6. Interference with neighboring properties.
  - 7. Suitability of premises for sale of alcoholic beverages.
  - 8. Number of such licenses already in existence.
- D. No transfer of any license shall be approved by the commission until the transferee has submitted a license application and has met all the requirements imposed upon an applicant for a new license.
- E. No license issuance or transfer authorizing off-sale of any kind shall be approved by the commission for the sale of alcoholic beverages on premises, any part of which are closer than 100 feet to any grocery store, drug store or gasoline service station, or any portion thereof; provided, that this restriction shall not apply to a transfer which is an assignment, sale, exchange or other conveyance of a license. In the event the owner of the licensed premises for the sale of alcoholic beverages is also the owner of any such grocery store, drug store or gasoline service station, the board of city commissioners is authorized to determine whether the configuration of the licensed premises and such grocery, drug or gasoline station premises is such that the 100-foot separation has been satisfied.
- F. The number of licenses which may be issued by the board of city commissioners shall be limited as follows:
  - 1. Class "AB" - 22
  - 2. Class "ABH" - no limit
  - 3. Class "ABH-limited" - no limit

William W Wilson  
505 Broadway #309  
Fargo, ND  
1 218 329 2862

Dear Steve:

Sorry I didn't get a chance to visit when I saw you the other day, but was jammed.

I am writing to express my concern over the proposed approval of a liquor license for the building at 506 Broadway.

We moved in to our condo about 4 years ago. At that time, this was a nice place to live, and felt there was truly a downtown neighborhood and a desire to improve upon what had developed so far. We also felt the City was promoting downtown as a neighborhood. And at that time, I would say it truly was, and was evolving in a positive direction.

We were fully aware of the issues at that time. This includes the railroad, but, they were committed to a quiet zone and took efforts to contribute to a better neighborhood. That is something the city liquor laws have not done!

In recent years, we have come to not agree our previous vision of the downtown neighborhood. We are increasingly seeing negative influence of drunkenness including fights, loud raucous activity in our private parking lot and elsewhere, having to clean up vomit from our private entrance and sidewalk, and a general lack of regard for private property. We are also now finding it not safe to walk the neighborhood, and, when friends come to visit they go out of their way to avoid walking next to the neighboring bars. In my profession, these are referred to as externalities in which the impact of a project imposes a cost on others.

We have seen in recent months the apparent approval of 1 other full-scale bar next door to 2 additional large bars and another around the corner, another distillery, etc. None of these favors developing a downtown neighborhood.

Further, you are fully aware that at one time, all downtown Fargo had was bars, which virtually drove away other commercial activity, with exception of dive-hotels, including of course NP avenue. It took a full 30 years to reverse that trend. We have concern that we are headed in that direction.

Besides the reasons above, we would urge you to reject the permit

1. Downtown Fargo has needs. The recent plan (Downtown Master Plan) that was done by outside consultants and approved by the commission indicated a viable and desirable plan. One of the important items was green space, and no mention of an additional bar.

I am sure you are fully aware that what downtown Fargo needs is: 1) greenspace; 2) a satellite police station (which would nicely fit in to the location in question, 3) etc., and 4) fewer bars.

Providing a license to the proposed will contribute to none of these; and, in fact, will permanently detract from them!

We recognize that the proposed parking may mitigate some of those concerns, but not the other items.

2. Density. I urge you to get the data on density of bars per any metric from the Health Department.

Given that data you would never approve this license. There are more bars per any metric in downtown Fargo and on Broadway than any other spot in the city, and probably any other mid-sized city.

This is dangerous. This license will now make 1) 4 bars adjacent to each other on NP avenue; and 2) 3 bars within about 50 yards of each other on the north end or Broadway, notwithstanding what is between (which are not as problematic).

You had an opportunity to allow a bar on 4<sup>th</sup> st in an area w/o these problems and not too dense and chose not to.

I fully am aware you were simply following your rules. Fix the rules! Else, we will have continued mayhem, further exacerbating the density problem.

I also realize the some of the issues I raise are w.r.t. zoning which is not your direct purview; but, you will have an impact on the City of Fargo, the street dept, FPD and all the neighboring residences and businesses.

3. Size. The size of the proposed bar is atrocious and will exacerbate many problems, including parking, lack of greenspace, and the impact of such a size will further worsen the undesirable street-activities (fighting, passing out on the streets, etc.).

Certainly you are aware of the economics of agglomeration (we are probably already seeing its impacts) which, without planning and judgement, will induce further like projects. And, it will likely give further incentive to other competing bars to expand their size to compete effectively.

4. Inability to adequately patrol the premises: We have great respect for the FPD in escalating their patrols and trying to mitigate the problems. They have been

somewhat improved in the north end of Broadway. But, they are fighting an uphill battle.

You should be aware the situation is atrocious and unmanageable at the South End of Broadway. I am told that up to 5 officers are routinely required to attempt to manage the street-activity when those bars close on some late week nights. In fact, we have friends that live in the condo facing that parking lot (across Broadway which is a congregation point) and they are so angry they are contemplating moving. This is not good.

There are a multitude of problems as you know including: too many bars, too large of bars, inability to manage that number or people, and the inability of the FPD to monitor 'over-serving' (a good problem to fix, but likely out of your control).

We do not believe this will be any different now at the north end of Broadway.

You are going to have a large bar, no parking, among adjacent existing bars, each of which will have mixed populations, and the problems above will persist and worsen.

Is the City now willing and able to fund another \$.5 million/year to provide police support to just monitor the situation? If so, who is going to pay for this?

I would challenge you to have your female spouse or significant other, or for that matter yourself, to walk down Broadway on the west side during the period 11-2 AM on a weekend night!

5. Drunkenness. You should be aware that the drunkenness (which is exacerbated by the facts indicated above), is a horrible problem in Fargo, and nothing you or we should be proud of, nor should you.

What do you propose to do to assure this problem does not continue, or worsen? There is no doubt that the density of bars in this area will worsen this problem

6. Parking. I find it amazing that the city has strict parking requirements for apartments and commercial property outside of the downtown area; and that parking is not a concern for the proposed facility.

It is, and everyone in the neighborhood has a concern for parking!

While we recognize that there are proposed new-parking ramps, they are yet 2 blocks away or more. So, I would fully expect, as should you, that the patrons, and maybe employees will park firstly on the street, in competition with parking needs for the other businesses, and then secondly in the next available private

parking lots. These include that at 505 Broadway (directly across the street), and then at First Lutheran Church and St Mary's.

Dave, just imagine, when we grew up Winnie Sandal had to go to Dutchmaid to chase kids back to Sunday school. Now we will need a new Winnie to go to the new bar to have the patrons retrieve their cars from the First Lutheran parking lot! What a world!

How do you expect these owners to preclude parking demand from the patrons of the newly-built proposed bar?

This is especially obnoxious since the developer has apparently chosen to remove existing parking attached to that building, ultimately to make it bigger and put more patrons on the street!

In addition to the parking problem, the increased size and patronization of the proposed project will result in a continuing circling of ubers and party buses picking up/dropping off patrons and patron groups, with no obvious place for these to wait. This is not desired.

In summary, I am sure you are well aware of these issues, but, thought it appropriate I respond and I suspect it will represent the majority view, whom you represent,

- 1) Unless you are beholden to the developer(s), this is a bad project for virtually all involved and affected by the project.

I would ask you for a show of hands of those that favor the project (unlikely no one other than the developer, and future developers of like projects) and contrast that with opponents which I am sure would include all downtown businesses, residences, neighboring churches, and the FPD.

- 2) Further, don't accept the argument that your commission is restricting private enterprise. The developer has options, including several (I am aware of 4-5) other vacant buildings in the downtown area which would not exacerbate the density problem discussed above; in addition to numerous other locations within the city.
- 3) I am aware that some may feel that competitive pressures should be used for allocating bar-type activities. Fine, but, under the current city regimen, that cannot work efficiently. As described above, there are extensive externalities (parking, drunkenness, etc. as described above) associated with these businesses; and, so far, city leaders have not chosen to manage these in any constructive way. Indeed, if the developers had to pay the externalities of the project, they would choose a different location.

So, you know I am concerned, and, I can assure you that virtually all other residences and businesses in downtown Fargo have and share similar concerns if not more.

I would be happy to respond in person if you want to contact me at the above. I will be watching your actions!

**Steve Sprague**

OPPOSE LTR 2

**From:** Brad S gmail <bradschlossman@gmail.com>  
**Sent:** Monday, March 26, 2018 5:43 PM  
**To:** Steve Sprague  
**Subject:** Opposition to new bar

**CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Dear Steve,

I am writing today in strong opposition to the addition of a bar to the 500 block of Broadway.

In September of 2012, my wife and I purchased our current home located at 505 Broadway in the Ford Building. Just like everyone purchasing a home, the neighborhood was a significant consideration in our home purchasing decision. The downtown neighborhood that we moved into had positive momentum and continues to show positive developments.

Please note that my opposition is not to the restaurants that serve alcohol. These are not destinations that are the source of the drunkenness that I am addressing in my letter.

1) Downtown needs to address its Achilles heel: Drunks. They are a major problem and there is virtually nothing done to address this problem. Everyone who lives or works in our vicinity has stories of negative encounters by drunk people on the street. They are a steady presence near our home. Adding a 3rd bar to the block where there are already severe problems with drunks is a significant issue for the north end of downtown.

2) The building expansion is also problematic. Their plans will remove parking while expanding the building, turning the Ford Building parking lot as the preferred place to park, adding maintenance costs and other headaches to us. Although downtown codes do not require that the bar provide any parking, please note that nearly all development in the last several decades north of the tracks has provided its own parking, which would be poached by this bar. I feel strongly that the city should require on-site parking for new or expanded developments north of these tracks.

The city has invested and continues to invest millions in the downtown redevelopment effort. In order to protect that investment, the city should step up and block the conversion of retail space into another bar. The recently completed extensive downtown strategic plan calls for family-friendly housing as one of its key goals. The consultants warned us about too many bars, citing examples such as Athens Georgia who lost residents downtown after saturating the area with bars. We need to learn from their mistakes and say no to this new bar.

