

FARGO CITY COMMISSION AGENDA
Monday, August 21, 2023 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, August 7, 2023).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Extension of a Class “A” Alcoholic Beverage License for Irish Hospitality d/b/a Hennessey’s Irish Pub until 2/19/24.
- 2. Extension of a Class “AC” Alcoholic Beverage License for Fargo Moorhead Community Theater d/b/a The Stage at Island Park until 4/1/24.
- 3. Resolution Establishing the Wildlife Management Program for the 2023-2024 season.
- 4. Amended Gaming Site Authorization for Metro Sports Foundation at the Alibi.
- 5. Applications for Games of Chance:
 - a. North Dakota Autism Center, Inc. for a raffle on 9/19/23.
 - b. Fargo South High School for a calendar raffle from 8/25/23 to 2/22/24.
 - c. YWCA Cass Clay for a raffle on 9/7/23.
 - d. Tri-City United Soccer Club for a raffle on 9/9/23.
- 6. Change Order No. 5 for a time extension to the substantial and final completion dates of 8/15/23 and 8/30/23 for Project No. FM-19-C1.
- 7. Change Order No. 2 for a time extension to the full road closure on 42nd Street from 8/15/23 to 8/24/23 for Project No. FM-22-C2.
- 8. Addition of 3000 11th Street South to the remaining property buyouts for the in-town flood mitigation projects (Project No. FM-25-A).
- 9. Permanent Easements (Water Main and Storm Sewer) with EPIC Unite Real Estate Holdings, LLC at 234 Main Avenue.
- 10. Contract and bond for Project No. FM-15-F3.
- 11. Memorandum of Offer to Landowner for Easement (Temporary Construction Easement) with Fargo Public Schools Federal Credit Union (Improvement District No. BR-23-G2).
- 12. Memorandum of Offer to Landowner for Easement (Temporary Construction Easement) with WNB Properties, LLC (Improvement District No. BR-23-G2).

13. Easement (Temporary Construction Easement) with Brian Trauman (Improvement District No. BR-24-A1).
14. Change Order No. 1 for removing stipulation from Sheet 1 of Special Instructions to Bidders and allow construction of Phase 1 and Phase 2 concurrently for Improvement District No. BR-23-J1.
15. General Fund – Budget to Actual unaudited monthly financial statements through 7/31/23.
16. Independent Auditor's Report and City's Annual Comprehensive Financial Report for the year ending 12/31/22.
17. Notice of Subaward from the ND Department of Environmental Quality for Public Water Supply Supervision Program - EPA Block (ALN #66.605).
18. Purchase of Service Agreement with American Lung Association (RFP23120).
19. Purchase of Service Agreement with Soul Solutions (RFP23120).
20. Purchase of Service Agreement with Dacotah Foundation (RFP23120).
21. Purchase of Service Agreement with New Life Center (RFP23120).
22. Professional Services Agreement with Sanford Clinic North.
23. Set September 5, 2023 at 5:15 p.m. as the date and time for a Public Hearing on a dangerous building at 1449 4th Avenue South.
24. Amended Resolution Creating a Committee on Native American Issues regarding the membership and coordination of the Native American Commission.
25. 90-day extension of FMLA leave for Police Sergeant Tyrell Fauske.
26. Direct the City Attorney to review Ordinance No. 10-0307 – Persons using streets not to be molested and Ordinance No. 10-0311 – Panhandling
27. Direct the City Attorney to prepare an Amendment to Fargo Municipal Code, Section 8-1321 – Use of Safety Belts Required in Certain Motor Vehicles.
28. Bid award to Titan Machinery in the amount of \$141,973.00 for carbide cutting edges (RFP23136).
29. Resolutions Amending and Restating Resolution Authorizing the Issuance and Sale of City of Fargo Sales Tax Revenue Bonds, Series 2008A, 2008B, 2008C, 2008D, 2010A and 2010D.
30. Bills.

REGULAR AGENDA:

31. **RESIDENT COMMENTS** (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).

Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:

32. **PUBLIC HEARING** - Application for a Class "GH" Alcoholic Beverage License for Five Star African Cuisine d/b/a Five Star African Cuisine to be located at 855 45th Street South, Suite 1A; continued from the 6/26/23 Regular Meeting.
33. **PUBLIC HEARING** - Application for a Class "GH" Alcoholic Beverage License from Nahal HHM LLC d/b/a Taj India to be located at 2877 45th Street South, Suite 100.
34. **PUBLIC HEARING** - Application for a Class "GH" Alcoholic Beverage License from Michele's Table, LLC d/b/a Michele's Table to be located at 1414 12th Avenue North.
35. **PUBLIC HEARING** - Application to transfer a Class "Z" Alcoholic Beverage License from Nobull, Inc. d/b/a NoBull Smokehouse to be located at 609 NP Avenue (ownership change only).
36. **PUBLIC HEARING** – Wentz Addition (2320 22nd Street South); approval recommended by the Planning Commission on 8/1/23:
 - a. Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential.
 - b. 1st reading of rezoning Ordinance.
37. **PUBLIC HEARING** – University South Fourth Addition (1376 Oak Manor Avenue South); approval recommended by the Planning Commission on 7/6/23:
 - a. Zoning Change from MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay, to MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay and GC, General Commercial with a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
 - c. Plat of University South Fourth Addition.
38. **PUBLIC HEARING** – CONTINUE to 10/16/23 - Southwest Fargo Mission Second Addition (4451, 4455 and 4475 40th Avenue South); approval recommended by the Planning Commission on 5/2/23; continued from the 7/10/23 and 7/24/23 Regular Meetings:
 - a. Zoning Change from P/I, Public and Institutional to P/I, Public and Institutional and GC, General Commercial with a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
 - c. Plat of Southwest Fargo Mission Second Addition.
39. **PUBLIC HEARING** – Consolidated Annual Performance and Evaluation Report (CAPER) for the 2022 Action Plan for Community Development Block Grant (CDBG) and HOME Programs.
40. Public Health Downtown Services Update.
41. Commissioner Piepkorn would like to discuss homelessness in and around Downtown.
42. Governance Meetings Update.
43. Recommendation from Commissioner Strand to schedule a Working Session to discuss all aspects of and contemplated Economic Development Incentive Policies.
44. Recommendation for appointments to the Human Rights Commission.

45. Liaison Commissioner Assignment Updates.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310 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.



MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Extension – Hennessey's

DATE: August 4, 2023

The Auditor's office received a request to grant an extension of the requirements of 25-1512 from Irish Hospitality d/b/a Hennessey's Irish Pub until February 19, 2024.

The City Commission granted Hennessey's an extension on March 8, 2021 running until September 20, 2021 and an additional extension to February 22, 2022, a third extension granted until August 22, 2022, a fourth extension was granted until February 27, 2023, a fifth extension was granted until August 20, 2023. Hennessey's has made substantial progress, the building is up and fit up for the restaurant continues., They are hoping to be ready for occupancy by December 1, 2023. At this time, Hennessey's is requesting an additional 6-month extension to February 19, 2024.

Please see the attached letter from the legal representative.

Please approve an extension of 25-1512 for Irish Hospitality d/b/a Hennessey's Irish Pub until February 19, 2024.

Recommended Motion:

Move an extension of the requirements of 25-1512 to Hennessey's Irish Pub until February 19, 2024.

William P. Harrie*
Mark R. Hanson* •
Douglas W. Gigler*
Andrew L.B. Noah
Jacqueline S. Anderson *



*Thaddeus E. Swanson
*Cloe A. Kilwein
*Anthony J.R. Anderson
Nicholas Mino

Gregory B. Selbo, Retired

*Also Licensed in Minnesota
• Also Licensed in South Dakota

August 3, 2023

Steve Sprague
City Auditor
225 N. 4th St.
Fargo, ND 58102

SSprague@FargoND.gov

Re: Hennessy's License - Class A Liquor License A-9
Our File No. 14010.001

Dear Steve:

I represent Irish Hospitality, LLC, the holder of the Class A liquor license No. A-9 issued by the City of Fargo to Irish Hospitality, LLC d/b/a Hennessy's Irish Pub ("Irish Hospitality"). During its February 6, 2023, Regular Meeting, the Board of City Commissioners of the City of Fargo ("City Commission") granted Irish Hospitality's request to have the License extended for six months, until August 21, 2023. As explained in prior communications with you and the City Commission, Irish Hospitality is under lease to open a new location in a redevelopment project near 32nd Avenue and I-29, Fargo, N.D. Irish Hospitality, therefore, has to wait until its lease space is constructed before it can transfer the license.

Construction and fit up of the lease space continues. It appears that the new lease space will be completed in the next few months. To confirm that space is completed and to allow time for transfer of the license to that new location, **Irish Hospitality respectfully requests that Class A license No. A-9 be extended an additional 6 months. The request is for an extension until February 19, 2024.**

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark R. Hanson", is written over a horizontal line.

Mark R. Hanson

2

MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Extension – Fargo Moorhead Community Theater (FMCT)

DATE: September 5, 2023

The Auditor's office received a request to grant an extension of the requirements of 25-1512 from Fargo Moorhead Community Theater (FMCT) d/b/a The Stage at Island Park until April 1, 2024.

As you may be aware, FMCT's building located in Island Park was closed, as it is no longer safe to occupy, it has now been removed. The City Commission previously approved a temporary relocation of the liquor license to 6 Broadway. FMCT then relocated to Moorhead until a site could be located for a return to Fargo. FMCT has secured a site at 715 13th Ave E in West Fargo, they plan to stay in that location until the new building is complete in Downtown Fargo. FMCT holds a Club liquor license with the City of Fargo and would like to retain the license for future use. FMCT has agreed to continue paying the associated fees. FMCT has an agreement to build a new theater in the NP parking lot development.

Please see the attached email from FMCT.

Please approve an extension of 25-1512 for Fargo Moorhead Community Theater d/b/a The Stage at Island Park until April 1, 2024.

Recommended Motion:

Move an extension of the requirements of 25-1512 to FMCT, The Stage at Island Park until April 1, 2024.

From: Judy Lewis <Judy@fmct.org>
Sent: Friday, August 11, 2023 8:15 PM
To: Steve Sprague
Subject: NPPA/FMCT

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

Hello Steve,

You asked me to touch base again with you in August about FMCT's liquor license.

Since our last talk NPPA/FMCT has leased a new studio space at 715 13th Ave E. Suite # 101.

If we can, we'd like to hold out liquor license at that location until our new building is completed. Please let me know what we need to do to make that happen.

Thank you SO much,
Judy

Judy Lewis

Executive Director - Fargo Moorhead Community Theatre

Mailing Address: PO Box 1349, Fargo, ND 58107-1349

701-781-7312



CITY ATTORNEY

Nancy J. Morris

ASSISTANT CITY ATTORNEYS

Ian R. McLean ▪ Allssa R. Farol ▪ William B. Wischer

3

August 17, 2023

Board of City Commissioners
City Hall
225 4th Street North
Fargo, ND 58102

RE: Wildlife Management Program Resolution 2023-2024

Dear Mayor and Commissioners,

Presented for your approval is the Resolution for the Wildlife Management Program in accordance with Fargo Municipal Code Article 12-04. The program will be conducted in the same manner as last year, including participation by the Fargo Park District and Sandhills Archery Club.

Suggested Motion: I move to approve the Resolution establishing the Wildlife Management Program for 2023-2024, as presented.

Please feel free to contact me if you have any questions, comments, or concerns.

Sincerely,



Nancy J. Morris

NJM/lmw

Enclosure

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION

WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code; and

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purpose; and

WHEREAS, Article 3(G) of the Home Rule Charter of the City of Fargo, North Dakota grants the City of Fargo power to provide for the adoption, amendment, and repeal of ordinances and resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof; and

WHEREAS, the Board of City Commissioners, Fargo, North Dakota, pursuant to authority granted to it under Home Rule, has adopted and approved City of Fargo Ordinance 12-04, Chapter 12 to establish a City Wildlife Management Program, including such rules and regulations as are necessary to carry out the City Wildlife Management Program; and

WHEREAS, the Board of City Commissioners desires to designate a season for the City's Wildlife Management Program for 2023-2024, to designate areas for inclusion within the 2023-2024 season, and to decide the number of permits which may issues for designated regions within the city of Fargo for the 2023-2024 season.

NOW, THEREFORE, BE IT RESOLVED that the Board of City Commissioners hereby designates two Regions for the City Wildlife Management Program for 2023-2024. The City Wildlife Management Program deer season for each Region shall run from September 1, 2023, through ½ hour after sunset January 31, 2024. Legal shooting hours shall run concurrent with ND Game & Fish Department regulations (½ hour before sunrise to ½ hour after sunset).

BE IT FURTHER RESOLVED that the Board of City Commissioners hereby authorizes issuance of a total of forty (40) permits to participate in the 2023-2024 City Wildlife Management season. Each license holder may initially secure two (2) tags for antlerless deer in their respective Region (upon receipt of permit(s) from the City Auditor).

BE IT FURTHER RESOLVED that the Board of City Commissioners hereby requires that all participants in the City Wildlife Management Season secure a Proficiency Certificate or other indicia of the completion of proficiency training, including a written exam pertaining to the rules and regulations of participation, to be offered by the Fargo Park District in conjunction with Sandhills Archery Club. The Fargo Park District or Sandhills Archery Club shall provide evidence

of completion of the required Proficiency examination to the city of Fargo Auditor’s Office in advance of permit issuance. The city of Fargo Auditor shall secure a copy of the hunter’s North Dakota Game and Fish License, a North Dakota identification, and record all permits issued at the time of application approval.

BE IT FURTHER RESOLVED that the Board of City Commissioners that all minors (under 18 years of age) permitted to participate in the City Wildlife Management Season **MUST** be accompanied by an adult who has successfully completed the written portion of the Proficiency program conducted by the Sandhills Archery Club. The adult need not be a permit holder, provided the minor has all necessary licenses and permits required to participate in the City Wildlife Management Program.

BE IT FURTHER RESOLVED that the Board of City Commissioners hereby designates the following Regions within the city limits of Fargo to be included within the 2023-2024 City Wildlife Management Program and hereby also approves the associated number of permits for the designated areas (Fargo Park District Property and City of Fargo property under the control and direction of the Fargo Park District):

Region One- North Fargo (1A- 1K): Deer Permits to be issued: 20
Region Two- South Fargo (2A- 2H): Deer Permits to be issued: 20

The maps attached as Exhibit A more specifically identify the areas in each of the Regions where participation in the City Wildlife Management Program may occur. Permits received by the participants are specific to the location within the Region. Hunting is not permitted except in the permit designated locations.

Dated this ____ day of August, 2023.

Dr. Timothy J. Mahoney, Mayor

Attest:

Steven Sprague, City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by COMMISSIONER _____, and upon roll call vote, the following voted in favor thereof: COMMISSIONERS _____. The following were absent and not voting: _____, and the following voted against the same: _____, whereupon the resolution was declared duly passed and adopted.

At the most recent meeting of the Park District Board, we were fortunate enough to have our request for some new properties to get added into the Wildlife Management Program. Two are normal zones that will be added into the selection pool for Park properties and a third will be handled as a special lottery zone for those interested. Both the normal zones are in Zone 1 (North). As a result, we're asking everyone to either confirm their original Zone and property preference orders or let us know your new ones.

We're opening the window until [END DATE HERE], and after that date we will draw areas using any updated selection preferences. If you wish to update your preferences, please send and email with your Region and ranked Park property preferences. The original zone information is below the new area details.

1J Funfar Park

The areas allowed for the program are between the recreational path and the river only. On the Eastern side of the zone it extends South to roughly the area of the drain. The Western boundary is approximately a NW line extended from the two buildings on Royal Oaks Dr N. The parcel to the West of that area is not in the program.



1K – Park land north of County Highway 20



Exhibit "A"

The final new area is Edgewood Golf Course. This zone will only be available for a very limited timeframe between when the course closes to golfing and when the snow is consistent enough for the cross-country ski paths to open. Once we get the word from the Park district that the zone is closing, we will need any stands to be removed prior to the trails opening. If you are interested in this area, please let us know and we will do a special draw of those interested. All other normal program regulations will apply.



Region 1: Deer Permits: 20

The area along the Red River corridor between 16th Avenue N. and 45th Avenue N., including:

- 1A.** City of Fargo property, east of Grandwood Drive North;
- 1B.** Fargo Park District property, east of Grandwood Drive North;
- 1C.** Fargo Park District property, between 32nd and 35th Avenue North;
- 1D.** Private property, east of Lilac Lane and Peterson Parkway, from points north of Holm Park to 32nd Avenue North;
- 1E.** City of Fargo property, east of Peterson Parkway, from points north of Holm Park to 32nd Avenue North;
- 1F.** Fargo Park District property, east of North Woodcrest Drive North (Holm Park);
- 1G.** City of Fargo property, between Holm Park and VA Hospital Park.
- 1H.** Fargo Park District Property, between 18th Avenue North and 22nd Avenue North (VA Hospital Park).
- 1I.** City of Fargo property, between 15th Avenue North and VA Hospital Park.



Region 2: Deer Permit: 20

The area along the Red River corridor between 21st Avenue S. and 58th Avenue S., including:

- 2A.** Private property, adjacent to 2102 5th Street South (Riverside Cemetery);
- 2B.** Fargo Park District property, between 32nd Avenue South and 35th Avenue South (Lemke Park);
- 2C.** City of Fargo property, east of River Drive South from 35th Avenue South to 11th Street South.
- 2D.** Private property, owned by Forum Publishing Company, located in the 4400 block of University Drive South;
- 2E.** Fargo Park District property, between 40th Avenue South and 52nd Avenue South (Lion's Conservancy Park);
- 2F.** City of Fargo property, between Lion's Conservancy Park and 52nd Avenue South;
- 2G.** Private property, adjacent to 5300 12th Street South (Villa Nazareth);
- 2H.** City of Fargo Property, between 54th Avenue South extending to the 5800 block of University Drive South (city limits).



Amended

(4)



GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17896 (2-2023)

G - _____ (_____) _____
 Site License Number
 (Attorney General Use Only)

Full, Legal Name of Gaming Organization
METRO SPORTS FOUNDATION

This organization is authorized to conduct games of chance under the license granted by the North Dakota Attorney General at the following location

Name of Location
ALIBI

Street 1340 21ST AVE S	City FARGO	ZIP Code 58103	County CASS
----------------------------------	----------------------	--------------------------	-----------------------

Beginning Date(s) Authorized 7/1/2023	Ending Date(s) Authorized 6/30/2024	Number of Twenty-One tables, if zero, enter "0" 4
---	---	---

Specific location where games of chance will be conducted and played at the site (required)
MACHINES ARE LOCATED IN THE BAR AREA AND PLAYED IN THE BAR AREA, EXCEPT RESTROOMS

If conducting Raffle or Poker activity provide date(s) or month(s) of the event(s) If known
EVERY TUES AND THURS MEAT RAFFLES

RESTRICTIONS FOR CITY/COUNTY USE ONLY

The organization **must** provide the City/County a list of game types included in their Internal Control Manual and have the manual available upon request. The manual must thoroughly explain each game type to be conducted. The City/County can only approve these games at the site.

ACTIVITY TO BE CONDUCTED Please check all applicable games to be conducted at site (required)

- | | | |
|--|--|---|
| <input type="checkbox"/> Bingo | <input type="checkbox"/> Club Special | <input type="checkbox"/> Sports Pools |
| <input type="checkbox"/> ELECTRONIC Quick Shot Bingo | <input type="checkbox"/> Tip Board | <input checked="" type="checkbox"/> Twenty-One |
| <input checked="" type="checkbox"/> Raffles | <input type="checkbox"/> Seal Board | <input type="checkbox"/> Poker |
| <input type="checkbox"/> ELECTRONIC 50/50 Raffle | <input type="checkbox"/> Punchboard | <input type="checkbox"/> Calcuttas |
| <input checked="" type="checkbox"/> Pull Tab Jar | <input type="checkbox"/> Prize Board | <input type="checkbox"/> Paddlewheel with Tickets |
| <input checked="" type="checkbox"/> Pull Tab Dispensing Device | <input type="checkbox"/> Prize Board Dispensing Device | <input checked="" type="checkbox"/> Paddlewheel Table |
| <input checked="" type="checkbox"/> ELECTRONIC Pull Tab Device | | |

Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)
---	---------------------------------

If any information above is false, it is subject to administrative action on behalf of the State of North Dakota Office of Attorney General

APPROVALS

Attorney General	Date
Signature of City/County Official	Date 8/21/23
PRINT Name and official position of person signing on behalf of city/county above Steven Sprague/City Auditor	

INSTRUCTIONS:

1. City/County - Retain a **copy** of the Site Authorization for your files.
2. City/County - Return the **original** Site Authorization form to the Organization.
3. Organizations - Send the **original, signed**, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval

RETURN ALL DOCUMENTS TO:

Office of Attorney General
 Licensing Section
 600 E Boulevard Ave, Dept. 125
 Bismarck, ND 58505-0040
 Telephone: 701-328-2329 OR 800-326-9240



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 GAMING DIVISION
 SFN 9338 (5-2023)

✓

(50)

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

Bingo Raffle Raffle Board Calendar Raffle Sports Pool Poker* Twenty-One* Paddlewheels*

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.
LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group North Dakota Autism Center, Inc.		Dates of Activity (Does not include dates for the sales of tickets) 9-19-2023	
Organization or Group Contact Person Emily Carpenter	E-mail ecarpenter@ndautismcenter.org	Telephone Number 701-532-4596	
Business Address 647 13th Ave E	City West Fargo	State ND	ZIP Code 58078
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Rose Creek Golf Course		County Cass	
Site Physical Address 1500 East Rose Creek Pkwy S	City Fargo	State ND	ZIP Code 58104
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) Raffle - 9/19/2023			

PRIZE / AWARD INFO (If More Prizes, Attach An Additional Sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
50/50	Half the proceeds	Up to \$8,000
Total (limit \$40,000 per year)		\$ 8000.00

Intended Uses of Gaming Proceeds
Half the proceeds will benefit the North Dakota Autism Center's programs.

Does the organization presently have a state gaming license? (If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240)
 Yes No

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit)
 Yes No

Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)
 No Yes - Total Retail Value: _____ (This amount is part of the total prize limit for \$40,000 per fiscal year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)
 Yes No

Printed Name of Organization Group's Permit Organizer Emily Carpenter	Telephone Number 701-532-4596	E-mail Address ecarpenter@ndautismcenter.org
Signature of Organization Group's Permit Organizer 	Title Event Coordinator	Date 8-3-2023

23-913



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

Page 18

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (5-2023)

(56)

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

Bingo Raffle Raffle Board Calendar Raffle Sports Pool Poker* Twenty-One* Paddlewheels*

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.
LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group Fargo South High School		Dates of Activity (Does not include dates for the sales of tickets) 9/1/23 - 3/1/24 8/25/23 - 2/22/24	
Organization or Group Contact Person Kris Haphey	E-mail hapheyk@fargo.k12.nd.us	Telephone Number 701-446-2022	
Business Address 1840 15th Ave S	City Fargo	State ND	ZIP Code 58103
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Fargo South High School		County	
Site Physical Address 1840 15th Ave S	City Fargo	State ND	ZIP Code 58103
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) See attached			

PRIZE / AWARD INFO (If More Prizes, Attach An Additional Sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
50/50 Raffle	1/2 of money collected	3000.00
Total (limit \$40,000 per year)		\$ 3000.00

Intended Uses of Gaming Proceeds

Student travel needs

Does the organization presently have a state gaming license? (If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240)

Yes No

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit)

Yes No

Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)

No Yes - Total Retail Value: _____ (This amount is part of the total prize limit for \$40,000 per fiscal year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)

Yes No

Printed Name of Organization Group's Permit Organizer Kris Haphey	Telephone Number 701-446-2022	E-mail Address hapheyk@fargo.k12.nd.us
Signature of Organization Group's Permit Organizer 	Title Bookkeeper	Date 8/10/2023

23-913



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (5-2023)

50

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

Bingo Raffle Raffle Board Calendar Raffle Sports Pool Poker* Twenty-One* Paddlewheels*

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.
LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group YWCA Cass Clay		Dates of Activity (Does not include dates for the sales of tickets) 09/07/2023	
Organization or Group Contact Person Erin Prochnow	E-mail eprochnow@ywcacassclay.org	Telephone Number 701-232-2547	
Business Address 4650 38th Ave S, Suite 110	City Fargo	State ND	ZIP Code 58104
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Delta by Marriot		County Cass	
Site Physical Address 1635 42nd Street SW	City Fargo	State ND	ZIP Code 58103
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) Raffle 9/7/23			

PRIZE / AWARD INFO (If More Prizes, Attach An Additional Sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
See Additional Sheet		
Total (limit \$40,000 per year)		\$ 2686.78

Intended Uses of Gaming Proceeds
All proceeds benefit YWCA emergency shelter programs and operations.

Does the organization presently have a state gaming license? (If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240)
 Yes No

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (if yes, the organization or group does not qualify for a local permit or restricted event permit)
 Yes No

Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)
 No Yes - Total Retail Value: **\$3810** (This amount is part of the total prize limit for \$40,000 per fiscal year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)
 Yes No

Printed Name of Organization Group's Permit Organizer Erin Prochnow	Telephone Number 701-232-2547	E-mail Address eprochnow@ywcacassclay.org
Signature of Organization Group's Permit Organizer 	Title CEO	Date 8/8/2023

23-913



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (5-2023)

500

8/4/23 ✓

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

Bingo Raffle Raffle Board Calendar Raffle Sports Pool Poker* Twenty-One* Paddlewheels*

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.

LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group Tri-City United Soccer Club		Dates of Activity (Does not include dates for the sales of tickets) 9/9/2023	
Organization or Group Contact Person Kerry Wynne	E-mail kerry.wynne@tricityunited.org	Telephone Number 701-205-1562	
Business Address 2761 12th Ave S, Suite A	City Fargo	State ND	ZIP Code 58103
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Pepsi Soccer Complex (Fargo Parks)	County Cass
Site Physical Address 3101 Highway 81 North	City Fargo
	State ND
	ZIP Code 58102

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)

Raffle - 9/9/2023

PRIZE / AWARD INFO (If More Prizes, Attach An Additional Sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
50/50 Raffle	50% of proceeds	\$500
Total (limit \$40,000 per year)		\$ \$500

Intended Uses of Gaming Proceeds

We are a 501c3 non-profit. We will use the proceeds to pay for the event and any excess will go into our scholarship fund.

Does the organization presently have a state gaming license? (If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240)

Yes No

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit)

Yes No

Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)

No Yes - Total Retail Value: **\$312** (This amount is part of the total prize limit for \$40,000 per fiscal year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)

Yes No

Printed Name of Organization Group's Permit Organizer Kerry Wynne	Telephone Number 701-205-1562	E-mail Address kerry.wynne@tricityunited.org
Signature of Organization Group's Permit Organizer 	Title Executive Director	Date 8/2/2023

6

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. FM-19-C1 Type: Time Extension (CO #5)
 Location: Woodcrest Neighborhood Date of Hearing: 8/14/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>8/21/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Rob Hasey</u>

The Committee reviewed the accompanying correspondence from Project Manager, Rob Hasey, related to a time extension (CO #5), which will extend the Substantial and Final Completion Dates to August 15, 2023 and August 30, 2023, for additional work.

Staff is recommending approval of the time extension (CO #5) as described above.

