



AGENDA
MANDAN CITY COMMISSION
FEBRUARY 15, 2011
ED "BOSH" FROEHLICH MEETING ROOM
5:30 P.M.
www.cityofmandan.com

- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. MINUTES:
1. Consider approval of the minutes from the February 1, 2011 Board of City Commission meeting
- C. PUBLIC HEARING:
- D. BIDS:
1. Consider for approval the award of the Concrete and Asphalt crushing project at the Landfill to Sundre Sand and Gravel, Inc., Minot.
 2. Consider for approval the purchase of 2011 Kubota mower for Utility Department from Northern Plains Equip., Mandan.
- E. CONSENT AGENDA:
1. Consider approval of the monthly bills
 2. New member appointment for the Special Assessment Commission.
 3. Consider approval of the Mandan Police Department in Purchasing Office Furniture for the Patrol Offices
 4. Consider approval of Ordinance 1901 to implement changes to Ordinance 1013 relating to the Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date. (*See Resolutions #3*)
- F. OLD BUSINESS:
- G. NEW BUSINESS:
1. Consider Renaissance Zone Committee recommendation on Capital Credit Union application for new construction at 600 E Main
 2. Introduction of new employees:
 - i. Police Officer: Troy Mealey
 - ii. Firefighter: Matt Hennessy
 - iii. Firefighter: Clayton Schaff

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3. Presentation by Mike Manstrom, Dougherty & Company LLC, regarding the sale of \$960,000 Refunding Improvement Bonds of 2011, Series A. (*See Resolutions #2*)
 4. Consider proposal to advertise city-owned properties for sale (100 Collins, 104 E Main, 106 E Main, 108 E Main and 116 E Main)
 5. Consider commercial property tax exemption policy
 6. Consider legislative activities
 7. Consider Change order for Residual Management Facility – Bearings
- H. RESOLUTIONS & ORDINANCES:
1. Consider second and final reading of Ordinance No. 1090 relating to the making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual or unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.
 2. Consider Resolution Awarding Sale of \$960,000 Refunding Improvement Bonds of 2011, Series A.
 3. Consider introduction and first reading of Ordinance 1901 to implement changes to Ordinance 1013 relating to the Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date.
- I. OTHER BUSINESS:
- J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:
1. March 1, 2011
 2. March 15, 2011
 3. April 5, 2011
- K. ADJOURN

Departmental planning meeting will be held the Monday prior to the Commission meeting, all Commissioners are invited, noon, Dykshoorn Conference Room. Please notify the city administrator by 8:30 a.m. that Monday if you plan on attending. If more than two commissioners plan on attending, proper public notice must be given.

The Mandan City Commission met in regular session at 5:30 p.m. on February 1, 2011 in the Ed “Bosh” Froehlich Room at City Hall. In the absence of President Mayor Helbling and Vice President Sandra Tibke, City Attorney Malcolm Brown called the meeting to order. He stated that the first order of business is to elect an Acting President for tonight’s meeting. Commissioner Rohr moved to appoint Commissioner Thomas Jackson as the Acting President. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

Commissioners present were Jackson, Rohr, and Frank. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta. Absent were: Commissioners Helbling and Tibke.

MINUTES: *Consider approval of the minutes for January 18, 2011, meeting of the Board of City Commissioners and approval of the minutes for January 28, 2011, Special Meeting Board of City Commissioners.* Commissioner Frank moved to approve the minutes as presented. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *The purpose of the hearing is to review the performance of the City in carrying out its Community Development Block Grant Program, particularly regarding Cloverdale Foods Company for which CDBG funds were provided.* City Administrator Neubauer presented a request to hold a public hearing regarding a Community Development Block Grant Program stating that in order to close out this program, a public hearing must be held. The purpose of the hearing is to review the performance of the City in carrying out its CDBG program - in particular Cloverdale Foods Company in which CDBG funds have been provided. Neubauer explained that Cloverdale proposed an additional 8 fulltime positions as a result of the financial package which included funding through the Community Development Block Grant Program. Due to economic conditions and business needs of the company, they were unable to create those additional jobs. In lieu of that, the company has re-paid the loan in full, with interest, and has fulfilled its obligation under the CDBG program. The only action required is to ask the public if they wish to comment on this matter.

Commissioner Jackson opened the floor for public comments. A second opportunity was given to the public to provide comment. Hearing none, this portion of the public hearing was closed.

BIDS:

CONSENT AGENDA:

1. *Consider approval of the pledge of securities reports as required by NDCC 21-04.* The Board approved of the pledge of securities reports as required by NDCC 21-04.

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2. *Consider approval of a re-assessment abatement for Paul Everson.* The Board approved of the re-assessment abatement for Paul Everson.
 3. *Consider approval of Waste Management hauling to alternate facilities.* The Board approved of the Waste Management hauling to alternate facilities.
 4. *Consider approval of the employment contract for the Business Development & Communications Director.* The Board approved of the employment contract for the Business Development & Communications Director.

Commissioner Rohr moved to approve the Consent Agenda Items No. 1 through No. 4 as presented. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

OLD BUSINESS:

NEW BUSINESS:

1. *Consider Growth Fund Committee recommendations for 2011 Retail and Restaurant Incentive Program.* Business Development Director Huber reviewed with the Board a recommendation from the Mandan Growth Fund Committee for changes to the Retail and Restaurant Incentive Program for 2011. Huber said that in 2010 a pilot program was offered with \$60,000 in funding; however, there were no applications from qualified businesses so that funding remains for 2011. Huber outlined the recommendations signifying major changes:

- Eliminate downtown boundary for the program and offer it citywide
- Associate incentive with operating per square footage rather than rent
- Eliminate the maximum incentive differential between retail and restaurants that was set at \$3 and \$5 per square foot respectively, now at a straight \$5 per sq ft. maximum
- A reduction in the minimum required hours worked per week
- Inclusion of additional language regarding certification, authorization and release of information
- The creation of a scoring system to serve as a guide for committee members when evaluation applications and determining the amount of appropriate incentive

Huber recommended approval of the program stating that the ultimate goal is pursuant to the 2008 residential survey when citizens identified increased retail as the most important factor to improving the community of Mandan. In addition, according to the most recent November 2010 Business Survey conducted by the Economic Opportunity Prosperity Committee implementing the Mandan Tomorrow Strategic Plan wherein those surveyed identified lack of retail as the No. 1 weakness to the Mandan Business Community. That survey indicated that both business and residential citizens would like to see retail and restaurants expansion in the Mandan community.

Commissioner Frank commented that she would encourage prospective people interested in conducting business in the City of Mandan to research the program qualifications and to consider applying for the program if they meet the criteria required.

Commissioner Frank moved to approve the Mandan Growth Fund Committee recommendations for 2011 Retail and Restaurant Incentive Program with the changes as presented. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

2. *Consider approval of Liquor License application for Victoria Luchkina at the former location of Sportsman's Lounge.* Victoria Luchkina presented a request for an individual liquor license application at 202 Main Street East, Mandan, ND, the former Sportsman's Lounge. Administrator Neubauer stated that the liquor license is pending approval of the fire, health and safety codes being met. All the paperwork and background checks are in order and the taxes are paid on the property.

Commissioner Frank moved to approve the liquor license application for Victoria Luchkina to be used at the former Sportsman's Lounge location contingent upon meeting all fire, health and safety code requirements, building inspection codes and that all property taxes and fees are paid in full. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

3. *Update on remediation project by Leggette, Brashears & Graham.* Ken Kytta of Leggette, Brashears and Graham presented the 2010 Annual Remediation Report of Mandan's downtown underground diesel spill outlining the following:

- The 2010 Accomplishments were reviewed:
 - Completed the 3rd year full-system operation
 - Optimized system to focus recovery in areas of remaining product
 - Ceased MPE mode of remediation in areas where product no longer exists
 - Modifications to water treatment system to improve efficiency
 - LEC Basement Remediation / Reconstruction
 - Public Meeting for Site Strategy Plan
 - Remediation recovery totals thus far:
 - Liquid Recovery = 60,473 gallons of diesel
 - Vapor Recovery = 32,068 gallons of solvents, gasoline, diesel
 - Methane = 100 lbs.
 - Bio-attenuation = 180,938 gallons of diesel
 - Total = 2,018,183 pounds of hydrocarbons
- The following breakdown was provided as spent/impact of the project thus far:
 - \$16.9 million to date
 - \$18.2 million authorized
 - NOTE: 2010 operation and maintenance was under budget
 - Subcontractor costs: 59 total subcontractors @ \$13 million (Construction, Laboratory, Drilling, Specialized, Professional services)
 - In-State impact = \$8.8 million
- The following was reviewed as the projected plan for 2011:
 - System operation and maintenance
 - System efficiency enhancements

-
- Continuation of system shutdown in completed areas
 - Site strategy plan implementation
 - Eliminate fire station bay use
- Future anticipated costs:
 - Operation and Maintenance
 - System modifications to accommodate completion of remediation
 - Meetings and Project Management

Kytta stated that there is some revenue recap from the re-sale of a portion of the product extracted as well as some of the equipment when operations cease. The project is expected to be completed within the next 2-3 years, depending on a variable of circumstances if all goes well. The original estimated time for clean up was 5-7 years.

Commissioner Jackson questioned how much is left in the Remediation Trust? Administrator Neubauer stated there is approximately \$8.5 million left in the trust fund. He commented that the clean up timeline is weather dependent. The project started in 2007, so 5 years from that point would be 2012. He explained that after the system starts to shut down there will be a period of time when there will be no activity but the equipment will need to be left in place and monitored. The ND Dept of Health will determine how long the monitoring will be required.

RESOLUTIONS & ORDINANCES:

OTHER BUSINESS:

1. Ben Moore, a Mandan resident, came forward with a proposal for consideration. He stated he is doing planning on a 5-year tree project. The situation involves the Dutch Elm Disease. It involves moving money into tree projects. Moore inquired if the Commission had any questions.

Commissioner Jackson addressed Mr. Moore's request and stated that Mr. Wright is the Director of Public Works and that he is present at this meeting. He is a Forestry Representative for the City of Mandan and he can assist with concerns of this nature or he will forward them to the City Forester.

Commissioner Frank extended a thank you to Mr. Moore for his presentation commenting that it's great when you have residents who pay attention to what's going on in the community. She stated that there is a kick-back program if you remove and replace trees in the community through the Forestry Department. Residents were encouraged to contact the Forestry Department for further information.

2. Commissioner Frank inquired of Business Development Director Huber as to when the deadline for the Storefront Improvement application process ends. Huber stated that the deadline is today, February 1st. The next opportunity is to have an application submitted prior to May 1, 2011.

There being no further actions to come before the Board Commissioner Rohr moved to adjourn the meeting at 6:05 p.m. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

James Neubauer,
City Administrator

Thomas Jackson,
Acting President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 9, 2011
SUBMITTING DEPARTMENT: Public Works
DEPARTMENT DIRECTOR: Jeff Wright, Public Works Director
PRESENTER: Jeff Wright, Public Works Director
SUBJECT: Consider for approval the award of the Concrete and Asphalt crushing project at the Landfill to Sundre Sand and Gravel, Inc.

STATEMENT/PURPOSE: To consider the award of bid for concrete and asphalt crushing at the landfill.

BACKGROUND/ALTERNATIVES: On February 8, 2011 bids were opened for the crushing of concrete and asphalt at the Landfill. Consider awarding bid to low bidder, Sundre Sand and Gravel, Inc. from Minot, to crush the concrete and asphalt at the landfill not to exceed the budgeted amount of \$60,000.

Years of accumulating asphalt and concrete taken in at the landfill is causing issues with space at the landfill and needs to be recycled and reused. We do that by crushing the oversized chunks into usable material, to be used as road base, material for water break repairs, temporary road surface during winter months, and material that can be sold to contractors for similar use. This material is much in demand and we will not have any trouble selling this material. This material is taken at the landfill at no charge, solely for recycling, saving space in our inert landfill. We can expect to receive \$11/ton or more for the finished product.

ATTACHMENTS: Bid Tab

FISCAL IMPACT: \$60,000 has been approved for the 2011 Budget for crushing.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Recommend to award the Concrete and Asphalt Crushing Project to Sundre Sand and Gravel, Inc. for the amount of \$60,000.

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Subject: Consider for approval the award of the Concrete and Asphalt crushing project at the Landfill to Sundre Sand and Gravel, Inc.

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SUGGESTED MOTION: Move to award the Concrete and Asphalt Crushing Project to Sundre Sand and Gravel, Inc. for the amount of \$60,000.

ASPHALT AND CONCRETE CRUSHING PROJECT BID TAB

Opened FEBRUARY 8, 2011

| Company | APPROX. QUANTITY | SUNDRE S&G, INC. | SCHICK ENTERPRISES |
|------------------|---------------------|---------------------|-----------------------|
| CONCRETE PER TON | 10,000 | \$6.21 | \$6.95 |
| ASPHALT PER TON | 2,000 | \$6.21 | \$6.45 |
| MOBILIZATION | | - | \$8,000.00 |
| | | | |

SCOPE OF WORK

Concrete to be crushed to 1" minus diameter.

Asphalt to be crushed to 1" minus diameter.

All iron, rebar and or garbage shall be left on site and will remain the property of the City of Mandan.

Belt scale readings will be used for billing purposes.

The City of Mandan will have free access to the belt scale readings at any time as so desired.

Work is to be completed by June 3, 2011.

It appears that SUNDRE S&G, INC. is the apparent low bidder.

I recommend we contract with Sundre S&G to crush the concrete and asphalt at the landfill up to the \$60,000 budget.



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Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 9, 2011
SUBMITTING DEPARTMENT: Public Works
DEPARTMENT DIRECTOR: Jeff Wright, Public Works Director
PRESENTER: Jeff Wright, Public Works Director
SUBJECT: Consider for approval the purchase of 2011 Kubota F3680-F utility mower from Northern Plains Equip., Mandan.

STATEMENT/PURPOSE: To consider awarding a contract for the purchase of mower for the utility department.

BACKGROUND/ALTERNATIVES: On February 2, 2011 bids were opened for the purchase of a 2011 utility mower to be used to mow city owned property throughout town by the utility department. We received 2 bids and Northern Plains Equip. was the low qualifying bidder at \$29,680. This mower will be used for all of the downtown parks, other areas along Main Street, and around sanitary lift stations and water reservoirs. We currently hire two part time summer employees full time to mow and trim around these sites. We currently have one other mower in the department. The mower we are replacing went to the Cemetery, along with some attachments, to be better utilized in that department. This mower has a cab, 4 WD, and climate control features and could be utilized during winter months for snow removal if needed. We feel we have found a very reliable mower that stands up to time. We still have a few around, at the WTP, WWTP and Utility Department working just fine.

ATTACHMENTS: Bid Tab

FISCAL IMPACT: \$32,000 has been approved for the 2011 Budget for a new mower. The Waterline and Sewerline Maintenance budget splits the cost of the mower.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Recommend to purchase the 2011 Kubota F3680-F Utility Mower from Northern Plains Equip. for \$29,680.

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Subject: Consider for approval the purchase of 2011 Kubota F3680-F utility mower from Northern Plains Equip., Mandan.

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SUGGESTED MOTION: Move to purchase the 2011 Kubota F3680-F Utility Mower from Northern Plains Equip. for \$29,680.

**2011 UTILITY MOWER
BID TAB**

Opened FEBRUARY 2,
2011

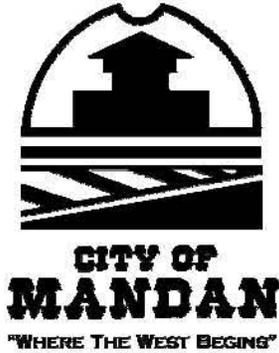
| MODEL | KUBOTA F3680-F | NEW HOLLAND G6035 |
|---------------------------------|-----------------------|------------------------|
| Company | NORTHERN PLAINS EQUIP | TWIN CITY IMPLEMENT |
| 4 WHEEL DRIVE MOWER | | |
| 60" MOWER DECK GRASS CATCHER | | |
| HARD CAB 1 YEAR WARRANTY | \$29,680 | \$31,100 |
| 2011 BUDGET AMOUNT | \$32,000.00 | |

**MINIMUM
REQUIREMENTS**

- Engine – 36 hp liquid coded diesel
- Fuel capacity – minimum 13 gallons
- Transmission – Hydrostatic
- 4WD – Auto/Full
- Steering – Hydrostatic

It appears that NORTHERN PLAINS EQUIP. is the apparent low bidder.

I recommend we contract with Northern Plains Equip. to supply the utility mower specified above for \$29,680.



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 7, 2011
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: New member appointment for the Special Assessment Commission.

STATEMENT/PURPOSE: To provide the City Commission with the names of the interested individuals for the open seat on the Mandan Special Assessment Commission.

BACKGROUND/ALTERNATIVES: On January 10th, 2011, an advertisement was released seeking letters of interest for a member to take the open seat on the Special Assessment Commission (SAC). The application deadline closed January 25th, and 3 letters of interest were received. The 3 letters were received from the following individuals; Wayne Papke, Deborah Holter, and Shauna Laber. On February 4th, the members of the SAC met to review the letters of interest and conduct interviews with the 3 individuals. Those interviews concluded on February 7th. As a result of the interviews, the SAC members unanimously chose Deborah Holter for the position on the SAC.

ATTACHMENTS: 1. Letters of interest

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Appoint Deborah Holter to the Special Assessment Commission.

SUGGESTED MOTION: I move to approve the appointment of Deborah Holter to the Special Assessment Commission.

Board of City Commissioners

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Subject: New member appointment for the Special Assessment Commission.

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Dave Bechtel

From: Wayne Papke [Wpapke@bis.midco.net]
Sent: Monday, January 10, 2011 4:49 PM
To: Dave Bechtel
Cc: Jim Neubauer; Sandy Tibke; Dot Frank; Dennis Rohr; Tim Helbling; Tom Jackson, Commissioner
Subject: I am interested

Over the past 2 years I have expressed to Jim Neubauer my interest in being considered for a position on this committee. My active city involvement and knowledge will be valuable to the committee. Consider me as "requested" for consideration.

Wayne Papke
<http://fa.smithbarney.com/papke/>

No virus found in this message.
Checked by AVG - www.avg.com
Version: 10.0.1191 / Virus Database: 1435/3371 - Release Date: 01/10/11

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Deborah Holter
PO Box 483
Mandan, ND 58554
701-667-8894

January 24, 2011

Dave Bechtel
Engineering Department
205 Second Avenue NW
Mandan, ND 58554

Sir:

I would like to be considered for the opening on the special assessment commission. I am Mandan resident, own two homes here and operate a small business on Main Street, The Purse Store.

By profession, I am a tax attorney. I received my law degree from the University of Idaho and my doctorate in tax law through a post-doc fellowship at the College of William and Mary. Thereafter, I was employed in Washington, D.C. by the Department of Justice, Tax Division as a trial attorney. I am familiar with the tax assessment process from both the taxpayer's and taxing authority's point of view.

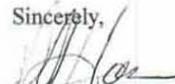
After graduating from law school and before my fellowship, I was the 4D (child support) attorney for the Lake Region District in Devils Lake. This was before we had an integrated attorney general system, so I was an employee of the seven counties I served as well as the state as an assistant attorney general. I met regularly with all of the county commissioners of those counties. I also served the two adjacent reservations.

Mandan is my hometown. I grew up here and graduated from Mandan High and UND. When I returned to North Dakota my husband and I chose to live in Mandan and I am concerned with its future. When I was young people chose to live in Mandan instead of Bismarck because of lower real estate taxes and "you could get more home for your money". We have lost this edge over Bismarck.

Lastly, I have noticed a number of taxpayer complaints about the assessment process. I believe that, if the process is open and fair and people are allowed to voice their concerns and be heard, the complaints would decrease and it would help with the perception that Mandan is overtaxed.

Thank you for your time and attention. If you have any question, please contact me at the above number or address.

Sincerely,



Deborah Holter

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SHAUNA LABER

605 1st Street NE – Mandan, North Dakota - 58554
701.390.3601 – slaber@bepc.com

January 25, 2010

RE: Special Assessment Commission Appointee

Dear Mr. Dave Bechtel:

My Bachelor of Science degree in Economics earned at Arizona State University as well as a Bachelor degree in Political Science has given me the basic business and social science policy context to thrive and succeed as a Special Assessment Commission Member. I am an experienced statistical and economic analyst with field auditing experience focused on: compliance and remediation issues with internal and external policies, State and Federal statute compliance as well as Generally Accepted Accounting Principles. In my current position with Basin Electric Power Cooperative, I communicate effectively and assist with complicated decision making regarding Dry Fork Station, the new power plant currently under construction, and its associated construction permit required Housing Contracts with management, members, contractors and tenants.

I hold an active Real Estate Agent license in the State of Wyoming, and prior to that held a license in the State of Arizona. With this tool, I have been able to formulate market conditions and enable my research to derive business planning with real property investments. In my current position as the Community Representative for Housing, I developed a strategy and worksheets demonstrating the economic data to propose to my supervisor and management, and eventually administered the buyout, of several under-utilized housing contracts in Wyoming.

Skills in analysis, auditing and delivery of targeted results are some of my strongest traits, and those that I would enjoy using in public service to evaluate land construction cost allocation for the city I now call home. I look forward to the prospect of inspecting land within an improvement district in Mandan and making determinations of construction benefits and allocating costs equitable and fairly. Special Assessments are a necessary part of improving the lives of our citizens and making our infrastructure acceptable for business use and will thereby attract new corporations to our city. This is a role that I would like to lend my skills to for our continued and future growth.

I offer a breadth and depth of leadership and negotiation that will incorporate the goals of the City into deliverable results. My qualifications for the position of Special Assessment Commissioner are as follows:

- Effective communication and interactive partnerships with diverse populations
- Skilled in Statistical, Economic, Real Estate and Business Analysis
- Adaptability, solution oriented, and innovative thinking while maintaining confidentiality

I hope that you'll find my experience, interests, and character intriguing and will warrant consideration for this appointment, as I am confident that I will provide intrinsic value as a team member of this Commission. I intend to be a Mandan resident for the foreseeable future, and am confident that this Commission position fits well within my skill set and I will then be an asset for our growing and dynamic City of Mandan.

Thank you for your time and consideration.

Sincerely,

Shauna Laber, Agent



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 7, 2011
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Dennis A. Bullinger
PRESENTER: Chief Dennis A. Bullinger
SUBJECT: Consider approval of the Mandan Police Department in Purchasing Office Furniture for the Patrol Offices

STATEMENT/PURPOSE: The Mandan Police Department is requesting approval in purchasing office furniture for the Patrol Office.

BACKGROUND/ALTERNATIVES: In May, of 1998 the police department moved personnel and offices from the basement of the Law Enforcement Center (LEC) onto the first floor. This was done after experiencing diesel fuel issues within the basement. Our uniform patrol officers and equipment were moved into a conference room and continue today with operations on the first floor. The square footage of the conference room being less than what was vacated in the basement prohibited moving and using desk from the basement. The police department found and purchased used portion panels and desk tops in making the new space functional. Cost was minimal as the panels were used and our intended usage was short term. Thirteen years later what was in poor condition is now in need of being replaced.

The police department is part of a multi-jurisdiction drug task force. Assets seized from drug cases are used in supplementing cost for equipment purchases and some operational needs. Funds are also distributed to each participating agency which is part of our equipment reserve account. Funds in this account would be used in equipping the four work stations for patrol staff.

I have attached two copies of design plans for the new office furniture and estimates from four local vendors. Each vendor met with the Deputy Chief and was asked to submit proposed office layout diagrams based on our request for four workstations to include lateral drawer files, lateral file storage units four drawers each and two storage cabinets along with price quotes.

ATTACHMENTS: Two diagrams of a proposed office setup, quotes and vendors.

FISCAL IMPACT: \$9,385.00 from the Police Equipment Reserve Account.

STAFF IMPACT: None

LEGAL REVIEW: None

RECOMMENDATION: Approve the request to purchase new office furniture for the patrol staff and approve the purchase from Crescent Printing.

SUGGESTED MOTION: Move to approve the request of the police department in the purchasing of new furniture in the amount of \$9,385.00, from Crescent Printing.



MANDAN CITY POLICE

Dennis A. Bullinger
Chief of Police
205 1st Ave. N.W.
Mandan, ND 58554
(701) 667-3250

January 14th, 2011

TO: Chief Bullinger
FROM: Deputy Chief Leingang
SUBJECT: Patrol Office Furniture

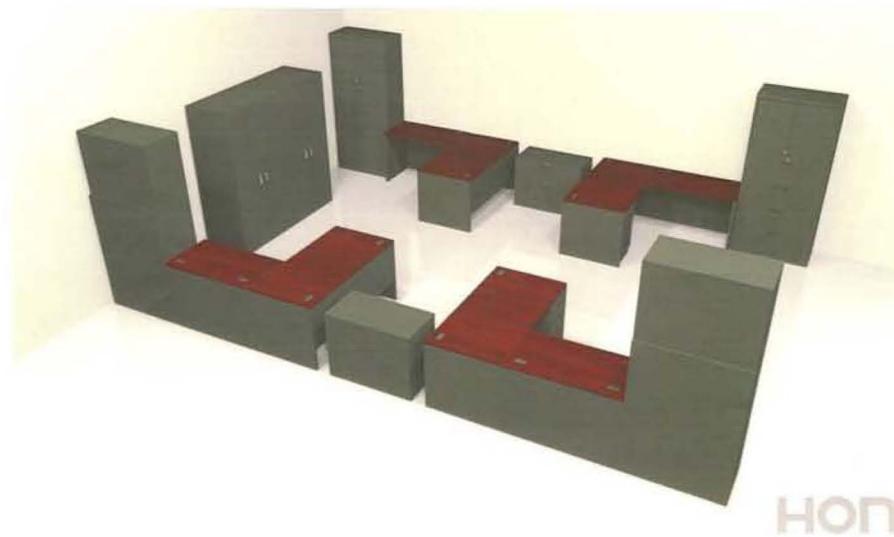
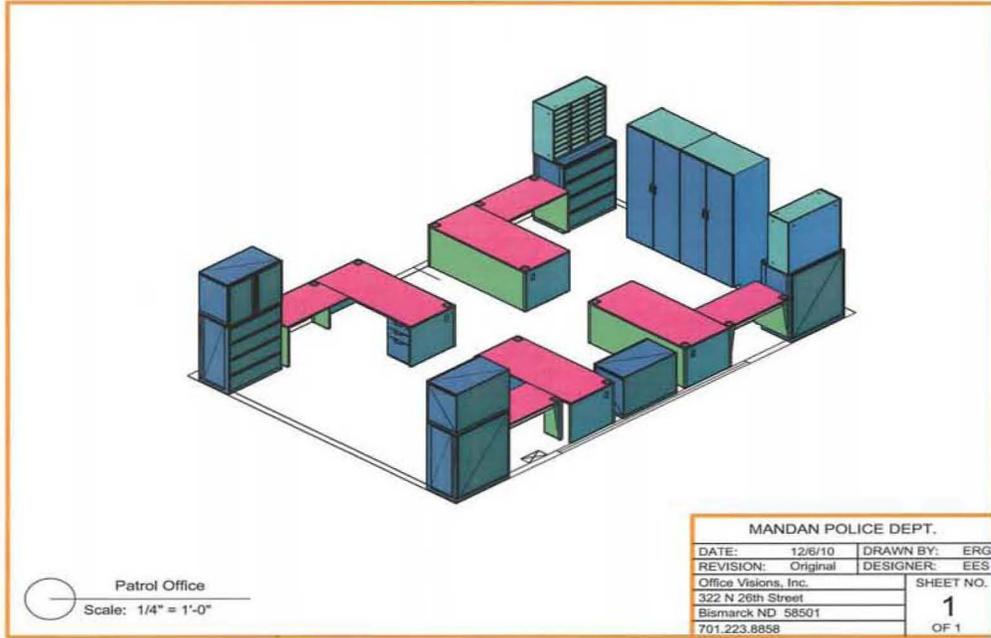
I recently contacted four different companies in the Bismarck-Mandan area to obtain cost estimates and design plans for new office furniture in the Patrol Office.