Feel free to contact me if you wish to discuss the matter further. Thank you for serving on this important committee.

Sincerely,

Brad Schlossman  
[bradschlossman@gmail.com](mailto:bradschlossman@gmail.com)  
[701 866 7290](tel:7018667290)

**Steve Sprague**

---

**From:** Lauren Falkner <laurenfalkner@hotmail.com>  
**Sent:** Thursday, March 15, 2018 1:11 PM  
**To:** Steve Sprague; David Todd; Dave Piepkorn; Tony Gehrig  
**Subject:** Mc Neal & Friends location

**CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Hello,

Please vote against the bar business taking over this downtown location. I live in the Ford Building and we are surrounded by bars and the negative actions that go with them. We do not need another bar on this end of Broadway!

Thanks for your consideration,  
Lauren Falkner  
505 Broadway N, Ste. 304  
Fargo, ND 58102

Support LCR 1

March 28<sup>th</sup>, 2018

To the members of the Fargo Liquor Control Board:

My name is Sally Loeffler. My business partner, Jason Overland, and I own Beyond Running and Outermost Layer at 516 and 518 Broadway. Beyond Running has been on the 500 block of Broadway for 11 years. When the two spaces on each end of our block became vacant, we were obviously curious about what sort of new businesses would appear on the block.

Initially, I too had reservations about a bar opening on our block. Being between the Bismarck and the Empire has presented a host of issues over the years. From intoxicated patrons entering our stores, to having our windows smashed out after hours, I certainly would not welcome another establishment that would bring more of the same to the north end of Broadway.

I did some research, prepared to back up my initial reservation about allowing another bar in downtown. I was surprised to learn that Cowboy Jack's does not appear to represent the type of establishment that is feared. I scoured Cowboy Jack's website and Facebook page. I spoke with the owner, Dave Erickson. The business plan from this franchised establishment does not appear to encourage binge drinking, focuses on lunch and dinner specials, and hosts activities that are family friendly. To be sure, there will be a late-night clientele. But I failed to find any evidence of outrageous discounting of drinks. The lowest price drink special I could find was a few hours long, two dollars special on beer.

Contrast that with the 2-cent taps from 8-10 pm special run by an establishment downtown on Broadway. I think it is unfair to assume a new establishment will follow suit with these deep discounts, when they have shown no evidence, nor expressed plans to draw business using these tactics. In addition, my discussion with Mr. Erickson revealed the fact that he is required to follow franchise guidelines for operation of a food and drink establishment, and he would have no intention to resort to a drinks-only business plan.

I expressed my concern for security during the late-night hours to Mr. Erickson, and I believe he has the best of intentions as a business neighbor. I feel that with common-sense management and collaboration with the Fargo Police Department, any potential safety issues can be addressed.

The north end of Broadway would benefit from a family friendly, food and drink establishment. Family friendly dining is under represented in Downtown, with most establishments requiring 21 years of age to enter.

Two empty spaces on our block does not help an already "lower foot traffic" part of Broadway. Since the closing of Josie's Corner and McNeil and Friends, our business has seen a decrease in shopping traffic, and an increase in undesirables loitering, wandering intoxicated on the block, and fighting. I believe that bringing a family friendly establishment to the north end of Broadway would help us take back the block.

I feel it is important to look forward, and welcome new faces with fresh ideas to downtown business. We cannot limit business because there are a few well-established places that may not like competition.

We would like to give our recommendation that Cowboy Jack's be approved for the necessary liquor license at this location.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sally Loeffler".

Sally Loeffler  
Owner  
Beyond Running, 516 Broadway  
Outermost Layer 518 Broadway

A handwritten signature in cursive script, appearing to read "Jason Overland".

Jason Overland  
Owner  
Beyond Running, 516 Broadway  
Outermost Layer 518 Broadway

Support Letter



## LUX COMMUNITIES

March 27<sup>th</sup>, 2018

To whom it may concern:

Lux Communities, LLC, a local downtown-based property management company, manages apartment homes next door to the proposed location of Cowboy Jacks Restaurant and Bar. After surveying our residents nearby, they were excited to hear the news of the potential restaurant within walking distance. They expressed that it would bring something different to their block, specifically, a mid-priced restaurant and bar, rooftop patio, and unique dining option within walking distance. Lux Communities is most excited that the restaurant is family-friendly, is open for lunch and weekend brunch, and will be a catalyst for future amenities north of the railroad tracks.

We would like to give our recommendation that Cowboy Jacks get approved for their necessary liquor license at this location. It will bring new life and vibrancy to the northernmost Broadway block in Downtown Fargo.

Donna Block

Donna Block

Vice President

Lux Communities, LLC

**Steve Sprague**

---

**From:** David Schlossman <David.Schlossman@goldmark.com>  
**Sent:** Wednesday, March 28, 2018 11:48 AM  
**To:** Steve Sprague  
**Subject:** Fwd: Cowboy Jacks

*Support Ltr 3*

\*\*\*\*\* CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. \*\*\*\*\*

Quick letter of support from anchor tenant in meadowlark building for cowboy jacks below.

David Schlossman | Commercial Realtor  
GOLDMARK COMMERCIAL  
Call/Text: 701.261.6161<tel:701.261.6161> Sent with my Mobile Device.

----- Original message -----

From: Jake Joraanstad <jjoraanstad@myriadmobile.com>  
Date: 3/27/18 7:22 PM (GMT-06:00)  
To: David Schlossman <David.Schlossman@goldmark.com>  
Subject: Re: Cowboy Jacks

\* We'd definitely be supportive! I don't have time to write one but would my name in. Another kid friendly option is good

On Tue, Mar 27, 2018, 7:20 PM David Schlossman  
<David.Schlossman@goldmark.com<mailto:David.Schlossman@goldmark.com>> wrote:  
Cowboy Jacks plans to lease mcneal and friends building downtown. Would you be in support of it?

It is a franchised bar/eatery, open for lunch and kid friendly until a certain hour.

David Schlossman | Commercial Realtor  
GOLDMARK COMMERCIAL  
Call/Text: 701.261.6161<tel:701.261.6161> Sent with my Mobile Device.

Jake Joraanstad

Myriad Mobile, CEO | 701.550.9337

Want to hear what our customers think about us? <https://clutch.co/profile/myriad-mobile>

When are minors allowed where alcohol is sold?

Minors are only allowed in a RESTURANT. If unaccompanied by a parent, only if the food sales exceed the alcohol sales AND the alcohol is mixed or poured in a separate room from where it is consumed. If accompanied by the parent food sales do not need to exceed alcohol and the mixing can take place in the same room.

Fargo Municipal Code 25-1509 C & D

C. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area.

D. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold when accompanied by a parent or legal guardian, whether or not the restaurant is separated from the room in which alcoholic beverages are opened or mixed and whether or not gross sales of food are equal to gross sales of alcoholic beverages.



## APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): FSB Associates, LLCDoing business as: ~~FSB~~ SALON & COWBOY JACKSBusiness address (location): 506 Broadway NorthMailing address: 4265 45th St. S. Fargo, ND 58104Business e-mail address: derickson@bulldogtap.comPhone number: (701) 866-2124 Other number: ( )**The following section to be completed by City Staff:**Date Received by Auditor's Office: 1/19/18Investigations Fee Paid (\$250) ☒ Yes ☐ No Date Paid: 1/19/18 Check # Council CrReviewed – Police Department by: [Signature] Date: 01/31/18

Comments (or see attached report):

☒ - BACKGROUND - NO ISSUES OF CONCERN, BUT I'M BECOMING CONCERNED ABOUT SATURATION & PUBLIC SAFETY ISSUES & QUALITY OF LIFE ISSUES

[Signature] 01/31/18

Chief of Police Date

Reviewed – Liquor Control Committee on (date): \_\_\_\_\_

\_\_\_\_ Approval Recommendation \_\_\_\_\_ Denial Recommendation

(See attached comments or minutes)

Reviewed – City Commission on (date): \_\_\_\_\_

\_\_\_\_ Approval \_\_\_\_\_ Denial

**This application is for the Class or Classes of Licenses checked:**

- ☒ Class A Authorizes the licensee to sell "on-sale" only.
- ☐ Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- ☐ Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- ☐ Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- ☐ Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- ☐ Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- ☐ Class D Authorizes the licensee to sell beer "off-sale" only.
- ☐ Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- ☐ Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- ☐ Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- ☐ Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

- ( ) Class G Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.
- ( ) Class H Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.
- ( ) Class I Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.
- ( ) Class I Entertainment Authorizes the Licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.
- ( ) Class J Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
- ( ) Class L Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.
- ( ) Class M Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.
- ( ) Class N Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.
- ( ) Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- ( ) Class P Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.
- ( ) Class RZ-V Authorizes the licensee to sell "on-sale" only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The Venue must derive 60% or more of its annual gross receipts from the sale of tickets.
- ( ) Class W Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.
- ( ) Class Y Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.
- ( ) Class Z Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

**The following section to be completed by the applicant:**

**ALL APPLICANTS** must initial #1 - #9 and sign in the space provided below.

1. DE All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. DE I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. DE If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. DE I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. DE I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. DE I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. DE I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. DE I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. DE I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: David Erickson Signature: 

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

**Applicant Information:** (2 pages)

Name: David Erick Erickson  
 (first) (middle) (last) (maiden name)

Address: 3229 Timber Creek Cir. S. Fargo, ND 58104  
 (address) (city) (state & zip)

How long have you lived at this address? 2 years

Provide your address history for the past 5 years:

From 08 to 16 Address: 525 Hampton Dr. W. Moorhead, MN 56520

From 16 to Present Address: 3229 Timber Creek Cir. S. Fargo, ND 58104

E-mail address: derickson@bulldogtap.com

Home phone number: (701) 866-2124 Other number: ( )

Date of Birth: 8/29/1984 Place of Birth: Fargo, ND

List each driver's license you have ever had and the state of issue:

DL#: ERI-84-1604 State of Issue: ND Dates: 1/19/2016

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes X No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?

