

AGENDA
MANDAN CITY COMMISSION
AUGUST 7, 2012
ED "BOSH" FROEHLICH MEETING ROOM
5:30 P.M.
www.cityofmandan.com

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- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. MINUTES:
1. Consider approval of the minutes from the July 17, 2012 Board of City Commission meeting.
- C. PUBLIC HEARING:
1. Public Hearing to consider exemption for Walmart for Property Tax Incentives for New or Expanding Businesses.
- D. BIDS:
- E. CONSENT AGENDA:
1. Consider placing city owned lot up for sale.
 2. Consider for approval the application for beer garden and street dance event.
 3. Consider proclamation designating August 6-12, 2012 as Lifelong Learning Week in the City of Mandan.
 4. Consider approval of the Service Area Agreement and Amendment No. 1 between Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota), and Mor-Gran-Sou Electric Cooperative, Inc., 2816 37th St. NW, Mandan, ND 58554 (Mor-Gran-Sou).
- F. OLD BUSINESS:
- G. NEW BUSINESS:
1. Consider Growth Fund Committee recommendation regarding property tax exemption application by Walmart
 2. Consider actions associated with participating in the U.S. Department of Treasury's State Small Business Credit Initiative
 - i. Allocation agreement
 - ii. Cooperative agreement
 - iii. Administrative contract
 - iv. Steering committee appointment
 - v. Loan committee appointment
 3. Bismarck Mandan Development Association Mid-Year Report
 4. Introduction of new employee, Shirley Shaw, Assessing & Building Inspection.

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Mandan City Commission
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H. RESOLUTIONS & ORDINANCES:

1. *Consider second consideration and final passage of Ordinance No.1126 Zone Change for Meadow Ridge 2nd Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map*
2. *Consider second consideration and final passage of Ordinance 1127, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of 35-139N-81W).*
3. *Consider second consideration and final passage of Ordinance 1128, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of 34-139N-81W).*

I. OTHER BUSINESS:

1. Consider moving into executive session under North Dakota Century Code Section 44-04-19.1 for attorney consultation regarding contract negotiations and instructions related to the Don McGuire and John Schultz proposal for development of city-owned property.

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. August 21, 2012
2. September 4, 2012 – 5 p.m. start time
3. September 18, 2012

K. ADJOURN

Departmental planning meeting will be held the Monday prior to the Commission meeting, all Commissioners are invited, noon, former Morton County Library 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 July 17, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Frank, and Braun. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development and Communications Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta. Absent: Director of Public Works Wright.

MINUTES: *Consider approval of the minutes for July 10, 2012 regular meeting minutes.* Commissioner Tibke moved to approve the minutes of the July 10, 2012 regular meeting minutes. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

PUBLIC HEARING:

1. *Consider approval of Meadow Ridge 2nd zone change. (First consideration of ordinance #1126).* Engineering Project Manager Bechtel reviewed with the Board a request from Michael Wachter of WW Ranch to change the zoning of Meadow Ridge 2nd Addition from MC (Light non-nuisance Industrial/Heavy Commercial) and R3.2 (Two-Family Residential) to RM (Multi-Family Residential). The location is at 27th Street Northwest and 8th Avenue Northwest adjacent to Terra Vallee. They have also provided a plat to the east of the property location. They are proposing to do a condo-type construction on this property and they are requesting multi-family to accommodate that. At the Planning and Zoning Committee (P & Z) meeting there were residents present who were in opposition and others who were in support of the request. It is anticipated that traffic will be increasing in that area and the utilities are adequate for what they are doing at this time. Commissioner Frank questioned whether there would be any green space that might be included in the plans. Bechtel replied that he was unaware of any plans and he did note that there is a gas line that runs along 8th that cannot be disturbed and a storm water pond will be in place. When adding up the gas line and the water line it is over 100 feet from the existing homes on the west side and that acts as a buffer. However, he did think eventually there will be green space along that area. Michael Wachter came forward and provided an outline of the plan. He stated that on the east half there are apartments and on the west half he is looking at condos and townhome types of construction. Across from Walmart will be more commercial type property so basically west of 6th and north of 24th will be residential and condo/townhome mix. To the west will be condos and on the east on 6th will be apartments.

Mayor Van Beek announced this is a public hearing and invited comments or questions from the public. Hearing none, this portion of the public hearing was closed.

Commissioner Frank motioned to approve the Meadow Ridge 2nd zone change to RM (Multi-Family Residential). (First consideration of ordinance #1126). Commissioner Rohr seconded the motion. Commissioner Frank commented that at previous meetings there was discussion on the requirements for green space and she requested that discussion be scheduled with department heads about those requirements and that the matter also be discussed at a future City Commission meeting. Roll call vote:

Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes;
Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider the annexation of Living Water Addition in Section 35, Township 139N, Range 81W. (First consideration of ordinance #1127).* Engineering Project Manager Bechtel reviewed with the Board a request by Marion Higgins, Living Water Lutheran Church to annex the subject property. The property is located at 19th Street, east of 14th Avenue Southeast wherein the proposal is to construct a church at that site. The property is currently outside of the City. It was previously discussed to annex the whole corner (indicated on the map by Bechtel). Notices were sent to adjacent property owners to be protested out, and it was. This is the second effort to get the property into the city; however, they have made a request for rural water and sewer and that was denied so they will become part of the city's water and sewer plan.

Mayor Van Beek announced this is a public hearing and invited comments or questions from the public. Marion Higgins, Living Water Lutheran Church came forward to comment. She extended a thank you to the Board for their consideration and indicated that the church will also serve as a community center available for use.

Mayor Van Beek once again announced this is a public hearing and invited comments or questions from the public. Hearing none, this portion of the public hearing was closed.

3. *Consider the annexation of Keidel's South Heart Terrace 2nd Addition in Section 34, Township 139N, Range 81W. (First consideration of ordinance #1128).* Engineering Project Manager Bechtel reviewed with the Board a request to annex subject lands from Kevin Christianson, the property owner. The property is east of 19th Street and runs past 8th Avenue Southwest. There is a piece of land outside city limits that will be annexed in with this property of Keidel's South Heart Terrace 2nd Addition plat that will be developed into single family housing. The request would put this property within the city's sewer and water plan.

Mayor Van Beek announced this is a public hearing and invited comments or questions from the public. Hearing none this portion of the public hearing was closed.

BIDS:

CONSENT AGENDA:

1. *Consider approval of monthly bills.* The Board approved of the monthly bills. Commissioner Rohr moved to approve the Consent Agenda items as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

OLD BUSINESS:

1. *Consider invitation for bids for sale of former water reservoir property off 8th Avenue NW.* Business Development and Communications Director Huber reviewed with the Board a consideration to issue an invitation for the bids for the sale of the former

water reservoir property located northeast of the intersection of Old Red Trail and 8th Avenue Northwest. This matter was before the Board in the spring and the deadline for responses was June 15, 2012. No responses were received by that deadline. At the City Commission meeting on June 19, 2012, instructions were given to city staff to put the property on the multiple property listing service. Administrator Neubauer looked into the matter and one local realtor indicated a waiver of the commission on behalf of the seller (3% is typically given to the buyer and 3% given to the seller upon sale of the property). Huber stated that the recommendation is to re-issue for bids with an August 22, 2012 deadline to include a provision that if no responses are received by that date that any additional offers received beyond that date be subject to consideration by the City Commission.

Commissioner Frank motioned to approve an invitation for bids for sale of former water reservoir property off 8th Avenue NW to include demolition. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

NEW BUSINESS:

I. Consider recommendations of the Renaissance Zone Committee: Business Development and Communications Director Huber reviewed with the Board the following items:

i. Rehab of 1006 East Main Street by Railway Credit Union. This property was acquired in 2005 and remodeled at that time. The Ideal Image Dentistry has moved to Capitol Credit Union which now provides Railway Credit Union an opportunity to expand its facility. Huber reviewed the criteria required to qualify for Renaissance Zone funds. She said that in this case the current building is valued at about \$500,000 so the minimum reinvestment amount is \$225,000 and the Railway Credit Union proposes to invest at least \$533,000 based on the developer's estimates. That will include restoration of the exterior of the building and remodel of the interior office spaces. The criteria for qualifications exceed the investment required and the Renaissance Zone Committee recommends approval for the five-year property tax exemption and the 100% state income tax exemption. Representatives from the Railway Credit union were present to answer questions regarding the project. A representative came forward and extended a thank you to the City Commission for their consideration to approve this project. She stated that Loran Galpin has been hired as the contractor for the project and he is also available to answer questions. Huber stated that they are not requesting the state income exemption because they are exempt from that tax.

Commissioner Tibke moved to approve the request for the rehabilitation of 1006 East Main Street by Railway Credit Union as a Renaissance Zone Project at five-year 100% property tax exemption on the building as improved. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

ii. Rehab of 113 Third Avenue NW by Commercial Properties. Huber stated this is a building that has three separate leased spaces within it. One was before the

Board in 2010 as a lease-hold improvement project. Half the building is leased to Grube Retina Clinic who has updated the property costing approximately \$200,000 in 2010 when they established their clinic. The other spaces are occupied by Eyecare Professionals. The eye doctors own the building through a partnership known as Commercial Properties. The third lease space is occupied by Mandan Nails. The property owners are estimating improvements in excess of \$105,000 into building renovations. The Grube Retina Clinic space already has an automatic door. Automatic doors will be installed as part of this project in the Eyecare Professionals and Mandan Nails spaces.

The total value on the building is \$277,000 of which 50% of the property is subject to exemption as part of the Grube Clinic lease-hold improvement project. The criteria meet the requirements for Renaissance Zone. The Renaissance Zone Committee recommended the five-year 100% property tax exemption on half of the building for its value as improved as well as state income tax exemption. She explained that in this case the income subject to taxes is the income from the leased property. The Grube Retina Clinic Project has an exemption period from 2011 through 2015. This exemption is likely to start in 2013 and run for five years.

