

RESOLUTION

EXTENSION OF SALES TAX

[FINAL – approved by City Commission August 15, 2016]

Commissioner _____ introduced the following Resolution and moved its adoption:

RESOLUTION

PROPOSAL FOR AMENDMENT OF HOME RULE CHARTER TO EXTEND COLLECTION PERIODS FOR SALES, GROSS RECEIPTS AND USE TAXES RELATED TO PUBLIC INFRASTRUCTURE INCLUDING FLOOD PROTECTION

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, the voters of the City of Fargo have previously approved Home Rule Charter provisions that implemented sales, gross receipts and use taxes to be used for improvements of the city's infrastructure, including flood protection, said provisions being set forth in Article 3, paragraphs T and U [hereinafter referred to cumulatively as the "Existing Flood-Protection-Related Sales Taxes"] of the Home Rule Charter; and,

WHEREAS, the Existing Flood-Protection-Related Sales Taxes each have a period of years during which said sales taxes are to be collected; and,

WHEREAS, the City of Fargo has, in conjunction with other political subdivisions, undertaken the construction of a flood risk reduction project that includes a diversion channel that is approximately 30 miles long and includes multiple highway and railroad bridges as well as two aqueduct structures, includes levees along the rivers and drains through town, earthen embankments, an upstream retention area, one or more flood protection levees within the upstream retention area, three gated control structures, recreational features and related improvements which project is known as the Fargo-Moorhead Metropolitan Area Flood Risk Management Project and as the Metro Flood Diversion Project and which project is to provide greater than 100-year flood risk reduction from flooding caused by the Red River along with the Wild Rice, Sheyenne, Maple, Rush and Lower Rush Rivers; and the City of Fargo has entered into one or more agreements with the Department of the Army of the United States of America and other private parties and political subdivisions for the construction, operation and maintenance of said project; and,

WHEREAS, pursuant to the authority of N.D.C.C. §40-05.1-07, the Board of City Commissioners wish to propose an amendment to the Home Rule Charter of the city which would extend the period for collection of the Existing Flood-Protection-Related Sales Taxes to finance and pay construction and financing costs of the Metro Flood Diversion Project; and,

WHEREAS, the Board of City Commissioners wish to allow the one-half percent sales tax described in Article 3, paragraph U of the Home Rule Charter to continue to be used, as approved by the voters in 2012, for infrastructure capital improvements including flood risk protection or flood risk mitigation projects, and related improvements and to allow those eligible expenditures to continue as such through December 31, 2016 and thereafter to further refine the description of the eligible expenditures for such sales tax proceeds to be fully aligned with the eligible purposes for the one-half percent sales tax in said Article 3, paragraph T, except to the extent that certain pre-existing obligations may remain in place for which paragraph U proceeds must be utilized for infrastructure;

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

SECTION ONE. That Paragraph T of Article 3 of the Home Rule Charter of the City of Fargo be amended to read as follows:

- T. To impose a retail sales, gross receipts and use tax 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, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code.
 2. The amount of tax shall not exceed one-half of one percent (1/2%) of the gross receipts and purchases which are taxed by the State of North Dakota pursuant to Chapters 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code, nor shall the tax exceed twelve and 50/100 dollars (\$12.50) on any single purchase, subject to Section 57-01-02.1 of the North Dakota Century Code; and subject to collection as in Section 57-39.2-08.2 of the North Dakota Century Code. The retail sales, gross receipts and use 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.
 3. A sales, gross receipts and use tax, which is imposed pursuant to the authority granted herein, shall extend from and after January 1, 2010, and end on December 31, ~~2029~~2084. Notwithstanding the foregoing, once the governing body of the city determines, by majority vote of its members, that all the costs for the Metro Flood Diversion Project including all availability payments have been paid or are otherwise provided and once all debt and all other

contractual obligations related to the financing of said costs have been retired, or the payment for which has been otherwise sufficiently provided and arranged, the governing body may direct the state tax commissioner to cease collecting said tax.