\_\_\_\_\_ Yes \_\_\_\_\_ No If "yes," where and when? NA

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) \_\_\_\_\_ Yes X No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? \_\_\_\_\_ Yes X No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in: Dilworth Liquor License - Red Hen Taphouse

Moorhead Liquor License - Dave's Southside Tap

FARGO Liquor License - Bulldog Tap + Hennessys Irish Pub

Have any of the above named licenses ever been suspended or revoked?      Yes X No

If "yes", list the dates and reasons for the suspensions or revocations:

NA

List your employment/business history for the past 7-year period:

From: 08 to Present Business name: Dave's Southside Tap

Address: 803 Belsky Blvd #100 Moorhead Position/Title: Owner / President

From: 10 to Present Business name: Bulldog Tap

Address: 4265 45th St. S. Fargo, ND 58104 Position/Title: Owner / President

From: 13 to Present Business name: Red Hen Taphouse

Address: 1710 Center Ave #138 Dilworth, MN Position/Title: Owner / President

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?

X Yes      No If "yes", list each business below: Bulldog Tap - FARGO; Hennessys - FARGO;  
Dave's Southside Tap - Moorhead; Red Hen Taphouse - Dilworth

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?

     Yes X No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?

X Yes      No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

**Operator/Manager Information**

Are you going to operate/manage this business personally?

X Yes \_\_\_\_\_ No If "no", who will operate/manage it?

Name:

\_\_\_\_\_  
(first) (middle) (last) (maiden name)

Address:

\_\_\_\_\_  
(address) (city) (state & zip)

Home phone number: (\_\_\_\_) \_\_\_\_\_ Other number (\_\_\_\_) \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

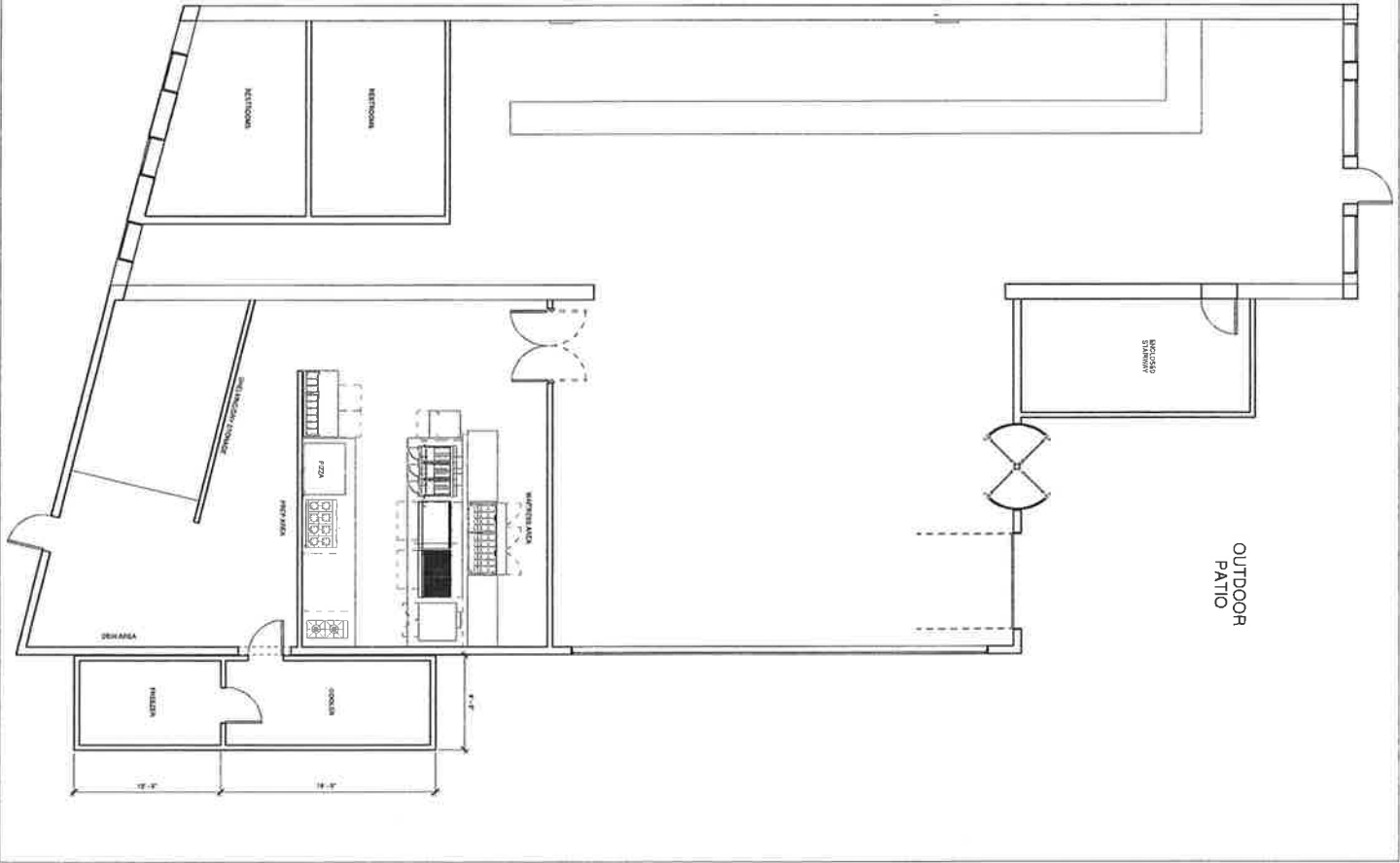
**(Important:** The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

**Business Site Plan**

On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

① 1st Floor  
1/4" = 1'-0"