Commissioner Frank moved to approve the request for the Rehabilitation of 113 Third Avenue NW by Commercial Properties as a Renaissance Zone Project with a five-year 100% property tax exemption on the building as improved and a five-year 100% state income tax exemption. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

iii. Continued lease of 113 Third Avenue by Eyecare Professionals. Huber stated this a related project to the previous project within the Renaissance Zone program. It allows for tenants within buildings that have been constructed or rehabilitated as Renaissance Zone projects to apply for a five-year state income tax exemption, as a tenant retention and recruitment mechanism. Eyecare Professionals with a continued lease in this building is requesting the five-year state income tax exemption that requires local authorization prior to submittal to the ND Commerce Department, the Division of Community Services and the ND Tax Department. The Renaissance Zone Committee recommended the five-year 100% income tax exemption for Eyecare Professionals.

Commissioner Tibke moved to approve the continued lease of 113 Third Avenue by Eyecare Professionals as a Renaissance Zone Project with a five-year income tax exemption at 100%. Commissioner Braun seconded the motion. Commissioner Frank commented that at times the agenda packet information is incomplete and she suggested in the future that one of the caveats before bringing them to the meetings is that they are filled out in their entirety and also adequately. She said for the portion of the application that asks how the project benefits the community, “improved property” does not sufficiently describe it in order to fully understand what it will bring for the City of Mandan. Huber clarified that at times there are questions on the application that are not applicable to the matter. She stated that in discussion with the Renaissance Zone

Committee, the basic benefit of this particular application is the retention of this business in Mandan. She explained that the information in the Commission's agenda packets is an excerpt of the full application. The entire application is available for review at any time in her office by any of the Commissioners or the public upon request. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

iv. Lease of 116 E Main Street by Destiny Screen Printing & Embroidery. Huber stated this is a request for a lease by a new business. This building was sold by the City to Scott Johnson who is in the process of renovating the building. Destiny Screen Printing & Embroidery is looking at leasing 2,000 sq. ft. of the main floor of this building. They are asking for the state income tax benefit exemption on state tax liability. The Renaissance Zone Committee has recommended approval of the five-year state income tax exemption. Huber indicated that an electronic door will be installed in the building as part of the Johnson Renaissance Zone project.

Commissioner Frank moved to approve the lease of 116 E Main Street by Destiny Screen Printing & Embroidery as a Renaissance Zone project for the five year 100% state income tax exemption. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider recommendations of the Growth Fund Committee:*

i. Storefront improvement project by Railway Credit Union, 1006 East Main Street. Huber indicated that this request for the same project previously approved for Renaissance Zone benefits with \$163,000 of the project cost to be for exterior improvements on the building. The Storefront Improvement program allows up to \$10,000 in matching funds for a project with a minimum requirement of a dollar for dollar match for buildings in the downtown core and fringe district overlay areas. The project proposal meets the minimum funding requirements for both Renaissance Zone as well as the private match for the Storefront Improvement Program. It has been approved by the Architectural Review Commission, and the Mandan Growth Fund Committee recommends that the \$10,000 in forgivable loan be provided to Railway Credit Union for this project. There are representatives from Railway Credit Union available to answer questions.

Commissioner Braun moved to approve allocation of \$10,000 in matching funds for the Storefront Improvement Project by Railway Credit Union, 1006 East Main Street. Commissioner Tibke seconded the motion. Commissioner Frank voiced concern that there are limited funds available under the Storefront Improvement projects and one of the initial reasons for the program as set out in the criteria is to renovate the exterior façade in deteriorating buildings in downtown Mandan. She reviewed sections of the policy outlining the program. She stated that this building has been maintained nicely and she does not think this is the best use for those limited funds. Finance Director Greg Welch stated there is a balance of \$87,896 available with a possible \$20,000 turned back into the fund because of projects not executed prior to the expiration date, so there will be

approximately \$107,000 available. Huber provided a photo of the building's north side wherein she mentioned the improvements certainly would be an enhancement to the view from First Street; as well as the clock tower providing a nice amenity on the south or Main Street facing side of the building. Loran Galpin came forward and addressed the Storefront Improvement program and how it relates to this project. In particular, he spoke on behalf of the Railway Credit Union's position on establishing a business and growing that business in the City of Mandan. He said the Railway Credit Union has always had the intention to do more than what was needed to be done all in respect for investing in the Mandan community. Galpin extended a thank you to Board members for their consideration of this request and encouraged a vote of approval for the Storefront improvement project by Railway Credit Union, 1006 East Main Street. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

ii. Storefront improvement project by Commercial Properties for 113 Third Avenue NW. Huber stated this is another request for a project that is also a Renaissance Zone project by Commercial Properties under the ownership of Drs. Long, Helmers and Helmers. They are also requesting the \$10,000 in forgivable loan match toward what they estimate to be \$56,000 in exterior improvements as part of a \$105,000 total building improvement project. The investment to the renovation project exceeds the Renaissance Zone requirements and meets the private match for the Storefront Improvement program. The Mandan Growth Fund recommended approval of the \$10,000 in funding for this project.

Commissioner Tibke moved to approve the allocation of funds in the amount of \$10,000 for the Storefront improvement project by Commercial Properties for 113 Third Avenue NW contingent upon final approval of exterior renovation plans by the Mandan Architectural Review Commission. Commissioner Rohr seconded the motion.

Upon questions by Commissioners, Huber explained there have been about 25 projects since the program began. Since 2008 there have not been a lot of applications due to the automatic door opener requirement that went into place. Some of the property owners have looked at that as an additional \$1,200 to \$1,800 cost. Since 2008 there have been only one to three new projects per year. Huber provided insight as to how the Mandan Growth Fund and the Architectural Review Commission will discuss and determine the allocation of these funds based on the criteria required. Commissioner Rohr alluded to Commissioner Frank's previous comments regarding the criteria requirements and how those requirements align up with the criteria for qualifying for the funds. Commissioner Frank voiced concern that over half the improvements to this building are to the exterior of the building for which the Renaissance Zone incentive has already been granted. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

iii. Retail incentive application from Destiny Screen Printing & Embroidery for operation at 116 E Main Street. Huber explained this is a request received from Scott and Roma Newton from Gilbert, Arizona, who are interested in relocating their business

from Arizona to Mandan. They plan on opening the business by September 1, 2012. The Mandan Growth Fund Committee considered the requested incentive only for the portion of the business to be a souvenir and gift shop that will include North Dakota and Mandan items. 1,200 sq. ft. of the area will be designated to gift shop items and the rest will involve the printing and embroidery operation. The project scored an average rating by the Growth Fund Committee of 3.3 on a scale of 1 to 5 for 13 different criteria, which correlates with a stipend of \$3.75 per square foot. Thus the Growth Fund Committee's recommendation is for \$4,500 in funding. Huber stated that no funding is provided until a business is open for one month and from there is provided in monthly allotments, so in this case \$375 per month for 12 months.

Commissioner Braun moved to approve \$4,500 as an incentive for Destiny Screen Printing, Embroidery and Gift Shop payable in 12 equal monthly installments following each month of operations. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

RESOLUTIONS & ORDINANCES:

1. *Consider first consideration of Ordinance No.1126 Zone Change for Meadow Ridge 2nd Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Frank motioned to approve the Meadow Ridge 2nd zone change to RM (Multi-Family Residential). (First consideration of ordinance #1126). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider first consideration of Ordinance 1127, an ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of 35-139N-81W).* Commissioner Tibke moved to approve the first consideration of Ordinance No. 1127, an ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of 35-139N-81W).

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider first consideration of Ordinance 1128, an ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of 34-139N-81W).* Commissioner Frank moved to approve the first consideration of Ordinance No.1126 Zone Change for Meadow Ridge 2nd Addition – an ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.

Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

OTHER BUSINESS:

1. *Consider moving into executive session under North Dakota Century Code Section 44-04-19.1 for attorney consultation regarding contract negotiations and instructions related to the Don McGuire and John Schultz proposal for development of city-owned property.* Commissioner Frank motioned to move into executive session to discuss this matter. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed. Mayor Van Beek stated that the executive session will be recorded and all members of the governing body are reminded to limit their discussion during the executive session to the announced topic. Collective decisions or collective commitment or other final action by the governing body must occur after it reconvenes in an open meeting unless the final action is specifically required by law to be taken during the executive session. The prohibition of taking final action during the executive session does not apply to providing guidance or instructions to our attorney or negotiator. Members were excused to convene in the Dykshoorn Room.

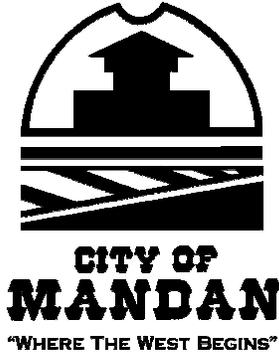
The regular meeting recessed at 6:36 p.m. to enter into Executive Session. Present: Commissioners Van Beek, Braun, Frank, Rohr and Tibke. Department Heads present were: City Administrator Neubauer, Business Development and Communications Director Huber, Engineering Project Manager Bechtel and City Attorney Brown.

Commissioner Frank motioned to adjourn the Executive Session at 7:26 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The Board then reconvened in regular session and Mayor Van Beek reviewed the future commission meeting dates.

There being no further actions to come before the Board of City Commissioners, Commissioner Frank moved to adjourn the regular meeting at 7:27 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

James Neubauer,
City Administrator

Arlyn Van Beek,
President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 7, 2012
PREPARATION DATE: July 31, 2012
SUBMITTING DEPARTMENT: Assessing Dept
DEPARTMENT DIRECTOR: Richard L Barta
PRESENTER: Richard L Barta
SUBJECT: Property Tax Incentives for New or Expanding
Businesses for Wal-Mart Real Estate Business
Trust

STATEMENT/PURPOSE: To consider a tax exemption for Wal-Mart Real Estate Business Trust pursuant to North Dakota Century Code 40-57.1.