4. The proceeds of a sales, gross receipts and use tax, which is imposed pursuant to the authority granted herein, shall be utilized for such flood risk mitigation and reduction, and related improvements and activities, as the governing body of the city may select. Flood risk mitigation and reduction, and related improvements and activities, shall mean expenditures to reduce or mitigate the risk to the city from flood events, to provide protection from such flood events, including without limitation the providing for retention of water. Such expenditures may be used to acquire property; enter into agreements; make, install, construct or build improvements and engage in projects and activities as are necessary and appropriate for such purposes. The stated goal shall be to reduce the risk to the city to the level of a 500-year flood event. Interest earnings on such proceeds may also be utilized for such purposes. Proceeds from such tax may be used to make direct payment for such purposes or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

5. Revenues raised and collected pursuant to authority granted herein, less administrative expenses, shall be deposited in a separate flood risk mitigation fund to be established, and shall be utilized as directed by the governing body of the city for the purposes set forth herein. Further, sales tax revenues may be used to reduce special assessments, may be pledged to pay bonds, notes or other obligations established for the financing of eligible project costs and may be used to pay or to secure any obligations incurred through one or more intergovernmental agreements with other political subdivisions and joint powers entities for the purpose of financing the cost of such eligible expenditures, including the Metro Flood Diversion Project, and may be pledged for the repayment of the bonds issued by the city that are payable solely from such revenues.

SECTION THREE. That Paragraph U of Article 3 of the Home Rule Charter of

the City of Fargo be amended to read as follows:

- U. To impose a retail sales, gross receipts and use tax 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, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code.
 2. The amount of tax shall not exceed one-half of one percent (1/2%) of the gross receipts and purchases which are taxed by the State of North Dakota pursuant to Chapters 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code, nor shall the tax exceed twelve and 50/100 dollars (\$12.50) on any single purchase, subject to Section 57-01-02.1 of the North Dakota Century Code; and subject to collection as in Section 57-39.2-08.2 of the North Dakota Century Code. The retail sales, gross receipts and use 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.
 3. A sales, gross receipts and use tax which is imposed pursuant to the authority granted herein shall extend from and after January 1, 2013, and end on December 31, ~~2032~~2084. Notwithstanding the foregoing, once the governing body of the city determines, by majority vote of its members, that all the costs for the Metro Flood Diversion Project including all availability payments have been paid or are otherwise provided and once all debt and all other contractual obligations related to the financing of said costs have been retired, or the payment for which has been otherwise sufficiently provided and arranged, the governing body may direct the state tax commissioner to cease collecting said tax.
 4. (a) The proceeds of a sales, gross receipts and use tax, which is imposed pursuant to the authority granted herein, shall be utilized for such infrastructure capital improvements as the governing body of the city may select; provided, however, that commencing January 1, 2017, said tax proceeds will only be utilized for flood risk mitigation and reduction, and related improvements and activities, as set forth in subparagraph (b), below, and for paying obligations on infrastructure capital improvements that existed prior to

January 1, 2017. Infrastructure capital improvements shall mean expenditures for streets and traffic management; water supply and treatment needs including construction or expansion of water treatment facilities; water distribution system needs; sewerage treatment and collection system needs, including construction or expansion of sewage treatment facilities, and flood protection or flood risk mitigation projects, and related improvements and activities. Flood risk protection or flood risk mitigation projects, and related improvements and activities, shall mean expenditures to reduce or mitigate the risk to the city from flood events, to provide protection from such flood events, including without limitation the providing for retention of water. Such expenditures may be used to acquire property; enter into agreements; make, install, construct or build improvements and engage in projects and activities as are necessary and appropriate for such purposes. Interest earnings on such proceeds may be utilized for other such capital improvements. Proceeds from such tax may be used to make direct payment for such infrastructure improvements or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

(b) From and after January 1, 2017, the proceeds of a sales, gross receipts and use tax, which is imposed pursuant to the authority granted herein, shall be utilized for such flood risk mitigation and reduction, and related improvements and activities, as the governing body of the city may select. Flood risk mitigation and reduction, and related improvements and activities, shall mean expenditures to reduce or mitigate the risk to the city from flood events, to provide protection from such flood events, including without limitation the providing for retention of water. Such expenditures may be used to acquire property; enter into agreements; make, install, construct or build improvements and engage in projects and activities as are necessary and appropriate for such purposes. The stated goal shall be to reduce the risk to the city to the level of a 500-year flood event. Interest earnings on such proceeds may also be utilized for such purposes. Proceeds from such tax may be used to make direct payment for such purposes or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

5. Revenues raised and collected pursuant to authority granted

herein, less administrative expenses, and interest earnings on such revenues, shall be deposited in a separate infrastructure fund to be established, and shall be utilized as directed by the governing body of the city for the purposes set forth herein. . Further, sales tax revenues may be used to reduce special assessments, may be pledged to pay bonds, notes or other obligations established for the financing of eligible project costs and may be used to pay or to secure any obligations incurred through one or more intergovernmental agreements with other political subdivisions and joint powers entities for the purpose of financing the cost of such eligible expenditures, including the Metro Flood Diversion Project, and may be pledged for the repayment of the bonds issued by the city that are payable solely from such revenues.