2/6/2018 4:07:51 PM

FS100

DATE

FOOD SERVICE  
1ST FLOOR

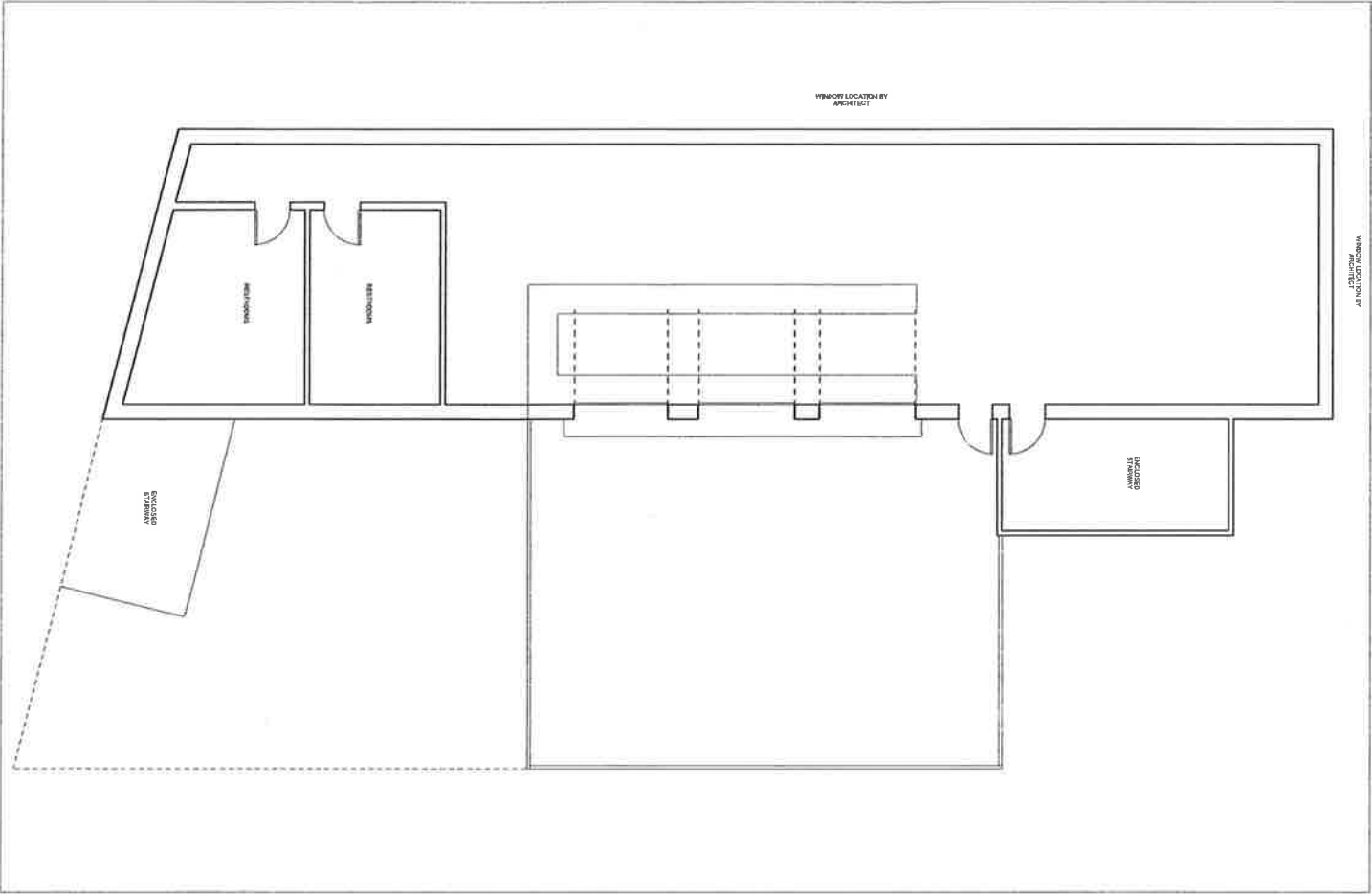
Project Name  
Enter address here

Benedict Refrigeration

1003 Harlem Street  
Altoona, WI 54720  
Office: 715.834.3191  
BenedictRefrigeration.com



2ND FLOOR



2/6/2018 4:07:51 PM

FS101

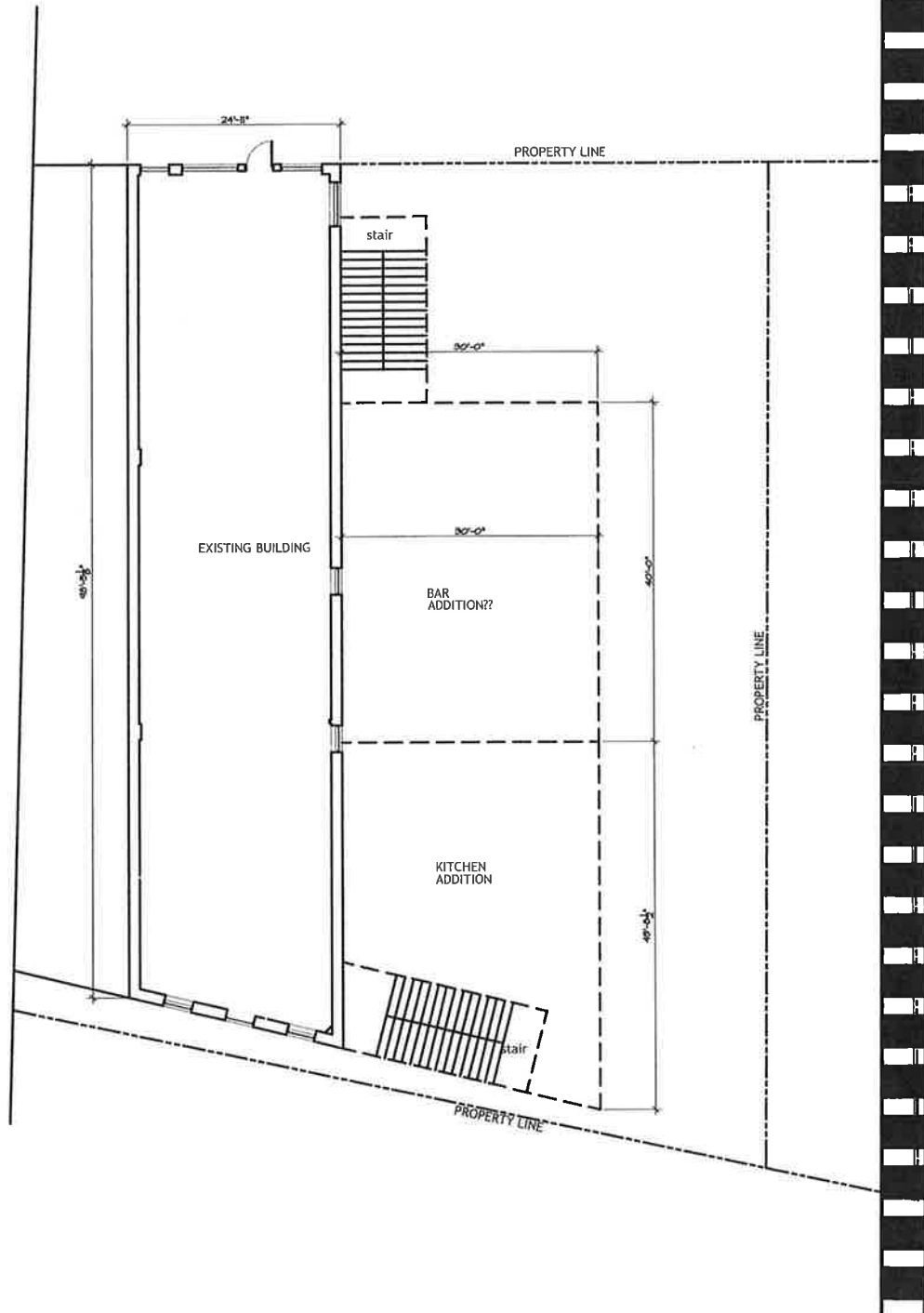
FOOD SERVICE  
2ND FLOOR

Project Name  
Enter address here

Benedict Refrigeration  
1003 Harlem Street  
Altoona, WI 54720  
Office: 715.834.3191  
BenedictRefrigeration.com



506  
Broadway



### Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

Sports Bar with full Kitchen on first level with small outdoor patio on adjacent lot and private party space on second level.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons:

All staff will be required to attend the FM Coalitions server training course. Along with this, there will be additional training on a monthly basis.

Safety and security issues, including crowd control:

Security will be at all entrances to control crowd size and customer safety issues. There will be a one strike rule. A list will be kept of all violators.

Minors on the premises, including consumption by minors:

All minors will be required to leave at 9pm. Security and staff will check all ID's at this point.

Noise concerns, especially from nearby residences of other businesses:

Located on the train tracks, so shouldn't be a concern

Do you plan to feature live entertainment? ☒ Yes ☐ No If "yes", describe what you envision at the time, including how often such entertainment will take place.

Live Music 2-4 times a month.



**Public Health**  
Prevent. Promote. Protect.  
Fargo Cass Public Health

**FARGO CASS PUBLIC HEALTH**  
**1240 25th Street South**  
**Fargo, ND 58103-2367**  
**Phone 701-241-1360**  
**Fax 701-241-1366**  
**FargoCassPublicHealth.com**

(30)

**M E M O R A N D U M**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: RUTH ROMAN**  
**DIRECTOR OF PUBLIC HEALTH**

**DATE: APRIL 5, 2018**

**RE: MAYOR'S BLUE RIBBON COMMISSION ON ADDICTION**


We would like an opportunity to update the Commission regarding the progress of the Mayor's Blue Ribbon Commission on Addiction. John Baird, MD and Anne Malmberg, Blue Ribbon Commission Director will be presenting.

If you have any questions, please contact me at 241-1380.

RR/la

31a

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: KENT COSTIN, DIRECTOR OF FINANCE** 

**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**

**DATE: March 29, 2018**

The existing legislation in place for State Water Commission funding related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project requires that the Fargo City Commission, Cass County Commission, and the Cass Water Resource Board approve all payment reimbursement requests prior to their submission and ultimate payment.

The attached reimbursement request has been prepared by Finance staff and is ready for processing. Your approval of the request for funds is hereby requested as required.

**Suggested Motion:**

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$772,390.



March 29, 2018

Garland Erbele, P.E.  
North Dakota State Water Commission  
900 East Boulevard Avenue, Dept 770  
Bismarck, ND 58505-0850

Dear Garland,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #62 pursuant to the terms and conditions of House Bill 1020 for costs incurred from February 1, 2018 to February 28, 2018 on the Fargo-Moorhead Metropolitan Area Flood Risk Management Project. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$772,390.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$244,000,000	\$182,144,527	\$1,544,781	50%	\$772,390	\$61,083,083

**Project Narrative, this request:**

Project Number	Project Description
V01201	Crop Damage payments related to County Roads 16 & 17 Realignment Project
V01701	Residential relocation assistance for homeowners living in the upstream mitigation area
V01701	Land for Diversion Channel Phase 1A and 1B
V01703	Commercial relocation assistance for Fargo Public Schools
V02812	Pay Application #23 for WP 42F.1S 2 <sup>nd</sup> St North Floodwall, South of the Pump Station

We certify that \$78,689,391 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of HB 1020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

The City of Fargo, Cass County Commission, and the Cass County Joint Water Resource Board have approved our request for funds as required in HB 1020. Copies of their approval letters are included.

If you have any questions relating to our request, please contact me directly.

Sincerely,

Kent Costin  
Director of Finance, City of Fargo  
Metro Flood Diversion Authority

**Required Local Approvals:**

\_\_\_\_\_  
City of Fargo

\_\_\_\_\_  
Cass County Commission


\_\_\_\_\_  
Cass County Joint Water Resource Dist.

**FM Metropolitan Area Flood Risk Management Project**  
**Summary of Cash Disbursements Eligible for SWC Funding**  
**February 2018**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-7930-429.67-11	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	22,687.00	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-11	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	6,504.81	ROBERT & MAXINE NORDICK	V01701	ND LAND PURCH-OUT OF TOWN
<b>Total LERRDS - North Dakota - Residential Buildings</b>				<b>29,191.81</b>			
790-7930-429.67-12	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	279,727.55	FARGO PUBLIC SCHOOLS	V01703	ND LAND PURCH - IN TOWN
<b>Total LERRDS - North Dakota - Commercial Buildings</b>				<b>279,727.55</b>			
790-7930-429.68-10	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	2,500.00	STEVE BRAKKE	V01201	Cass Joint Water ROE
<b>Total LERRDS - North Dakota - Miscellaneous</b>				<b>2,500.00</b>			
790-7930-429.71-30	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	831,853.08	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	251,668.74	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
<b>Total LERRDS - North Dakota - Land</b>				<b>1,083,521.82</b>			
790-7950-429.73-52	2/8/2018	284803	INDUSTRIAL BUILDERS INC	159,137.27	2 ST N FLOODWALL	V02812	2ND ST NORTH FLOODWALL
790-7950-429.73-52	2/8/2018	284803	INDUSTRIAL BUILDERS INC	(9,297.64)	CITY OF FARGO'S SHARE OF PROJ	V02812	2ND ST NORTH FLOODWALL
<b>Total O/H/B Construction - Flood Control</b>				<b>149,839.63</b>			
<b>Total Expense for Period</b>				<b>1,544,780.81</b>			

(316)

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: KENT COSTIN, DIRECTOR OF FINANCE** 

**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**

**DATE: March 29, 2018**

The existing legislation in place for State Water Commission funding related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project requires that the Fargo City Commission, Cass County Commission, and the Cass Water Resource Board approve all payment reimbursement requests prior to their submission and ultimate payment.

The attached reimbursement request has been prepared by Finance staff and is ready for processing. Your approval of the request for funds is hereby requested as required.

As requested previously by the City Commission, the costs related to the Oxbow Hickson Bakke levee are being presented separately from the rest of the Metro Flood Diversion expenses. This request includes only the OHB levee related costs for February 2018.

**Suggested Motion:**

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$901,954.