On a motion by Steve Sprague, seconded by Ben Dow, the Committee voted to recommend approval of the time extension (CO #5) to Industrial Builders.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the time extension (CO #5) to the Substantial and Final Completion Dates bringing them to August 15, 2023 and August 30, 2023 to Industrial Builders.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax

	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	N/A	N/A
Agreement for payment of specials required of developer	N/A	N/A
Letter of Credit required (per policy approved 5-28-13)	N/A	N/A

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u><input checked="" type="checkbox"/></u>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Michael Redlinger, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Interim Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, P.E.
 City Engineer

Memorandum

To: Members of PWPEC
From: Rob Hasey, Project Manager
Date: August 14, 2023
Re: Project No. FM-19-C1 – Time Extension (Change Order #5)

Background:

Project No. FM-19-C1 is for the installation of an earthen levee and storm water lift station in the Woodcrest Neighborhood located along North & South Woodcrest Drive near Willow Road North.

The project Substantial Completion Date for phase 2 is August 15, 2023 and the Final Completion Date is September 15, 2023. IBI is requesting a time extension.

The Contractor encountered more topsoil that was anticipated during excavation of the inspection trench which caused additional topsoil to be excavated and additional clay to be imported. An old swimming pool was also encountered behind 125 South Woodcrest Drive that added additional time to remove the pool and import clay.

We recommend adding 15 calendar days to the Substantial and Final Completion Dates for this additional work.

Recommended Motion:

Approve Time Extension (Change Order #5) and extend the Substantial Completion Date from August 15, 2023 to August 30, 2023 and Final Completion Date from September 15, 2023 to September 30, 2023.

RJH/klb
Attachments



CHANGE ORDER REPORT
WOODCREST FLOOD RISK MANAGEMENT PROJECT
PROJECT NO. FM-19-C1
STARTING AT 119 SOUTH WOODCREST DRIVE NORTH AND ENDING AT 150 NORTH
WOODCREST DRIVE NORTH.

Change Order No 5 **Change Order Date** 8/10/2023
Contractor Industrial Builders Inc

This change is made under the terms of or is supplemental to your present contract, if and when approved, you are ordered to perform the work in accordance with the additions, changes, or alterations hereinafter described.

EXPLANATION OF CHANGE Change Order # 5
 Revise substantial completion date from 8/15/2023 to 8/30/2023 and final completion from 9/15/2023 to 9/30/2023.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
									Sub Total	\$0.00

Summary

Source Of Funding	Infrastructure Sales Tax Fund 460
Net Amount Change Order # 5 (\$)	\$0.00
Previous Change Orders (\$)	\$158,640.81
Original Contract Amount (\$)	\$4,136,938.70
Total Contract Amount (\$)	\$4,295,579.51

I hereby accept this order both as to work to be performed and prices on which payment shall be based.

CONTRACT DATES

Current Substantial Completion Date	8/15/2023	Current Final Completion Date	9/15/2023
Additional Days Substantial Completion	15	Additional Days Final Completion	15
New Substantial Completion Date	8/30/2023	New Final Completion Date	9/30/2023
Interim Completion Dates			
New Interim Completion Date #1		Current Interim Completion Date #1	
New Interim Completion Date #2	9/1/2022	Current Interim Completion Date #2	9/1/2022
New Interim Completion Date #3	11/1/2022	Current Interim Completion Date #3	11/1/2022
New Interim Completion Date #4	3/31/2023	Current Interim Completion Date #4	3/31/2023
New Interim Completion Date #5	5/15/2023	Current Interim Completion Date #5	5/15/2023
New Interim Completion Date #6	6/15/2023	Current Interim Completion Date #6	6/15/2023
New Interim Completion Date #7		Current Interim Completion Date #7	

APPROVED
For Contractor
Title

Industrial Builders, Inc.

Vice President Estimating

APPROVED DATE
Department Head
Mayor
Attest



Industrial Builders, Inc.

PAUL W. DIEDERICH, PRESIDENT
DONN O. DIEDERICH, EXECUTIVE VICE PRESIDENT



General Contractors

PHONE 701/282-4977 FAX 701/281-1409
P.O. BOX 406 FARGO, NORTH DAKOTA 58107-0406

August 10, 2023

Robert J. Hasey
City of Fargo
225 4th Street North
Fargo, ND 58102

Re: FM-19-C1 Woodcrest Flood Risk Management Project
City of Fargo - Phase 2 Time Extension Request

Dear Mr. Hasey:

Industrial Builders, Inc. (IBI) requests additional time to complete Phase 2 on FM-19-CI Woodcrest Flood Risk Management Project. The current completion date for phase 2 is August 15, 2023. Note 2, Completion on Sheet No. 3 of Section No. 210 gave the City of Fargo (COF) until September 1, 2022 to eliminate Phase 2. The COF experienced delays obtaining final easements from some of the landowners. Final easements were not received until March of 2023. Work on Phase 2 could have started last fall and we may have had a jump on phase 2 if we had received permission to proceed with Phase 2 on September 1. This jump start would have allowed us to complete Phase 2 by the original completion date. During the easement delay, IBI never requested additional time for Phase 2.

In addition to the above time request, IBI requests additional time along the pool area at #125 to remove excess topsoil in the inspection trench and haul in imported clay. We also need additional time for the extended cure time on the retaining wall footings.

Due to these delays, IBI requests the completion date for Phase 2 be extended from August 15, 2023 to August 30, 2023. Please review this request and let me know if it is acceptable. IBI will continue to work with our subcontractors to complete this project as soon as possible.

If you have any questions or need additional information, please call me at 701-282-4977.

Sincerely,

Industrial Builders, Inc.

Kerry M. Meske

Kerry M. Meske
Senior Project Manager

cc: Mike Love, PE – Houston Engineering, IBI Job File

7

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. FM-22-C2 Type: Time Extension (CO #2)

Location: Lift Stations #55 & #56 Date of Hearing: 8/14/2023

Routing	Date
City Commission	8/21/2023
PWPEC File	X
Project File	Rob Hasey

The Committee reviewed the accompanying correspondence from Project Manager, Rob Hasey, related to a time extension (CO #2), which will extend the full road closure on 42nd Street from August 15, 2023 to August 24, 2023.

Key Contracting is requesting to keep the full closure in place while they finish work on the driveways to the lift stations, reconstruct sidewalks, saw/seal concrete joints, and other miscellaneous roadwork. Extending the full road closure date to August 24, 2023, will still result in the road being fully reopened to traffic prior to the start of school on August 28, 2023 and Key Contracting also anticipates that this will allow them to complete the project 30 days ahead of schedule for the Substantial Completion Date and 24 days before the Final Completion Date.

Staff is recommending approval of the time extension (CO #2) as described above.

On a motion by Steve Sprague, seconded by Ben Dow, the Committee voted to recommend approval of the time extension (CO #2) to Key Contracting.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the time extension (CO #2) to the full road closure on 42nd Street from August 15, 2023 to August 24, 2023 to Key Contracting.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax

	Yes	No
Developer meets City policy for payment of delinquent specials	N/A	
Agreement for payment of specials required of developer	N/A	
Letter of Credit required (per policy approved 5-28-13)	N/A	

COMMITTEE

	Present	Yes	No	Unanimous
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Michael Redlinger, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Interim Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

Tom Knakmuhs, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Rob Hasey, Project Manager
Date: August 14, 2023
Re: Project No. FM-22-C2 – Time Extension (Change Order #2)

Background:

Project No. FM-22-C2 (General Contract) is for the replacement of lift stations #55 & #56 on 42nd Street South at Southeast Cass Water Resource District's Drain 27.

Change Order #2 is for extending the full road closure on 42nd Street from August 15, 2023 to August 24, 2023.

Key Contracting is asking to keep the full closure in place while they finish up work on the driveways to the lift stations, reconstructing sidewalks, sawing/sealing concrete joints, as well as any remaining miscellaneous road work. The previously mentioned work could be done under traffic with one lane in each direction. However, doing so would result in greater safety concerns, as well as longer impacts to the traveling public driving through the work zone, since the work would not be able to be completed under the same timeframe as it would be under a full closure. Extending the full road closure date to August 24 would still result in the road being fully reopened to traffic prior to the start of school on August 28, which was the original intention of the August 15 date for 42nd Street to be reopened.

If this full closure is extended to August 24, Key Contracting also anticipates completing the project 30 days ahead of schedule for substantial completion and 34 days ahead of schedule for final completion. This would result in lower inspection costs from Houston Engineering since the overall project would be completed in a shorter timeframe.

Recommended Motion:

Approve extending the full closure of 42nd Street at Drain 27 from August 15, 2023 to August 24, 2023.

RJH/klb
Attachments



CHANGE ORDER REPORT
LIFT STATION REHAB/RECONSTRUCTION - GENERAL
PROJECT NO. FM-22-C2

42ND STREET SOUTH AND DRAIN #27 LIFT STATIONS 55 & 56

Change Order No 2 Change Order Date 8/9/2023
Contractor Key Contracting Inc

This change is made under the terms of or is supplemental to your present contract, if and when approved, you are ordered to perform the work in accordance with the additions, changes, or alterations hereinafter described.

EXPLANATION OF CHANGE Change Order # 2

Revise traffic control phase 2B from 60 days to 69 days which will extend the closure of 42nd Street to August 24, 2023.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
---------	---------	------------------	------	---------------	--------------	---------------	--------------	--------------	-----------------	--------------------

Sub Total \$0.00

Summary

Source Of Funding

Net Amount Change Order # 2 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

Diversion Sales Tax

\$0.00

-\$5,835.00

\$7,372,149.46

\$7,366,314.46

I hereby accept this order both as to work to be performed and prices on which payment shall be based.

CONTRACT DATES

Current Substantial Completion Date

9/30/2023

Current Final Completion Date

11/4/2023

Additional Days Substantial Completion

0

Additional Days Final Completion

0

New Substantial Completion Date

9/30/2023

New Final Completion Date

11/4/2023

Interim Completion Dates

APPROVED
For Contractor
Title

thomas martin
President

APPROVED DATE
Department Head
Mayor
Attest



Key Contracting, Inc.

245 7th Avenue NE
West Fargo, North Dakota 58078
Phone: (701) 238-8192
Fax: (701) 356-0166
Internet: keycontracting.com



Time Extension Request for Interim Completion Phase 2)b.

Submitted To: Houston Engineering
Attention: Gabe Bladow
Date: 8/4/2023
Project: City of Fargo FM-22-C2
Total Price: **No Price Change Order**

Key Contracting, Inc., hereby submits a request for a time extension on 2)b.

Description				
<p>Key Contracting requests a time extension from August 15 to August 24 for Phase 2)b.. By granting this extension we will be able to eliminate the remaining 23 days on the Phase 2)c. milestone which requires lane closure. By extending the road closure 8 more days we anticipate an August 31 Substantial completion(30 days ahead of schedule) and September 30 final (34 days ahead of schedule). Key Contracting has worked 6 days a week since Phase 2)b. began. Schedule Attached.</p>				

Steve Carr

Key Contracting, Inc.
Contact: Steve Carr
Cell (701) 371-1284

Key Contracting, Inc.

245 7th Avenue NE
 West Fargo, North Dakota 58078
 Phone: (701) 238-8192
 Fax: (701) 356-0166
 Internet: keycontracting.com



WEEKLY LOOK AHEAD

City of Fargo

North Side Flood Risk

Project No: FM-22-C2

Engineer: Houston Attn: Clarence Zimmer
 Contractor: Key Contracting, 245 7th Ave NE, West Fargo, ND 58078

Date	Work Activity
------	---------------

Lift Station 56

August 7 - August 12
 Finish Clay Export
 Site Grading
 Work on sidewalks and driveways

August 14 - August 19
 Finish sidewalks and driveways
 Final Site Grading
 Seed n Mulch

August 21- August 24
 Site Cleaning

August 28 - September 30
 Tree Planting

Lift Station 55

August 7 - August 12
 Pour 42nd Street
 Site Grading
 Work on sidewalks and driveways

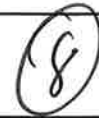
August 14 - August 19
 Saw and seal 42nd Street
 Site Grading
 Work on sidewalks and driveways
 Seed n Mulch

August 21- August 24
 Finish sidewalks and driveways
 Final Site Grading
 Seed n Mulch

August 28 - September 30
 Lift Station Fence
 Finish Catwalks and Railings
 Tree Planting
 Start - Up

Project Superintendents:
 Toby Van (701)-793-4158
 Robb Berggren (701)-361-0596
 Steve Carr (701)-371-1284

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE



Project No.: FM-25-A

Type: Property Acquisition

Location: 3000 11th Street South

Date of Hearing: 8/14/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>8/21/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Nathan Boerboom</u>

The Committee reviewed the accompanying correspondence from Assistant City Engineer, Nathan Boerboom, regarding the acquisition of 3000 11th Street South.

While meeting with various property owners to discuss the design of the Storm Sewer Lift Station #27 Replacement Project, staff learned that the property owner at 3000 11th Street South may be interested in selling the property. Staff have reviewed the property and determined that it would be beneficial to acquire this property to continue advancing the City's flood mitigation efforts. There are two main benefits of acquiring this property. First is the ability to construct a levee across once the structure is removed. Secondly, the acquisition of this property would allow for additional area to be available during the reconstruction of storm sewer lift station #66, which is scheduled to occur in 2025. The current easement area for lift station #66 is very limited and would require additional property rights in order to be reconstructed. Acquiring the property would eliminate the need for any additional property rights being necessary.

Due to this property not being previously identified for acquisition, we are requesting PWPEC and City Commission to authorize City staff to continue acquisition discussion with the property owner and subsequently present a Purchase Agreement to City Commission for the purchase of 3000 11th Street South. Funds to purchase the property are available within the City's budget with the Diversion Authority for in-town flood mitigation projects.

On a motion by Ben Dow, seconded by Steve Sprague, the Committee voted to recommend approval of adding the acquisition of 3000 11th Street South to the remaining property buyouts for the in-town flood mitigation projects.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve adding the acquisition of 3000 11th Street South to the remaining property buyouts for the in-town flood mitigation projects.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Diversion

	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	<u>N/A</u>	<u>N/A</u>
Agreement for payment of specials required of developer	<u>N/A</u>	<u>N/A</u>
Letter of Credit required (per policy approved 5-28-13)	<u>N/A</u>	<u>N/A</u>

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Michael Redlinger, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Interim Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:


Tom Knakmuhs, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Nathan Boerboom, Assistant City Engineer
Date: August 8, 2023
Re: Project No. FM-25-A - 3000 11th Street South Property Acquisition

Background:

While meeting with various property owners to discuss the design of the Storm Sewer Lift Station #27 Replacement Project, located at 32nd Avenue South near the Red River, staff learned that the property owner at 3000 11th Street South (location map attached) may be interested in selling the property. Since learning this, staff has reviewed the property and determined that it would be beneficial to acquire this property to continue advancing the City's flood mitigation efforts.

There are two main benefits of acquiring this property. First is the ability to construct a levee across it once the structure is removed. This levee would be able to tie into existing flood mitigation measures on the north side of the property as well as the planned measures on the south side, which will be constructed as a part of the reconstruction of storm sewer lift station #27. Secondly, the acquisition of this property would allow for additional area to be available during the reconstruction of storm sewer lift station #66, which is scheduled to occur in 2025. The current easement area for lift station #66 is very limited and would require additional property rights in order for it to be reconstructed. Acquiring this property would eliminate the need for any additional property rights being necessary for that reconstruction project.

Due to this property not being previously identified for acquisition, we are requesting PWPEC and City Commission to authorize City staff to continue acquisition discussions with the property owner and subsequently present a Purchase Agreement to City Commission for the purchase of 3000 11th Street South. Funds to purchase this property are available within the City's budget with the Diversion Authority for in-town flood mitigation projects. We have coordinated with the staff of the Diversion Authority and they concur with the purchase of this property as well as reimbursement of the acquisition costs.

Recommendation Motion:

Approve adding the acquisition of 3000 11th Street South to the remaining property buyouts for the in-town flood mitigation projects.

NAB/klb
Attachment



These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

<h1>3000 11th Street S</h1>	
1:2,257	8/8/2023 3:36 PM
<small>This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.</small>	



9

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Storm Sewer & Water Main Easements

Location: 234 Main Avenue

Date of Hearing: 8/14/2023

<u>Routing</u>	<u>Date</u>
City Commission	8/21/2023
PWPEC File	X
Project File	Nathan Boerboom

The Committee reviewed the accompanying correspondence from Assistant City Engineer, Nathan Boerboom, regarding Storm Sewer and Water Main Easements between the City and Epic Companies as part of Epic Companies Unite Project, located at 234 Main Avenue.

Epic Companies are requesting to connect their private storm sewer and water main to the City's infrastructure located within 1 2nd Street South, which is a flood buyout parcel. Upon review, staff determined that these connections can be supported due to the infrastructure being on the protected side of the levee.

To allow these connections to be made, we have worked with the City Attorney's office to develop easements to allow for the private storm sewer and water main to be constructed on City property.

On a motion by Ben Dow, seconded by Tim Mahoney, the Committee voted to recommend approval of the Storm Sewer and Water Main Easements between the City and Epic Companies.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Storm Sewer and Water Main Easements between the City and Epic Companies.

PROJECT FINANCING INFORMATION:


Recommended source of funding for project: N/A

	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	N/A	
Agreement for payment of specials required of developer	N/A	
Letter of Credit required (per policy approved 5-28-13)	N/A	

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<input checked="" type="checkbox"/>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Michael Redlinger, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Interim Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:


Tom Knakmuhs, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Nathan Boerboom, Assistant City Engineer
Date: August 7, 2023
Re: Storm Sewer & Water Main Easements
Epic Companies Unite Project (234 Main Avenue)

Background:

As part of Epic Companies Unite Project, located at 234 Main Avenue, they are requesting to connect their private storm sewer and water main to the City's infrastructure located within 1 2nd Street South, which is a flood buyout parcel. Upon review of this request, staff determined that these connections can be supported due to the infrastructure being on the protected side of the levee. Additionally, the alternative for Epic to serve their property with storm sewer and water main would be connecting to City's infrastructure within Main Avenue, which would require removal of recently constructed pavement.

To allow for these direct connections to be made, we have worked with the City Attorney's office to develop easements to allow for the private storm sewer and water main to be constructed on City property.

The attached easement documents detail the long-term responsibilities of the property owner. Key items within the easement document are:

- Maintenance of privately owned storm sewer and water main are the responsibility of the property owner
- City is not responsible or liable for any damage to the storm sewer or water main
- City has ability to assess property owner for costs of maintenance if they fail to properly maintain the privately owned storm sewer and water main within the easement.
- City also has the ability to terminate the easement, at our discretion, if the maintenance of the storm sewer and water main is not being completed

Recommended Motion:

Approve the Storm Sewer and Water Main Easements between the City and Epic Companies.

NAB/klb
Attachments

PERMANENT EASEMENT
(Water Main)

KNOW ALL MEN BY THESE PRESENTS that **CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO EPIC UNITE REAL ESTATE HOLDINGS, LLC**, a North Dakota limited liability company, its successors and assigns, hereinafter referred to as “Grantee”, a permanent easement under, over, upon and in the land hereinafter described for the purpose of constructing, operating, maintaining and repairing a private water main, together with the customary appurtenances, said tract being described as follows:

A 20.00-foot easement for water main purposes over, under and across the following described property:

Lot 2, Block 1, MHB GUARDIAN ADDITION, according to the recorded plat thereof, Cass County, North Dakota.

The boundary of said easement is described as follows: Commencing at the northwest corner of said Lot 2; thence North 57 degrees 27 minutes 23 seconds East on the northerly line of said Lot 2 a distance of 274.25 feet to the point of beginning; thence South 32 degrees 32 minutes 37 seconds East a distance of 32.21 feet, thence North 57 degrees 27 minutes 23 seconds East a distance of 20.00 feet; thence North 32 degrees 32 minutes 37 seconds West a distance of 32.21 feet to the northerly line of said Lot 2; thence South 57 degrees 27 minutes 23 seconds West on said northerly line a distance of 20.00 feet to the point of beginning.

Tract Contains 644 square feet, more or less.

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go under, over, in and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantee shall be allowed to make a direct connection to City's water main system. Grantee shall be solely responsible for the maintenance, upkeep, and repair and all associated costs of the connection, private water main, and related components and materials. Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to work performed by Grantee. City shall not be responsible or liable for any damages to the connection, private water main, and related components and materials. City also shall have no obligation to perform maintenance, upkeep, or repair of the connection or the private water main.

Grantee, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with City's water main and customary appurtenances and infrastructure, or with material for laying, maintaining, operating or repairing the same in, over or upon the above-described premises, and Grantee expressly warrants and states that no buildings or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of City's water main and customary appurtenances and infrastructure.

Grantee further understands and agrees that the maintenance of the connection and private water main and appurtenances is Grantee's sole responsibility, at Grantee's sole cost. Failure to maintain the connection and private water main and appurtenances to acceptable standards of the City or repair any degradation caused by the private water main or connection, shall allow City to terminate this easement, at the City's discretion.

Grantor shall have the right to direct Grantee to perform maintenance and repairs upon the connection and private water main and appurtenances if Grantor determines, in its sole discretion, that maintenance or repairs are necessary to prevent any impact or changes to the City's water main, customary appurtenances, or infrastructure. If Grantee fails to adequately perform the directed maintenance or repairs within a reasonable period of time as determined by the City, then the City shall have the right to complete the maintenance and repairs and all costs of the maintenance and repairs, including but not limited to construction costs, materials, and fees, shall

be assessed to the Grantee for the entire amount. By expressly granting to the City the right to assess the costs directly to the property for completion of the maintenance and repairs, the Grantee hereby waives its right to protest the assessment.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this _____ day of _____, 2023.

GRANTOR:

City of Fargo, North Dakota, a North Dakota Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2023, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

GRANTEE:

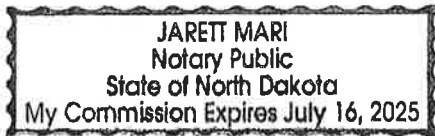
EPIC Unite Real Estate Holdings, LLC

B. K
By: Brian Koukovsky
Its: Treasurer

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this 7th day of August, 2023, before me, a notary public in and for said county and state, personally appeared Brian Koukovsky known to me to be the owner/member of EPIC Unite Real Estate Holdings, LLC, and that s/he executed the within and foregoing instrument, and acknowledged to me that s/he executed the same.

(SEAL)



Tom
Notary Public
My Commission Expires:

The legal description was prepared by:
Joshua J. Nelson - LS-27292
MBN Engineering
503 7th St N #200
Fargo ND 58102

This document prepared by:
Kasey D. McNary (ND #06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street
Fargo, ND 58102
(701) 232-8957

PERMANENT EASEMENT
(Storm Sewer)

KNOW ALL MEN BY THESE PRESENTS that **CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO EPIC UNITE REAL ESTATE HOLDINGS, LLC**, its successors and assigns, hereinafter referred to as “Grantee”, a permanent easement under, over, upon and in the land hereinafter described for the purpose of constructing, operating, maintaining and repairing a storm sewer, together with the customary appurtenances, said tract being described as follows:

A 20.00-foot easement for storm sewer purposes over, under and across the following described property:

Lot 2, Block 1, MHB GUARDIAN ADDITION, according to the recorded plat thereof, Cass County, North Dakota.

The boundary of said easement is described as follows: Commencing at the northwest corner of said Lot 2; thence North 57 degrees 27 minutes 23 seconds East on the northerly line of said Lot 2 a distance of 161.80 feet to the point of beginning; thence South 21 degrees 38 minutes 34 seconds West a distance of 52.49 feet, thence South 68 degrees 21 minutes 26 seconds East a distance of 20.00 feet; thence North 21 degrees 38 minutes 34 seconds East a distance of 80.21 feet to the northerly line of said Lot 2; thence South 57 degrees 27 minutes 23 seconds West on said northerly line a distance of 34.18 feet to the point of beginning.

Tract Contains 1,327 square feet, more or less.

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go under, over, in and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantee shall be allowed to make a storm sewer connection to City's storm sewer system. Grantee shall be solely responsible for the maintenance, upkeep, and repair and all associated costs of the private storm sewer and connections, which shall include but not be limited to pipe and related components. Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to work performed by Grantee. City shall not be responsible or liable for any damages to the connection or the private storm sewer. City also shall have no obligation to perform maintenance, upkeep, or repair of the connection or the private storm sewer.

Grantee, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with City's storm sewer system and customary appurtenances, or with material for laying, maintaining, operating or repairing the same in, over or upon the above-described premises, and Grantee expressly warrants and states that no buildings or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of City's storm sewer including customary appurtenances.

Grantee further understands and agrees that the maintenance of the storm sewer and customary appurtenances is Grantee's sole responsibility, at Grantee's sole cost. Failure to maintain the storm sewer and appurtenances to acceptable standards of the City or repair any degradation caused by the storm sewer, shall allow City to terminate this easement, at the City's discretion.

Grantor shall have the right to direct Grantee to perform maintenance and repairs upon the storm sewer if Grantor determines, in its sole discretion, that maintenance or repairs are necessary to prevent any impact to the City's storm sewer system or changes. If Grantee fails to adequately perform the directed maintenance or repairs upon the private storm sewer system within a reasonable period of time as determined by the City, then the City shall have the right to complete the maintenance and repairs and all costs of the maintenance and repairs, including but not limited to construction costs, materials, and fees, shall be assessed to the Grantee for the entire amount.

By expressly granting to the City the right to assess the costs directly to the property for completion of the maintenance and repairs, the Grantee hereby waives its right to protest the assessment.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this _____ day of _____, 2023.

GRANTOR:

City of Fargo, North Dakota, a North Dakota Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)


On this _____ day of _____, 2023, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

GRANTEE:

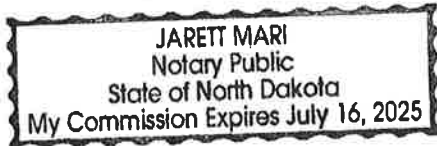
EPIC Unite Real Estate Holdings, LLC


 By: Brian Kounovsky
 Its: Treasurer

STATE OF NORTH DAKOTA)
)
 COUNTY OF CASS)

On this 7th day of August, 2023, before me, a notary public in and for said county and state, personally appeared Brian Kounovsky known to me to be the owner/member of EPIC United Real Estate Holdings, LLC, and that s/he executed the within and foregoing instrument, and acknowledged to me that s/he executed the same.

(SEAL)





 Notary Public
 My Commission Expires:

The legal description was prepared by:
 Joshua J. Nelson - LS-27292
 MBN Engineering
 503 7th St N #200
 Fargo ND 58102

This document prepared by:
 Kasey D. McNary (ND #06590)
 Assistant City Attorney
 SERKLAND LAW FIRM
 10 Roberts Street
 Fargo, ND 58102
 (701) 232-8957



August 8, 2023

Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

**Re: Memorandum of Offer to Landowner
Temporary Easement – Improvement District #BR-23-G2**

Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a temporary easement in association with Improvement District #BR-23-G2. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a temporary easement from **Fargo Public Schools Federal Credit Union** in association with Improvement District #BR-23-G2 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,

Shawn G. Bullinger
Land Acquisition Specialist

C: Jeremy Gorden
Nancy J. Morris

MEMORANDUM OF OFFER TO LANDOWNER

City of Fargo, Engineering Department

Project BR-23-G2	County Cass	Parcel(s) 1N
Landowner Fargo Public Schools Federal Credit Union		
Mailing Address 700 7th St S Fargo, ND 58103 1609 32nd Ave S, Fargo, ND 58103		

The following-described real property and/or related temporary easement areas are being acquired for project purposes:

See attached exhibit(s) to the easements accompanying this Memorandum of Offer.

