

FARGO CITY COMMISSION AGENDA  
Monday, January 23, 2023 - 5:00 p.m.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at <https://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 <https://FargoND.gov/citycommission>.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, January 9, 2023 and Special Meeting, January 11, 2023).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

1. Receive and file the following Ordinances:
  - a. Relating to Cigar Smoking in Public Places and Places of Employment Prohibited.
  - b. Relating to Taxicabs and Vehicles for Hire.
2. Gaming Site Authorization for Fargo Youth Hockey Association at Dogleg North.
3. Applications for Games of Chance:
  - a. St. John Paul II Catholic Schools for a raffle on 2/9/23.
  - b. Eagles Elementary PTA for bingo on 2/9/23.
  - c. NDSU Saddle and Sirloin for a raffle board on 4/12/23.
  - d. Saddle and Sirloin Club (NDSU) Little International for a raffle on 2/11/23.
  - e. Muskies, Inc. FM Chapter for a raffle on 2/9/23.
  - f. Warm Blanket Hugs for a raffle on 3/5/23.
  - g. Fargo Moorhead Chapter #246 of the National Association of Woman in Construction for a raffle on 3/9/23; Resolution for Public Spirited Organizations.
4. Five-year Mailing Services Agreement – January 2023 with American Mail House (RFP23024).
5. Contract for electrical services for the Citywide Multimedia Space to Sun Electric, Inc. (RFP23014).
6. Encroachment Agreement with TD Companies, LLC d/b/a TD Companies, LLC – 7th Ave – Series 2 at 704 38th Street North.
7. Gift Agreement with Urban Plains Land Company LLC.
8. Access Easement (Storm Sewer, Sanitary Sewer and Water Main) with Southeast Cass Water Resource District (Project No. NR-23-A1).
9. Bid advertisement for the following Projects:
  - a. No. PR-22-B.
  - b. No. PR-23-A.

Page 8. Negative Final Balancing Change Order No. 2 in the amount of -\$2,590.40 for Project No. SR-22-C1.

11. Consulting Engineering Services with Houston Engineering, Inc. for Project Nos. SN-23-B0 and SN-25-A0 (RFP23020A).
12. Consulting Engineering Services with SRF Consulting Group for Project No. QR-24-A0 (RFP23020B).
13. Consulting Engineering Services with Bolton & Menk, Inc. for Improvement District No. BN-25-A0 and Project No. MS-23-C0 (RFP23020C).
14. Employee Wellness Program Contract with Dakota Children's Advocacy Center's for annual mental health check-ins for all Fire Department employees.
15. Group Insurance Policy for Dental Benefits with Blue Cross Blue Shield of North Dakota.
16. Agreement for Property Demolition with Master Construction Company, Inc. for property located at 714 12th Street North (RFP22111).
17. Employee Wellness Program Contract with Dakota Children's Advocacy Center's for annual mental health check-ins for all Police Department employees (RFQ23033).
18. Awarding of RFP23026 to Sanitation Products in the amount of \$518,452.00 for the purchase of two, three wheeled mechanical street sweepers.
19. Resolutions to increase Loan Funds for the following:
  - a. Clean Water State Revolving Fund Loans to complete the Water Reclamation Facility expansion (Sewer Revenue Bond Series 2018A and 2018B) (Project No. WW1701).
  - b. Drinking Water State Revolving Fund Loans to finance the water system capital projects.
20. Bills.
21. Change Order No. 1 in the amount of \$62,765.49 and time extension of 5-calendar days to Phase 1 completion for Improvement District No. BR-22-A2.
22. Contract Amendment No. 1 with Apex Engineering in the amount of \$24,559.00 for Improvement District No. BR-23-G0.
23. Create Improvement District No. PR-23-C.
24. Bid award for Improvement District No. BR-23-E1.

#### **REGULAR AGENDA:**

25. **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](https://FargoND.gov/VirtualCommission)).**

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

- a. Application for a Class "GH" Alcoholic Beverage License for Slice, LLC d/b/a Duane's House of Pizza to be located at 1629 South University Drive.
  - b. Application for a Class "FA" Alcoholic Beverage License for Plaza Azteca Fargo 52, Inc. d/b/a Plaza Azteca Mexican Restaurant to be located at 5081 Timber Parkway South.
  - c. Application for a Class "FA-Entertainment" Alcoholic Beverage License for Fargo Billiards located at 3234 43rd Street South (addition of a new owner).
27. Recommendation for Federal Aid Transportation Project Applications for the Years 2026 and 2027.
  28. Recommendation to Adopt the Resolution Directing the Issuance of \$57 Million Refunding Improvement Bonds, Series 2023A and Prescribing the Terms and Covenants Therefor.
  29. Request to direct staff and the City Attorney to seek an RFP to address the Noise Ordinance.
  30. Recommendations for appointments to the following Boards and Commissions:
    - a. Renaissance Zone Authority.
    - b. Historic Preservation Commission.
  31. Legislative Update.
  32. 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](http://www.FargoND.gov/citycommission).

26a

**NOTICE OF HEARING**

**Application for Alcoholic Beverage License**

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing in the City Commission Room, City Hall, on Monday, January 23, 2023 at 5:15 o'clock p.m. to consider an application for a Class "GH" Alcoholic Beverage License for Slice, LLC dba Duane's House of Pizza to be located at 1629 South University Drive, Fargo.

Any interested person may appear and will be heard.

City Auditor's Office  
(January 4, 2023)

**MEMORANDUM**

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TO: Board of City Commissioners  
FROM: Steven Sprague, City Auditor  
SUBJECT: Liquor License Application – Duane's House of Pizza  
DATE: January 18, 2023

The following application for a liquor license issuance was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: GH – beer and wine with food, service at table  
Business Name: Slice, LLC d/b/a Duane's House of Pizza  
Location: 1629 South University Drive  
Applicants: Jesse Craig

Being no significant concerns, the Liquor Control Board voted to approve the issuance of a Class GH alcoholic beverage license to Slice, LLC d/b/a Duane's House of Pizza. The complete application is available for review in the Auditor's Office.

**Recommended Motion:**

**Move to approve the issuance of a Class GH alcoholic beverage license to Slice, LLC d/b/a Duane's House of Pizza.**



# FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

## CRIMINAL INVESTIGATIONS DIVISION

### MEMORANDUM

**To:** Chief David Zibolski

**From:** Sergeant Tom Morris *TM*

**Date:** 01.04.2023

**RE:** Alcoholic Beverage License Application, Class "GH", Duane's House of Pizza

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**Application for a Class "GH" Alcoholic Beverage License from  
Slice, LLC d/b/a Duane's House of Pizza to be located at 1629 South University Drive, Fargo**

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

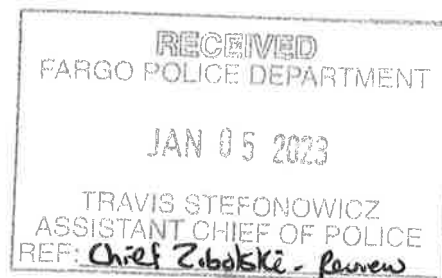
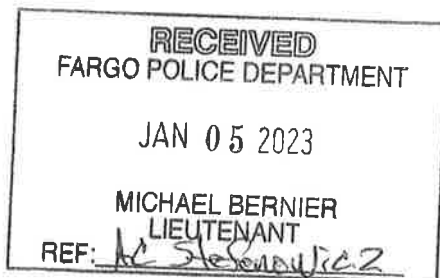
**Craig, Jesse – Owner/Manager**

**Criminal History-**

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (https://chs.state.mn.us/) showed no criminal activity.

**Credit History-**

Jesse Craig's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.



**Investigation Notes**

This application is for a class "GH" alcoholic beverage license (Authorizes the licensee to sell beer and wine "on-sale" only, no bar area allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and food products and not from the sale of alcoholic beverages.) for Slice, LLC d/b/a Duane's House of Pizza located at 1629 South University Drive, Fargo, ND.

**Business Location**

Duane's House of Pizza is located at 1629 South University Drive, Fargo, ND. Other business in the area with alcoholic beverage licenses include Bernie's Wine's & Liquors (off sale), Bottle Barn Liquors (off sale) and Pepper's Sports Cafe.

**Conclusion**

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.

A handwritten signature in black ink, appearing to read "R Stegely". The signature is written in a cursive, flowing style.

266

**NOTICE OF HEARING**

**Application for Alcoholic Beverage License**

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing in the City Commission Room, City Hall, on Monday, January 23, 2023 at 5:15 o'clock p.m. to consider an application for a Class "FA" Alcoholic Beverage License for Plaza Azteca Fargo 52, Inc dba Plaza Azteca Mexican Restaurant to be located at 5081 Timber Parkway S, Fargo.

Any interested person may appear and will be heard.

City Auditor's Office  
(January 4, 2023)



## MEMORANDUM

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TO: Board of City Commissioners  
FROM: Steven Sprague, City Auditor  
SUBJECT: Liquor License Application – Plaza Azteca  
DATE: January 18, 2023

The following application for a liquor license issuance was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: FA – full alcohol with food, Bar is allowed  
Business Name: Plaza Azteca Fargo 52, Inc. d/b/a Plaza Azteca Mexican Restaurant  
Location: 5081 Timber Parkway South  
Applicants: Javier Magana, Alberto Arellano, Juan Perez, Ruben Leon

Being no significant concerns, the Liquor Control Board voted to approve the issuance of a Class FA alcoholic beverage license to Plaza Azteca Fargo 52 Inc. d/b/a Plaza Azteca Mexican Restaurant. The complete application is available for review in the Auditor's Office.

**Recommended Motion:**

**Move to approve the issuance of a Class FA alcoholic beverage license to Plaza Azteca Fargo 52, Inc. d/b/a Plaza Azteca Mexican Restaurant.**



# FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

## CRIMINAL INVESTIGATIONS DIVISION

### MEMORANDUM

**To:** Chief David Zibolski

**From:** Sergeant Tom Morris *TM*

**Date:** 01.04.2023

**RE:** Alcoholic Beverage License Application, Class "FA", Plaza Azteca

**Application for a Class "FA" Alcoholic Beverage License from Plaza Azteca Fargo 52, Inc. d/b/a Plaza Azteca Mexican Restaurant to be located at 5081 Timber Parkway S, Fargo**

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

**Magana, Javier – Owner/Manager**

**Criminal History-**

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (https://chs.state.mn.us/) and a Tennessee open internet search, showed no criminal activity.

**Credit History-**

Javier Magana's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

RECEIVED  
FARGO POLICE DEPARTMENT  
JAN 05 2023  
MICHAEL BERNIER *MB*  
LIEUTENANT  
REF: *AC Stefanowicz*

RECEIVED  
FARGO POLICE DEPARTMENT  
JAN 05 2023  
TRAVIS STEFONOWICZ  
ASSISTANT CHIEF OF POLICE  
REF: *Chief Zibolski - Review*

**Arellano, Alberto – Owner/Manager**

**Criminal History-** A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (<https://chs.state.mn.us/>) and a Tennessee open internet search, showed no criminal activity.

**Credit History-** Alberto Allano's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

**Perez, Juan – Owner/Manager**

**Criminal History-** A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (<https://chs.state.mn.us/>) showed no criminal activity.

**Credit History-** Juan Perez's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

**Leon, Ruben – Owner/Manager**

**Criminal History-** A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (<https://chs.state.mn.us/>) and a Virginia open internet search, showed no criminal activity.

**Credit History-** Ruben Leon's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

**Investigation Notes**

This application is for a Class "FA" alcoholic beverage license (authorizes the licensee to sell "on-sale", physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages) for Plaza Azteca Fargo 52, Inc. d/b/a Plaza Azteca Mexican Restaurant.

**Business Location**

Plaza Azteca is located at 5081 Timber Parkway S Fargo. Other businesses in the area with alcoholic beverage licenses are Suite Shots, Kingpinz Social, Cash Wise Liquor (off sale) and Frank's Lounge.

**Conclusion**

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.

Handwritten signature and initials, possibly "DB" and "Hoy".

RECORDED  
FARGO POLICE DEPARTMENT  
JAN 05 2023  
DAVID B. SLEKI  
CHIEF OF POLICE DB  
REF: C. SPARGUE  
+ RECOMMEND APPROVAL

(26)

**NOTICE OF HEARING**

**Application for Alcoholic Beverage License Transfer**

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing in the City Commission Room, City Hall, on Monday, January 23, 2023 at 5:15 o'clock p.m. to consider an application to add a new owner. This request of a Class "FA-Entertainment" Alcoholic Beverage License for Fargo Billiards, located at 3234 43 St S has no other changes.

Any interested person may appear and will be heard.

City Auditor's Office  
(January 4, 2023)

## MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Application – Fargo Billiards

DATE: January 18, 2023

The following application for a liquor license issuance was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: FA Entertainment – full alcohol with food and games, Bar is allowed  
Business Name: Fargo Billiards LLC d/b/a Fargo Billiards & Gastro Pub  
Location: 3234 43<sup>rd</sup> Street South  
Applicants: Michael Page, Adele Page Amanda Kaloustain

Ms. Kaloustain reports violations from 2006 to 2011 when she was between 19 and 24. Additionally, she has some credit issues related to Covid which she is working to clear up. Being no significant concerns or dated items, the Liquor Control Board voted to approve the issuance of a Class FA-Entertainment alcoholic beverage license to Fargo Billiards LLC d/b/a Fargo Billiards & Gastro Pub, adding an additional owner. The complete application is available for review in the Auditor's Office.