March 29, 2018

Garland Erbele, P.E.  
 North Dakota State Water Commission  
 900 East Boulevard Avenue, Dept 770  
 Bismarck, ND 58505-0850

Dear Garland,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #63 pursuant to the terms and conditions of House Bill 1020 for costs incurred on the OHB Levee project from February 1, 2018 to February 28, 2018. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$901,954.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$244,000,000	\$182,916,917	\$1,803,908	50%	\$901,954	\$60,181,129

**Project Narrative, this request:**

Project Number	Project Description
V01203	Utility relocation for O/H/B ring levee project
V02411	Residential relocation assistance for homeowners that will be displaced by the O/H/B ring levee project
V04401	Pay Application #5 for WP 43CD – OHB Ring Levee Phases C and D
V04701	Utility relocation for O/H/B ring levee project
V04901	Utility relocation for O/H/B ring levee project

We certify that \$78,689,391 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of HB 1020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

The City of Fargo, Cass County Commission, and the Cass County Joint Water Resource Board have approved our request for funds as required in HB 1020. Copies of their approval letters are included.

If you have any questions relating to our request, please contact me directly.

Sincerely,



Kent Costin  
 Director of Finance, City of Fargo  
 Metro Flood Diversion Authority

**Required Local Approvals:**

\_\_\_\_\_  
City of Fargo

\_\_\_\_\_  
Cass County Commission

\_\_\_\_\_  
Cass County Joint Water Resource Dist.

**FM Metropolitan Area Flood Risk Management Project**  
**Summary of Cash Disbursements Eligible for SWC Funding**  
**February 2018 - OHB Levee Related Costs**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-0000-206.10-00	2/22/2018	285175	MEYER CONTRACTING INC	(25,410.50)	OHB RING LEVEE PHASE C&D	V04401	OHB RING LEVEE PHASES C&D
			<b>Total Retainage</b>	<b>(25,410.50)</b>			
790-7930-429.67-11	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	4,014.00	MIKE & BRENDA PODOLAK	V02411	OXBOW MOU-RESIDENT RLCTN
790-7930-429.67-11	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	10,493.45	MIKE & BRENDA PODOLAK	V02411	OXBOW MOU-RESIDENT RLCTN
790-7930-429.67-11	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	2,376.00	ACTION MOVERS	V02411	OXBOW MOU-RESIDENT RLCTN
790-7930-429.67-11	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	1,678.42	CHRIS & SHERI CHAMP	V02411	OXBOW MOU-RESIDENT RLCTN
790-7930-429.67-11	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	210.00	CHRIS & SHERI CHAMP	V02411	OXBOW MOU-RESIDENT RLCTN
790-7930-429.67-11	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	7,162.00	TODD & DEBRA DEBATES	V02411	OXBOW MOU-RESIDENT RLCTN
790-7930-429.67-11	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	2,376.00	ACTION MOVERS	V02411	OXBOW MOU-RESIDENT RLCTN
			<b>Total LERRDS - North Dakota - Residential Buildings</b>	<b>28,309.87</b>			
790-7952-429.73-52	2/22/2018	285175	MEYER CONTRACTING INC	1,371,171.47	OHB RING LEVEE PHASE C&D	V04401	OHB RING LEVEE PHASES C&D
			<b>Total O/H/B Construction - Flood Control</b>	<b>1,371,171.47</b>			
790-7952-429.73-70	2/8/2018	284884	SPRINT	256,409.37	FIBER OPTIC RELOCATION	V04901	OHB LEVEE UTILITY RELOCATE
790-7952-429.73-70	2/22/2018	285127	CASS COUNTY ELECTRIC-DIVERSION ONLY	20,500.00	RIVERBEND RD LEVEE CROSSI	V04701	OHB LEVEE UTILITY RELOCATE
790-7952-429.73-70	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	49,801.05	MIDCONTINENT COMMUNICATIO	V01203	Cass Joint Water OHB
790-7952-429.73-70	3/1/2018	285266	CASS COUNTY JOINT WATER RESOURCE DI	103,127.07	MIDCONTINENT COMMUNICATIO	V01203	Cass Joint Water OHB
			<b>Total O/H/B Construction - Utilities</b>	<b>429,837.49</b>			
			<b>Total Expense for Period</b>	<b>1,803,908.33</b>			

32

**TO: BOARD OF CITY COMMISSIONERS**  
**FROM: KENT COSTIN, DIRECTOR OF FINANCE** *KAC*  
**RE: AMENDED RESOLUTION AND LOAN AGREEMENT RELATING TO WATER TREATMENT PLANT STATE REVOLVING FUND LOAN, SERIES SRF 2013 (B)**  
**DATE: APRIL 5, 2018**

The State Industrial Commission approved a modification of an existing State Revolving Fund loan for the water plant project on March 29, 2018. A copy of their approval letter is attached.

This modification increased the amount of the loan from \$66.4 million to \$98 million to fund the final phases of this project. We also removed the sales tax revenue pledge that existed on the original loan. The original loan resolution used sales tax revenues as the primary source of repayment. The current amendment uses Water Utility fund revenues as the primary source of repayment. This is consistent with how the original water plant construction was financed.

Dorsey & Whitney LLP, our bond counsel, drafted the proposed amendments to the existing loan resolution and loan agreement with the State. Your approval of the amended State Revolving Fund loan resolution and loan agreement is requested to complete the amendment process.

**Suggested Motion:**

Approve a resolution and loan agreement to modify the existing State Revolving Fund (SRF) loan Series 2013(B) increasing the loan to \$98 million and removing sales tax as the primary source of repayment.

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 3<sup>rd</sup> Street  
Fargo, ND 58102

Dear Steve:

On March 28, 2018, the Industrial Commission approved the City of Fargo's request to remove the city sales tax as the primary pledge and replace it with water utility revenues as the primary source of repayment for their loan in the amount of \$98,000,000.

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

CITY OF FARGO, STATE OF NORTH DAKOTA  
AMENDED AND RESTATED RESOLUTION AUTHORIZING THE ISSUANCE AND SALE  
OF  
\$98,000,000  
CITY OF FARGO WATER REVENUE BOND, SERIES 2013B

RECITATIONS

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

1. By resolution adopted May 28, 2013, found and determined that it is necessary for the City to construct and install a membrane treatment plant as an addition to the City's existing water treatment plant (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 equal to \$66,352,000, which application was approved.
9. Caused to be issued to the Public Finance Authority its \$66,352,000 Sales Tax and Water Revenue Bond, Series 2013B (the "Original Series 2013B Note") for the purpose of financing a portion of the costs of the Project.
10. As of October 26, 2017, and as amended March 9, 2018, applied to the Public Finance Authority for an increase in the amount of the loan represented by the Original Series

2013B Note to \$98,000,000 to finance additional Project costs, which application was approved.

11. The revised application described hereinabove also requests that the security provisions for the Original Series 2013B Note be amended to provide that the Municipal Securities be secured solely by the Net Revenues, as defined herein.
12. 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 \$98,000,000 in principal amount of its CITY OF FARGO WATER REVENUE BOND, SERIES 2013B (the "Municipal Securities") in substitution for the Original Series 2013B Note, 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 an amended and restated loan agreement to be entered into between the City and the Public Finance Authority (the "Loan Agreement"), which Loan Agreement amends and restates the loan agreement entered into as of July 22, 2013 between the City and the Public Finance Authority (the "Original 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 BONDS, SERIES 2013B, 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 \$98,000,000, dated, as reissued, the date of issuance and delivery to the Public Finance Authority. The Original Series 2013B Note bore interest at the rate of 2.00% per year (plus an administrative fee as set out in the Original Loan Agreement) and shall continue to bear interest at such rate through the date of delivery of the Municipal Securities.

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>
2019	\$1,000,000	2034	\$3,280,000
2020	2,485,000	2035	3,345,000
2021	2,535,000	2036	3,410,000
2022	2,585,000	2037	3,480,000
2023	2,640,000	2038	3,600,000
2024	2,690,000	2039	3,620,000
2025	2,745,000	2040	3,745,000
2026	2,800,000	2041	3,820,000
2027	2,855,000	2042	3,895,000
2028	2,910,000	2043	3,975,000
2029	2,970,000	2044	4,055,000
2030	3,030,000	2045	4,135,000
2031	3,090,000	2046	4,215,000
2032	3,150,000	2047	4,300,000
2033	3,215,000	2048*	4,425,000

\*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 City Auditor. 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 Bonds are subject to redemption, at the option of the City, on any interest payment date with the prior written consent of the Public Finance Authority.

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 drinking water utility (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 outstanding the City's Sales Tax Revenue Bonds, Series 2008B and Sales Tax Revenue Bonds, Series 2008D, which bonds are secured by a pledge of the Net Revenues (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 Reserve Account is established within the Water Utility Fund in the amount of \$4,491,375 payable at the rate of \$898,275 per year for the first five years of the loan with the first payment being made on September 1, 2018, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$98,000,000, and provided further that the City shall receive a credit against its September 1, 2018 payment for the \$849,660 deposited in the Reserve Account for the Original Series 2013B Note on September 1, 2017.

#### 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 Additional SRF Bonds issued pursuant to Section 5.02 hereof or 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 quantities of water actually

consumed and municipal hydrants actually maintained during such period, less the estimated amount of decrease in consumption 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 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.

[The remainder of this page intentionally left blank.]

Adopted \_\_\_\_\_, 2018.

CITY OF FARGO

By: \_\_\_\_\_  
Tim Mahoney, Mayor

ATTEST:

\_\_\_\_\_  
Steven Sprague, City Auditor

Exhibit AFORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA  
STATE OF NORTH DAKOTA  
CITY OF FARGO

No. R-1

\$98,000,000

WATER REVENUE BONDS,  
SERIES 2013B

<u>Original Interest Rate</u>	<u>Interest Rate effective Date of Reissuance</u>	<u>Date of Original Issue</u>	<u>Date of Reissuance</u>
2.00%	1.50%	July 22, 2013	[_____, 2018]

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: NINETY EIGHT MILLION DOLLARS (\$98,000,000)

MATURITY DATE: SEPTEMBER 1, 2048

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 Reissuance 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 September 1 and March 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 Works 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.

The Municipal Securities shall be subject to prior redemption, at the option of the City, in inverse order of maturity and by lot within any maturity on September 1, 2013, or on September 1 of any year thereafter or at any interest payment date after September 1, 2017, at a price equal to the principal amount plus accrued interest, upon written consent of the North Dakota Public Finance Authority.