I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 511.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	_____
Easement and Access Control	\$	511.00
Improvements on Right of Way*	\$	_____
Damages to Remainder	\$	_____
Total Offer	\$	511.00

*Description of Damages to Remainder are as follows:

Mari Gagelin, President
Owner Signature
Signature hereby constitutes acceptance of offer as presented above.

Shawn G. Bullinger
Shawn G. Bullinger
Land Acquisition Specialist, City of Fargo

Fargo City Commission has considered the offer and approves the same:



Timothy J. Mahoney
MAYOR
SIGNATURE
DATE

EASEMENT
(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that FARGO PUBLIC SCHOOLS FEDERAL CREDIT UNION, a federal credit union corporation, whether one or more, hereinafter referred to as "Grantor", for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00), to him in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of street and utility construction and activities appurtenant thereto, said land being more fully described, to-wit:

A temporary easement, over, under and across that part of Lot 22, Block 5, MARYDALE ADDITION to the City of Fargo, situate in the County of Cass and the State of North Dakota described as follows:

The South 10.00 feet of the West 17.50 feet of the East 62.50 feet of said Lot 22.

Said parcel contains 175 square feet, more or less, and is subject to all existing easements of record.

Said parcel is pictorially represented in Exhibit "A" hereto and made a part hereof.

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times, when necessary or convenient to do so, go over and upon said above-described parcel of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agrees they will not disturb, injure, molest or in any manner interfere with said parcel to be used for the storage of dirt and all other construction

activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees, shrubs or other obstacles of any kind shall be placed or located upon the parcel so as to interfere in any manner with the said parcel to be used for the storage of dirt and all other construction activities during the construction phase of said project, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall terminate on June 30, 2026, or end of project, whichever occurs later.

(Signatures on following pages).

IN WITNESS WHEREOF, Grantor set its hand and caused this instrument to be executed this 1st day of August, 2023.

GRANTOR:

FARGO PUBLIC SCHOOLS FEDERAL CREDIT UNION
a federal credit union corporation

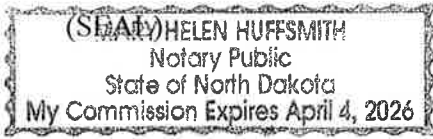
By: Mari Gagelin

Its: President

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

On this 1 day of August, 2023, before me, a notary public in and for said county and state, personally appeared Mari Gagelin, the President of FARGO PUBLIC SCHOOLS FEDERAL CREDIT UNION, a federal credit union corporation, to me known to be the persons described in and who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same.

Mary Helen Huffsmith
Notary Public
Cass County, North Dakota



IN WITNESS WHEREOF, Grantee has set its hand and caused this instrument to be executed this ____ day of _____, 2023.

GRANTEE:

City of Fargo, a North Dakota municipal corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steven Sprague, City Auditor

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

On this ____ day of _____, 2023, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

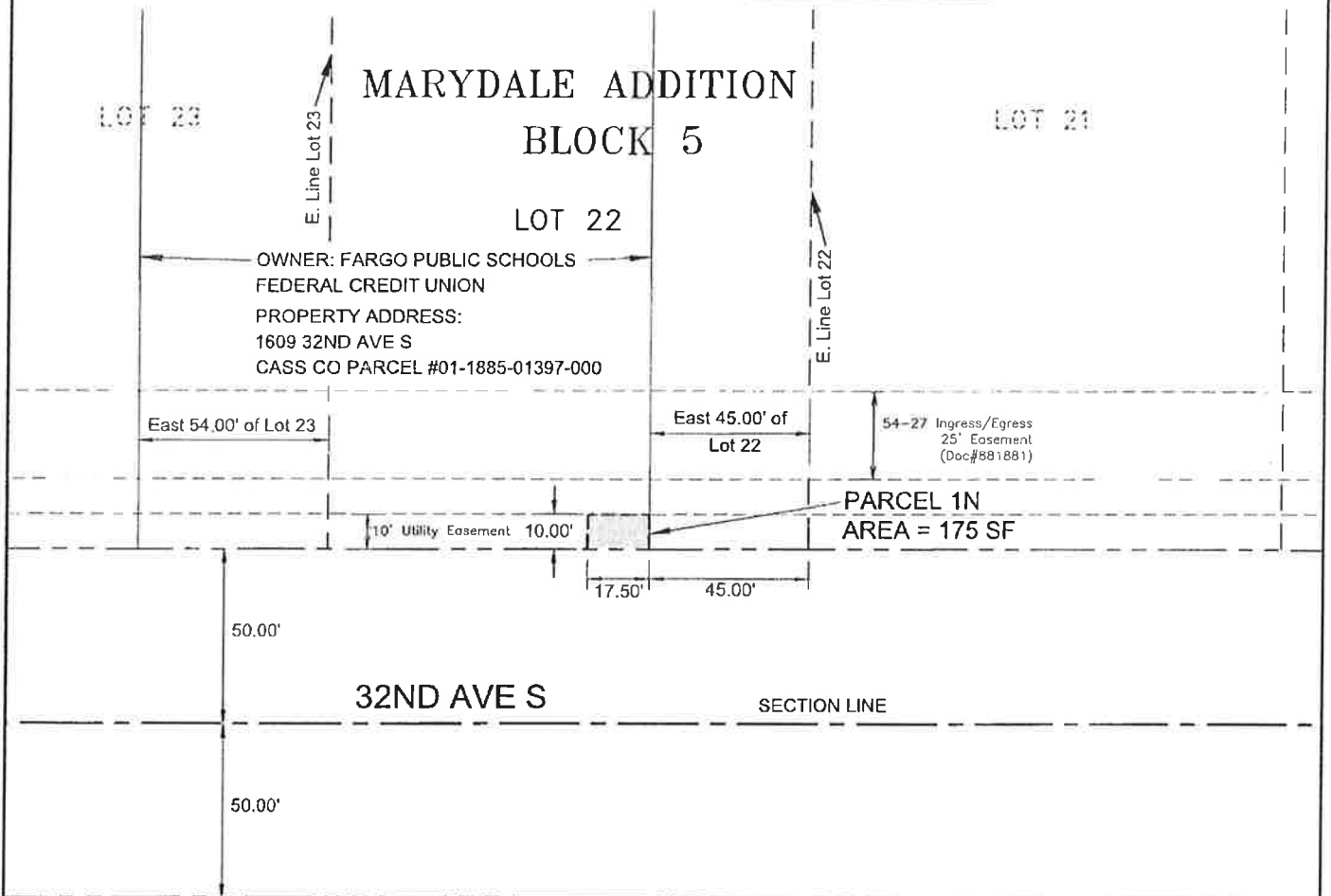
Notary Public
Cass County, ND
My Commission expires:

(SEAL)

The legal description was prepared by:
Dain K. Erickson
Registered Land Surveyor
LS-5582
Apex Engineering Group
4733 Amber Valley Parkway S.
Fargo, ND 58104
(701) 373-7980

This document was prepared by:
Nancy J. Morris
City Attorney
Serkland Law Firm
10 Roberts Street
Fargo, ND 58102
(701) 232-8957
nmorris@serklandlaw.com







EASEMENT EXHIBIT "A"

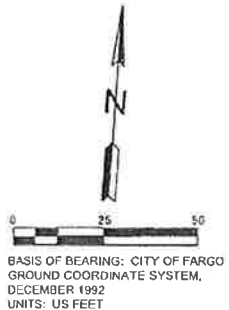


OWNER: FARGO PUBLIC SCHOOLS
 FEDERAL CREDIT UNION
 PROPERTY ADDRESS:
 1609 32ND AVE S
 CASS CO PARCEL #01-1885-01397-000

PARCEL 1N
 AREA = 175 SF

LEGEND

-  PROPOSED PARCEL 1N
-  PROPOSED EASEMENT LINE
-  EXISTING RIGHT OF WAY LINE
-  EXISTING LOT LINE
-  EXISTING PARCEL LINE
-  EXISTING EASEMENT LINE



TEMPORARY EASEMENT - PARCEL 1N
 32ND AVE S RECONSTRUCTION
 LOT 22, BLOCK 5, MARYDALE ADD.
 SECTION 24, T139N, R49W
 FARGO, NORTH DAKOTA

Apex Project #: 22.103.0151
 Date: 03/15/2023
 Drawn By: Mike J
 Checked By: Dain E
 Approved By: Dain E

EASEMENT EXHIBIT "A"

Parcel 1N
(Temporary Easement)

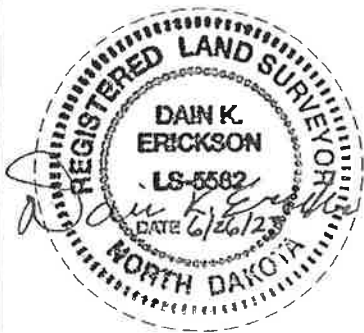
A temporary easement, over, under and across that part of Lot 22, Block 5, MARYDALE ADDITION to the City of Fargo, situate in the County of Cass and the State of North Dakota described as follows:

The South 10.00 feet of the West 17.50 feet of the East 62.50 feet of said Lot 22.

Said parcel contains 175 square feet, more or less, and is subject to all existing easements of record.

CERTIFICATION

I, Dain K. Erickson, hereby certify that I am a Licensed Land Surveyor in the State of North Dakota, that this survey was made by me or under my direction and supervision and that the survey is true and complete as shown.



Signed Dain K. Erickson
Dain K. Erickson
North Dakota Professional Land Surveyor
License Number LS-5582

Date 6/26/2023



TEMPORARY EASEMENT - PARCEL 1N
32ND AVE S RECONSTRUCTION
LOT 22, BLOCK 5, MARYDALE ADD.
SECTION 24, T139N, R49W
FARGO, NORTH DAKOTA

Apex Project #: 22.103.0151
Date: 03/15/2023
Drawn By: Mike J
Checked By: Dain E
Approved By: Dain E

12

August 8, 2023

Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

**Re: Memorandum of Offer to Landowner
Temporary Easement – Improvement District #BR-23-G2**

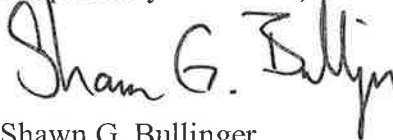
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a temporary easement in association with Improvement District #BR-23-G2. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a temporary easement from **WNB Properties LLC** in association with Improvement District #BR-23-G2 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Jeremy Gorden
Nancy J. Morris

MEMORANDUM OF OFFER TO LANDOWNER

City of Fargo, Engineering Department

Project BR-23-G2	County Cass	Parcel(s) 10S
Landowner WNB Properties LLC		
Mailing Address 4609 33rd Ave S - #400 Fargo, ND 58104		

The following-described real property and/or related temporary easement areas are being acquired for project purposes:

See attached exhibit(s) to the easements accompanying this Memorandum of Offer.

I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 1,226.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	_____
Easement and Access Control	\$	1,226.00
Improvements on Right of Way*	\$	_____
Damages to Remainder	\$	_____
Total Offer	\$	1,226.00

*Description of Damages to Remainder are as follows:

Empty box for description of damages to remainder.

Owner Signature
Signature hereby constitutes acceptance of offer as presented above.

Shawn G. Bullinger
Land Acquisition Specialist, City of Fargo

Fargo City Commission has considered the offer and approves the same:



Timothy J. Mahoney
MAYOR
SIGNATURE
DATE

EASEMENT
(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that **WNB PROPERTIES, LLC**, a limited liability company, whether one or more, hereinafter referred to as "Grantor", for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00), to him in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of street and utility construction and activities appurtenant thereto, said land being more fully described, to-wit:

A temporary easement, over, under and across that part of Lot 4, Block 1, **SOUTHGATE PLAZA ADDITION** to the City of Fargo, situate in the County of Cass and the State of North Dakota described as follows:

The North 30.00 of the West 14.00 feet of said Lot 4.

Said parcel contains 420 square feet, more or less, and is subject to all existing easements of record.

Said parcel is pictorially represented in Exhibit "A" hereto and made a part hereof.

Grantor, his successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times, when necessary or convenient to do so, go over and upon said above-described parcel of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, his successors and assigns, further agrees they will not disturb, injurè, molest or in any manner interfere with said parcel to be used for the storage of dirt and all other construction

activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees, shrubs or other obstacles of any kind shall be placed or located upon the parcel so as to interfere in any manner with the said parcel to be used for the storage of dirt and all other construction activities during the construction phase of said project, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall terminate on June 30, 2026, or end of project, whichever occurs later.

(Signatures on following pages).

IN WITNESS WHEREOF, Grantee has set its hand and caused this instrument to be executed this ____ day of _____, 2023.

GRANTEE:

City of Fargo, a North Dakota municipal corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steven Sprague, City Auditor

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

On this ____ day of _____, 2023, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

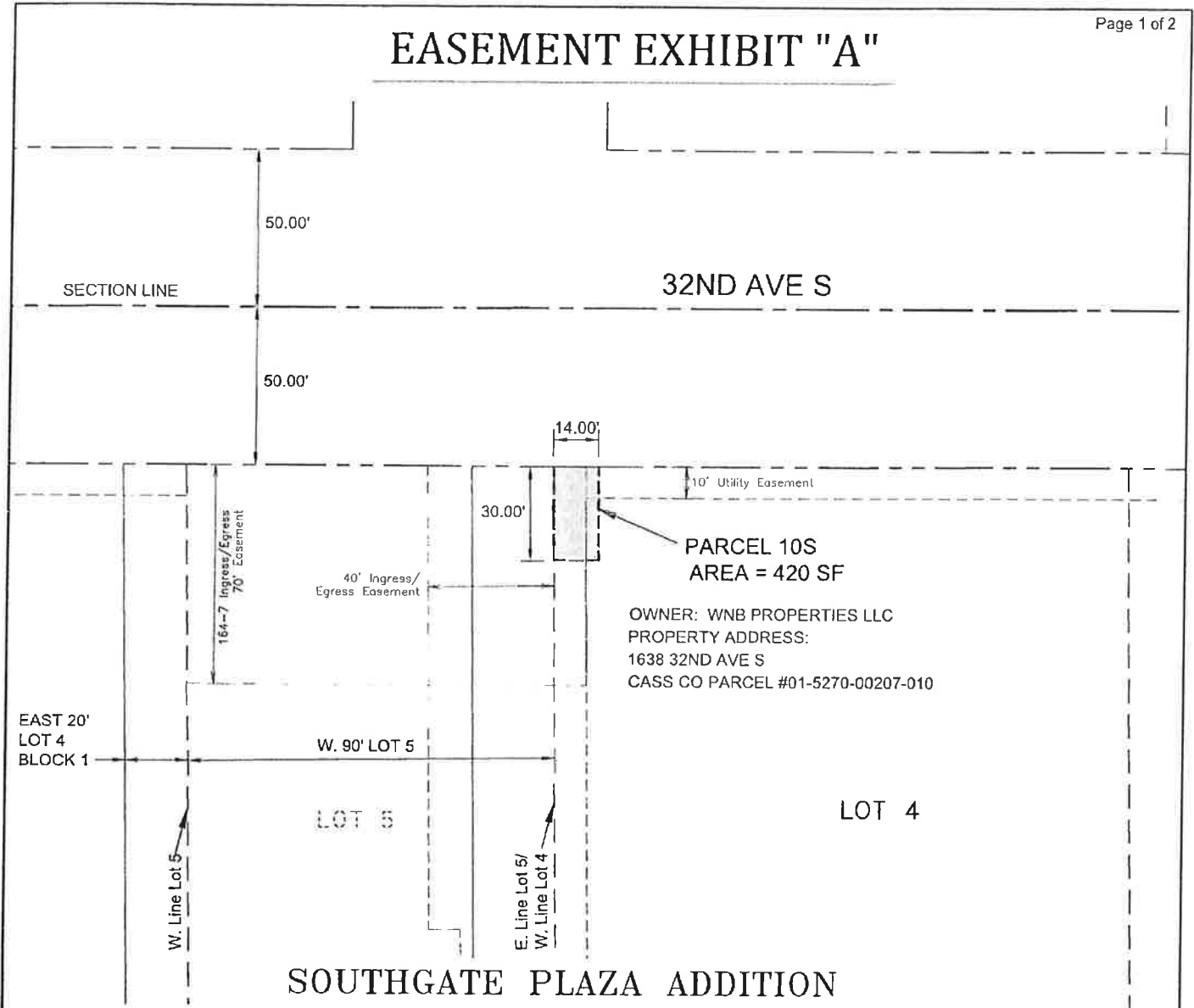
Notary Public
Cass County, ND
My Commission expires:

(SEAL)


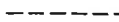




The legal description was prepared by:
Dain K. Erickson
Registered Land Surveyor
LS-5582
Apex Engineering Group
4733 Amber Valley Parkway S.
Fargo, ND 58104
(701) 373-7980

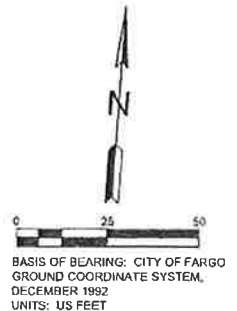
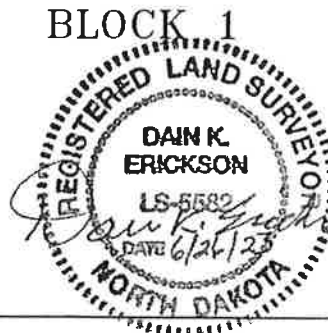
This document was prepared by:
Nancy J. Morris
City Attorney
Serkland Law Firm
10 Roberts Street
Fargo, ND 58102
(701) 232-8957
nmorris@serklandlaw.com

EASEMENT EXHIBIT "A"



LEGEND

-  PROPOSED PARCEL 10S
-  PROPOSED EASEMENT LINE
-  EXISTING RIGHT OF WAY LINE
-  EXISTING LOT LINE
-  EXISTING PARCEL LINE
-  EXISTING EASEMENT LINE



TEMPORARY EASEMENT - PARCEL 10S
 32ND AVE S RECONSTRUCTION
 LOT 4, BLOCK 1, SOUTHGATE PLAZA ADD.
 SECTION 25, T139N, R49W
 FARGO, NORTH DAKOTA

Apex Project #: 22.103.0151
 Date: 03/15/2023
 Drawn By: Mike J
 Checked By: Dain E
 Approved By: Dain E

EASEMENT EXHIBIT "A"

Parcel 10S
(Temporary Easement)

A temporary easement, over, under and across that part of Lot 4, Block 1, SOUTHGATE PLAZA ADDITION to the City of Fargo, situate in the County of Cass and the State of North Dakota described as follows:

The North 30.00 of the West 14.00 feet of said Lot 4.

Said parcel contains 420 square feet, more or less, and is subject to all existing easements of record.



CERTIFICATION

I, Dain K. Erickson, hereby certify that I am a Licensed Land Surveyor in the State of North Dakota, that this survey was made by me or under my direction and supervision and that the survey is true and complete as shown.

Signed Dain K. Erickson
Dain K. Erickson
North Dakota Professional Land Surveyor
License Number LS-5582

Date 6/26/2023



TEMPORARY EASEMENT - PARCEL 10S
32ND AVE S RECONSTRUCTION
LOT 4, BLOCK 1, SOUTHGATE PLAZA ADD.
SECTION 25, T139N, R49W
FARGO, NORTH DAKOTA

Apex Project #: 22.103.0151
Date: 03/15/2023
Drawn By: Mike J
Checked By: Dain E
Approved By: Dain E

(13)

August 7, 2023

Board of City Commissioners
City of Fargo
200 North Third Street
Fargo, ND 58102

Re: Temporary Construction Easement
Improvement District #BR-24-A1

Dear Commissioners:

Accompanying for City Commission review and approval is a Temporary Construction Easement with **Brian Trauman** in association with Improvement District #BR-24-A1.

RECOMMENDED MOTION:

Approve Temporary Construction Easement with **Brian Trauman**.

Please return a copy of the signed original.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Kasey McNary

EASEMENT
(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that **BRIAN TRAUMAN**, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a temporary construction easement under, over, upon and in the land hereinafter described for the purpose of removing a city sidewalk from private property, together with the customary appurtenances, said tract being described as follows:

A tract of land in Lots 5 and 6, Block 13 of Harwood's 2nd Addition to Fargo on file as document A-13B at the Cass County Recorder's Office, City of Fargo, Cass County, North Dakota, more particularly described as follows:

The easterly 5.00 feet of the northerly 47.00 feet of said Lot 5 and the easterly 5.00 feet of the southerly 3.00 feet of said Lot 6.

Said tract contains 250 square feet, more or less.

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee’s officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described parcel of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agree that they will not disturb, injure, molest or in any manner interfere with said parcel to be used for removal and reconstruction of the

sidewalk and all other construction activities during the construction phase of said project, and Grantor expressly warrants and states that no buildings, trees, shrubs or other obstacles of any kind shall be placed or located upon the parcel so as to interfere in any manner with the said parcel during the construction phase. Grantee, at its own expense, shall leave the premises in as good condition as it was prior to the time construction activities began.

This Easement shall terminate on September 30, 2024, or upon completion of construction, whichever occurs later.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 7 day of AUGUST, 2023.

GRANTOR:

Brian Trauman
BRIAN TRAUMAN

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this 7 day of AUGUST, 2023, before me, a notary public in and for said county and state, personally appeared Brian Trauman and that he executed the within and foregoing instrument, and acknowledged to me that he executed the same.

(SEAL) 

Shawn G. Bullinger
Notary Public
My Commission Expires:

GRANTEE:

City of Fargo, North Dakota, a North Dakota
Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2023, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
Justin W. Zastrow (LS-27985)
Professional Land Surveyor
City of Fargo – Engineering Dept.
225 4th St N
Fargo ND 58102
(701) 476-6796

This document prepared by:
Kasey D. McNary (ND# 06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street N | PO Box 6017
Fargo, ND 58102
(701) 232-8957

14

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BR-23-J1

Type: Change Order #1

Location: 1st Ave S b/w 4th & 7th St, Broadway S from 1st Ave S to block north of 1st Ave S

Date of Hearing: 8/14/2023

<u>Routing</u>	<u>Date</u>
City Commission	8/21/2023
PWPEC File	X
Project File	Will Bayuk

The Committee reviewed the accompanying correspondence from Project Manager, Will Bayuk, regarding Change Order #1, which will remove the stipulation from Sheet 1 of the Special Instructions to Bidders:

- "Phase 1 can't be under construction at the same time as Phase 2 or Phase 3."

The reason behind this stipulation was to ensure access to the parking lot on the west side of the YMCA on 1st Avenue South. Dakota Underground has proposed a solution that allows access to the west side YMCA parking lot while constructing Phase 1 and Phase 2 concurrently.

Staff is recommending approval of Change Order #1.

On a motion by Steve Sprague, seconded by Ben Dow, the Committee voted to recommend approval of Change Order #1 to Dakota Underground.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve Change Order #1, removing the stipulation from Sheet 1 of the Special Instructions to Bidders and allow Dakota Underground to construct Phase 1 and Phase 2 concurrently.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: _____ Special Assessments _____

	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	N/A	
Agreement for payment of specials required of developer	N/A	
Letter of Credit required (per policy approved 5-28-13)	N/A	

COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Michael Redlinger, City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Tom Knakmuhs, City Engineer
 Susan Thompson, Interim Finance Director

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, P.E.
 City Engineer

Memorandum

To: Members of PWPEC
From: Will Bayuk, Project Engineer
Date: August 9, 2023
Re: Improvement District No. BR-23-J1 – Change Order #1

Background:

Improvement District No. BR-23-J1 Paving and Utility Rehab/Reconstruction on 1st Avenue South from 4th Street South to 7th Street South, and on South Broadway from 1st Avenue South to 200' south of Main Avenue.

In the original contract documents, it is stated in the Special Instruction to Bidders that "Phase 1 can't be under construction at the same time as Phase 2 or Phase 3."

The reason behind this stipulation was to ensure access to the parking lot on the west side of the YMCA on 1st Avenue South. Dakota Underground has proposed a solution that allows access to the west side YMCA parking lot while constructing Phase 1 and Phase 2 concurrently. Please see attached Phasing Plan Sheet for location of proposed access road.

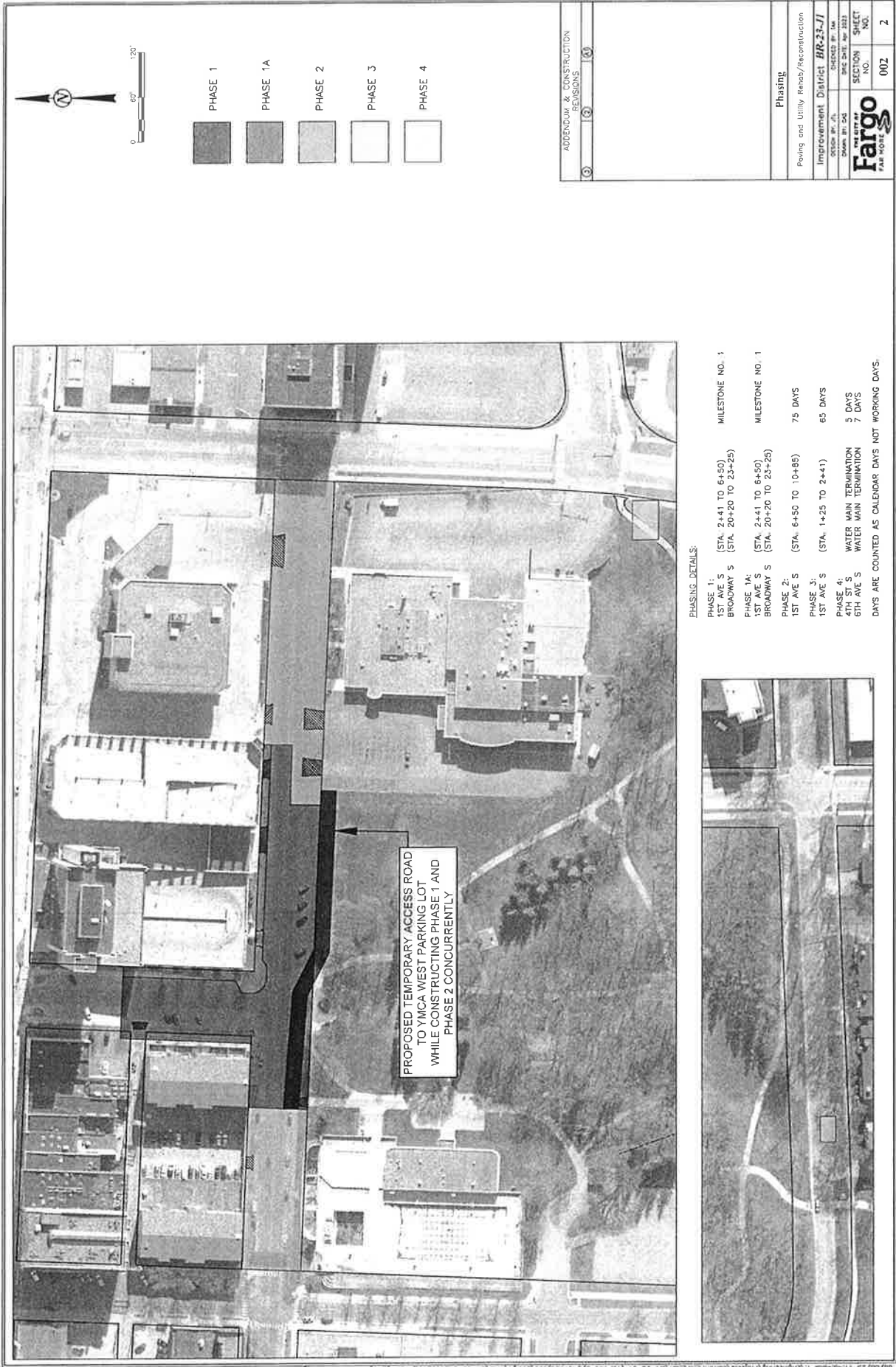
The benefit to constructing Phase 1 and Phase 2 concurrently is the ability to pave the mainline lanes in one continuous pave. This will eliminate multiple construction joints, which will increase the longevity of the pavement and create a smoother ride for traffic.