BACKGROUND/ALTERNATIVES: Wal-Mart Real Estate Business Trust (Wal-Mart) has applied for an exemption on a new commercial retail building. The Notice to Competitors was published in the July 13th and July 20th editions of the Mandan News.

The Mandan Growth Fund Committee reviewed this project on July 11th and by unanimous vote recommends to approve the exemption request at 100% for years one and two; 75% for year three; 50% for year four; and 25% for year five.

The Morton County Auditor, Mandan Public School District Superintendent and the Mandan Park District Director were notified of this application on June 27th and again on July 31st. Morton County Commission has submitted a written objection (see attached).

This parcel is also known as Parcel #7568, at 1000 Old Red Trl NW, on a portion of Lot 1, Block 1, Terra Vallee 2nd Addition.

As of August 3, 2012 we have received two written objections in addition to the objection submitted by the Morton County Commission.

ATTACHMENTS: Application
Notice to Competitors
Written objection from Morton County Commission

FISCAL IMPACT: Approximately \$201,690 for years one and two; \$151,268 for year three; \$100,845 for year four; and \$50,423 for year five.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: The Assessing Department recommends approval of a five year exemption for Walmart in accordance with the recommendation of the Growth Fund for 100% for years one and two; 75% for year three; 50% for year four; and 25% for year five due to meeting all criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines and also under State Statute.

SUGGESTED MOTION: A motion to approve a tax exemption for Walmart in accordance with the recommendation of 100% for years one and two; 75% for year three; 50% for year four; and 25% for year five from the Mandan Growth Fund Committee due to meeting all criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines and also under State Statute.

7568

**Application For Property Tax Incentives For
 New or Expanding Businesses**

Pursuant to N.D.C.C. Chapter 40-57.1

Project Operator's Application To Mandan
City or County

August 7, 2012

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

This application is a public record

Identification Of Project Operator

1. Name of project operator Wal-Mart Real Estate Business Trust

2. Address of project ~~TBD~~ ^{1000 NW} The project is located at the corner of Old Red Trail and 8th Avenue North
 City Mandan County Morton

3. Mailing address of project operator 702 SW 8th Street - MS #0555
 City Bentonville State AR Zip 72716-0555

4. Type of ownership of project
 Partnership Subchapter S corporation Individual proprietorship
 ~~Partnership~~ ^{Corporation} Business trust Cooperative Limited liability company

5. Federal Identification No. or Social Security No. _____

6. North Dakota Sales and Use Tax Permit No. N/A

7. If a ~~corporation~~ ^{corporation}, specify the state and date of ~~incorporation~~ ^{incorporation} Delaware - 10/21/1996. See Exhibit A.
business trust formation

8. Name and title of individual to contact Peggy Estes, Director - Tax Credits & Incentives
 Mailing address 702 SW 8th Street - MS #0555
 City, State, Zip Bentonville, AR 72716-0555 Phone No. 479-204-7736

Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific.

Property Tax Exemption **Payments In Lieu of Taxes**
5 Number of years Beginning year Ending year
See Ex. A Percent of exemption Amount of annual payments (attach schedule if payments will vary)

10. Which of the following would better describe the project for which this application is being made:
 New business project Expansion of a existing business project

Description of Project Property

11. Legal description of project real property

See Exhibit A

12. Will the project property be owned or leased by the project operator? Owned Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?
 Yes No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility? New construction Existing facility

If existing facility, when was it constructed? _____

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application August 2012

b. Description of project to be constructed including size, type and quality of construction

The project to be constructed is an approximately 150,000 square foot retail store to be operated by Wal-Mart Stores, Inc. and associated parking lot, utilities and related sitework. Preliminary site development plans and building floor plans and elevations are on file with the City of Mandan.

c. Projected number of construction employees during the project construction 175

14. Approximate date of commencement of operations for this project September 2013

15. Estimated market value of the property used for this project:

a. Land \$ 2,000,000

b. Existing buildings and structures for which an exemption is claimed \$ 0

c. Newly constructed buildings and structures when completed \$ 10,000,000

d. Total \$ 12,000,000

e. Machinery and equipment \$ 3,000,000

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) 

b. Eligible existing buildings and structures \$ 0

c. Newly constructed buildings and structures when completed \$ 500,000

d. Total taxable valuation of property eligible for exemption (Add lines b and c) \$ 500,000

e. Enter the consolidated mill rate for the appropriate taxing district40338

f. Annual amount of the tax exemption (Line d multiplied by line e) \$ 201,690

Description of Project Business

Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.

17. Type of business to be engaged in: Ag processing Manufacturing Retailing
 Wholesaling Warehousing Services

18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

The Project Operator will lease the project to Wal-Mart Stores, Inc., which will operate a Wal-Mart retail store at the project selling groceries and an array of general goods. The project may also include a photo center, a vision center, a food court and other ancillary businesses.

19. Indicate the type of machinery and equipment that will be installed

The project will be outfitted with machinery and equipment typical for a large retail store selling groceries and general goods.

20. Projected annual revenue, expense, and net income of the project for each year for the first five years.

Year	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
Annual revenue	<u>50,000,000</u>	<u>52,500,000</u>	<u>55,125,000</u>	<u>57,881,250</u>	<u>60,775,313</u>
Annual expense	<u>48,500,000</u>	<u>50,925,000</u>	<u>53,471,250</u>	<u>56,144,813</u>	<u>58,952,053</u>
Net income	<u>1,500,000</u>	<u>1,575,000</u>	<u>1,653,750</u>	<u>1,736,438</u>	<u>1,823,259</u>

21. Projected annual average number of persons to be employed by the project at the project location for each year for the first five years and the estimated annual payroll.

Year	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
No. of Employees	⁽¹⁾ <u>167</u>	<u>167</u>	<u>167</u>	<u>167</u>	<u>167</u>
	⁽²⁾ <u>83</u>	<u>83</u>	<u>83</u>	<u>83</u>	<u>83</u>
Estimated payroll	⁽¹⁾ <u>2,925,000</u>	<u>2,925,000</u>	<u>2,925,000</u>	<u>2,925,000</u>	<u>2,925,000</u>
	⁽²⁾ <u>1,575,000</u>	<u>1,575,000</u>	<u>1,575,000</u>	<u>1,575,000</u>	<u>1,575,000</u>

(1) - full time
 (2) - part time

Previous Business Activity

22. Is the project operator succeeding someone else in this or a similar business? Yes No
23. Has the project operator conducted this business at this or any other location either in or outside of the state?
 Yes No
24. Has the project operator or any officers of the project received any prior property tax incentives? Yes No
- If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).

Please see Exhibit A

Business Competition

25. Is any similar business being conducted by other operators in the municipality? Yes No

If YES, give name and location of competing business or businesses

As indicated, the project will be operated by Wal-Mart Stores, Inc. as a Wal-Mart retail store. The retail store will sell groceries and a wide variety of general goods and will compete with all other grocery stores, general goods retailers, hardware retailers, electronics retailers, clothing retailers and most other retailers in the municipality.

Property Tax Liability Disclosure Statement

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it? Yes No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property? Yes No

If the answer to 26 or 27 is Yes, list and explain

Use Only When Reapplying

28. The project operator is reapplying for property tax incentives for the following reason(s):

To present additional facts or circumstances which were not presented at the time of the original application

To request continuation of the present property tax incentives because the project has:

- moved to a new location
- had a change in project operation or additional capital investment of more than twenty percent
- had a change in project operators

To request an additional annual exemption for the year of _____ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

Notice to Competitors of Hearing

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, FRANK PAMPALONE, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

Signature

Director of Project Management
Title

6/24/12
Date

In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of the individual's social security number on this form is mandatory pursuant to North Dakota Century Code §§ 40-57.1-03 and 40-57.1-07. An individual's social security number is used as an identification number by the Office of State Tax Commissioner for file control purposes and record keeping.

Certification of Governing Body (To be completed by the Auditor of the City or County)

The municipality shall, after granting any property tax incentives, certify the findings to the State Tax Commissioner and Director of Tax Equalization by submitting a copy of the project operator's application with the attachments. The governing body, on the ____ day of _____, 20____, granted the following:

- Property Tax Exemption** **Payments in lieu of taxes**
- _____ Number of years _____ Beginning year _____ Ending year
- _____ Percent of exemption _____ Amount of annual payments (Attach schedule if payments will vary)

Auditor

Exhibit A

**Application for Property Tax Incentives for New or Expanding Business to City of Mandan by
Wal-Mart Real Estate Business Trust.**

The numbering in this Exhibit A corresponds to the numbering set forth in the Application for Property Tax Incentives for New or Expanding Business to which it is attached.

Number 1:

Project Operator is a business trust being treated as a corporation for federal and state purposes.

Number 9:

Project Operator respectfully requests a five (5) year property tax exemption as set forth in the following table:

<u>Year:</u>	<u>Requested Exemption Percentage:</u>
1	100
2	100
3	75
4	50
5	25

Number 11:

The legal description of the project is:

Auditor's Lot "B" of the NE ¼ of Section 21, Township 139 North, Range 81 West of the Fifth Principal Meridian to the City of Mandan, Morton County, North Dakota AND Auditor's Lot A of Lot 1 Terra Vallee Second Addition to the City of Mandan, less Lot 1 of Auditor's Lot A of Lot 1 of Terra Vallee Second Addition to the City of Mandan, all in Morton County, North Dakota.

Auditors Lot N of Terra Vallee Second Addition of the NE1/4 of Section 21, Township 139 North, Range 81 West of the Fifth Principal Meridian to the City of Mandan, Morton County, North Dakota AND Lot 1 of Auditors Lot A or Lot 1 of Terra Vallee 2nd Addition to the City of Mandan of the NE1/4, Section 21, Township 139 N, Range 81W, City of Mandan, Morton County, North Dakota.