I then chose the design that best suited our needs and requested a few minor changes. When the design was finalized, I provided the same design plan to each company so they could each provide a cost estimate.

The company names and estimates are as follows;

- | | |
|----------------------------------------|-------------|
| 1) Office Visions Incorporated | \$9,001.00 |
| 2) Crescent Printing & Office Products | \$9,385.00 |
| 3) Fireside Office Solutions | \$9,648.00 |
| 4) Office & Technology | \$11,003.00 |

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MEETING DATE: February 15, 2011
PREPARATION DATE: February 11, 2011
SUBMITTING DEPARTMENT: Assess/Bldg Inspections
DEPARTMENT DIRECTOR: Richard L Barta
PRESENTER: Leonard Bullinger/President of the Mandan Architectural Review Commission (MARC)
SUBJECT: Ordinance 1091- Amendments to Ordinance 1013

STATEMENT/PURPOSE: To consider approval of Ordinance 1901 to implement changes to Ordinance 1013 relating to the Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date.

BACKGROUND/ALTERNATIVES: The board decided to re-visit Ordinance 1013 due to some concerns with sales in the Core District and the ability to re-build if a property became damaged. In the process, it was determined the Core boundary line be adjusted and the requirements for residential guidelines be adjusted.

ATTACHMENTS: Copy of Ordinance 1013 indicating changes and a map indicating the new boundary set for the Core District.

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: Documentation was reviewed by Attorney Brown and no further changes were recommended.

RECOMMENDATION: We, MARC, recommend approval of Ordinance 1091 to enact changes to Ordinance 1013, pertaining to the Core and Fringe Districts.

SUGGESTED MOTION: Approval of the request by MARC to implement Ordinance 1091 which enacts changes to the Core and Fringe Districts in Ordinance 1013.

ORDINANCE NO. 1091

An Ordinance to Amend and Reenact Sections 21-01-03 and 21-03-07 of the Mandan Code of Ordinances relating to Definitions and Use Groups; and to create and enact three new Sections 21-04-17, 21-04-17.1, and 21-04-17.2 relating to Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date.

Be it Ordained by the Board of City Commissioners as follows:

SECTION 1. AMENDMENT. Section 21-01-03 of the Mandan Code of Ordinances is hereby amended and reenacted to read as follows:

"Drive-through Facilities" means any portion of a building from which business is transacted, or capable of being transacted, directly with customers located in a motor vehicle. Such a facility is usually an accessory to a principal use and may also be referred to as a drive-in or drive-up. Examples include drive-through windows at financial institutions and restaurants.

"Entertainment Event, Major" means events that are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature. Examples include stadiums, sports arenas, auditoriums, exhibition halls, convention centers and fairgrounds. This category does not include outdoor recreation and entertainment uses, such as golf driving ranges and racetracks.

"Auto Service, Limited" means uses that provide direct service to motor vehicles where the driver generally waits in the car or nearby while the service is performed. Examples include full-service and self-service gas stations; free-standing carwash facilities; and quick lubrication services. This category does not include convenience store/gas stations.

"Safety Services" means uses that provide public safety and emergency response services. They often need to be located in or near the area where the service is provided. Employees are generally present on-site. Examples include fire stations, police stations and emergency medical and ambulance stations.

"Community Services" means uses of a public, nonprofit or charitable nature generally providing a local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. The use may also provide special counseling, education or training of a public, nonprofit or charitable nature. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, social service facilities, temporary shelters, and vocational training for persons with physical or mental disabilities.

"Detention Facilities" means facilities for the judicially required detention or incarceration of people. Inmates and detainees are under 24 hour supervision by sworn officers, except when on approved leave. Examples include prisons, jails, probation centers and juvenile detention homes.

"Passenger Terminals" includes passenger terminals for regional bus service and regional rail service.

"Telecommunication Facilities" means facilities which include all devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Facilities may be self-supporting, guyed, or mounted on poles, light posts, power poles, buildings or other structures. This category shall also include interconnection translators, connections from over-the-air to cable, fiber optic, or other landline transmission system. Examples include broadcast towers, attached telecommunication facilities, telecommunication support towers, point-to-point microwave towers, and amateur radio facilities that are owned and operated by a federally-licensed amateur radio station operator.

SECTION 2. AMENDMENT Section 21-03-07 of the Mandan Code of Ordinances is amended and reenacted to read as follows:

21-03-07. Use Groups. In order to carry out the purposes of this title, certain uses having similar characteristics are classified together as "use groups". In any district in which a use group is permitted, it is the intent of this title to permit any particular member of that use group to be located within that district. In any district in which a use group is not listed as a permitted use, it is the intent of this title to prohibit each and every member of that use group from locating within that district. These use groups shall apply to all zoning districts except the Downtown Core and Downtown Fringe districts.

SECTION 3. Section 21-04-17 is hereby created and enacted to read as follows:

21-04-17. Downtown Districts.

1. *Districts Established.* The following downtown zoning districts are hereby established: DC Downtown Core District and DF Downtown Fringe District.
2. *Use Table.* The table contained herein lists the uses allowed within the downtown zoning districts.
 - a. *Use Categories.* All of the categories listed in the use table are explained in detail in Section 21-03-07. The second column of the use table contains an abbreviated explanation of the respective use category. If there is a conflict between the abbreviated explanation and the full explanation in Section 21-03-07, the provisions of Section 21-03-07 shall prevail.
 - b. *Use Standards.* An "X" in the third column of the use table indicates that the use is subject to use-specific standards. These standards are listed alphabetically in Section 21-03-07.
 - c. *Uses Permitted By Right.* A "P" indicates that a use category is allowed by right in the respective zoning district. These permitted uses are subject to all other applicable provisions of this chapter.

- d. Special Uses. An "SUP" indicates that the use is allowed only if reviewed and approved as a Special Use, in accordance with the Special Use provisions in Section 21-03-10, and is subject to all other applicable regulations in this chapter.
- e. Uses Not Allowed. An "---" indicates that the use is not allowed in the respective zoning district.
- f. Review For Acceptance. An "R" indicates the proposed project must be reviewed by this commission and it must be similar in nature or maintain harmony to adjacent properties and must meet current CB requirements (see grid).

Use Table.

| Proposed Use Category | Definition | Use Standards | District | |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------|-----|
| | | | DC | DF |
| Residential Uses | | | | |
| Group Dwelling | Residential occupancy of a structure by a group of people who do not meet the definition of household. | | P | P |
| Household Dwelling | Residential occupancy of a dwelling unit by a household (related or up to four unrelated). | | | |
| Single-family, detached | <u>40% lot coverage; 15' front setback; 5' side setback; and 10' rear setback</u> | | R | P |
| Duplex/single-family attached (2) | <u>40% lot coverage; 15' front setback; 5' side setback; and 10' rear setback</u> | | R | P |
| Single-family, attached (3-8)(3+) | e.g. condos | | P | P |
| Multi-family structure | | | P | P |
| Residences on 2 nd floor & above | | | P | P |
| Commercial Uses | | | | |
| Drive-through Facilities | Drive-through facilities in conjunction with a permitted principal use. | X | SUP | SUP |
| Entertainment Event, Major | Activities and structures that draw large numbers of people to specific events or shows. This category does not include outdoor recreation and entertainment uses, such as golf driving ranges and racetracks. | | P | --- |
| Office Group | Activities conducted in an office setting and generally focusing on business, government, professional, medical or financial services. | | P | P |
| Parking, Accessory | Parking that is an accessory to a specific use, but not located on the same parcel as the use – use standards for accessory parking that is adjacent to a residential use. | X | SUP | SUP |
| Parking, Commercial | Parking that is not an accessory to a specific use – fees may or may not be | X | P | SUP |

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| | charged. | | | |
| Retail Sales and Services Retail Group A Service Group A Service Group B Auto Sales Groups are modified by description of this item and other items in this table. Group descriptions are found in Chapter 21-03-07 of the Mandan Municipal Code. | Establishments involved in the sale, lease or rental of any new or used products to the general public – they may also provide personal services or entertainment or provide product repair or services for consumer and business goods – use standards for convenience store/gas stations, mortuaries/funeral homes and vehicle sales lots. This category does not include self-service storage uses, adult entertainment centers, animal hospitals or kennels, or off-premise advertising signs. | X | P | P |

| Proposed Use Category | Definition | Use Standards | District | |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------|-----|
| | | | DC | DF |
| Commercial Uses | | | | |
| Auto Repair Garage | Service to passenger vehicles, light trucks and other consumer motor vehicles – generally, the customer does not wait at the site while the service or repair is being performed. | X | SUP | P |
| Auto Service, Limited | Direct services to motor vehicles where the driver generally waits in the car or nearby while the service is performed. | X | SUP | P |
| Institutional Uses | | | | |
| Colleges | Colleges and institutions of higher learning. | | P | P |
| Community Services | Public, non-profit or charitable uses, generally providing a local service to the community. | X | P | P |
| Day Care | Care, protection and supervision for children and adults on a regular basis away from their primary residence for less than 24 hours/day. | X | SUP | P |
| Health Care Facilities | Medical or surgical care to patients, with overnight care. | | P | P |
| Parks and Open Areas | Natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, etc. | | P | P |
| Religious Institutions | Meeting area for religious activities | X | P | P |
| Safety Services | Public safety and emergency response services. | | P | P |
| Schools | Schools at the primary, elementary, middle, junior high or high school level. | X | --- | P |
| Other Uses | | | | |
| Detention Facilities | Government-operated facilities for the detention or incarceration of people. | X | P | --- |
| Moving of buildings/structures | Moving in of a building or structure that has been previously occupied in another location. | X | --- | SUP |
| Passenger Terminals | Passenger terminals for regional bus and rail service. | X | P | P |

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| | | | | |
|----------------------------------|----------------------------------------------------------------------------------------------------|--|-----|-----|
| Telecommunications Facilities | Devices and supporting elements necessary to provide telecommunication services. | | SUP | SUP |
| Utilities and Essential Services | Infrastructure services that need to be located in or near the area where the service is provided. | | P | P |

SECTION 4. Section 21-04-17.1 of the Mandan Code of Ordinances is hereby created and enacted to read as follows:

21-04-17.1 DC Downtown Core District.

1. *Purpose.* The purpose of the Downtown Core District is to preserve and enhance the mixed-use, pedestrian-oriented nature of the City's downtown area. The district allows a wide range of mutually supportive uses in order to enhance downtown Mandan's role as a commercial, cultural, governmental, health/ medical, entertainment, education, and residential center. The district standards also facilitate the creation of a strong and distinctive sense of place through the inclusion of open space and public plazas. The use of design standards will maintain the historical integrity, enhance the quality of design, and preserve the human-scale development of downtown.

The following described property shall be included in the Downtown Core District:

In Mandan Proper Subdivision:

All of Blocks 1-14 & 18-22; Lots 4-9, Block 17; Lots 5-12, Block 23; Lots 1-6, Block 36; Lots 7-12, Block 35.

2. *Uses.* Uses are allowed in the Downtown Core District in accordance with the Use Table of Section 21-04-17.

3. *Dimensional Standards.* Development within the Downtown Core District is subject to the following dimensional standards:

- a. *Lot Area.* The minimum lot area is 2,500 square feet unless lot is recorded to have less than 2,500 square feet prior to adoption of this ordinance.
- b. *Lot Width.* The minimum lot width is 20 feet.
- c. *Lot Depth.* There is no lot depth requirement.
- d. *Front Yard Setback.* There is no minimum front yard setback. If the development site is between two existing buildings, which are both setback from the front property line, the front yard setback may not exceed the average setback of the adjoining buildings. In no case shall a setback greater than 15 feet be allowed, and this area must be landscaped and/or incorporate streetscape elements.
- e. *Side Yard Setback.* There is no minimum side yard setback, unless the side property line abuts residentially zoned property, in which case the

minimum side yard setback shall be 6 feet.

- f. *Rear Yard Setback.* The minimum rear yard setback is 10 feet. Provided that where the rear of a lot adjoins an alley, no rear yard shall be required for a principal nonresidential building.
 - g. *Height.* The maximum height is 130 feet, unless a special use permit to exceed this height is granted in accordance with the provisions of Section 21-06-03. The minimum height is two stories or 20 feet.
 - h. *Lot Coverage.* The maximum lot coverage is 100%.
4. *Design Standards.* All development within the Downtown Core District is subject to the following design standards:
- a. *Intent.* The intent of the design standards is to create and maintain a high visual quality and appearance for the Downtown Core District. The regulations are also intended to stimulate and protect investment through the establishment of high standards with respect to materials, details, and appearance.
 - b. *Review and Approval.* Compliance with these design standards shall be carried out in conjunction with the City's site plan review procedures. An administrative decision by the Mandan Architectural Review Committee regarding the design standards may be appealed to the City Commission and will be subject to the Commission's standard public hearing procedures.
 - c. *Building Materials.* All walls visible from the street shall be primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or an equivalent or better. The use of plain surface concrete or block shall be prohibited (i.e. the surface must be dimensional). Non-transparent glass shall be prohibited from covering more than 40 percent of the exterior walls.

All subsequent renovations, additions and related structures constructed after the construction of an original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

In order to maintain a sense of harmony within the area, the colors and materials used should generally be compatible with or complementary to those used for buildings on adjoining parcels.

- d. *Height.* The height of a new mid-block building shall be within one story/15 feet of any adjacent building. If a proposed mid-block development is between two existing buildings that vary more than three stories in height, the new building shall be within one story/15 feet in height of either the taller or shorter building. The height of a new corner

building may be higher than buildings on adjacent parcels, but should generally be within the average height of the buildings occupying the three adjacent corners of the intersection. It is not the intent of this provision to regulate the height of a building that occupies one-quarter of a block or more as it relates to adjacent or adjoining buildings.

- e. *Alignment.* New infill development in the Downtown District shall maintain the continuity of setback and alignment of adjoining facades at the property line.
- f. *Width.* New buildings shall reflect the existing characteristic rhythm of facades along the street. New construction, including parking ramps that require two or more lots, should respect this pattern by designing the pattern of adjacent façade widths into the new facade.
- g. *Horizontal Rhythms.* New development shall maintain the alignment of building windows, cornices, and rooflines that dominate the block on which it will be constructed. Character and scale shall be compatible with surrounding structures through the use of materials, detailing and window placement. A clear visual division between the street level and upper floors shall also be maintained. Canopies and awnings consistent with the architectural style of the building are strongly encouraged to accentuate the street level relationship between the building and streetscape and to provide protection of pedestrians.
- h. *Entrances.* A main entrance to the building shall face and be clearly visible from the street and define the entry point.
- i. *Historic Preservation.* Rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation to the greatest degree practicable.
- j. *Display Windows.* The original size and shape of display windows on existing buildings shall be preserved. For non-residential buildings, a minimum of 50% of first floor facades fronting the street shall be windows, doors and other transparent elements.
- k. *Rooftop Equipment.* Rooftop equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.
- l. *Vacant Buildings.* Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited; window coverings shall be aesthetically pleasing.
- m. *Demolition and Vacant Lots.* Any demolition shall be in accordance with the provisions of Section 14-11 of the City Code of Ordinances. Any lots left vacant after demolition shall be treated to control fugitive dust. If the lot is to remain vacant for more than 180 days, said lot shall

be landscaped. The lot shall be maintained and kept free of debris and litter.

- n. *Exposed Common Walls.* If common walls are exposed due to demolition of adjoining buildings, the walls shall be treated to ensure that the walls do not become a visual eyesore. The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels. Temporary alternative treatments need to be approved by the Mandan Architectural Review Commission. Permanent alternative treatments include architectural treatment that is similar to the front façade of the building or stucco. The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans, and shall be the financial responsibility of the owner of the property upon which the demolished building was located.
- o. *Work in Public Right-of-Way.* Any work within the public right-of-way must be approved by the Mandan Architectural Review Commission and shall be in accordance with any City guidelines and shall comply with the standards established by the City Engineer.

5. *Off-street Parking and Loading.* Off-street parking and loading shall be provided in accordance with the provisions of Section 21-03-10. Off-street parking shall not be required for properties within the Downtown Parking District (Section 21-03-10.6).

6. *Landscaping and Screening.* Landscaping and Screening shall meet the approval of and guidelines set forth by the Mandan Architectural Review Commission. Development within the Downtown Core District, including the development of parking areas, shall be subject to the requirements of Section 21-03-10. If decorative fencing or any other streetscape elements are used, they shall be consistent with or complementary to the designated downtown streetscape elements.

7. *Signage.* All signage in the Downtown Core District shall be installed and maintained in accordance with the City policy. Canopies used for signage shall be consistent with the architectural style of the building.

SECTION 5. A new section 21-04-17.2 to the Mandan Code of Ordinances is hereby created and enacted to read as follows:

21-04-17.2 DF Downtown Fringe District.

1. *Purpose.* The purpose of the Downtown Fringe District is to strengthen and complement the City's downtown area by allowing uses not normally allowed in the Downtown Core District. The Downtown Fringe District also serves to provide a transitional area between the Downtown Core District and adjacent commercial and residential zoning districts. The uses allowed in this district usually require larger parcels and a greater emphasis on automobile access and parking

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The following described property shall be included in the Downtown Fringe District:

In Mandan Proper Subdivision:

All of Blocks 15-16, 24-34, 37-58; Lots 1-3 & 10-12, Block 17; Lots 1-4, Block 23; Lots 1-6, Block 35; Lots 7-12, Block 36

All of Alber's Neff 1st

All of Collin's Court

In Meads Subdivision:

All of Blocks 1 & 8-11; Lots 1-12 of Blocks 7 & 12; Lots 1-3, & 13, Block 15

In Alber's Neff 2nd:

Lot 1, Block 1; Lots 10-12, Block 4

In Northern Pacific 1st:

All of Blocks 59-74 & 81; Lots 4-9, Blocks 76-79 & 82; Lots 4-12, Block 80; Lots 7-9, Block 83

In Don's Subdivision:

Lots 1-3 & 8, Block 3

All of Helmsworth-McLean 2nd

In Helmsworth McLean 1st:

All of Blocks 1-23; Lots 7-18, Blocks 24-29; Lots 7-12, Block 30

All of Koch Commercial Park

All lands between 10th Ave West and the Railroad overpass east of Mandan Avenue bounded on the north by Main street and bounded on the south by the BNSF railroad trackage.

All lands bounded on the west by Mandan Avenue, bounded on the east by BNSF railroad trackage between 3rd Street NE and Main Street.

2. *Uses.* Uses are allowed in the Downtown Fringe District in accordance with the Use Table of Section 21-04-17.

3. *Dimensional Standards.* Each single-family, two-family, multifamily, or group dwelling hereafter erected shall comply with all regulations governing such uses in an RM residential district as provided under Section 21-04-03. Non-dwelling development within the Downtown Fringe District is subject to the following dimensional standards:

- a. *Lot Area.* The minimum lot area is 2,500 square feet unless lot is recorded to have less than 2,500 square feet prior to adoption of this ordinance.
- b. *Lot Width.* The minimum lot width is 25 feet.
- c. *Lot Depth.* There is no lot depth requirement.
- d. *Front Yard Setback.* There is no minimum front yard setback, unless the property is immediately adjacent to a residentially zoned property, in which case the minimum front yard setback shall be 15 feet. In no case shall a setback greater than 25 feet be allowed, and this area must be landscaped and/or incorporate streetscape elements.

- e. *Side Yard Setback.* There is no minimum side yard setback, unless the property is immediately adjacent to a residentially zoned property, in which case the minimum side yard setback shall be 5 feet.
- f. *Rear Yard Setback.* There is no minimum rear yard setback, unless the property is immediately adjacent to a residentially zoned property, in which case the minimum rear yard setback shall be 10 feet.
- g. *Height.* The maximum height is 75 feet, unless the property is immediately adjacent to a residentially zoned property, in which case the maximum height is 50 feet.
- h. *Lot Coverage.* The maximum lot coverage is 100%, unless the property is immediately adjacent to a residentially zoned parcel, in which case the maximum lot coverage shall be 70%.

4. *Design Standards.* All development within the Downtown Fringe District is subject to the following design standards:

- a. *Intent.* The intent of the design standards is to create and maintain a high visual quality and appearance for the Downtown Fringe District. The regulations are also intended to stimulate and protect investment through the establishment of high standards with respect to materials, details, and appearance.
- b. *Review and Approval.* Compliance with these design standards shall be carried out in conjunction with the City's site plan review procedures. An administrative decision by the Architectural Review Committee regarding the design standards may be appealed to the City Commission and will be subject to the Commission's standard public hearing procedures.
- c. *Building Materials.* For non-residential and multi-family residential buildings containing more than 8 units, all walls visible from the street shall be primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or an equivalent or better. The use of plain surface concrete or block shall be prohibited (i.e. the surface must be dimensional). Non-transparent glass shall be prohibited from covering more than 40 percent of the exterior walls.

For residential buildings containing 8 or fewer units, traditional residential building materials may be used.

All subsequent additions and related structures constructed after the construction of an original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

In order to maintain a sense of harmony within the area, the colors, materials and architectural elements used should generally be compatible with or complementary to those used for buildings on adjoining parcels.

- d. *Height.* The height of a new building should be within one-story/15 feet of any buildings on adjacent parcels. It is not the intent of this provision to regulate the height of a building that occupies one-quarter of a block or more as it related to buildings on adjacent parcels.
- e. *Alignment.* The setbacks and alignment of a new building should be similar to any buildings on adjoining parcels.
- f. *Entrances.* A main entrance to the building shall face and be clearly visible from the street and define the entry point.
- g. *Historic Preservation.* Rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation to the greatest degree practicable.
- h. *Rooftop Equipment.* Rooftop equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.
- i. *Vacant Buildings.* Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited; window coverings shall be aesthetically pleasing.
- j. *Demolition and Vacant Lots.* Any demolition shall be in accordance with the provisions of Section 14-11 of the City Code of Ordinances. Any lots left vacant after demolition shall be treated to ensure to control fugitive dust. If the lot is to remain vacant for more than 180 days, said lot shall be landscaped. The lot shall be maintained and kept free of debris and litter.
- k. *Exposed Common Walls.* If common walls are exposed due to demolition of adjoining buildings, the walls shall be treated to ensure that the walls do not become a visual eyesore. The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels. Temporary alternative treatments must be approved by the Architectural Review Committee. Permanent alternative treatments include architectural treatment that is similar to the front façade of the building or stucco. The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans, and shall be the financial responsibility of the owner of the property upon which the demolished building was located.

1. *Work in Public Right-of-Way.* Any work within the public right-of-way must be approved by the Mandan Architectural Review Commission and shall be in accordance with any City guidelines and shall comply with the standards established by the City Engineer.

5. *Off-street Parking and Loading.* Off-street parking and loading shall be provided in accordance with the provisions of Section 21-03-10. Off-street parking shall not be required for properties within the Downtown Parking District (Section 21-03-10.6).

6. *Landscaping and Screening.* Landscaping and Screening shall meet the approval of and guidelines set forth by the Mandan Architectural Review Commission. Development within the Downtown Core District, including the development of parking areas, shall be subject to the requirements of Section 21-03-10. If decorative fencing or any other streetscape elements are used, they shall be consistent with or complementary to the designated downtown streetscape elements.

7. *Signage.* All signage in the Downtown Fringe District shall be installed and maintained in accordance with City policy. Canopies used for signage shall be consistent with the architectural style of the building.

SECTION 6. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. EFFECTIVE DATE. The provisions of this ordinance shall be in full force and effect from and after the date of publication of a notice of adoption.