Dakota Underground is not asking for additional days or additional compensation for this change order.

Recommended Motion:

Remove the following stipulation from Sheet 1 of the Special Instruction to Bidders:

"Phase 1 can't be under construction at the same time as Phase 2 or Phase 3."



PHASING DETAILS:

PHASE 1: 1ST AVE S BROADWAY S	(STA. 2+41 TO 6+50) (STA. 20+20 TO 23+25)	MILESTONE NO. 1
PHASE 1A: 1ST AVE S BROADWAY S	(STA. 2+41 TO 6+50) (STA. 20+20 TO 23+25)	MILESTONE NO. 1
PHASE 2: 1ST AVE S	(STA. 6+50 TO 10+85)	75 DAYS
PHASE 3: 1ST AVE S	(STA. 1+25 TO 2+41)	65 DAYS
PHASE 4: 6TH AVE S	WATER MAIN TERMINATION WATER MAIN TERMINATION	5 DAYS 7 DAYS

DAYS ARE COUNTED AS CALENDAR DAYS NOT WORKING DAYS.

APPENDIX 3. CONSTRUCTION REVISIONS	
⑤	④
Phasing	
Paving and Utility Rehab/Reconstruction	
Improvement District BR-23-J1	
DESIGN BY: JAL	CHECKED BY: LM
DRAWN BY: JAL	DATE: APR 2023
SECTION NO.	SHEET NO.
	002
Fargo THE CITY OF FAIR MORE	



CHANGE ORDER REPORT
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-23-J1
1ST AVE S BETWEEN 4TH AND 7TH ST, BROADWAY S FROM 1ST AVE S TO 1/2
BLOCK NORTH OF 1ST AVE S

Change Order No 1 **Change Order Date** 8/8/2023
Contractor Dakota Underground Co Inc

This change is made under the terms of or is supplemental to your present contract, if and when approved, you are ordered to perform the work in accordance with the additions, changes, or alterations hereinafter described.

EXPLANATION OF CHANGE Change Order # 1

Remove the following stipulation from Sheet 1 of the Special Instruction to Bidders: "Phase 1 can't be under construction at the same time as Phase 2 or Phase 3."

Section No	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)	Sub Total
											\$0.00

Summary

Source Of Funding

Net Amount Change Order # 1 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

Special Assessment

\$0.00

\$0.00

\$3,930,816.24

\$3,930,816.24

I hereby accept this order both as to work to be performed and prices on which payment shall be based.

APPROVED

For Contractor

Title

Jared Heller, PE

Dakota Underground Company

Project Manager

APPROVED DATE

Department Head

Mayor

Attest



(15)

City of Fargo, North Dakota
General Fund - Budget to Actual
Unaudited Monthly Financial Statements - Through July 31, 2023
Amounts shown in thousands

	Budget	Actual	Variance
REVENUES:			
Taxes	\$ 37,917	\$ 37,316	\$ (601)
Licenses & Permits	3,922	3,815	(107)
Intergovernmental Revenue	10,506	10,017	(490)
Charges for Services	6,863	8,380	1,516
Fines & Traffic Tickets	1,362	925	(437)
Interest	1,703	4,406	2,703
Miscellaneous Revenue	2,597	601	(1,996)
Transfers In	8,121	8,546	425
Total Revenues	\$ 72,991	\$ 74,006	\$ 1,013
EXPENDITURES:			
General Government	\$ 14,826	\$ 15,287	\$ (461)
Public Safety	28,662	27,884	778
Public Works	8,752	8,807	(55)
Health & Welfare	8,442	8,241	201
Culture & Recreation	3,358	3,062	297
Economic Development	334	110	224
General Support	835	766	68
Capital Outlay	342	8	334
Operating Transfers	2,194	159	2,036
Contingency (Salary Savings)	(1,271)	40	(1,311)
Total Expenditures	\$ 66,474	\$ 64,364	\$ 2,110
Revenue Over (Under) Expenditures	\$ 6,517	\$ 9,642	\$ 3,125



FINANCE OFFICE
225 4th Street North
Fargo, ND 58102
Phone: (701) 241-1333
E-Mail: Finance@FargoND.gov
www.FargoND.gov

TO: BOARD OF CITY COMMISSIONERS

FROM: SUSAN THOMPSON, INTERIM DIRECTOR OF FINANCE

**RE: ANNUAL COMPREHENSIVE FINANCIAL REPORT (ACFR) AND
INDEPENDENT AUDITOR'S REPORTS**

DATE: AUGUST 21, 2023

The Finance Department has completed the Annual Comprehensive Financial Report (ACFR) for the year ending December 31, 2022. This includes the Independent Auditor reports on our general purpose financial statements in accordance with North Dakota Century Code 54-10-14 as well as all reports required by Title 2 U.S. *Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) for federal grant programs. The independent auditing firm of Eide Bailly LLP completed the audits. An unmodified opinion was provided reflecting adherence to financial requirements and standards. This means that the City is following generally accepted accounting principles and has an appropriate level of internal controls in place to safeguard municipal assets.

There was one audit findings/recommendation for changes in our internal control structures:

- During the testing of the 2022 Schedule of Expenditures of Federal Awards, it was noted that the City incorrectly included an expenditure from 2023.

Finance Department staff have identified and are implementing corrective actions in order to ensure that these findings are resolved for the 2023 audit.

Commissioners met with the audit partner on August 21st, 2023 to discuss the audit process, audit results, and current financial trends.

I would like to express my appreciation to all Department Heads, Division Managers and employees that work with our financial systems throughout the year with a high degree of attention to detail and adherence to accounting policies and procedures.

The City's Annual Comprehensive Financial Report was submitted to the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting program for review and grading under this voluntary quality control program. This is the 24th year we have achieved this award.

The Annual Comprehensive Financial Report is posted on the City of Fargo website for citizens and other interested parties to review. This includes the audit opinions, financial statements, statistical data, and the Schedule of Expenditures of Federal Awards received by the City in 2022.

<https://fargond.gov/city-government/departments/finance/financial-report>

Suggested Motion:


Approve the Independent Auditor's report and the City's Annual Comprehensive Financial Report for the year ending December 31, 2022.



17

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: AUGUST 4, 2023

**RE: NOTICE OF SUBAWARD FROM THE ND DEPARTMENT OF ENVIRONMENTAL QUALITY FOR PUBLIC WATER SUPPLY SUPERVISION – EPA BLOCK.
FUNDS: \$435
EXPIRES: 06/30/2025**

The attached notice of subaward from the ND Department of Environmental Quality for Public Water Supply Supervision is for Fargo Cass Public Health to conduct inspection of non-community public water systems within the Health District as identified by the NDDEQ. Non-seasonal inspections shall be conducted during year two of the biennium.

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the subaward from the NDDEQ.

DF/lls
Attachment

**NOTICE OF SUBAWARD**

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDDEQ) - UEI: ZP9KYB67ZB46
(05-2023)

Subaward Number G23.009	Assistance Listing Name Performance Partnership Grants	Assistance Listing Number 66.605
FAIN Number 99861720	Subaward Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Subaward Start Date 8/1/2023
Subaward End Date 6/30/2025	Federal Award Date 10/28/2019	Federal Awarding Agency Environmental Protection Agency

The Parties to this subaward are the NDDEQ (Grantor) and the Subrecipient. This subaward is not effective and expenditures related to this subaward should not be incurred until both Parties have signed this subaward. If attachments are referenced, they must be returned with the signed subaward. If attachments were not provided, contact the Program Director identified below.

Title of Project/Program Public Water Supply Supervision Program – EPA Block	NDDEQ Project Code 5541-EQ3992-41
Subrecipient Name Fargo Cass Public Health	Program Director David Bruschwein
Address 1240 25 th Street South	Address ormandy St – 3 rd Floor
City/State/ZIP Code Fargo ND 58103-2367	City/State/ZIP Code Bismarck ND 58503-1324
Contact Name Desi Fleming, Director of Public Health	Contact Name Greg Wavra
Telephone Number 701-241-1360	Telephone Number 701-328-5224
Email Address dfleming@fargond.gov	Email Address gwavra@nd.gov

	NDDEQ Cost Share	Subrecipient Cost Share	Total Costs
Amount Awarded	\$435	\$145	\$580
Previous Funds Awarded	\$0	\$0	\$0
Total Funds Awarded	\$435	\$145	\$580
Indirect Rate (Check One)	<input checked="" type="checkbox"/> Subrecipient waived indirect costs	<input type="checkbox"/> De minimus rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of _____%

Scope of Service

Subrecipient shall conduct inspection of non-community public water systems within the Health District as identified by the NDDEQ as follows: Non-seasonal inspections shall be conducted during year two of the biennium (during the period July 1, 2024-June 30, 2025).

Reporting Requirements

All payments will be processed upon Department receipt and approval of inspection and expenditure reports unless otherwise specified in the Special Conditions. At the end of each State Fiscal year, the final expenditure report for the period ending June 30th must be received by July 15th of each year during the award period.

Special Conditions

Funding for this award is restricted to \$218 until such time as the Federal Award is received and processed by the Department. During this restriction, Subrecipient expenditures will be limited to (ex: salaries and fringe, routine in-state travel, standard utilities and rent). Financial obligation of the Department is contingent upon funds being made available by the Environmental Protection Agency. The Department will send notification to the Subrecipient when the restriction has been lifted. This notification serves as official documentation and should be filed with the Notice of Subaward for documentation.

This subaward is subject to the following terms and conditions and applicable State and Federal Regulations.

1. **SUBRECIPIENT'S UNDERSTANDING OF TERM OF FUNDING**

Subrecipient understands that this subaward is a one-time subaward and acknowledges that it has received no assurances that this subaward may be extended beyond its expiration date.

a. Termination by Mutual Agreement

This subaward may be terminated by mutual consent of both Parties executed in writing.

b. Early Termination in the Public Interest

Grantor is entering into this subaward for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly and Courts. If this subaward ceases to further the public policy of the State of North Dakota, Grantor, in its sole discretion, by written notice to Subrecipient, may terminate this subaward in whole or in part.

c. Termination for Lack of Funding or Authority

Grantor by written notice to Subrecipient may terminate the whole or any part of this subaward under any of the following conditions:

1. If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for purchase of the services in the indicated quantities or term.
2. If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this subaward or are no longer eligible for the funding proposed for payments authorized by this subaward.
3. If any license, permit, or certificate required by law or rule, or by the terms of this subaward, is for any reason denied, revoked, suspended, or not renewed.

Termination of this subaward under this subsection is without prejudice to any obligations or liabilities of either Party already accrued prior to termination.

d. Termination for Cause

Grantor may terminate this subaward effective upon delivery of written notice to Subrecipient, or any later date stated in the notice:

1. If Subrecipient fails to provide services required by this subaward within the time specified or any extension agreed to in writing by Grantor; or
2. If Subrecipient fails to perform any of the other provisions of this subaward, or so fails to pursue the work as to endanger performance of this subaward in accordance with its terms.

The rights and remedies of Grantor provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this subaward.

3. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by fire, riot, terrorism, pandemic (excluding COVID-19), acts of God, or war if the event was not foreseeable through the exercise of reasonable diligence by the affected Party, the event is beyond the Party's reasonable control, and the affected Party gives notice to the other Party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default. If Subrecipient is the affected Party and does not resume performance within fifteen (15) days or another period agreed between the Parties, then Grantor may seek all available remedies, up to and including termination of this subaward pursuant to its Termination Section, and Grantor shall be entitled to a pro-rata refund of any amounts paid for which the full value has not been realized, including amounts paid toward software subscriptions, maintenance, or licenses.

4. INDEPENDENT ENTITY

Subrecipient is an independent entity under this subaward and is not a Grantor employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. Subrecipient retains sole and absolute discretion in the manner and means of carrying out Subrecipient's activities and responsibilities under this subaward, except to the extent specified in this subaward.

5. ASSIGNMENTS AND SUBCONTRACTS

Subrecipient may enter into subcontracts provided that any subcontract acknowledges the binding nature of this subaward and incorporates this subaward, including any attachments. Subrecipient is solely responsible for the performance of any subcontractor with whom Subrecipient contracts. Subrecipient does not have authority to contract for or incur obligations on behalf of Grantor.

6. SPOILIATION-PRESERVATION OF EVIDENCE

Subrecipient shall promptly notify Grantor of all potential claims that arise or result from this subaward. Subrecipient shall also take all reasonable steps to preserve all physical evidence and information under its control that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to Grantor the opportunity to review and inspect such evidence, including the scene of the accident.

7. INTEGRATION, MODIFICATION, AND SEVERABILITY

This subaward constitutes the entire agreement between the Subrecipient and Grantor. There are no understandings, agreements, or representations, oral or written, not specified within this subaward. No alteration, amendment, or modification of this subaward is effective unless it is reduced to writing and signed by the Parties.

If any term of this subaward is declared to be illegal or unenforceable by a court having competent jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the Parties are to be construed and enforced as if this subaward did not contain that term.

8. RETENTION OF RECORDS

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three (3) years from the date of submission of the final expenditure report. Subrecipient must provide Grantor, the federal government, and their duly authorized representatives access to the books, documents, papers, and records of Subrecipient that are pertinent to the services provided under this subaward.

9. CONTINGENT LIABILITY

During the term of this subaward, and for three years after this subaward expires or is terminated, Subrecipient agrees to reimburse Grantor for any claims submitted by Grantor for federal financial participation in the cost of this subaward to the extent those claims are disallowed by any federal agency for failure on the part of Subrecipient to comply with this subaward or any federal or state statutory or regulatory provisions which govern the source of funding. Grantor agrees to give Subrecipient prompt written notice of any disallowed claims subject to reimbursement by Subrecipient. Any amount disallowed as described is a debt owing to Grantor. Action may be brought by Grantor as allowed by law.

10. LIMITATIONS ON APPROPRIATIONS AND SPENDING AUTHORITY

Continuation of this subaward beyond June 30 of any odd numbered year is contingent on continued legislative appropriation of funds for the purposes of this subaward. If those appropriations are not forthcoming, Grantor will notify Subrecipient as soon as possible and the subaward will terminate on June 30 of that year. Grantor will neither be penalized nor incur any liability because of termination of the subaward.

11. EVALUATION

Grantor shall, throughout the effective dates on the subaward, conduct an ongoing evaluation of Subrecipient's performance in carrying out the Scope of Service in the subaward. Compliance with subaward requirements and assurances will also be monitored. Such evaluation may include periodic site visits by Grantor representatives to review progress made by Subrecipient in accomplishing stated goals and objectives.

SUBRECIPIENT ASSURANCES

12. ASSURANCES

Subrecipient understands in connection with furnishing supplies or performing work under this subaward, persons who contract with or receive funds to provide services to Grantor are obligated and agree to comply with all local,

Page 84 state, and federal laws, regulations and executive orders related to the performance of this subaward including the following:

- a. Fair Labor Standards Act, Equal Pay Act of 1963
- b. Titles VI and VII of the Civil Rights Act of 1964
- c. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency
- d. Age Discrimination Employment Act of 1967
- e. Age Discrimination Act of 1975
- f. Drug-free Workplace Act of 1988
- g. Americans with Disabilities Act of 1990
- h. Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving
- i. Section 504 of the Rehabilitation Act of 1973
- j. Executive Order 13043, Increasing Seat Belt Use in the United States
- k. Hatch Act (5 U.S.C. 1501-1508 and 7324-7328)
- l. Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104(g))
- m. Build America, Buy America of the Infrastructure Investment and Jobs Act (P.L. 117-58, §§70911-70917)
- n. Equal Employment Opportunity Executive Order 11246
- o. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)

13. APPLICABLE COSTS

Unless otherwise authorized by federal law, the charges to be made by Subrecipient do not include costs financed by federal monies other than those generated by this subaward.

14. DEBARMENT/SUSPENSION

By signing this subaward, Subrecipient certifies that neither Subrecipient, Subcontractor, nor their principals, are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with State or Federal Government by any Department or Agency of the State or Federal Government.

15. RESTRICTIONS FOR LOBBYING

Subrecipient assures that:

- a. No federal funds from this agreement will be paid by for on behalf of Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract; the making of any federal subaward, the making of any federal loan, the entering of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any Federal contract, subaward, loan, or cooperative agreement. If any subaward funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, subaward, loan or cooperative agreement, Subrecipient agrees to complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- b. Subrecipient shall require that the language of the Subrecipient Assurances in this subaward be included in the award documents for all subawards at all tiers (including subcontracts, Subawards, and contracts under subawards, loans, and cooperative agreements) and that all subrecipients shall comply with these assurances.
- c. Public Law No.104-208, Section 503 expressly prohibits the use of appropriated funds for indirect or "grass roots" lobbying efforts that are designed to support or defeat legislation pending before state legislatures. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress or any state legislative body itself.

Governmental entities are prohibited by law from lobbying. Activities designed to influence action in regard to a particular piece of pending state or federal legislation are considered lobbying. That includes lobbying for or against pending legislation, as well as indirect or "grass roots" lobbying efforts that are directed at inducing the public to contact their elected representatives to urge support of, or opposition to, pending legislation.

The North Dakota attorney general has determined that governmental entities may provide the public with neutral factual information but may not, without express legislative authority, expend public funds for the purpose of influencing the result of an election issue, including initiated measures.

16. SMOKE FREE

Any Subrecipient that conducts business in North Dakota will abide by N.D.C.C. § 23-12-09 through N.D.C.C. § 23-12-11. Further, if Subrecipient is not in North Dakota, Subrecipient will provide a smoke-free workplace and promote the nonuse of tobacco products in areas including office space, conference or meeting rooms, corridors, stairways, lobbies, rest rooms, cafeterias and other public space.

17. ENERGY AND ENVIRONMENTAL CONSERVATION

Subrecipient must give preference, to the extent practicable and economically feasible, to products and services that conserve natural resources and protect the environment and are energy efficient. (40 CFR 30.44(a)).

18. RESOURCE CONSERVATION AND RECOVERY ACT

Section 6002 of the Resource Conservation and Recovery Act requires preference be given in procurement programs to the purchase of specific products containing recycled materials pursuant to the Environmental Protection Agency guidelines (40 CFR Parts 247).

19. EQUIPMENT

Subject to the obligations and conditions set forth in 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart D, §200.313, title to equipment acquired under a subaward will vest upon acquisition in the Subrecipient.

20. FEDERAL AUDIT REQUIREMENTS

Subrecipient agrees to keep financial records necessary to fully disclose the complete financial status of the subaward. Subrecipient must submit documentation supporting request for reimbursement for review by Grantor or its agents, upon request. Subrecipient agrees to meet all audit requirements as specified in 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Additionally, Subrecipient agrees to spend all federal assistance received from Grantor in accordance with applicable laws and regulations such as but not limited to 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which is made a part of this subaward by reference.

21. NOTICE

All notice or other communication required under this subaward must be given by registered or certified mail and are complete on the date postmarked when addressed to the Parties at the following addresses. Notice provided under this provision does not meet the notice requirements for monetary claims against the Grantor found at North Dakota Century Code § 32-12.2-04.

SUBRECIPIENT	GRANTOR
<i>Fargo Cass Public Health – Desi Fleming</i>	L. David Glatt, P.E.
<i>Director of Public Health</i>	Director
<i>1240 25th St S</i>	4201 Normandy Street
<i>Fargo, ND 58103</i>	Bismarck, ND 58503-1324

22. CERTIFICATION


By signing this subaward, Subrecipient certifies the following:

- a. The organization/agency has agreed upon the conditions of the subaward applicable to funding received through all subawards issued by the Grantor and will ensure all program managers are aware of and will comply with the requirements.
- b. If the organization/agency expends \$750,000 or more in total Federal dollars from all sources during the fiscal year, the audit requirements specified in 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards will be met and a copy of the Single Audit upon its completion will be submitted to the State.
- c. The person(s) responsible for authorizing, expending or accounting for subaward funding will be provided access to the circulars and subaward requirements as specified in Section 24.

Unique Entity ID (SAM)	Federal Taxpayer Identification Number (FEIN) SSN
-------------------------------	--

23. EFFECTIVENESS OF CONTRACT

This subaward is not effective until fully executed by both Parties.


SUBRECIPIENT	STATE OF NORTH DAKOTA
<i>Fargo Cass Public Health</i>	Acting through its Department of Environmental Quality
BY: 	BY:
<i>Desi Fleming</i>	L. David Glatt, P.E.
<i>Director of Public Health</i>	Director
DATE: 08/04/2023	DATE:
<i>City of Fargo</i>	
BY:	
<i>Timothy J. Mahoney</i>	
<i>Mayor, City of Fargo</i>	
DATE:	



18

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: AUGUST 16, 2023

**RE: AGREEMENT FOR SERVICES WITH AMERICAN LUNG
ASSOCIATION.
FUNDS: \$7,000
EXPIRES: 06/12/2024
RFP: 23120**

The attached Agreement for Services with American Lung Association is for working with Fargo Cass Public Health to implement tobacco, prevention, control, and cessation activities.

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the agreement for services with American Lung Association.

DF/ls
Attachment

THIS AGREEMENT, effective the 1st day of September 2023, by and between Fargo Cass Public Health (FCPH); and the American Lung Association (Contractor).

NOW, THEREFORE, it is hereby agreed by and between the parties here to as follows:

- A. Term of Agreement:** The parties entered into a written agreement for the period of September 1, 2023, through June 12, 2024.
- B. Services to be provided by independent contractor:** Working in collaboration with FCPH, the independent contractor will function as the Project Manager in implementing tobacco prevention, control, and cessation activities to reduce tobacco-related disparities and social norms among specific population groups. Duties will include increasing tobacco cessation/treatment opportunities for those with behavioral health conditions and/or experiencing homelessness, partnering with behavioral health organizations to implement new cessation/treatment protocols and ground policies, and increasing buy-in and capacity for change among local behavioral health professionals. Continue to offer technical assistance to behavioral health providers to support their new tobacco treatment protocols and/or tobacco free grounds. American Lung Association will continue to nurture professional relationships with local behavioral health programs to offer staff education, issue staff surveys, offer site visits, develop client education materials, explore billing and reimbursement options, and other technical assistance as needs are identified.
- C. Reimbursement:** The contracting consultant shall be reimbursed up to \$7,000. This includes staff time of \$6,400 (10 hours each month for 10 months at \$64 per hour), and \$600 for supplies and CEU applications. Invoices must be submitted quarterly. The final invoice is due on June 10, 2024.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** The independent contracting consultant agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any individually identifiable health information or other confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.
- F. Progress Reports:** FCPH shall throughout the effective dates of this agreement, conduct ongoing evaluation of the Contractor's performance in carrying out their tobacco prevention, control, and cessation services. Such evaluation may include, but not be limited to, periodic visits by departmental representatives to review progress made by Contractor in accomplishing stated goal/objectives. Contractor will submit written reports and forms provided by FCPH. Progress reports shall be submitted quarterly with the final report due on June 10, 2024.

Special Considerations:

- A. It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed an employee of FCPH for any other purpose.

- B. The laws of the State of North Dakota shall govern this service agreement. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.

- C. It is understood any forms or paperwork required by FCPH and the City of Fargo to receive payment for services will be completed as needed.

In Witness thereof, this purchase of service agreement has been executed between the Contractor and Fargo Cass Public Health on the date executed below.

FARGO CASS PUBLIC HEALTH

By Desi Fleming
Desi Fleming, Director of Public Health

Date 08/14/2023

By _____
Timothy J. Mahoney, Mayor, City of Fargo

Date _____

AMERICAN LUNG ASSOCIATION


By Deborah P Brown
Name: Deborah P Brown
Title: Chief Mission Officer

Date 8/15/23



MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: AUGUST 16, 2023

RE: AGREEMENT FOR SERVICES WITH SOUL SOLUTIONS.
FUNDS: \$2,385
EXPIRES: 06/12/2024
RFP: 23120

The attached Agreement for Services with Soul Solutions is for working with Fargo Cass Public Health to implement tobacco, prevention, control, and cessation activities.

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the agreement for services with Soul Solutions.

DF/lis
Attachment



Fargo Cass
Public Health
Prevent. Promote. Protect.

**PURCHASE OF SERVICE AGREEMENT WITH
SOUL SOLUTIONS**

HEALTH PROTECTION & PROMOTION
TERM: 09/01/2023 TO 06/12/2024 Page 1 of 2

THIS AGREEMENT, effective the 1st day of September 2023, by and between Fargo Cass Public Health (FCPH); and Soul Solutions (Contractor).

NOW, THEREFORE, it is hereby agreed by and between the parties here to as follows:

- A. Term of Agreement:** The parties entered into a written agreement for the period of September 1, 2023, through June 12, 2024.
- B. Services to be provided by independent contractor:** Working in collaboration with FCPH, the independent contractor will function as the Project Manager in implementing tobacco prevention, control, and cessation activities to reduce tobacco-related disparities and social norms among specific population groups. Duties will include advance health equity by administering appropriate treatment to help clients quit, reduce tobacco-related disparities by educating clients and staff on the harms of tobacco and the importance of effective intervention methods.
- C. Reimbursement:** The contracting consultant shall be reimbursed up to \$2,385. \$2,000 will be allocated for NRT (must have signed standing orders), \$250 for "Addressing Chronic Diseases" education materials, and \$135 for vaping books/materials. Invoices must be submitted quarterly. The final invoice is due on June 10, 2024.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** The independent contracting consultant agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any individually identifiable health information or other confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.
- F. Progress Reports:** FCPH shall throughout the effective dates of this agreement, conduct ongoing evaluation of the Contractor's performance in carrying out their tobacco prevention, control, and cessation services. Such evaluation may include, but not be limited to, periodic visits by departmental representatives to review progress made by Contractor in accomplishing stated goal/objectives. Contractor will submit written reports and forms provided by FCPH. Progress reports shall be submitted quarterly with the final report due on June 10, 2024.

Special Considerations:

- A.** It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed an employee of FCPH for any other purpose.
- B.** The laws of the State of North Dakota shall govern this service agreement. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.
- C.** It is understood any forms or paperwork required by FCPH and the City of Fargo to receive payment for services will be completed as needed.

**PURCHASE OF SERVICE AGREEMENT WITH
SOUL SOLUTIONS**

HEALTH PROTECTION & PROMOTION
TERM 09/01/2023 TO 06/12/2024 Page 2 of 2

In Witness thereof, this purchase of service agreement has been executed between the Contractor and Fargo Cass Public Health on the date executed below.

FARGO CASS PUBLIC HEALTH

By *Desi Fleming*
Desi Fleming, Director of Public Health

Date 08/14/2023

By _____
Timothy J. Mahoney, Mayor, City of Fargo

Date _____

SOUL SOLUTIONS

By *Patti L Senn*
Name: Patti L Senn
Title: Clinical Director


Date August 15, 2023



(20)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: AUGUST 16, 2023

RE: AGREEMENT FOR SERVICES WITH DACOTAH FOUNDATION.
FUNDS: \$8,000
EXPIRES: 06/12/2024
RFP: 23120

The attached Agreement for Services with Dacotah Foundation is for working with Fargo Cass Public Health to implement tobacco, prevention, control, and cessation activities.