Number 24:

The Project Operator and its affiliates own Wal-Mart projects nationwide. The following is a list of North Dakota locations:

**Notice To Competitors Of Hearing On Application For
Property Tax Incentives**

Notice is hereby given that the Mandan City Commission of Mandan, North Dakota, will meet at 5:30 p.m. on August 7, 2012 at City Hall to consider the application of:

Walmart
702 SW 8 St – MS#0555
Bentonville, AR 72716-0555

For property tax relief on the project which the applicant will use in the operation of:

Retail
1000 Old Red Trail NW
Aud Lot N P/K/A Lot 1 Block 1 Terra Vallee 2nd & Lot 2 of Lot A of Lot 1

Any competitor of that applicant may appear and be heard by the Mandan City Commission at the time and place designated herein. A Competitor may provide written comments to the governing body before the scheduled hearing.

This notice is given by the above-names applicant pursuant to the provision of North Dakota Century Code § 40-57.1-03



MORTON COUNTY
STATE OF NORTH DAKOTA

Linda Morris
Tax Director

210 2nd Ave NW
Mandan, North Dakota 58554

Phone: 701-667-3325

Date: August 2, 2012

To: Richard Barta, City of Mandan Assessor

From: Linda Morris, Morton County Tax Director

Re: WalMart Real Estate Business Trust
Application for Property Tax Incentives for
New or Expanding Business Exemption

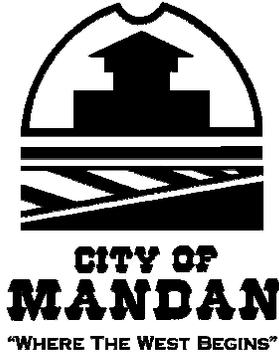
This memo is in response to the application of exemption filed and/or dated June 26, 2012 by the WalMart Real Estate Business Trust to the City of Mandan for a 5 year property tax exemption of property tax for the structure to be located in North Mandan as follows:

- o Year 1 — 100%
- o Year 2 — 100%
- o Year 3 — 75%
- o Year 4 — 50%
- o Year 5 — 25%

Morton County Commission, on July 10, 2012, voted (4-0) in *objection* to the application of property tax exemption for WalMart Real Estate Business Trust. The motion was made with the objections stating:

Bitz moved and Tokach seconded to inform the City of Mandan that the County urges them to not approve the tax exemption application for Walmart based on the unfair competition and the sheer size of the exemption. All voting aye, motion carried.

Please be advised Morton County “objects” to the WalMart property tax exemption and urges the City of Mandan to not approve the exemption. Thank you.



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 7, 2012
PREPARATION DATE: August 3, 2012
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Selling City Owned Lot

STATEMENT/PURPOSE: To consider advertising for sale city owned lot.

BACKGROUND/ALTERNATIVES: Properties over the years come back to the City for non payment of taxes and other reasons.

- A) 4609 Old Red Trail NW, Parcel 65-0218000, Lot 0024 Block 002 Addition 0044
Crown Point Subdivision
34,886 sq ft, Special Assessment Balance \$1,771.36

We would notify adjoining property owners of public sale. Mr. Barta has indicated the value to be approximately \$15,000; therefore, we would set a minimum bid of \$15,000.

Public Works Director Wright and Interim Director of Planning and Engineering Bechtel, see no need to keep the property for utility easement or public right of way.

I would recommend the property remain listed for sale for a minimum of thirty days. If no offers are received within the thirty day period the property would remain for sale and offers would be considered on a basis that would be beneficial to the city.

Any offers on the property would be brought back to the Commission for approval.

ATTACHMENTS: Property information sheet with accompanying map.

FISCAL IMPACT: unknown

STAFF IMPACT: the sale of these lots would remove the maintenance from the City of Mandan.

LEGAL REVIEW:

RECOMMENDATION: I recommend the advertisement for the sale of the
aforementioned lot.

SUGGESTED MOTION: I move to advertise the aforementioned lot for sale.

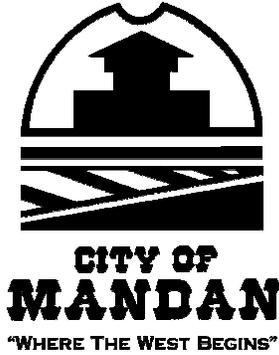
Page 1 of 1

Morton ND GIS



8/1/2012

<http://mortonnd.mygisonline.com/>



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 7, 2012
PREPARATION DATE: August 1, 2012
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider for approval the application for beer garden and street dance event.

STATEMENT/PURPOSE: To consider approval of the requested beer garden and street dance activities.

BACKGROUND/ALTERNATIVES: Representatives of the Police Dept., Fire Dept, Custer Health, and the Engineering Dept. reviewed the above listed beer garden and street dance application and found them to be in compliance with the ordinance governing their operations. In this round of applications, we have 1 applicant requesting 1 event.

MPO/Musicians Association – August 17 – 11 AM to 11:30 PM
August 18 – 11 AM to 12:00 midnight

These requests are similar to past years and have been reviewed by the appropriate City officials for compliance. The application appear to be in order and requirements appear to be met for the events.

ATTACHMENTS: 1 Application

FISCAL IMPACT: Minimal

STAFF IMPACT: Minimal

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

RECOMMENDATION: This office supports the approval of the subject beer garden and street dance requests as attached.

SUGGESTED MOTION: I move to approve the beer garden and street dance application as recommended by the departments.

Board of City Commissioners

Agenda Documentation

Meeting Date: August 7, 2012

Subject: Consider for approval the application for beer garden and street dance events.

Page 2 of 5



To: City Engineer Dave Bechtel
Fr: Vern Cermak and Del Wetsch
Re: Street Closure

The Mandan Progress Organization and Musicians Association would like to request the following street closures.

Friday, August 17th south side lane of Main Street between 8:00 a.m. and 11:00 a.m. for vendors to unload at Dykshoorn Park. One lane of traffic would remain open on the south side of Main from west to east. We would need traffic cones and merging traffic sign for the 3 hours.

Saturday, August 18th close the 400 block Main Street from 11:30 a.m. to 7:00 p.m. for wagon and pony rides and a Pedal Tractor Pull for kids and adults. Would need merging left and merging right and 2 detour signs delivered to the 400 block Friday the 17 of August and the street barricaded from the Lewis and Clark Hotel corner to the end of the block by Groomingdales..Stop signs placed on 1st St. NW and 3rd Ave NW corners.400 block posted with no parking signs for Saturday from those hours specified above.

Thank you for your consideration and your support of the "Wild West Grill Fest" event.

Sincerely,

Vern Cermak
Musicians' Association

Del Wetsch
Mandan Progress Organization

CITY OF MANDAN

1. Type of license being applied for:

Street Dance: _____

Beer Gardens: _____

Both: _____

(\$10.00 per day per event)

2. Applicant:

Name: Mandan Progress Organization / Musicians Assoc.

Address: _____

411 West Main Mandan ND.

Date of Birth: 11-12-49

Social Security or Drivers License: 501-50-7780

3. Name of individual or individuals who will manage or conduct the event:

Name: Vern Carmak

Name: Del Wetsch

Address: _____

Address: _____

Date of Birth: _____

Date of Birth: _____

S.S. or D.L.: _____

S.S. or D.L.: _____

4. Have any of the individuals listed in answer to questions #2 & #3 ever had a license of any kind revoked or cancelled by any municipal, state or federal authority:

_____ Yes No. If yes, explain in detail on a separate sheet giving the date, place and type of business.

5. Have any of the individuals listed in answer to questions #2 & #3 ever been convicted of any crime relating to the sale of alcoholic beverages or controlled substances: _____ Yes No. If yes, explain in detail on a separate sheet giving the date, place and type of business.

6. If you should be applying for a public dance or concert permit has any of the individuals in answer to questions #2 & #3 been convicted within the past five years of any crime against persons, including assault, disorderly conduct, sexual assault, rape and murder. _____ Yes No. If yes, explain on a separate sheet.

7. List the place, date and hours of the proposed event (special note, all applications must be received 30 days in advance of the proposed event). DYKSHOORN PARK, August 17-18

Friday 11:00AM to 11:30PM, SATURDAY 11:00AM-12:00 midnight.

8. Site Plan: See attached sheets.

A. Beer Gardens

B. Street Dance

Board of City Commissioners

Agenda Documentation

Meeting Date: August 7, 2012

Subject: Consider for approval the application for beer garden and street dance events.

Page 4 of 5

9. Please provide an estimate of the number of persons that the person conducting the event has determined can be safely accommodated at the site and also estimate of the number of persons expected to attend:

Maximum Capacity 4000
Expected Attendance 3000 EACH DAY

10. Is there going to be advance ticket sales? Yes _____ No X

If yes, please list the maximum amount to be sold: _____

11. What plans are there to limit attendance if there are no advance ticket sales, Event Personnel will monitor attendance in the Park. There has been
any problems

12. Please list the number and provide on the site plan the placement of sanitary toilet facilities:

Number of toilet facilities 15 2Hdep 2 sinks

13. Has the City Health Officer reviewed your plan to determine if your proposed toilet facilities are adequate to meet the attendance?