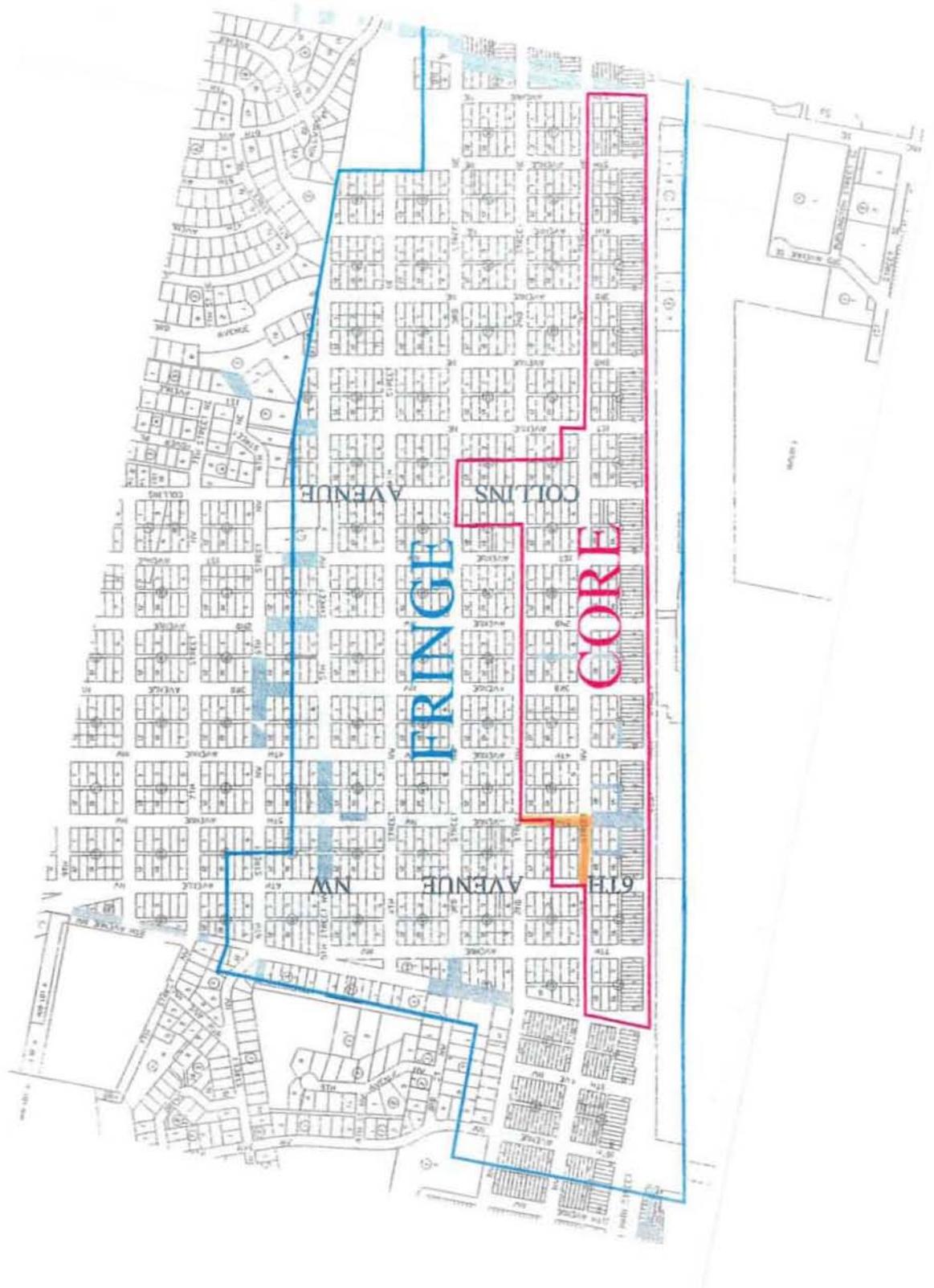
Dated this _____ day of _____, 2006

President, Board of City Commissioners

ATTEST:

City Administrator

First Reading:
Second Reading:
Final Passage:
Date of Publication:





Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 11, 2011
SUBMITTING DEPARTMENT: Business Development
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Renaissance Zone Committee Recommendation

STATEMENT/PURPOSE: To consider a recommendation from the Mandan Renaissance Zone Committee regarding an application.

BACKGROUND/ALTERNATIVES: The Mandan Renaissance Zone Committee (RZC) met Feb. 11, 2011. Among items considered:

Renaissance Zone Project Application — New construction by Capital Credit Union at 600 E Main. The application is for the construction of a two-story credit union of 9,300 sf in total with 3,680 sf on the main floor and second story and a partial basement of 1,940 sf. The upper floor will include some lease space.

The estimated cost of construction is \$1.625 million including some site work. The investment will be well in excess of the minimum \$55 per square foot local requirement for Renaissance Zone project qualification.

The project will likely retain and expand jobs with the additional lease space on the second floor.

ATTACHMENTS: Capital Credit Union application

FISCAL IMPACT:

- The Assessing Department estimates the value upon completion at \$1.5 million. Estimated taxes on the new building are \$30,675 annually, for a five-year exemption value of \$153,375.
- The existing building will be demolished upon completion of the new credit union with the space to be used for off-street parking. The existing building's value is \$117,800, resulting in a temporary tax loss of \$2,409 annually for a five-year total of \$12,045.

- The payback for this project, once it is on the tax rolls beginning in year 6, is approximately 2.5 times its current tax revenue in the first year alone.
- The credit union is not subject to state income or financial institution tax.
- *NOTE: All property tax estimates are based on the current levy of 409 mills (2.054% of value) a contractor's budget estimate and resulting assessing department estimate. Actual values may vary.*

STAFF IMPACT: Minimal

LEGAL REVIEW: All information has been provided to Attorney Brown.

RECOMMENDATION: The RZC recommends approval of the Capital Credit Union application for new construction at 600 E Main Street with the 100% five-year local property tax exemption, contingent upon Architectural Review Commission approval of the site plan and building design.

SUGGESTED MOTION: I move to approve the Capital Credit Union application for new construction at 600 E Main Street as a Renaissance Zone project with the 100% five-year local property tax exemption, contingent upon Architectural Review Commission approval of the site plan and building design.



RENAISSANCE ZONE PROJECT APPLICATION

A Renaissance Zone project must be approved by the Mandan Renaissance Zone Committee, Mandan City Commission and the N.D. Commerce Department — Division of Community Services before the qualifying event occurs (purchase, rehabilitation, lease or new construction). Submit applications to the City of Mandan Business Development Office, 205 Second Avenue NW, Mandan, ND 58554, phone 701-667-3485.

APPLICANT INFORMATION

1. Type of project

- Commercial/Business
 Residential

2. Name of applicant(s)/or business name Capital Credit Union

Tax identification or social security number (both for joint filers)

45-0226724 / _____

Legal name (if different than trade name) _____

Type of entity (for commercial/ business applications)

- Partnership
 Corporation
 Subchapter S corporation
 Cooperative Non-profit
 Sole proprietorship
 Limited liability company
 Limited liability partnership

3. Mailing address 204 W Thayer Avenue, Bismarck, ND 58501

4. Phone number 701-255-0042

5. E-mail address loni.bienek@ccpcu.org

PROJECT INFORMATION

6. Street address of proposed project 600 East Main Street

7. Legal description Lots 9 through 15, Block 1, Original Town, Mandan, North Dakota

8. Current owner (if different than applicant) _____

9. Current use of property financial institution (credit union)

10. Parcel size (in square feet) 22,750 s.f.

11. Building floor area (in square feet) 9,300 s.f. (total)

12. Type of project

- New construction
 Purchase with improvements
 Rehabilitation
 Leasehold improvements
 Lease
 New
 Expansion – additional square footage _____
 Continuation of a lease

If a lease project, does it involve relocation of a business from one location in the city's Renaissance Zone to another location in the Renaissance Zone?

- Yes
 No

13. Project description (scope of work including breakout of capital improvements)

Construction of a new 2-story credit union with a partial basement and 3-lane driveup. The main level (3600 s.f.) will contain offices, conference room, waiting and retail banking; the upper level (3600 s.f.) will contain restrooms, employee lounge, and tenant/lease space; the basement (1940 s.f.) will have storage and mechanical room. The existing building will be removed.

14. Current true and full value of the building _____

15. Total estimated cost of improvements (attach cost estimates) \$1,625,000⁰⁰

Note: Any grant funds may not be counted in determining if the cost of improvements or rehabilitation meets or exceeds the minimum requirements.

16. Estimated value of building after improvements have been completed \$1.5 million

17. Estimated property tax benefit (annually) \$30,675 (five years) \$153,375

18. Estimated state income tax benefit (annually) _____ (five years) _____

Is the entity subject to the financial institution tax (NDCC 57-35.3)?

- Yes
 No

19. Describe how the project benefits the community (Examples: Business created, expanded or retained, additional jobs created, additional products or services available, improved property, etc.)

The new facility will retain existing jobs; at the same time potentially creating new jobs with the proposed tenant/lease space on the second floor. The new building will likely increase property values. The new building will hopefully add to the downtown core with an increased presence on the corner of 5th & Main.

20. Project timeline including anticipated start and completion dates.

Construction Start: April 2011

Construction Completion: December 2011

21. Does this project involve historical preservation or renovation?

Yes

No

For projects that involve historical preservation or renovation, but are not part of a rehabilitation project, provide a description of the work and the estimated costs. A **letter of approval from the Historical Society is required to claim any historical tax credits either on a rehabilitation project or renovation.** Information for historical properties may be obtained by contacting the Historical Society at: (701) 328- 2666.

22. Evidence that the taxpayer is current on local and state taxes?

Yes

No

Attach copy of certificate of Good Standing from the N.D. Tax Department and proof of payment of current real estate taxes such as a copy of a receipt from the Morton County Treasurer's Office.

23. For residential projects, please provide evidence that the home is the taxpayer's primary residence.

SUMMARY OF ATTACHMENTS

Documents to be submitted along with application:

Certificate of Good Standing from N.D. Tax Commissioner

Proof of payment of current real estate taxes

Contractor(s) detailed cost estimate(s) — for improvements, rehab or new construction with capital improvements delineated as compared to non-capital improvements. Capital improvements include, but are not limited to, replacement or updating of roof, foundation, structure, siding, windows, doors or other weatherization improvements, electrical, plumbing, heating, ventilation or central air conditioning. Non-capital improvements are items such as floor coverings, wall treatments, cabinets, furnishings, and window treatments.

o Rehabilitation

▪ Commercial — must demonstrate that the proposed re-investment is at least 50 percent of the current and true value of the, of which not less than 80 percent will be used for capital improvements

▪ Residential — must demonstrate that the proposed re-investment is at least 20 percent of the current and true value of the building, of which not less than 80 percent will be used for capital improvements and no more than 20 percent for detached out buildings

o New construction — documentation that the proposed investment is at least \$55 per square foot

Current photo(s) of property showing all sides of any existing building(s) — for improvements, rehab

Site plan — for new construction or expansion

Proposed building elevations, with exterior building material and color clearly indicated — for improvements, rehab, new construction

Proof of primary residence — for residential applications

Proof of benefit from property tax exemption — for leasehold improvement applications

NOTICE OF ADDITIONAL LOCAL REQUIREMENT

Voters in the Nov. 4, 2008, election in the City of Mandan approved an initiated ordinance that states, "Installation of electric handicap accessible entrance doors are required on every building open to the public that has received public funds in any form whatsoever." Include an estimate for an automatic door at least for the main entrance if subject building or business space does not have one.

APPLICANT CERTIFICATION

Applicant certifies that, to the best of his or her knowledge and belief, the information contained in the application and attached hereto is true and correct.

Signature of applicant: *Joni Bieink* Date: *2/3/11*

BUILDING OWNER CERTIFICATION — For lease-hold improvement projects only

I, as owner of the property at _____, which includes an approximate _____ square foot lease space addressed _____, grant permission to _____ (applicant) to make leasehold improvements to this space as a Renaissance Zone project. I understand and acknowledge that if there is any rehabilitation to the building at a future date that this space does not qualify as a Renaissance Zone project.

Capital Credit Union
Building Owner Name – printed

Joni Bieink for Capital Credit Union
Building Owner Signature

2/4/11
Date

FOR OFFICE USE ONLY

| | <u>Date</u> | <u>Recommendation</u> |
|----------------------------------------------------------------------|-------------|-----------------------|
| Review by Mandan Renaissance Zone Committee | _____ | Approval or Denial |
| Review by City Commission | _____ | Approval or Denial |
| Review by N.D. Commerce Department Division of Community Services | _____ | Approval or Denial |

Renaissance Zone Block _____ Renaissance Zone Project _____

Date of actual project completion _____

BUSINESS INCENTIVE AGREEMENT — For tax incentives exceed \$25,000

NDCC 54-60 requires any business that receives a reduction or deferral of any tax of \$25,000 or greater to enter into a Business Incentive Agreement. For purposes of the Renaissance Zone Program, this includes any combination of property tax exemption, state income tax exemption, or historical tax credit that exceeds \$25,000.

Name and address of the parent corporation if any.

Name _____

Address _____

Location of the business prior to receiving the business incentive.

Address _____

City _____ State _____

Was any additional financial assistance received from any state or other political subdivision grantors (does not include state or local taxes)?

- Yes
- No

If yes, please list the name and amount below.

By signing this document, the recipient agrees:

- to continue operations in the jurisdiction in which the business incentive is issued for five years or more after the benefit date, and
- to report for two years on number of jobs created, average wages, and average benefits.

By signing this agreement, the recipient verifies that it has not failed to meet the terms of any business incentive agreement in the last five years.

Dated this _____ day of _____, 20 11

Recipient Joni Brendt

On behalf of (business) Capital Credit Union

Dated this _____ day of _____, 20 _____

Grantor _____

On behalf of the City of Mandan

Dated this _____ day of _____, 20 _____

Grantor _____

On behalf of the N.D. Commerce Department — Division of Community Services



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

February 4, 2011

Ref: L0025180672

CAPITAL CREDIT UNION
204 W THAYER AVE
BISMARCK ND 58501-3772

RE: Renaissance Zone Certificate Of Good Standing, State Income And Sales Taxes Only

This letter is evidence of good standing as required by the North Dakota Division of Community Services for purposes of obtaining final approval of a renaissance zone project.

As of the date of this letter, the records in the North Dakota Office of State Tax Commissioner do not show probable cause to believe that any income taxes (including income tax withheld from wages) or sales and use taxes are due and owing to the State of North Dakota by the following taxpayer:

Taxpayer's Name: CAPITAL CREDIT UNION
SSN or FEIN: 45-0226724

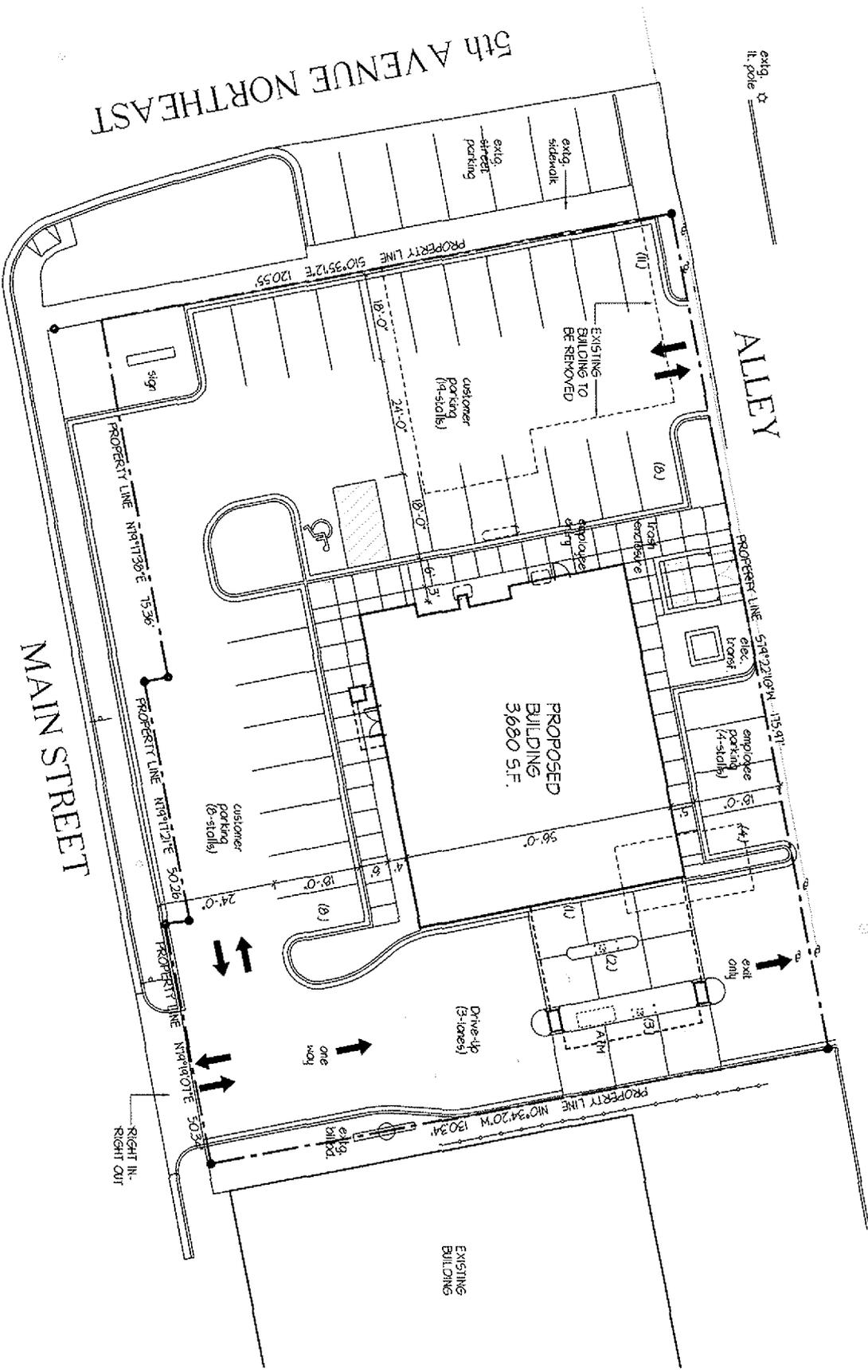
The enclosed copy of this letter must be submitted (as part of the zone project application) to the local zone authority for the renaissance zone in which the proposed zone project will be located. Please keep this original letter for your records.

/s/ Nathan Bergman

Nathan Bergman
Supervisor, Individual Income Tax and Withholding
Phone: (701) 328-1296
Email: nwbergman@nd.gov

Enc.

1"=20'-0"
 SITE PLAN



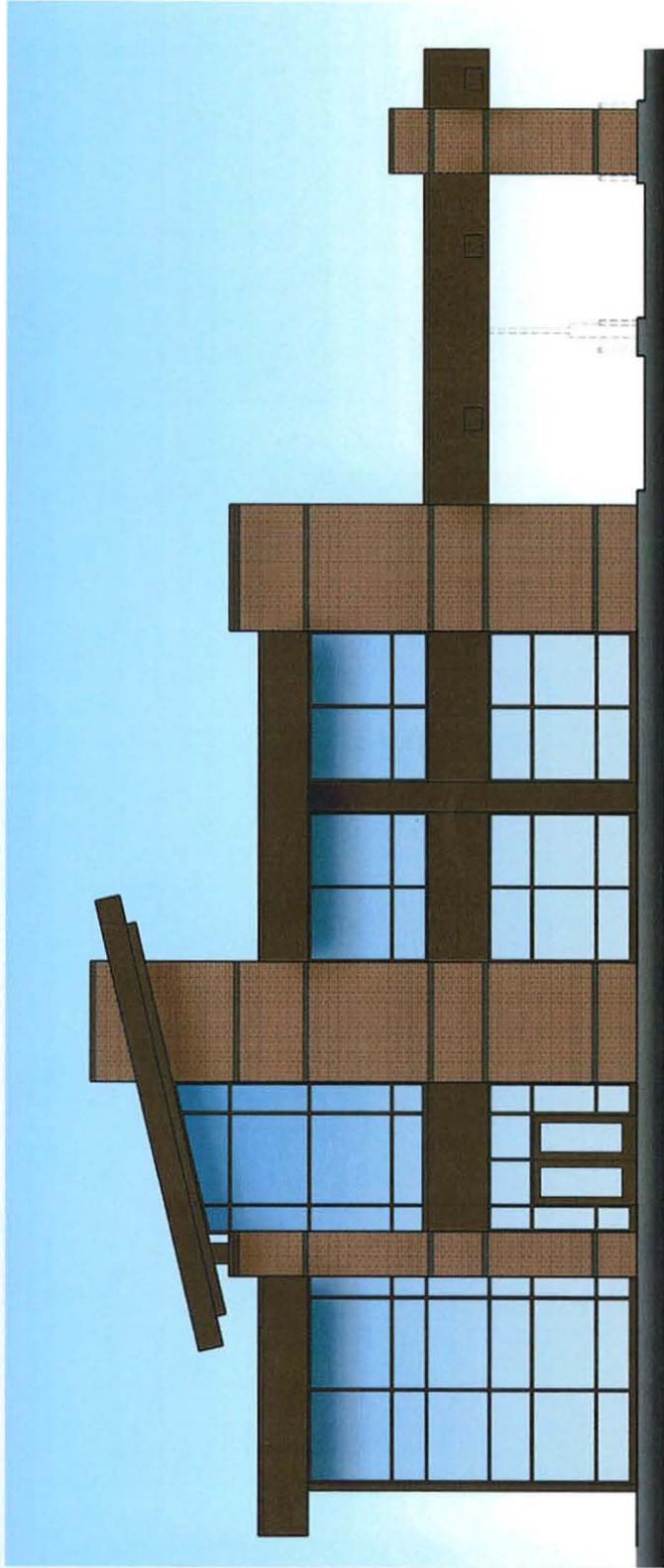
SHEET:
 1

PROJECT #: 10157
 DATE: 2-3-11

CAPITAL CREDIT UNION
 PROPOSED NEW BUILDING
 MANDAN, NORTH DAKOTA

9300 Hennepin Town Road
 Minneapolis, MN, 55347
 Tel: 952.278.8880
 Fax: 952.278.8822



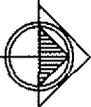
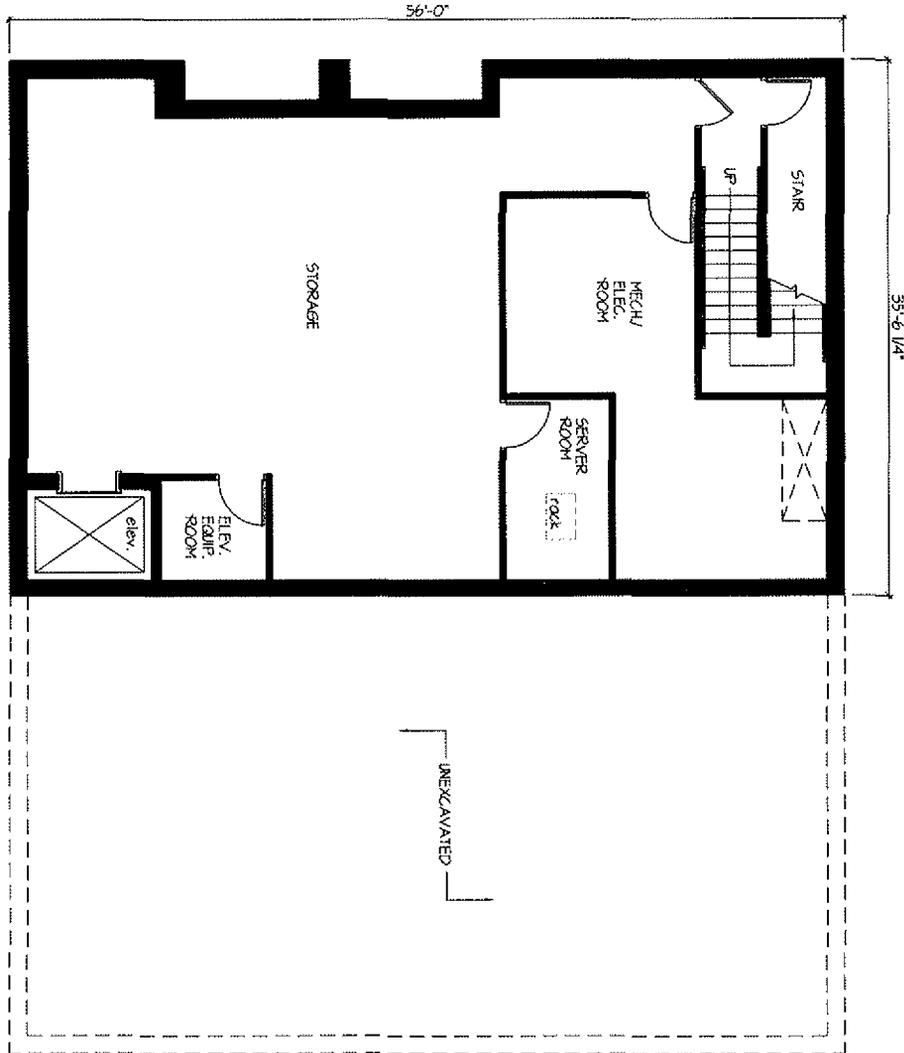


| PRELIMINARY SOUTH ELEVATION

1
2

LOWER LEVEL PLAN

1/8"=1'-0"



SHEET:
2

PROJECT #: 10157
DATE: 2-3-11

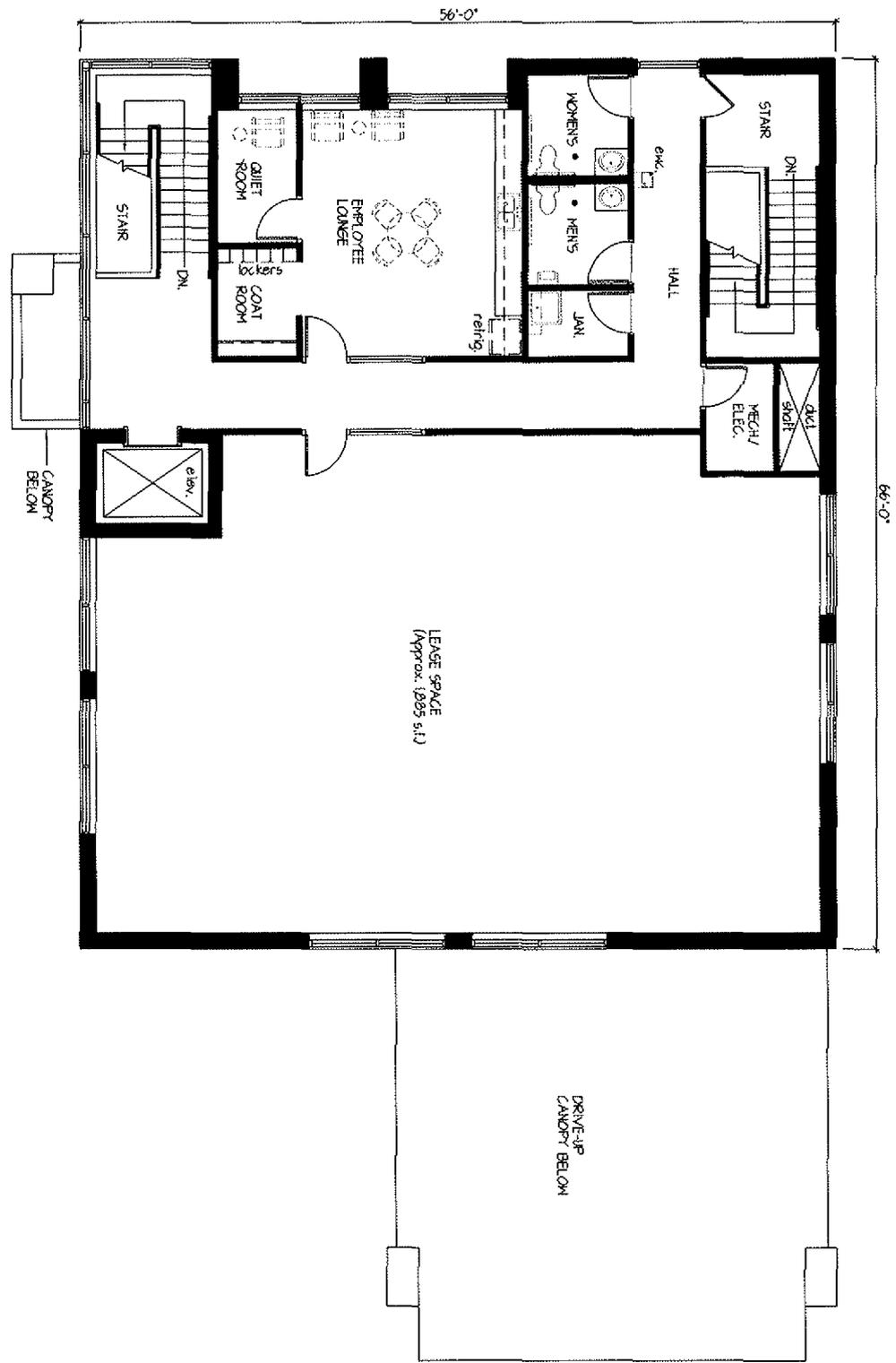
CAPITAL CREDIT UNION
PROPOSED NEW BUILDING
MANDAN, NORTH DAKOTA

9300 Hennepin Town Road
Minneapolis, MN. 55347
Tel: 952.278.8880
Fax: 952.278.8822

HTG
architects
www.htgarchitects.com

1
4

UPPER LEVEL PLAN
1/8" = 1'-0"



SHEET:
4

PROJECT #: 10157
DATE: 2-3-11

CAPITAL CREDIT UNION
PROPOSED NEW BUILDING
MANDAN, NORTH DAKOTA

9300 Hennepin Town Road
Minneapolis, MN. 55347
Tel: 952.278.8880
Fax: 952.278.8822

HTG
architects
www.htgarchitects.com

Professional Contractors Inc.