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the agreement for services with Dacotah Foundation.

DF/ls
Attachment



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

**PURCHASE OF SERVICE AGREEMENT WITH
DACOTAH FOUNDATION**

HEALTH PROTECTION & PROMOTION
TERM: 09/01/2023 TO 06/12/2024 · Page 1 of 2

THIS AGREEMENT, effective the 1st day of September 2023, by and between Fargo Cass Public Health (FCPH); and Dacotah Foundation (Contractor).

NOW, THEREFORE, it is hereby agreed by and between the parties here to as follows:

- A. Term of Agreement:** The parties entered into a written agreement for the period of September 1, 2023, through June 12, 2024.
- B. Services to be provided by independent contractor:** Working in collaboration with FCPH, contractor will function as the Project Manager in implementing tobacco prevention, control, and cessation activities to reduce tobacco-related disparities and social norms among specific population groups. Duties will include attending training to acquire relevant information and skills to properly dose nicotine replacement therapy and developing alternatives activities to reduce tobacco use.
- C. Reimbursement:** Contractor shall be reimbursed up to \$8,000. This includes \$2,000 for two Smokerlyzers® and supplies, \$5,000 for TTS Courses (4 staff), and \$1,000 for YMCA group passes. Invoices must be submitted quarterly, and the final invoice is due on June 12, 2023.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** Contractor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any individually identifiable health information or other confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.
- F. Progress Reports:** FCPH, shall throughout the effective dates of this Agreement, conduct ongoing evaluation of the Contractor's performance in carrying out their tobacco prevention, control, and cessation services. Such evaluation may include, but not be limited to, periodic visits by departmental representatives to review progress made by Contractor in accomplishing stated goal/objectives. Contractor will submit written reports and forms provided by FCPH. Progress reports shall be submitted by the first Monday of each month, quarterly, and the final report due on June 10, 2024.

Special Considerations:

- A.** It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed an employee of Fargo Cass Public Health for any other purpose.
- B.** The laws of the State of North Dakota shall govern this Service Agreement. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.
- C.** It is understood any forms or paperwork required by FCPH and the City of Fargo to receive payment for services will be completed as needed.



**PURCHASE OF SERVICE AGREEMENT WITH
DACOTAH FOUNDATION**
HEALTH PROTECTION & PROMOTION
TERM: 09/01/2023 TO 06/12/2024 - Page 1 of 2

THIS AGREEMENT, effective the 1st day of September 2023, by and between Fargo Cass Public Health (FCPH); and Dacotah Foundation (Contractor).

NOW, THEREFORE, it is hereby agreed by and between the parties here to as follows:

- A. Term of Agreement:** The parties entered into a written agreement for the period of September 1, 2023, through June 12, 2024.
- B. Services to be provided by independent contractor:** Working in collaboration with FCPH, contractor will function as the Project Manager in implementing tobacco prevention, control, and cessation activities to reduce tobacco-related disparities and social norms among specific population groups. Duties will include attending training to acquire relevant information and skills to properly dose nicotine replacement therapy and developing alternatives activities to reduce tobacco use.
- C. Reimbursement:** Contractor shall be reimbursed up to \$8,000. This includes \$2,000 for two Smokerlyzers® and supplies, \$5,000 for TTS Courses (4 staff), and \$1,000 for YMCA group passes. Invoices must be submitted quarterly, and the final invoice is due on June 12, 2023.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** Contractor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any individually identifiable health information or other confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.
- F. Progress Reports:** FCPH, shall throughout the effective dates of this Agreement, conduct ongoing evaluation of the Contractor's performance in carrying out their tobacco prevention, control, and cessation services. Such evaluation may include, but not be limited to, periodic visits by departmental representatives to review progress made by Contractor in accomplishing stated goal/objectives. Contractor will submit written reports and forms provided by FCPH. Progress reports shall be submitted by the first Monday of each month, quarterly, and the final report due on June 10, 2024.

Special Considerations:

- A.** It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed an employee of Fargo Cass Public Health for any other purpose.
- B.** The laws of the State of North Dakota shall govern this Service Agreement. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.
- C.** It is understood any forms or paperwork required by FCPH and the City of Fargo to receive payment for services will be completed as needed.

**PURCHASE OF SERVICE AGREEMENT WITH
DACOTAH FOUNDATION**
HEALTH PROTECTION & PROMOTION
TERM: 09/01/2023 TO 06/12/2024 Page 2 of 2

In **Witness** thereof, this Service Agreement has been executed between the Contractor and FCPH on the date executed below.

FARGO CASS PUBLIC HEALTH

By Desi Fleming
Desi Fleming, Director of Public Health

Date 08/14/2023

By _____
Timothy J. Mahoney, Mayor, City of Fargo

Date _____

DACOTAH FOUNDATION

By [Signature]
Name: Doreen Eicheler
Title: C.O.O.


Date 8-15-2023



21

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: AUGUST 16, 2023

RE: AGREEMENT FOR SERVICES WITH NEW LIFE CENTER.
FUNDS: \$6,476.03
EXPIRES: 06/12/2024
RFP: 23120

The attached Agreement for Services with New Life Center is for working with Fargo Cass Public Health to implement tobacco, prevention, control, and cessation activities.

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the agreement for services with New Life Center.

DF/lls
Attachment



Fargo Cass
Public Health
Prevent. Promote. Protect.

**PURCHASE OF SERVICE AGREEMENT WITH
NEW LIFE CENTER**

HEALTH PROTECTION & PROMOTION
TERM: 09/01/2023 TO 06/12/2024 · Page 1 of 2

THIS AGREEMENT, effective the 1st day of September 2023, by and between Fargo Cass Public Health (FCPH); and New Life Center (Contractor).

NOW, THEREFORE, it is hereby agreed by and between the parties here to as follows:

- A. Term of Agreement:** The parties entered into a written agreement for the period of September 1, 2023, through June 12, 2024.
- B. Services to be provided by independent contractor:** Working in collaboration with FCPH, the independent contractor will function as the Project Manager in implementing tobacco prevention, control, and cessation activities to reduce tobacco-related disparities and social norms among specific population groups. Duties will include advance health equity by administering appropriate treatment to help clients quit, reduce tobacco-related disparities by educating clients and staff on the harms of tobacco and the importance of effective intervention methods. In addition, provide the tools and resources for clients to quit smoking, maintain tobacco cessation, and move towards a health management of their cravings.
- C. Reimbursement:** The contracting consultant shall be reimbursed up to \$6,476.03. This includes \$645.97 for NRT (must have a signed standing order by your Medical Director), \$1,100 for Urine Analysis Tests Kits, \$1,413.21 for the Quit & Stay Quit Program, \$1,015.75 for the Smoking/Alcohol Prevention Kit, \$153.25 for the Tobacco BINGO Supplies, \$107.50 for Tobacco-Free signs, and \$2,040.35 for an Elliptical. Invoices must be submitted quarterly. The final invoice is due on June 10, 2024.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** The independent contracting consultant agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any individually identifiable health information or other confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.
- F. Progress Reports:** FCPH shall throughout the effective dates of this agreement, conduct ongoing evaluation of the Contractor's performance in carrying out their tobacco prevention, control, and cessation services. Such evaluation may include, but not be limited to, periodic visits by departmental representatives to review progress made by Contractor in accomplishing stated goal/objectives. Contractor will submit written reports and forms provided by FCPH. Progress reports shall be submitted quarterly, and the final report due on June 10, 2024.

Special Considerations:

- A.** It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed an employee of FCPH for any other purpose.
- B.** The laws of the State of North Dakota shall govern this service agreement. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.
- C.** It is understood any forms or paperwork required by FCPH and the City of Fargo to receive payment for services will be completed as needed.

**PURCHASE OF SERVICE AGREEMENT WITH
NEW LIFE CENTER**

HEALTH PROTECTION & PROMOTION
TERM: 09/1/2023 TO 6/12/2024 · Page 2 of 2

In Witness thereof, this purchase of service agreement has been executed between the Contractor and Fargo Cass Public Health on the date executed below.

FARGO CASS PUBLIC HEALTH

By Desi Fleming
Desi Fleming, Director of Public Health

Date 08/14/2023

By _____
Timothy J. Mahoney, Mayor, City of Fargo

Date _____

NEW LIFE CENTER

By Amy Gedrose
Name: Amy Gedrose
Title: Executive Assistant


Date 8/16/2023



22

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: AUGUST 16, 2023

RE: AGREEMENT FOR SERVICES WITH SANFORD CLINIC NORTH
EXPIRES: 08/23/2024

The attached Agreement for Services with Sanford Clinic North is for the provision of services (preventative care and mental health services) at Fargo Cass Public Health's Downtown Engagement Center (DEC).

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the agreement for services with Sanford Clinic North.

DF/lls
Attachment

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”), is made effective as of the date of last signature below (the “Effective Date”), is made, by and between Sanford Clinic North, a North Dakota nonprofit corporation (“Sanford”), and Fargo Cass Public Health d/b/a Downtown Engagement Center (“DEC”).

WITNESSETH

WHEREAS, Sanford specializes in preventative care and mental health services (the “Services”) and desires to provide such services through community-based outreach at the DEC;

WHEREAS, DEC desires to offer such Services at its location to the at-risk local community it serves; and

WHEREAS, both Sanford and DEC are operated as 501(c)(3) charitable organizations and Sanford agrees to provide the Services as part of Sanford’s Community Benefit work.

NOW, THEREFORE, in consideration of the premises set forth above and the mutual covenants and agreements set forth herein, the parties agree as follows:

1. SCOPE OF WORK. Sanford agrees to provide the Services at mutually agreed upon dates and times, each a “Use Date”. This Agreement is for the provision of services to all eligible individuals as determined by DEC. Such eligible individuals include those with low income who do not qualify for Medicare or Medicaid programs. Sanford provides the Services as part of Sanford’s Community Benefit work. Because this is part of Sanford’s Community Benefit, the parties expressly agree that neither party shall bill the other party, residents, patients, nor any third-party payors, including governmental programs, for the Services provided herein.

2. SPACE. DEC agrees to provide an appropriate space with adequate privacy and equipment as may be required by Sanford to perform the Services use on each Use Date. DEC further agrees to provide Sanford with any full-time, exclusive storage space for storage of supplies for the Services, as requested.

3. TERM. The term of this Agreement shall be one (1) year and shall commence upon the Effective Date (the “Term”). This Agreement will automatically renew for subsequent terms of one year each, unless earlier terminated. Either party may terminate this Agreement, at any time, with or without cause, upon thirty (30) days’ written notice to the other party.

4. STANDARDS OF PRACTICE. Sanford hereby acknowledges that it shall adhere to the standards of practice in the community relating to the provision of the Services. Sanford agrees to abide by all applicable federal, state and local laws and regulations in performance of the Services.

5. RECORDS. Any and all records created by Sanford in the provision of Services under this Agreement shall be the property of Sanford. Sanford may document the Services in Sanford's electronic medical record, if applicable.

6. HIPAA. The parties agree that DEC shall not have access to, use, or disclose any protected health information ("PHI") or personally identifiable information pursuant to this Agreement. Sanford shall not intentionally or directly provide DEC with any medical information and/or data concerning specific patients (including, but not limited to, the identity of the patients. However, DEC may have access to PHI incidental to contacts under this Agreement. Any PHI derived from or obtained during the course of this Agreement shall be treated by both parties as confidential so as to comply with all applicable state and federal laws and regulations regarding confidentiality of patient records, and shall not be released, disclosed, or published by any party other than as required or permitted under applicable laws. The parties expressly agree to comply with all applicable patient information privacy and security regulations set forth in the Health Insurance Portability and Accountability Act ("HIPAA") final regulations for Privacy of Individually Identifiable Health Information by the federal due date for compliance, as amended from time to time. The parties will use appropriate safeguards to prevent use or disclosure of patient identifiable medical information and shall immediately report any known misuse of patient identifiable medical information to the other party.

This section shall survive termination or expiration of the Agreement.

7. COMPLIANCE WITH APPLICABLE LAW REGARDING PATIENT REFERRALS. The parties understand and agree that they are entering into this Agreement as part of an arms' length transaction and referral of patients to either party is not (a) a condition to the execution or consummation of this Agreement; or (b) consideration, in whole or in part, for the execution or consummation of this Agreement.

8. INDEMNIFICATION. Each party shall indemnify, defend and hold harmless the other party, its officers, directors and employees from and against all claims, losses, costs, damages and expenses (including reasonable attorney's fees and costs) which result from or arise in connection with any act, negligence, or omission of the indemnifying party, its agents or employees.

This section shall survive termination or expiration of the Agreement.

9. INDEPENDENT CONTRACTORS. Sanford accepts engagement as an independent contractor to provide Services. It is agreed that, in the performance of Services under this Agreement, Sanford and its personnel shall at all times act as independent contractors and not as employees or agents of DEC.

10. INSURANCE.

- a. Each party shall maintain, at its own expense, professional and/or general liability insurance in at least such amounts as are usual and customary for the

Services. Said insurance may be provided through third-party carriers or a program of self-insurance.

- b. Each party shall maintain, at its own expense, worker's compensation insurance covering its employees, as required by law. Said insurance may be provided through third-party carriers or a program of self-insurance.

11. NON-EXCLUSION. Each party represents and warrants it is not currently listed by any governmental agency as excluded, debarred, or otherwise ineligible for participation in any governmental health care program and that it will not directly contract or employ any individual or entity it knows or should have known after reasonable inquiry, (a) has been convicted of a criminal offense related to health care and has been excluded from participation in any governmental health care program (unless the individual or entity has been reinstated to participation in Medicare and all other governmental health care programs after being excluded because of conviction), or (b) is currently listed by a governmental agency as excluded, debarred, or otherwise ineligible for participation in any governmental health care program, and, in furtherance of this requirement, each party agrees to make reasonable inquiry as to any existing or prospective employee, agent, subcontractor, or independent contractor considered for engagement by the party to perform services under this Agreement by reviewing the General Services Administration's List of Parties Excluded from Federal Programs and the HHS/OIG Cumulative Sanction Report.

12. CHOICE OF LAW. This Agreement shall be construed and enforced under, and in accordance with, the laws of North Dakota, without regard to choice of law provisions.

13. INVALIDITY OR UNENFORCEABILITY OF PARTICULAR PROVISIONS. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

14. GOOD FAITH AGREEMENT TO AMEND. It is agreed that the terms and conditions of this Agreement will be changed to reflect any change in and status of any state or federal law, rule, regulation, guideline, or safe harbor regulation that has any material impact on either of the parties and of the parties' ability to legally carry out the spirit of this Agreement and their good faith intentions. If such amendments materially change the rights and obligations of the parties hereto, either party may then terminate this Agreement upon written notice of termination which termination shall be effective on the effective date of the state or federal law, rule, regulation, guideline, or safe harbor regulation that necessitated the amendment or the expiration date of the then current term, whichever date is earlier.

15. ENTIRE AGREEMENT. There are no other agreements or understandings, either oral or written, between the parties affecting this Agreement, except as otherwise specifically provided for or referred to herein. This Agreement cancels and supersedes all previous agreements between the parties relating to the subject matter covered by this Agreement. No change or addition to, or deletion of, any portion of this Agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

16. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, legal representatives, successors, and assigns.

IN WITNESS WHEREOF, this Agreement has been signed on the day and year below, and the Effective Date shall be the date of the latest signature below.

**FARGO CASS PUBLIC HEALTH
DBA DOWNTOWN ENGAGEMENT
CENTER**

SANFORD CLINIC NORTH

Desi Fleming
Signature

Signature

Desi Fleming
Printed Name

Printed Name

Director of Public Health
Title

Title

08/15/2023
Date

Date

**FARGO CASS PUBLIC HEALTH
DBA DOWNTOWN ENGAGEMENT
CENTER**

Signature

Timothy J. Mahoney

Mayor, City of Fargo

Date



23

Memorandum

DATE: August 21, 2023
TO: Mayor Mahoney and Board of City Commissioners
FROM: Shawn Ouradnik, Inspections Director
SUBJECT: Dangerous Building Notice and Order at 1449 4 Ave S, Fargo, ND

The property owner of 1449 4 Ave S, Fargo, ND Lori Jill Eveland has failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-04, it will now be necessary for you to set a date for a hearing of this order at which time the property owner will be able to appear and show cause why the building should not be removed and the costs of that removal assessed against this property.

The recommendation is **to make a motion, in accordance with FMC Article 21-04, to set 5:15 pm September 5, 2023 as the time and date for the hearing regarding the dangerous building order for the structure at 1449 4 Ave S, Fargo, ND.**

24

MEMORANDUM

TO: FARGO CITY COMMISSION

FROM: NICOLE CRUTCHFIELD, PLANNING DIRECTOR *WPC/NC*

DATE: AUGUST 17, 2023

SUBJECT: NATIVE AMERICAN COMMISSION RESOLUTION AMENDMENT

Enclosed for your approval is an amended resolution relating to membership of the Native American Commission.

At the May 4, 2023 Native American Commission meeting, the Native American Commission voted unanimously to convert its Fargo Public Schools Board of Education and City Commission representative members to non-voting liaison members.

The original resolution provides that the Native American Commission consist of "nine (9) members appointed by the mayor of the city...and which members will include a representative of the of the Fargo City Commission, Fargo Public Schools Board of Education, and seven representatives of the local Native American community." It is the Native American Commission's and staff's position that voting rights should be reserved for those directly representing the Native American community.

In addition, minor edits were made to the resolution for clarity and accuracy regarding the Native American Commission's coordination with other City of Fargo boards and departments.

As such, I am remitting to you for your approval the enclosed amended resolution.

Suggested Motion: I move to receive, approve, and file the amended resolution regarding the membership and coordination of the Native American Commission.

RESOLUTION CREATING A COMMITTEE ON NATIVE AMERICAN ISSUES

WHEREAS, the Board of City Commissioners has received a report finding that

1. Native Americans form the largest minority group living in the community; and
2. Recent surveys indicate high levels of poverty and physical health needs within the Native American community; and
3. Majority of Native Americans perceive discrimination and inequity based on race; and,
4. Non-Native community is largely unaware of the culture and tradition of the various tribes represented by Native Americans living in Fargo; and,
5. Feelings of alienation can be moderated by improving individuals' perception regarding community acceptance, enhancing cultural pride and providing outlets for creativity; and,
6. Apparent longing for independent cultural identity suggests the need for services and places that are specifically designed to serve Native Americans; and,

WHEREAS, the Board of City Commissioners wishes to establish a committee to address the issues set forth above,

NOW, THEREFORE, BE IT RESOLVED:

A. While there are several organizations in our community who focus on serving Native American clients and customers, a citywide committee that spotlights Native American issues and needs will increase community awareness and hopefully better coordinate resources to enhance the community experience of Native Americans living in Fargo.

B. The Board of City Commissioners therefore authorizes the creation of the Native American Commission, which will consist of seven (7) voting members appointed by the mayor of the city, with consent of the Board of City Commissioners, that will act as an advisor to the Board of City Commissioners. Voting members shall be representatives of the local Native American community. In addition, one (1) representative of the Fargo City Commission and one (1) representative of Fargo Public Schools Board of Education shall be appointed to serve as non-voting liaison members.

C. Efforts of the Native American Commission will be coordinated with the work of other boards and departments of the City. Staffing for the Commission will be coordinated by the Fargo City Administrator's office.

D. The committee is hereby charged with the following tasks:

1. Develop recommendations for City participation in Native American projects/programs
2. Inventory local Native American cultural assets
3. Evaluate existing information on local Native American assets and needs
4. Provide oversight to city-funded Native American projects/programs/facilities

RESOLUTION CREATING A COMMITTEE ON NATIVE AMERICAN ISSUES (Redline)

WHEREAS, the Board of City Commissioners has received a report finding that

1. Native Americans form the largest minority group living in the community; and
2. Recent surveys indicate high levels of poverty and physical health needs within the Native American community; and
3. Majority of Native Americans perceive discrimination and inequity based on race; and,
4. Non-Native community is largely unaware of the culture and tradition of the various tribes represented by Native Americans living in Fargo; and,
5. Feelings of alienation can be moderated by improving individuals' perception regarding community acceptance, enhancing cultural pride and providing outlets for creativity; and,
6. Apparent longing for independent cultural identity suggests the need for services and places that are specifically designed to serve Native Americans; and,

WHEREAS, the Board of City Commissioners wishes to establish a committee to address the issues set forth above,

NOW, THEREFORE, BE IT RESOLVED:

A. While there are several organizations in our community who focus on serving Native American clients and customers, a citywide committee that spotlights Native American issues and needs will increase community awareness and hopefully better coordinate resources to enhance the community experience of Native Americans living in Fargo.

B. The Board of City Commissioners therefore authorizes the creation of the Native American Commission, which will consist of ~~seven~~ nine (9) ~~voting~~ members appointed by the mayor of the city, with consent of the Board of City Commissioners, that will act as an advisor to the Board of City Commissioners. Voting members shall be representatives of the local Native American community. In addition, and which members will include a one (1) representative of the Fargo City Commission and one (1) representative of, Fargo Public Schools Board of Education shall be appointed to serve as non-voting liaison members, and seven representatives of the local Native American community.

C. Efforts of the Native American Commission committee will be coordinated with the work of other boards and departments, the Community Development Committee and the Human Relations Commission of the City. Staffing for the Commissiontee will be coordinated by the Fargo City Administrator's office.

D. The committee is hereby charged with the following tasks:

1. Develop recommendations for City participation in Native American projects/programs
2. Inventory local Native American cultural assets
3. Evaluate existing information on local Native American assets and needs
4. Provide oversight to city-funded Native American projects/programs/facilities



FARGO POLICE DEPARTMENT
CHIEF DAVID B. ZIBOLSKI
105 25th Street North
Fargo, ND 58102-4002
Main Line: 701.235.4493 | Fax: 701.297.7789
FargoPolice.com

25

August 16, 2023

Board of City Commissioners
City Hall
222 4 Street N.
Fargo, ND 58102

RE: FMLA Extension

Commissioners,

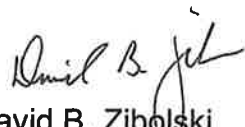
Sergeant Tyrell Fauske recently received a notice from the City of Fargo Human Resources Office that his FMLA Entitlement will run out on Friday, August 18, 2023. On behalf of Sergeant Fauske and pursuant to City Policy 500-008, I am respectfully requesting a 90-day extension of his FMLA leave, which would bring him to November 18, 2023, the date of his hiring anniversary.

Sergeant Fauske is dealing with a significant medical diagnosis that requires treatment in the forms of chemotherapy, radiation, physical therapy, occupational therapy, and speech therapy. His hope is that the flexibility with his FMLA will allow him time to heal, rest, and recuperate enough to allow him to return to work in some capacity at the end of the requested extension.

Thank you for your consideration with regard to this request.

Recommended Motion: Approve 90-day extension of FMLA for Sergeant Tyrell Fauske.

Sincerely,


David B. Zibolski
Chief of Police



FARGO POLICE DEPARTMENT
CHIEF DAVID B. ZIBOLSKI
105 25th Street North
Fargo, ND 58102-4002
Main Line: 701.235.4493 | Fax: 701.297.7789
FargoPolice.com

26

August 16, 2023

Board of City Commissioners
City Hall
225 4 Street North
Fargo, ND 58102

RE: Ordinance 10-0307 – Persons using streets not to be molested
Ordinance 10-0311 – Panhandling

Commissioners,

I am seeking your permission to work with City Attorney Nancy Morris to review Fargo City Ordinances 10-0307 – Persons using streets not to be molested, and 10-0311 – Panhandling.

There have been a number of inquiries regarding these ordinances as well as court decisions relative to their enforceability.

Suggested Motion

Direct the City Attorney to work with the Police Department to review Fargo City Ordinances 10-0307 (Persons using streets not to be molested) and 10-0311 (Panhandling).

Sincerely,

David B. Zibolski
Chief of Police



FARGO POLICE DEPARTMENT
CHIEF DAVID B. ZIBOLSKI
105 25th Street North
Fargo, ND 58102-4002
Main Line: 701.235.4493 | Fax: 701.297.7789
FargoPolice.com

27

August 16, 2023

Board of City Commissioners
City Hall
225 4th Street North
Fargo, ND 58102

RE: Ordinance amendment – 8-1321 “Use of Safety Belts Required in Certain Motor Vehicles”

Board of Commissioners:

I am seeking your permission to work with City Attorney Nancy Morris to draft an amendment to the City of Fargo ordinance, section 8-1321, “Use of Safety Belts Required in Certain Motor Vehicles.”

Fargo Municipal Code section 8-1321, subsection B currently states, “A peace officer may not issue a citation for a violation of this section unless the officer lawfully stopped or detained the driver of the motor vehicle for another violation.” However, on August 1, 2023, a repeal of North Dakota Century Code 39-21-41.5 requiring secondary enforcement of seat belt violations went into effect thereby allowing primary enforcement of seat belt violations. Therefore, I am requesting the assistance of the City Attorney to bring ordinance 8-1321 into alignment with ND Century Code.

Suggested Motion:

To direct the City Attorney to prepare an amendment to Fargo Municipal Code, section 8-1321, as it relates to “Use of Safety Belts Required in Certain Motor Vehicles” so that Fargo city ordinance would allow for primary enforcement of seat belt violations.

Sincerely,

David B. Zibolski
Chief of Police



**PUBLIC
WORKS**

28

**FLEET MANAGEMENT, FORESTRY
STREETS & SEWERS
WATERMANS & HYDRANTS**
402 23rd Street North
Fargo, ND 58102
Phone: 701.241.1453 | Fax: 701.241.8100
FargoND.gov

August 7, 2023

The Honorable Board of City Commissioners
City of Fargo
225 North Fourth Street
Fargo, ND 58102

RE: Carbide Cutting Edges (RFP23136)

Commissioners:

On August 3, 2023, five (5) proposals were received and read for the purchase of Carbide Cutting Edges to be used on motor grader moldboards and wings, and on directional snow plow blades.

The results are as follows:

<u>Firm</u>	<u>Price for (2) with Trade</u>
Titan Machinery	\$ 141,973.00
Kris Engineering	\$ 146,832.10
RDO Equipment	\$ 148,818.20
Technology International	\$ 185,702.00
Iron Valley Equipment	\$ 205,240.00

The review committee consisting of Ben Dow, Allan Erickson, and Tom Ganje evaluated five (5) proposals and determined that all the proposals were compliant. Titan Machinery met all required specifications and had the lowest proposed price. Funding for this project is included in the 2023 Central Garage budget.

Our recommendation is to purchase Carbide Cutting Edges based on the proposal from Titan Machinery.

SUGGESTED MOTION:

For RFP23136, approve the recommendation to purchase Carbide Cutting Edges from Titan Machinery totaling \$141,973.00.

Respectfully Submitted,

Tom Ganje
Fleet Purchasing Manager

Carbide Cutting Edges (RFP 23136)
Central Garage
Thursday, August 3, 2023

	Titan Machinery	Kris Engineering	RDO Equipment	Technology International	Iron Valley Equipment
Price	\$141,973.00	\$146,712.10	\$148,818.20	\$185,702.00	\$205,240.00
Frieght	\$0.00	\$120.00	\$0.00	\$0.00	\$0.00
Total Price	\$141,973.00	\$146,832.10	\$148,818.20	\$185,702.00	\$205,240.00



29

August 21, 2023

Honorable Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

RE: Amended and Restated Resolutions for SRF Sales Tax Revenue Bond Series 2008 A,B,C,D and 2010 A,D

Dear Commissioners:

Attached you will find Amended and Restated Resolutions for water and sewer State Revolving Fund (SRF) loans from 2008 and 2010. Currently, both sales tax and utility (rate) revenues are available sources of income for the Water and Water Reclamation Utilities. Given that the infrastructure sales tax technically expires during the term of the debt, the Public Finance Authority (PFA) wanted to clarify that the utility revenues (rates) will be a source of payment if infrastructure sales tax is not extended. Dorsey & Whitney LLP, our bond counsel, drafted the proposed resolution amendments.