### **Recommended Motion:**

**Move to approve the issuance of a Class FA-Entertainment alcoholic beverage license to Fargo Billiards LLC d/b/a Fargo Billiards & Gastro Pub, adding an additional owner.**



# FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

## CRIMINAL INVESTIGATIONS DIVISION

# MEMORANDUM

**To:** Chief David Zibolski

**From:** Sergeant Tom Morris *TM*

**Date:** 01.05.2023

**RE:** Alcoholic Beverage License Application, Class "FA-Entertainment", Fargo Billiards

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**Application for a Class "FA-Entertainment" Alcoholic Beverage License to add a new owner from Fargo Billiards located at 3234 43 St S, Fargo**

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

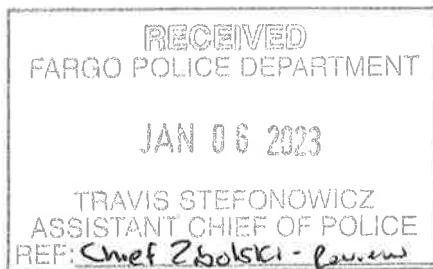
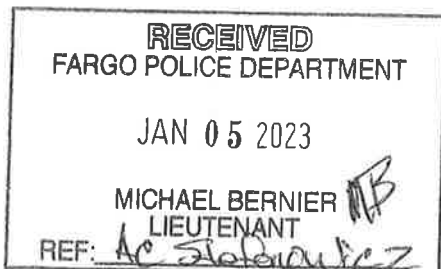
Page, Adele – Owner/Manager

**Criminal History-**

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (<https://chs.state.mn.us/>) and a North Carolina internet search showed no criminal activity.

**Credit History-**

Adele Page's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.



Page, Michael – Owner/Manager

**Criminal History-** A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (https://chs.state.mn.us/) and a North Carolina internet search showed no criminal activity.

**Credit History-** Michael Page's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Kaloustian, Amanda (Maiden Name Heley) – Owner/Manager

**Criminal History-** A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (https://chs.state.mn.us/) showed a 2006 Driving Under Suspension (DUS) in Richland County, ND (disclosed on application), a 2007 DUI in Wahpeton, ND (disclosed on application), a 2010 Disorderly Conduct in Fargo, ND, a 2011 DUS in Fargo, ND.

**Credit History-** Amanda Kaloustian's credit report was reviewed. An Experian credit report ran on 1/4/23 showed a CITICARDS account in the amount of \$6,266 as a CHARGEOFF, Delinquent 150 days, an AMEX account in the amount of \$8,764 as CLOSED, current was 30 days past due two times, and a CAPITAL ONE account in the amount of \$3,963 as OPEN was Delinquent 120 days or more.

Investigation Notes

I spoke with Amanda in reference to the above criminal history and credit records. Amanda said she was around 19-20 when she got the criminal charges. She said the DUI was one of the best life lessons she has learned. She did not disclose the other two charges, as she forgot about them. She said she used a public record search to list her criminal history on the application and the other charges were not on there. I can confirm she is correct in that statement. She was not trying to hide them, she simply forgot. She did admit to all the charges when I asked her and apologized for forgetting them. She said she had a lot of growing up to do after those incidents. When asked about the credit report, she said they were all accurate and that she and her husband are working hard on clearing them all up soon. She said the debt came when they were younger and then her husband lost his job during Covid. She also lost her job for about a month during Covid. Amanda was very polite and even added that she is very appreciative of law enforcement and she currently enjoys our relationship with her and her team at Billiards.

This application is for a class "FA-Entertainment" alcoholic beverage license (Authorizes the licensee to sell beer, wine and spirits "on-sale" only, in a place of amusement or recreational establishment. Requires 50% or more of its annual gross receipts from non-alcohol sales.) for Fargo Billiards located at 3234 43 St S, Fargo, ND.



**Business Location**

Fargo Billiards is located at 3234 43 St S, Fargo, ND. Other business in the area with alcoholic beverage licenses include JL Beers, The Tavern Grill, Mexican Village and The Windbreak.

**Conclusion**

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.



FARGO POLICE DEPARTMENT  
JAN 06 2023  
DAVID S. SPRAGUE  
CHIEF OF POLICE  
REP. S. SPRAGUE DS

- Recommendation Approval

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

27

Type: Recommendations for 2026 & 2027 Federal Aid Transportation Project Applications

Location: Citywide

Date of Hearing: 1/17/2023

<u>Routing</u>	<u>Date</u>
City Commission	1/23/2023
PWPEC File	X
Project File	Jeremy Gorden

The Committee reviewed a communication from Transportation Division Engineer, Jeremy Gorden, regarding Federal Aid Transportation Project Applications. Metro COG has indicated that there is \$4.318M available in 2026 and \$10.484M in 2027.

The current Federal Aid Transportation Projects scheduled for the North Dakota portion of the FM metro region for the years 2024 to 2026 are as follows:

**2024**

32<sup>nd</sup> Avenue S – 22<sup>nd</sup> Street to University Drive  
 Construction total \$27M  
 9.88M Fed  
 13M Local

42<sup>nd</sup> Street Bridge over I-94 – Structural Maintenance Project  
 Construction total \$225k  
 180k Fed  
 45k Local

**2025**

36<sup>th</sup> Street Bridge over Drain 27 – Structural Maintenance Project  
 Construction total \$380k  
 307k Fed  
 73k Local

**2026**

Broadway Bridge over Red River  
 Project Partner is Clay County  
**Updated Construction total 10.5M (was 7.5M)**  
 4.2M Fed/1M Fargo/2.25 Clay Co

- SRF Consulting has updated the project cost estimate which includes the rise in prices do to construction inflation in the last 18 months, we will need an estimated \$3M in additional funds for the project.
- Additional funding needed would be split between Fargo and Clay County as follows:
  - + 1.2M Fed
  - + 1.35M Local
  - + 1.5M Clay County

Pedestrian Bridge over Red River at 40<sup>th</sup> Ave S  
 Project Partner is City of Moorhead  
**Updated Construction Total 10M (was 4M)**  
 1.76M Fed  
 440k Fargo  
 1.8M Moorhead

- Houston Engineering is completing the environmental document and has provided us an updated cost estimate to include the construction inflation that's been occurring over the course of the last 18 months, they estimate we'll need an estimated \$6M in additional funds for the project.
- Additional funds needed would be split between City of Fargo and City of Moorhead and they would be as follows:
  - + 2.4M Fed
  - + 0.6M Local
  - + 3M City of Moorhead

Engineering staff has discussed these programmed projects and discussed future projects, and the following is what we're recommending to move forward:

**For the 2026 Federal allotment;**

We would add 1.2M to the Broadway bridge;  
 And the balance remaining 3.118M would go to the 32<sup>nd</sup> Ave S reconstruction project

**For the 2027 Federal allotment;**

We would add the 2.4M to the 40<sup>th</sup> Ave S Ped Bridge;  
 And the balance (8.084M) would go to a new project,  
 17<sup>th</sup> Avenue S – University Drive to 25<sup>th</sup> Street – Full Street Reconstruction

Const total 10M  
 8M Fed  
 2M Local

**And for a future 2028 Federal allotment;**

1<sup>st</sup> Avenue N – 2<sup>nd</sup> Street to University Drive – will need to be segmented.

Const total TBD

Staff is recommending to request \$3.118M to be added to the 32<sup>nd</sup> Avenue South project, request \$1.2M to be added to the North Broadway Bridge for year 2026, request \$2.4M to be added to the 40<sup>th</sup> Avenue South Pedestrian Bridge over the Red River, and \$8M awarded to the 17<sup>th</sup> Avenue South Reconstruction Project for year 2027.

On a motion by Tim Mahoney, seconded by Steve Sprague, the Committee voted to recommend approval of the projects listed above as the City of Fargo's priorities for projects to apply for the Surface Transportation Block Grant Program, working through the FM Metro Council of Governments.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the projects listed above as the City of Fargo's priorities for projects to apply for the Surface Transportation Block Grant Program, working through the FM Metro Council of Governments.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: \_\_\_\_\_

Developer meets City policy for payment of delinquent specials  
 Agreement for payment of specials required of developer  
 Letter of Credit required (per policy approved 5-28-13)

Yes	No
<u>        </u>	<u>        </u>
<u>        </u>	<u>        </u>
<u>        </u>	<u>        </u>

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
- Brenda Derrig, City Engineer
- Terri Gayhart, Finance Director

Present	Yes	No	Unanimous
<u>        </u>	<u>        </u>	<u>        </u>	<u>        </u>
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ATTEST:

  
 \_\_\_\_\_  
 Brenda E. Derrig, P.E.  
 City Engineer

## Memorandum

**To:** Members of PWPEC

**From:** Jeremy M. Gorden, PE PTOE  
 Division Engineer - Transportation

**Date:** January 12, 2023

**Re:** Staff Recommendations for Federal Aid Transportation Project Applications  
 Years 2026 and 2027

**Background:**

Metro COG is currently soliciting project applications for the Surface Transportation Block Grant Program for federal fiscal years 2026 & 2027. This block grant program replaces what we used to call the Urban Roads Program that we coordinated with through the Local Government Division of the NDDOT.

Metro COG has indicated that there is **\$ 4.318M** available in 2026 and **\$ 10.484M** in 2027.

The current Federal Aid Transportation Projects scheduled for the North Dakota portion of the FM metro region for the years 2024 to 2026 are as follows:

**2024**

32 <sup>nd</sup> Avenue S – 22 <sup>nd</sup> Street to University Drive	Construction total \$27M
	9.88M Fed
	13M Local

42 <sup>nd</sup> Street Bridge over I-94 – Structural Maintenance Project	Construction total \$225k
	180k Fed
	45k Local

**2025**

36 <sup>th</sup> Street Bridge over Drain 27 – Structural Maintenance Project	Construction total \$380k
	307k Fed
	73k Local

**2026**

Broadway Bridge over Red River Project Partner is Clay County	<b>Updated Construction total 10.5M (was 7.5M)</b> 4.2M Fed/1M Fargo/2.25 Clay Co
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- SRF Consulting has updated the project cost estimate which includes the rise in prices do to construction inflation in the last 18 months, we will need an estimated \$3M in additional funds for the project.
- Additional funding needed would be split between Fargo and Clay County as follows:
  - + 1.2M Fed
  - + 1.35M Local
  - + 1.5M Clay County

Pedestrian Bridge over Red River at 40 <sup>th</sup> Ave S Project Partner is City of Moorhead	<b>Updated Construction Total 10M (was 4M)</b> 1.76M Fed 440k Fargo 1.8M Moorhead
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- Houston Engineering is completing the environmental document and has provided us an updated cost estimate to include the construction inflation that's been occurring over the course of the last 18 months, they estimate we'll need an estimated \$6M in additional funds for the project.
- Additional funds needed would be split between City of Fargo and City of Moorhead and they would be as follows:
  - + 2.4M Fed
  - + 0.6M Local
  - + 3M City of Moorhead

Engineering staff has discussed these programmed projects and discussed future projects, and the following is what we're recommending to move forward:

**For the 2026 Federal allotment;**

We would add 1.2M to the Broadway bridge;

And the balance remaining 3.118M would go to the 32<sup>nd</sup> Ave S reconstruction project

**For the 2027 Federal allotment;**

We would add the 2.4M to the 40<sup>th</sup> Ave S Ped Bridge;

And the balance (8.084M) would go to a new project,

17<sup>th</sup> Avenue S – University Drive to 25<sup>th</sup> Street – Full Street Reconstruction

Const total 10M  
8M Fed  
2M Local

**And for a future 2028 Federal allotment;**

1<sup>st</sup> Avenue N – 2<sup>nd</sup> Street to University Drive – will need to be segmented

Const total TBD

I look forward to a good discussion on these projects and any other ideas that you may have.

**Recommended Motion:**

Request 3.118M in STBG Funds to be added to the 32<sup>nd</sup> Ave S project – 22<sup>nd</sup> Street to University Drive, request 1.2M in STBG Funds to be added to the N Broadway Bridge for year 2026, request 2.4M in STBG Funds to be added to the 40<sup>th</sup> Ave S Pedestrian Bridge over the Red River, and 8M in STBG Funds are awarded to the 17<sup>th</sup> Avenue S Reconstruction Project – University Drive to 25<sup>th</sup> Street for year 2027.