1331 Airport Road
Bismarck, ND 58504
Phone (701) 223-7072
Fax (701) 223-7063

December 1, 2010
Page 1 of 2

Attn: Jeffrey Pflipsen
HTG Architects
9300 Hennepin Town Road
Minneapolis, MN 55347

Re: Capital Credit Union
Proposed Mandan Office
Mandan, ND

Dear Jeffery:

This Proposal is for ballpark estimate for referenced Project. Costs are based on Feasibility Study Drawings dated November 17, 2010 and November 23, 2010. Building construction will be similar to existing Northwest Branch in Bismarck, ND.

Includes:

- A) General Requirements
 - 1) Temporary Utilities
 - 2) Builder's Risk Insurance
 - 3) Building Permit
 - 4) Soil/Concrete Testing
 - 5) Site Layout
- B) Sitework
 - 1) Site Grading
 - 2) Landscaping Allowance (\$10,000.00)
 - 3) Lawn Sprinkler Allowance (\$5,000.00)
 - 4) New Sanitary Sewer, Water Service (Value - \$32,000.00)
 - 5) Demolition of Existing Building, Paving, Disconnect Utilities (Value - \$20,000.00)
- C) Division 3
 - 1) Concrete Foundations
 - 2) Concrete Parking Lot
 - 3) Curb & Gutter
 - 4) Hollow Core Floor Above Basement
- D) Division 4
 - 1) Masonry Veneer
- E) Division 5
 - 1) Conventional Frame Structural Steel
 - 2) Metal Joist & Deck for First Floor & Roof
 - 3) Canopy Structure
 - 4) Metal Stairways with Concrete Filled Pans
- F) Division 6 -- Carpentry
 - 1) Wood Trusses on Metal Deck
 - 2) Interior Casework
 - 3) Wood Frames, Casing

December 1, 2010
Page 2 of 2
Attn: Jeffrey Phillips
HTG Architects
Re: Capital Credit Union
Proposed Mandan Office

- G) Division 7 – Thermal & Moisture Protection
 - 1) Roof & Wall Batt Insulation
 - 2) Membrane Roofing
 - 3) Metal Roof Panel
- H) Division 8 – Doors & Windows
 - 1) Hollow Metal, Finish Hardware
 - 2) Pre-Finished Cherry Wood Doors
 - 3) Aluminum Curtain Walls, Glazing, Aluminum Entrances
 - 4) Interior Glazing at Offices
 - 5) Metal Wall Panels, Canopy Fascia/Soffit Metal
- I) Division 9 – Finishes
 - 1) Exterior & Interior Metal Studs, Drywall
 - 2) Acoustic Ceiling
 - 3) Flooring, Ceramic Tile
 - 4) Taping/Painting
- J) Division 10 – Accessories
 - 1) Toilet Accessories
- K) Division 14 – Equipment
 - 1) 3-Stop Elevator
- L) Division 15 – Mechanical
 - 1) Plumbing
 - 2) HVAC
 - 3) Fire Sprinkler
- M) Division 16 – Electrical
 - 1) Electrical Complete
 - 2) Lot Lights

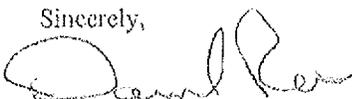
Excludes:

- 1) Site Survey, Design Fees
- 2) Soil Borings
- 3) Bank Equipment
- 4) Furniture
- 5) Signage
- 6) Storm Sewer
- 7) Replace Concrete in Alley

Total Budget Cost is: \$1,625,000.00

Feel free to contact me for any questions.

Sincerely,



David Reis



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 7, 2011
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Dennis A. Bullinger
PRESENTER: Chief Dennis A. Bullinger
SUBJECT: Introduction of Police Officer

STATEMENT/PURPOSE:

Introduction of a new Police Officer to the Board of City Commission.

BACKGROUND/ALTERNATIVES:

Troy Mealey, a graduate of the Hibbing Community College, in Hibbing, Minnesota, where he successfully completed the Professional Peace Officer Education Program and earned his A.A.S degree in 2010. Troy is currently in our Field Training Program and has recently completed phase one.

ATTACHMENTS: N/A

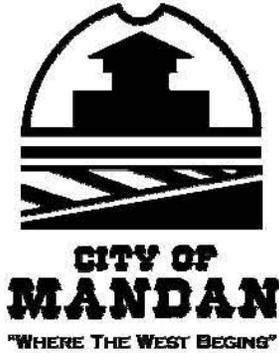
FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: N/A

SUGGESTED MOTION: N/A



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 11, 2011
SUBMITTING DEPARTMENT: Fire
DEPARTMENT DIRECTOR: Chief Steve Nardello
PRESENTER: Chief Steve Nardello
SUBJECT: Introduction of Firefighters

STATEMENT/PURPOSE:

Introduction of new firefighters to fill two vacant positions.

BACKGROUND/ALTERNATIVES:

Matt Hennessy has been with the Mandan Fire Department for two years as a part-time employee. Originally from Bismarck, Matt graduated from Northland Technical College with a degree in Fire Science and worked at Metro-Ambulance for approximately one year. Clayton Schaff has been with the Mandan Fire Department for over three years as a part-time employee. Raised in the Mandan area, Clayton attended Wyoming Technical institute for diesel technology with a minor in business administration.

ATTACHMENTS: N/A

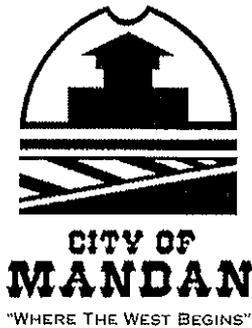
FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: N/A

SUGGESTED MOTION: N/A



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 9, 2011
SUBMITTING DEPARTMENT: Finance
DEPARTMENT DIRECTOR: Greg Welch
PRESENTER: Mike Manstrom, Dougherty & Company LLC
SUBJECT: Sale of \$960,000 Refunding Improvement Bonds of 2011, Series A.

PURPOSE

To award the sale of \$960,000 Refunding Improvement Bonds of 2011, Series A for the purpose of refunding the City's Refunding Improvement Bonds of 2005.

BACKGROUND

The refinancing of the old Bonds is necessary to take advantage of the lower interest rates with the sale of the new Bonds. The following special assessment districts are affected as a result of the refinancing:

Refunding Improvement Bonds of 2005

- Sanitary Sewer #27 (Lakewood Harbor 2nd Addition-Lift Station).
- Street #119 (Plainview Heights 9th Addition and Bender Addition-Pavement, Storm Sewer, and Street Lights-portion of 8th Avenue SE).
- Street #121 (Lakewood 2nd Addition-Pavement, Storm Sewer, and Street Lights).
- Street #123 (14th Street NW realignment at 5th Avenue NW-Lewis and Clark School).
- Street #125 (30th Avenue NW-Porsborg-Mandan Industrial Park 7th Addition).
- Street #128 (Sunset Commercial Park).
- Water and Sewer #45 (Plainview Heights 9th Addition-portion of 8th Avenue SE).

ATTACHMENTS

- Official Statement cover page
- Official Bid Form
- Refunding Summary-as of January 10, 2011
- Debt Service Comparison-as of January 10, 2011
- Resolution Awarding Sale of Bonds

FISCAL IMPACT

The net savings from the refinancing will be passed on to the balances owed by the special assessment districts indicated above through lower interest rates effective March 1, 2011.

The following is the rating summary issued by Moody's Investors Service on February 9, 2011:

Moody's Investors Service has assigned a A1 rating to the City of Mandan's (ND) \$960,000 Refunding Improvement Bonds of 2011, Series A. Concurrently, Moody's has affirmed the A1 rating on the city's outstanding general obligation unlimited tax debt. Post sale the city will have \$45 million of outstanding general obligation debt. The bonds are secured by the city's general obligation unlimited tax pledge. The A1 rating reflects the region's diverse and steadily growing economy, sound financial operations, and above average but rapidly retired debt. Proceeds of the bonds will refund various outstanding obligations of the city for net present value savings.

WHAT COULD CHANGE THE RATING-UP:

- *Significant expansion and diversification of the district's tax base;*
- *Improved General Fund reserves and liquidity.*

WHAT COULD CHANGE THE RATING-DOWN:

- *Significant erosion of the district's tax base and demographic profile;*
- *Operating deficits coupled with deterioration in General Fund reserves liquidity.*

STAFF IMPACT

None

LEGAL REVIEW

Steve Vogelpohl, Bond Counsel, will prepare the legal opinion.

Board of City Commissioners
Agenda Documentation
Meeting Date: February 15, 2011
Subject: Sale of \$960,000 Refunding Improvement Bonds of 2011, Series A.
Page 3 of 3

RECOMMENDATION

To approve the Resolution Awarding Sale of \$960,000 Refunding Improvement Bonds of 2011, Series A.

SUGGESTED MOTION

Move to approve the Resolution Awarding Sale of \$960,000 Refunding Improvement Bonds of 2011, Series A.

New Issued Book Entry Only

This Document does not constitute an offer to sell the Bonds in any State or other jurisdiction to any person to whom it is unlawful to make such offer in such State or jurisdiction. No dealer, salesperson, or any other person has been authorized to give any information or to make any representation other than those contained herein in connection with the offering of the Bonds, and if given or made, such information or representation must not be relied upon.

FINAL OFFICIAL STATEMENT
(Dated February 15, 2011)
CITY OF MANDAN
MORTON COUNTY, NORTH DAKOTA
\$960,000 Refunding Improvement Bonds of 2011, Series A

Bonds Dated: March 1, 2011

Principal Due: May 1, as below

Rating has been applied for.

Interest will be payable on May 1 and November 1, commencing November 1, 2011. The Bonds will be issued as fully registered Bonds without coupons and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"). DTC will act as securities depository of the Bonds. Individual purchases may be made in book entry form only, in the principal amount of \$5,000 and integral multiples thereof. Purchasers will not receive certificates representing their interest in the Bonds purchased. See ("Book Entry System" herein.) Starion Bond Services of Mandan, North Dakota will serve as registrar.

| <u>Year</u> | <u>Amount</u> | <u>Rate</u> | <u>Yield</u> | <u>CUSIP</u> |
|-------------|---------------|-------------|--------------|--------------|
| 2012 | \$115,000 | | | |
| 2013 | \$115,000 | | | |
| 2014 | \$115,000 | | | |
| 2015 | \$105,000 | | | |
| 2016 | \$105,000 | | | |
| 2017 | \$105,000 | | | |
| 2018 | \$100,000 | | | |
| 2019 | \$100,000 | | | |
| 2020 | \$100,000 | | | |

Bonds maturing in 2018 and thereafter shall be subject to redemption and prepayment, at the option of the City of May 1, 2017, and any date thereafter, in inverse order of maturities and by lot within any maturity, at par plus accrued interest.

In the opinion of Steven L. Vogelpohl, Bond Counsel, the interest to be paid on the Bonds will not be includable in gross income of the recipient for United States or North Dakota income tax purposes (other than the privilege tax imposed on financial institutions by North Dakota Century Code, Chapter 57-35.3). Interest on the Bonds will not be treated as a preference item in calculating the federal alternative minimum taxable income of individuals and corporations (see Tax-Exemption herein). The Bonds are "qualified tax-exempt obligations" under Section 265 (b)(3) of the Internal Revenue Code of 1986.

DOUGHERTY & COMPANY LLC

90 South Seventh Street, Suite 4300
Minneapolis MN 55402-4108
612/376-4000

OFFICIAL BID FORM
CITY OF MANDAN
MORTON COUNTY, NORTH DAKOTA

\$960,000
Refunding Improvement Bonds of 2011, Series A

February 15, 2011

Honorable Mayor, City Commission and City Officials
City of Mandan
Morton County, North Dakota

HONORABLE MAYOR, CITY COMMISSION AND OFFICIALS:

For the City's Refunding Improvement Bonds of 2011, Series A, dated March 1, 2011, we will pay you \$_____ plus accrued interest to the date of delivery for Bonds paying interest on November 1, 2011, and each May 1 and November 1, thereafter, and maturing on May 1 as follows:

| <u>Year</u> | <u>Amount</u> | <u>Rate</u> |
|-------------|---------------|-------------|
| 2012 | \$115,000 | |
| 2013 | \$115,000 | |
| 2014 | \$115,000 | |
| 2015 | \$105,000 | |
| 2016 | \$105,000 | |
| 2017 | \$105,000 | |
| 2018 | \$100,000 | |
| 2019 | \$100,000 | |
| 2020 | \$100,000 | |

This proposal is subject to the approving legal opinion of Steven L. Vogelpohl, Attorney at Law, Bismarck, North Dakota. We understand that the said legal opinion will be provided to us without cost.

This proposal is for prompt acceptance and for anticipated delivery of said Bonds within 30 days (anticipated delivery February __, 2011).

Respectfully,

Account Manager

Dougherty & Company LLC

By: _____
David B. Juran, Executive Vice President

FOR INFORMATIONAL PURPOSES:

Total Net Interest Cost \$ _____

Net Effective Rate _____%

The foregoing proposal is hereby accepted by and on behalf of the CITY OF MANDAN,
MORTON COUNTY, NORTH DAKOTA, this 15th day of February, 2011.

President

ATTEST:

City Administrator

CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA

\$960,000

City of Mandan, North Dakota
Refunding Improvement Bonds of 2011
Refunding of Series 2005

Refunding Summary

Dated 02/15/2011 | Delivered 02/15/2011

Sources Of Funds

| | |
|----------------------|---------------------|
| Par Amount of Bonds | \$960,000.00 |
| City Funds | 26,100.00 |
| Total Sources | \$986,100.00 |

Uses Of Funds

| | |
|---------------------------------------|---------------------|
| Deposit to Current Refunding Fund | 960,000.00 |
| Costs of Issuance | 16,500.00 |
| Total Underwriter's Discount (1.000%) | 9,600.00 |
| Total Uses | \$986,100.00 |

Flow of Funds Detail

State and Local Government Series (SLGS) rates for
Date of OMP Candidates

| | |
|------------------------------------------|--------------|
| Current Refunding Escrow Solution Method | Gross Funded |
| Total Cost of Investments | \$960,000.00 |
| Total Draws | \$960,000.00 |

Issues Refunded And Call Dates

| | |
|------------------------|-----------|
| Mandan RIB Series 2005 | 5/01/2011 |
|------------------------|-----------|

PV Analysis Summary (Net to Net)

| | |
|-----------------------------------------------|-------------|
| Net PV Cashflow Savings @ 3.197%(AIC) | 53,801.40 |
| Total Cash contribution | (26,100.00) |
| Net Present Value Benefit | \$27,701.40 |
| Net PV Benefit / \$960,000 Refunded Principal | 2.886% |

Bond Statistics

| | |
|-----------------------------------|-------------|
| Average Life | 5.070 Years |
| Average Coupon | 2.6278938% |
| Net Interest Cost (NIC) | 2.8251135% |
| Bond Yield for Arbitrage Purposes | 2.6057755% |
| True Interest Cost (TIC) | 2.8207632% |
| All Inclusive Cost (AIC) | 3.1974813% |

Ref11 Mandan RIB Ser05 1 | SINGLE PURPOSE | 1/10/2011 | 11:30 AM

Dougherty & Company LLC
Public Finance

\$960,000

City of Mandan, North Dakota
Refunding Improvement Bonds of 2011
Refunding of Series 2005

Debt Service Comparison

| Date | Total P+I | Net New D/S | Old Net D/S | Savings |
|--------------|-----------------------|-----------------------|-----------------------|--------------------|
| 05/01/2011 | - | - | - | - |
| 05/01/2012 | 140,627.11 | 140,627.11 | 148,400.00 | 7,772.89 |
| 05/01/2013 | 135,010.00 | 135,010.00 | 144,000.00 | 8,990.00 |
| 05/01/2014 | 133,572.50 | 133,572.50 | 139,600.00 | 6,027.50 |
| 05/01/2015 | 121,790.00 | 121,790.00 | 130,200.00 | 8,410.00 |
| 05/01/2016 | 119,690.00 | 119,690.00 | 126,000.00 | 6,310.00 |
| 05/01/2017 | 117,327.50 | 117,327.50 | 121,800.00 | 4,472.50 |
| 05/01/2018 | 109,650.00 | 109,650.00 | 117,600.00 | 7,950.00 |
| 05/01/2019 | 106,750.00 | 106,750.00 | 113,400.00 | 6,650.00 |
| 05/01/2020 | 103,500.00 | 103,500.00 | 109,200.00 | 5,700.00 |
| Total | \$1,087,917.11 | \$1,087,917.11 | \$1,150,200.00 | \$62,282.89 |

PV Analysis Summary (Net to Net)

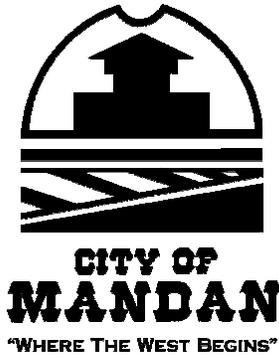
| | |
|----------------------------------------------------|-------------|
| Gross PV Debt Service Savings | 53,801.40 |
| Net PV Cashflow Savings (@ 3.197%(AIC)) | 53,801.40 |
| Total Cash contribution | (26,100.00) |
| Net Present Value Benefit | \$27,701.40 |
| Net PV Benefit / \$960,000 Refunded Principal | 2.886% |
| Net PV Benefit / \$173,490.32 PV Refunded Interest | 15.967% |
| Average Annual Cash Flow Savings | 6,228.29 |

Refunding Bond Information

| | |
|-------------------------|-----------|
| Refunding Dated Date | 2/15/2011 |
| Refunding Delivery Date | 2/15/2011 |

Ref11 Mandan RIB Ser05 1 | SINGLE PURPOSE | 1/10/2011 | 11:30 AM

Dougherty & Company LLC
Public Finance



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 10, 2011
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Advertising sale of city-owned properties

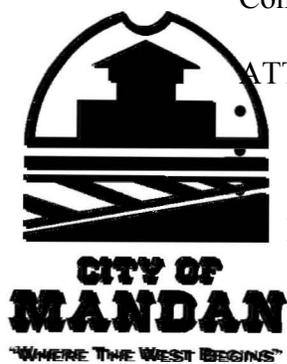
STATEMENT/PURPOSE: To consider listing city-owned properties for sale. The properties include parcels cleared for redevelopment at 100 Collins Avenue, 104 E Main, 106 E Main, 108 E Main as well as a building at 116 E Main.

BACKGROUND/ALTERNATIVES: The City of Mandan has previously sought redevelopment of the subject properties through a request for qualifications and proposals process in 2008. Three proposals were received. Hopfauf Customer Builders, which formed Western Edge Developments, was selected. Timelines for the purchase agreement and closure on the sale of the properties were extended through Dec. 31, 2010, at which time the agreements expired.

While the other entities that submitted proposals for the property may still be interested, since three years have passed, it seems fairest to re-offer the properties to the public at large to determine the fair market value of the property and/or the scope of projects proposed, level of re-investment in development and benefits to the community.

By utilizing the services of the Oaktree Realty, the only real estate agency with an office in Mandan, the intent is to maximize publicity for this redevelopment opportunity. The listing with a real estate agency would complement and be in cooperation with marketing and recruitment efforts by the City of Mandan Business Development and Communications Office as well as the Bismarck Mandan Development Association.

ATTACHMENTS:
Oaktree Realty proposal for real estate listing services — pending
Collins & Main property information
116 E Main property information
Draft newspaper notice



FISCAL IMPACT: *The listing contract from Oaktree is pending and will be made available as soon as it is received.* The expectation is that the City as the Seller would be required to pay a commission equal to 6% of the gross selling price. In the event the property is sold by the City/the Seller, the listing agent would receive a commission equal to 3% of the listing prices as follows:

- Collins & Main parcels — asking price of \$162,500 @ 3% commission = \$4,875.
- 116 E Main building — asking price of \$50,000 @ 3% commission = \$1,500.

If the properties are sold for significantly less than the listing prices by an agent representing the Buyer, any commission to the buyer's agent would be subject to consideration in a purchase agreement.

The commissions or fees for the real estate agents would be covered by the sales proceeds for the properties. Sale proceeds would go to the sales tax fund. In the event the sales prices are less than the minimum fees, similarly the budget source would be the sales tax fund.

STAFF IMPACT: Extensive effort will be required on the part of the City's Business Development and Communications Director to assist in communicating the availability of the properties and briefing parties throughout the state on the status of the Mandan market and this redevelopment opportunity.

LEGAL REVIEW: All information has been submitted to Attorney Brown.

RECOMMENDATION: I recommend offering the city-owned properties at 100 Collins Avenue, 104 E Main, 106 E Main, 108 E Main as well as a building at 116 E Main available for sale to the public via a listing with Oaktree Realty with the terms defined in the listing proposal and the property information sheets provided.

SUGGESTED MOTION: I move to approve offering the city-owned properties at 100 Collins Avenue, 104 E Main, 106 E Main, 108 E Main as well as a building at 116 E Main available for sale to the public via a listing with Oaktree Realty with the terms defined in the listing proposal and the property information sheets provided.

Map of Downtown Redevelopment Site



Issued Feb. 17, 2011 (tentative — pending City Commission approval)

City of Mandan
205 Second Avenue NW
Mandan, North Dakota 58554
Phone: 701-667-3215
www.cityofmandan.com

Seeking Buyers Interested in Redevelopment of Prime Downtown Parcels

The City of Mandan is seeking a buyer or buyers interested in redevelopment and construction of commercial/retail facilities on a prime area of city-owned property in downtown Mandan. Such facilities may include upper level residential components. The property is located on Main Street, at the corner of Collins Avenue. It consists of four parcels totaling 125 feet by 130 feet (16,250 sf).

The properties are part of our city’s central business district, near city hall, the county courthouse, professional services and niche retail. The available site offers a unique opportunity in downtown revitalization. The successful purchase proposal will build upon significant prior public and private investment in infrastructure improvements, environmental remediation, rehabilitation of existing properties, enhancement of public gathering and parking areas, and the creation of pedestrian-friendly streetscapes.

The City of Mandan is committed to having the properties placed on the Bismarck Mandan Realtors Association Multiple Listing Service for a minimum of 60 days before offers will be considered, through at least April 18, 2011; and for as long as 6 months, through Aug. 19, 2011. Submit offers to:

Oaktree Realtors
3015 Memorial Highway
Mandan, ND 58554

Listing Agents
Karen Fleck
Office: 701-663-3535
Cell: 701-400-7066

Pat Maddock
Office: 701-223-7422
Cell: 701-391-8867

REQUIREMENTS

Asking price — \$10 psf or \$162,500

Deposit — In addition to the purchase price, a deposit of \$25,000 will be required to be made at closing and refundable upon completion of construction (certificate of occupancy for at least main level).

Minimum investment in construction on parcels (combined) — \$750,000

Timeline for development —The City Commission reserves the right at its sole discretion to extend the timeline if warranted.

Start of constructionJuly 1, 2012
(Property reverts back to City of Mandan if deadline is not met and deposit retained.)

Building substantially complete byJuly 1, 2013
(Deposit returned to buyer)

All offers are subject to review and consideration by the Mandan City Commission. The City reserves the right to: 1) conduct interviews with some or all parties who submit offers, 2) reject any and all offers or portions thereof, 2) waive any informality or irregularity, 3) hold all offers or

responses for a period of thirty (30) days after receipt to allow for scheduling of City Commission meetings, 4) negotiate modifications of project descriptions to a lesser or greater magnitude than described in the response, 5) accept the response(s) deemed most favorable to the best interest of the City of Mandan, and 6) advertise for new offers/responses as may be deemed necessary.

Be advised as per North Dakota open records law that responses may be released to the public if requested except for portions subject to NDCC 44-04-18.4 pertaining to confidentiality of trade secret, proprietary, commercial, and financial information.