Yes _____ No X

14. Fencing & Barricades should be supplied on site plan.

15. List below a description of the signing which is proposed to control pedestrian and vehicular traffic, parking and notices to the persons in attendance. Pedestrian cross walks, signage to stop
vehicles when pedestrians in crosswalk

16. Security: Do intend to use private security or city police officers.

Private X City Police _____

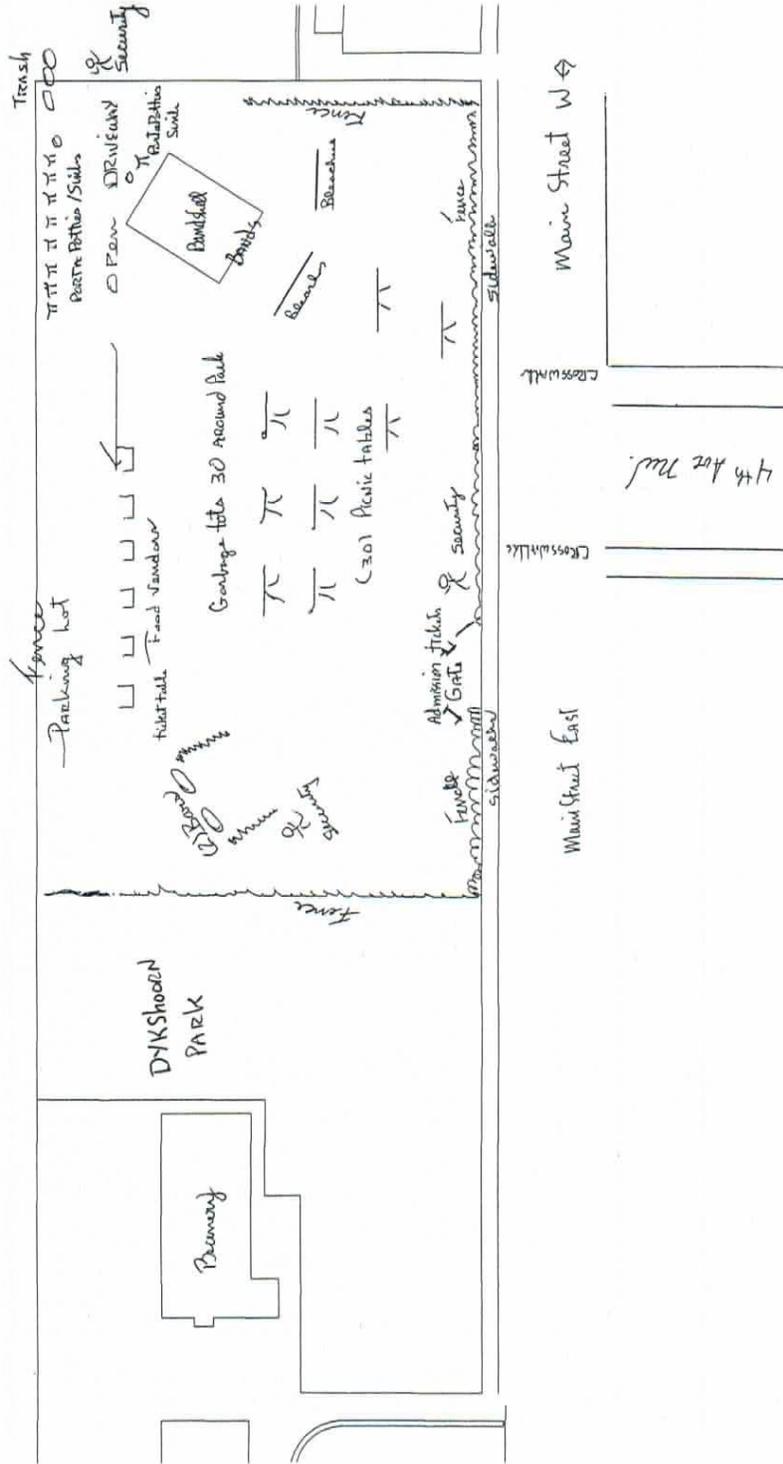
17. List the number of security people you plan on using. Street dances provide for the use of police officers:

Private 3 City Police _____

18. Street Dances & Concerts: Have you enclosed fees for the charges for city police officers? List the amount \$40.00.

Detwisch, Vern Gerwitz
Signature of applicant
July 25, 2012
Date
220-2959
Telephone number

Grill Feat Aug 17-18





CITY OF MANDAN

MANDAN CITY HALL - 205 2nd Avenue NW
MANDAN, NORTH DAKOTA 58554
701-667-3215 • FAX: 701-667-3223 • www.cityofmandan.com

CITY DEPARTMENTS	
ADMINISTRATION	667-3215
ASSESSING/BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

PROCLAMATION LIFELONG LEARNING WEEK AUGUST 6-12, 2012

WHEREAS, lifelong learning programs, designed to challenge and inform, dramatically enhance the life of mature adults, both physically and mentally; and

WHEREAS, lifelong learning programs in North Dakota communities are essential to the growth and fulfillment of adults 50 years and "better"; and

WHEREAS, adults from diverse backgrounds and professions share a desire to stay intellectually active and engaged as they learn in the company of their peers; and

WHEREAS, "Curiosity Never Retires!"

*NOW, THEREFORE, I, Arlyn Van Beek, Mayor of the City of Mandan, have the honor and pleasure of proclaiming August 6-12, 2012 as **LIFELONG LEARNING WEEK** in the City of Mandan, ND*

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the City of Mandan this seventh day of August, 2012.

Arlyn Van Beek, Mayor

Attest:

James Neubauer, City Administrator

SERVICE AREA AGREEMENT

This Service Area Agreement (Agreement) is between Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. _____ (Montana-Dakota), and Mor-Gran-Sou Electric Cooperative, Inc., 2816 37th St. NW, Mandan, ND 58554 (Mor-Gran-Sou).

RECITALS

Montana-Dakota and Mor-Gran-Sou have franchises to construct, maintain and operate electric distribution systems in the City of Mandan, North Dakota granted by the City of Mandan pursuant to §40-05-01 N. D. Cent. Code.

Section 49-03-06 N. D. Cent. Code authorizes agreements among electric providers to encourage harmony and operational efficiency in the provision of electric distribution service; to promote safety; to discourage unreasonable duplication of electric facilities; to assure adequate and reliable electric service; and to obtain anti-trust immunity for agreements such as this.

Montana-Dakota and Mor-Gran-Sou are "electric providers" as defined under §49-03-01.5 N. D. Cent. Code.

Montana-Dakota and Mor-Gran-Sou desire to avoid misunderstanding and disagreement over areas that each party is to serve and over Service Locations within these areas; provide both parties with equitable participation in the provision of electric distribution service in un-served areas governed by this Agreement; encourage operational efficiency and safety and discourage unreasonable duplication of electric facilities; and assure orderly growth of electric infrastructure for adequate and reliable service in the areas governed by this agreement.

ARTICLE I. **SERVICE AREAS, LOCATIONS AND FACILITIES**

Montana-Dakota and Mor-Gran-Sou agree to the following:

1. **Areas Governed.** The areas governed by this Agreement are the City of Mandan and those areas within the two (2) mile extraterritorial jurisdictional boundary defined by the City of Mandan as of the date of this Agreement and such other areas outside of the green and yellow shaded areas on the attached map that are annexed to the City of Mandan during the term of this Agreement. The provision of electric distribution service to Service Locations outside the geographic scope of this Agreement shall be governed by applicable law, any future amendments extending the scope of this Agreement or new service area agreements that may be made between the parties.
2. **Definitions.** For purposes of this Agreement:

The term "Service Location" shall mean structures, facilities, or improvements located within the areas governed by this Agreement to which retail electric service is provided.

The term "existing Service Location" shall mean the Service Locations to which a party provides service as shown by its books and records as of the date of signing of this Agreement. The term includes all expansions, improvements, or additions to a Service Location made after the date of signing of this Agreement that do not amount to a new Service Location.

The term "new Service Location" shall mean a Service Location that is not an existing Service Location. An existing Service Location is converted to a new Service Location when: (1) retail electric service is provided to a Service Location after electric service has been disconnected and electric service use abandoned at the Service Location for a period of at least 90 days; or (2) a customer makes a material change of use of the Service Location or modifies the structures, facilities or improvements on the Service Location and such change or modification necessitates a replacement or substantial modification of the electric service facilities historically used to serve the Service Location, including but not limited to:

- Replacement of single phase family/farm use to three phase commercial/industrial or three phase high density residential use (18 or more units);
- Replacement of single phase commercial/industrial use to three phase commercial/industrial use of 2MW or greater of connected load; and

3. Montana-Dakota Service Area. The service area of Montana-Dakota is that area governed by this Agreement illustrated in yellow on the attached map, incorporated by reference as integral to this Agreement. Montana-Dakota will provide retail electric service in this service area and Mor-Gran-Sou shall not provide retail electric service in this service area, except as otherwise provided in this Agreement or in any amendment to this Agreement. That is, unless changed by the written consent of both parties, Montana-Dakota will serve all of its existing Service Locations and all new Service Locations in its service area while Mor-Gran-Sou will continue to serve only its existing Service Locations in Montana-Dakota's service area. Mor-Gran-Sou may serve new Service Locations within Montana-Dakota's service area only as provided in this Agreement or in any amendment to this Agreement.
4. Mor-Gran-Sou Service Area. The service area of Mor-Gran-Sou is that area governed by this Agreement illustrated in green on the attached map, incorporated by reference as integral to this Agreement. Mor-Gran-Sou will provide retail electric service in this service area and Montana-Dakota shall not provide retail electric service in this service area, except as otherwise provided in this Agreement or in any amendment to this Agreement. That is, unless changed by the written consent of both parties, Mor-Gran-Sou will serve all of its existing Service Locations and all new Service Locations in its service area while

Montana-Dakota will continue to serve only its existing Service Locations within Mor-Gran-Sou's service area. Montana-Dakota may serve new Service Locations within Mor-Gran-Sou's service area only under conditions further stipulated in this Agreement.

5. Separate Agreements Pertaining to Service Locations. With the written consent of the parties:
 - o Electric service may be supplied by one party to a new Service Location in another party's service area on a temporary or permanent basis.
 - o New or existing Service Locations may be exchanged, even though the number or service characteristics of the Service Locations to be exchanged are not equal.

Agreements pertaining to Service Locations shall not alter or stand as precedent to alter the intent of this Agreement regarding the provision of retail electric service in defined service areas.