JMG/klb  
Attachments

# N Broadway Bridge Status Update

1.12.2023



## City Commission Decisions to date

- Voted to Apply for Federal Aid to Replace Bridge As-Is for Year 2026
  - Nov 15, 2021
- Approved 2022 Capital Improvement Program that included funding for Demolishing Existing Bridge – Nov 29, 2021



## Estimated Cost to Demolish

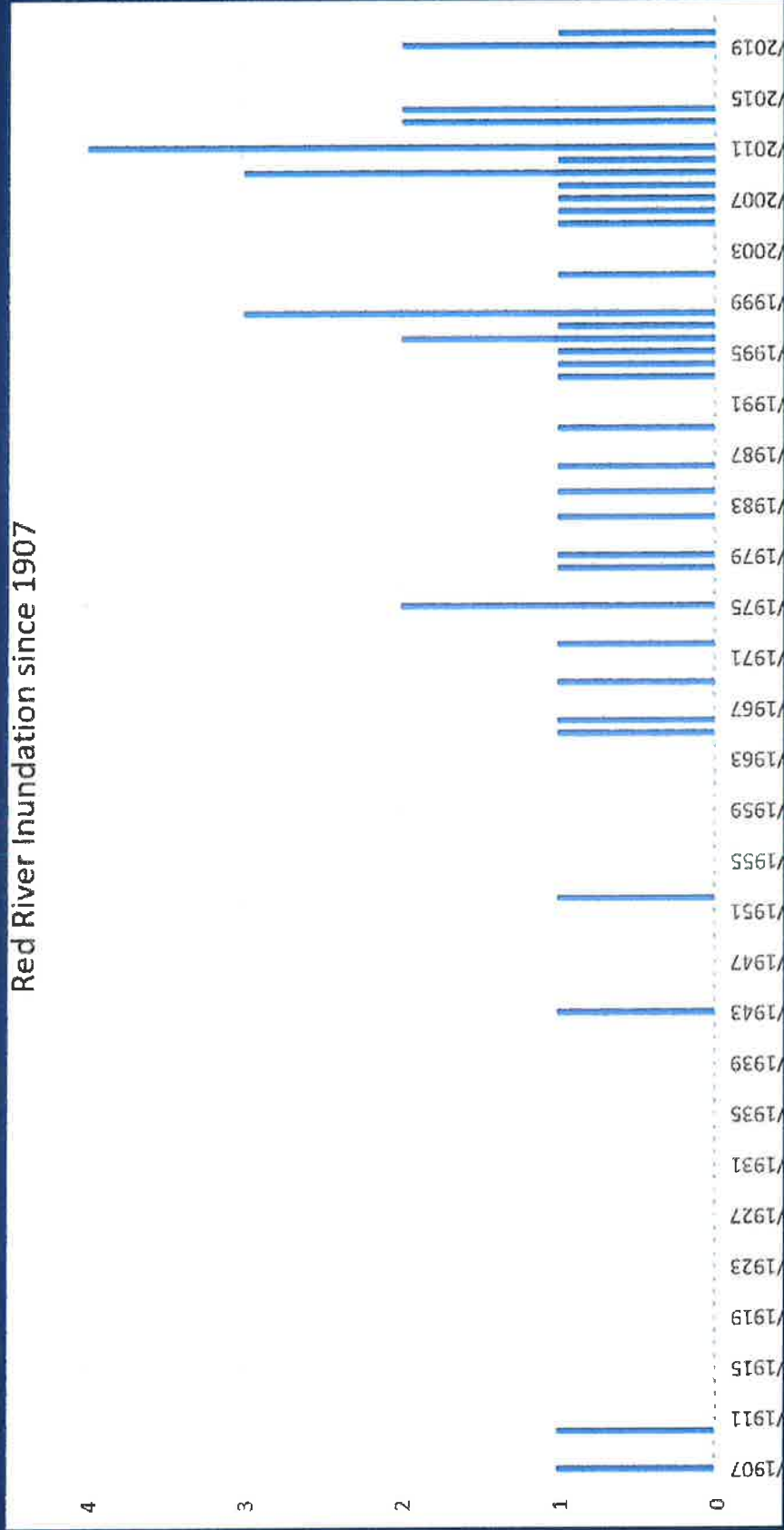
- \$300,000
- split 50/50 Fargo and Clay Co
- Will be bid out Jan 24
- Should be demolished by summer



# Broadway Bridge Flooding History

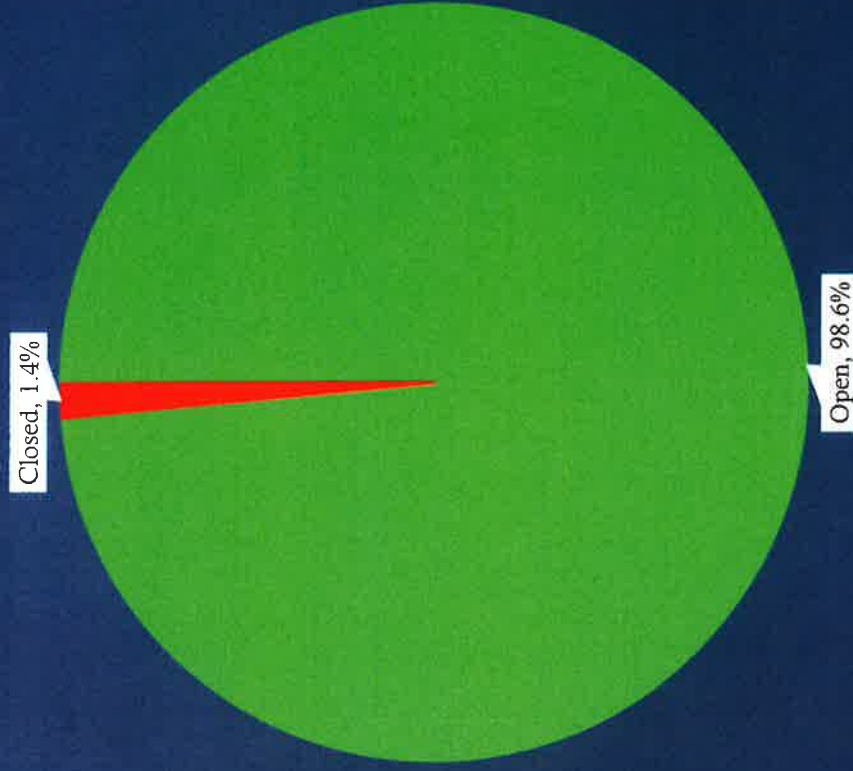


# Historical Inundation for Broadway Bridge – 1907 to present



## Historical Inundation for Broadway Bridge – 1907 to present

- Since 1907, the Red River has been over 23' flood stage for 608 days.



7

## Historical Inundation Info for Broadway Bridge since 1991

- Types of Inundations
  - Spring Floods
    - Number of times = 17
    - Average duration = 18.3 days over 23' flood stage
  - Rainfall Floods
    - Number of times = 15 times
    - Average duration = 7.6 days over 23' flood stage

# Detour Route when Broadway gets Closed



## Estimated Cost to Replace As-Is (in 2026)

- Bridge Replacement:
  - Length = 350 feet
  - Cost Estimate = 7.5M
- Projected funding
  - ND side
    - 3M Fed/750k City
    - MN side
  - 3.75M Mn Bridge Bonds
  - State Aid Funds



## Estimated Cost to Replace As-Is (in 2026), cont.

- Road Stabilization (Fargo side)
  - Scope of work – Stabilize embankment and move road west
  - Cost Estimate = 3.0M
  - Projected funding
    - 2.4M Fed/600k City
- Bridge and Road
  - Cost Estimate = 10.5M
  - ND side = 6.75M
  - MN side = 3.75M





# Estimated Cost to Raise above Diversion Flows

- Bridge Replacement:
- Length = 1,250 feet
- Cost Estimate >21M

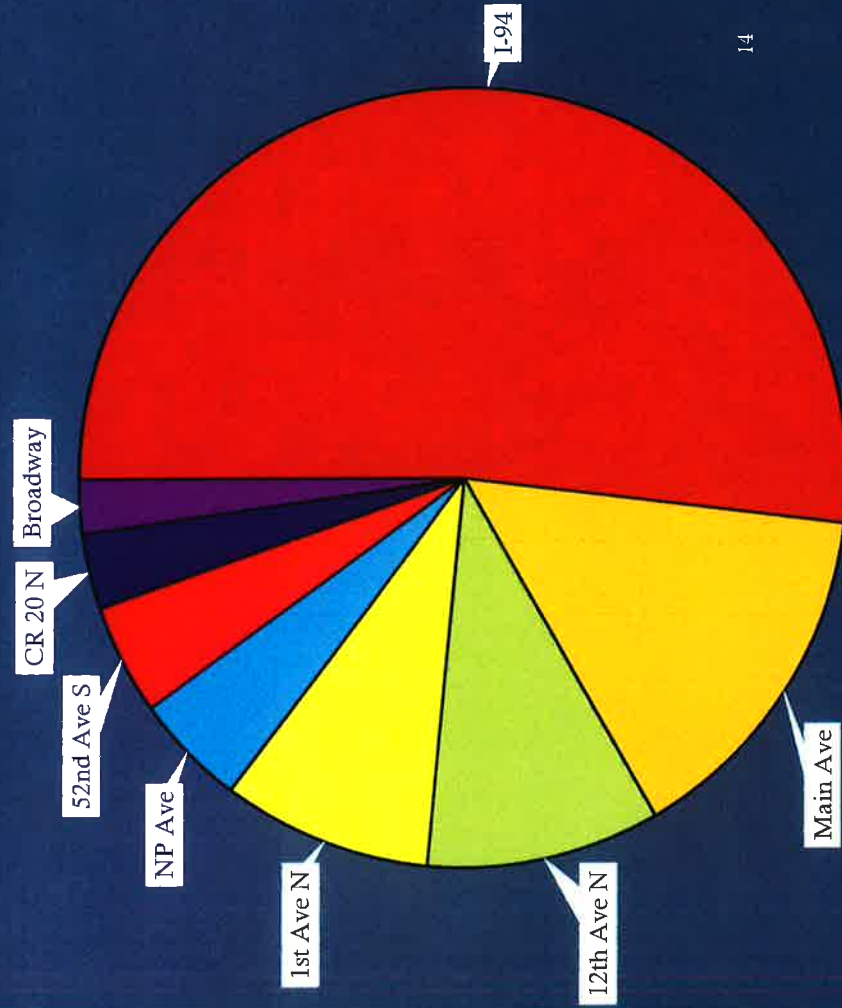




# Traffic Data

## • Daily Traffic Counts on Red River Bridges – 2018 (highest to lowest)

- **I-94** 70,000
- **Main Ave** 20,000
- **12<sup>th</sup> Ave N** 13,200
- **1st Ave N** 11,830
- **NP Ave** 6,370
- **52<sup>nd</sup> Ave S** 6,230
- **Co Road 20** 4,205
- **Broadway** 3,035



## Bridge Length Data

- Red River Bridges Lengths
- I-94 1300'
- County Road 20 1000'
- NP Ave 921'
- Main Ave 860'
- 52nd Ave S 612'
- 1st Ave N 610'
- 12th Ave N 530'
- **Broadway 350' (Above Diversion option 1250')**



# Federal Aid Applications for Surface Transportation Block Grant Program Funds



January 9, 2023

Metro COG Soliciting Applications for 2026 and 2027 Projects

- 2026

\$ 4.318M

- 2027

\$ 10.484M

## Federal Aid Projects currently Planned using these Funds

- 2023 – 9M Fed
  - 52<sup>nd</sup> Avenue S – 63<sup>rd</sup> St to Sheyenne Street (project w/ West Fargo & Cass Co)
- 2024 – 10M Fed
  - 32<sup>nd</sup> Avenue S – 22<sup>nd</sup> Street to University Drive
  - 42<sup>nd</sup> Street Bridge over I-94 – Structural Maintenance
- 2025 – 300k Fed
  - 36<sup>th</sup> Street Bridge Over Drain 27 – Structural Maintenance
- 2026 – 6M Fed
  - Broadway Bridge over the Red River
  - Pedestrian Bridge over Red River on 40<sup>th</sup> Avenue S



Year 2023 - 52nd Avenue S



Year 2024 - 32<sup>nd</sup> Avenue S – Phase 2



Year 2024 – 42<sup>nd</sup> Street Bridge over I-94



Year 2025 – 36<sup>th</sup> Street Bridge over Drain 27



Year 2026 – Broadway Bridge over Red River



# Year 2026 – Pedestrian Bridge over Red River at 40<sup>th</sup> Ave S



## Gap 9 | Recommended Bridge & Path Alignment

### Recommended Bikeway Concept

The recommendation for Gap 9 is a high-clearance bicycle and pedestrian bridge that would connect the east side of the river to the west side of the river. The bridge would be approximately 1,200 feet long and 15 feet wide. The bridge would be constructed of steel and concrete. The bridge would be located at the intersection of 40th Avenue S and the Red River. The bridge would be a high-clearance bridge to allow for the passage of tall structures. The bridge would be a pedestrian and bicycle bridge. The bridge would be a key component of the city's transportation network. The bridge would provide a safe and convenient way for people to cross the river. The bridge would also provide a scenic view of the river and the surrounding area. The bridge would be a valuable asset to the city and its residents.