This property information document summarizes many additional project considerations and requirements:

| Section | Page |
|-----------------------------------------|------|
| Downtown Vision | 4 |
| Project Considerations | |
| • Downtown Overview | 4 |
| • Site Profile | 5 |
| • Other Site Facts | 6 |
| ○ Site Control | |
| ○ Property Taxes | |
| ○ Special Assessments | |
| ○ Zoning | |
| ○ Parking | |
| ○ Historic District | |
| ○ Lot Coverage | |
| ○ Utilities | |
| ○ Soil Conditions | |
| ○ Site Access | |
| ○ Liability Protection | |
| ○ Institutional Control Ordinance | |
| • Development Incentives | 8 |
| • Contact Information & Resources | 9 |

A complete copy of all property information, including supporting documentation and maps, is available on the City of Mandan website at www.cityofmandan.com.

\$29 million held in trust for remediation and redevelopment. Construction and installation of a comprehensive remediation system was completed in 2007. The system is now fully operational and effectively removing the contaminants. With state law enacted to relieve property owners and private lenders of liability concerns, the City's is now focusing squarely on redevelopment.

Downtown Mandan is the center for city and county governments. Spin-off services in the district include a number of legal firms and financial institutions. Downtown Mandan is also home to a supermarket; two pharmacies; many chiropractic, dental and eye clinics; a popular fitness center, numerous professional offices, and several niche retail businesses.

Main and First Streets as well as the north-south arterials of Sixth Avenue NW and Collins Avenue were recently reconstructed. The city has renovated its historic fire station, a historic freight house building now home to the public library, and the former train depot now used for a visitor's center and retail.

New site and building design standards have been implemented for downtown core and fringe districts. Renaissance Zone tax incentives, storefront improvement and low interest loan programs are successfully enticing commercial property owners to show pride in their businesses and back it with investment.

- Since the Renaissance Zone and Storefront Improvement programs were established in 2005 and 2006, 36 commercial properties have been newly constructed, expanded or rehabilitated.

Site Profile

100 Block of East Main

These properties are on a city block that includes the Mandan Fire Station, an insurance agency, hair salon, home construction and apartment management firm, vacant building, and city-owned parking lot. Average daily traffic volume is 14,745 vehicles on Main Street, 5,085 vehicles on Collins Avenue and 4,980 to 5,380 vehicles traveling on First Street to the west and east of Collins Avenue.

1. 100 Collins Avenue and 104, 106, 108 East Main Street
 - Block 6, Lots 11-15, Mandan Proper
 - 16,250 ft² (125' X 130')

Former buildings on site demolished in 2007 and 2008; all debris, footings and foundations removed from the lot itself up to the property line, but not from beneath the sidewalk's surface; fill compacted to construction standards. Soil tests on compaction of fill by Midwest Testing Laboratories are available.

Other Site Facts

Site control

The City of Mandan owns the redevelopment parcels. In order to facilitate a larger-scale development, the developer may identify and propose strategic partnerships with adjacent property owners.

Property Tax Estimates (2010 levy of 409 mills equal to 2.045% of value

Full and true value followed by annual property tax payment

- 100 Collins Avenue — land, \$31,900; \$652 annually
- 104 E Main Street — land, \$16,300; \$333 annually
- 106 E Main Street — land, \$15,700; \$321 annually
- 108 E Main Street — land, \$15,300; \$313 annually

Special Assessments

Payoff balances figured to 1/31/2011

- 100 Collins Avenue — payoff of \$13,065.88; annual payment of \$2,288.15
- 104 E Main Street — payoff of \$2,872.22; annual payment of \$646.29
- 106 E Main Street — payoff of \$2,872.22; annual payment of \$646.29
- 108 E Main Street — payoff of \$2,872.22; annual payment of \$646.29

Zoning

The sites are in an area zoned CB, which is commercial permitting a variety of commercial, retail and multi-family residential uses.

Also subject to DC Downtown Core District zoning overlay (Mandan Municipal Code, 21-04-17) requirements, including but not limited to:

- Setbacks — front yard no greater than 15 feet
- Lot coverage — maximum 100%
- Height — maximum 130 feet unless with special use permit; minimum 2 stories or 20 feet. New corner building may be higher than buildings on adjacent parcels, but should generally be within the average height of the buildings occupying the three adjacent corners of the intersection. Note: Adjacent “corner” buildings are three stories.
- Building materials — street facing sides primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or equivalent or better. Colors and materials compatible with or complementary to those used for buildings on adjoining parcels.

Site plan and building design subject to application for consideration by Mandan Architectural Review Commission.

Parking

Off-street parking is not required for properties within the Downtown Parking District (Mandan Municipal Code 21-03-10.6), but provision in plans for some parking may be favored, depending upon uses, in consideration of any City business incentive programs.

Customer parking restricted to 90 minutes is available on Main Street and the avenues. Parking is enforced Mondays through Fridays during daytime hours. A courtesy ticket is issued to those who park overtime in a time-restricted area if the vehicle has not been associated with a violation in the previous 180 days.

Public parking areas are located in close proximate to the parcels. Following is their status as of early February 2011:

- Lot C (south of Main Street between Collins Avenue and First Avenue NW) — 52 spaces with 7 for public parking restricted to 90 minutes, and 45 available free of charge for all-day parking with exception of no overnight parking allowed two to three nights a week.
- Lot D (west of Collins Avenue) — contains 26 spaces including 17 spaces available to the public with a 90-minute restriction and 9 spaces rented spaced for all-day parking.
- Lot E (south side of Fire Station) — 11 spaces; all currently rented at \$20 per month.
- Lot F (east side of Fire Station) — 11 spaces reserved for firefighters; 46 spaces available for rent at \$20 per month; only 21 spaces are currently rented.

A parking map is available.

Historic district

The properties are located in the vicinity of historic buildings. The preferred redevelopment projects will be of a classical architectural character that is sensitive to the defining features of buildings in the district.

Lot coverage

Proposed developments should fill in the open space between existing buildings (i.e. be constructed from lot line to lot line or include a landscaping plan that proposes an acceptable use of space).

Utilities

Site maps with utility easement agreements and maps with locations for sewer and water service lines and mains are available for reference.

Soil conditions

The site is within the plume area of an underground fuel spill in downtown Mandan. The properties were acquired for remediation purposes with extraction wells and pipelines installed in 2006 and 2007. The piping was installed to depths greater than 4 feet below grade and at locations intended to facilitate the construction of structures on the properties. The extraction wells are located beneath manhole covers that are flush-with-grade (generally 12" diameter).

Of eight monitoring and remedial wells within the property line, seven may be removed, according to the Mandan Remediation Trust. The eighth well, located on the northern edge of the property, may be relocated to the alley, if needed, to accommodate redevelopment. Five additional wells are located on the perimeter of the property. If these wells are damaged during the redevelopment process, the MRT will require repair or replacement at the developer's expense. A map is available. As-built drawings are available upon request.

Site Access

Periodic access to the extraction wells in the sidewalk adjacent to the lots on quarterly basis will be required for the duration of the remediation and monitoring process.

Liability Protection

North Dakota Century Code 23-20.3-03.1 as amended during the 2005 state legislative session provides that a purchaser of property cannot be held liable for the cleanup of an environmental condition as long as the party does not contribute to or worsen the condition. Pursuant to this legislation, property owners, prospective owners, lenders, and tenant/operators may submit a Request for Responsibility Exemption and Regulatory Assurance (SFN 59226) from the North Dakota Health Department.

Institutional Control Ordinance

The properties are within the city's Environmental Institutional Control District as defined by the Mandan Code of Ordinances Chapter 21-10 (created by Ordinance 1002) which establishes requirements for liability assurances. New construction must be slab on grade. A contingency plan is also required that may need to incorporate vapor barriers, a venting system, groundwater suppression/collection, and specialized HVAC as determined by a professional engineer.

Development Incentives

The City of Mandan is poised to help developers and businesses succeed with several tools. Each is subject to application and consideration by the appropriate review committee and the Mandan City Commission.

- **Renaissance Zone Incentives:** Five-year, 100% property tax exemption on the taxable value of the proposed building(s) and a five-year, 100% state exemption on income derived from business activity within the building(s). The lease of a property for a new or expanding business is also a qualifying event for the incentives. Exemptions may transfer with the property to a qualified user on a prorated basis.
- **Retail and Restaurant Incentive Program:** New and expanding businesses that fill a gap in the city's market profile and that meet other program criteria may apply to receive assistance for up to \$5 per square foot of operating space for their first 12 months, not to exceed \$20,000 per property. The budget for the program in 2011 is \$60,000 and thus funding may not be available at the time of a request.
- **Payments in Lieu of Taxes or Tax increment financing:** For potential additional tax relief in year 6 and beyond. A 50% exemption in years 6 to 10 may be considered for projects with at least \$700,000 market value of newly constructed buildings or structures with a minimum of 20 new full-time jobs created by the end of year 5 and maintained in years 6-10. Tax increment financing may be considered on a case-by-case basis for projects exceeding \$1 million in value depending upon factors such as use, investment, job creation, and financial justification. Detailed policy posted at www.cityofmandan.com.
- **Mandan Growth Fund:** The purpose of the Mandan Growth Fund also is to assist in job growth and economic development by attracting businesses to Mandan and helping existing businesses expand and remain in operation. Like the IRP program, the Growth Fund serves as a source of gap financing. Examples of Growth Fund assistance include interest rate buy-downs through the Bank of North Dakota Flex PACE program.

Other Incentives

- **Revolving loan pool:** The Lewis and Clark Regional Development Council administers an intermediary loan program from USDA Rural Development attained specifically for business development in Mandan. Owner equity of at least 10 percent of total project costs is required. The IRP loan can be no more than 50 percent of total financing needs not to exceed \$250,000 per project. For more info, call 701-667-7624.

Resource Contact Information

| <u>Title</u> | <u>Name</u> | <u>Phone</u> |
|-----------------------------------------------|-------------------------------------------------------------|------------------------------|
| City Staff | | |
| City Administrator | Jim Neubauer | 701-667-3215 |
| Business Development Director | Ellen Huber | 701-667-3485 |
| Engineering and Planning -Project Director | Dave Bechtel | 701-667-3225 |
| Building Inspection and Assessing | Richard Barta | 701-667-3230 |
| Finance Director | Greg Welch | 701-667-3213 |
| Public Works | Jeff Wright | 701-667-3240 |
| Fire Chief | Steve Nardello | 701-667-3288 |
| Advisors/Consultants | | |
| Economic Development | Bismarck-Mandan Development Association Richard Mower | 701-222-5530 |
| Environmental Remediation | Leggette, Brashears & Graham Tim Kenyon Ken Kytta | 605-334-6000 906-523-6028 |
| | N.D. Health Dept. Scott Radig | 701-328-5166 |
| Mandan Remediation Trust | Francis "Fritz" Schwindt | 701-471-9899 |

For additional information such as the City of Mandan's Downtown Redevelopment Plan, site plan and building design requirements, and remediation reports, visit www.cityofmandan.com. If you have other questions not answered here, please contact Ellen Huber, City of Mandan Business Development & Communications Director at 701-667-3485 or ehuber@cityofmandan.com.

Subject Building



**CITY OF
MANDAN**

"WHERE THE WEST BEGINS"

Issued Feb. 17, 2011 (tentative — pending City Commission approval)

City of Mandan

205 Second Avenue NW

Mandan, North Dakota 58554

Phone: 701-667-3215

www.cityofmandan.com

Seeking Buyers Interested in Redevelopment of Downtown Building

The City of Mandan is seeking buyers interested in acquisition and rehabilitation of a building at 116 E Main Street. The main level is suited to a retail business. The second story has two apartments.

The building is located in our city’s central business district, near city hall, the county courthouse, professional services and niche retail. The City of Mandan is committed to having the properties placed on the Bismarck Mandan Realtors Association Multiple Listing Service for a minimum of 60 days before offers will be considered, through at least April 18, 2011; and for as long as 6 months, through Aug. 19, 2011. Submit offers to:

Oaktree Realtors
3015 Memorial Highway
Mandan, ND 58554

Listing Agents

Karen Fleck
Office: 701-663-3535
Cell: 701-400-7066

Pat Maddock
Office: 701-223-7422
Cell: 701-391-8867

REQUIREMENTS

Asking price — \$50,000

Deposit — In addition to the purchase price, a deposit of \$5,000 will be required to be made at closing and refundable upon completion of building rehabilitation (certificate of occupancy for main level and apartments).

Timeline for renovation —The City Commission reserves the right at its sole discretion to extend the timeline if warranted.

Start of building rehabilitation..... October 1, 2011
(Property reverts back to City of Mandan if deadline is not met and deposit retained.)

Building substantially complete by March 1, 2012
(Deposit returned to buyer)

All offers are subject to review and consideration by the Mandan City Commission. The City reserves the right to: 1) conduct interviews with some or all parties who submit offers, 2) reject any and all offers or portions thereof, 3) hold all offers or responses for a period of thirty (30) days after receipt to allow for scheduling of City Commission meetings, 4) negotiate modifications of project descriptions to a lesser or greater magnitude than described in the response, 5) accept the response(s) deemed most favorable to the best interest of the City of Mandan, and 6) advertise for new offers/responses as may be deemed necessary.

Be advised as per North Dakota open records law that responses may be released to the public if requested except for portions subject to NDCC 44-04-18.4 pertaining to confidentiality of trade secret, proprietary, commercial, and financial information.

Site Profile



Additional Property Information

- Block 6, Lot 7, Mandan Proper
- Lot is 3,250 ft² (25' X 130')
- Building is 25' X 80' (2,000 sf per floor, two stories and a basement), vacant since 2006.
- Irwin Marcovitz Building constructed in 1926, on list of contributing properties to Mandan's historic district.
- Sells as is; roof has a leak.

Property Tax Estimates (2010 levy of 409 mills equal to 2.045% of value)
Full and true value: land, \$14,900; building, \$51,000. Annual taxes are \$1,348.

Special Assessments

Payoff balance figured to 1/31/2011 of \$2,872.22; annual payment of \$646.29

Zoning

The site is in an area zoned CB, which is commercial permitting a variety of commercial, retail and multi-family residential uses.

Also subject to DC Downtown Core District zoning overlay (Mandan Municipal Code, 21-04-17) requirements for building design and renovation. Improvements to exterior subject to application for consideration by Mandan Architectural Review Commission.

Parking

Off-street parking is not required for properties within the Downtown Parking District (Mandan Municipal Code 21-03-10.6).

Customer parking restricted to 90 minutes is available on Main Street and the avenues. Parking is enforced Mondays through Fridays during daytime hours. A courtesy ticket is issued to those who park overtime in a time-restricted area if the vehicle has not been associated with a violation in the previous 180 days.

Public parking areas are located in close proximity to the parcels. Following is their status as of early February 2011:

- Lot C (south of Main Street between Collins Avenue and First Avenue NW) — 52 spaces with 7 for public parking restricted to 90 minutes, and 45 available free of charge for all-day parking with exception of no overnight parking allowed two to three nights a week.
- Lot D (west of Collins Avenue) — contains 26 spaces including 17 spaces available to the public with a 90-minute restriction and 9 spaces rented spaced for all-day parking.
- Lot E (south side of Fire Station) — 11 spaces; all currently rented at \$20 per month.
- Lot F (east side of Fire Station) — 11 spaces reserved for firefighters; 46 spaces available for rent at \$20 per month; only 21 spaces are currently rented.

A parking map is available.

Utilities

Site maps with utility easement agreements and maps with locations for sewer and water service lines and mains are available for reference.

Institutional Control Ordinance

The property is within the city's Environmental Institutional Control District as defined by the Mandan Code of Ordinances Chapter 21-10 (created by Ordinance 1002) which establishes requirements for liability assurances. Any new construction must be slab on grade with a contingency plan that may need to incorporate vapor barriers, a venting system, groundwater suppression/collection, and specialized HVAC as determined by a professional engineer.

Liability Protection

North Dakota Century Code 23-20.3-03.1 as amended during the 2005 state legislative session provides that a purchaser of property cannot be held liable for the cleanup of an environmental condition as long as the party does not contribute to or worsen the condition. Pursuant to this legislation, property owners, prospective owners, lenders, and tenant/operators may submit a Request for Responsibility Exemption and Regulatory Assurance (SFN 59226) from the North Dakota Health Department.

A complete copy of all property information, including supporting documentation and maps, is available on the City of Mandan website at www.cityofmandan.com.

Development Incentives

The City of Mandan is poised to help owners of commercial properties and businesses succeed with several tools. Each is subject to application and consideration by the appropriate review committee and the Mandan City Commission.

- **Renaissance Zone Incentives:** Five-year, 100% property tax exemption on the taxable value of the proposed building(s) and a five-year, 100% state exemption on income derived from business activity within the building(s). The lease of a property for a new or expanding business is also a qualifying event for the incentives. Exemptions may transfer with the property to a qualified user on a prorated basis.
- **Downtown Storefront Improvement Program:** Storefront funds are provided in the form of a maximum \$10,000 forgivable loan for up to 50 percent of the investment in rehabilitating a building façade. The interest-free loans are pro-rated and forgiven over the course of three years contingent on project completion and the building remaining intact during this period. Qualifying improvements must be to areas visible from the public right of way and may include replacement of exterior finishes, reconfiguring entrances, door and window replacement, awnings, lighting, paint, signs and landscaping. Deadlines for applications in 2011 are Feb. 1, May 2, Aug. 1, and Nov. 1.
- **Retail and Restaurant Incentive Program:** New and expanding businesses that fill a gap in the city's market profile and that meet other program criteria may apply to receive assistance for up to \$5 per square foot of operating space for their first 12 months, not to exceed \$20,000 per property. The budget for the program in 2011 is \$60,000 and thus funding may not be available at the time of a request.

Other Incentives

- **Revolving loan pool:** The Lewis and Clark Regional Development Council administers an intermediary loan program from USDA Rural Development attained specifically for business development in Mandan. Owner equity of at least 10 percent of total project costs is required. The IRP loan can be no more than 50 percent of total financing needs not to exceed \$250,000 per project. For more info, call 701-667-7624.

Resource Contact Information

| <u>Title</u> | <u>Name</u> | <u>Phone</u> |
|-----------------------------------------------|-------------------------------------------------------------|--------------|
| City Staff | | |
| City Administrator | Jim Neubauer | 701-667-3215 |
| Business Development Director | Ellen Huber | 701-667-3485 |
| Engineering and Planning -Project Director | Dave Bechtel | 701-667-3225 |
| Building Inspection and Assessing | Richard Barta | 701-667-3230 |
| Finance Director | Greg Welch | 701-667-3213 |
| Public Works | Jeff Wright | 701-667-3240 |
| Fire Chief | Steve Nardello | 701-667-3288 |
| Advisors/Consultants | | |
| Economic Development | Bismarck-Mandan Development Association Richard Mower | 701-222-5530 |
| Environmental Remediation | N.D. Health Dept. Scott Radig | 701-328-5166 |

For additional information such as the City of Mandan's Downtown Redevelopment Plan, site plan and building design requirements, and remediation reports, visit www.cityofmandan.com. If you have other questions not answered here, please contact Ellen Huber, City of Mandan Business Development & Communications Director at 701-667-3485 or ehuber@cityofmandan.com.

**City-Owned Downtown Properties For Sale
MANDAN, NORTH DAKOTA**

Notice is hereby given that the City of Mandan, North Dakota, has listed for sale certain city-owned properties in downtown Mandan as of Feb. 17, 2011 and through at least April 18, 2011.

The City of Mandan is seeking buyers interested in redevelopment and construction of commercial/retail facilities on properties located on the 100 block of E Main Street, specifically 100 Collins Avenue, 104, 106 and 108 E Main. The parcels are a combined 125 feet by 130 feet totaling 16,250 square feet.

The City is also seeking a buyer to acquire and rehabilitate a two-story building at 116 E Main for establishment of a commercial/retail business on the main floor and use of two apartments on the second floor.

Offers may be submitted to Oaktree Realtors, 3015 Memorial Highway, Mandan, ND 58554. Listing agents are Karen Fleck, office phone 701-663-3535 or cell 701-400-7066; and Pat Maddock, office phone 701-223-7422 and cell 701-391-8867. Additional information regarding asking prices, requirements for deposits and timeline to completion of project, and more property information is available from the listing realtors, at City Hall in the Business Development and Communications Office, and is posted at www.cityofmandan.com.

All offers are subject to review and consideration by the Mandan City Commission. The City reserves the right to: 1) conduct interviews with some or all parties who submit offers, 2) reject any and all offers or portions thereof, 3) waive any informality or irregularity, 4) hold all offers or responses for a period of thirty (30) days after receipt to allow for scheduling of City Commission meetings, 5) negotiate modifications of project descriptions to a lesser or greater magnitude than described in the response, 6) accept the response(s) deemed most favorable to the best interest of the City of Mandan, and 7) advertise for new offers/responses as may be deemed necessary.

Be advised as per North Dakota open records law that responses may be released to the public if requested except for portions subject to NDCC 44-04-18.4 pertaining to confidentiality of trade secret, proprietary, commercial, and financial information.

City of Mandan, North Dakota

BY: James Neubauer
City Administrator

Dated this 15th day of February, 2011.

To be published on February 18 and 25, 2011.



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 10, 2011
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: Advertising sale of city-owned properties

STATEMENT/PURPOSE: To consider listing city-owned properties for sale. The properties include parcels cleared for redevelopment at 100 Collins Avenue, 104 E Main, 106 E Main, 108 E Main as well as a building at 116 E Main.

BACKGROUND/ALTERNATIVES: The City of Mandan has previously sought redevelopment of the subject properties through a request for qualifications and proposals process in 2008. Three proposals were received. Hopfauf Customer Builders, which formed Western Edge Developments, was selected. Timelines for the purchase agreement and closure on the sale of the properties were extended through Dec. 31, 2010, at which time the agreements expired.

While the other entities that submitted proposals for the property may still be interested, since three years have passed, it seems fairest to re-offer the properties to the public at large to determine the fair market value of the property and/or the scope of projects proposed, level of re-investment in development and benefits to the community.

By utilizing the services of the Oaktree Realty, the only real estate agency with an office in Mandan, the intent is to maximize publicity for this redevelopment opportunity. The listing with a real estate agency would complement and be in cooperation with marketing and recruitment efforts by the City of Mandan Business Development and Communications Office as well as the Bismarck Mandan Development Association.

ATTACHMENTS:

- **Oaktree Realty listing contracts and advertising summary**
- Collins & Main property information
- 116 E Main property information
- Draft newspaper notice

FISCAL IMPACT: The proposed listing agreement indicates that the City as the Seller would be required to pay a commission equal to 6% of the gross selling price. The proposed listing contract provides for a minimum commission of \$2,500 for the Collins and Main parcels and a minimum \$1,500 for the 116 E Main building.

If the properties are sold for significantly less than the listing prices by an agent representing the Buyer, any commission to the buyer's agent would be subject to consideration in a purchase agreement.

The commissions or fees for the real estate agents would be covered by the sales proceeds for the properties. Sale proceeds would go to the sales tax fund. In the event the sales prices are less than the minimum fees, similarly the budget source would be the sales tax fund.

STAFF IMPACT: Extensive effort will be required on the part of the City's Business Development and Communications Director to assist in communicating the availability of the properties and briefing parties throughout the state on the status of the Mandan market and this redevelopment opportunity.

LEGAL REVIEW: All information has been submitted to Attorney Brown.

RECOMMENDATION: I recommend offering the city-owned properties at 100 Collins Avenue, 104 E Main, 106 E Main, 108 E Main as well as a building at 116 E Main available for sale to the public via a listing with Oaktree Realty with the terms defined in the listing contract and the property information sheets provided.

SUGGESTED MOTION: I move to approve offering the city-owned properties at 100 Collins Avenue, 104 E Main, 106 E Main, 108 E Main as well as a building at 116 E Main available for sale to the public via a listing with Oaktree Realty with the terms defined in the listing contract and the property information sheets provided.



EXCLUSIVE RIGHT TO SELL LISTING CONTRACT

This form approved by the Bismarck Mandan Board of REALTORS® which disclaims any liability arising out of use or misuse of this form.

MLS# _____ Date 2-16-2011 Page 1 of 3
(To be indicated after submission to MLS)

THIS CONTRACT INVOLVES PROPERTY LOCATED AT:

100-104-106 & 108 EAST MAIN STREET City MANDAN State ND

Legally described as: LOTS 11,12,13,14,15, BOLCK 6, MANDAN PROPER

"I" means Seller: CITY OF MANDAN

"You" means Real Estate Broker: KAREN FLECK AND PATRICK MADDOCK

LISTING - As Seller, I give you the exclusive right to sell the above legally described property for the price of \$ 162,500.00, to be paid in cash at closing, or any other price and terms acceptable to me. I have the full and legal right to sell the property and will sign all closing documents (including a Warranty Deed or Contract for Warranty Deed) necessary to transfer to Buyer full and unquestioned ownership of the property.

This contract starts 2-17, 2011; and ends at 11:59 p.m. on 8-17, 2011. In exchange, Broker agrees to list the property for sale.

Active status and showings to begin on (date) 2-17-2011. If this property is not available for showings on the contract start date, it will be placed in the "On Hold" status in the MLS until it is available for showings.

This shall serve as my written notice granting you or any authorized closing agent permission to obtain: 1.) mortgage information (i.e. mortgage balance, interest rate, payoff and/or assumption figures, etc.) regarding any existing financing on this property, and 2.) utility information. A copy of this document shall be as valid as the original.

Personal property included: NONE-LAND ONLY

Personal property excluded: LAND ONLY

SPECIAL CONDITIONS:

SEE ATTACHED DOCUMENTS FOR ADDITIONAL CITY CONDITIONS WHICH ARE HEREBY MADE A PART OF THIS LISTING AGREEMENT

Is there a well on the property? (check one) Yes ___ No [checked]

Is there a septic system on the property? (check one) Yes ___ No [checked]

As Seller, I have been informed that if there is a septic system on the property, it might be required to meet certain city, county, or state certification standards. I hold you harmless of any responsibility for said system.

I have a contract for fuel tank rental, water softener rental, or rural water membership: (check one) Yes ___ No [checked] Terms: _____

Do you have an abstract? (check one) Yes ___ No [checked]

Do you have title insurance? (check one) Yes [checked] No ___ Policy # _____

Do you currently have flood insurance? (check one) Yes ___ No [checked]

Sign permitted on property? (check one) Yes [checked] No ___ Lock Box? (check one) Yes ___ No [checked]

Home Protection Plan: Seller (check one) ___ will [checked] will not provide a home protection plan.