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 [INSERT]

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 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)

**NORTH DAKOTA  
STATE REVOLVING FUND PROGRAM**

**AMENDED & RESTATED LOAN AGREEMENT**

**North Dakota Public Finance Authority  
(Lender)**

**and**

**CITY OF FARGO, NORTH DAKOTA  
(Municipality)**

**(To be completed by Public Finance Authority)**

**Dated Date of Amended and Restated Loan Agreement: \_\_\_\_\_, 2018**

**SRF Program (circle one):   Clean Water SRF  
  Drinking Water SRF**

**State Act (circle one):   N.D.C.C. ch. 61-28.2 (Clean Water)  
  N.D.C.C. ch. 61-28.1 (Drinking Water)**

**Summary Description of Project: INSTALLATION OF MEMBRANE  
TREATMENT PLANT.**

**Approved Loan Amount: \$98,000,000**

**Construction period:   Sept 1, 2013 to \_\_\_\_\_, 20\_\_**

**Form of municipal securities: tax-exempt municipal bonds**

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS .....	2
Section 1.01.    Definitions.....	2
Section 1.02.    Additional Terms .....	3
ARTICLE II LOAN; OBLIGATIONS; DISCLAIMER; DELIVERY OF DOCUMENTS .....	4
Section 2.01.    The Loan .....	4
Section 2.02.    Draws of Municipal Securities Proceeds (Loan Proceeds).....	4
Section 2.03.    Unconditional Obligations .....	4
Section 2.04.    Disclaimer of Warranties and Indemnification.....	4
Section 2.05.    Delivery of Documents .....	4
ARTICLE III REPRESENTATIONS AND COVENANTS OF MUNICIPALITY.....	6
Section 3.01.    Covenants and Representations of Municipality .....	6
ARTICLE IV ASSIGNMENT.....	11
Section 4.01.    Assignment and Transfer by Public Finance Authority.....	11
Section 4.02.    Assignment by Municipality.....	11
ARTICLE V DEFAULTS AND REMEDIES.....	13
Section 5.01.    Events of Default .....	13
Section 5.02.    Notice of Default.....	14
Section 5.03.    Remedies on Default.....	14
Section 5.04.    Application of Moneys .....	14
Section 5.05.    No Remedy Exclusive; Waiver; Notice.....	14
Section 5.06.    Retention of Public Finance Authority's Rights .....	14
Section 5.07.    Default by Public Finance Authority .....	14
ARTICLE VI MISCELLANEOUS .....	15
Section 6.01.    Notices .....	15
Section 6.02.    Binding Effect.....	15
Section 6.03.    Severability .....	16
Section 6.04.    Amendments, Supplements and Modifications .....	16
Section 6.05.    Execution in Counterparts.....	16

Section 6.06. Applicable Law .....16

Section 6.07. Consents and Approvals .....16

Section 6.08. Captions .....16

Section 6.09. Further Assurances.....16

- EXHIBIT A: Municipal Securities Payment Schedule
- EXHIBIT B: Form of North Dakota State Revolving Fund Program Certificate Relating to  
Lobbying and Litigation

## **AMENDED AND RESTATED LOAN AGREEMENT**

THIS AMENDED AND RESTATED LOAN AGREEMENT is made and entered into as of [ ], 2018, by and between the NORTH DAKOTA PUBLIC FINANCE AUTHORITY (the "Public Finance Authority"), an agency and instrumentality of the State of North Dakota (the "State"), and the CITY OF FARGO, NORTH DAKOTA (the "Municipality"), a political subdivision of the State.

### **W I T N E S S E T H:**

WHEREAS, the Municipality previously applied to the North Dakota Department of Health (the "Department") and the Public Finance Authority for financial assistance to finance a portion of the cost of the Project described herein equal to \$66,352,000, which application was approved; and

WHEREAS, the Municipality issued to the Public Finance Authority its \$66,352,000 Sales Tax and Water Revenue Bond, Series 2013B (the "Original Series 2013B Note") for the purpose of financing a portion of the costs of the Project; and

WHEREAS, to provide for payment of the Original Series 2013B Note and assure compliance with corresponding requirements in connection therewith, the Municipality and the Public Finance Authority entered into a Loan Agreement dated as of July 22, 2013 (the "Original Loan Agreement"); and

WHEREAS, on October 26, 2017, and as amended March 9, 2018, the Municipality applied to the Public Finance Authority for an increase in the amount of the loan represented by the Original Series 2013B Note to \$98,000,000 (the "Amended and Restated Series 2013B Note") to finance additional Project costs, which application was approved.

WHEREAS, to provide for payment of the Amended and Restated Series 2013B Note and assure compliance with corresponding requirements in connection therewith, the Municipality and the Public Finance Authority have determined to amend and restate the Original Loan Agreement, as more fully provided herein; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto DO HEREBY AGREE as follows:

## ARTICLE I

### DEFINITIONS

Section 1.01. Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

“Administrative Fee” means an annual fee of one-half of one percent (0.50%) of the outstanding principal amount of the Loan or such lesser amount, if any, as the Public Finance Authority may approve from time to time.

“Code” means the Internal Revenue Code of 1986 as the same may from time to time be amended and supplemented, including any regulations promulgated thereunder and any administrative or judicial interpretations thereof.

“Costs” means those costs associated with the Project and the Loan that are eligible to be funded from the SRF, as determined by the Department and the Public Finance Authority.

“Department” means the North Dakota Department of Health.

“EPA” means the United State Environmental Protection Agency.

“Event of Default” means any occurrence or event specified in Section 5.01 of this Loan Agreement.

“General Records” shall have the same meaning given in Section 3.01(f) of this Loan Agreement.

“Loan” means the loan evidenced by the Municipal Securities, made by the Public Finance Authority to the Municipality pursuant to this Loan Agreement to finance or refinance all or a portion of the Costs of the Project.

“Loan Agreement” means this Amended and Restated Loan Agreement, including any exhibits attached to, and hereby made a part hereof, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

“Loan Closing” means the date upon which the Municipality shall issue and deliver the documents listed in Section 2.05 and shall be eligible to receive the Loan.

“Loan Commitment” means the offer by the Department to provide financial assistance to the Municipality from the SRF, subject to approval by the Public Finance Authority. The Loan Commitment, when accepted by the Municipality through appropriate action of its governing body, shall be a “binding commitment” within the meaning of that term in the SRF Act.

“Municipal Bond Resolution” means the resolution(s) or ordinance(s) of the governing body of the Municipality authorizing the issuance of the Municipal Securities.

“Municipality” means the borrower under this Loan Agreement, which must be a “political subdivision,” as defined in section 6-09.4-03(6) of the Public Finance Authority Act.

“Municipal Securities” means the municipal securities, as defined in the Public Finance Authority Act, executed and delivered by the Municipality to the Public Finance Authority to evidence the Loan in accordance with the Municipal Bond Resolution.

“Project” means the undertaking of the Municipality for purposes of the State Water Pollution Control Revolving Loan Fund and the Federal Clean Water Act, or to the public water system of the Municipality for purposes of the State Safe Drinking Water Act and the Federal Safe Drinking Water Act, all or a portion of the Costs of which are financed or refinanced by the Public Finance Authority from the SRF through the making of the Loan under this Loan Agreement.

“Public Finance Authority Act” means N.D.C.C. ch. 6-09.4.

“Public Finance Authority Bonds” or “Bonds” mean bonds of the Public Finance Authority authorized, authenticated, and delivered in order to finance or refinance the Project pursuant to this Loan Agreement and to enable the Department, through the Public Finance Authority, to draw EPA capitalization grant funds for deposit in the SRF.

“SRF” means the revolving loan fund(s) created by the State Act.

“SRF Act” means, for purposes of the State Water Pollution Control Revolving Loan Fund Act, the Federal Clean Water Act, and for purposes of the State Safe Drinking Water Act, the Federal Safe Drinking Water Act, including any regulations and guidelines promulgated thereunder.

“State Act” means, for purposes of the Federal Clean Water Act, N.D.C.C. ch. 61-28.2 (the State Water Pollution Control Revolving Loan Fund Act), and, for purposes of the Federal Safe Drinking Water Act, N.D.C.C. ch. 61-28.1 (the State Safe Drinking Water Act).

“System Records” shall have the same meaning given in Section 3.01(f) of this Loan Agreement.

“Trustee” means the Trustee appointed by the Public Finance Authority pursuant to the State Revolving Fund Program Master Trust Indenture and its successor or successors and any other trustee which may at any time be substituted in its place as Trustee pursuant to the Indenture.

Section 1.02. Additional Terms. Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

## ARTICLE II

### LOAN; OBLIGATIONS; DISCLAIMER; DELIVERY OF DOCUMENTS

Section 2.01. The Loan. The Public Finance Authority hereby agrees to loan and disburse to the Municipality, and the Municipality agrees to borrow and accept from the Public Finance Authority, the Loan, provided that the Public Finance Authority shall be under no obligation to make the Loan if the Municipality does not deliver the documents listed in Section 2.05 to the Public Finance Authority on the Loan Closing in forms acceptable to the Public Finance Authority and its counsel or if an Event of Default under this Loan Agreement has occurred and is continuing.

Section 2.02. Draws of Municipal Securities Proceeds (Loan Proceeds). The proceeds of the Municipal Securities are appropriated by the Municipality 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. The Public Finance Authority will disburse the Loan upon (a) execution and delivery by the Municipality of this Loan Agreement, (b) issuance by the Municipality of the Municipal Securities and delivery to the Public Finance Authority, and (c) submission to and approval by the Department and the Public Finance Authority of Requisitions for Payment in the form approved by the Department. Requests for draws on the Loan, in the form of Requisitions for Payment, shall be submitted by the Municipality 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 and the Trustee for approval and funding. After all claims and expenses with respect to the Project and the issuance of the Municipal Securities have been duly paid and satisfied, the amortization schedule for the Municipal Securities shall be adjusted to reflect the total principal amount drawn under this Loan Agreement.

Section 2.03. Unconditional Obligations. The Municipality shall not be obligated to make any payments required to be made by any other political subdivision with respect to the lending of funds by the Public Finance Authority from the SRF.