Your approval of the amended State Revolving Fund loan resolutions is requested.

Recommended Motion

Approve the attached Resolutions Amending and Restating Resolutions for Sales Tax Revenue Bond Series 2008 A,B,C,D and 2010 A,D

Respectfully Submitted,

Jim Hausauer
Water Reclamation Utility Director

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 August 21, 2023, 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 _____, 2023.

City Auditor

(SEAL)

CITY OF FARGO, STATE OF NORTH DAKOTA

RESOLUTION AMENDING AND RESTATING RESOLUTION AUTHORIZING THE
ISSUANCE AND SALE OF \$63,725,000 CITY OF FARGO SALES TAX REVENUE
BONDS, SERIES 2008A

RECITATIONS

On August 25, 2008, the governing body of the City of Fargo, North Dakota (the "City"), adopted a resolution entitled "RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$63,725,000 CITY OF FARGO SALES TAX REVENUE BONDS, SERIES 2008A" (the "Original 2008A Resolution") related to the City's Sales Tax Revenue Bonds, Series 2008A (the "Series 2008A Bonds").

The governing body of the City desires to amend the Original 2008A Resolution to, among other things, reflect that the Series 2008A Bonds are secured by the Sales Tax (as defined herein) and Net Revenues (as defined herein) of the City's sewer utility, all as further described hereinafter.

The governing body of the City hereby recites that by the Original 2008A Resolution the City has previously:

1. Found and determined that it is necessary for the City to construct a sanitary sewer interceptor main along 45th Street and related facilities, or make improvements thereto (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 all or a portion of the cost of the Project, which

application has been approved.

9. Performed all other acts required by the Constitution and laws of North Dakota prerequisite to the issuance and sale of revenue bonds and required by the Home Rule Charter and ordinances of the City of Fargo for the purpose of providing money to pay for the cost of the Project in the manner required of the City by law with full power and authority conferred on it as a political subdivision and municipality of North Dakota. Specifically, the City of Fargo has enacted an ordinance for the imposition of a retail sales and/or use tax, the proceeds of which are to be used for infrastructure capital improvements, all of which is set forth in Article 3(S) of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances (the "Sales Tax").

RESOLUTION

Be it resolved by the governing body of the City, the Original 2008A Resolution is hereby amended as follows:

Section 1. 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.

Section 2. The City has issued up to \$63,725,000 in principal amount of its City of Fargo Sales Tax Revenue Bonds, Series 2008A (the "Municipal Securities"), pursuant to N.D.C.C. ch. 40-35 and pursuant to Article 3(S) of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances, to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as Exhibit A. The terms of the Municipal Securities are more fully set out in the loan agreement between the City and the Public Finance Authority (the "Loan Agreement").

Section 3. Terms. The Municipal Securities shall be payable in installments of principal, with interest at the rate of two and one-half percent (2.50%) per year (plus an administrative fee as set out in the Loan Agreement), based on funds actually advanced, and the schedule attached to the Municipal Security form has been revised to reflect the actual principal amount loaned to the City at the completion of the Project.

Section 4. Sales Tax Fund. There is hereby created a special fund of the Municipality designated as the Sales Tax Fund, which Fund shall be held and administered by the Municipality separate and apart from all other funds of the Municipality and continued and maintained by the Municipality until all Municipal Securities and any other obligations payable from the Sales Tax (together, the "Sales Tax Bonds") issued thereon shall have been fully paid with interest. Into the Sales Tax Fund there shall be credited and paid, as received, and the City hereby pledges to deposit into the Sales Tax Fund, all revenues received by the City from the Sales Tax, provided that at such time as funds have been deposited into said Sales Tax Fund to satisfy the payment obligations as required by the Sales Tax Bonds for the then current bond year and provided that the City is not in default in any of its payment obligations under the Resolution, the Loan Agreement, or the Sales

Tax Bonds, then to the extent such revenues from the Sales Tax exceed the said obligations for the then-current bond year, said amounts of Sales Tax may be released from the Sales Tax Fund and deposited into such other accounts for purposes as may otherwise be authorized by said Article 3-20 of the Fargo Municipal Ordinances. On the books and records of the Sales Tax Fund there shall be established and maintained the following accounts. Sales Tax on hand in the Sales Tax Fund from time to time shall be apportioned amongst said accounts at least once each calendar month and shall thereafter be held and administered and disbursed from the accounts established below.

Section 5. Sales Tax Revenue Bond Fund. A separate Sales Tax Revenue Bond Fund is established within the Sales Tax Fund to be used solely to discharge the Sales Tax Bonds, to pay when due the interest on and the principal of the Sales Tax Bonds, and to redeem the Sales Tax Bonds prior to maturity. In order to produce sums annually for the Sales Tax Revenue Bond Fund which will not be less than the amount needed to pay when due the principal and interest payments on the Sales Tax Bonds and the applicable administrative fees, the Municipality shall, monthly, deposit to the credit of the Sales Tax Revenue Bond Fund from the Sales Tax Fund, revenues of the Sales Tax in an amount equal to (a) the sum of one-sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Sales Tax Bonds, and (b) one-twelfth of the administrative fees with respect to the Sales Tax Bonds which will become due within the following twelve (12) months; provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of a loan closing.

Sales Tax Revenue Bond Fund—Series 2008A Account. A separate Series 2008A Account is established within the Sales Tax Revenue Bond Fund to be used solely to discharge the Municipal Securities, to pay when due the interest on and the principal of the Municipal Securities, and to redeem the Municipal Securities prior, to maturity. In order to produce sums annually for the Series 2008A Account which will not be less than the amount needed to pay when due the principal and interest payments on the Municipal Securities and the Administrative Fee, the Municipality shall, monthly, deposit to the credit of the Series 2008A Account from the Sales Tax Revenue Bond Fund, pro rata with respect to amounts due with respect to other Sales Tax Bonds, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Municipal Securities, and (b) one-twelfth of the Administrative Fee which will become due within the following twelve (12) months; provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of Loan Closing. In the event the Sales Tax revenues are not sufficient in any particular bond year to satisfy the payment obligations as required by the Municipal Securities (and as described above) for the then current bond year, then there shall be credited and paid, as received, Net Revenues in an amount sufficient to pay the principal of and interest on the Municipal Securities.

Section 6. Surplus Account. A separate Surplus Account is established within the Sales Tax Fund to be used solely as provided herein. All Sales Tax in excess of the current requirements of the Sales Tax Revenue Bond Fund shall be deposited monthly to the credit of the Surplus Account. Amounts in the Surplus Account shall be available and shall also be used to the full extent necessary to restore any deficiency in the Operation and Maintenance Account and the

Series 2008A Account, and when not so needed may be pledged and appropriated as provided above or to redeem Bonds. Notwithstanding the foregoing, the Municipality shall maintain in the Surplus Account such amount, as it shall determine from time to time, to constitute an adequate reserve for the purpose for which moneys in the Surplus Account are available as provided in this section; however, moneys in excess of such adequate reserve may be transferred to other funds of the Municipality in the manner provided by law including, as to municipal utilities funds, the provisions of N.D.C.C. § 40-33-12(2).

Section 7. Sewer Utility Fund. The City has created, and will maintain, a SEWER UTILITY FUND (the "Sewer Utility Fund"). The City shall credit and pay to the Sewer Utility Fund, as received, the entire gross revenues derived from the operation of the City's sewer utility, including any future additions thereto and betterments thereof (the "Sewer Utility" or "Wastewater Treatment Works"), including all income and receipts derived from rates, fees and charges for services, facilities, products and by-products of the Sewer Utility furnished or sold to the City and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the Sewer Utility not necessary to be retained, and from the investment of any of the money so collected. On the books and records of the Sewer Utility Fund there shall be established and maintained the following funds as a part of the Sewer Utility Fund. Amounts on deposit in the Sewer Utility Fund from time to time shall be apportioned among said funds at least once in each calendar month and shall thereafter be held and administered and disbursed from the several funds established in this section.

Section 8. Operation and Maintenance Fund. The City has created, and will maintain, an OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). Upon each such monthly apportionment, as a first lien and charge on the gross revenue, the City shall transfer to the Operation and Maintenance Fund from amounts on deposit in the Sewer Utility Fund such sum as shall be needed, over and above any credit balance held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for contingencies. Monies in the Operation and Maintenance Fund shall be used only to pay expenses of the foregoing type and not for major repairs, replacements, or capital improvements which are properly chargeable to replacement and depreciation reserves or surplus funds. All revenues in excess of such amount deposited to the Operation and Maintenance Fund shall be the Net Revenues (the "Net Revenues") of the Sewer Utility.

Section 9. Sewer Revenue Bond Fund. A separate Sewer Revenue Bond Fund has been established within the Sewer Utility Fund to be used solely to discharge the obligations payable therefrom, including the Municipal Securities (together, the "Revenue Bonds"), to pay when due the interest on and the principal of the Revenue Bonds, and to redeem the Municipal Securities prior, to maturity, all to the extent the amounts available under Section 5 hereof are not sufficient

Section 10. Surplus Fund. All surplus Net Revenues from time to time received in excess of the current requirements of the Sewer Revenue Bond Fund and any reserve shall be credited on the books of the City to the Surplus Fund of the Sewer Utility Fund, provided that City reserves the right to create additional funds within said fund for the purpose of segregating any of such surplus Net Revenues which may be pledged and appropriated to the payment of any Subordinate

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

Section 11. Reserve Account. A separate Reserve Account has been established in the amount of \$4,442,000 payable at the rate of \$888,400 per year for the first five years of the loan, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$63,725,000.

Section 12. Rates, Fees and Charges. The Municipality shall impose, maintain and collect revenues from the Sales Tax, and, to the extent such revenues are not sufficient, to impose and collect Net Revenues (together, the "Pledged Revenues"), including services furnished to the Municipality, according to a schedule or schedules which will provide gross revenues sufficient to pay when due all costs payable under the Operation and Maintenance Account and Pledged Revenues equal to 110% of the average annual interest and principal requirements on the Sales Tax Bonds and Revenue Bonds.

Section 13. Additional Parity Bonds. The Municipality reserves the further right of issuing additional municipal securities payable from the Sales Tax or Net Revenues on a parity as to both principal and interest with the Municipal Securities, provided that the Pledged Revenues received during the last fiscal year prior to such issuance shall have been in an amount not less than one hundred ten percent (110%) of the average annual amount of principal and interest to become due during the remaining term of the then outstanding obligations payable from the Pledged Revenues. However, if rates and charges for the Sewer Utility have been increased since the beginning of the last fiscal year next preceding the issuance of such additional municipal securities, the net revenues received during such preceding fiscal year shall be deemed to be the amount which would have been received in the preceding fiscal year had the increased rates and charges been in effect throughout such preceding fiscal year. Also, for purposes of this test, the Net Revenues may be adjusted by including the additional Net Revenues, as determined by a competent feasibility or rate study, to be realized from the area to be served by the improvements to be constructed with such additional municipal securities, provided that the interest on the additional municipal

securities is funded until the date of completion of the improvements to be constructed with the proceeds of the additional municipal securities or other available funds.

Section 14. Limited Obligations. The Municipal Securities issued hereunder shall not constitute a charge, lien or encumbrance upon any property of the Municipality, and no holder or holders thereof shall ever have the right to compel any exercise of the taxing power of the Municipality 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 Municipality but are payable solely from the Pledged Revenues as set forth in this resolution.

Adopted August 21, 2023.

CITY OF FARGO

By: _____
Timothy Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

FORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
CITY OF FARGO

No. R-1 \$ _____

SALES TAX REVENUE BONDS, SERIES 2008A

Interest Rate Date of Original Issue

2.50% _____, 20__

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Fargo, North Dakota (the "Issuer"), 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 from its Series 2008A Sales Tax Revenue Bond fund to the Registered Owner specified above, or registered assigns, the Principal Amount from the Date of Original Issue at the annual rate of two and one-half percent (2.50%) semiannually on March 1 and September 1 on the dates and in the amounts set forth in Attachment A to this Municipal Security and Exhibit C to the Loan Agreement (as defined below), which Attachment A and Exhibit C shall be revised in accordance with Section 3.05 of the Loan Agreement in the event funds are advanced to the Issuer other than as originally set forth in Exhibit B to the Loan Agreement. Principal is 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.

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"), Article 3(S) of the Home Rule Charter of the City of Fargo, Article 3-20 of the Fargo Municipal Ordinances and pursuant to a Resolution (the "Resolution") and a Loan Agreement (the "Loan Agreement") adopted and entered into by the Issuer. 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 Security and the rights of the Registered Owner of the Municipal Security. The principal and interest payments for this bond are not general obligations of the municipality, but are payable solely from the revenues received by the city as a result of the imposition of the retail sales and/or use tax established by Article 3(S) of the Home Rule Charter and as implemented by Article 3-20 of the Fargo Municipal Ordinances and from the operation of the Wastewater Treatment Works of the City of Fargo and from any future additions thereto and betterments thereof, including all

income and receipts derived from rates, fees, charges for services, facilities, products and by-products to the Municipality and its inhabitants and all other customers, and for the availability thereof, and from the sale of any of the properties of the Wastewater Treatment Works not necessary to be retained, and from the investment of any of the money so collected, as set forth in the Resolution.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the Issuer kept at the main office of The Bank of North Dakota, 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 in inverse order of maturity and by lot within any maturity on September 1, 2009, at any interest payment date thereafter, 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 Issuer has caused this Municipal Security 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: _____

Mayor

ATTEST:

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.

The Bank of North Dakota,
Bismarck, 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: _____

Social Security or other Identifying
number of Assignee

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

Signature Guaranteed:

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

CERTIFICATE

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

I, Steve 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 August 21, 2023, 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 _____, 2023.

City Auditor

(SEAL)

CITY OF FARGO, STATE OF NORTH DAKOTA
RESOLUTION AUTHORIZING THE ISSUANCE AND
SALE OF
\$29,240,000
CITY OF FARGO SALES TAX REVENUE BOND,

SERIES 2008B RECITATIONS

On August 25, 2008, the governing body of the City of Fargo, North Dakota (the "City"), adopted a resolution entitled "RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$29,240,000 SALES TAX REVENUE BONDS, SERIES 2008B" (the "Original 2008B Resolution") related to the City's Sales Tax Revenue Bonds, Series 2008B (the "Series 2008B Bonds").

The governing body of the City desires to amend the Original 2008B Resolution to, among other things, reflect that the Series 2008B Bonds are secured by Sales Tax (as defined herein) and Net Revenues of the City's water utility, as further described herein.

The governing body of the City hereby recites that by the Original 2008B Resolution the City has previously:

1. Found and determined that it is necessary for the City to construct a water transmission pipeline and related facilities, or make improvements thereto (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 all or a portion of the cost of the Project, which application has been approved.
9. Performed all other acts required by the Constitution and laws of North Dakota prerequisite to the issuance and sale of revenue bonds and required by the Home Rule Charter and ordinances of the City of Fargo for the purpose of providing money to pay for the cost of the Project in the manner required of the City by law with full power and authority conferred on it as a political subdivision and municipality of North Dakota. Specifically, the City of Fargo has enacted an ordinance for the imposition of a retail sales and/or use tax, the proceeds of which are to be used for infrastructure capital improvements, all of which is set forth in Article 3(S) of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances.

RESOLUTION

Be it resolved by the governing body of the City that the Original 2008B Resolution is hereby amended as follows:

Section 1. 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.

Section 2. The City authorized the issuance of up to \$29,240,000 in principal amount of its CITY OF FARGO SALES TAX REVENUE BOND, Series 2008B (the "Municipal Securities"), pursuant to N.D.C.C. ch. 40-35 and pursuant to Article 3(S) of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances, to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as Exhibit A. The terms of the Municipal Securities are more fully set out in the loan agreement between the City and the Public Finance Authority (the "Loan Agreement").

Section 3. Terms. The Municipal Securities shall be payable in installments of principal, with interest at the rate of two and one-half percent (2.82%) per year (plus an administrative fee as set out in the Loan Agreement), based on funds actually advanced, and the schedule attached to the Municipal Security form has been revised to reflect the actual principal amount loaned to the City at the completion of the Project.

Section 4. Sales Tax Fund. There has been created a special fund of the Municipality designated as the Sales Tax Fund, which Fund shall be held and administered by the Municipality separate and apart from all other funds of the Municipality and continued and

maintained by the Municipality until all Municipal Securities and any other obligations payable from the Sales Tax (together, the "Sales Tax Bonds") shall have been fully paid with interest. Into the Sales Tax Fund there shall be credited and paid, as received, and the City hereby pledges to deposit into the Sales Tax Fund, all revenues received by the City from the Sales Tax, provided that at such time as funds have been deposited into said Sales Tax Fund to satisfy the payment obligations as required by the Sales Tax Bonds for the then current bond year and provided that the City is not in default in any of its payment obligations under the Resolution, the Loan Agreement, or the Sales Tax Bonds, then to the extent such revenues from the Sales Tax exceed the said obligations for the then-current bond year, said amounts of Sales Tax may be released from the Sales Tax Fund and deposited into such other accounts for purposes as may otherwise be authorized by said Article 3-20 of the Fargo Municipal Ordinances. On the books and records of the Sales Tax Fund there shall be established and maintained the following accounts. Sales Tax on hand in the Sales Tax Fund from time to time shall be apportioned amongst said accounts at least once each calendar month and shall thereafter be held and administered and disbursed from the accounts established below.

Section 5. Sales Tax Revenue Bond Fund. A separate Sales Tax Revenue Bond Fund has been established within the Sales Tax Fund to be used solely to discharge the Sales Tax Bonds, to pay when due the interest on and the principal of the Sales Tax Bonds, and to redeem the Sales Tax Bonds prior to maturity. In order to produce sums annually for the Sales Tax Revenue Bond Fund which will not be less than the amount needed to pay when due the principal and interest payments on the Sales Tax Bonds and the applicable administrative fees, the Municipality shall, monthly, deposit to the credit of the Sales Tax Revenue Bond Fund from the Sales Tax Fund, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Sales Tax Bonds, and (b) one-twelfth of the administrative fees with respect to the Sales Tax Bonds which will become due within the following twelve (12) months, provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of a loan closing.

Sales Tax Revenue Bond Fund—Series 2008B Account. A separate Series 2008B Account is established within the Sales Tax Revenue Bond Fund to be used solely to discharge the Municipal Securities, to pay when due the interest on and the principal of the Municipal Securities, and to redeem the Municipal Securities prior, to maturity. In order to produce sums annually for the Series 2008B Account which will not be less than the amount needed to pay when due the principal and interest payments on the Municipal Securities and the Administrative Fee, the Municipality shall, monthly, deposit to the credit of the Series 2008B Account from the Sales Tax Revenue Bond Fund, pro rata with respect to amounts due with respect to other Sales Tax Bonds, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Municipal Securities, and (b) one-twelfth of the Administrative Fee which will become due within the following twelve (12) months; provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of Loan Closing. In the event the Sales Tax revenues are not sufficient in any particular bond year to satisfy the payment obligations as required by the Municipal Securities (and as described

above) for the then current bond year, then there shall be credited and paid, as received, Net Revenues in an amount sufficient to pay the principal of and interest on the Municipal Securities.

Section 6. Surplus Account. A separate Surplus Account is established within the Sales Tax Fund to be used solely as provided herein. All Sales Tax in excess of the current requirements of the Sales Tax Revenue Bond Fund shall be deposited monthly to the credit of the Surplus Account. Amounts in the Surplus Account shall be available and shall also be used to the full extent necessary to restore any deficiency in the Operation and Maintenance Account and the Sales Tax Revenue Bond Fund, and when not so needed may be pledged and appropriated as provided above or to redeem Bonds. Notwithstanding the foregoing, the Municipality shall maintain in the Surplus Account such amount, as it shall determine from time to time, to constitute an adequate reserve for the purpose for which moneys in the Surplus Account are available as provided in this section; however, moneys in excess of such adequate reserve may be transferred to other funds of the Municipality in the manner provided by law including, as to municipal utilities funds, the provisions of N.D.C.C. § 40-33-12(2).

Section 7. 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 (the "Water Utility"), 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.

Section 8. 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.

Section 9. Water Revenue Bond Fund. A separate Water Revenue Bond Fund has been established within the Water Utility Fund to be used solely to discharge the obligations payable therefrom, including the Municipal Securities (together, the "Revenue Bonds"), to pay when due

the interest on and the principal of the Revenue Bonds, and to redeem the Municipal Securities prior, to maturity, all to the extent the amounts available under Section 5 hereof are not sufficient.

Section 10. 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 reserve 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 Sales Tax Revenue Bond Fund, the Water Revenue Bond Fund, the Reserve Account and any other 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 Revenue Bonds (other than Subordinate Bonds) when and as such bonds become redeemable according to their terms, or purchase Revenue 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, the Sales Tax Revenue Bond Fund or any 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.

Section 11. Reserve Account. A separate Reserve Account has been established in the amount of \$2,094,826 payable at the rate of \$418,965.20 per year for the first five years of the loan, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$29,240,000.

Section 12. Rates, Fees and Charges. The Municipality shall impose, maintain and collect revenues from the Sales Tax, and, to the extent such revenues are not sufficient, to impose and collect Net Revenues (together, the "Pledged Revenues"), including services furnished to the Municipality, according to a schedule or schedules which will provide gross revenues sufficient to pay when due all costs payable under the Operation and Maintenance Account and Pledged Revenues equal to 110% of the average annual interest and principal requirements on the Sales Tax Bonds and Revenue Bonds.

Section 13. Additional Parity Bonds. The Municipality reserves the further right of issuing additional municipal securities payable from the Sales Tax or Net Revenues on a parity as to both principal and interest with the Municipal Securities, provided that the Pledged Revenues received during the last fiscal year prior to such issuance shall have been in an amount not less than one hundred ten percent (110%) of the average annual amount of principal and

interest to become due during the remaining term of the then outstanding obligations payable from the Pledged Revenues. However, if rates and charges for the Sewer Utility have been increased since the beginning of the last fiscal year next preceding the issuance of such additional municipal securities, the net revenues received during such preceding fiscal year shall be deemed to be the amount which would have been received in the preceding fiscal year had the increased rates and charges been in effect throughout such preceding fiscal year. Also, for purposes of this test, the Net Revenues may be adjusted by including the additional Net Revenues, as determined by a competent feasibility or rate study, to be realized from the area to be served by the improvements to be constructed with such additional municipal securities, provided that the interest on the additional municipal securities is funded until the date of completion of the improvements to be constructed with the proceeds of the additional municipal securities or other available funds.

Section 14. Limited Obligations. The Municipal Securities issued hereunder shall not constitute a charge, lien or encumbrance upon any property of the Municipality, and no holder or holders thereof shall ever have the right to compel any exercise of the taxing power of the Municipality 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 Municipality but are payable solely from the Pledged Revenues as set forth in this resolution.

Adopted August 21, 2023.

CITY OF FARGO

By: _____
Timothy Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

EXHIBIT A

FORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
CITY OF FARGO

No. R-1 \$ _____

SALES TAX REVENUE BONDS, SERIES 2008B

Interest Rate Date of Original Issue

2.82% _____, 20__

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Fargo, North Dakota (the "Issuer"), 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 from its Series 2008B Sales Tax Revenue Bond fund to the Registered Owner specified above, or registered assigns, the Principal Amount from the Date of Original Issue at the annual rate of two and 82/100's percent (2.82%) semiannually on March 1 and September 1 on the dates and in the amounts set forth in Attachment A to this Municipal Security and Exhibit C to the Loan Agreement (as defined below), which Attachment A and Exhibit C shall be revised in accordance with Section 3.05 of the Loan Agreement in the event funds are advanced to the Issuer other than as originally set forth in Exhibit B to the Loan Agreement. Principal is 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.

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"), Article 3(S) of the Home Rule Charter of the City of Fargo, Article 3-20 of the Fargo Municipal Ordinances and pursuant to a Resolution (the "Resolution") and a Loan Agreement (the "Loan Agreement") adopted and entered into by the Issuer. 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 Security and the rights of the Registered Owner of the Municipal Security. The principal and interest payments for this bond are not general obligations of the municipality, but are payable solely from the revenues received by the city as a result of the imposition of the retail sales and/or use tax established by Article 3(S) of the Home Rule Charter and as implemented by Article 3-20 of the Fargo Municipal Ordinances and from the operation of the Wastewater Treatment Works of the City of Fargo and from any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees, charges for services, facilities, products and by-products to the Municipality and its inhabitants and all other customers, and for

the availability thereof, and from the sale of any of the properties of the Wastewater Treatment Works not necessary to be retained , and from the investment of any of the money so collected, as set forth in the Resolution.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the Issuer kept at the main office of The Bank of North Dakota, 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 in inverse order of maturity and by lot within any maturity on September 1, 2009, at any interest payment date thereafter, 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 Issuer has caused this Municipal Security 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: _____

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.

The Bank of North Dakota,
Bismarck, 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: _____

Social Security or other Identifying
number of Assignee

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

Signature Guaranteed:

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

CERTIFICATE

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

I, Steven Sprague, the duly appointed City Auditor of the City of Fargo, North Dakota, do hereby certify that attached hereto is a full, true and correct copy of the Resolution adopted by the governing body of the City of Fargo at the meeting held on August 21, 2023, 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 _____, 2023.

City Auditor

(SEAL)

CITY OF FARGO, STATE OF NORTH DAKOTA
RESOLUTION AMENDING AND RESTATING RESOLUTION AUTHORIZING THE
ISSUANCE AND SALE OF
\$1,200,000 SALES TAX REVENUE BONDS, SERIES 2008C

RECITATIONS

On August 25, 2008, the governing body of the City of Fargo, North Dakota (the "City"), adopted a resolution entitled "RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$1,200,000 SALES TAX REVENUE BONDS, SERIES 2008C" (the "Original 2008C Resolution") related to the City's Sales Tax Revenue Bonds, Series 2008C (the "Series 2008C Bonds").

The governing body of the City desires to amend the Original 2008C Resolution to, among other things, reflect that the Series 2008C Bonds are secured by Sales Tax (as defined herein) and Net Revenues of the City's sewer utility.

The governing body of the City hereby recites that by the Original 2008C Resolution the City has previously:

1. Found and determined that it is necessary for the City to construct and install an extension of a sanitary sewer pipeline in north Fargo, and related facilities, or make improvements thereto (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 all or a portion of the cost of the Project, which application has been approved.
9. Performed all other acts required by the Constitution and laws of North Dakota prerequisite to the issuance and sale of revenue bonds and required by the Home Rule Charter and ordinances of the City of Fargo for the purpose of providing money to pay for the cost of the Project in the manner required of the City by law with full power and authority conferred on it as a political subdivision and municipality of North Dakota. Specifically, the City of Fargo has enacted an ordinance for the imposition of a retail sales and/or use tax, the proceeds of which are to be used for infrastructure capital improvements, all of which is set forth in Article 3.S of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances (the "Sales Tax").
10. After observing that the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (the "ARRA") authorizes Revolving Loan Fund loans at reduced interest rates; the City has been approved for a reduced interest rate loan, plus an Administrative Fee as provided in the Loan Agreement, defined more fully below.