6. Service Location Disputes. This Agreement is subject to the continuing jurisdiction of the North Dakota Public Service Commission to settle Service Location disputes arising under the Agreement.
7. Duplication of Facilities. The parties will avoid unreasonable duplication of facilities in order to provide electric service for all consumers efficiently and economically. The duplication of some facilities, however, will not violate or serve as grounds to alter this Agreement.
8. Sale, Transfer, Exchange or Lease of Equipment or Facilities. A sale, transfer, exchange or lease of equipment or facilities owned by one party but located in the other party's service area may be made with the written consent of both parties. To the extent applicable, a sale, exchange, transfer or lease of equipment or facilities made under this section of this Agreement is subject to §49-04-05 and §10-13-08.1 5 N. D. Cent. Code.
9. Tapping Facilities. A temporary tap of one party's facilities may be made by the other with the written consent of both parties to an interconnection agreement and/or electric wheeling agreement governing the terms of the tap.
10. Adjustment of Service Areas. It is the intent of the parties that after the Effective Date of this Agreement, each party shall have a reasonable opportunity to serve approximately fifty percent (50%) of the undeveloped potential electric service growth annexed to the City of Mandan during the term of this Agreement. The parties shall meet as needed to determine and designate the service area or service areas within which each new area proposed for annexation outside the green and yellow shaded areas on the attached map should be included. This designation should be provided to the City of Mandan.
After the tenth calendar year following the effective date of this Agreement, each party has one opportunity to request, in writing, a formal review and adjustment

of the boundaries of the service areas described in paragraphs 3 and 4 and as illustrated in yellow and green shaded areas on the attached map if the number of new Service Locations within that party's service area, but excluding any Service Location served by the other party, since the effective date of this Agreement was less than forty percent (40%) of the total number of new Service Locations within the areas governed by this Agreement, including areas added as a result of annexation to the City of Mandan.

If a party requests adjustment of the service area boundaries under this section 10, the parties shall meet to consider adjustments to the boundaries of the service areas, including, if necessary, the service areas described in paragraphs 3 and 4 and as illustrated in yellow and green shaded areas on the attached map, so as to provide both parties a reasonable opportunity to serve approximately fifty percent (50%) of the undeveloped potential load growth in the area governed by this Agreement. The party requesting adjustment has the burden of showing that it does not have a reasonable opportunity to serve approximately fifty (50%) percent of the undeveloped potential load growth.

If a party requests adjustment of the service area boundaries under this section 10 and the parties are unable to agree upon such adjustment, a party may request the dispute be submitted to mediation with a mediator mutually agreeable to the parties. If the parties are unable to select a mediator or are unable to resolve the dispute through mediation, the party requesting an adjustment may request the dispute be resolved by binding arbitration in accordance with the Rules of the American Arbitration Association by a panel of three arbitrators. Within fifteen days of a request for arbitration, each party shall select one person to act as an arbitrator and the two shall select a third neutral arbitrator within ten days of their appointment. If the arbitrators selected by the parties are unable to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. The costs and expenses of any mediation or arbitration shall be borne equally by the parties.

11. Scope of the Agreement. This Agreement governs electric distribution service by the parties to Service Locations within the areas governed by this Agreement. This Agreement does not apply to nor does it affect the rights of either party:
 - o To construct transmission or distribution line facilities in the other party's service area for the purpose of providing adequate electric power in any area it serves;
 - o To maintain existing transmission or distribution line facilities in the other party's service area for the purpose of providing adequate electric power in any area it serves;
 - o To the provision of electric transmission or distribution services outside of the areas governed by this Agreement; or
 - o Under applicable law, except only to the extent specifically enumerated herein.

ARTICLE II.
RELATIONSHIPS WITH OTHER ENTITIES

12. Filing the Agreement for Approval. This Agreement shall be filed with the North Dakota Public Service Commission and the City of Mandan substantially concurrent with its execution. Both parties will file written statements with and appear before the North Dakota Public Service Commission and the Mandan Board of City Commissioners supporting unconditional approval of this Agreement.
13. Filing Franchise Agreements for Approval. Substantially concurrent with the filing of this Agreement with the City of Mandan, the parties shall jointly request the Mandan Board of City Commissioners to issue new 20-year electric utility franchises to each party. The terms of each franchise is to be substantially in the form attached hereto, authorizing each party to provide electric distribution service to service locations within the areas governed by this Agreement and containing terms otherwise consistent with this Agreement. Both parties will file written statements with and appear before the Mandan Board of City Commissioners supporting unconditional approval of each franchise.
14. Conditions Precedent to Agreement. This Agreement is subject to approval of the North Dakota Public Service Commission and the Mandan Board of City Commissioners. If this Agreement is disapproved by either entity, or if the Mandan Board of City Commissioners does not grant franchises consistent with the terms of this Agreement before May 31, 2012, this Agreement shall be void *ab initio*.
15. Future Requests for Certificates of Public Convenience and Necessity. After the effective date of this Agreement, in all cases under the provisions of Chpt. 49-03 N. D. Cent. Code, when Montana-Dakota applies to the North Dakota Public Service Commission for a certificate of public convenience and necessity to extend its electric service to a new Service Location under the terms of this Agreement, Mor-Gran-Sou shall not object to Montana-Dakota's application.
16. Future Reports to City and Public Service Commission. After the effective date of this Agreement, the parties will report any transactions under paragraph 5 or any adjustment under paragraph 10 to the North Dakota Public Service Commission and the City of Mandan, to the extent required by law, regulation, franchise or ordinance.
17. Annual Review Requirement. It is realized that this Agreement will not cover all conditions that may arise but, if followed in good faith by both parties, will serve as a guide to future development and growth for both parties. The parties shall meet on an annual basis to review the operation of this Agreement and the parties' respective growth in electric service within the areas governed by this Agreement since the effective date of this Agreement.

ARTICLE III.
EFFECTIVE DATE AND TERM

18. Effective Date. This Agreement shall become effective on the first day of the month following the date of the last of these events:
- o Approval of this Agreement by the North Dakota Public Service Commission;
 - o Approval of this Agreement by the Mandan Board of City Commissioners.
19. Term. Unless terminated sooner by the written consent of both parties, this agreement shall continue from its effective date through May, 2032.

Either party may give written notice to the other on or before May 31, 2031 of its intent to terminate the Agreement at the end of its term.

If neither of the foregoing two events occurs, this Agreement shall remain in force after May 31, 2032 until either party gives twelve months written notice to the other party of its intent to terminate this Agreement or negotiate a new agreement consistent with the intent and purpose of this Agreement. It is the intent of the parties that upon or prior to termination of this Agreement, they will enter into negotiations for a new service area agreement to provide both parties with a reasonable opportunity for equitable participation in the future provision of electric distribution service to new Service Locations within the unserved areas annexed to the City of Mandan.

The party giving notice to terminate under this paragraph must also give contemporaneous notice to the North Dakota Public Service Commission and the City of Mandan.

ARTICLE IV.
MISCELLANEOUS PROVISIONS

20. Entire Agreement. This Agreement, including the attachments, constitutes the parties' entire agreement. It supersedes and terminates all previous agreements, written or oral, between the parties with respect to matters included within the scope of this Agreement.
21. Waiver of Certain Rules of Construction. This Agreement is the result of good faith negotiations between the parties, each having equal bargaining status and each having participated in the drafting of this Agreement to express the parties' intentions. Accordingly, each party waives the benefit of any rule of contract interpretation premised on the other party's responsibility for drafting the Agreement or the other party's bargaining status.
22. Independence of the Parties. The parties are entirely independent and neither have the right to act for or control the other. This Agreement does not create a joint venture, partnership or other agency relationship between the parties.

- 23. No Third-Party Rights. This agreement confers no rights or obligations upon anyone other than the parties. It may be enforced solely by the parties. This Agreement creates no third-party beneficiaries.
- 24. Assignment. Either Party may assign this Agreement in connection with a merger, sale of substantially all of its assets, consolidation or other reorganization resulting in another acquiring the right of a party to provide electric service in the service area of that party.
- 25. Waiver of Right of Enforcement. The failure of either party to require strict performance of any portion of this Agreement or the waiver of a breach of any condition in this Agreement shall not waive or affect that party's right to require full and conforming performance thereafter.
- 26. Partial Invalidity. Each provision of this Agreement is to be interpreted to make this Agreement effective and enforceable under applicable law. If any provision is held invalid or unenforceable, the remainder of this Agreement is not to be affected thereby but is to be reformed only to the extent necessary to make the Agreement effective and enforceable as if the invalid or unenforceable provision had never been included in the Agreement.
- 27. Notices. All notices from one party to the other shall be given in writing to the address for the party stated above, by any means of delivery that provides for confirmation of delivery to that address.

MONTANA-DAKOTA UTILITIES CO.
a Division of MDU Resources Group, Inc.

MOR-GRAN SOU
ELECTRIC COOPERATIVE, INC.

Vice President

President

ATTEST:

ATTEST:

Assistant Secretary

Secretary

Date: _____

Date: _____

AMENDMENT NO. 1 TO Service Area Agreement

This **AMENDMENT No. 1** to the **Service Area Agreement** is entered into by and between **Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc.** (Montana-Dakota), and **Mor-Gran-Sou Electric Cooperative** (Mor-Gran-Sou). Montana-Dakota and Mor-Gran-Sou being referred to together as the “**PARTIES**” and individually as “**PARTY**”.

WHEREAS, the **PARTIES** entered into a Service Area Agreement (“**AGREEMENT**”) designating the respective service areas of each of the **PARTIES** within the geographic scope of the **AGREEMENT** including the City of Mandan, and

WHEREAS, the **PARTIES** desire to amend the **AGREEMENT** as and to the extent provided in this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound by this Amendment, the **PARTIES** covenant and agree as follows:

1. Section 14 of the **AGREEMENT** shall be amended to provide as follows:

Conditions Precedent to Agreement. This Agreement is subject to approval by the North Dakota Public Service Commission and the Mandan Board of City Commissioners. If this Agreement is disapproved by either entity, or if the Mandan Board of City Commissioners does not grant franchises consistent with the terms of this Agreement before June 30, 2012, this Agreement shall be void *ab initio*.

