

NOTICE OF PROPOSED HOME RULE CHARTER AMENDMENT
REGARDING LODGING TAX AND SALES, GROSS RECEIPTS AND USE TAX

PLEASE TAKE NOTICE that an election will be held on Tuesday December 5, 2023, on a single question of whether to amend the Home Rule Charter to establish a three percent (3%) lodging tax on hotel and motel room rentals for a period of twenty (20) years and a one-quarter percent (1/4 %) sales, gross receipts and use tax for a period of twenty (20) years with the proceeds from the two taxes being utilized, as the governing body of the City may select, to pay costs of remodeling the Fargodome, of adding a conference center to the Fargodome, and of ongoing capital projects, maintenance and operation thereof.

FURTHER, PLEASE TAKE NOTICE that the Board of City Commissioners, on the 5th day of September, 2023, approved and adopted a resolution proposing that the citizens of Fargo vote on whether to amend the Home Rule Charter of the City of Fargo to establish a city lodging tax of three percent (3%) in addition to the existing three percent (3%) city lodging tax and to impose a one-quarter percent (1/4%) sales, gross receipts and use tax, said proceeds to be utilized to pay or finance costs associated with the remodeling the Fargodome, with the addition of a conference center to the Fargodome, and with ongoing capital projects, maintenance and operation of the Fargodome and functionally-related facilities including the conference center:

RESOLUTION

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the City of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, which has adopted a Home Rule Charter, pursuant to the authority of N.D.C.C. Chapter 40-05.1; and,

WHEREAS, pursuant to Article 34 of the City Ordinances, implementing Article 3(P)(5) of the Fargo Home Rule Charter, the City has created the Fargo Dome Authority (the “Fargodome Authority”), the members of which are appointed by the City Commission as prescribed in said Article, to construct, maintain and operate the multi-purpose dome facility known as the FargoDome; (the “Fargodome”); and

WHEREAS, pursuant to the authority of N.D.C.C. §40-05.1-07 and Article 5 of the Fargo Home Rule Charter, the Board of City Commissioners wish to propose an amendment to the Home Rule Charter of the city which would authorize the implementation of a sales, gross receipts and use tax for a period of twenty (20) years and which would also authorize the implementation of a lodging tax on hotel and motel room rentals for a period of twenty (20) years, both of which taxes (the “Taxes”) would generate proceeds to be utilized to pay or finance costs associated with the remodeling of

the Fargodome, with the addition of a conference center to the Fargodome, and with ongoing capital projects, maintenance, and operation of the Fargodome and functionally-related facilities including the conference center (the “Projects”); and

NOW, THEREFORE, BE IT RESOLVED, by the Board of City Commissioners of the City of Fargo, North Dakota, as follows:

SECTION ONE. That Article 3 of the Home Rule Charter of the City of Fargo, pertaining to the list of home rule powers of the city, be amended to add paragraph V, to read as follows:

- V. To establish a city lodging tax of three percent (3%) in addition to the existing three percent (3%) city lodging tax, subject to the following limitations:
1. Said lodging tax is hereby imposed upon gross receipts as defined herein, which tax shall be computed on a monthly basis by each and every hotel, motel or other accommodations located within the corporate limits of the city of Fargo. Said tax must be in addition to the state sales tax on rental accommodations provided in chapter 57-39.2 N.D.C.C.
 2. The lodging tax hereby imposed shall be computed by every retailer and paid to the city of Fargo. Such computation shall be on a monthly basis and payment for each month shall be made to the city on or before the 10th day of the following month. The payment shall be accompanied by a report indicating the amount of gross receipts for the reporting period and shall be certified by a certified public accountant or by the retailer, or managing officer thereof. The city may retain up to 3% of the total amount collected for administrative costs.
 3. A lodging tax which is imposed pursuant to the authority granted herein shall extend for a period not exceeding twenty (20) years, said period to be established by the implementing ordinance.
 4. The lodging taxes collected pursuant hereto, less costs of administration as provided herein, which is imposed pursuant to the authority granted herein shall be utilized for costs associated with the remodeling of the Fargodome, with the addition of a conference center to the Fargodome, and with ongoing capital projects, maintenance, and operation of the Fargodome and functionally-related facilities including the conference center (the “Projects”), said proceeds to be placed initially in a Fargodome improvement capital construction fund of the city of Fargo which, together with interest and other authorized investment earnings, shall be utilized by the city of Fargo for such purposes. Proceeds from such tax may be used to make direct payment of the costs for such construction, maintenance, and operation or may be pledged, applied or directed to amortize bonds or other obligations which may be sold to finance such costs. Interest earnings, earnings from authorized investments, or both such interest and investment earnings, on such proceeds may also be utilized for such purposes. Any funds remaining after

completion of the Projects and payment of related obligations will be placed in a special escrow fund which, together with interest earnings and investment earnings, shall be utilized by the Fargodome Authority, with the concurrence of the governing body of the city, to provide for future capital improvements, maintenance, and operation of the Fargodome and functionally-related facilities including the conference center. Proceeds from such tax may be combined with proceeds from the sales, gross receipts and use tax being implemented for the same purpose. All such proceeds of a lodging tax which is imposed pursuant to the authority granted herein shall be utilized for the purposes authorized herein as the governing body of the city may select. The Fargodome Authority is hereby authorized and encouraged to provide recommendations to the governing body of the city.