SELLER’S DUTIES - As Seller I will:

- (a) cooperate with you in selling the property and I authorize you, your agents, and/or agents with customers or clients to enter my premises for the purposes of showing/previewing the property at reasonable times;
- (b) promptly tell you about all inquiries received about the property;
- (c) provide and pay for any inspections and reports if required by any governing authority;
- (d) provide homeowners association documents, if required;
- (e) give the Buyer an updated abstract of title, or title insurance to the property, or mobile home registration;
- (f) warrant all appliances, heating, air conditioning, wiring, and plumbing on said premises will be in working order at date of closing, except:
LAND ONLY
- (g) remain responsible for security, maintenance, utilities, and insurance while I own the property, and for safekeeping, securing, and/or concealing any valuable personal property during property showings or open houses.

As Seller, I know you intend to rely on the accuracy of the information I furnish, including information about the condition of the property. I agree to hold you harmless and defend you from any costs, expenses, or damages, including attorney’s fees, incurred by you as a result of my withholding information from you or as a result of giving you any information which is incorrect.

MULTIPLE LISTING SERVICE - I understand you are a member of a Multiple Listing Service (MLS) and will give information to MLS concerning the property. I will grant you access to the property and I authorize you to market the property including submission of data to a Multiple Listing Service (MLS). You may place information on the Internet concerning the property, including but not limited to the address, photographs and/or virtual tours. I will notify you of relevant information important to the sale of the property. If you sell the property, you may provide information concerning the property, including but not limited to address, price and terms of sale to the MLS, member REALTORS® (including appraisers who may use the information to prepare comparable sale reports), and relevant government entities.

NOTICE AND NONDISCRIMINATION - As of this date I have not received notice from any municipality, government agency, or homeowners association about the property that I have not told you about, and I agree to promptly tell you of any notice of that type that I would receive. I understand that I may not refuse to sell to, or discriminate in the terms, conditions, or privileges of sale against, or indicate or publicize that sale is unwelcome, objectionable, not acceptable, or not solicited from, any person due to that person’s race, color, religion, sex, national origin, age, physical or mental disability, family status, status with respect to marriage, or status with respect to public assistance. I understand further that local ordinances may include other protected classes of persons.

YOUR COMMISSION – THE COMMISSION RATE FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL REAL ESTATE BROKER AND ITS CLIENT.

As Seller, I hereby authorize you to market my property and allow you to share your commission with other Real Estate Brokers, including Brokers representing only the Buyer. As Seller, I will pay Listing Broker a total commission of 6 % of the gross selling price. Commission may be split as follows: Buyer Agent 3 % Other Agent 3 %, or other terms: \$2500 MINIMUM COMMISSION TO OAKTREE REALTORS upon the happening of any of the following events:

- (a) at the closing of the sale, if I sell or agree to sell the property before this contract ends, even if another Broker or I sell the property without your assistance;
- (b) if you present a Buyer who is willing and able to buy the property either 1.) at the price set forth in this contract and on the other specific terms, if any, herein, or 2.) at a price and on terms to which I agree in a signed purchase agreement, but if I then refuse to sell;
- (c) if with in 90 days after the end of this contract I sell or agree to sell the property to anyone who:
 - 1. during this contract made inquiry of me about the property, or;
 - 2. during this contract made an affirmative showing of interest in the property or was physically shown the property.

After the expiration of this contract, and if there are no signed and/or pending purchase agreements or offers, I understand I do not have to pay your commission if I sign another valid listing contract under which I am obligated to pay a commission to another licensed Real Estate Broker.

DUAL AGENCY REPRESENTATION – (To be completed only if the Broker has NOT adopted an Appointed Agency Policy) As a result of this listing contract, the Broker will now represent you in the sale of this property. If a Buyer represented by the Broker wishes to buy your property, a Dual Agency will be created. This means the Broker will represent both you and the Buyer(s), and will owe the same duties to the Buyer(s) that Broker owes to you. It will prohibit Broker from advocating exclusively on your behalf. Dual Agency will limit the level of representation the Broker can provide. If a Dual Agency should arise, confidential information about price, terms, and motivation will still be kept confidential unless you instruct the Broker in writing to disclose specific information about you. All other information will be shared. The Broker cannot act as a Dual Agent unless both you and the Buyer(s) agree to it. By agreeing to a possible Dual Agency, and if Dual Agency should apply in your transaction, you will be giving up the right to exclusive representation in an in-house transaction. However, if you should decide not to agree to a possible dual agency, and you want the Broker to represent you, you may give up the opportunity to sell your property to Buyers represented by the Broker.

SELLER'S INSTRUCTIONS TO THE BROKER - Having read and understood this information about Dual Agency, Seller(s) now instructs the Broker as follows:

Seller(s) will agree to Dual Agency representation and (check one) will consider will not consider offers made by Buyer represented by the Broker.

Seller: _____ Date _____ Seller: _____ Date _____

APPOINTED AGENCY - (To be completed only if Broker has adopted an Appointed Agency Policy) The Broker will appoint to you, in writing, a licensee who will be acting as your Appointed Agent to the exclusion of all other affiliated licensees of the Broker. *By agreeing to Appointed Agency, you, the Broker, the agents of the Broker and the Appointed Agent named below are considered to possess only actual knowledge and information. By an act of North Dakota Law, the definitions regarding Appointed Agency make it clear that there is no imputed knowledge or information between you, the Broker, the Broker's agents or the named Appointed Agent.*

Notice: Any appointed agent who personally represents both you and the Buyer in a purchase of property is a Dual Agent. This means the Appointed Agent will represent both you and the Buyer(s), and will owe the same duties to the Buyer(s) that the Appointed Agent owes to you. It will prohibit the Appointed Agent from advocating exclusively on your behalf. Dual Agency will limit the level of representation the Appointed Agent can provide. If a Dual Agency should arise, confidential information about price, terms, and motivation will still be kept confidential unless you instruct the Appointed Agent in writing to disclose specific information about you. All other information will be shared. The Appointed Agent cannot act as a Dual Agent unless both you and the Buyer(s) agree to it. By agreeing to a possible Dual Agency, and if Dual Agency should apply in your transaction, you will be giving up the right to exclusive representation. However, if you should decide not to agree to a possible Dual Agency, and you want the Appointed Agent to represent you, you may give up the opportunity to sell your property to Buyers represented by the Appointed Agent.

PATRICK MADDOCK OR KAREN FLECK (“Appointed Agent”), an affiliated licensee of the Broker, is appointed to act solely as an agent for you unless s/he personally represents the Buyer. Your designated Appointed Agent is obligated not to reveal any confidential information obtained from you to other licensees, except to the Broker in charge of the oversight of your transaction. It is understood that the Broker may appoint another agent for you during the term of this agreement if: 1). The Appointed Agent is not able to fulfill the terms of your listing agreement, and/or 2.) You and the Broker mutually agree to the appointment of another agent. An appointment of another agent as a new or additional agent does not relieve the first Appointed Agent of any of the duties owed to you as previously described in this agreement.

SELLER'S INSTRUCTION TO BROKER - Having read and understood this information, Seller(s) make(s) the following decision:

Seller(s) accepts the Broker's appointment of the above named agent as the Seller's Appointed Agent and (check one) accepts does not accept Dual Agency if it arises.

Seller: _____ Date _____ Seller: _____ Date _____

I hereby certify that I have received a copy of this contract and agree to its terms.

Acceptance Date
OAKTREE REALTORS, MANDAN, ND
Brokerage
KAREN FLECK-
By Licensee
663-3535 400-7066
Licensee Office Phone Cell Phone

Owner _____ Date _____
Owner _____ Date _____
Owner Address _____ Phone _____
City/State/Zip _____



EXCLUSIVE RIGHT TO SELL LISTING CONTRACT

This form approved by the Bismarck Mandan Board of REALTORS® which disclaims any liability arising out of use or misuse of this form.

MLS# _____ Date 2-16-2011 Page 1 of 3
(To be indicated after submission to MLS)

THIS CONTRACT INVOLVES PROPERTY LOCATED AT:

116 EAST MAIN STREET City MANDAN State ND

Legally described as: LOT 2, BLOCK 7, MANDAN PROPER

"I" means Seller: CITY OF MANDAN

"You" means Real Estate Broker: KAREN FLECK AND PATRICK MADDOCK

LISTING - As Seller, I give you the exclusive right to sell the above legally described property for the price of \$ 50,000.00, to be paid in cash at closing, or any other price and terms acceptable to me. I have the full and legal right to sell the property and will sign all closing documents (including a Warranty Deed or Contract for Warranty Deed) necessary to transfer to Buyer full and unquestioned ownership of the property.

This contract starts 2-17, 2011; and ends at 11:59 p.m. on 8-17, 2011. In exchange, Broker agrees to list the property for sale.

Active status and showings to begin on (date) 2-17-2011. If this property is not available for showings on the contract start date, it will be placed in the "On Hold" status in the MLS until it is available for showings.

This shall serve as my written notice granting you or any authorized closing agent permission to obtain: 1.) mortgage information (i.e. mortgage balance, interest rate, payoff and/or assumption figures, etc.) regarding any existing financing on this property, and 2.) utility information. A copy of this document shall be as valid as the original.

Personal property included: NONE

Personal property excluded: NONE

SPECIAL CONDITIONS:

SELLER HAS NEVER OCCUPIED THE PROPERTY-THE PROPERTY IS SOLD "AS IS", WITH NO PROPERTY CONDITION DISCLOSURE. SEE ATTACHED DOCUMENTS FOR ADDITIONAL CITY CONDITIONS WHICH ARE HEREBY MADE A PART OF THIS LISTING AGREEMENT.

Is there a well on the property? (check one) Yes ___ No [checked]

Is there a septic system on the property? (check one) Yes ___ No [checked]

As Seller, I have been informed that if there is a septic system on the property, it might be required to meet certain city, county, or state certification standards. I hold you harmless of any responsibility for said system.

I have a contract for fuel tank rental, water softener rental, or rural water membership: (check one) Yes ___ No [checked]

Terms: _____

Do you have an abstract? (check one) Yes ___ No [checked]

Do you have title insurance? (check one) Yes [checked] No ___ Policy # _____

Do you currently have flood insurance? (check one) Yes ___ No [checked]

Sign permitted on property? (check one) Yes [checked] No ___ Lock Box? (check one) Yes [checked] No ___

Home Protection Plan: Seller (check one) ___ will [checked] will not provide a home protection plan.

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SELLER’S DUTIES - As Seller I will:

- (a) cooperate with you in selling the property and I authorize you, your agents, and/or agents with customers or clients to enter my premises for the purposes of showing/previewing the property at reasonable times;
- (b) promptly tell you about all inquiries received about the property;
- (c) provide and pay for any inspections and reports if required by any governing authority;
- (d) provide homeowners association documents, if required;
- (e) give the Buyer an updated abstract of title, or title insurance to the property, or mobile home registration;
- (f) warrant all appliances, heating, air conditioning, wiring, and plumbing on said premises will be in working order at date of closing, except:
PROPERTY IS SOLD "AS IS".
- (g) remain responsible for security, maintenance, utilities, and insurance while I own the property, and for safekeeping, securing, and/or concealing any valuable personal property during property showings or open houses.

As Seller, I know you intend to rely on the accuracy of the information I furnish, including information about the condition of the property. I agree to hold you harmless and defend you from any costs, expenses, or damages, including attorney’s fees, incurred by you as a result of my withholding information from you or as a result of giving you any information which is incorrect.

MULTIPLE LISTING SERVICE - I understand you are a member of a Multiple Listing Service (MLS) and will give information to MLS concerning the property. I will grant you access to the property and I authorize you to market the property including submission of data to a Multiple Listing Service (MLS). You may place information on the Internet concerning the property, including but not limited to the address, photographs and/or virtual tours. I will notify you of relevant information important to the sale of the property. If you sell the property, you may provide information concerning the property, including but not limited to address, price and terms of sale to the MLS, member REALTORS® (including appraisers who may use the information to prepare comparable sale reports), and relevant government entities.

NOTICE AND NONDISCRIMINATION - As of this date I have not received notice from any municipality, government agency, or homeowners association about the property that I have not told you about, and I agree to promptly tell you of any notice of that type that I would receive. I understand that I may not refuse to sell to, or discriminate in the terms, conditions, or privileges of sale against, or indicate or publicize that sale is unwelcome, objectionable, not acceptable, or not solicited from, any person due to that person’s race, color, religion, sex, national origin, age, physical or mental disability, family status, status with respect to marriage, or status with respect to public assistance. I understand further that local ordinances may include other protected classes of persons.

YOUR COMMISSION – THE COMMISSION RATE FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL REAL ESTATE BROKER AND ITS CLIENT.

As Seller, I hereby authorize you to market my property and allow you to share your commission with other Real Estate Brokers, including Brokers representing only the Buyer. As Seller, I will pay Listing Broker a total commission of 6 % of the gross selling price. Commission may be split as follows: Buyer Agent 3 % Other Agent 3 %, or other terms: \$1500 MINIMUM COMMISSION TO OAKTREE REALTORS upon the happening of any of the following events:

- (a) at the closing of the sale, if I sell or agree to sell the property before this contract ends, even if another Broker or I sell the property without your assistance;
- (b) if you present a Buyer who is willing and able to buy the property either 1.) at the price set forth in this contract and on the other specific terms, if any, herein, or 2.) at a price and on terms to which I agree in a signed purchase agreement, but if I then refuse to sell;
- (c) if with in 90 days after the end of this contract I sell or agree to sell the property to anyone who:
 1. during this contract made inquiry of me about the property, or;
 2. during this contract made an affirmative showing of interest in the property or was physically shown the property.

After the expiration of this contract, and if there are no signed and/or pending purchase agreements or offers, I understand I do not have to pay your commission if I sign another valid listing contract under which I am obligated to pay a commission to another licensed Real Estate Broker.

DUAL AGENCY REPRESENTATION – (To be completed only if the Broker has NOT adopted an Appointed Agency Policy) As a result of this listing contract, the Broker will now represent you in the sale of this property. If a Buyer represented by the Broker wishes to buy your property, a Dual Agency will be created. This means the Broker will represent both you and the Buyer(s), and will owe the same duties to the Buyer(s) that Broker owes to you. It will prohibit Broker from advocating exclusively on your behalf. Dual Agency will limit the level of representation the Broker can provide. If a Dual Agency should arise, confidential information about price, terms, and motivation will still be kept confidential unless you instruct the Broker in writing to disclose specific information about you. All other information will be shared. The Broker cannot act as a Dual Agent unless both you and the Buyer(s) agree to it. By agreeing to a possible Dual Agency, and if Dual Agency should apply in your transaction, you will be giving up the right to exclusive representation in an in-house transaction. However, if you should decide not to agree to a possible dual agency, and you want the Broker to represent you, you may give up the opportunity to sell your property to Buyers represented by the Broker.

SELLER’S INSTRUCTIONS TO THE BROKER - Having read and understood this information about Dual Agency, Seller(s) now instructs the Broker as follows:

Seller(s) will agree to Dual Agency representation and (check one) ___ will consider ___ will not consider offers made by Buyer represented by the Broker.

Seller: _____ Date _____ Seller: _____ Date _____

APPOINTED AGENCY - (To be completed only if Broker has adopted an Appointed Agency Policy) The Broker will appoint to you, in writing, a licensee who will be acting as your Appointed Agent to the exclusion of all other affiliated licensees of the Broker. *By agreeing to Appointed Agency, you, the Broker, the agents of the Broker and the Appointed Agent named below are considered to possess only actual knowledge and information. By an act of North Dakota Law, the definitions regarding Appointed Agency make it clear that there is no imputed knowledge or information between you, the Broker, the Broker’s agents or the named Appointed Agent.*

Notice: Any appointed agent who personally represents both you and the Buyer in a purchase of property is a Dual Agent. This means the Appointed Agent will represent both you and the Buyer(s), and will owe the same duties to the Buyer(s) that the Appointed Agent owes to you. It will prohibit the Appointed Agent from advocating exclusively on your behalf. Dual Agency will limit the level of representation the Appointed Agent can provide. If a Dual Agency should arise, confidential information about price, terms, and motivation will still be kept confidential unless you instruct the Appointed Agent in writing to disclose specific information about you. All other information will be shared. The Appointed Agent cannot act as a Dual Agent unless both you and the Buyer(s) agree to it. By agreeing to a possible Dual Agency, and if Dual Agency should apply in your transaction, you will be giving up the right to exclusive representation. However, if you should decide not to agree to a possible Dual Agency, and you want the Appointed Agent to represent you, you may give up the opportunity to sell your property to Buyers represented by the Appointed Agent.

PATRICK MADDOCK OR KAREN FLECK (“Appointed Agent”), an affiliated licensee of the Broker, is appointed to act solely as an agent for you unless s/he personally represents the Buyer. Your designated Appointed Agent is obligated not to reveal any confidential information obtained from you to other licensees, except to the Broker in charge of the oversight of your transaction. It is understood that the Broker may appoint another agent for you during the term of this agreement if: 1) The Appointed Agent is not able to fulfill the terms of your listing agreement, and/or 2.) You and the Broker mutually agree to the appointment of another agent. An appointment of another agent as a new or additional agent does not relieve the first Appointed Agent of any of the duties owed to you as previously described in this agreement.

SELLER’S INSTRUCTION TO BROKER - Having read and understood this information, Seller(s) make(s) the following decision:

Seller(s) accepts the Broker’s appointment of the above named agent as the Seller’s Appointed Agent and (check one) accepts ___ does not accept Dual Agency if it arises.

Seller: _____ Date _____ Seller: _____ Date _____

I hereby certify that I have received a copy of this contract and agree to its terms.

| | | |
|-------------------------------------------------------|----------------|-------|
| Acceptance Date | Owner | Date |
| OAKTREE REALTORS, MANDAN, ND | | |
| Brokerage | Owner | Date |
| KAREN FLECK | | |
| By Licensee | Owner Address | Phone |
| 663-3535 400-7066 | | |
| Licensee Office Phone Cell Phone | City/State/Zip | |

ADVERTISING AND PROMOTION FOR CITY OF MANDAN PROPERTIES:

BOTH PROPERTIES WILL BE PLACED ONLINE WITH THE BISMARCK-MANDAN BOARD OF REALTORS MULTIPLE LISTING SERVICE.

FOR SALE SIGNAGE WILL BE PLACED ON THE PROPERTIES.

PROPERTIES WILL BE ADVERTISED IN THE MONTHLY REAL ESTATE MAGAZINE.

PROPERTIES WILL BE PLACED ON THE OAKTREE REALTORS WEBSITE AND ALSO ON WWW.BISMANONLINE.COM

KAREN FLECK

PATRICK MADDOCK

OAKTREE REALTORS, MANDAN



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 9, 2011
SUBMITTING DEPARTMENT: Business Development & Communications
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Commissioner Dot Frank
SUBJECT: Proposed Policy for Commercial Property Tax Exemption

STATEMENT/PURPOSE: To consider adoption of a policy to provide criteria and guidance for future decisions regarding applications for commercial property tax exemption.

BACKGROUND/ALTERNATIVES: At direction of Commissioner Jackson, who held the business development portfolio in from July 2008 through June 2010, city staff surveyed the state's 11 other larger communities regarding their use of commercial property tax exemptions, other economic development tools, and any existing policies they might have. The survey found that about half of the other communities have policies for commercial property tax exemptions and the other half, like Mandan, have considered applications on a case-by-case basis. At a special working meeting held Oct. 27, 2010, the City Commission reviewed a summary of findings from the other cities and directed staff to draft a policy based on a City of West Fargo policy in combination with suggestions submitted by Commissioner Jackson. The draft was again reviewed at a special meeting held Dec. 8, 2010. Commissioner Frank, who holds the business development portfolio for 2010-11, was assigned the task of overseeing further revisions to the draft policy.

ATTACHMENTS: Proposed Policy on Commercial Property Tax Exemptions.

FISCAL IMPACT: Not applicable. The policy itself does not have a fiscal impact, but decisions regarding individual applications may have an impact.

STAFF IMPACT: Minimal

LEGAL REVIEW: Attorney Brown has reviewed the proposed policy.

RECOMMENDATION: I recommend approval of the policy as proposed.

SUGGESTED MOTION: I move to approve the policy on commercial property tax exemptions as proposed.

CITY OF MANDAN COMMERCIAL PROPERTY TAX EXEMPTION POLICY AND GUIDELINES

Businesses that are primarily industrial, commercial, retail or service are eligible for property tax incentives for new and expanding businesses if they meet state requirements (NDCC 40.57.1) and the guidelines stated below. The following criteria are only guidelines. Each application will be evaluated on its own merits.

- General criteria — In evaluation applications for property tax exemption, the Growth Fund Committee will consider the following factors:
 - Economic impact through increased construction activity, equipment purchases, additional product purchases, additional work activity, immediate and projected increases in property values, and impact on future tax collections.
 - Number of jobs created and employee benefits
 - Types of jobs — professional, managerial, technical, skilled, unskilled
 - Emphasis on full-time positions
 - Diversification of economic base
 - Growth potential of company and industry and potential spin-off benefits
 - Impact on city services
 - Can the company be accommodated within existing service levels, or will additional capacity be needed?
 - Is the company locating where better use of existing services will take place or further the development plans of the City?
 - Utilization of local resources
 - Will the company be an exporter from our region?
 - Will it provide support services to existing companies?
 - Use of raw materials and services developed in the area
- A new or expanded business in the community must not gain unfair advantage with existing competitors through use of the exemption. Applicant should be prepared to demonstrate that an unfair advantage is not gained over any possible existing competitor for the amount of exemption received.
- Property tax incentives must be approved prior to the start of construction.
- Projects that are primarily warehousing (for the storage of goods, raw materials or commodities) would not receive an incentive unless the owner proves need or provides other information to justify the exemption.
- Amount of exemption will be according to the following schedule:
 - Year 1 — 100%
 - Year 2 — 100%
 - Year 3 — 75%
 - Year 4 — 50%
 - Year 5 — 25%
- Annual reports — By February 15 of each year, the recipient of the exemption will file an annual employment verification report with the Bismarck – Mandan Development Association.
 - A qualified project may receive up to 100% exemption in each of years 3, 4 and 5 provided that at the end of year two at least one full-time job has been created for every

\$75,000 of the building's value subject to the tax exemption. Jobs must be maintained in years 3, 4, and 5.

- An exemption that has been granted will be considered lapsed and invalid if construction has not begun in one year and completed in two years. Notice will be sent to the project operator 90 days prior to the exemption lapsing.
- After an exemption has been granted, if the project operator needs to locate the operation in another facility; the exemption may be transferred to the new building. The value of the new building cannot be more than 15 percent higher than that of the building for which the exemption was originally granted. If the new building is more than 15 percent greater in estimated value, the Growth Fund Committee will reconsider the exemption.

The Board of Commissioners may waive any of these requirements if they deem a business should receive additional incentives because of its benefits to the community.

Improvements to Commercial

NDCC 57-02.02 allows exemptions for property renovations, remodeling, alterations, and additions. A property tax exemption is available for all improvements to commercial buildings or structures. The value of qualifying improvements is exempt. The last assessment on the building or structure prior to commencement of the improvements remains for the duration of the exemption period, unless equalization or revaluation of building values is necessary. The exemption does not apply to land values, which may be changed whenever justified. The exemption is valid for the prescribed period and does not terminate upon the sale or exchange of the property. It is transferable to subsequent owners.

Payments in Lieu of Taxes

The City of Mandan may consider up to a five-year payment in lieu of tax (PILOT) in years 6-10 for a new or expanded business. A qualified project may be required to pay only 50% of taxes that would otherwise be due, provided the following guidelines are met:

- The project size must have at least \$700,000 market value of newly constructed buildings or structures.
- A minimum of 20 new full-time jobs providing an average wage of \$9.00 per hour excluding benefits must be created by the end of year 5. These jobs must be maintained years 6-10.
- Annual reporting requirements by the recipient will continue in years 6-10.
- An inflation factor may be included in the payment schedule and also in the average hourly wage. This inflation factor will be determined at the time the payment schedule is set.
- If the project fails to meet any of the above listed guidelines in years 6-10, the project will not be eligible for any percentage of the reduction in taxes. The tax reduction on this project cannot be re-applied for if the requirements are again met in the future and the initial 10-year period has not expired.

Multi-Family Residential

Tax incentives for multi-family housing may be considered for qualifying projects under the federal low income housing tax credit program, for projects with a mixed-use commercial component, or for projects of 25 units or more.

Sale to Non-Profit

If a property receiving a tax exemption is sold or in any way transferred to a non-profit corporation, the property owner may be asked to pay back all tax revenue given as part of the exemption.

Non-profits may be asked to make payments in lieu of taxes for essential services.



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 10, 2011
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Legislative Activities

STATEMENT/PURPOSE: To consider general legislative positions.

BACKGROUND/ALTERNATIVES: The Legislative Assembly is moving steadily ahead with its deliberation of new laws. The bill introduction deadline has passed in both houses and most bills will have received their first hearing by February 11th. The Assembly is aiming for crossover, when all bills must be acted upon in the house of origin and sent to the other house, for Friday February 25, 2011.

As a member of the North Dakota League of Cities (NDLC) our interests are well represented by the staff of the NDLC. City staff occasionally will attend bill hearings and offer input as appropriate. In order to assist us in representing Mandan's interests I would ask that the city commission take a general position on the concepts listed in no particular order below:

- 1) Oppose attempts to restrict home rule authority granted by local voters.
- 2) Rely on local elected officials to limit property taxes to responsible levels
- 3) Grant no further property tax exemptions
- 4) Provide increased state funding for road infrastructure projects
- 5) Support effort by the state to provide assistance to economic development projects
- 6) Support efforts to provide property tax relief in a way that strengthens public education and maintains revenue sources for other local political subdivisions.
- 7) Oppose effort to change extraterritorial zoning statutes enacted in 2009
- 8) Oppose efforts to restrict local governments' ability to deal with local labor relations issues.
- 9) Support efforts of the state to improve traffic safety.

In the past the commission has allowed department heads the freedom to testify on bills they felt were in the best interest of the City of Mandan. By adopting the above general positions we would continue that practice.