2. Except as expressly amended herein, all other terms, covenants and conditions contained in the **AGREEMENT** shall continue to remain unchanged and in full force and effect and are hereby ratified and confirmed.
3. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same agreement. Counterpart signatures may be delivered by facsimile or electronic transmission, each of which shall have the same force and effect as an original signed copy.

4. Each signatory to this Amendment represents that he/she has the authority to execute and deliver this Amendment on behalf of the party set forth above his/her signature.

IN WITNESS WHEREOF the **PARTIES** have caused this instrument to be executed, the day and year indicated below.

**Montana-Dakota Utilities Co.,
a Division of MDU Resources Group, Inc.**

Mor-Gran-Sou Electric Cooperative

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

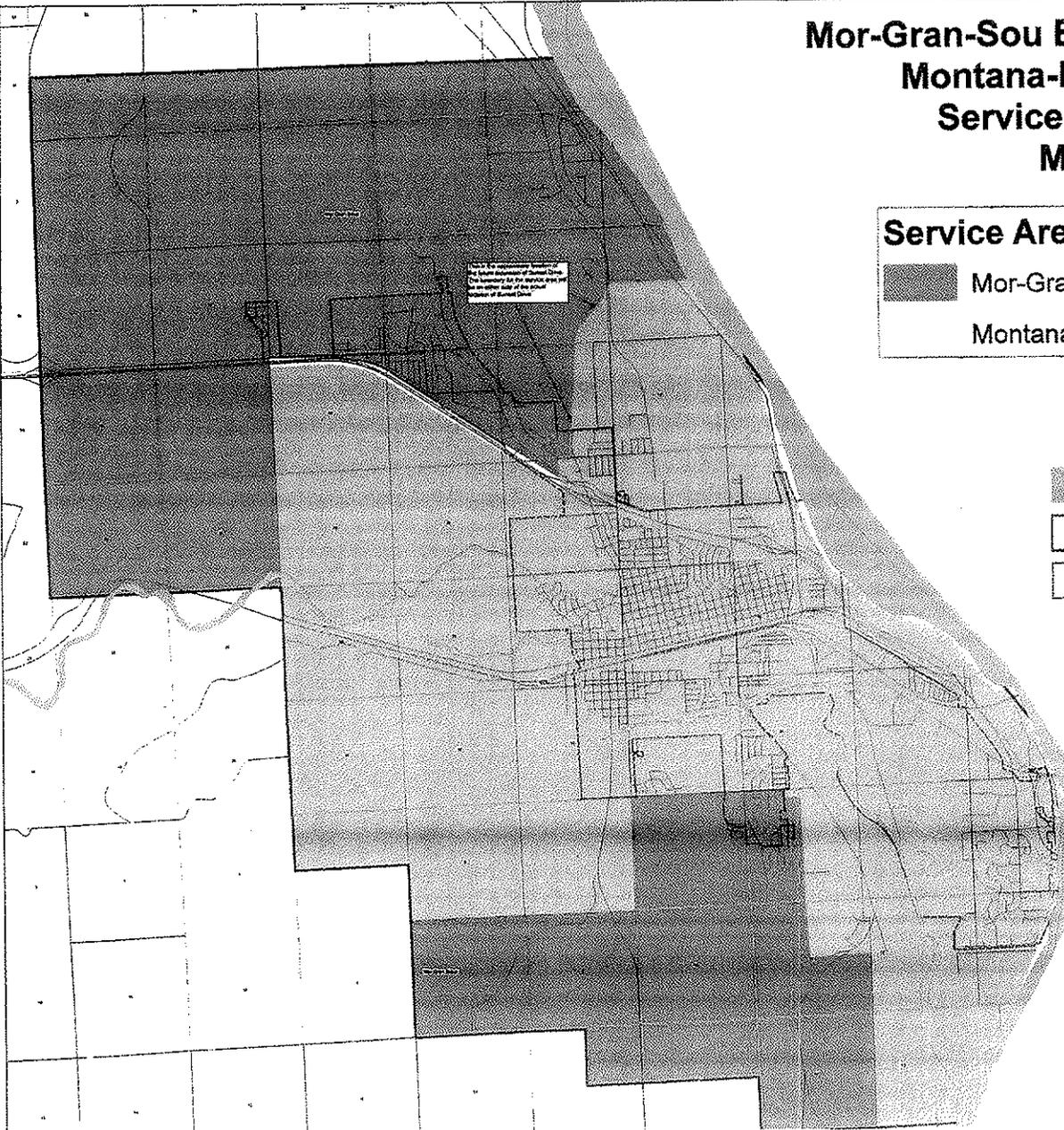
**Mor-Gran-Sou Electric Cooperative, Inc.
 Montana-Dakota Utilities Co.
 Service Area Agreement
 Mandan, ND**

Service Area Boundary

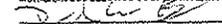
 Mor-Gran-Sou Electric Cooperative, Inc.
 Montana-Dakota Utilities Co.

Map Features

 Water Features
 Mandan 2 Mile
 Mandan City Limits



MOR-GRAN-SOU ELECTRIC COOPERATIVE, INC.


 President

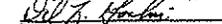
ATTEST:


 Secretary

Date: 4/5/12

MONTANA-DAKOTA UTILITIES CO.

Division of MDU Resources Group, Inc.

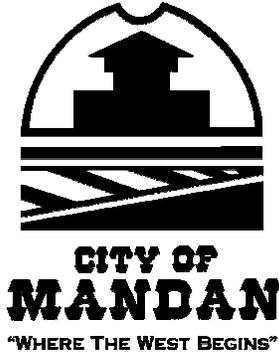

 President

ATTEST:


 Secretary

Date:





Board of City Commissioners

Agenda Documentation

MEETING DATE: August 7, 2012
PREPARATION DATE: August 3, 2012
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: Ellen Huber, Business Development & Communications Director
SUBJECT: State Small Business Credit Initiative Agreements & Appointments

STATEMENT/PURPOSE: To consider agreements associated with participating in the U.S. Department of Treasury's State Small Business Credit Initiative:

1. Allocation agreement
2. Cooperative agreement
3. Administrative contract

And to consider appointments associated with implementation of the SSBCI program to represent the City of Mandan:

4. Steering committee member
5. Loan committee member

BACKGROUND/ALTERNATIVES: With authorization from the Mandan City Commission received Sept. 20, 2011, the City of Mandan Business Development and Communications Office and the Lewis and Clark Regional Development Council submitted applications by a Sept. 27, 2011, deadline on behalf of Mandan, 36 cities and the Standing Rock Sioux Tribe to participate in the State Small Business Credit Initiative, established by the Small Business Jobs Act of 2010.

The consortium received notice in late June of approval by the U.S. Department of the Treasury. The consortium as a whole is eligible to receive \$9,710,768 to support a loan participation program for small businesses to help them expand and create jobs. To receive the funds, the participating municipalities must: 1) enter into an allocation agreement with Treasury, 2) have its municipal attorney review the allocation agreement and sign a letter of legal opinion, 3) enter into a cooperative agreement outlining the responsibilities of the consortium's participating municipalities. Additionally, the application approved for our consortium calls for administrative services by the Lewis and Clark Regional Development Council, thus approval of a contract is needed, too.

The allocation of federal funds is proportionate to the population represented by the consortium as a pro-rata share of \$13.1 million available for North Dakota in comparison to the population represented by another consortium, led by the City of Carrington.

The other municipalities approved by Treasury to participate in the State Small Business Credit Initiative as part of the Mandan consortium are the cities of Almont, Beach, Beulah, Bismarck, Bowman, Carson, Casselton, Crosby, Dickinson, Dodge, Dunn Center, Fargo, Garrison, Glen Ullin, Halliday, Hazelton, Hazen, Hebron, Hettinger, Killdeer, Lincoln, Linton, McClusky, Minot, Mott, New England, New Salem, Regent, Sentinel Butte, Steele, Turtle Lake, Underwood, Watford City, West Fargo, Williston and Wilton plus the Standing Rock Sioux Tribe.

As the lead municipality in the consortium, the City of Mandan, through its Business Development and Communications Office, will be responsible for the following:

- Issuing funds to contractor as needed for approved loans
- Collaborating with contractor to assemble and submit to Treasury all quarterly & annual reports & certifications pursuant to requirements of allocation agreement
- Identifying compliance & oversight risks; developing a risk monitoring & mitigation plan
- Reviewing invoices for allowable administrative expenses from contractor
- Facilitating dual approval & authorization system for loan disbursements and expense payments

Oversight & Governance

- Participating municipalities, through their designated municipality office and authorized representative (see Annex 8 of Allocation Agreement) have ultimate authority to oversee all SSBCI program management, reviews and reporting as required by Allocation Agreement. This includes reviewing and signing quarterly & annual reports, maintaining records of reports & financial documents provided by contractor to verify eligibility of loans & program expenditure, maintain records related to contractor performance and conducting periodic testing of records to determine compliance.
- A steering committee (each participating municipality to appoint 1 representative; appointments to be re-considered every two years if necessitated by a vacancy or poor performance) will have the following responsibilities:
 - Provide direction on implementation of program(s)
 - Review monthly reports of loan activity as well as quarterly & annual reports filed with Treasury
 - Participate in an annual meeting held for purposes of reviewing an annual audit report, other financial reports and a performance appraisal of contractor. If the steering committee identifies any deficiencies, it is to set forth a plan of corrective action & timeline for compliance.
 - Authorize any reimbursement for travel expenses within allowable limits
 - Assist with & help prompt as needed required actions by participating municipalities
 - Ensure appropriate municipal review of reports on a timely basis
 - Assist with marketing & outreach
 - Formulate operating policies & procedures as needed
 - Consider any requests for withdrawal or termination from the consortium of participating municipalities