5. The three percent (3%) lodging tax authorized hereby shall be imposed and collected in addition to an existing three percent (3%) city of Fargo lodging tax set forth in Article 3-13 of the Fargo Municipal Code, said existing tax having been (a) initially imposed by city ordinance as a two percent lodging tax (City of Fargo Ord. No. 2014 (June 1981)) under city home rule authority at a time when North Dakota non-home-rule cities were empowered by state statute to enact lodging taxes using state statutory authority (N.D.S.L. Ch. 429 (1981), Sec. 1 – 4) and, therefore by exclusion, the City of Fargo and other home rule charter cities could utilize home rule city powers to enact lodging taxes, and (b) subsequently expanded to the existing three percent lodging tax (City of Fargo Ord No. 2595 (1991)) also by said home rule authority.

SECTION TWO. That Article 3 of the Home Rule Charter of the City of Fargo, pertaining to the list of home rule powers of the city, be amended to add paragraph W, to read as follows:

W. To impose a retail sales, gross receipts and use tax to be implemented by ordinance and subject to the following limitations:

1. Sales, gross receipts and uses taxed shall be limited to those which are taxed by the State of North Dakota pursuant to Chapters 57-39.2, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code.

2. The amount of the tax shall not exceed one-quarter of one percent of the gross receipts and purchases which are taxed by the State of North Dakota pursuant to Chapters 57-39.2 and 57-40.2, of the North Dakota Century Code. Any patron or user paying said tax in excess of six and 25/100ths dollars on any single transaction of one or more items may obtain a credit or refund of the excess tax at the time of purchase from the vendor or request a refund of the excess tax payment by filing a request for refund, as provided by the North Dakota Century Code, upon forms provided by the North Dakota State Tax Commissioner. The tax imposed shall be computed and collected in the same manner provided by law for the collection of the

state sales, gross receipts and use tax as provided in Chapters 57-39.2, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code. All references to the North Dakota Century Code include amendments adopted by the North Dakota Legislative Assembly.

3. A sales, gross receipts and/or use tax which is imposed pursuant to the authority granted herein shall extend for a period not exceeding twenty (20) years, said period to be established by the implementing ordinance.

4. Proceeds of a sales, gross receipts and use tax which is imposed pursuant to the authority granted herein shall be utilized for costs associated with the remodeling of the Fargodome, with the addition of a conference center to the Fargodome, and with ongoing capital projects, maintenance, and operation of the Fargodome and functionally-related facilities including the conference center (the "Projects"), said proceeds to be placed initially in a Fargodome improvement capital construction fund of the city of Fargo which, together with interest and other authorized investment earnings, shall be utilized by the city of Fargo for such purposes. Proceeds from such tax may be used to make direct payment of the costs for such construction, maintenance, and operation or may be pledged, applied or directed to amortize bonds or other obligations which may be sold to finance such costs. Interest earnings, earnings from authorized investments, or both such interest and investment earnings, on such proceeds may also be utilized for such purposes. Any funds remaining after completion of the Projects and payment of related obligations will be placed in a special escrow fund which, together with interest earnings and investment earnings, shall be utilized by the Fargodome Authority, with the concurrence of the governing body of the city, to provide for future capital improvements, maintenance, and operation of the Fargodome and functionally-related facilities including the conference center. Proceeds from such tax may be combined with proceeds from the lodging tax being imposed for the same purpose. All such proceeds of a sales, gross receipts and use tax which is imposed pursuant to the authority granted herein shall be utilized for the purposes authorized herein as the governing body of the city may select. The Fargodome Authority is hereby authorized and encouraged to provide recommendations to the governing body of the city.

BE IT FURTHER RESOLVED, that the above-recited proposal for a sales and use tax and for a lodging tax on hotel and motel rooms be presented to the electorate of the City of Fargo as a single amendment to the City's Home Rule Charter and, therefore, that such amendment shall not be deemed approved unless said proposed amendment has been approved by sixty (60) percent of the qualified electors voting on the question, as provided by initiated amendment Number Two to the Fargo Home Rule Charter;

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City

of Fargo, North Dakota, that this Resolution be published in the official newspaper for the City of Fargo (1) within thirty (30) days of the approval hereof or (2) prior to sixty (60) days prior to the next city election, whichever is earlier.

(TO BE PUBLISHED ONCE IN THE FORUM AT LEAST SIXTY (60) DAYS PRIOR TO THE CITY ELECTION ON DECEMBER 5, 2023: PUBLISH WEDNESDAY SEPTEMBER 27TH, 2023)