RESOLUTION

Be it resolved by the governing body of the City that the Original 2008C Resolution is hereby amended as follows:

Section 1. 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.

Section 2. The City has issued up to \$1,200,000 in principal amount of its Sales Tax Revenue Bonds, Series 2008C (the "Municipal Securities"), pursuant to N.D.C.C. ch. 40-35 and pursuant to Article 3(S) of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances, to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as Exhibit A. Terms of the Municipal Securities are more fully set out in the loan agreement between the City and the Public Finance Authority (the "Loan Agreement")

Section 3. Terms. The Municipal Securities shall be payable in installments of principal, with interest at the rate of two and one-half percent (2.50%) per year (plus an administrative fee as set out in the Loan Agreement), based on funds actually advanced, and the schedule attached to the Municipal Security form has been revised to reflect the actual principal amount loaned to the City at the completion of the Project.

Section 4. Sales Tax Fund. There is hereby created a special fund of the Municipality designated as the Sales Tax Fund, which Fund shall be held and administered by the Municipality separate and apart from all other funds of the Municipality and continued and maintained by the Municipality until all Municipal Securities and any other obligations payable from the Sales Tax (together, the "Sales Tax Bonds") issued thereon shall have been fully paid with interest. Into the Sales Tax Fund there shall be credited and paid, as received, and the City hereby pledges to deposit into the Sales Tax Fund, all revenues received by the City from the Sales Tax, provided that at such time as funds have been deposited into said Sales Tax Fund to satisfy the payment obligations as required by the Sales Tax Bonds for the then current bond year and provided that the City is not in default in any of its payment obligations under the Resolution, the Loan Agreement, or the Sales Tax Bonds, then to the extent such revenues from the Sales Tax exceed the said obligations for the then-current bond year, said amounts of Sales Tax may be released from the Sales Tax Fund and deposited into such other accounts for purposes as may otherwise be authorized by said Article 3-20 of the Fargo Municipal Ordinances. On the books and records of the Sales Tax Fund there shall be established and maintained the following accounts. Sales Tax on hand in the Sales Tax Fund from time to time shall be apportioned amongst said accounts at least once each calendar month and shall thereafter be held and administered and disbursed from the accounts established below.

Section 5. Sales Tax Revenue Bond Fund. A separate Sales Tax Revenue Bond Fund is established within the Sales Tax Fund to be used solely to discharge the Sales Tax Bonds, to pay when due the interest on and the principal of the Sales Tax Bonds, and to redeem the Sales Tax Bonds prior to maturity. In order to produce sums annually for the Sales Tax Revenue Bond Fund which will not be less than the amount needed to pay when due the principal and interest payments on the Sales Tax Bonds and the applicable administrative fees, the Municipality shall, monthly, deposit to the credit of the Sales Tax Revenue Bond Fund from the Sales Tax Fund, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Sales Tax Bonds, and (b) one-twelfth of the administrative fees with respect to the Sales Tax Bonds which will become due within the following twelve (12) months; provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of a loan closing.

Sales Tax Revenue Bond Fund—Series 2008C Account. A separate Series 2008C Account is established within the Sales Tax Revenue Bond Fund to be used solely to discharge the Municipal Securities, to pay when due the interest on and the principal of the Municipal Securities, and to redeem the Municipal Securities prior, to maturity. In order to produce sums annually for the Series 2008C Account which will not be less than the amount needed to pay when due the principal and interest payments on the Municipal Securities and the Administrative Fee, the Municipality shall, monthly, deposit to the credit of the Series 2008C Account from the

Sales Tax Revenue Bond Fund, pro rata with respect to amounts due with respect to other Sales Tax Bonds, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Municipal Securities, and (b) one-twelfth of the Administrative Fee which will become due within the following twelve (12) months; provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of Loan Closing. In the event the Sales Tax revenues are not sufficient in any particular bond year to satisfy the payment obligations as required by the Municipal Securities (and as described above) for the then current bond year, then there shall be credited and paid, as received, Net Revenues in an amount sufficient to pay the principal of and interest on the Municipal Securities.

Section 6. Surplus Account. A separate Surplus Account is established within the Sales Tax Fund to be used solely as provided herein. All Sales Tax in excess of the current requirements of the Sales Tax Revenue Bond Fund shall be deposited monthly to the credit of the Surplus Account. Amounts in the Surplus Account shall be available and shall also be used to the full extent necessary to restore any deficiency in the Operation and Maintenance Account and the Series 2008C Account, and when not so needed may be pledged and appropriated as provided above or to redeem Bonds. Notwithstanding the foregoing, the Municipality shall maintain in the Surplus Account such amount, as it shall determine from time to time, to constitute an adequate reserve for the purpose for which moneys in the Surplus Account are available as provided in this section; however, moneys in excess of such adequate reserve may be transferred to other funds of the Municipality in the manner provided by law including, as to municipal utilities funds, the provisions of N.D.C.C. § 40-33-12(2).

Section 7. Sewer Utility Fund. The City has created, and will maintain, a SEWER UTILITY FUND (the "Sewer Utility Fund"). The City shall credit and pay to the Sewer Utility Fund, as received, the entire gross revenues derived from the operation of the City's sewer utility, including any future additions thereto and betterments thereof (the "Sewer Utility" or "Wastewater Treatment Works"), including all income and receipts derived from rates, fees and charges for services, facilities, products and by-products of the Sewer Utility furnished or sold to the City and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the Sewer Utility not necessary to be retained, and from the investment of any of the money so collected. On the books and records of the Sewer Utility Fund there shall be established and maintained the following funds as a part of the Sewer Utility Fund. Amounts on deposit in the Sewer Utility Fund from time to time shall be apportioned among said funds at least once in each calendar month and shall thereafter be held and administered and disbursed from the several funds established in this section.

Section 8. Operation and Maintenance Fund. The City has created, and will maintain, an OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). Upon each such monthly apportionment, as a first lien and charge on the gross revenue, the City shall transfer to the Operation and Maintenance Fund from amounts on deposit in the Sewer Utility Fund such sum as shall be needed, over and above any credit balance held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for

contingencies. Monies in the Operation and Maintenance Fund shall be used only to pay expenses of the foregoing type and not for major repairs, replacements, or capital improvements which are properly chargeable to replacement and depreciation reserves or surplus funds. All revenues in excess of such amount deposited to the Operation and Maintenance Fund shall be the Net Revenues (the "Net Revenues") of the Sewer Utility.

Section 9. Sewer Revenue Bond Fund. A separate Sewer Revenue Bond Fund has been established within the Sewer Utility Fund to be used solely to discharge the obligations payable therefrom, including the Municipal Securities (together, the "Revenue Bonds"), to pay when due the interest on and the principal of the Revenue Bonds, and to redeem the Municipal Securities prior, to maturity, all to the extent the amounts available under Section 5 hereof are not sufficient

Section 10. Surplus Fund. All surplus Net Revenues from time to time received in excess of the current requirements of the Sewer Revenue Bond Fund and any reserve shall be credited on the books of the City to the Surplus Fund of the Sewer Utility Fund, provided that City reserves the right to create additional funds within said fund for the purpose of segregating any of such surplus Net Revenues which may be pledged and appropriated to the payment of any Subordinate Bonds hereafter issued to finance improvements, replacements, or repairs of the Sewer Utility, subject to the prior lien on the Net Revenues of the Bonds. Surplus Net Revenues on hand from time to time shall be available and shall be used to the full extent necessary to restore a deficiency in the Operation and Maintenance Fund, the Sales Tax Revenue Bond Fund, the Sewer Revenue Bond Fund, the Reserve Account and any other reserve fund, but when not so needed may be used to pay for capital improvements, replacements, or repairs to the Sewer Utility, or to pay principal and interest on Subordinate Bonds hereafter issued for such purposes, or they may be used to redeem and pay prior to maturity Revenue Bonds (other than Subordinate Bonds) when and as such bonds become redeemable according to their terms, or purchase Revenue Bonds (other than Subordinate Bonds) in the secondary market when deemed advisable. The City shall maintain in the Surplus Fund such cash or investments as it shall from time to time determine to constitute an adequate reserve for operation or maintenance emergencies and for depreciation and contemplated improvement or replacement of the Sewer Utility. At the end of the City's fiscal year, if there are no deficiencies in the Operation and Maintenance Fund, the Sewer Revenue Bond Fund, the Sales Tax Revenue Bond Fund or any reserve fund and there is an adequate reserve for operation and maintenance emergencies and for depreciation, contemplated improvements and replacements of the Sewer Utility, the City may transfer monies in excess of such requirements to other funds of the City in accordance with and subject to the limitations contained in the ordinances of the City and the provisions of state law.

Section 11. Reserve Account. A separate Reserve Account has been established in the amount of \$89,250 payable at the rate of \$17,850 per year for the first five years of the loan, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$1,200,000.

Section 12. Rates, Fees and Charges. The Municipality shall impose, maintain and collect revenues from the Sales Tax, and, to the extent such revenues are not sufficient, to impose and collect Net Revenues (together, the "Pledged Revenues"), including services furnished to the Municipality, according to a schedule or schedules which will provide gross revenues sufficient to pay when due all costs payable under the Operation and Maintenance

Account and Pledged Revenues equal to 110% of the average annual interest and principal requirements on the Sales Tax Bonds and Revenue Bonds.

Section 13. Additional Parity Bonds. The Municipality reserves the further right of issuing additional municipal securities payable from the Sales Tax or Net Revenues on a parity as to both principal and interest with the Municipal Securities, provided that the Pledged Revenues received during the last fiscal year prior to such issuance shall have been in an amount not less than one hundred ten percent (110%) of the average annual amount of principal and interest to become due during the remaining term of the then outstanding obligations payable from the Pledged Revenues. However, if rates and charges for the Sewer Utility have been increased since the beginning of the last fiscal year next preceding the issuance of such additional municipal securities, the net revenues received during such preceding fiscal year shall be deemed to be the amount which would have been received in the preceding fiscal year had the increased rates and charges been in effect throughout such preceding fiscal year. Also, for purposes of this test, the Net Revenues may be adjusted by including the additional Net Revenues, as determined by a competent feasibility or rate study, to be realized from the area to be served by the improvements to be constructed with such additional municipal securities, provided that the interest on the additional municipal securities is funded until the date of completion of the improvements to be constructed with the proceeds of the additional municipal securities or other available funds.

Section 14. Limited Obligations. The Municipal Securities issued hereunder shall not constitute a charge, lien or encumbrance upon any property of the Municipality, and no holder or holders thereof shall ever have the right to compel any exercise of the taxing power of the Municipality 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 Municipality but are payable solely from the Pledged Revenues as set forth in this resolution.

Adopted August 21, 2023.

CITY OF FARGO

By: _____
Timothy Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

FORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
CITY OF FARGO

No. R-1 \$ _____

SALES TAX REVENUE BONDS, SERIES 2008C

Interest Rate Date of Original Issue

2.50% _____, 20__

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Fargo, North Dakota (the "Issuer"), 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 from its Series 2008C Sales Tax Revenue Bond fund to the Registered Owner specified above, or registered assigns, the Principal Amount from the Date of Original Issue at the annual rate of two and one-half percent (2.50%) semiannually on March 1 and September 1 on the dates and in the amounts set forth in Attachment A to this Municipal Security and Exhibit C to the Loan Agreement (as defined below), which Attachment A and Exhibit C shall be revised in accordance with Section 3.05 of the Loan Agreement in the event funds are advanced to the Issuer other than as originally set forth in Exhibit B to the Loan Agreement. Principal is 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.

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"), Article 3(S) of the Home Rule Charter of the City of Fargo, Article 3-20 of the Fargo Municipal Ordinances and pursuant to a Resolution (the "Resolution") and a Loan Agreement (the "Loan Agreement") adopted and entered into by the Issuer. 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 Security and the rights of the Registered Owner of the Municipal Security. The principal and interest payments for this bond are not general obligations of the municipality, but are payable solely from the revenues received by the city as a result of the imposition of the retail sales and/or use tax established by Article 3(S) of the Home Rule Charter and as implemented by Article 3-20 of the Fargo Municipal Ordinances and from the operation of the Wastewater Treatment Works of the City of Fargo and from any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees, charges for services, facilities,

products and by-products to the Municipality and its inhabitants and all other customers, and for the availability thereof, and from the sale of any of the properties of the Wastewater Treatment Works not necessary to be retained, and from the investment of any of the money so collected, as set forth in the Resolution.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the Issuer kept at the main office of The Bank of North Dakota, 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 in inverse order of maturity and by lot within any maturity on September 1, 2009, at any interest payment date thereafter, 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 Issuer has caused this Municipal Security 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: _____

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.

The Bank of North Dakota,
Bismarck, 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: _____

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.

fCERTIFICATE

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

I, Steve 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 August 21, 2023, 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 _____, 2023.

City Auditor

(SEAL)

CITY OF FARGO, STATE OF NORTH DAKOTA RESOLUTION AMENDING
RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
\$2,500,000
SALES TAX REVENUE BONDS, SERIES 2008D

RECITATIONS

On August 25, 2008, the governing body of the City of Fargo, North Dakota (the "City"), adopted a resolution entitled "RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$2,500,000 SALES TAX REVENUE BONDS, SERIES 2008D" (the "Original 2008D Resolution") related to the City's Sales Tax Revenue Bonds, Series 2008D (the "Series 2008D Bonds").

The governing body of the City desires to amend the Original 2008D Resolution to, among other things, reflect that the Series 2008D Bonds are secured by Sales Tax (as defined herein) and Net Revenues of the City's water utility.

The governing body of the City hereby recites that by the Original 2008D Resolution the City has previously:

1. Found and determined that it is necessary for the City to construct a project consisting of the construction and installation of a one million gallon above ground water storage tank (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 all or a portion of the cost of the Project, which application has been approved.
9. Performed all other acts required by the Constitution and laws of North Dakota prerequisite to the issuance and sale of revenue bonds and required by the Home Rule Charter and ordinances of the City of Fargo for the purpose of providing money to pay for the cost of the Project in the manner required of the City by law with full power and authority conferred on it as a political subdivision and municipality of North Dakota. Specifically, the City of Fargo has enacted an ordinance for the imposition of a retail sales and/or use tax, the proceeds of which are to be used for infrastructure capital improvements, all of which is set forth in Article 3.S of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances (the "Sales Tax").
10. After observing that the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (the "ARRA") authorizes Revolving Loan Fund loans at reduced interest rates; the City has been approved for a reduced interest rate loan, plus an Administrative Fee as provided in the Loan Agreement, defined more fully below.

RESOLUTION

Be it resolved by the governing body of the City that the Original 2008D Resolution is hereby amended as follows:

Section 1. 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.

Section 2. The City issued up to \$2,500,000 in principal amount of its Sales Tax Revenue Bonds, Series 2008D (the "Municipal Securities"), pursuant to N.D.C.C. ch. 40-35 and pursuant to Article 3(S) of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as Exhibit A. The terms of the Municipal Securities are more fully set out in the loan agreement between the City and the Public Finance Authority (the "Loan Agreement").

Section 3. Terms. The Municipal Securities issued shall be payable in installments of principal, with interest at the rate of two and one-half percent (2.50%) per year (plus an administrative fee as set out in the Loan Agreement), based on funds actually advanced, and the schedule attached to the Municipal Security form has been revised to reflect the actual principal amount loaned to the City at the completion of the Project.

Section 4. Sales Tax Fund. There has been created a special fund of the Municipality designated as the Sales Tax Fund, which Fund shall be held and administered by the Municipality separate and apart from all other funds of the Municipality and continued and maintained by the Municipality until all Municipal Securities and any other obligations payable from the Sales Tax (together, the "Sales Tax Bonds") shall have been fully paid with interest. Into the Sales Tax Fund there shall be credited and paid, as received, and the City hereby pledges to deposit into the Sales Tax Fund, all revenues received by the City from the Sales Tax, provided that at such time as funds have been deposited into said Sales Tax Fund to satisfy the payment obligations as required by the Sales Tax Bonds for the then current bond year and provided that the City is not in default in any of its payment obligations under the Resolution, the Loan Agreement, or the Sales Tax Bonds, then to the extent such revenues from the Sales Tax exceed the said obligations for the then-current bond year, said amounts of Sales Tax may be released from the Sales Tax Fund and deposited into such other accounts for purposes as may otherwise be authorized by said Article 3-20 of the Fargo Municipal Ordinances. On the books and records of the Sales Tax Fund there shall be established and maintained the following accounts. Sales Tax on hand in the Sales Tax Fund from time to time shall be apportioned amongst said accounts at least once each calendar month and shall thereafter be held and administered and disbursed from the accounts established below.

Section 5. Sales Tax Revenue Bond Fund. A separate Sales Tax Revenue Bond Fund has been established within the Sales Tax Fund to be used solely to discharge the Sales Tax Bonds, to pay when due the interest on and the principal of the Sales Tax Bonds, and to redeem the Sales Tax Bonds prior to maturity. In order to produce sums annually for the Sales Tax Revenue Bond Fund which will not be less than the amount needed to pay when due the principal and interest payments on the Sales Tax Bonds and the applicable administrative fees, the Municipality shall, monthly, deposit to the credit of the Sales Tax Revenue Bond Fund from the Sales Tax Fund, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Sales Tax Bonds, and (b) one-twelfth of the administrative fees with respect to the Sales Tax Bonds which will become due within the following twelve (12) months, provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of a loan closing.

Sales Tax Revenue Bond Fund—Series 2008D Account. A separate Series 2008D Account is established within the Sales Tax Revenue Bond Fund to be used solely to discharge the Municipal Securities, to pay when due the interest on and the principal of the Municipal Securities, and to redeem the Municipal Securities prior, to maturity. In order to produce sums annually for the Series 2008D Account which will not be less than the amount needed to pay when due the principal and interest payments on the Municipal Securities and the Administrative Fee, the Municipality shall, monthly, deposit to the credit of the Series 2008D Account from the

Sales Tax Revenue Bond Fund, pro rata with respect to amounts due with respect to other Sales Tax Bonds, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Municipal Securities, and (b) one-twelfth of the Administrative Fee which will become due within the following twelve (12) months; provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of Loan Closing. In the event the Sales Tax revenues are not sufficient in any particular bond year to satisfy the payment obligations as required by the Municipal Securities (and as described above) for the then current bond year, then there shall be credited and paid, as received, Net Revenues in an amount sufficient to pay the principal of and interest on the Municipal Securities.

Section 6. Surplus Account. A separate Surplus Account is established within the Sales Tax Fund to be used solely as provided herein. All Sales Tax in excess of the current requirements of the Sales Tax Revenue Bond Fund shall be deposited monthly to the credit of the Surplus Account. Amounts in the Surplus Account shall be available and shall also be used to the full extent necessary to restore any deficiency in the Operation and Maintenance Account and the Sales Tax Revenue Bond Fund, and when not so needed may be pledged and appropriated as provided above or to redeem Bonds. Notwithstanding the foregoing, the Municipality shall maintain in the Surplus Account such amount, as it shall determine from time to time, to constitute an adequate reserve for the purpose for which moneys in the Surplus Account are available as provided in this section; however, moneys in excess of such adequate reserve may be transferred to other funds of the Municipality in the manner provided by law including, as to municipal utilities funds, the provisions of N.D.C.C. § 40-33-12(2).

Section 7. 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 (the "Water Utility"), 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.

Section 8. 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.

Section 9. Water Revenue Bond Fund. A separate Water Revenue Bond Fund has been established within the Water Utility Fund to be used solely to discharge the obligations payable therefrom, including the Municipal Securities (together, the "Revenue Bonds"), to pay when due the interest on and the principal of the Revenue Bonds, and to redeem the Municipal Securities prior, to maturity, all to the extent the amounts available under Section 5 hereof are not sufficient.

Section 10. 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 reserve 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 Sales Tax Revenue Bond Fund, the Water Revenue Bond Fund, the Reserve Account and any other 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 Revenue Bonds (other than Subordinate Bonds) when and as such bonds become redeemable according to their terms, or purchase Revenue 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, the Sales Tax Revenue Bond Fund or any 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

Section 11. Reserve Account. A separate Reserve Account has been established in the amount of \$180,125 payable at the rate of \$36,025 per year for the first five years of the loan, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$2,500,000.

Section 12. Rates, Fees and Charges. The Municipality shall impose, maintain and collect revenues from the Sales Tax, and, to the extent such revenues are not sufficient, to impose and collect Net Revenues (together, the "Pledged Revenues"), including services furnished to the Municipality, according to a schedule or schedules which will provide gross

revenues sufficient to pay when due all costs payable under the Operation and Maintenance Account and Pledged Revenues equal to 110% of the average annual interest and principal requirements on the Sales Tax Bonds and Revenue Bonds.

Section 13. Additional Parity Bonds. The Municipality reserves the further right of issuing additional municipal securities payable from the Sales Tax or Net Revenues on a parity as to both principal and interest with the Municipal Securities, provided that the Pledged Revenues received during the last fiscal year prior to such issuance shall have been in an amount not less than one hundred ten percent (110%) of the average annual amount of principal and interest to become due during the remaining term of the then outstanding obligations payable from the Pledged Revenues. However, if rates and charges for the Sewer Utility have been increased since the beginning of the last fiscal year next preceding the issuance of such additional municipal securities, the net revenues received during such preceding fiscal year shall be deemed to be the amount which would have been received in the preceding fiscal year had the increased rates and charges been in effect throughout such preceding fiscal year. Also, for purposes of this test, the Net Revenues may be adjusted by including the additional Net Revenues, as determined by a competent feasibility or rate study, to be realized from the area to be served by the improvements to be constructed with such additional municipal securities, provided that the interest on the additional municipal securities is funded until the date of completion of the improvements to be constructed with the proceeds of the additional municipal securities or other available funds.

Section 14. Limited Obligations. The Municipal Securities issued hereunder shall not constitute a charge, lien or encumbrance upon any property of the Municipality, and no holder or holders thereof shall ever have the right to compel any exercise of the taxing power of the Municipality 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 Municipality but are payable solely from the Pledged Revenues as set forth in this resolution.

Adopted August 21, 2023.

CITY OF FARGO

By: _____
Timothy Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

FORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
CITY OF FARGO

No. R-1 \$ _____

SALES TAX REVENUE BONDS, SERIES 2008D

Interest Rate Date of Original Issue
2.50% _____, 20__

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Fargo, North Dakota (the "Issuer"), 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 from its Series 2008D Sales Tax Revenue Bond fund to the Registered Owner specified above, or registered assigns, the Principal Amount from the Date of Original Issue at the annual rate of two and one-half percent (2.50%) semiannually on March 1 and September 1 on the dates and in the amounts set forth in Attachment A to this Municipal Security and Exhibit C to the Loan Agreement (as defined below), which Attachment A and Exhibit C shall be revised in accordance with Section 3.05 of the Loan Agreement in the event funds are advanced to the Issuer other than as originally set forth in Exhibit B to the Loan Agreement. Principal is 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.

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"), Article 3(S) of the Home Rule Charter of the City of Fargo, Article 3-20 of the Fargo Municipal Ordinances and pursuant to a Resolution (the "Resolution") and a Loan Agreement (the "Loan Agreement") adopted and entered into by the Issuer. 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 Security and the rights of the Registered Owner of the Municipal Security. The principal and interest payments for this bond are not general obligations of the municipality, but are payable solely from the revenues received by the city as a result of the imposition of the retail sales and/or use tax established by Article 3(S) of the Home Rule Charter and as implemented by Article 3-20 of the Fargo Municipal Ordinances and from the operation of the Wastewater Treatment Works of the City of Fargo and from any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees, charges for services, facilities,

products and by-products to the Municipality and its inhabitants and all other customers, and for the availability thereof, and from the sale of any of the properties of the Wastewater Treatment Works not necessary to be retained, and from the investment of any of the money so collected, as set forth in the Resolution.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the Issuer kept at the main office of The Bank of North Dakota, 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 in inverse order of maturity and by lot within any maturity on September 1, 2009, at any interest payment date thereafter, 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 Issuer has caused this Municipal Security 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: _____

Mayor

ATTEST:

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.

The Bank of North Dakota,
Bismarck, 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: _____

Social Security or other Identifying
number of Assignee

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

Signature Guaranteed:

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

CERTIFICATE

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

I, Steve 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 August 21, 2023, 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 _____, 2023.

City Auditor

(SEAL)

CITY OF FARGO, STATE OF NORTH DAKOTA

RESOLUTION AMENDING AND RESTATING RESOLUTION AUTHORIZING THE
ISSUANCE AND SALE OF
\$853,974
CITY OF FARGO SALES TAX REVENUE BONDS, SERIES 2010A

RECITATIONS

On February 8, 2010, the governing body of the City of Fargo, North Dakota (the "City"), adopted a resolution entitled "RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$853,974 CITY OF FARGO SALES TAX REVENUE BONDS, SERIES 2010A" (the "Original 2010A Resolution") related to the City's Sales Tax Revenue Bonds, Series 2010A (the "Series 2010A Bonds").

The governing body of the City desires to amend and restate the Original 2010A Resolution to, among other things, reflect that the Series 2010A Bonds are secured by Sales Tax (as defined herein) and Net Revenues (as defined herein) of the City's sewer utility.

The governing body of the City hereby recites that by the Original 2010A Resolution the City has previously:

1. Found and determined that it is necessary for the City to construct or install improvements to increase settling at the City of Fargo wastewater treatment facility (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 all or a portion of the cost of the Project, which application has been approved.
9. Performed all other acts required by the Constitution and laws of North Dakota prerequisite to the issuance and sale of revenue bonds and required by the Home Rule Charter and ordinances of the City of Fargo for the purpose of providing money to pay for the cost of the Project in the manner required of the City by law with full power and authority conferred on it as a political subdivision and municipality of North Dakota. Specifically, the City of Fargo has enacted an ordinance for the imposition of a retail sales and/or use tax, the proceeds of which are to be used for infrastructure capital improvements, all of which is set forth in Article 3.S of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances (the "Sales Tax").
10. After observing that the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (the "ARRA") authorizes Revolving Loan Fund loans at reduced interest rates, the City has been approved for a reduced interest rate loan, plus an Administrative Fee as provided in the Loan Agreement, defined more fully below.

RESOLUTION

Be it resolved by the governing body of the City, that the Original 2010A Resolution is amended as follows:

Section 1. 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.

Section 2. The City issued up to \$853,974 in principal amount of its City of Fargo Sales Tax Revenue Bonds, Series 2010A (the "Municipal Securities"), pursuant to N.D.C.C. ch. 40-35 and pursuant to Article 3.S of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances, to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as Exhibit A. The terms of the Municipal Securities are more fully set out in the loan agreement between the City and the Public Finance Authority (the "Loan Agreement").

Section 3. Terms. The Municipal Securities issued shall be payable in installments of principal, with interest at the rate of one-half percent (0.50%) per year (plus an administrative fee

as set out in the Loan Agreement), based on funds actually advanced, and the schedule attached to the Municipal Security form has been revised to reflect the actual principal amount loaned to the City at the completion of the Project.