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.

ATTEST:

CITY OF FARGO

Steven Sprague, City Auditor

Timothy J. Mahoney, Mayor

The motion for the adoption of the foregoing Resolution was duly seconded by Commissioner _____. On roll call vote, the following Commissioners voted aye: _____ . The following Commissioners voted nay: _____. The following were absent and not voting: _____, so the motion carried and the Resolution was duly adopted.

RESOLUTION

BALLOT LANGUAGE FOR EXTENSION OF SALES TAX

[FINAL—APPROVED BY City Commission on August 15, 2016]

Commissioner _____ introduced the following Resolution and moved its adoption:

RESOLUTION

**PROPOSAL FOR AMENDMENT OF HOME RULE CHARTER
TO EXTEND COLLECTION PERIODS FOR SALES, GROSS RECEIPTS AND
USE TAXES RELATED TO PUBLIC INFRASTRUCTURE INCLUDING FLOOD
PROTECTION**

**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, the voters of the City of Fargo have previously approved Home Rule Charter provisions that implemented sales, gross receipts and use taxes to be used for improvements of the city's infrastructure, including flood protection, said provisions being set forth in Article 3, paragraphs T and U [hereinafter referred to cumulatively as the "Existing Flood-Protection-Related Sales Taxes"] of the Home Rule Charter; and,

WHEREAS, the Existing Flood-Protection-Related Sales Taxes each have a period of years during which said sales taxes are to be collected; and,

WHEREAS, the City of Fargo has, in conjunction with other political subdivisions, undertaken the construction of a flood risk reduction project that includes a diversion channel that is approximately 30 miles long and includes multiple highway and railroad bridges as well as two aqueduct structures, includes levees along the rivers and drains through town, earthen embankments, an upstream retention area, one or more flood protection levees within the upstream retention area, three gated control structures, recreational features and related improvements which project is known as the Fargo-Moorhead Metropolitan Area Flood Risk Management Project and as the Metro Flood Diversion Project and which project is to provide greater than 100-year flood risk reduction from flooding caused by the Red River along with the Wild Rice, Sheyenne, Maple, Rush and Lower Rush Rivers; and the City of Fargo has entered into one or more agreements with the Department of the Army of the United States of America and other private parties and political subdivisions for the construction, operation and maintenance of said project; and,

WHEREAS, pursuant to the authority of N.D.C.C. §40-05.1-07, the Board of City Commissioners wish to propose an amendment to the Home Rule Charter of the city which would extend the period for collection of the Existing Flood-Protection-Related Sales Taxes to finance and pay construction and financing costs of the Metro Flood Diversion Project;

WHEREAS, the Board of City Commissioners wishes to approve and certify the language to be used for the ballot for purposes of the city-wide vote on said amendment;

NOW, THEREFORE, BE IT RESOLVED, Board of City Commissioners of the City of Fargo, North Dakota, hereby certifies a ballot question for consideration by Cass County electors for an election to be held November 8, 2016 as follows:

PROPOSAL TO EXTEND EXISTING SALES, USE, AND GROSS RECEIPTS TAX

Shall the city of Fargo’s Home Rule Charter be amended to extend the existing flood-protection-related sales taxes to pay for flood protection, including the Metro Flood Diversion Project and associated special assessments and indebtedness, through December 31, 2084 unless rescinded earlier, after the costs, obligations and debt for said project have been paid as determined by the City Commission, all as provided in the Notice of Proposed Fargo Home Rule Charter Amendment as published in THE FORUM on the ___ day of September, 2016?

SHALL SUCH AMENDMENT BE APPROVED?

() YES

() NO

ATTEST:

CITY OF FARGO

Steven Sprague, City Auditor

Timothy J. Mahoney, Mayor

The motion for the adoption of the foregoing Resolution was duly seconded by Commissioner _____. On roll call vote, the following Commissioners voted aye:

_____. The following

Commissioners voted nay: _____. The following were absent and not voting:

_____, so the motion carried and the Resolution was duly adopted