### Planning Level Cost Estimate

Item	Quantity	Unit Price	Total Cost
Bridge and Pedestrian Bridge	1	\$1,200,000	\$1,200,000
Shared Use Path	1	\$400,000	\$400,000
Signage	1	\$100,000	\$100,000
<b>Total</b>			<b>\$1,700,000</b>

### Cost Estimate Notes

- New steel bridge - 1,200 ft. @ \$1,000/ft.
  - New bridge deck - 1,200 ft. @ \$100/ft.
  - New path assumed to be 11-foot concrete
  - Includes ADA curb ramps
  - Right of way acquisition not included
  - Unit Prices per MPO/OT 2018 Statewide Average Bid Prices
  - All costs in 2018 dollars
- Lead Agencies:
- Key Stakeholder
  - Incorporated Performing Arts School
  - City of Fargo
  - City of Moorhead
  - Riverkeepers

Recommended Bridge Alignment





2045 Fargo-Moorhead Transportation Plan

# Transportation Goals & Objectives

The vision for how the Fargo-Moorhead system should perform was based on first establishing plan goals. The purpose of setting plan goals is to translate the values that the Fargo-Moorhead community places on transportation and to summarize them into a set of guiding principles. These goals are the framework through which the Metro Grow plan has been developed and measured. The goals were developed to reflect:

- National priorities, including the national planning factors outlined in CFR 450.306
- State goals outlined in state transportation plans for North Dakota and Minnesota
- Public input received through the various engagement efforts outlined in Chapter 3

## Plan Goals

The plan goals that established the overall direction for the Metro Grow plan focused on eight areas:

 <p><b>SAFETY SYSTEM &amp; SECURITY</b> Provide a transportation system that is safer for all users and provides a secure system that is resilient to incidents.</p>	 <p><b>TRAVEL EFFICIENCY &amp; RELIABILITY</b> Improve regional mobility by promoting strategies that limit travel delays and provide more continuous vehicular flows on the NHS and arterial streets, emphasizing more efficient connections for longer-distance trips.</p>	 <p><b>WALKING &amp; BIKING</b> Implement projects that increase walking and biking as transportation, promote modal connections, and create enhanced walking and bicycling environments.</p>	 <p><b>TRANSIT ACCESS</b> Support the existing MATBUS system by providing enhanced access via walking and bicycling connections, transit amenities, and complete streets in transit corridors.</p>
 <p><b>MAINTAIN TRANSPORTATION INFRASTRUCTURE</b> Provide a financial plan that supports maintaining transportation infrastructure in a state of good repair.</p>	 <p><b>ENVIRONMENTAL SUSTAINABILITY</b> Provide a transportation system that provides access equitably and limits impacts to the natural and built environment.</p>	 <p><b>ECONOMIC DEVELOPMENT &amp; TRANSPORTATION DECISIONS</b> Promote transportation projects that support regional economic goals, support freight movement, and promote projects that can be financially sustained for the long-term.</p>	 <p><b>EMERGING TRANSPORTATION TRENDS</b> Incorporate transportation trends and new technologies in regional transportation plans.</p>

## Proposed Plan for 2026 Funding

- With cost estimate increases on **32<sup>nd</sup> Avenue S** project in 2024, move an additional **+3.118M** to that project as a federal aid payback.
- With cost estimate increases in **Broadway Bridge**, move an additional **+1.2M** to this project.
- This would encumber all 2026 funds from Metro COG.



## Proposed Plan for 2027 Funding

- With cost estimate increases on **Pedestrian Bridge over Red River**, move an additional **+2.4M** to that project.
- For a **NEW** project, we are recommending reconstructing **17<sup>th</sup> Avenue S** between University Drive and 25<sup>th</sup> Street.
  - Estimated 2027 Construction Cost    **\$ 10M**
    - **8M** Federal
    - **2M** Local
- This project would fall under the Metro COG Goals for:



WALKING & BIKING



TRANSIT ACCESS



MAINTAIN TRANSPORTATION  
INFRASTRUCTURE

## Proposed Projects – 2028

- Although not being solicited now, staff is preparing for additional downtown reconstruction, and **1<sup>st</sup> Avenue N from 3<sup>rd</sup> Street to University** is tentatively planned for our next undertaking.

- This project would fall under the Metro COG Goals for:



WALKING & BIKING



TRANSIT ACCESS



MAINTAIN TRANSPORTATION  
INFRASTRUCTURE



SAFETY SYSTEM & SECURITY

## Recommended Motion

- For 2026
  - Move 3.118M in STBG funds to 32<sup>nd</sup> Ave S Project – Phase 2
  - Move 1.2M in STBG funds to the N Broadway Bridge Project
- For 2027
  - Move 2.4M in STBG funds to the 40<sup>th</sup> Ave S Pedestrian Bridge over the Red River
  - Request 8M in STBG funds for a NEW project on 17<sup>th</sup> Ave S – University Drive to 25<sup>th</sup> Street

Questions?



28

**FINANCE OFFICE**  
**PO Box 2083**  
**225 4th Street North**  
**Fargo, ND 58102**  
**Phone: 701.241.1333 | Fax: 701.476.4188**  
**[www.FargoND.gov](http://www.FargoND.gov)**

**TO; BOARD OF COMMISSIONERS**

**FROM; TERRI GAYHART, DIRECTOR OF FINANCE**

**RE; RESOLUTON AUTHORIZING THE ISSUANCE OF \$57 MILLION OF REFUNDING IMPROVEMENT BONDS SERIRES 2023A, PRESCRIBING TERMS AND CONDITIONS THEREOF, AND CREATING A FUND FOR THE PAYMENT THEREOF**

**DATE; JANUARY 23, 2023**

The City of Fargo will be issue bonds on January 23, 2023 for the repayment of our capital project fund for various infrastructure projects completed in 2022. These bonds will be repaid with special assessments levied this fall.

Brad Elmer of Baker Tilly will present the bond sale results and will be available for any questions you may have about the bond markets.

The final resolution and bond par amount of bonds issued will be updated on the sale date based upon final bids received.

Suggested Motion:

Approve a resolution authorizing the Issuance of Refunding Improvement Bonds, Series 2023A, prescribing terms and conditions thereof, and creating a fund for the payment thereof.

RESOLUTION DIRECTING THE ISSUANCE OF \$[PAR] REFUNDING IMPROVEMENT BONDS, SERIES 2023A AND PRESCRIBING THE TERMS AND COVENANTS THEREFOR

**WHEREAS**, the City Commission (the “Commission”), of the City of Fargo, Cass County, North Dakota (the “Issuer”) has heretofore duly created the improvement districts as set forth in **Attachment A** hereto (the “Improvement Districts”), authorized the issuance of certain definitive warrants of the Issuer (the “Warrants”) for each such Improvement District in the amounts set forth in **Attachment A** hereto for the construction of improvements in the related Improvement District (the “Improvements”) and established special funds for each Improvement District (the “Special Funds”, each a “Special Fund”);

WHEREAS, the Issuer desires to issue a series of its refunding improvement bonds (the “Bonds”) to finance the Improvements;

WHEREAS, the Issuer is authorized by North Dakota Century Code Chapter 40-27 (the “Act”) to issue such Bonds;

WHEREAS, the Issuer desires to provide for the payment of such refunding improvement bonds through a pledge of the Warrants;

WHEREAS, such Bonds shall be payable solely out of moneys in the Special Funds from which the Warrants are payable;

WHEREAS, pursuant to North Dakota Century Code Section 40-26-08, whenever all special assessments, revenues and taxes, if any, appropriated and theretofore collected for an Improvement are insufficient to pay principal or interest then due on the related Warrants, the Issuer shall levy a tax upon all of the taxable property in the Issuer for the payment of such deficiency; and

WHEREAS, in and by the resolution adopted by the Issuer on this date, entitled “RESOLUTION SELLING, ESTABLISHING TERMS AND DIRECTING ISSUANCE OF DEFINITIVE IMPROVEMENT WARRANTS ON THE FUNDS OF CERTAIN IMPROVEMENT DISTRICTS, AND PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR THE SUPPORT AND MAINTENANCE OF SAID FUNDS” the Issuer has issued Warrants in the aggregate principal amount of \$[PAR] payable from the Special Funds of the respective Improvement Districts, subject to the terms, provisions and covenants set forth in the resolution, which resolution is incorporated herein and made a part hereof;

BE IT RESOLVED by the Commission of the Issuer, as follows:

1. Findings. It is hereby found, determined, and declared that said Warrants were duly and legally authorized under authority of and in accordance with the provisions of Title 40 of the North Dakota Century Code, as amended; that there is not at the present time in the Special Funds sufficient money to pay the Warrants drawn thereon with interest, and by the exchange of said Warrants for the Bonds the interest rate and interest costs thereon will be substantially reduced, and the general tax which the Issuer may become obligated to levy for any deficiencies in said funds can be reduced and equalized, and the burden on the taxpayers and property owners will be

substantially reduced; that said Warrants are subject to exchange at the option of the Issuer for the purpose of issuing refunding improvement bonds or warrants of the Issuer in accordance with the provisions of Chapter 40-27, North Dakota Century, Code; that all acts, conditions, and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen, and to be performed precedent to the issuance of the Bonds hereinafter described have been done, do exist, have happened, and have been performed in due form, time and manner as so required; and that the issuance of the Bonds is necessary and expedient and for the best interest of the Issuer and its inhabitants, taxpayers, and the owners of property liable to be assessed for said Improvements.

2. Sale of Bonds; Award. Pursuant to the Official Terms of Offering and Official Statement prepared on behalf of the Issuer by Baker Tilly Municipal Advisors, LLC, St. Paul, Minnesota, sealed proposals for the purchase of the CITY OF FARGO REFUNDING IMPROVEMENT BONDS, SERIES 2023A (the “Bonds”) were received at or before the time specified for receipt of proposals. The proposals have been opened, publicly read and considered, and the purchase price, interest rates and net interest cost under the terms of each proposal have been determined. The most favorable proposal received is that of [purchaser], of [City, State] (the “Purchaser”), to purchase the Bonds in a principal amount of \$[PAR] at a price of \$[purchaseprice]. The sale of the Bonds is hereby awarded to the Purchaser, and the Mayor and City Auditor are hereby authorized and directed to execute a contract on behalf of the Issuer for the sale of the Bonds in accordance with the Official terms of Offering and the Official Statement. The good faith deposit of the Purchaser shall be retained and deposited by the Issuer until the Bonds have been delivered and shall be deducted from the purchase price paid at settlement.

3. Form of Bonds. The Bonds shall be in substantially the form attached as **Attachment B** hereto.

4. Terms, Execution and Delivery.

(a) Maturities; Interest Rates; Denominations and Payment. The Bonds shall be dated originally as of February 22, 2023, shall be in the denomination of \$5,000 each or any integral multiple thereof, of single maturities, shall mature on May 1 in the years and amounts stated below, and shall bear interest from date of original issue until paid or duly called for redemption at the respective annual rates stated opposite their maturity years [to come]:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Rate</u>
2024			2038		
2025			2039		
2026			2040		
2027			2041		
2028			2042		
2029			2043		
2030			2044		
2031			2045		
2032			2046		
2033			2047		
2034			2048		
2035					
2036					
2037					

[TO BE ADJUSTED IF ANY TERM BONDS]

The Bonds shall be issuable only in fully registered form. The interest thereon and, upon surrender of each Bond, the principal amount thereof shall be payable by check or draft issued by the Registrar described herein; provided that, so long as the Bonds are registered in the name of a securities depository, or a nominee thereof, in accordance with Section 13 hereof, principal and interest shall be payable in accordance with the operational arrangements of the securities depository.

(b) Dates and Interest Payment Dates. Each Bond shall bear a date of original issue as of the date on which the Bonds are delivered to the purchaser. Upon initial delivery of the Bonds pursuant to Section 8 and upon any subsequent transfer or exchange pursuant to Section 5, the date of authentication shall be noted on each Bond so delivered, exchanged or transferred. Interest on the Bonds shall be payable on each May 1 and November 1, commencing November 1, 2023, each such date being referred to herein as an Interest Payment Date, to the persons in whose names the Bonds are registered on the Bond Register, as hereinafter defined, at the Registrar's close of business on the fifteenth day of the calendar month next preceding such Interest Payment Date, whether or not such day is a business day.

(c) Redemption.

[Bonds maturing on May 1 in the years 2024 through 2028 will not be subject to payment in advance of their respective stated maturity dates.

Bonds maturing on May 1 in the years 2029 through 2031 are subject to optional redemption on or after May 1, 2028 at a price of par plus accrued interest to the date of redemption.

Bonds maturing on May 1 in the years 2032 and 2033 will not be subject to payment in advance of their respective stated maturity dates; and



Bonds maturing on May 1 in the years 2034 through 2048 are subject to optional redemption on or after May 1, 2033 at a price of par plus accrued interest to the date of redemption.]