Section 4. Sales Tax Fund. There has been created a special fund of the Municipality designated as the Sales Tax Fund, which Fund shall be held and administered by the Municipality separate and apart from all other funds of the Municipality and continued and maintained by the Municipality until all Municipal Securities and any other obligations payable from the Sales Tax (together, the "Sales Tax Bonds") shall have been fully paid with interest. Into the Sales Tax Fund there shall be credited and paid, as received, and the City hereby pledges to deposit into the Sales Tax Fund, all revenues received by the City from the Sales Tax; provided that at such time as funds have been deposited into said Sales Tax Fund to satisfy the payment obligations as required by the Sales Tax Bonds for the then current bond year and provided that the City is not in default in any of its payment obligations under the Resolution, the Loan Agreement, or the Sales Tax Bonds, then to the extent such revenues from the Sales Tax exceed said obligations for the then-current bond year, surplus amounts of Sales Tax may be released from the Sales Tax Fund and deposited into such other accounts for purposes as may otherwise be authorized by said Article 3-20 of the Fargo Municipal Ordinances. On the books and records of the Sales Tax Fund there shall be established and maintained the following accounts. Sales Tax on hand in the Sales Tax Fund from time to time shall be apportioned amongst said accounts at least once each calendar month and shall thereafter be held and administered and disbursed from the accounts established below.

Section 5. Sales Tax Revenue Bond Fund. A separate Sales Tax Revenue Bond Fund has been established within the Sales Tax Fund to be used solely to discharge the Sales Tax Bonds, to pay when due the interest on and the principal of the Sales Tax Bonds, and to redeem the Sales Tax Bonds prior to maturity. In order to produce sums annually for the Sales Tax Revenue Bond Fund which will not be less than the amount needed to pay when due the principal and interest payments on the Sales Tax Bonds and the applicable administrative fees, the Municipality shall, monthly, deposit to the credit of the Sales Tax Revenue Bond Fund from the Sales Tax Fund, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Sales Tax Bonds, and (b) one-twelfth of the administrative fees with respect to the Sales Tax Bonds which will become due within the following twelve (12) months, provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of a loan closing.

Sales Tax Revenue Bond Fund—Series 2010A Account. A separate Series 2010A Account is established within the Sales Tax Revenue Bond Fund to be used solely to discharge the Municipal Securities, to pay when due the interest on and the principal of the Municipal Securities, and to redeem the Municipal Securities prior, to maturity. In order to produce sums annually for the Series 2010A Account which will not be less than the amount needed to pay when due the principal and interest payments on the Municipal Securities and the Administrative Fee, the Municipality shall, monthly, deposit to the credit of the Series 2010A Account from the Sales Tax

Revenue Bond Fund, pro rata with respect to amounts due with respect to other Sales Tax Bonds, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Municipal Securities, and (b) one-twelfth of the Administrative Fee which will become due within the following twelve (12) months; provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of Loan Closing. In the event the Sales Tax revenues are not sufficient in any particular bond year to satisfy the payment obligations as required by the Municipal Securities (and as described above) for the then current bond year, then there shall be credited and paid, as received, Net Revenues in an amount sufficient to pay the principal of and interest on the Municipal Securities.

Section 6. Surplus Account. A separate Surplus Account is established within the Sales Tax Fund to be used solely as provided herein. All Sales Tax in excess of the current requirements of the Sales Tax Revenue Bond Fund shall be deposited monthly to the credit of the Surplus Account. Amounts in the Surplus Account shall be available and shall also be used to the full extent necessary to restore any deficiency in the Operation and Maintenance Account and the Sales Tax Revenue Bond Fund, and when not so needed may be pledged and appropriated as provided above or to redeem Bonds. Notwithstanding the foregoing, the Municipality shall maintain in the Surplus Account such amount, as it shall determine from time to time, to constitute an adequate reserve for the purpose for which moneys in the Surplus Account are available as provided in this section; however, moneys in excess of such adequate reserve may be transferred to other funds of the City in the manner provided by law including, as to municipal utilities funds, the provisions of N.D.C.C. § 40-33-12(2).

Section 7. Sewer Utility Fund. The City has created, and will maintain, a SEWER UTILITY FUND (the "Sewer Utility Fund"). The City shall credit and pay to the Sewer Utility Fund, as received, the entire gross revenues derived from the operation of the City's sewer utility, including any future additions thereto and betterments thereof (the "Sewer Utility" or "Wastewater Treatment Works"), including all income and receipts derived from rates, fees and charges for services, facilities, products and by-products of the Sewer Utility furnished or sold to the City and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the Sewer Utility not necessary to be retained, and from the investment of any of the money so collected. On the books and records of the Sewer Utility Fund there shall be established and maintained the following funds as a part of the Sewer Utility Fund. Amounts on deposit in the Sewer Utility Fund from time to time shall be apportioned among said funds at least once in each calendar month and shall thereafter be held and administered and disbursed from the several funds established in this section.

Section 8. 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 of the Sewer Utility, the City shall transfer to the Operation and Maintenance Fund from amounts on deposit in the Sewer Utility Fund such sum as shall be needed, over and above any credit balance held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal,

reasonable and current expenses of operation and maintenance of the Sewer Utility, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for contingencies. Monies in the Operation and Maintenance Fund shall be used only to pay expenses of the foregoing type and not for major repairs, replacements, or capital improvements which are properly chargeable to replacement and depreciation reserves or surplus funds. All revenues in excess of such amount deposited to the Operation and Maintenance Fund shall be the Net Revenues (the "Net Revenues") of the Sewer Utility.

Section 9. Sewer Revenue Bond Fund. A separate Sewer Revenue Bond Fund has been established within the Sewer Utility Fund to be used solely to discharge the obligations payable therefrom, including the Municipal Securities (together, the "Revenue Bonds"), to pay when due the interest on and the principal of the Revenue Bonds, and to redeem the Municipal Securities prior, to maturity, all to the extent the amounts available under Section 13 hereof are not sufficient.

Section 10. Surplus Fund. All surplus Net Revenues from time to time received in excess of the current requirements of the Sales Tax Revenue Bond Fund and the Sewer Revenue Bond Fund and any reserve shall be credited on the books of the City to the Surplus Fund of the Sewer Utility Fund, provided that City reserves the right to create additional funds within said fund for the purpose of segregating any of such surplus Net Revenues which may be pledged and appropriated to the payment of any Subordinate Bonds hereafter issued to finance improvements, replacements, or repairs of the Sewer Utility, subject to the prior lien on the Net Revenues of the Bonds. Surplus Net Revenues on hand from time to time shall be available and shall be used to the full extent necessary to restore a deficiency in the Operation and Maintenance Fund, the Sales Tax Revenue Bond Fund, the Sewer Revenue Bond Fund, the Reserve Account and any other reserve fund, but when not so needed may be used to pay for capital improvements, replacements, or repairs to the Sewer Utility, or to pay principal and interest on Subordinate Bonds hereafter issued for such purposes, or they may be used to redeem and pay prior to maturity Revenue Bonds (other than Subordinate Bonds) when and as such bonds become redeemable according to their terms, or purchase Revenue Bonds (other than Subordinate Bonds) in the secondary market when deemed advisable. The City shall maintain in the Surplus Fund such cash or investments as it shall from time to time determine to constitute an adequate reserve for operation or maintenance emergencies and for depreciation and contemplated improvement or replacement of the Sewer Utility. At the end of the City's fiscal year, if there are no deficiencies in the Operation and Maintenance Fund, the Sales Tax Revenue Bond Fund, the Sewer Revenue Bond Fund, or any reserve fund and there is an adequate reserve for operation and maintenance emergencies and for depreciation, contemplated improvements and replacements of the Sewer Utility, the City may transfer monies in excess of such requirements to other funds of the City in accordance with and subject to the limitations contained in the ordinances of the City and the provisions of state law.

Section 11. Reserve Account. A separate Reserve Account is established in the amount of \$45,450 payable at the rate of \$9,090 per year for the first five years of the loan, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$853,974.

Section 12. Rates, Fees and Charges. The Municipality shall impose, maintain and collect revenues from the Sales Tax, and, to the extent such revenues are not sufficient, impose and collect Net Revenues (together, the "Pledged Revenues"), including services furnished to the

Municipality, according to a schedule or schedules which will provide gross revenues sufficient to pay when due all costs payable under the Operation and Maintenance Account and Pledged Revenues equal to 110% of the average annual interest and principal requirements on the Municipal Securities and any additional municipal securities issued pursuant to the provisions of this resolution.

Section 13. Additional Parity Bonds. The Municipality reserves the further right of issuing additional municipal securities payable from the Sales Tax or Net Revenues on a parity as to both principal and interest with the Municipal Securities, provided that the Pledged Revenues received during the last fiscal year prior to such issuance shall have been in an amount not less than one hundred ten percent (110%) of the average annual amount of principal and interest to become due during the remaining term of the then outstanding obligations payable from the Pledged Revenues. However, if rates and charges for the Sewer Utility have been increased since the beginning of the last fiscal year next preceding the issuance of such additional municipal securities, the net revenues received during such preceding fiscal year shall be deemed to be the amount which would have been received in the preceding fiscal year had the increased rates and charges been in effect throughout such preceding fiscal year. Also, for purposes of this test, the Net Revenues may be adjusted by including the additional Net Revenues, as determined by a competent feasibility or rate study, to be realized from the area to be served by the improvements to be constructed with such additional municipal securities, provided that the interest on the additional municipal securities is funded until the date of completion of the improvements to be constructed with the proceeds of the additional municipal securities or other available funds.

Section 14. Limited Obligations. The Municipal Securities issued hereunder shall not constitute a charge, lien or encumbrance upon any property of the Municipality, and no holder or holders thereof shall ever have the right to compel any exercise of the taxing power of the Municipality 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 Municipality but are payable solely from the Pledged Revenues as set forth in this resolution.

Adopted August 21, 2023.

CITY OF FARGO

By: _____
Timothy Mahoney, Mayor

Attest:

Steve Sprague, City Auditor

FORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
CITY OF FARGO

No. R-1

\$ _____

SALES TAX REVENUE BONDS, SERIES 2010A

Interest Rate

Date of Original Issue

0.50%

_____, 20____

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: _____ Dollars

The City of Fargo, North Dakota (the "Issuer"), 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 from its Series 2010A Sales Tax Revenue Bond fund to the Registered Owner specified above, or registered assigns, the Principal Amount from the Date of Original Issue at the annual rate of one-half percent (0.50%) semiannually on March 1 and September 1 on the dates and in the amounts set forth in Attachment A to this Municipal Security and Exhibit C to the Loan Agreement (as defined below), which Attachment A and Exhibit C shall be revised in accordance with Section 3.05 of the Loan Agreement in the event funds are advanced to the Issuer other than as originally set forth in Exhibit B to the Loan Agreement. Principal is 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.

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"), Article 3.S of the Home Rule Charter of the City of Fargo, Article 3-20 of the Fargo Municipal Ordinances and pursuant to a Resolution (the "Resolution") and a Loan Agreement (the "Loan Agreement") adopted and entered into by the Issuer. 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 Security and the rights of the Registered Owner of the Municipal Security. The principal and interest payments for this bond are not general obligations of the municipality, but are payable solely from the revenues received by the city as a result of the imposition of the retail sales and/or use tax established by Article 3.S of the Home Rule Charter and as implemented by Article 3-20

of the Fargo Municipal Ordinances and from the operation of the Wastewater Treatment Works of the City of Fargo and from any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees, charges for services, facilities, products and by-products to the Municipality and its inhabitants and all other customers, and for the availability thereof, and from the sale of any of the properties of the Wastewater Treatment Works not necessary to be retained, and from the investment of any of the money so collected, as set forth in the Resolution.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the Issuer kept at the main office of The Bank of North Dakota, 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 in inverse order of maturity and by lot within any maturity on September 1, 2010, at any interest payment date thereafter, 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 Issuer has caused this Municipal Security 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: _____

Mayor

ATTEST:

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.

The Bank of North Dakota,
Bismarck, 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: _____

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.

M:\DOCS\21012\000012\ROL\1C4190902.DOCX

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 August 21, 2023, 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 _____, 2023.

City Auditor

(SEAL)

CITY OF FARGO, STATE OF NORTH DAKOTA

RESOLUTION AMENDING A
PREVIOUSLY AMENDED AND RESTATED
RESOLUTION AUTHORIZING THE ISSUANCE
AND SALE OF
\$4,071,140
CITY OF FARGO SALES TAX REVENUE BONDS, SERIES 2010D

RECITATIONS

On August 23, 2010, the governing body of the City of Fargo, North Dakota (the "City"), adopted a resolution entitled "RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$3,149,575 CITY OF FARGO SALES TAX REVENUE BONDS, SERIES 2010D" (the "Original 2010D Resolution") related to the City's Sales Tax Revenue Bonds, Series 2010D (the "Series 2010D Bonds").

On August 8, 2011, the City adopted a resolution amending and restating the Original 2010D Resolution entitled "AMENDED AND RESTATED RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$4,071,140 CITY OF FARGO SALES TAX REVENUE BONDS, SERIES 2010D" (the "2011 Amended 2010D Resolution") providing for an increase in the authorized principal amount of the Series 2010D Bonds.

The governing body of the City desires to amend the 2011 Amended 2010D Resolution to, among other things, reflect that the Series 2010D Bonds are secured by Sales Tax (as defined herein) and Net Revenues (as defined herein) of the City's sewer utility, as further described hereinafter.

The governing body of the City hereby recites that by the Original 2010D Resolution and the 2011 Amended 2010D Resolution the City has previously:

1. Found and determined that it is necessary for the City to construct or install improvements to increase settling at the city of Fargo wastewater treatment facility (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 all or a portion of the cost of the Project, which application has been approved.
9. Performed all other acts required by the Constitution and laws of North Dakota prerequisite to the issuance and sale of revenue bonds and required by the Home Rule Charter and ordinances of the City of Fargo for the purpose of providing money to pay for the cost of the Project in the manner required of the City by law with full power and authority conferred on it as a political subdivision and municipality of North Dakota. Specifically, the City of Fargo has enacted an ordinance for the imposition of a retail sales and/or use tax, the proceeds of which are to be used for infrastructure capital improvements, all of which is set forth in Article 3.S of the Home Rule Charter, as implemented by Article 3-20 of the Fargo Municipal Ordinances (the "Sales Tax").
10. Approved the Original 2010D Resolution.
11. Entered into a Loan Agreement with, and issued the Series 2010D Bonds to, the Public Finance Authority in the original approved loan amount of \$3,139,575.
12. Requested that the loan amount be amended to include an additional sum of \$921,565, so that the entire loan amount be \$4,071,140, to be expended for the "Project."
13. Applied to the Department of Health and the Public Finance Authority to approve the additional loan amount, which application was approved.
14. After observing that the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (the "ARRA") authorizes Revolving Loan Fund loans at reduced interest rates, the City has been approved for a reduced interest rate loan, plus an Administrative Fee as provided in the Loan Agreement, defined more fully below.

15. Caused the Series 2010D Bonds to be reissued in the principal amount of up to \$4,071,140.

RESOLUTION

Be it resolved by the governing body of the City, the 2011 Amended 2010D Resolution is hereby amended as follows:

Section 1. 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.

Section 2. Terms. The City authorized the issuance of the Municipal Securities in the aggregate principal amount not to exceed \$4,071,140. The Municipal Securities have been issued in the form of a single registered Municipal Security as set forth in Section 4 to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as Exhibit A. The terms of the Municipal Securities are more fully set out in the loan agreement between the City and the Public Finance Authority (the "Loan Agreement).

The Municipal Securities issued shall be payable in installments of principal, with interest at the rate of two and one-half percent (2.50%) per year (plus an administrative fee as set out in the Loan Agreement), based on funds actually advanced, and the schedule attached to the Municipal Security form has been revised to reflect the actual principal amount loaned to the City at the completion of the Project.

Section 3. Sales Tax Fund. There has been created a special fund of the Municipality designated as the Sales Tax Fund, which Fund shall be held and administered by the Municipality separate and apart from all other funds of the Municipality and continued and maintained by the Municipality until all Municipal Securities and any other obligations payable from the Sales Tax (together, the "Sales Tax Bonds") shall have been fully paid with interest. Into the Sales Tax Fund there shall be credited and paid, as received, and the City hereby pledges to deposit into the Sales Tax Fund, all revenues received by the City from the Sales Tax, provided that at such time as funds have been deposited into said Sales Tax Fund to satisfy the payment obligations as required by the Sales Tax Bonds for the then current bond year and provided that the City is not in default in any of its payment obligations under the Resolution, the Loan Agreement, or the Sales Tax Bonds, then to the extent such revenues from the Sales Tax exceed said obligations for the then-current bond year, surplus amounts of Sales Tax may be released from the Sales Tax Fund and deposited into such other accounts for purposes as may otherwise be authorized by said Article 3-20 of the Fargo Municipal Ordinances. On the books and records of the Sales Tax Fund there shall be established and maintained the following accounts. Sales Tax on hand in the Sales Tax Fund from time to time shall be apportioned amongst said accounts at least once each calendar month and shall thereafter be held and administered and disbursed from the accounts established below.

Section 4. Sales Tax Revenue Bond Fund. A separate Sales Tax Revenue Bond Fund has been established within the Sales Tax Fund to be used solely to discharge the Sales Tax Bonds, to pay when due the interest on and the principal of the Sales Tax Bonds, and to redeem the Sales Tax Bonds prior to maturity. In order to produce sums annually for the Sales Tax Revenue Bond Fund which will not be less than the amount needed to pay when due the principal and interest payments on the Sales Tax Bonds and the applicable administrative fees, the Municipality shall, monthly, deposit to the credit of the Sales Tax Revenue Bond Fund from the Sales Tax Fund, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Sales Tax Bonds, and (b) one-twelfth of the administrative fees with respect to the Sales Tax Bonds which will become due within the following twelve (12) months, provided that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of a loan closing.

Sales Tax Revenue Bond Fund—Series 2010D Account. A separate Series 2010D Account is established within the Sales Tax Revenue Bond Fund to be used solely to discharge the Municipal Securities, to pay when due the interest on and the principal of the Municipal Securities, and to redeem the Municipal Securities prior, to maturity. In order to produce sums annually for the Series 2010D Account which will not be less than the amount needed to pay when due the principal and interest payments on the Municipal Securities and the Administrative Fee, the Municipality shall, monthly, deposit to the credit of the Series 2010D Account from the Sales Tax Revenue Bond Fund, pro rata with respect to amounts due with respect to other Sales Tax Bonds, revenues of the Sales Tax in an amount equal to (a) the sum of one sixth of the interest due within the next six (6) months plus one-twelfth of the principal to become due within the next twelve (12) months with respect to the Municipal Securities, and (b) one-twelfth of the Administrative Fee which will become due within the following twelve (12) months; provided

that the initial deposits shall be adjusted to the extent the first interest payment and first principal payment do not fall on a date six (6) months and twelve (12) months respectively from the date of Loan Closing. In the event the Sales Tax revenues are not sufficient in any particular bond year to satisfy the payment obligations as required by the Municipal Securities (and as described above) for the then current bond year, then there shall be credited and paid, as received, Net Revenues in an amount sufficient to pay the principal of and interest on the Municipal Securities.

Section 5. Surplus Account. A separate Surplus Account is established within the Sales Tax Fund to be used solely as provided herein. All Sales Tax in excess of the current requirements of the Sales Tax Revenue Fund shall be deposited monthly to the credit of the Surplus Account. Amounts in the Surplus Account shall be available and shall also be used to the full extent necessary to restore any deficiency in the Operation and Maintenance Account and the Sales Tax Revenue Fund, and when not so needed may be pledged and appropriated as provided above or to redeem Bonds. Notwithstanding the foregoing, the Municipality shall maintain in the Surplus Account such amount, as it shall determine from time to time, to constitute an adequate reserve for the purpose for which moneys in the Surplus Account are available as provided in this section; however, moneys in excess of such adequate reserve may be transferred to other funds of the Municipality in the manner provided by law including, as to municipal utilities funds, the provisions of N.D.C.C. § 40-33-12(2).

Section 6. Sewer Utility Fund. The City has created, and will maintain, a SEWER UTILITY FUND (the "Sewer Utility Fund"). The City shall credit and pay to the Sewer Utility Fund, as received, the entire gross revenues derived from the operation of the City's sewer utility, including any future additions thereto and betterments thereof (the "Sewer Utility" or "Wastewater Treatment Works"), including all income and receipts derived from rates, fees and charges for services, facilities, products and by-products of the Sewer Utility furnished or sold to the City and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the Sewer Utility not necessary to be retained, and from the investment of any of the money so collected. On the books and records of the Sewer Utility Fund there shall be established and maintained the following funds as a part of the Sewer Utility Fund. Amounts on deposit in the Sewer Utility Fund from time to time shall be apportioned among said funds at least once in each calendar month and shall thereafter be held and administered and disbursed from the several funds established in this section.

Section 7. Operation and Maintenance Fund. The City has created, and will maintain, an OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). Upon each such monthly apportionment, as a first lien and charge on the gross revenue, the City shall transfer to the Operation and Maintenance Fund from amounts on deposit in the Sewer Utility Fund such sum as shall be needed, over and above any credit balance held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for contingencies. Monies in the Operation and Maintenance Fund shall be used only to pay expenses of the foregoing type and not for major repairs, replacements, or capital improvements which are properly chargeable to replacement and depreciation reserves or surplus funds. All revenues in excess of such amount deposited to the Operation and Maintenance Fund shall be the Net Revenues (the "Net Revenues") of the Sewer Utility.

Section 8. Sewer Revenue Bond Fund. A separate Sewer Revenue Bond Fund is established within the Sewer Utility Fund to be used solely to discharge the obligations payable therefrom, including the Municipal Securities (together, the "Revenue Bonds"), to pay when due the interest on and the principal of the Revenue Bonds, and to redeem the Municipal Securities prior to maturity, all to the extent the amounts available under Section 8 hereof are not sufficient.

Section 9. Surplus Fund. All surplus Net Revenues from time to time received in excess of the current requirements of the Sales Tax Revenue Bond Fund and Sewer Revenue Bond Fund and any reserve shall be credited on the books of the City to the Surplus Fund of the Sewer Utility Fund, provided that City reserves the right to create additional funds within said fund for the purpose of segregating any of such surplus Net Revenues which may be pledged and appropriated to the payment of any Subordinate Bonds hereafter issued to finance improvements, replacements, or repairs of the Sewer Utility, subject to the prior lien on the Net Revenues of the Bonds. Surplus Net Revenues on hand from time to time shall be available and shall be used to the full extent necessary to restore a deficiency in the Operation and Maintenance Fund, the Sales Tax Revenue Bond Fund, the Sewer Revenue Bond Fund, the Reserve Account and any other reserve fund, but when not so needed may be used to pay for capital improvements, replacements, or repairs to the Sewer Utility, or to pay principal and interest on Subordinate Bonds hereafter issued for such purposes, or they may be used to redeem and pay prior to maturity Revenue Bonds (other than Subordinate Bonds) when and as such bonds become redeemable according to their terms, or purchase Revenue Bonds (other than Subordinate Bonds) in the secondary market when deemed advisable. The City shall maintain in the Surplus Fund such cash or investments as it shall from time to time determine to constitute an adequate reserve for operation or maintenance emergencies and for depreciation and contemplated improvement or replacement of the Sewer Utility. At the end of the City's fiscal year, if there are no deficiencies in the Operation and Maintenance Fund, the Sales Tax Revenue Bond Fund, the Sewer Revenue Bond Fund, or any reserve fund and there is an adequate reserve for operation and maintenance emergencies and for depreciation, contemplated improvements and replacements of the Sewer Utility, the City may transfer monies in excess of such requirements to other funds of the City in accordance with and subject to the limitations contained in the ordinances of the City and the provisions of state law.

Section 10. Reserve Account. A separate Reserve Account is established in the amount of \$273,125 payable at the rate of \$54,625 per year for the first five years of the loan, which may be reduced proportionately if the final loan amount is less than the approved loan amount of \$4,071,140.

Section 11. Rates, Fees and Charges. The Municipality shall impose, maintain and collect revenues from the Sales Tax, and, to the extent such revenues are not sufficient, to impose and collect Net Revenues (together, the "Pledged Revenues"), including services furnished to the Municipality, according to a schedule or schedules which will provide gross revenues sufficient to pay when due all costs payable under the Operation and Maintenance Account and Pledged Revenues equal to 110% of the average annual interest and principal requirements on the Sales Tax Bonds and Revenue Bonds.

Section 12. Additional Parity Bonds. The Municipality reserves the further right of issuing additional municipal securities payable from the Sales Tax or Net Revenues on a parity

as to both principal and interest with the Municipal Securities, provided that the Pledged Revenues received during the last fiscal year prior to such issuance shall have been in an amount not less than one hundred ten percent (110%) of the average annual amount of principal and interest to become due during the remaining term of the then outstanding obligations payable from the Pledged Revenues. However, if rates and charges for the Sewer Utility have been increased since the beginning of the last fiscal year next preceding the issuance of such additional municipal securities, the net revenues received during such preceding fiscal year shall be deemed to be the amount which would have been received in the preceding fiscal year had the increased rates and charges been in effect throughout such preceding fiscal year. Also, for purposes of this test, the Net Revenues may be adjusted by including the additional Net Revenues, as determined by a competent feasibility or rate study, to be realized from the area to be served by the improvements to be constructed with such additional municipal securities, provided that the interest on the additional municipal securities is funded until the date of completion of the improvements to be constructed with the proceeds of the additional municipal securities or other available funds.

Section 13. Limited Obligations. The Municipal Securities issued hereunder shall not constitute a charge, lien or encumbrance upon any property of the Municipality, and no holder or holders thereof shall ever have the right to compel any exercise of the taxing power of the Municipality 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 Municipality but are payable solely from the Pledged Revenues as set forth in this resolution.

Adopted _____, 2023.

CITY OF FARGO

By: _____
_____, Mayor

ATTEST:

_____, City Auditor

FORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
CITY OF FARGO

No. R-1 \$ _____

SALES TAX REVENUE BONDS, SERIES 2010D

<u>Interest Rate</u>	<u>Date of Original Issue</u>
2.50%	_____, 20__

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: FOUR MILLION SEVENTY ONE THOUSAND ONE HUNDRED FORTY DOLLARS

The City of Fargo, North Dakota (the "Issuer"), 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 from its Wastewater SRF Bond Fund to the Registered Owner specified above, or registered assigns, the Principal Amount from the Date of Original Issue at the annual rate of two and one-half percent (2.50%) semiannually on March 1 and September 1 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 3.05 of the Loan Agreement in the event funds are advanced to the Issuer other than as originally set forth in the Loan Agreement. Principal is 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"), Article 3.S of the Home Rule Charter of the City of Fargo, Article 3-20 of the Fargo Municipal Ordinances and pursuant to a Resolution (the "Resolution") and a Loan Agreement (the "Loan Agreement") adopted and entered into by the Issuer. 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 Security and the rights of the Registered Owner of the Municipal Security. The principal and interest payments for this bond are not general obligations of the municipality, but are payable solely from the revenues received by the city as a result of the imposition of the retail sales and/or use tax established by Article 3.S of the Home Rule Charter and as implemented by Article 3-20 of the Fargo Municipal Ordinances and from the operation of the Wastewater Treatment Works of the City of Fargo and from any future additions thereto and betterments

thereof, including all income and receipts derived from rates, fees, charges for services, facilities, products and by-products to the Municipality and its inhabitants and all other customers, and for the availability thereof, and from the sale of any of the properties of the Wastewater Treatment Works not necessary to be retained, and from the investment of any of the money so collected, as set forth in the Resolution.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the Issuer kept at the main office of The Bank of North Dakota, 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 in inverse order of maturity and by lot within any maturity on September 1, 2011, at any interest payment date thereafter, 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 Issuer has caused this Municipal Security 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: _____

Mayor

ATTEST:

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.

The Bank of North Dakota,
Bismarck, 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: _____

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.