As crossover approaches we may find it beneficial for the Board to take specific positions on certain bills. We propose to bring those bills before you as necessary.

Reporting on such activities could take the following form:

| Bill No. | | Description | Position |
|----------|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| HB | 1194 | This bill requires the county to notice each taxpayer who will be assessed any increased taxes by any taxing entity within the county. New taxable parcels are exempted from this legislation. The city would be required to hold a public hearing on the tax increase. The process to accomplish the requirements of this bill is both complex and costly. | I recommend the city oppose this bill, participate in discussions aimed at resolving the bill's procedural problems. |
| HB | 1220 | This proposal would structure the protest of a special assessment project around the costs of an improvement to particular property owners. If the owners who bear a majority of the expense of the district protest the improvement it would be protested out. Since commercial property assessments are weighted more heavily than residential assessments due to their higher use of the improvements, this proposal will give residential properties less voice in a district protest. | I recommend the city oppose this bill |
| HB | 1278 | This bill allows cities to enact traffic fines for moving violations in excess of state law limits. This will help to increase fines for violations and hopefully serve as a deterrent to objectionable driving behavior. The committee has recommended that these fines be limited to a 100% increase from the state rates. | I recommend the city support this bill as amended. |

If this format is acceptable we will bring a listing of specific bills to the March 1 meeting for your consideration.

ATTACHMENTS: n/a

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: I recommend approval of the aforementioned general legislative positions.

SUGGESTED MOTION: I move to approve of the aforementioned general legislative positions.



Board of City Commissioners

Agenda Documentation

MEETING DATE: February 15, 2011
PREPARATION DATE: February 9, 2011
SUBMITTING DEPARTMENT: Water Treatment Plant
DEPARTMENT DIRECTOR: Duane Friesz, WTP Assistant Superintendent
PRESENTER: Duane Friesz, WTP Assistant Superintendent
SUBJECT: Change order Residual Management Facility - Bearings

STATEMENT/PURPOSE: The amount of the change order is above \$25,000. Pursuant to our change order policies, the city commission must consider the request.

BACKGROUND/ALTERNATIVES: This change order addresses replacing three bearings on our 38 foot Solid Contact Basin for preventive maintenance. Vessco Inc stated life expectancy of bearings is 20 years. Ours have been in service 24 hours a day since 1985. We are trying to prevent bearing failure during peak summer season. Using the contractor on site would save the City from paying a mobilization fee and from the cost of having to do the work under emergency situation if failure occur during peak season, and therefore, I am asking the Board to waive the City bidding policy.

ATTACHMENTS: #1 Picture of 38 foot Solid Contact Basin
#2 Summary of the project budget and a copy of approval letter from the North Dakota Department of health.
#3 Change Order No. G-2

FISCAL IMPACT: The original budget for the Residual Management Facility was \$7,000,000, the total current project costs (including the bearing replacement cost) are \$6,847,603.41, and therefore, replacement is within borrowing capacity.

STAFF IMPACT : N/A

LEGAL REVIEW: All commission data has been forwarded to the City Attorney for review.

RECOMMENDATION: I recommend approval of the attached change order.

SUGGESTED MOTION I move that this change order be approved.



Board of City Commissioners
Agenda Documentation
Meeting Date: February 15, 2011
Subject: Change order Residual Management Facility - Bearings
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February 8, 2011

To the President and Commissioners
of the Mandan Board of City Commission
c/o Duane Friesz, Mandan, Water Treatment Plant Assistant Superintendent
205 2nd Avenue NW
Mandan, ND 58554-3125

Re: **Mandan Water Treatment Residuals Management Facility
City of Mandan, North Dakota**

Dear Duane:

Enclosed herewith please find four (4) copies of Change Order No. G-2 for Swanberg Construction Inc. for the replacement of the bearings in the existing 38 foot solids contact basin per the Owner's request. Also enclosed are a summary of the project budget and a copy of the approval letter from the North Dakota Department of Health. The Change Order increases the Contract Price \$30,533.00 and does not change the Project completion dates. If this Change Order is acceptable, please sign all four copies in the spaces indicated and return four (4) copies of the change order to this office for final execution by the contractor.

We sincerely appreciate the opportunity to provide professional engineering services to the City of Mandan and look forward to the successful completion of this Project. Should you have any questions or concerns, please do not hesitate to contact us.

Respectfully Submitted,

AE2S

A handwritten signature in blue ink, appearing to read "K. J. Weber", is written over a large, faint background graphic of a molecular structure with blue and yellow spheres.

Kenneth J. Weber, PE
Project Manager

Enclosures

C: Paul Levchak, North Dakota Department of Health
Dave Bechtel, Mandan Engineering Department

L:\City of Mandan\Sludge Plant\060 Construction\Change Orders\Change Order G2\Change Order G2 Cover Letter to Owner.doc

Advanced Engineering and Environmental Services, Inc.
1815 Schafer Street, Suite 301 • Bismarck, ND 58501 • (t) 701-221-0530 • (f) 701-221-0531

Board of City Commissioners
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Mandan WTP Residuals Management Facility
 Project No. P 510-2008-01
Summary of Project Costs
 February 8, 2011



Total Planned Project Estimate = \$7,000,000.00

Approved Construction Contract Prices:

General Consturction Contract Price = \$3,939,000.00
 Mechanical Consturction Contract Price = \$660,800.00
 Electrical Consturction Contract Price = \$538,100.00
Total Construction Contract Amount = \$5,137,900.00

Approved Engineering Fees = \$1,575,000.00

Project Cost Changes:

| Change Order | Status | Amount | Description |
|---------------------------------|----------------|--------------------|-------------------------------------------------------|
| Direct Cost | Approved | \$59,537.41 | Tesoro raw water & overhead power relocation |
| General Contractor No. 1 | Approved | \$4,633.00 | Site Work to allow clear space for construction |
| General Contractor No. 2 | Pending | \$30,533.00 | Bearing replacement in 38' solids contact unit |
| Potential | Tracking | \$40,000.00 | EPA mandated chlorine room improvements |

Change Order Totals = \$134,703.41

Current Total Project Costs = \$6,847,603.41

Under Budget = \$152,396.59

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NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov



February 8, 2011

Kenneth J. Weber
Advanced Engineering and Environmental Services, Inc.
1815 Schafer St., Ste. 301
Bismarck, ND 58501

RE: Change Order Number G-2
Mandan Water Treatment Plant Residuals Management Facility
DWSRF Project No. 3000596-04

Dear Mr. Weber:

Change Order No. G-2 to the construction contract of Swanberg Construction, Inc. for the above-referenced project is hereby approved.

Change Order No. 2 increases the total contract amount by \$30,533.00 from \$3,943,633.00 to \$3,974,166.00, required per the owner's request to replace the bearings in the existing 38 foot Solids Contacts Unit.

The contract completion dates remain unchanged: substantial completion on October 31, 2011, and ready for final payment on December 30, 2011.

If you have any questions or comments, please contact Paul Levchak at 701-328-5256 or email plevchak@nd.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Levchak".

Paul Levchak
Division of Municipal Facilities

PL:dgg

Enc:

xc: Duane Friesz, WTP Asst. Supervisor, City of Mandan
Custer Health

Environmental Health
Section Chief's Office
701.328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701.328.5166

Division of
Water Quality
701.328.5210

Printed on recycled paper.

**Change Order
 No. G-2**

Date of Issuance: February 7, 2011

Effective Date: February 7, 2011

| | |
|----------------------------------------------------------------------|-----------------------------------------------|
| Project: <u>Mandan Water Treatment Residuals Management Facility</u> | Owner: <u>City of Mandan</u> |
| Contract: <u>General Construction</u> | Date of Contract: <u>June 28, 2010</u> |
| Contractor: <u>Swanberg Construction Incorporated</u> | Owner's Contract No.: <u>2008-21</u> |
| Engineer: <u>Advanced Engineering and Environmental Services</u> | Engineer's Project No.: <u>P00510-2008-01</u> |

The Contract Documents are modified as follows upon execution of this Change Order:

Description:

Provide labor, equipment, and materials to replace the bearings in the existing 38 foot Solid Contacts Unit.

Attachments:
 (List documents
 supporting change):

Change proposal for work by Swanberg Construction, Inc., including quote from Siemens.

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

| | |
|-----------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Original Contract Price: <u>\$ 3,939,000.00</u> | Original Contract Times: <input type="checkbox"/> Working days <input checked="" type="checkbox"/> Calendar days Substantial completion (days or date): <u>October 31, 2011</u> Ready for final payment (days or date): <u>December 30, 2011</u> |
| Increase (Decrease) from previously approved Change Orders: No. <u>G-1</u> to No. <u>G-1</u> : <u>\$ 4,633.00</u> | Increase (Decrease) from previously approved Change Orders No. <u>G-1</u> to No. <u>G-1</u> : Substantial completion (days): <u>October 31, 2011</u> Ready for final payment (days): <u>December 30, 2011</u> |
| Contract Price prior to this Change Order: <u>\$ 3,943,633.00</u> | Contract Times prior to this Change Order: Substantial completion (days or date): <u>October 31, 2011</u> Ready for final payment (days or date): <u>December 30, 2011</u> |
| Increase (Decrease) of this Change Order: <u>\$ 30,533.00</u> | Increase (Decrease) Time of this Change Order: Substantial completion (days or date): <u>October 31, 2011</u> Ready for final payment (days or date): <u>December 30, 2011</u> |
| Contract Price incorporating this Change Order: <u>\$ 3,974,166.00</u> | Contract Times with all approved Change Orders: Substantial completion (days or date): <u>October 31, 2011</u> Ready for final payment (days or date): <u>December 30, 2011</u> |

RECOMMENDED:
 By: [Signature]
 Engineer (Authorized Signature)
 Date: 2/09/2011

ACCEPTED:
 By: _____
 Owner (Authorized Signature)
 Date: _____

ACCEPTED:
 By: _____
 Contractor (Authorized Signature)
 Date: _____

Approved by Funding Agency (if applicable): _____

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SWANBERG CONSTRUCTION INC BUILDING-MUNICIPAL/HEAVY CONTRACTORS

Phone: (701) 845-6946
Fax: (701) 845-8999

250 Central Avenue S.
P.O. Box 728
Valley City, ND 58072

January 31, 2011

Advanced Engineering and Environmental Services, Inc.
1815 Schafer Street, Suite 301
Bismarck, ND 58501

Attn: Mr. Chris Bauer, PE

RE: Mandan Water Treatment Residuals Management Facility
Costs To Replace SCU Bearings

Chris,

The following is a cost breakdown to provide labor, equipment and materials to replace the bearings in the 38 foot Solids Contact Unit.

| | | |
|------------|-----------------------------------|-----------------|
| Equipment- | As Per Seimens Quote | \$15,961.00 |
| Labor- | | 9,920.00 |
| Substance- | | <u>670.00</u> |
| | Sub-Total | \$26,551.00 |
| | Bond, Insurance, Overhead, Profit | <u>3,982.00</u> |
| | Total | \$30,533.00 |

If you have any questions please contact me.

Sincerely,
Swanberg Construction Inc.

Mark Swanberg

SIEMENS

Siemens Water Technologies
 600 Arrasmith Trail
 AMES IA 50010
 USA

Sold-to address:
 SWANBERG CONSTRUCTION INC
 202 2ND AVE SE
 VALLEY CITY ND 58072

Quotation

Reprint
 Order Date: 01/28/2011
 Sales Order No.: 10006274
 Customer No.: 1007524
 Customer PO No.: Mandan, ND
 Incoterms (part 1): FOB Free on board
 Incoterms (part 2): Free on board
 Payment Terms: Net 30 days
 Sales Rep: VESSCO INC
 Contact Person: Jeffrey Joslin
 Phone Number: 515-268-8400

Valid from date: 01/28/2011
 Valid to date: 02/28/2011
 Requested Shipping date: 03/28/2011

| Line Item | Material Description | Origin | Qty./UOM | Unit Price | Total Price Currency USD |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|----------|------------|-----------------------------|
| 001000 | W3T6313 42AKit, Prop Brng & Installation Supervl ECCN: EAR99 HTS: 842121000 Customer P/N: N85-468 Siemens Water Technologies replacement parts and field service to supervise installation of scraper drive bearing. Standard CONTRAFLO repair components consisting of: 1 - Locked race bearing 37" race dia. 1 - Lot Fiberglass bearing bedding material. 1 - Lot grease lines and fittings. 1 - Lot required fasteners. 1 - Set prop shaft bearings. Lot price includes all travel and living expenses for one (1) Siemens field technician for an estimated three (3) days on site in one (1) trip. Please note this is our best estimate of time needed to execute this project and any additional time if required will be invoiced at \$\$125.00 per man hour plus all travel and living expenses. | US | 1 EA | 15,961.00 | 15,961.00 |

For domestic shipments the following applies:
 These commodities are sold for domestic consumption. Any export of these commodities must be made in accordance with applicable US laws.
 For export shipments from the US the following applies:
 These commodities, technology or software (items) were exported from the United States in accordance with the Export Administration Regulations Diversion contrary to US law is prohibited. These items are not to be used directly or indirectly in prohibited nuclear chemical/biological or missile weapons activities.

Freight and applicable taxes to be added at time of invoicing

Net Total 15,961.00 USD

Ship-to address
 SWANBERG CONSTRUCTION INC
 202 2ND AVE SE
 VALLEY CITY ND 58072

Bill-to address
 SWANBERG CONSTRUCTION INC
 PO Box 728
 VALLEY CITY ND 58072

Board of City Commissioners
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SIEMENS

Siemens Water Technologies
600 Arrasmith Trail
AMES IA 50010
USA

Sold-to address:
SWANBERG CONSTRUCTION INC
202 2ND AVE SE
VALLEY CITY ND 58072

Quotation

Order Date: 01/28/2011
Sales Order No.: 10006274

Siemens Water Technologies Corporation
(Hereinafter Siemens) Standard Terms of Service Order

1. **Applicable Terms.** These terms govern the supply of services (including without limitation any goods (the "Goods") furnished in the performance thereof), described in the Service Order on the reverse side or attached hereto and Seller's associated proposal, quotation, or acknowledgment ("Siemens' Documentation"). Whether these terms are included in an offer or an acceptance by Siemens, such offer or acceptance is conditioned on Customer's assent to these terms. Siemens rejects all additional or different terms in any of Customer's forms or documents.
 2. **Payment.** Customer shall pay Siemens the full service fee as set forth in Siemens' Documentation. Unless Siemens' Documentation provides otherwise, all taxes, duties or other governmental charges relating to the services provided shall be paid by Customer. IF Siemens is required to pay any such charges, Customer shall immediately reimburse Siemens. All payments are due within 30 days after receipt of invoice. Customer shall be charged the lower of 1 1/4% interest per month or the maximum legal rate on all amounts not received by the due date and shall pay all of Siemens' reasonable costs (including attorneys' fees) of collecting amounts due but unpaid. All orders are subject to credit approval.
 3. **Scope of Services.** Siemens shall provide the services specifically described in Seller's Documentation during normal business hours, unless otherwise specified in Siemens' Documentation. Services requested or required by the Customer outside of these hours will be charged at Siemens' then current schedule of rates including overtime charges, if applicable, and will be in addition to the charges outlined in Siemens' Documentation. Where the Customer requests additional Services which are outside of the scope of work itemized in Siemens' Documentation, Siemens shall provide those services at its standard time and material rates and pursuant to its standard terms and conditions then in effect, unless Siemens agrees otherwise in writing.
 4. **Ownership of Materials.** All devices, equipment (other than the Goods), designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information prepared or disclosed by Siemens in connection with services provided, and all related intellectual property rights (including without limitation those associated with the Goods), shall remain Siemens' property. Siemens grants Customer a non-exclusive, non-transferable license to facilitate Customer's use of the Goods supplied and the equipment serviced. Customer shall not disclose any such material to third parties without Siemens' prior written consent.
 5. **Changes.** Siemens shall not implement any changes in the scope of services described in Siemens' Documentation unless Customer and Siemens agree in writing to the details of the change and any resulting price, schedule or other contractual modifications. This includes any changes necessitated by a change in applicable law.
 6. **Warranty.** Siemens warrants (i) that while providing services to the Customer as outlined in Seller's Documentation all work will be performed in a workmanlike manner and that Siemens will use suitability qualified personnel, and (ii) that all Goods shall be free from defects in material and workmanship. These warranties shall survive for ninety days from the date of the service provided. In the event of a warranty claim, Siemens shall, at its sole option and as Customer's sole remedy, repeat the service (Or repair or replace the subject Goods) at its own expense or refund the service fee actually paid to Siemens. If Siemens determines that any warranty claim is not, in fact, covered by the foregoing warranties, Customer shall pay Siemens its then customary charges for any additionally required service or Goods. The foregoing warranties are conditioned on Customer's (a) operating and maintaining any serviced equipment and the Goods in accordance with Siemens' instructions, (b) not making any unauthorized repairs or alterations which affect the service or the Goods, and (c) not being in default of any payment obligation to Siemens. The foregoing warranties do not cover consumable or expendable Goods (such as, for example and not by way of limitation, filter cloth, pump diaphragms and filters) or damage caused by negligent operation of any equipment or Goods by Customer, chemical action or abrasive material misuse which has damaged the equipment serviced or the Goods usage of non-potable feedwater with SDI equipment of improper installation (unless installed by Siemens). **THE WARRANTIES SET FORTH IN THIS SECTION ARE SIEMENS' SOLE AND EXCLUSIVE WARRANTIES. SIEMENS MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED**
- INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.
7. **Indemnity.** The parties shall indemnify, defend and hold harmless one another from any claim, cause of action or liability incurred by the other as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by the indemnifying party's negligence. The indemnifying party shall have sole authority to direct the defense and settle any indemnified claim, unless the indemnified party elects to decline the right of indemnification, which it may do at any time. The obligation to indemnify is conditioned on the indemnified party: (a) promptly notifying the other party (in the case of the Customer being the indemnified party, within the warranty period set forth in Section 6); and (b) providing reasonable cooperation in the defense of the claim.
 8. **Force Majeure.** Under no circumstances shall either Siemens or Customer have any liability for any breach (except for payment obligations) caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure of normal sources of supply, change in law or other act of government or any other cause beyond such party's reasonable control.
 9. **Cancellation.** Either party may terminate the services specified in Siemens' Documentation by providing prompt written notice to the other party. If Customer cancels or suspends its service order for any reason other than Siemens' breach, Customer shall pay Siemens for work performed prior to cancellation or suspension and any other direct costs incurred by Siemens as a result of such cancellation or suspension.
 10. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, SIEMENS SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND SIEMENS' TOTAL LIABILITY ARISING AT ANY TIME FROM OR IN CONNECTION WITH THE SERVICES OR THE GOODS OR THE USE THEREOF SHALL NOT EXCEED THE PRICE PAID UNDER THIS AGREEMENT. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.
 11. **Leased Equipment.** Any leased equipment provided by Siemens shall at all times be the property of Siemens with the exception of certain miscellaneous installation materials purchased by the Customer, and no right or property interest is transferred to the Customer hereunder, except the right to use any such equipment as provided here. Customer agrees that it shall not, nor shall it allow a third party, to pledge, lend, place a lien against, or create a security interest in, part with possession of, or relocate such equipment. Customer agrees that it will indemnify Siemens against breaches of the terms of this paragraph. Customer shall be responsible to maintain such equipment in good and efficient working order.

Upon the expiration or termination of this Agreement, Customer shall promptly make any leased equipment available to Siemens for removal. Customer hereby agrees that it shall grant Siemens access to the equipment location and shall permit Siemens to take possession of and remove such equipment without resort to legal process and hereby releases Siemens from any claim or right of action for trespass or damages caused by reason of such entry and removal.
 12. **Miscellaneous.** If these terms are issued in connection with a government contract they shall be deemed to include those federal acquisition regulations that are required by law to be included. These terms, together with any quotation, purchase order or acknowledgment issued or signed by Siemens, comprise the complete and exclusive statement of the agreement between the parties (the "Agreement") and supersede any terms contained in Customer's documents, unless separately signed by Siemens. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. If any of these terms is unenforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. Customer may not assign or permit any other transfer of the Agreement without Siemens' prior written consent. The Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws provisions.

ORDINANCE NO. 1090

BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

Declaration of Purpose and Intent.

1. The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual or unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.

2. The provisions and prohibitions of this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.

Definitions. For the purpose of this chapter, certain words and phrases are defined as follows:

1. “dB(A)” means the A-weighted sound level in decibels, as measured with a sound level meter that meets the requirements for a type 1, 2, SIA, or S2A in American National Standard Specification for Sound Level Meters ANSI S1.4.

2. “Noise” means any sound.

3. “Person” means any person, partnership, association, joint venture, corporation or any other entity.

Unlawful Noise.

1. It is unlawful for any person to make any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city. Loud, unnecessary or unusual noises or noises which annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others are defined with reference to subsection 2 of this section.

2. The standards which shall be considered in determining whether a violation exists include, but are not limited to, the following:

- a. The volume of the noise.
- b. The intensity of the noise.
- c. Whether the nature of the noise is usual or unusual.
- d. Whether the origin of the noise is natural or unnatural.
- e. The volume and intensity of the background noise, if any.
- f. The proximity of the noise to residential sleeping facilities.
- g. The nature and zoning of the area within which the noise emanates.
- h. The density of inhabitation of the area within which the noise emanates.
- i. The time of the day or night the noise occurs.
- j. The duration of the noise.
- k. Whether the noise is recurrent, intermittent or constant.

3. A noise need not exceed the decibel levels in Table I be in violation of this section.

Tables; Exceptions.

1. It is unlawful to project a sound or noise excluding noise emanating from a motor vehicle from one property into another, within the boundary of a use district which exceeds the limiting noise criteria set forth in Table I below as measured at the property line of the property from which the noise is emanating.

- a. Sound or noise projecting from one use district into another use district with a different noise level limit may not exceed the limits of the district into which the noise is projected.
- b. The permissible levels in decibels set forth in Table I are modified so that any noise occurring on property deemed to be nonconforming use property is determined upon the conforming zoning designation of the property.

TABLE I. LIMITING NOISE LEVELS FOR ZONING DISTRICTS
Zoning District

| | Residential | Commercial | Industrial |
|----------------------------------------------------------------------------------------|-------------|------------|------------|
| Maximum number of dB(A) permitted from 7:00 a.m. until 11:00 p.m. daily | 55 | 65 | 80 |
| Maximum number of dB(A) permitted from 11:00 p.m. until 7:00 a.m. of the following day | 50 | 60 | 75 |

2. Motorized vehicles. It is unlawful to operate a motorized vehicle within the city limits which creates a noise or sound which exceeds the noise level limits set out in Table II as follows:

TABLE II. LIMITING NOISE LEVELS FOR MOTOR VEHICLES

a. Trucks, buses, construction equipment, or any motor vehicle with a gross weight rating of ten thousand (10,000) pounds or more:

Maximum allowable limit: 88 dB(A) measured at 25 feet.

b. Passenger cars, pickups, vans, motorcycles, snowmobiles, or any motor vehicle with a gross weight rating less than ten thousand (10,000) pounds:

Maximum allowable limit: 80 dB(A) measured at 25 feet.

3. Exceptions. The following uses and activities are exempt from noise level regulations under this section:

- a. Noises of safety signals, warning devices, and emergency relief valves.
- b. Noises resulting from any authorized emergency vehicles, when responding to an emergency call or acting in time of any emergency.
- c. Noises resulting from work of an emergency nature.

d. Any construction or reasonable and necessary maintenance activities except in residentially-zoned areas between the hours of 11:00 p.m. to 7:00 a.m.

e. Any other noise resulting from activities of a temporary duration permitted by law and for which a special permit therefore has been granted under this section by the city.

f. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations are exempt. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations are also exempt.

g. All railroad locomotives and railroad operations and motor carriers engaged in interstate commerce.

h. The use of snow removal equipment, including but not limited to tractors, plows and snow blowers in the aftermath of a snowfall.

i. The following events will be exempt:

- a. Buggies-n-Blues Sponsored Events
- b. 4th of July City Events
- c. Mandan Racetrack
- d. Mandan Shell Concerts in the Park
- e. Use of Fireworks As Currently Set by the City of Mandan

4. Application for special permit. Application for relief from the noise level designated in this section on the basis of undue hardship may be made to the chief of police for the City of Mandan. Any permit granted by the chief of police shall contain all conditions under which the permit has been granted and shall specify a reasonable time that a permit is effective. The chief of police may grant the relief as applied upon a finding:

a. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this section; or

b. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section; and

- c. That no other reasonable alternative is available to the applicant; and
- d. The chief of police may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

Guests on Premises. It is unlawful for any person to permit or allow guests on his or her premises to make any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

Noisy Party or Gathering Prohibited. No persons shall participate in any party or gathering consisting of two or more people when the party or gathering occurs in a residentially zoned or used area or building between the hours of 11:00 p.m. and 7:00 a.m. and when the party or gathering gives rise to unreasonable noise likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area, considering the time of day and the residential character of the area or building.

Order to Disperse - Refusal Prohibited. When a police officer determines that a party or other gathering of people is creating unreasonable noise, disturbing the peace, or is disturbing the quiet or repose of another person, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person ordered to leave the premises by a police officer shall refuse to do so.

Tenant or Owner - Cooperation Required. Every owner of a premises, or tenant in charge of a premises, who has knowledge of a disturbance shall cooperate with police and make reasonable effort to stop the disturbance.

Violations - Prima Facie Evidence. The following shall be prima facie evidence of a violation in any prosecutions under this Chapter:

1. As to tenants, and owner if owner resides on the premises, if twice or more on the same day or if on successive days, the police department is called upon to enforce the terms of this ordinance either by citizen complaint or by personal investigation of a police officer.
2. As to the owner if the owner does not reside at the premises, if the police department gives the owner written notices of three violations of this ordinance by his tenants at any single location within a six month period.

3. Noise of such volume as to be clearly audible at a distance of 50 feet from the structure or building in which the party or gathering is occurring or in the case of apartment buildings, in the adjacent hallway or apartment, shall be prima facie evidence of unreasonable noise in violation of this Chapter.

Classification; Penalty. A violation of any provision of this ordinance is an infraction, for which the maximum penalty is a fine in the amount of \$500.00.