[ADD PROVISIONS BELOW IF THERE ARE TERM BONDS]

[The Bonds maturing on May 1 in the years [ ] and [ ], shall be known as Term Bonds. The Term Bonds are subject to mandatory sinking fund redemption in part at a Redemption Price equal to 100% of the principal amount thereof, together with accrued interest to the Redemption Date on May 1 of the following years and in the following principal amounts:

<u>Term Bonds Maturing on May 1, 20[ ]</u>		<u>Term Bonds Maturing on May 1, 20[ ]</u>	
<u>Redemption Date</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Redemption Date</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>
	\$		\$
*		*	

\*Stated Maturity

\*Stated Maturity

In the event any Bond is called for redemption prior to maturity, the Issuer will cause a notice of redemption to be sent to the Bond Registrar, Paying Agent and the registered owners of the Bonds called for redemption at least twenty (20) days before the date specified for redemption at the address shown on the registration books of the Bond Registrar. Within ten (10) days before the thirtieth (30th) day prior to any specified redemption date, if less than all Bonds of a single maturity are to be redeemed the Bond Registrar will select for redemption (by lot or in such manner as the Bond Registrar may determine) from all outstanding Bonds of the applicable maturity a principal amount of such Bonds equal to the aggregate principal amount of such Bonds to be redeemed, and will call such Bonds or portions thereof for redemption on such Redemption Date; provided that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or an integral multiple thereof and that in selecting Bonds for redemption, the Bond Registrar shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. If less than all Bonds are to be optionally redeemed, the maturity or maturities of the Bonds to be redeemed shall selected by the Issuer.

(d) Initial Registrar. Books for the registration and for the transfer of the Bonds as provided in this Resolution shall be kept by the City Auditor of the Issuer, which is hereby appointed the Bond Registrar, Transfer Agent and Paying Agent (the "Registrar").

5. Transfer and Exchange. The Bonds are transferable upon the books of the Issuer at the principal office of the Bond Registrar by the registered owner thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Bonds of the same series of other authorized denominations. Upon such transfer or exchange the Issuer will cause a new Bond or Bonds of the same series to be issued in the name of the transferee or registered owner, of the same aggregate

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

The Issuer and the Bond Registrar may deem and treat the person in whose name any Bond is registered as the absolute owner thereof, whether the Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the Issuer nor the Bond Registrar shall be affected by any notice to the contrary.

6. Bonds Mutilated, Destroyed, Lost, or Stolen. If any Bond shall become mutilated or be destroyed, lost, or stolen, the Issuer in its discretion may execute and upon its request, the Bond Registrar shall authenticate and deliver a new Bond of the same series in exchange for the mutilated Bond or in lieu of and substitution for the Bond so destroyed, lost, or stolen. In every case of exchange or substitution, the applicant shall furnish to the Issuer and to the Bond Registrar in a form satisfactory to both (i) evidence to their satisfaction of the mutilation, destruction, loss, or theft of the applicant's Bond and of the ownership thereof and (ii) in the case of any destroyed, lost, or stolen Bond, such security or indemnity as may be required by them to save each of them harmless from all risks, however remote. The Bond Registrar may authenticate any Bond issued upon such exchange or substitution and deliver such Bond upon the request of the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees, of the Issuer or the Bond Registrar.

If any Bond that has matured or is about to mature shall become mutilated or be destroyed, lost, or stolen, instead of issuing a Bond in exchange or substitution therefor, the Issuer may pay or authorize the payment of such Bond (without surrender thereof except in the case of a mutilated Bond) if the applicant for such payment shall furnish to the Issuer and to the Bond Registrar evidence to the satisfaction of the Issuer and the Bond Registrar of the mutilation, destruction, loss, or theft of such Bond and the ownership thereof and, in the case of any destroyed, lost, or stolen Bond, such security or indemnity as they may require to save them harmless from all risks.

Every Bond issued pursuant to the provisions of this Section in exchange or substitution for any Bond of the same series that is mutilated, destroyed, lost, or stolen shall constitute an additional contractual obligation of the Issuer, whether or not the destroyed, lost, or stolen Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits hereof equally and proportionately with any and all other Bonds. All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the respect to the replacement or payment mutilated, destroyed, lost, or stolen Bonds, and shall preclude any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

7. Cancellation and Disposition of Bonds. All mutilated Bonds, all Bonds surrendered for exchange or transfer, all Bonds that have been paid at maturity or upon prior redemption, and all Bonds surrendered to the Issuer for cancellation shall be canceled by the Bond Registrar.

8. Execution, Authentication and Delivery. The Bonds shall be prepared under the direction of the City Auditor and shall be executed and authenticated on behalf of the Issuer by the signatures of the Mayor and the City Auditor. All signatures may be printed, lithographed or engraved facsimiles of the original. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. Notwithstanding such execution, no Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution. When the Bonds have been so prepared and executed, the Issuer shall deliver the same to the Purchaser in exchange for the warrants of the Improvement Districts in the same aggregate principal amount, heretofore purchased by the Purchaser, and the Issuer shall pay to the Purchaser the interest accrued to the date of exchange of said warrants less the amount of interest accrued to said date on the Bonds, all in accordance with the agreement heretofore made and entered into relative to the refunding of the warrants, which agreement is hereby approved, ratified and confirmed.

In the event of the absence or unavailability of the Mayor, the City Auditor, or other appropriate officer of the City, the Bonds and the other documents authorized for execution and delivery pursuant to this section may be executed and delivered by the individual or individuals authorized generally by the City to act on behalf of the Mayor, the City Auditor, or other officer of the Issuer in such circumstances, including, without limitation, the Deputy Mayor and the Deputy City Auditor, as the case may be.

9. Establishment of Bond Fund. There shall be and is hereby created a special fund to be maintained by the City Auditor separate and apart from all other funds of the Issuer, to be designated as the SERIES 2023A REFUNDING IMPROVEMENT BOND FUND (herein referred to as the "Bond Fund"). To the Bond Fund shall be credited the Warrants when received by the City Auditor, which Warrants shall thereupon become and shall thereafter be held as an asset of said fund, and the proceeds of all collections on said Warrants so acquired shall be held by the Issuer in trust for the use and benefit of the holders from time to time of the Bonds to the extent such Warrants remain outstanding. The Special Funds of the Improvement District described in the resolution referred to in paragraph 1 hereof shall be continued and payments shall be made therefrom on the Warrants drawn thereon in the same manner as though said Warrants had not been exchanged. All payments of principal and interest made on said Warrants shall be credited to the Bond Fund and shall be used and applied in payment of the principal of and interest on the Bonds as such principal and interest become due.

10. Covenants. The Issuer hereby covenants and agrees with the holders from time to time of the Bonds issued pursuant hereto:

(a) That it will use due diligence to collect all amounts due on the Warrants and to levy and collect the special assessments, revenues, and taxes, if any, appropriated for their payment.

(b) That it will preserve and enforce for the benefit of the holders from time to time of the Bonds all of the rights, powers, and privileges reserved, to the holders of the Warrants, and all of the covenants of the Issuer as provided in the resolution authorizing the issuance of the Warrants.

(c) That at the time and in the manner prescribed by § 40-26-08, North Dakota Century Code, as amended, this governing body will levy general taxes on all taxable property in the corporate limits of the Issuer for the payment of any deficiency in any Special Fund and will cause the proceeds thereof to be applied in payment of the principal of and interest on the then unpaid Warrants drawn on said Special Fund, provided that the Issuer reserves the right to levy taxes in the manner and to the extent permitted by law for payment and discharge of any deficiency in said Special Funds prior to the date upon which it may become obligatory to levy such deficiency taxes, and the amounts thereof shall be credited against the levies which the Issuer might otherwise have been obligated to make.

(d) That in the event the moneys in the Bond Fund should at any time be insufficient to meet all payments of principal and interest then due on the Bonds, said moneys shall be first used to pay the interest accrued on all outstanding Bonds, and the balance shall be applied in payment of the principal of said Bonds in order of their maturity dates, earliest maturities first, Bonds bearing the same maturity dates being paid pro rata. The Issuer reserves the right and privilege of refunding any of such matured Bonds for the payment of which moneys are not at the time available by issuing new bonds payable from said Bond Fund, which bonds shall be on a parity with those theretofore issued as to interest charges thereon, but the maturity thereof shall be subsequent to the maturity of all Bonds payable from said fund and then outstanding, provided that no holder of Bonds herein authorized to be issued shall be obligated to accept any such bond in exchange for any of such matured Bond.

(e) The Issuer hereby reserves the right to issue additional improvement warrants and refunding improvement bonds, payable on a parity with the Bonds issued hereunder and the Warrants exchanged for the Bonds, to the extent required to complete the Improvements presently proposed for the Improvement Districts and to be financed by the issuance of the additional improvement warrants exchanged for additional revenue bonds.

(f) The Issuer hereby pledges all Warrants and the payments thereon to the payment of the principal of, and interest on, the Bonds.

11. Payment and Discharge; Defeasance. When all of the Bonds have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution shall cease. The Issuer may discharge its obligations with respect to all or a portion of the Bonds which are due on any date by depositing with the Paying Agent on or before that date a sum sufficient for the payment of the principal thereof, and interest accruing thereon to such duty in full. If any Bond shall not have been paid when due, the same may nevertheless be discharged by depositing with the Paying Agent a sum sufficient for the payment of the principal thereof in full with interest accrued thereon from the date to which interest has been paid to the date of such deposit and payment to the owners thereof. The Issuer may also discharge its obligations with respect to all or a portion of the Bonds, by depositing with the paying agent on or before that date an amount equal to the principal, interest and redemption premium, if any, which are due on the

maturity date, or earlier redemption date selected by the Issuer, provided that notice of such redemption has been duly given as provided herein. The Issuer may also at any time discharge its obligations with respect to all or a portion of the Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank or financial institution qualified by law as an escrow agent for this purpose, cash or securities which are general obligations of the United States or securities of United States agencies which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be sufficient to pay all principal, interest, and redemption premium to become due thereon to maturity or the date of earlier redemption selected by the Issuer. If less than all of the Bonds are to be discharged pursuant to this paragraph, the maturity date, the mandatory sinking fund redemption requirement with respect to Term Bonds, and series may be selected by the Issuer in its sole discretion.

12. Authentication of Transcript. The officers of the Issuer are hereby authorized and directed to prepare and furnish to the Purchaser and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records relating to the Bonds and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Bonds, as the same appear from the books and records in their custody and control or as otherwise known to them, and all such certified copies, affidavits and certificates, including any heretofore furnished, shall be deemed representations of the Issuer as to the correctness of all statements contained therein.

13. Securities Depository. (a) For purposes of this section the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Bond, the person in whose name such Bond is recorded as the beneficial owner of such Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Bonds.

“DTC” shall mean The Depository Trust Company of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Bonds as securities depository.

“Representation Letter” shall mean the Representation Letter pursuant to which the sender agrees to comply with DTC’s Operational Arrangements.

(b) The Bonds shall be initially issued as separately authenticated fully registered bonds, and one Bond shall be issued in the principal amount of each stated maturity of the Bonds. Upon initial issuance, the ownership of such Bonds shall be registered in the bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the Issuer may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Bonds under this resolution, registering the transfer of Bonds, and for all other purposes whatsoever; and

neither the Registrar nor the Issuer shall be affected by any notice to the contrary. Neither the Registrar nor the Issuer shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other person which is not shown on the bond register as being a registered owner of any Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Bonds, with respect to any notice which is permitted or required to be given to owners of Bonds under this resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Bonds. So long as any Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Bond, and shall give all notices with respect to such Bond, only to Cede & Co. in accordance with DTC's Operational Arrangements, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the Issuer to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the Issuer determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bonds in the form of bond certificates, the Issuer may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Bonds in the form of certificates. In such event, the Bonds will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the Issuer and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Bonds will be transferable in accordance with paragraph (e) hereof.

(d) The execution and delivery of the Representation Letter to DTC by the Issuer is hereby confirmed and ratified.

(e) In the event that any transfer or exchange of Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Bonds, or another securities depository as owner of all the Bonds, the provisions of this resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Bonds in the form of bond certificates and the method of payment of principal of and interest on such Bonds in the form of bond certificates. Any successor depository must be both a "clearing corporation" as defined in North Dakota Century Code, Section 41-08-02 and a qualified and registered "clearing agency" as provided in Section 17A of the Securities Exchange Act of 1934, as amended.

14. Tax Covenants; Arbitrage Matters; Reimbursement and Continuing Disclosure.

(a) Tax Covenant. The Issuer covenants and agrees with the holders from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and Regulations, Amended Regulations, and Proposed Regulations issued thereunder, as now existing or as hereinafter amended or proposed and in effect at the time of such action.

(b) Arbitrage Certification. The Mayor and the City Auditor being the officers of the Issuer charged with the responsibility for issuing the Bonds pursuant to this resolution, are authorized and directed to execute and deliver a certificate in accordance with the provisions of the Code and applicable Treasury Regulations (the "Regulations"), stating the facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds which make it reasonable to expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be arbitrage bonds within the meaning of the Code and Regulations.

(c) Rebate. The Issuer acknowledges that the Bonds are subject to the rebate requirements of Section 148(f) of the Code. The Issuer covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Regulations to preserve the exclusion of interest on the Bonds from gross income for federal income tax purposes, unless the Bonds qualify for one of the exceptions from the rebate requirement under Section 1.148-7 of the Regulations and no "gross proceeds" of the Bonds (other than amounts constituting a "bona fide debt service fund") arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the City Auditor is hereby authorized and directed to execute a Rebate Certificate, in the form prescribed by Bond Counsel, and the Issuer hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

(d) Not Qualified Tax Exemption Obligations. The Bonds are not designated as "qualified tax-exempt obligations" for purpose of Section 265(b) of the Code.