Section 2.04. Disclaimer of Warranties and Indemnification. The Municipality acknowledges and agrees that (i) neither the Public Finance Authority nor the Department has made or makes any warranty or representation, either express or implied as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portions thereof or any other warranty or representation with respect thereto; and (ii) in no event shall the Public Finance Authority, nor the Department or their respective officers, directors, employees, or agents be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the Project.

Section 2.05. Delivery of Documents. Concurrently with the execution and delivery of this Loan Agreement, the Municipality will cause each of the following items to be delivered to the Public Finance Authority in a form acceptable to the Public Finance Authority and its counsel:

- (a) Executed counterparts of this Loan Agreement.
- (b) Copies of the form of the Municipal Securities and any resolutions or ordinances of the governing body of the Municipality authorizing the execution and delivery of this Loan Agreement and the Municipal Securities, certified by an authorized officer of the Municipality.
- (c) An arbitrage certificate and a closing certificate covering such matters as may be agreed upon by the Municipality and the Public Finance Authority. The certificates required by this subsection may be provided as one certificate.
- (d) An opinion or opinions of the Municipality's counsel which may be given by one or more counsel, covering such matters concerning the validity and tax status of the Municipal Securities as may be agreed upon by the Municipality and the Public Finance Authority.
- (e) Such other certificates, documents, opinions and information as the Public Finance Authority may require.

The documents referred to above must be prepared and provided by the Municipality to the Public Finance Authority prior to the Loan Closing for review and approval.

[The remainder of this page left intentionally blank.]

## ARTICLE III

### REPRESENTATIONS AND COVENANTS OF MUNICIPALITY

#### Section 3.01. Covenants and Representations of Municipality.

- (a) Performance Under Loan Agreement. The Municipality covenants and agrees (i) to maintain the Project in good repair and operating condition and (ii) to cooperate with the Public Finance Authority and the Department in the observance and performance of the respective duties, covenants, obligations and agreements of the Municipality and the Public Finance Authority under this Loan Agreement.
- (b) Completion of Project and Provision of Moneys Therefor. The Municipality covenants and agrees (i) to exercise its best efforts in accordance with prudent utility practice to complete the Project and to so accomplish such completion on or before the estimated Project completion date; and (ii) to provide from its own fiscal resources all moneys in excess of the total amount of the Loan required to complete the Project.
- (c) Disposition of Project. The Municipality covenants and agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or any other system which provides revenues for upkeep and maintenance of the Project except on ninety (90) days prior written notice to the Public Finance Authority and, in any event, shall not sell, lease, abandon or otherwise dispose of the Project unless the following conditions are met: (i) the Municipality, with the approval of the Public Finance Authority, shall assign this Loan Agreement and its rights and interests hereunder in accordance with Section 4.02 to the purchaser or lessee of the Project which must be a political subdivision as defined in the Public Finance Authority Act, and such purchaser or lessee shall assume all duties, covenants, obligations and agreements of the Municipality under this Loan Agreement; and (ii) the Public Finance Authority, in its sole discretion, by appropriate action determines that such sale, lease, abandonment or other disposition will not adversely affect (A) the ability of the Municipality or its assignees to meet its duties, covenants, obligations and agreements under the Municipal Bond Resolution, (B) the value of this Loan Agreement as security for the payment of Public Finance Authority Bonds and interest thereon, (C) the eligibility of interest on Public Finance Authority Bonds then outstanding or which could be issued in the future for exclusion from gross income for purposes of federal income taxation, or (D) any agreement entered into by the Public Finance Authority or the State through the Department with, or any condition of any grant received by the Public Finance Authority or the State through the Department from, the United States of America, which is related to any SRF capitalization grant received by the Public Finance Authority or the State through the Department.
- (d) Operation and Maintenance of Project. The Municipality covenants and agrees that it will, in accordance with prudent wastewater or drinking water treatment utility practice, as the case may be, (i) at all times operate the Project and the properties associated with and operated in conjunction with the Project and any business in connection therewith in an efficient manner, (ii) maintain the Project in good repair, working order and operating condition, (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions,

betterments and improvements with respect to the Project so that at all times the enterprise or business carried on in connection therewith shall be properly and advantageously conducted; provided that this covenant shall not be construed as requiring the Municipality to expend any funds which are derived from sources other than the operation of the Project or other receipts of such Project which are not pledged under the Municipal Bond Resolution for such purpose, and provided further that nothing herein shall be construed as preventing the Municipality from doing so.

(e) The Municipality covenants and agrees that the proceeds of the Loan shall be used and expended in a manner consistent with the State Act and the SRF Act, all regulations and guidelines promulgated thereunder, and this Loan Agreement. The Public Finance Authority affirms that expenditure for the Project as described in the loan application is consistent with the foregoing laws and documents.

(f) Records; Accounts.

(i) The Municipality shall keep accurate records and accounts for the Project (the "System Records") separate from its other records and accounts (the "General Records"). Such System Records shall be maintained in accordance with generally accepted government accounting principles and generally accepted government auditing standards and in accordance with state law, shall be audited annually or biennially, or as otherwise required by law, by an independent accountant, which audit may be part of the annual or biennial audit of the General Records of the Municipality. Such System Records and General Records shall be made available for inspection by the Public Finance Authority and the Department at any reasonable time. The audit requirements of this subsection do not apply to cities with populations of less than three hundred or to other political subdivisions with less than one hundred thousand dollars of annual receipts which, by law, are not required to have annual or biennial audits.

(ii) The Municipality agrees that its financial reports for the year or years which it receives draws under Section 2.02 shall be prepared in accordance with the Federal Single Audit Act and the Federal Office of Management and Budget's Circular A-128. A copy of the Municipality's independent annual or biennial audit or annual report, as required by laws including all written comments and recommendations, shall be furnished to the Public Finance Authority within 150 days of the close of the fiscal years being so audited. A copy of the annual financial statement required by N.D.C.C. 40-16-04 (2) shall be submitted to the Public Finance Authority on or before February first each year.

(iii) The Municipality will keep, or cause to be kept, accurate records, if such records must be kept for compliance with the requirements of Section 148 of the Code, of each investment it makes in investment property (as that term is defined in Section 148(b) of the Code) acquired, directly or indirectly, with proceeds of the Public Finance Authority Bonds used to fund the Loan. The Public Finance Authority will advise the Municipality if the loan is not being funded with the proceeds of Public Finance Authority Bonds. Further, with respect to such investments made by the Municipality

which are not excepted from the computation of rebate under Section 148(f)(4) of the Code, the Municipality (A) will calculate, or cause to be calculated, the amount (the “rebate amount”) that is to be rebated to the United States Treasury pursuant to Section 148(f) of the Code, and (B) will for each computation date under Section 148(f) of the Code (or on any further periodic basis requested in writing by the Public Finance Authority) remit the following to the Public Finance Authority: (1) the calculations supporting the determination of the rebate amount and (2) an amount of money equal to the rebate installment then owed. To the extent any such rebate amounts (or the investment income thereon) are in excess of the Public Finance Authority’s rebate requirement allocable to the Municipal Securities, such amounts will be promptly returned by the Public Finance Authority to the Municipality.

(g) Inspections; Information. The Municipality will permit the Public Finance Authority, the Department, and the Trustee, and any designated party to examine, visit and inspect, at any and all reasonable times, the property constituting the Project, and to inspect and make copies of any accounts, books and records, including (without limitation) its Systems Records, General Records, and any other records regarding receipts, disbursements, contracts, investments and any other matters relating to its financial standing, and will supply reports and information as the Public Finance Authority, the Department and the Trustee may reasonably require.

(h) Insurance. The Municipality shall maintain or cause to be maintained, in force, insurance policies with responsible insurers or self insurance programs providing against risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is usually carried by utilities constructing, operating and maintaining works of the nature of the Project, including liability coverage, all to the extent available at reasonable cost but in no case less than will satisfy all applicable regulatory requirements. The Public Finance Authority, the Department and the Trustee may require the Municipality to provide them with evidence of insurance on the Project.

(i) Continuing Disclosure.

(i) So long as the Municipality shall constitute an obligated person within the meaning, of S.E.C. Rule 15c2-12 (the “Rule”) as in effect from time to time, the Municipality agrees to furnish to the Public Finance Authority such financial information and operating data with respect to the Municipality at such time and in such forms as the Public Finance Authority shall reasonably request in order to comply with the provisions of the Rule and to provide notice to the Public Finance Authority in a timely manner, not in excess of ten (10) business days after any of the following events with respect to the Municipal Securities:

- (A) Principal and interest payment delinquencies.
- (B) Non-payment related defaults, if material.
- (C) Unscheduled draws on debt service reserves reflecting financial difficulties.

- (D) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (E) Substitution of credit or liquidity providers, or their failure to perform.
- (F) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.
- (G) Modifications to rights of security holders, if material.
- (H) Bond calls, if material, and tender offers.
- (I) Defeasances.
- (J) Release, substitution, or sale of property securing repayment of the securities, if material.
- (K) Rating changes.
- (L) Bankruptcy, insolvency, receivership or similar event of the Municipality.
- (M) The consummation of a merger, consolidation, or acquisition involving the Municipality or the sale of all or substantially all of the assets of the municipality, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (N) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(i) The Municipality agrees that from time to time it will also provide notice to the Bank of the occurrence of other events, in addition to those listed above, if such other events are material with respect to the Municipal Securities.

(ii) The Municipality will provide to the Public Finance Authority, in a timely manner, notice of a failure to satisfy the requirements of this paragraph (i).

(iii) The intent of the Municipality's undertaking pursuant to this paragraph (i) is to facilitate the Public Finance Authority's ability to comply with the requirements of the Rule. Accordingly, the Municipality agrees to provide the Public Finance Authority with any information the Public Finance Authority may reasonably require in order to comply with the requirements of the Rule, as in effect from time to time.

(j) No Free Service. The Municipality will not furnish or supply, or cause to be furnished or supplied, any use, output, capacity or service of the Project free of charge to any person, firm, corporation (public or private), public agency or instrumentality other than the Municipality itself.

(k) Commencement of Construction. The Municipality shall initiate construction of the Project within twelve (12) months after the Loan Closing.