President of City Commission

ATTEST:

City Administrator

| | |
|-----------------------------------|--------------------------|
| First Reading: | <u>January 18, 2011</u> |
| Second Reading and Final Passage: | <u>February 15, 2011</u> |
| Publication Date: | <u>February 25, 2011</u> |

RESOLUTIONS #2

STEVEN L. VOGELPOHL
ATTORNEY AT LAW

Suncrest Office Park
1120 College Drive, Suite 207
P.O. Box 7068
Bismarck, ND 58507-7068

Phone: (701) 258-9847
FAX: (701) 258-9854
E-Mail: slv@slvlaw.net

February 9, 2011

FAX (3 PAGES, INCLUDING THIS PAGE) TO:

Greg Welch (at 667-3223)

Re: Refunding Improvement Bonds of 2011, Series A

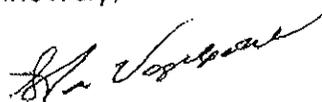
Dear Greg:

Transmitted is the form of Resolution Awarding Sale for the above. The Resolution would be considered for adoption at the Commission's February 15 meeting.

I will revise and complete the Resolution to reflect issue details upon being provided purchase offer information.

Thank you for your assistance and please don't hesitate to contact me if you've any questions on the above.

Sincerely,



Steven L. Vogelwohl
Attorney at Law

SLV
11-000/02-09-11.fax

c: via fax: Malcolm H. Brown (F 224-8820)
Mike Manstrom (F 222-4455)

CITY OF MANDAN
COUNTY OF MORTON
STATE OF NORTH DAKOTA

RESOLUTION AWARDING SALE

WHEREAS, the Board of City Commissioners (the "Governing Body") of the City of Mandan, North Dakota (the "City") has authorized the private sale of the City's Refunding Improvement Bonds of 2011, Series A, in principal amount of \$960,000 (the "Bonds") for the purpose of refunding the City's Refunding Improvement Bonds of 2005 having stated maturities in 2012 and thereafter; and

WHEREAS, the City's financial consultant has presented to the Governing Body an offer from Dougherty & Company LLC, Minneapolis, Minnesota, to purchase the Bonds (the "Offer"),

BE IT HEREBY RESOLVED by the Governing Body that the Offer of Dougherty & Company LLC, Minneapolis, Minnesota, is hereby accepted, which Offer is as follows:

- 1. The Bonds are to be purchased at a purchase price of \$_____ plus accrued interest and initially dated as of March 1, 2011, and shall be issuable as book-entry bonds in fully registered form in the denominations of \$5,000 or any integral multiple thereof, of single maturities. The Bonds shall mature on May 1 in the years and amounts set forth below, and Bonds maturing in such years and amounts shall bear interest from date of issue until paid at the annual rates set forth opposite such years and amounts, respectively:

| <u>Year</u> | <u>Amount</u> | <u>Rate</u> | <u>Year</u> | <u>Amount</u> | <u>Rate</u> |
|-------------|---------------|-------------|-------------|---------------|-------------|
| 2012 | \$115,000 | % | 2017 | \$105,000 | % |
| 2013 | 115,000 | | 2018 | 100,000 | |
| 2014 | 115,000 | | 2019 | 100,000 | |
| 2015 | 105,000 | | 2020 | 100,000 | |
| 2016 | 105,000 | | | | |

Interest on the Bonds is payable on May 1 and November 1 in each year, commencing November 1, 2011, to the holder of record as of the close of business on the 15th day of the immediately preceding month.

- 2. Bonds maturing in the years 2018 and thereafter are subject to redemption and prepayment at the option of the City and in inverse order of maturities, and by lot, assigned in proportion to their principal amount, within any maturity, on May 1, 2017, and on any date thereafter selected by the City, at a price equal to the principal amount thereof plus accrued interest.

BE IT HEREBY FURTHER RESOLVED that issuance of the Bonds shall be subject to the approving legal opinion of Steven L. Vogelpohl, Bond Counsel, Bismarck, North Dakota.

Dated and adopted this 15th day of February, 2011.

Attest:

CITY OF MANDAN, NORTH DAKOTA

City Administrator

President, Board of City Commissioners

(S E A L)

The governing body of the political subdivision acted on the foregoing resolution on February 15, 2011, as follows:

Adoption moved by _____ Seconded by _____

Roll Call Vote (List Last Names)

"Aye" _____

"Nay" _____

Absent _____

and after vote the presiding officer declared the resolution adopted.

ORDINANCE NO. 1091

An Ordinance to Amend and Reenact Sections 21-01-03 and 21-03-07 of the Mandan Code of Ordinances relating to Definitions and Use Groups; and to create and enact three new Sections 21-04-17, 21-04-17.1, and 21-04-17.2 relating to Establishment of Downtown Core and Fringe Districts and establishment of zoning regulations for the DC Downtown Core District and DF Downtown Fringe District; and providing for Severability and an Effective Date.

Be it Ordained by the Board of City Commissioners as follows:

SECTION 1. AMENDMENT. Section 21-01-03 of the Mandan Code of Ordinances is hereby amended and reenacted to read as follows:

“Drive-through Facilities” means any portion of a building from which business is transacted, or capable of being transacted, directly with customers located in a motor vehicle. Such a facility is usually an accessory to a principal use and may also be referred to as a drive-in or drive-up. Examples include drive-through windows at financial institutions and restaurants.

“Entertainment Event, Major” means events that are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature. Examples include stadiums, sports arenas, auditoriums, exhibition halls, convention centers and fairgrounds. This category does not include outdoor recreation and entertainment uses, such as golf driving ranges and racetracks.

“Auto Service, Limited” means uses that provide direct service to motor vehicles where the driver generally waits in the car or nearby while the service is performed. Examples include full-service and self-service gas stations; free-standing carwash facilities; and quick lubrication services. This category does not include convenience store/gas stations.

“Safety Services” means uses that provide public safety and emergency response services. They often need to be located in or near the area where the service is provided. Employees are generally present on-site. Examples include fire stations, police stations and emergency medical and ambulance stations.

“Community Services” means uses of a public, nonprofit or charitable nature generally providing a local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. The use may also provide special counseling, education or training of a public, nonprofit or charitable nature. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, social service facilities, temporary shelters, and vocational training for persons with physical or mental disabilities.

“Detention Facilities” means facilities for the judicially required detention or incarceration of people. Inmates and detainees are under 24 hour supervision by sworn officers, except when on approved leave. Examples include prisons, jails, probation centers and juvenile detention homes.

“*Passenger Terminals*” includes passenger terminals for regional bus service and regional rail service.

“*Telecommunication Facilities*” means facilities which include all devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Facilities may be self-supporting, guyed, or mounted on poles, light posts, power poles, buildings or other structures. This category shall also include interconnection translators, connections from over-the-air to cable, fiber optic, or other landline transmission system. Examples include broadcast towers, attached telecommunication facilities, telecommunication support towers, point-to-point microwave towers, and amateur radio facilities that are owned and operated by a federally-licensed amateur radio station operator.

SECTION 2. AMENDMENT Section 21-03-07 of the Mandan Code of Ordinances is amended and reenacted to read as follows:

21-03-07. Use Groups. In order to carry out the purposes of this title, certain uses having similar characteristics are classified together as "use groups". In any district in which a use group is permitted, it is the intent of this title to permit any particular member of that use group to be located within that district. In any district in which a use group is not listed as a permitted use, it is the intent of this title to prohibit each and every member of that use group from locating within that district. These use groups shall apply to all zoning districts except the Downtown Core and Downtown Fringe districts.

SECTION 3. Section 21-04-17 is hereby created and enacted to read as follows:

21-04-17. Downtown Districts.

1. *Districts Established.* The following downtown zoning districts are hereby established: DC Downtown Core District and DF Downtown Fringe District.
2. *Use Table.* The table contained herein lists the uses allowed within the downtown zoning districts.
 - a. *Use Categories.* All of the categories listed in the use table are explained in detail in Section 21-03-07. The second column of the use table contains an abbreviated explanation of the respective use category. If there is a conflict between the abbreviated explanation and the full explanation in Section 21-03-07, the provisions of Section 21-03-07 shall prevail.
 - b. *Use Standards.* An “X” in the third column of the use table indicates that the use is subject to use-specific standards. These standards are listed alphabetically in Section 21-03-07.
 - c. *Uses Permitted By Right.* A “P” indicates that a use category is allowed by right in the respective zoning district. These permitted uses are subject to all other applicable provisions of this chapter.

- d. Special Uses. An “SUP” indicates that the use is allowed only if reviewed and approved as a Special Use, in accordance with the Special Use provisions in Section 21-03-10, and is subject to all other applicable regulations in this chapter.
- e. Uses Not Allowed. An “---” indicates that the use is not allowed in the respective zoning district.
- f. Review For Acceptance. An “R” indicates the proposed project must be reviewed by this commission and it must be similar in nature or maintain harmony to adjacent properties and must meet current CB requirements (see grid).

Use Table.

| Proposed Use Category | Definition | Use Standards | District | |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------|-----|
| | | | DC | DF |
| Residential Uses | | | | |
| Group Dwelling | Residential occupancy of a structure by a group of people who do not meet the definition of household. | | P | P |
| Household Dwelling | Residential occupancy of a dwelling unit by a household (related or up to four unrelated). | | | |
| Single-family, detached | <u>40% lot coverage; 15’ front setback; 5’ side setback; and 10’ rear setback</u> | | <u>R</u> | P |
| Duplex/single-family attached (2) | <u>40% lot coverage; 15’ front setback; 5’ side setback; and 10’ rear setback</u> | | <u>R</u> | P |
| Single-family, attached (3-8) (3+) | e.g. condos | | <u>P</u> | P |
| Multi-family structure | | | P | P |
| Residences on 2 nd floor & above | | | P | P |
| Commercial Uses | | | | |
| Drive-through Facilities | Drive-through facilities in conjunction with a permitted principal use. | X | SUP | SUP |
| Entertainment Event, Major | Activities and structures that draw large numbers of people to specific events or shows. This category does not include outdoor recreation and entertainment uses, such as golf driving ranges and racetracks. | | P | --- |
| Office Group | Activities conducted in an office setting and generally focusing on business, government, professional, medical or financial services. | | P | P |
| Parking, Accessory | Parking that is an accessory to a specific use, but not located on the same parcel as the use – use standards for accessory parking that is adjacent to a residential use. | X | SUP | SUP |
| Parking, Commercial | Parking that is not an accessory to a specific use – fees may or may not be | X | P | SUP |

| | | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| | charged. | | | |
| Retail Sales and Services Retail Group A Service Group A Service Group B Auto Sales Groups are modified by description of this item and other items in this table. Group descriptions are found in Chapter 21-03-07 of the Mandan Municipal Code. | Establishments involved in the sale, lease or rental of any new or used products to the general public – they may also provide personal services or entertainment or provide product repair or services for consumer and business goods – use standards for convenience store/gas stations, mortuaries/funeral homes and vehicle sales lots. This category does not include self-service storage uses, adult entertainment centers, animal hospitals or kennels, or off-premise advertising signs. | X | P | P |

| Proposed Use Category | Definition | Use Standards | District | |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------|-----|
| | | | DC | DF |
| Commercial Uses | | | | |
| Auto Repair Garage | Service to passenger vehicles, light trucks and other consumer motor vehicles – generally, the customer does not wait at the site while the service or repair is being performed. | X | SUP | P |
| Auto Service, Limited | Direct services to motor vehicles where the driver generally waits in the car or nearby while the service is performed. | X | SUP | P |
| Institutional Uses | | | | |
| Colleges | Colleges and institutions of higher learning. | | P | P |
| Community Services | Public, non-profit or charitable uses, generally providing a local service to the community. | X | P | P |
| Day Care | Care, protection and supervision for children and adults on a regular basis away from their primary residence for less than 24 hours/day. | X | SUP | P |
| Health Care Facilities | Medical or surgical care to patients, with overnight care. | | P | P |
| Parks and Open Areas | Natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, etc. | | P | P |
| Religious Institutions | Meeting area for religious activities | X | P | P |
| Safety Services | Public safety and emergency response services. | | P | P |
| Schools | Schools at the primary, elementary, middle, junior high or high school level. | X | --- | P |
| Other Uses | | | | |
| Detention Facilities | Government-operated facilities for the detention or incarceration of people. | X | P | --- |
| Moving of buildings/structures | Moving in of a building or structure that has been previously occupied in another location. | X | --- | SUP |
| Passenger Terminals | Passenger terminals for regional bus and rail service. | X | P | P |

| | | | | |
|----------------------------------|----------------------------------------------------------------------------------------------------|--|-----|-----|
| Telecommunications Facilities | Devices and supporting elements necessary to provide telecommunication services. | | SUP | SUP |
| Utilities and Essential Services | Infrastructure services that need to be located in or near the area where the service is provided. | | P | P |

SECTION 4. Section 21-04-17.1 of the Mandan Code of Ordinances is hereby created and enacted to read as follows:

21-04-17.1 DC Downtown Core District.

1. *Purpose.* The purpose of the Downtown Core District is to preserve and enhance the mixed-use, pedestrian-oriented nature of the City’s downtown area. The district allows a wide range of mutually supportive uses in order to enhance downtown Mandan’s role as a commercial, cultural, governmental, health/ medical, entertainment, education, and residential center. The district standards also facilitate the creation of a strong and distinctive sense of place through the inclusion of open space and public plazas. The use of design standards will maintain the historical integrity, enhance the quality of design, and preserve the human-scale development of downtown.

The following described property shall be included in the Downtown Core District:

In Mandan Proper Subdivision:

All of Blocks 1-14 & 18-22; ~~Lots 4-9, Block 17~~; Lots 5-12, Block 23; Lots 1-6, Block 36; Lots 7-12, Block 35.

2. *Uses.* Uses are allowed in the Downtown Core District in accordance with the Use Table of Section 21-04-17.

3. *Dimensional Standards.* Development within the Downtown Core District is subject to the following dimensional standards:

- a. *Lot Area.* The minimum lot area is 2,500 square feet unless lot is recorded to have less than 2,500 square feet prior to adoption of this ordinance.
- b. *Lot Width.* The minimum lot width is 20 feet.
- c. *Lot Depth.* There is no lot depth requirement.
- d. *Front Yard Setback.* There is no minimum front yard setback. If the development site is between two existing buildings, which are both setback from the front property line, the front yard setback may not exceed the average setback of the adjoining buildings. In no case shall a setback greater than 15 feet be allowed, and this area must be landscaped and/or incorporate streetscape elements.
- e. *Side Yard Setback.* There is no minimum side yard setback, unless the side property line abuts residentially zoned property, in which case the

minimum side yard setback shall be 6 feet.

- f. *Rear Yard Setback.* The minimum rear yard setback is 10 feet. Provided that where the rear of a lot adjoins an alley, no rear yard shall be required for a principal nonresidential building.
- g. *Height.* The maximum height is 130 feet, unless a special use permit to exceed this height is granted in accordance with the provisions of Section 21-06-03. The minimum height is two stories or 20 feet.
- h. *Lot Coverage.* The maximum lot coverage is 100%.

4. *Design Standards.* All development within the Downtown Core District is subject to the following design standards:

- a. *Intent.* The intent of the design standards is to create and maintain a high visual quality and appearance for the Downtown Core District. The regulations are also intended to stimulate and protect investment through the establishment of high standards with respect to materials, details, and appearance.
- b. *Review and Approval.* Compliance with these design standards shall be carried out in conjunction with the City's site plan review procedures. An administrative decision by the Mandan Architectural Review Committee regarding the design standards may be appealed to the City Commission and will be subject to the Commission's standard public hearing procedures.
- c. *Building Materials.* All walls visible from the street shall be primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or an equivalent or better. The use of plain surface concrete or block shall be prohibited (i.e. the surface must be dimensional). Non-transparent glass shall be prohibited from covering more than 40 percent of the exterior walls.

All subsequent renovations, additions and related structures constructed after the construction of an original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

In order to maintain a sense of harmony within the area, the colors and materials used should generally be compatible with or complementary to those used for buildings on adjoining parcels.

- d. *Height.* The height of a new mid-block building shall be within one story/15 feet of any adjacent building. If a proposed mid-block development is between two existing buildings that vary more than three stories in height, the new building shall be within one story/15 feet in height of either the taller or shorter building. The height of a new corner

building may be higher than buildings on adjacent parcels, but should generally be within the average height of the buildings occupying the three adjacent corners of the intersection. It is not the intent of this provision to regulate the height of a building that occupies one-quarter of a block or more as it relates to adjacent or adjoining buildings.

- e. *Alignment.* New infill development in the Downtown District shall maintain the continuity of setback and alignment of adjoining facades at the property line.
- f. *Width.* New buildings shall reflect the existing characteristic rhythm of facades along the street. New construction, including parking ramps that require two or more lots, should respect this pattern by designing the pattern of adjacent façade widths into the new facade.
- g. *Horizontal Rhythms.* New development shall maintain the alignment of building windows, cornices, and rooflines that dominate the block on which it will be constructed. Character and scale shall be compatible with surrounding structures through the use of materials, detailing and window placement. A clear visual division between the street level and upper floors shall also be maintained. Canopies and awnings consistent with the architectural style of the building are strongly encouraged to accentuate the street level relationship between the building and streetscape and to provide protection of pedestrians.
- h. *Entrances.* A main entrance to the building shall face and be clearly visible from the street and define the entry point.
- i. *Historic Preservation.* Rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation to the greatest degree practicable.
- j. *Display Windows.* The original size and shape of display windows on existing buildings shall be preserved. For non-residential buildings, a minimum of 50% of first floor facades fronting the street shall be windows, doors and other transparent elements.
- k. *Rooftop Equipment.* Rooftop equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.
- l. *Vacant Buildings.* Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited; window coverings shall be aesthetically pleasing.
- m. *Demolition and Vacant Lots.* Any demolition shall be in accordance with the provisions of Section 14-11 of the City Code of Ordinances. Any lots left vacant after demolition shall be treated to control fugitive dust. If the lot is to remain vacant for more than 180 days, said lot shall

be landscaped. The lot shall be maintained and kept free of debris and litter.

- n. *Exposed Common Walls.* If common walls are exposed due to demolition of adjoining buildings, the walls shall be treated to ensure that the walls do not become a visual eyesore. The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels. Temporary alternative treatments need to be approved by the Mandan Architectural Review Commission. Permanent alternative treatments include architectural treatment that is similar to the front façade of the building or stucco. The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans, and shall be the financial responsibility of the owner of the property upon which the demolished building was located.
- o. *Work in Public Right-of-Way.* Any work within the public right-of-way must be approved by the Mandan Architectural Review Commission and shall be in accordance with any City guidelines and shall comply with the standards established by the City Engineer.

5. *Off-street Parking and Loading.* Off-street parking and loading shall be provided in accordance with the provisions of Section 21-03-10. Off-street parking shall not be required for properties within the Downtown Parking District (Section 21-03-10.6).

6. *Landscaping and Screening.* Landscaping and Screening shall meet the approval of and guidelines set forth by the Mandan Architectural Review Commission. Development within the Downtown Core District, including the development of parking areas, shall be subject to the requirements of Section 21-03-10. If decorative fencing or any other streetscape elements are used, they shall be consistent with or complementary to the designated downtown streetscape elements.

7. *Signage.* All signage in the Downtown Core District shall be installed and maintained in accordance with the City policy. Canopies used for signage shall be consistent with the architectural style of the building.

SECTION 5. A new section 21-04-17.2 to the Mandan Code of Ordinances is hereby created and enacted to read as follows:

21-04-17.2 DF Downtown Fringe District.

1. *Purpose.* The purpose of the Downtown Fringe District is to strengthen and complement the City's downtown area by allowing uses not normally allowed in the Downtown Core District. The Downtown Fringe District also serves to provide a transitional area between the Downtown Core District and adjacent commercial and residential zoning districts. The uses allowed in this district usually require larger parcels and a greater emphasis on automobile access and parking

The following described property shall be included in the Downtown Fringe District:

In Mandan Proper Subdivision:

All of Blocks 15-16, 24-34, 37-58; Lots 1-3 & 10-12, Block 17; Lots 1-4, Block 23; Lots 1-6, Block 35; Lots 7-12, Block 36

All of Alber's Neff 1st

All of Collin's Court

In Meads Subdivision:

All of Blocks 1 & 8-11; Lots 1-12 of Blocks 7 & 12; Lots 1-3, & 13, Block 15

In Alber's Neff 2nd:

Lot 1, Block 1; Lots 10-12, Block 4

In Northern Pacific 1st:

All of Blocks 59-74 & 81; Lots 4-9, Blocks 76-79 & 82; Lots 4-12, Block 80; Lots 7-9, Block 83

In Don's Subdivision:

Lots 1-3 & 8, Block 3

All of Helmsworth-McLean 2nd

In Helmsworth McLean 1st:

All of Blocks 1-23; Lots 7-18, Blocks 24-29; Lots 7-12, Block 30

All of Koch Commercial Park

All lands between 10th Ave West and the Railroad overpass east of Mandan Avenue bounded on the north by Main street and bounded on the south by the BNSF railroad trackage.

All lands bounded on the west by Mandan Avenue, bounded on the east by BNSF railroad trackage between 3rd Street NE and Main Street.

2. *Uses.* Uses are allowed in the Downtown Fringe District in accordance with the Use Table of Section 21-04-17.

3. *Dimensional Standards.* Each single-family, two-family, multifamily, or group dwelling hereafter erected shall comply with all regulations governing such uses in an RM residential district as provided under Section 21-04-03. Non-dwelling development within the Downtown Fringe District is subject to the following dimensional standards:

- a. *Lot Area.* The minimum lot area is 2,500 square feet unless lot is recorded to have less than 2,500 square feet prior to adoption of this ordinance.
- b. *Lot Width.* The minimum lot width is 25 feet.
- c. *Lot Depth.* There is no lot depth requirement.
- d. *Front Yard Setback.* There is no minimum front yard setback, unless the property is immediately adjacent to a residentially zoned property, in which case the minimum front yard setback shall be 15 feet. In no case shall a setback greater than 25 feet be allowed, and this area must be landscaped and/or incorporate streetscape elements.

- e. *Side Yard Setback.* There is no minimum side yard setback, unless the property is immediately adjacent to a residentially zoned property, in which case the minimum side yard setback shall be 5 feet.
- f. *Rear Yard Setback.* There is no minimum rear yard setback, unless the property is immediately adjacent to a residentially zoned property, in which case the minimum rear yard setback shall be 10 feet.
- g. *Height.* The maximum height is 75 feet, unless the property is immediately adjacent to a residentially zoned property, in which case the maximum height is 50 feet.
- h. *Lot Coverage.* The maximum lot coverage is 100%, unless the property is immediately adjacent to a residentially zoned parcel, in which case the maximum lot coverage shall be 70%.

4. *Design Standards.* All development within the Downtown Fringe District is subject to the following design standards:

- a. *Intent.* The intent of the design standards is to create and maintain a high visual quality and appearance for the Downtown Fringe District. The regulations are also intended to stimulate and protect investment through the establishment of high standards with respect to materials, details, and appearance.
- b. *Review and Approval.* Compliance with these design standards shall be carried out in conjunction with the City's site plan review procedures. An administrative decision by the Architectural Review Committee regarding the design standards may be appealed to the City Commission and will be subject to the Commission's standard public hearing procedures.
- c. *Building Materials.* For non-residential and multi-family residential buildings containing more than 8 units, all walls visible from the street shall be primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or an equivalent or better. The use of plain surface concrete or block shall be prohibited (i.e. the surface must be dimensional). Non-transparent glass shall be prohibited from covering more than 40 percent of the exterior walls.

For residential buildings containing 8 or fewer units, traditional residential building materials may be used.

All subsequent additions and related structures constructed after the construction of an original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

In order to maintain a sense of harmony within the area, the colors, materials and architectural elements used should generally be compatible with or complementary to those used for buildings on adjoining parcels.

- d. *Height.* The height of a new building should be within one-story/15 feet of any buildings on adjacent parcels. It is not the intent of this provision to regulate the height of a building that occupies one-quarter of a block or more as it related to buildings on adjacent parcels.
- e. *Alignment.* The setbacks and alignment of a new building should be similar to any buildings on adjoining parcels.
- f. *Entrances.* A main entrance to the building shall face and be clearly visible from the street and define the entry point.
- g. *Historic Preservation.* Rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation to the greatest degree practicable.
- h. *Rooftop Equipment.* Rooftop equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.
- i. *Vacant Buildings.* Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited; window coverings shall be aesthetically pleasing.
- j. *Demolition and Vacant Lots.* Any demolition shall be in accordance with the provisions of Section 14-11 of the City Code of Ordinances. Any lots left vacant after demolition shall be treated to ensure to control fugitive dust. If the lot is to remain vacant for more than 180 days, said lot shall be landscaped. The lot shall be maintained and kept free of debris and litter.
- k. *Exposed Common Walls.* If common walls are exposed due to demolition of adjoining buildings, the walls shall be treated to ensure that the walls do not become a visual eyesore. The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels. Temporary alternative treatments must be approved by the Architectural Review Committee. Permanent alternative treatments include architectural treatment that is similar to the front façade of the building or stucco. The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans, and shall be the financial responsibility of the owner of the property upon which the demolished building was located.

1. *Work in Public Right-of-Way.* Any work within the public right-of-way must be approved by the Mandan Architectural Review Commission and shall be in accordance with any City guidelines and shall comply with the standards established by the City Engineer.

5. *Off-street Parking and Loading.* Off-street parking and loading shall be provided in accordance with the provisions of Section 21-03-10. Off-street parking shall not be required for properties within the Downtown Parking District (Section 21-03-10.6).

6. *Landscaping and Screening.* Landscaping and Screening shall meet the approval of and guidelines set forth by the Mandan Architectural Review Commission. Development within the Downtown Core District, including the development of parking areas, shall be subject to the requirements of Section 21-03-10. If decorative fencing or any other streetscape elements are used, they shall be consistent with or complementary to the designated downtown streetscape elements.

7. *Signage.* All signage in the Downtown Fringe District shall be installed and maintained in accordance with City policy. Canopies used for signage shall be consistent with the architectural style of the building.

SECTION 6. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. EFFECTIVE DATE. The provisions of this ordinance shall be in full force and effect from and after the date of publication of a notice of adoption.

Dated this _____ day of _____, 2006

 President, Board of City Commissioners

ATTEST:

 City Administrator

First Reading: February 15, 2011
 Second Reading: _____
 Final Passage: _____
 Date of Publication: _____