(e) Reimbursement. The Issuer certifies that the proceeds of the Bonds will not be used by the Issuer to reimburse itself for any expenditure with respect to the Improvements which the Issuer paid or will have paid prior to the issuance of the Bonds unless, with respect to such prior expenditures, the Issuer shall have made a declaration of official intent which complies with the provisions of Section 1.150-2 of the Regulations; provided that this certification shall not apply (i) with respect to certain de minimis expenditures, if any, with respect to the Improvements meeting the requirements of Section 1.150-2(f)(1) of the Regulations, or (ii) with respect to "preliminary expenditures" for the Improvements as defined in Section 1.150-2(f)(2) of the Regulations, including engineering or architectural expenses and similar preparatory expenses, which in the aggregate do not exceed 20% of the "issue price" of the Bonds.

(f) Continuing Disclosure. The City Auditor is hereby authorized to execute, on behalf of the Issuer, the Continuing Disclosure Certificate in a form substantially similar to that attached as **Attachment C** hereto, which is hereby incorporated herein and made a part hereof.

(g) Official Statement. The form of Official Statement relating to the Bonds prepared and distributed on behalf of the Issuer by Baker Tilly Municipal Advisors, LLC, is hereby approved, and the officers of the Issuer are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness and sufficiency thereof.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Auditor

COMMISSIONER \_\_\_\_\_ introduced the following resolution and moved its adoption. 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.





Attachment A

LIST OF IMPROVEMENT DISTRICTS WITH ESTIMATED BOND PROCEEDS PRINCIPAL  
AMOUNTS, ESTIMATED ASSESSMENTS, AND LEVY TERMS, AMOUNTS, AND PAYMENT  
YEARS FOR EACH

[UPDATE UPON PRICING, IF NECESSARY]

<b>Project Number</b>	<b>Designation</b>	<b>Estimated Bond Proceeds</b>	<b>Estimated Assessments</b>	<b>Levy Term*</b>	<b>Amounts and Payment Years</b>
BN-22-B1	New Paving & Utility Construction	\$1,375,000	\$1,372,766.83	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-21-H1	New Paving & Utility Construction	2,870,000	2,870,004.99	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-21-E1	New Paving & Utility Construction	2,450,000	2,435,814.09	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-22-K1	New Paving & Utility Construction	2,550,000	2,536,140.96	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-22-E1	Seal Coat	275,000	268,300.97	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
UN-22-M1	New Utility Construction	1,150,000	1,146,961.22	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-22-J1	New Paving & Utility Construction	590,000	583,915.26	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-22-G1	Asphalt Paving Rehab/Reconstruction	1,215,000	1,214,196.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BR-22-F1	Paving & Utility Rehabilitation Reconstruction	400,000	258,926.24	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-22-A1	New Paving & Utility Construction	12,000,000	11,990,564.27	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-21-F1	Concrete Paving Rehab/Reconstruction	575,000	398,085.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-22-F1	Asphalt Mill & Overlay	1,700,000	1,699,245.64	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PN-22-A1	Asphalt Wear Course	2,350,000	2,317,136.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-21-L1	New Paving & Utility Construction	1,400,000	1,393,275.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048

BR-22-C1	Paving & Utility Rehabilitation Reconstruction	1,100,000	975,887.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-22-C1	Concrete Paving Rehab/Reconstruction	1,260,000	625,130.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
SR-22-A1	Sidewalk & Shared Use Path Rehab/Reconstruction	735,000	733,455.00	20 years	Equal Principal and Interest Payments in each of the years 2024 through 2043
NR-20-A2	Storm Sewer Lift Station Rehab/Reconstruction	682,000	681,327.50	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-22-C1	New Paving & Utility Construction	20,500,000	20,476,000.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048

\*Assessments filed in 2023 for first collection in 2024.

Attachment B

FORM OF BONDS

UNITED STATES OF AMERICA  
STATE OF NORTH DAKOTA  
COUNTY OF CASS

CITY OF FARGO

REFUNDING IMPROVEMENT BOND, SERIES 2023A

No. <u>    </u>			\$ <u>          </u>
		DATE OF ORIGINAL ISSUE	
<u>INTEREST RATE</u>	<u>MATURITY</u>		<u>CUSIP</u>
<u>    </u> %	May 1, 20 <u>  </u>	February 22, 2023	<u>          </u>

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

KNOW ALL BY THESE PRESENTS that the City of Fargo, Cass County, North Dakota (the "Issuer"), acknowledges itself to be indebted and for value received promises to pay to the registered owner named above, or registered assigns, the principal amount specified above on the maturity date specified above and promises to pay interest thereon from the date of original issue specified above or from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for, at the annual rate specified above, payable on May 1 and November 1 in each year, commencing November 1, 2023 (each such date, an "Interest Payment Date") all subject to the provisions referred to herein with respect to the redemption of the principal of this Bond before maturity. The interest so payable on any Interest Payment Date shall be paid to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the calendar month next preceding such Interest Payment Date. Interest hereon shall be computed on the basis of a 360-day year composed of twelve 30-day months. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by check or draft drawn by the City Auditor of the Issuer, who will serve as the Bond Registrar (the "Registrar")

This Bond is one of an issue designated the CITY OF FARGO REFUNDING IMPROVEMENT BONDS, SERIES 2023A (the "Bonds"), in the aggregate principal amount of \$[PAR] all of like date and tenor except as to serial number, maturity date, interest rate, and redemption privilege, issued, pursuant to the Resolution adopted by the governing body of the Issuer for the purpose of refunding a like principal amount of valid outstanding special improvement warrants drawn on the funds of improvement districts heretofore duly created by the Issuer for the financing of the cost of local improvements in anticipation of the levy and collection of special assessments with respect to the

improvements, all pursuant to and in full conformity with the Constitution and laws of the State of North Dakota.

[Bonds maturing on May 1 in the years 2024 through 2028 will not be subject to payment in advance of their respective stated maturity dates.

Bonds maturing on May 1 in the years 2029 through 2031 are subject to optional redemption on or after May 1, 2028 at a price of par plus accrued interest to the date of redemption.

Bonds maturing on May 1 in the years 2032 and 2033 will not be subject to payment in advance of their respective stated maturity dates; and

Bonds maturing on May 1 in the years 2034 through 2048 are subject to optional redemption on or after May 1, 2033 at a price of par plus accrued interest to the date of redemption.]

In the event Bonds are to be called for optional redemption in part, the maturities and the Bonds within a maturity shall be selected by the Bond Registrar by lot or in such manner as the Bond Registrar shall determine. Not less than 20 days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the Bond Registrar, the Paying Agent, and the registered owner of the Bond to be redeemed, in whole or in part, at the address shown on the registration books of the Registrar.

The Bonds maturing in the years [\_\_\_\_\_] and [\_\_\_\_\_] shall be known as Term Bonds. The Term Bonds are subject to mandatory sinking fund redemption in part at a Redemption Price equal to 100% of the principal amount thereof, together with accrued interest to the Redemption Date on May 1 of the following years and in the following principal amounts:

<u>Term Bonds Maturing on May 1, 20[ ]</u>		<u>Term Bonds Maturing on May 1, 20[ ]</u>	
<u>Redemption Date</u>	<u>Principal</u>	<u>Redemption Date</u>	<u>Principal</u>
<u>(May 1)</u>	<u>Amount</u>	<u>(May 1)</u>	<u>Amount</u>
	\$		\$
*		*	

                      
\*Stated Maturity

                      
\*Stated Maturity

In the event a Bond is called for mandatory sinking fund redemption, the Bonds to be redeemed within a maturity shall be selected by the Bond Registrar by lot or in such manner as the Bond Registrar shall determine. Not less than 20 days prior to the date specified for redemption and prepayment of this Bond, the Issuer will cause notice of the call thereof to be sent by mail to the Bond Registrar, the Paying Agent, and the registered owner of this Bond to be redeemed, in whole or in part, at the address shown on the registration books of the Registrar. If less than all Term Bonds of a single maturity of the same series are to be redeemed at the option of the Issuer, the Issuer may apply the principal amount to be redeemed to reduce the mandatory sinking fund

redemption requirements in such the Term Bond to be redeemed in such year or years as it determines in its sole discretion.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the Issuer at the principal office of the Bond Registrar, by the registered owner hereof in person or by its attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or attorney, and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange, the Issuer will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate, and maturing on the same date, subject to reimbursement for any tax, fee, or governmental charge required to be paid with respect to such transfer or exchange. The Issuer and the Bond Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the Issuer nor the Bond Registrar shall be affected by any notice to the contrary.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the Issuer.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED, AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen and to be performed precedent to and in the valid issuance of this Bond have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that the Issuer has duly created the SERIES 2023A REFUNDING IMPROVEMENT BOND FUND as a separate and special fund and has appropriated thereto the improvement warrants refunded by the Bonds of this series, on which improvement warrant payments are required by law to be made as though none of such warrants had been refunded, and will use due diligence to collect said improvement warrants and the special assessments and any taxes necessary for their payment; the Issuer has reserved the right and privilege of issuing additional improvement warrants on the funds of said improvement districts, if and to the extent necessary to complete payment of the cost of the improvements, and the right and privilege of refunding such warrants by the issuance of additional series of Refunding Improvement Bonds, payable on a parity with the Bonds of this series, provided that the total amount of special assessments and taxes appropriated for payment of the cost of the improvements shall be not less than the total amount of warrants issued with respect thereto; that the governing body is required by law to levy a tax upon all the taxable property in the corporate limits of the Issuer, without limitation as to rate or amount, to meet any deficiency in any of said improvement district funds for the payment of all warrants drawn thereon, with interest; and that all collections of special assessments and taxes necessary for the payment of said improvement warrants are required by law to be credited to the Bond Fund and applied in payment of the principal of and interest on the Bonds of this series and any other series issued pursuant to the authority hereinbefore reserved; all

as more fully stated in the Resolution; and that the issuance of this Bond has not caused the indebtedness of the Issuer to exceed any constitutional or statutory limitation of indebtedness.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon shall have been executed by the Bond Registrar by manual signature of one of its authorized representatives.





ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto  
\_\_\_\_\_  
the within Bond and all rights thereunder, and does hereby irrevocably constitute and appoint  
\_\_\_\_\_  
attorney to transfer the said Bond on the books kept for registration of the within Bond, with full  
power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

PLEASE INSERT SOCIAL SECURITY  
NUMBER OR OTHER IDENTIFYING  
NUMBER OF ASSIGNEE:

\_\_\_\_\_  
Signature Guaranteed:

\_\_\_\_\_  
Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in STAMP or such other "signature guaranty program" as may be determined by the Registrar in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

Attachment C

**CONTINUING DISCLOSURE CERTIFICATE**

February 22, 2023

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the City of Fargo, North Dakota (the “Issuer”) in connection with the Issuer’s \$[PAR] REFUNDING IMPROVEMENT BONDS, SERIES 2023A (the “Bonds”). The Bonds are being issued pursuant to a resolution adopted by the governing body of the Issuer on January 23, 2023 (the “Resolution”), and delivered to [Purchaser] in [City], [State] (the “Purchaser”) on the date hereof. The Issuer hereby covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the Owners of the Bonds in order to assist the Participating Underwriters within the meaning of SEC Rule 15c2-12(b)(5) (the “Rule”) in complying with the Rule. This Disclosure Certificate constitutes the written undertaking and agreement of the Issuer for the benefit of the Owners of the Bonds as required by the Rule.

Section 2. Definitions. In addition to the defined terms set forth in the Resolution, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” means the annual financial information (as defined in the Rule), including audited financial statements, to be provided to the MSRB in an electronic format prescribed by the MSRB pursuant to paragraph 5(i)(A) and (B) of the Rule, as described in Section 3 and 4 of this Disclosure Certificate.

“EMMA” means the Electronic Municipal Market Access system established by the MSRB with the support of the SEC, or any successor system, which can be accessed on the date hereof at [www.emma.msrb.org](http://www.emma.msrb.org).

"Financial Obligation" shall mean a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). This term shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Financial Statements” means audited or, if unavailable, unaudited general purpose financial statements of the Issuer prepared in accordance with generally accepted accounting principles, as in effect from time to time or as required to be modified as a matter of law. If unaudited financial statements are provided, audited financial statements will be provided when and if available.

“Fiscal Year” means the fiscal year of the Issuer.

“Final Official Statement” means the final official statement relating to the Bonds dated [FOS Date], 2023, which constitutes the final official statement delivered in connection with the Bonds, which is available from the MSRB.

“Issuer” means the City of Fargo, North Dakota, which is the obligated person (as defined in the Rule) with respect to the Bonds.

“Material Event” means any of the events listed in paragraph 5(i)(C) and paragraph 5(i)(D) of the Rule, which are set forth in Section 5(a) and (d) of this Disclosure Certificate.

“MSRB” means the Municipal Securities Rulemaking Board on the date hereof located at 1300 I Street, Suite 1000, Washington, DC 20005.