(l) Archeological Artifacts. In the event that archaeological artifacts or historical resources are unearthed during construction excavation, the Municipality shall stop, or cause to be stopped, construction activities and will notify the superintendent of the State Historical Board of North Dakota and the Public Finance Authority or the Department of such unearthing and follow all applicable state and federal laws and regulations governing such occurrence.

(m) No Lobbying. No portion of the Loan may be used for lobbying or propaganda as prohibited by 18 U.S.C. §1913 or Section 607(a) of Public Law 96-74 or other federal restriction or regulation referenced in the form of North Dakota State Revolving Fund Program Certificate Relating to Lobbying and Litigation which is attached as Exhibit B to this Loan Agreement and shall be executed by the Municipality.

(n) Additional Covenants and Requirements. If necessary in connection with the Public Finance Authority's issuance of the Public Finance Authority Bonds or the making of the Loan, additional covenants and requirements will be evidenced by certificates or other documents in the form or forms attached as an exhibit to, and hereby made a part of, this Loan Agreement.

(o) Continuing Representations. The covenants and representations of the Municipality contained herein shall be true at the time of the execution of this Loan Agreement and the Municipality agrees that such covenants and representation will be binding and enforceable at all times during the term of this Loan Agreement.

## ARTICLE IV

### ASSIGNMENT

#### Section 4.01. Assignment and Transfer by Public Finance Authority.

(a) The Municipality acknowledges that, other than the Administrative Fees payable pursuant to the Municipal Bond Resolution, all interests of the Public Finance Authority in and under this Loan Agreement and the Municipal Securities have been pledged as security for the Public Finance Authority Bonds, and that if any Event of Default shall occur, the Public Finance Authority or the Trustee shall be entitled to act hereunder. The Municipality hereby acknowledges and consents that the Public Finance Authority or the Trustee may compel or enforce the right to receive payments required to be made by the Municipality under this Loan Agreement and may compel or otherwise enforce observance and performance by the Municipality of its other duties, covenants, obligations and agreements under this Loan Agreement, and that the right and authority to enforce such requirements may be further transferred, assigned, and reassigned in whole or in part to one or more assignees or subassignees without the necessity of obtaining the consent of, but after giving prior written notice to, the Municipality.

(b) In the event of any assignment or transfer of this Loan Agreement and the Municipal Securities, the Public Finance Authority shall retain the right to compel or otherwise enforce observance and performance by the Municipality of its obligations and agreement to pay Administrative Fees.

#### Section 4.02. Assignment by Municipality.

(a) This Loan Agreement may not be assigned by the Municipality unless the following conditions shall be satisfied: (i) the Public Finance Authority shall have approved the assignment in writing; (ii) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Code (unless waived in writing by the Public Finance Authority), shall be a political subdivision as defined in the Public Finance Authority Act and shall have expressly assumed in writing the full and faithful observance and performance of the Municipality's duties, covenants, agreements and obligations under this Loan Agreement; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Municipality under this Loan Agreement; (iv) if the Loan is funded with proceeds of Public Finance Authority Bonds issued on a tax-exempt basis, the Public Finance Authority shall have received an opinion of bond counsel to the effect that such assignment will not adversely affect the exclusion of interest on the Public Finance Authority Bonds from gross income for purposes of Federal income taxation under Section 103(a) of the Code; and (v) the Public Finance Authority shall have received an opinion of its counsel to the effect that such assignment will not violate the provisions of any agreement entered into by the Public Finance Authority or the State through the Department with, or any condition of any grant received by the Public Finance Authority or the State through the Department from, the United States of America, which is related to any SRF capitalization grant received by the Public Finance Authority or the State through the Department.

(b) No assignment under this Section shall relieve the Municipality from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Municipality shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

[The remainder of this page left intentionally blank.]

## ARTICLE V

### DEFAULTS AND REMEDIES

Section 5.01. Events of Default. If any of the following events occurs, it is hereby defined and declared to be and to constitute an Event of Default:

(a) Failure by the Municipality to pay, or cause to be paid, any payment, including the payment of principal and interest on the Municipal Securities, required to be paid under this Loan Agreement when due.

(b) Failure by the Municipality to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest on any bonds, notes or other obligations of the Municipality for borrowed money (other than the Loan and the Municipal Securities after giving effect to any applicable grace period), the payments of which are secured by any revenues derived or to be derived from the Project.

(c) Failure by the Municipality to pay, or cause to be paid, the Administrative Fee or any portion thereof when due or to perform or observe any other covenant, agreement or condition on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a) of this section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Municipality by the Public Finance Authority, unless the Public Finance Authority shall agree in writing to an extension of such time prior to its expiration; however, if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the Public Finance Authority may not unreasonably withhold its consent to an extension of time up to 120 days from the delivery of the written notice referred to above if corrective action is instituted by the Municipality within the applicable period and diligently pursued until the Event of Default is corrected.

(d) Any representation made by or on behalf of the Municipality contained in this Loan Agreement or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan or in connection with the Municipal Securities, is false or misleading in any material respect.

(e) A petition is filed by or against the Municipality under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Municipality such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Municipality shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee of the Municipality or any of its property) shall be appointed by court order or take possession of the Municipality or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days.

Section 5.02. Notice of Default. The Municipality shall give the Public Finance Authority prompt telephonic notice of the occurrence of any Event of Default at such time as any senior administrative or financial officer of the Municipality becomes aware of the existence thereof. Any telephone notice pursuant to this Section 5.02 shall be confirmed in writing as soon as practicable by the Municipality.

Section 5.03. Remedies on Default. Whenever an Event of Default referred to in Section 5.01 shall have occurred and be continuing, the Public Finance Authority shall have the right to take, or to direct the Trustee or its authorized agent to take, any action permitted or required to the Bond Resolution or this Loan Agreement and to take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Municipality hereunder.

Section 5.04. Application of Moneys. Any moneys collected by the Public Finance Authority pursuant to Section 5.03 shall be applied (a) first, to pay interest due and payable on the Municipal Securities, (b) second, to pay principal due and payable on the Municipal Securities, (c) third, to pay any other amounts due and payable under this Loan Agreement.

Section 5.05. No Remedy Exclusive; Waiver; Notice. No remedy conferred upon or reserved to the Public Finance Authority or the Trustee, is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Public Finance Authority or the Trustee, to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

Section 5.06. Retention of Public Finance Authority's Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof or of the Bond Resolution, or anything else to the contrary contained herein, the Public Finance Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Municipality at law or in equity, as the Public Finance Authority may, in its discretion, deem necessary to enforce the obligations of the Municipality to the Public Finance Authority pursuant to this Loan Agreement and the Municipal Bond Resolution.

Section 5.07. Default by Public Finance Authority. In the event of any default by the Public Finance Authority under any covenant, agreement or obligation of this Loan Agreement, the Municipality may pursue any available remedy at law or in equity, including without limitation suit for damages or injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Public Finance Authority hereunder as may be necessary or appropriate.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Notices. All notices, certificates or other communications under this Loan Agreement shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Municipality, the Public Finance Authority and the Department at the following addresses:

(a) Public Finance Authority:

North Dakota Public Finance Authority  
1200 Memorial Highway  
P.O. Box 5509  
Bismarck, North Dakota 58506-5509  
Attention: Executive Director

(b) Department:

North Dakota State Department of Health  
Municipal Facilities  
918 East Divide Avenue, 3rd Floor  
P.O. Box 5520  
Bismarck, ND 58501-1947

(c) Municipality:

City of Fargo  
200 North 3<sup>rd</sup> Street  
Fargo, ND 58102  
Attention: Finance Director

AND

City of Fargo  
Attention: Bruce Grubb, Enterprise Director  
435 14<sup>th</sup> Ave S.  
Fargo, ND 58103

Any of the foregoing parties may designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent, by notice in writing given to the others.

Section 6.02. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Department, the Public Finance Authority and the Municipality and their respective successors and assigns.

Section 6.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 6.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Public Finance Authority and the Municipality.

Section 6.05. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.06. Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

Section 6.07. Consents and Approvals. Whenever the written consent or approval of the Public Finance Authority shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the Public Finance Authority unless otherwise provided by law or by rules, regulations or resolutions of the Public Finance Authority or unless expressly delegated to the Public Finance Authority's agent.

Section 6.08. Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

Section 6.09. Further Assurances. The Municipality shall, at the request of the Public Finance Authority, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement and the Municipal Securities.

[The remainder of this page left intentionally blank.]

NORTH DAKOTA PUBLIC FINANCE  
AUTHORITY

By: \_\_\_\_\_  
DeAnn M. Ament, Executive Director

[Signature Page – Amended and Restated Loan Agreement]

CITY OF FARGO, NORTH DAKOTA

By: \_\_\_\_\_  
Tim Mahoney, Mayor

(S E A L)

ATTEST:

\_\_\_\_\_  
Steven Sprague, City Auditor

[Signature Page – Amended and Restated Loan Agreement]

**EXHIBIT A**

**MUNICIPAL SECURITIES PAYMENT SCHEDULE**

[to come]

**EXHIBIT B**

**NORTH DAKOTA STATE REVOLVING FUND PROGRAM  
CERTIFICATE RELATING TO LOBBYING AND LITIGATION**

The undersigned hereby certify that they are, respectively, the duly elected or appointed, qualified and acting Mayor and City Auditor of the Municipality (as defined in the North Dakota State Revolving Fund Program Amended & Restated Loan Agreement of even date (the "Loan Agreement")), and as such officials, they are familiar with the Municipality's property, affairs, and records, and the undersigned, as such officials, hereby further acknowledge, agree, and certify as follows:

1. No grant or loan funds awarded under this State Revolving Fund Program will be used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The Municipality shall abide by OMB Circulars A-21, A-87, and A-122, which generally prohibit the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.

2. The Municipality will comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The Municipality shall incorporate or refer to the language of this provision in the Loan Agreement for all loans exceeding \$100,000.

3. In accordance with the Byrd Anti-Lobbying Amendment, any Municipality which makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

Dated: [\_\_\_\_], 2018.

CITY OF FARGO, NORTH DAKOTA

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Auditor