“Owner” means the person in whose name a Bond is registered or a beneficial owner of such a Bond.

“Participating Underwriter” means any of the original underwriter(s) of the Bonds (including the Purchaser) required to comply with the Rule in connection with the offering of the Bonds.

“Rule” means SEC Rule 15c2-12(b)(5) promulgated by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time, and including written interpretations thereof by the SEC.

“SEC” means the Securities and Exchange Commission.

Section 3. Provision of Annual Financial Information and Financial Statements.

(a) The Issuer shall, not later than 12 months after the end of each Fiscal Year, commencing with the year ending December 31, 2022, provide to the MSRB in an electronic format as prescribed by the MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate and which shall include the CUSIP numbers for the all outstanding Bonds and such other identifying information as may be required from time to time by the Rule. The Annual Report shall be submitted to the MSRB at EMMA or as otherwise directed by the MSRB and may be submitted as a single document or as separate documents comprising a package, and may incorporate by specific reference information in documents available to the public on the MSRB’s internet website or filed with the SEC; provided that the Financial Statements of the Issuer may be submitted separately from the balance of the Annual Report.

(b) If the Issuer is unable or fails to provide an Annual Report by the date required in subsection (a) to the MSRB, the Issuer shall provide a notice of such failure to the MSRB as set forth in Section 5(b) hereof.

Section 4. Content of Annual Reports. The Issuer’s Annual Report shall contain or incorporate by reference the annual Financial Statements and annual financial information similar to that set forth in the following sections of the Final Official Statement:

- (1) Economic and Demographic Information.
- (2) Financial Summary.

- (3) City Indebtedness.
- (4) Outstanding Indebtedness.
- (5) Financial Information.
- (6) Property Valuation and Taxes.

Section 5. Reporting of Material Events.

(a) The Issuer shall provide to the MSRB in an electronic format prescribed by the MSRB notice of any of the following events with respect to the Bonds in a timely manner not in excess of ten (10) business days after the occurrence of the event, which notice shall be submitted to the MSRB at EMMA, or as otherwise directed by the MSRB:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modification to rights of security holders, if material;
- (8) Bond Calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the obligated person;
- (13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;

(15) Incurrence of a Financial Obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the obligated person, any of which affect security holders, if material; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the obligated person, any of which reflect financial difficulties.

(b) If the Issuer determines that it has failed to give notice of a Material Event as set forth above or to file the Annual Report in a timely fashion as required herein, the Issuer shall promptly file a notice of such occurrence to the MSRB in an electronic format prescribed by the MSRB, which notice shall be submitted to the MSRB at EMMA or as otherwise directed by the MSRB.

Section 6. Reporting Generally. The Issuer shall file its Annual Report, each notice of a Material Event, and each notice required by subsection (b) of Sections 3 and 5 of this Disclosure Certificate with the CUSIP numbers for all outstanding Bonds specified and such other identifying information as may be required from time to time by the Rule or by the MSRB. Each such item shall be submitted to the MSRB at EMMA, or as otherwise directed by the Rule or the MSRB, in an electronic format prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The Issuer's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption, or payment in full of all the Bonds.

Section 8. Agent. The Issuer may, from time to time, appoint or engage a dissemination agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such agent, with or without appointing a successor dissemination agent.

Section 9. Amendment: Waiver. Notwithstanding any other provision of this Disclosure Certificate and without consent of the Owners of the Bonds, the Issuer may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, if such amendment or waiver (i) is required by an amendment of the Rule by the SEC or procedures relating to the Rule by the MSRB, (ii) is to clarify an ambiguity or error, or (iii) does not provide for undertakings which violate the Rule or procedures of the MSRB then in effect or eliminates undertakings then required by the Rule or otherwise required by the SEC or the MSRB with respect to the Rule, which may be evidenced by a written opinion of legal counsel selected by the Issuer to the effect that such amendment or waiver would not, in and of itself, violate the Rule, requires undertakings which would violate the Rule or eliminates undertakings required by the Rule. If the Issuer determines that any such amendment or waiver materially changes the information provided to the MSRB or the timing of the information to be provided and that such information has not otherwise been provided to the MSRB in an Annual Report or Material Event filing, it shall provide the MSRB notice of such amendments as additional information pursuant to Section 9 hereof.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from providing any other information to the public, using the means of filing with the MSRB as set forth in this Disclosure Certificate or any other means of communication. Such information may include any other information in addition to that which is required by this Disclosure Certificate. If the Issuer chooses to include any information in addition to that which is specifically required by this Disclosure Certificate, the Issuer shall have no obligation under this Disclosure Certificate to update such information and may state in the disclosure that it does not intend to update such information.

Section 11. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default with respect to the Bonds and the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Issuer, the Participating Underwriters and Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

IN WITNESS WHEREOF, I have executed this Disclosure Certificate in my official capacity on behalf of the City of Fargo, North Dakota as of the date first written above.

CITY OF FARGO, NORTH DAKOTA

By: \_\_\_\_\_  
Steven Sprague  
City Auditor

RESOLUTION SELLING, ESTABLISHING TERMS AND DIRECTING ISSUANCE OF DEFINITIVE IMPROVEMENT WARRANTS ON THE FUNDS OF CERTAIN IMPROVEMENT DISTRICTS, AND PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR THE SUPPORT AND MAINTENANCE OF SAID FUNDS

BE IT RESOLVED by the City Commission (the "Commission") of the City of Fargo, Cass County, North Dakota (the "Issuer") as follows:

1. Findings. It is hereby found, determined, and declared that the Issuer has heretofore duly created the improvement districts as set forth in **Attachment A** hereto, which is incorporated herein (the "Improvement Districts"), and has ordered, received, and approved plans and specifications, and estimates of the cost, for the construction of the improvements in said Improvement Districts (the "Improvements"); that the governing body determined the necessity of constructing the Improvements; that the Improvements have been petitioned by the owners or that insufficient protests to the project were filed in accordance with State of North Dakota (the "State") law; that contracts for construction of the Improvements have been duly awarded and executed; that the contracts and contractors' bonds have been and are hereby approved; that the Issuer possesses and has power to exercise through this governing body full and exclusive jurisdiction over all streets and places wherein said improvements are located; that the total cost of said Improvements in excess of any other funds on hand and appropriated for the payment of such cost including reimbursing other funds of the Issuer for any amounts temporarily advanced to meet immediate expenses of the Improvements less prepayments actually received and to be used to pay the cost of said Improvements is now estimated to be approximately the amount set forth in **Attachment A** hereto, which is incorporated herein; that to pay the total cost of said Improvements, the Issuer has sold improvement warrants in the principal amount of \$[PAR]; that the total benefits to all lots, tracts, and parcels of land liable to be specially assessed for benefits resulting from the Improvements in said Improvement Districts will be substantially in excess of the cost of said Improvements to be assessed against said properties as herein provided; and that all acts, conditions, and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen, and to be performed preliminary to the issuance and sale of warrants to provide moneys to pay for said Improvements (the "Warrants") have been done, do exist, have happened, and have been performed in regular and due form and in the time and manner as so required. Each Warrant is payable from and secured by a special fund of the Issuer created with respect to an Improvement District and the special assessments levied within such Improvement District for the Improvements relating to such district.

2. Issuance and Sale of Warrants. In order to pay the Issuer's portion of the cost of the Improvements (including the retirement of any temporary warrants heretofore issued for such cost), it is necessary and expedient for the Issuer at this time to borrow money by the issuance of improvement warrants to be drawn upon the respective funds (the "Funds") of the Districts, created pursuant to Section 4, in the aggregate principal amount of \$[PAR] (the "Warrants"). Bids for the purchase of the Warrants, to be immediately refunded by the issuance of \$[PAR] Refunding Improvement Bonds, Series 2023A (the "Bonds") of the Issuer, have been solicited by Baker Tilly Municipal Advisors, LLC, the Issuer's municipal advisor, pursuant to an Official Terms of Offering and an Official Statement for the sale of the Warrants and Bonds, and the Commission has publicly considered all sealed bids presented in conformity therewith. It is hereby determined that the best bid for the purchase of the Warrants and Bonds is the bid received from [purchaser],

of [City, State] (the “Purchaser”), said bid being to purchase the Warrants and Bonds in a principal amount of \$[PAR] at a price of \$[purchaseprice], and upon the further terms set forth herein. The Mayor and City Auditor are hereby authorized and directed on behalf of the Issuer to execute a contract with the Purchaser for the sale of the Bonds.

3. Interest Rate; Payment Dates and Installment of Principal. In anticipation of the collection of the special assessments and of any taxes as set forth in Sections 5 and 8 hereof, the Issuer shall issue and deliver a definitive improvement warrant on the fund of each District in the respective principal amounts set forth in Exhibit A. The warrants shall be dated as of February 22, 2023, and shall bear interest at the rates set forth in Exhibit A, payable on May 1 and November 1 in each year, commencing November 1, 2023, but no interest coupons shall be attached thereto. One or more warrants shall be issued for each District, payable in annual installments of principal, with interest, on May 1 in the respective years and in the amounts specified for each of said years, as provided in Exhibit A hereto.

4. Creation and Uses of Funds and Accounts There is hereby created a special fund of the Issuer for each Improvement District (the “Special Funds,” each a “Special Fund”), which Special Funds shall be held and administered by the City Auditor separate and apart from all other funds of the Issuer and each Special Fund shall be continued and maintained as directed in this resolution until all Warrants issued thereon shall have been fully paid with interest. In each such Special Fund there shall be maintained two separate accounts to be designated as the “Construction Account” and “Principal and Interest Account,” respectively.

(a) There shall be credited to the Construction Account in each Special Fund the proceeds of the sale of the Warrants issued against such Special Fund except the accrued interest and except any amounts necessary to reimburse other funds of the Issuer for temporary advances made for the Improvements. All costs and expenses of making said Improvements, including interest coming due during construction, shall be paid from time to time as incurred and allowed from said Construction Account, upon Construction Account warrants signed by the Mayor and City Auditor, or in their absence, the Deputy Mayor and/or the Deputy City Clerk, and moneys in said Account shall be used for no other purpose, provided that if upon completion of the Improvements and approval thereof by the Engineer for the Issuer, and payment of all claims and expenses in respect to said Improvement, there shall remain any unexpended balance in said Construction Account, such balance shall be transferred to the respective Principal and Interest Account and handled and accounted for in the same manner as other moneys in that account.

(b) There shall be credited to the Principal and Interest Account in each Special Fund the accrued interest, if any, on the Warrant drawn on said fund from the date of the Warrant to the date of delivery thereof to the Purchaser, the entire amount of special assessments and any taxes to be levied with respect to that improvement as herein set forth, to the extent necessary to pay principal and interest on Warrants payable therefrom, and any balance remaining in the Construction Account after completion of said Improvement. While a Warrant remains outstanding, moneys in the Principal and Interest Account therefor shall be used only for payment of the principal of and interest on the Warrants drawn against said fund to the extent such payments become due.



(c) The Issuer covenants and agrees with the holders from time to time of the Issuer's refunding improvement bonds, which are payable from, and secured by, the Warrants and the interest on which is excluded from gross income for federal tax purposes (the "Bonds"), that it will not take or permit to be taken by any of its officers, employees, or agents any action which would cause the interest on the Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended, and regulations, amended regulations, and proposed regulations issued thereunder, as now existing or as hereinafter amended or proposed and in effect at the time of such action.

5. Special Assessments. With respect to the Improvement Districts, the Issuer covenants and agrees with all holders of Warrants that it will do and perform as soon as may be possible, in accordance with law, all acts and things necessary for the final and valid levy of special assessments against properties within the Improvement Districts benefited by the Improvements, in an aggregate amount equal to the total cost of the Improvement to the Issuer, except any portion, not exceeding one-fifth of the cost of the improvement and not exceeding any applicable constitutional or statutory debt limit, as the Issuer may determine to pay by the levy of *ad valorem* taxes upon all taxable property within its corporate limits.

In the event that the special assessment should at any time be held invalid with respect to any lot or tract of land, due to any error, defect or irregularity in any action or proceeding taken or to be taken by the Issuer or by the governing body or by any officers or employees, either in the making of the special assessment or in the performance of any condition precedent thereto, the Issuer and this governing body covenant and agree that they will forthwith do all such further acts and take all such further proceedings as may be required by law to make such special assessment a valid and binding lien upon such lot or tract.

The installments of special assessments from time to time remaining unpaid shall bear interest at the applicable rate, not exceeding seventy-five hundredths of a percentage point (0.75%) above the true interest cost (TIC) annual interest rate on bonds issued on special improvement districts, said special assessments to be levied in equal annual installments of principal, together with the interest to accrue thereon, as set forth in **Attachment A** hereto.

6. Form of Warrant. The Warrants shall be reproduced in substantially the form set forth in **Attachment B** hereto and incorporated herein.

7. Execution and Delivery. Each Warrant shall be prepared for execution under the direction of the City Auditor and shall be executed on behalf of the Issuer by the signature of the Mayor, countersigned by the City Auditor and sealed with the official seal of the Issuer. When executed, the warrants shall be delivered by the City Auditor to the Purchaser thereof upon payment of the purchase price agreed upon, and the Purchaser shall not be obligated to see to the application of the purchase price.

The Mayor, the City Auditor, and other officers of the Issuer are also hereby authorized to execute and deliver any such additional certificates, showings, agreements, or documents necessary or otherwise appropriate in connection with the issuance of the Warrants and the transactions contemplated thereby.

In the event of the absence or unavailability of the Mayor, the City Auditor, or other appropriate officer of the Issuer, the Warrants and the other documents authorized for execution and delivery pursuant to this section may be executed and delivered by the individual or individuals authorized generally by the Issuer to act on behalf of the Mayor, the City Auditor, or other officer of the Issuer in such circumstances, including, without limitation, the Deputy Mayor and the Deputy City Auditor, as the case may be.

In case any officer signing documents authorized to be executed and delivered by this resolution shall cease to be such officer before or after the delivery of any such document, such signature, nevertheless, shall be valid and remain sufficient for all purposes as if such officer had remained in office until such delivery or later applicable time.

8. Covenant as to Tax Levy. With respect to each Special Fund, the Issuer hereby recognizes its obligation with respect to the Warrants drawn against the Funds, as set forth in § 40-26-08, North Dakota Century Code, as amended, and covenants that whenever all special assessments, utility revenues and taxes, if any, appropriated and theretofore collected for the related Improvement are insufficient to pay principal of or interest then due on the applicable Warrant, the governing body of the Issuer shall thereupon levy a tax upon all taxable property in the corporate limits of the Issuer for the payment of such deficiency, provided that if said Warrant has been exchanged for refunding improvement bonds pursuant to the provisions of Chapter 40-27, North Dakota Century Code, such deficiency tax may be made payable in the years and amounts required to pay the principal of and interest on such refunding improvement bonds as the same become due. Nothing herein contained shall be deemed to limit the power of the Issuer and this governing body under the provisions of said § 40-26-08, as amended, to levy a general tax in anticipation of a deficiency considered likely to occur in said Special Fund within one year, and it is hereby declared to be the policy of the Issuer that the governing body will annually review the current requirements and resources of each Special Fund, at the time of the preparation of and hearing on the budget, in accordance with the provisions of Chapter 40-40, North Dakota Century Code, to the end that provisions may be made in each annual budget for any deficiency in said applicable Funds which is deemed likely to occur within the then next succeeding year. Any taxes levied in accordance with the provisions of this paragraph in payment of a deficiency, or in anticipation of a deficiency, shall be paid upon collection into the Principal and Interest Account of the Special Fund and applied as provided in paragraph 2(b) hereof.

9. Refunding. With respect to the Special Funds, the Issuer reserves the right and privilege of refunding any warrants drawn against any of the Special Funds and refunding improvement bonds payable from such warrants which are past due, or which are redeemable at the option of the Issuer, or to the redemption or exchange of which the holder thereof shall have consented, and for the payment of which Warrants moneys are not at the time available in said fund, by issuing new warrants pursuant to the provisions of § 40-27-06, North Dakota Century Code. Such refunding warrant shall be payable from the applicable Special Fund on a parity with the Warrant previously issued as to interest charges, provided, however, that the principal maturities of such refunding warrant shall be subsequent to the maturities of all Warrants payable from such Special Fund and then outstanding, except the warrants so refunded.

With respect to the Special Funds, the Issuer also reserves the right to issue additional warrants and refunding improvement bonds for the payment of the cost of the improvement in said

districts if the actual cost of said improvement should be greater than has been estimated, such additional warrants to be payable from said fund on a parity with other warrants drawn on said funds.

10. Certification of Proceedings. The officers of this Issuer and the County Auditor of Cass County are authorized and directed to prepare and furnish to the purchaser of said warrants and to Dorsey & Whitney LLP, Bond Counsel to the Issuer, certified copies of all ordinances, resolutions, affidavits or other instruments relating to the establishment and construction of said improvement and the operation and maintenance thereof, and the levy of special assessments and taxes therefore or the issuance of said improvement warrants, which may be necessary or proper to show the validity or marketability of said warrants, and all instruments and transcripts so furnished, constitute representations of the Issuer as to the correctness of the facts as stated or recited therein.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Auditor

COMMISSIONER \_\_\_\_\_ introduced the preceding resolution and moved its adoption. 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 this [ ] day of January, 2023.

Attachment A

LIST OF IMPROVEMENT DISTRICTS WITH ESTIMATED BOND PROCEEDS PRINCIPAL AMOUNTS, ESTIMATED ASSESSMENTS, AND LEVY TERMS, AMOUNTS, AND PAYMENT YEARS FOR EACH

[UPDATE UPON PRICING, IF NECESSARY]

<b>Project Number</b>	<b>Designation</b>	<b>Estimated Bond Proceeds</b>	<b>Estimated Assessments</b>	<b>Levy Term*</b>	<b>Amounts and Payment Years</b>
BN-22-B1	New Paving & Utility Construction	\$1,375,000	\$1,372,766.83	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-21-H1	New Paving & Utility Construction	2,870,000	2,870,004.99	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-21-E1	New Paving & Utility Construction	2,450,000	2,435,814.09	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-22-K1	New Paving & Utility Construction	2,550,000	2,536,140.96	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-22-E1	Seal Coat	275,000	268,300.97	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
UN-22-M1	New Utility Construction	1,150,000	1,146,961.22	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-22-J1	New Paving & Utility Construction	590,000	583,915.26	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-22-G1	Asphalt Paving Rehab/Reconstruction	1,215,000	1,214,196.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BR-22-F1	Paving & Utility Rehabilitation Reconstruction	400,000	258,926.24	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-22-A1	New Paving & Utility Construction	12,000,000	11,990,564.27	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-21-F1	Concrete Paving Rehab/Reconstruction	575,000	398,085.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-22-F1	Asphalt Mill & Overlay	1,700,000	1,699,245.64	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PN-22-A1	Asphalt Wear Course	2,350,000	2,317,136.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-21-L1	New Paving & Utility Construction	1,400,000	1,393,275.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048

BR-22-C1	Paving & Utility Rehabilitation Reconstruction	1,100,000	975,887.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
PR-22-C1	Concrete Paving Rehab/Reconstruction	1,260,000	625,130.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
SR-22-A1	Sidewalk & Shared Use Path Rehab/Reconstruction	735,000	733,455.00	20 years	Equal Principal and Interest Payments in each of the years 2024 through 2043
NR-20-A2	Storm Sewer Lift Station Rehab/Reconstruction	682,000	681,327.50	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048
BN-22-C1	New Paving & Utility Construction	20,500,000	20,476,000.00	25 years	Equal Principal and Interest Payments in each of the years 2024 through 2048

\*Assessments filed in 2023 for first collection in 2024.

Attachment B

FORM OF WARRANT

UNITED STATES OF AMERICA  
STATE OF NORTH DAKOTA  
COUNTY OF CASS

CITY OF FARGO

IMPROVEMENT WARRANT, SERIES 2023A  
IMPROVEMENT DISTRICT NO. \_\_\_\_\_

R-[ ]

INTEREST RATE

DATE OF ORIGINAL ISSUE

[ ] %

\_\_\_\_\_, 2020

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

KNOW ALL BY THESE PRESENTS that the City of Fargo, Cass County, North Dakota, (the "Issuer") acknowledges itself to be specially indebted and for value received promises to pay to the registered owner specified above or registered assigns, the principal amount of \$ \_\_\_\_\_ in annual installments on May 1 in each of the years 20\_ through 20\_ but only from its \_\_\_\_\_ Fund, with interest thereon from the date hereof at the annual rate specified above, such interest payable on May 1 and November 1 in each year, commencing November 1, 2023, to the holder of record on the close of the 15th day (whether or not a business day) of the immediately preceding month. Both principal and interest are payable at the office of the City Auditor of the Issuer, in Fargo, North Dakota, in any coin or currency of the United States of America which on the respective dates of payment is legal tender for public and private debts.

This warrant is issued for the purpose of financing a portion of the cost of a necessary improvement benefiting the above-named District of the Issuer, and is issued pursuant to and in full conformity with the Constitution and laws of the State of North Dakota thereunto enabling, including Chapters 40-22 to 40-28 and Chapter 40-49 of the North Dakota Century Code, and amendatory and supplemental laws, and in anticipation of the collection of special assessments levied or to be levied and collected to pay for said improvement, which moneys are to be appropriated to the account and fund referred to above.

This warrant is subject to redemption and prepayment at the option of the Issuer at any time, at a price equal to the principal amount hereof and accrued interest, for the sole purpose of refunding the entire issue by the issuance of refunding improvement bonds of the Issuer pursuant to Chapter 40-27, North Dakota Century Code.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen and to be performed preliminary to and in the valid issuance of this warrant have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that this warrant is duly issued to pay costs incurred and to be incurred in the making of a necessary improvement of special benefit to the above-named Improvement District, in anticipation of the collection of special assessments to be duly levied upon properties within said district, and of taxes to the extent determined by the governing body, which are irrevocably appropriated to the fund of the district in amounts sufficient to pay when due the principal of and interest on all warrants drawn thereon; that if the fund should at any time be insufficient to pay principal or interest due, the Issuer is also required by law to levy a tax upon all of the taxable property within its corporate limits for the payment of such deficiency, without limitation of rate or amount; and that the issuance of this warrant did not cause the special or general indebtedness of the Issuer to exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF the City of Fargo, North Dakota, by its governing body has caused this warrant to be executed in its behalf by the signature of the Mayor and countersigned by the City Auditor, and sealed with its official seal.

\_\_\_\_\_  
Mayor

Countersigned:

\_\_\_\_\_  
City Auditor

(S E A L)

\_\_\_\_\_  
REGISTRATION

The City of Fargo, North Dakota, has registered the ownership of the within warrant, and of the interest payable thereon, on the books of the City maintained by its City Auditor at Fargo, North Dakota, in the name of the following owner:

City of Fargo, in trust for the owners of its Refunding Improvement Bonds, Series 2023A.

Dated as of the \_\_\_\_ day of January, 2023.

\_\_\_\_\_  
City Auditor

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 the preceding resolution attached hereto is a full, true, and correct copy of the RESOLUTION SELLING, ESTABLISHING TERMS AND DIRECTING ISSUANCE OF DEFINITIVE IMPROVEMENT WARRANTS ON THE FUNDS OF CERTAIN IMPROVEMENT DISTRICTS, AND PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR THE SUPPORT AND MAINTENANCE OF SAID FUNDS adopted by the governing body of the City of Fargo at the meeting held on January 23, 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 January, 2023.

\_\_\_\_\_  
City Auditor

(S E A L)

4890-8738-1571\4





29

**John Strand, City Commissioner**

Fargo City Hall

225 4th Street North

Fargo, ND 58102-4817

Phone: 701.715.3269 | Fax: 701.476.4136

Email: [JStrand@FargoND.gov](mailto:JStrand@FargoND.gov)

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

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: CITY COMMISSIONER JOHN STRAND**

**DATE: JANUARY 23, 2023**

**SUBJECT: NOISE ORDINANCE RFP**


During the summer of 2022, the City of Fargo experienced difficulty regulating outdoor amplified sound and the existing noise ordinance was called into question. City staff has worked diligently to come to a solution only to discover they lack the expertise needed to provide a recommendation to the City Commission.

City staff is recommending we reach out to vendors to assist in drafting Ordinance language. The RFP should be all-inclusive encompassing both permanent as well as transient noise producers. The consultant should engage the brick and mortar businesses as well as street performers (buskers).

**RECOMMENDED MOTION: To direct City Staff along with the City Attorney to seek an RFP to address the Noise Ordinance.**

30a

MEMORANDUM

**TO:** BOARD OF CITY COMMISSIONERS  
**FROM:** MAYOR TIMOTHY J. MAHONEY   
**DATE:** JANUARY 23, 2023  
**SUBJECT:** RENAISSANCE ZONE AUTHORITY APPOINTMENTS

The terms of Deb Mathern and Prakash Mathew on the Renaissance Zone Authority expired on January 1, 2023.

Ms. Mathern and Mr. Mathew are willing to continue their service on the Board; therefore, I am recommending their reappointment.

Your favorable consideration of these recommendations is greatly appreciated.

**RECOMMENDED MOTION:** To approve the reappointment of Deb Mathern and Prakash Mathew to the Renaissance Zone Authority for three-year terms ending January 1, 2026.

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**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: MAYOR TIMOTHY J. MAHONEY**



**DATE: JANUARY 23, 2023**

**SUBJECT: APPOINTMENTS TO THE HISTORIC PRESERVATION COMMISSION**

The terms of Mike Dawson and Matthew Boreen on the Historic Preservation Commission expired on October 31, 2022.

Both Mr. Dawson and Mr. Boreen are willing to continue their service on the Board; therefore, I am recommending their reappointment.

Your favorable consideration of this recommendation will be greatly appreciated.

**RECOMMENDED MOTION:** To approve the reappointment of Mike Dawson and Matthew Boreen to the Historic Preservation Commission for three-year terms ending October 31, 2025.

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