- After de-federalization of funds on April 1, 2017
 - Provide recommendation on the future of the program
 - Disbursement of excess revenues over expenses requires simple majority vote
 - Dissolution of loan participation program requires 2/3 majority vote
- A loan committee with members experienced in commercial lending, business start-up and expansion and economic development will be comprised as follows:
 - 1 from each municipality with population 10,000+
 - 1 additional member for each additional 30,000 population from municipalities 10,000+
 - 3 members from remaining municipalities & Indian tribes elected by steering committee

		Automatic Seats	Additional based on population	TOTAL Seats
Fargo	105,549	1	3	4
Bismarck	61,272	1	1	2
Minot	40,888	1	1	2
West Fargo	25,830	1	0	1
Mandan	18,331	1	0	1
Dickinson	17,787	1	0	1
Williston	14,716	1	0	1
Others	32,703	3	-	3
TOTAL Population	317,076			15

- Responsibilities of the loan committee include:
 - Credit decisions — consider & vote on applications for loans including rates, terms & conditions
 - Review & approve revolving loan fund plan & provide input for improvement on an on-going basis as needed
 - Determine voting procedures for loan actions
 - Conduct annual performance appraisal of contractor to assure sound management of programs, appropriate risk management, adequate financial record-keeping and thorough reporting.
 - Summarize & report with recommendation as to continuation to steering committee for consideration at its annual meeting

More information

More information about the planned loan participation program is included in the attached news release. An SSBCI Frequently Asked Questions document and program guidelines are available on the U.S. Department of the Treasury’s SSBCI website:

- <http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx>

ATTACHMENTS: The full SSBCI application is available on the City of Mandan website under the meeting agenda section at this link:

http://www.cityofmandan.com/vertical/sites/%7B38C3EFDC-F4D8-4D02-9E13-0987A081A7A4%7D/uploads/Full_Application.pdf

A hard copy is available for review in the City of Mandan Business Development and Communications office upon request. Copies of agreements and documents associated with allocation approval are attached:

1. Allocation agreement
2. Letter of legal opinion (for signature by Attorney Brown)
3. Cooperative agreement
4. Administrative contract

FISCAL IMPACT: The consortium as a whole is eligible to receive \$9,710,768 to support a loan participation program. The allocation disbursements will be pooled and made available via loans to businesses in participating municipalities or that benefit participating municipalities. No funds will be set aside for any particular municipality. Funds are available to eligible business applicants in municipalities on a first-come, first-served basis. The City of Mandan will deposit disbursements of allocated funds in a segregated, FDIC insured bank account. Reimbursement for administrative expenses is allowed in accordance with program rules and a cap of 5% for the first transfer of allocated funds and 3% for the second and third transfers. No reimbursement is allowed for expenses incurred prior to the date of allocation closing (Aug. 31, 2012).

STAFF IMPACT: Time will be required on the part of the City of Mandan Business Development & Communications Office to assist with SSBCI oversight, coordination and reporting requirements to assure program compliance. Some hours by the City of Mandan's Finance Director will also be needed for dual authorizations of loan disbursements and payment of administrative expenses plus coordination of an annual audit. The mayor will be asked to review and approve quarterly and annual reports to Treasury's SSBCI staff.

LEGAL REVIEW: Attorney Brown has reviewed the allocation agreement, helped to craft the consortium agreement and has reviewed the administrative contract.

RECOMMENDATION: I recommend approval of all agreements. I would like to serve as the City of Mandan's representative to the steering committee to help assure the program is implemented and administered as intended. I will have confirmed a interested and willing party from the community's financial sector for nomination to the SSBCI loan committee by the date of the Commission meeting.

SUGGESTED MOTION:

1. I move to approve the SSBCI allocation agreement.
2. I move to approve the SSBCI cooperative agreement among participating municipalities.
3. I move to approve the contract for SSBCI program administrative services with the Lewis and Clark Regional Development Council.
4. I move to appoint Ellen Huber to the SSBCI consortium's steering committee to represent the City of Mandan.
5. I move to appoint _____ to the SSBCI consortium's loan committee to represent the City of Mandan.

For Immediate Release

August 2, 2012

For more information:

Ellen Huber, City of Mandan Business Development & Communications Director, phone 701-667-3485

Brent Ekstrom, LCRDC Director of Commercial Lending, phone 701-667-7624

Municipalities Finalizing Agreements to Receive Federal Funding for Business Loans

A consortium of 38 municipalities led by the City of Mandan is expected to finalize agreements in August to receive a \$9.7 million allocation from the U.S. Department of Treasury for a business loan program.

The City of Mandan Business Development and Communications Office and the Lewis and Clark Regional Development Council submitted applications last September on behalf of Mandan, 36 cities and the Standing Rock Sioux Tribe to participate in the State Small Business Credit Initiative, established by the Small Business Jobs Act of 2010.

The consortium received notice in late June of approval by the U.S. Department of the Treasury. The consortium as a whole is eligible to receive \$9,710,768 to support a loan participation program for small businesses to help them expand and create jobs. The allocation is based on the population represented by the consortium as a pro-rata share of \$13.1 million available for North Dakota in relation to the population represented by another consortium, led by the City of Carrington.

The other municipalities approved to participate in the State Small Business Credit Initiative as part of the Mandan consortium are the cities of Almont, Beach, Beulah, Bismarck, Bowman, Carson, Casselton, Crosby, Dickinson, Dodge, Dunn Center, Fargo, Garrison, Glen Ullin, Halliday, Hazelton, Hazen, Hebron, Hettinger, Killdeer, Lincoln, Linton, McClusky, Minot, Mott, New England, New Salem, Regent, Sentinel Butte, Steele, Turtle Lake, Underwood, Watford City, West Fargo, Williston and Wilton.

Loan Program Overview

The Mandan-led consortium has 90 days from closing, expected to be Aug. 31, to establish its loan participation program. The LCRDC, which has offices in Mandan, will administer the loan program in which a lender originates a senior loan and the SSBCI funds provide for a second, subordinate loan to the same borrower.

The program must ultimately leverage the federal dollars to generate at least \$10 in new small business investment for every \$1 of SSBCI support. It targets loans with an average principal of \$5 million or less and cannot extend loans that exceed a principal of \$20 million. The consortium's application stipulates a maximum direct loan size of \$1 million supporting loans up to \$10 million. The loan participation program can fund up to 50 percent of an eligible business project, but will generally be at level of 20 percent.

Eligible use of loan proceeds includes business start-up costs, working capital, business procurement, franchise fees, equipment, inventory, and the purchase, construction, renovation or improvements of an eligible place of business. It is not limited to manufacturing, processing

or other businesses that generate new wealth. Lending is allowed to retail and service businesses, too. Loans are allowed on real estate if primarily owner-occupied, but not if generally for sale, lease or investment.

The program targets an average borrower size of 500 employees or less and cannot be extended to borrowers with more than 750 employees.

The loan participation program will offer rates ranging from 4 percent to market rate. Projects perceived as having a high development impact or providing assistance to minority or underserved persons, or businesses impacted by natural disasters, are eligible for the most attractive rates. The length of a loan varies by asset type: 10 to 20 years for real estate, 3 to 10 years for machinery and equipment, 1 to 5 years for inventory and working capital, and about 18 to 24 months for construction loans.

The program will allow for loans of up to 100 percent of the value of collateral. The origination fee is up to 2 percent with payment required for all hard costs including mortgage filing fees, lien fees, title searches and credit reporting fees.

As dollars are loaned to businesses, repayments from recipients will replenish the program fund, allowing it to revolve and continue to provide assistance for years to come. The program should be up and running by December.

#

MANDAN CONSORTIUM

STATE SMALL BUSINESS CREDIT INITIATIVE
ALLOCATION AGREEMENT

FOR

PARTICIPATING MUNICIPALITIES

August 31, 2012

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

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(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

ALLOCATION AGREEMENT dated as of **August 31, 2012**, between the **United States Department of the Treasury**, an executive department of the United States Government ("Treasury"), and the municipalities listed on Annex 8 attached hereto (the "Participating Municipalities").

RECITALS

WHEREAS, many companies, particularly small businesses, have found it increasingly difficult to get new loans to keep their businesses operating and banks are tightening requirements or cutting off existing lines of credit even when the businesses are up-to-date on their loan repayments;

WHEREAS, in the State Small Business Credit Initiative Act of 2010 (title III of the Small Business Jobs Act of 2010, Public Law 111-240, 124 Stat. 2568, 2582) (the "Act"), Congress appropriated funds to Treasury to be allocated and disbursed to States and eligible municipalities that have created programs to increase the amount of capital made available by private lenders to small businesses, and to cover Treasury's reasonable administrative expenses;

WHEREAS, in order to be considered for an allocation (as hereinafter defined), the eligible municipalities must submit an Application (as hereinafter defined) to Treasury for review and evaluation in a noncompetitive selection process; and

WHEREAS, based on a review and evaluation of the Participating Municipalities' Application, the Participating Municipalities have been approved to receive an allocation, subject to the satisfaction of the terms and conditions contained in this Agreement (as hereinafter defined);

THEREFORE, in consideration of the premises and mutual covenants, conditions and agreements hereinafter set forth, the parties hereto hereby agree as follows:

ARTICLE I
DEFINITIONS AND RULES OF INTERPRETATION

Section 1.1 Definitions. Terms used in this Agreement that are not defined shall have the same meaning as in the Act. When used in this Agreement, the following terms shall have the respective meanings specified in this Section 1.1, unless the text clearly requires otherwise.

Allocated Funds. "Allocated Funds" shall mean the funds awarded to the Participating Municipalities on account of this Allocation.

Allocation. "Allocation" shall mean the award of Federal funds by the Treasury to the Participating Municipalities in accordance with the allocation formula contained in the Act.

Allocation Time Period. "Allocation Time Period" shall have the meaning ascribed to such term in Section 2.3 of this Agreement.

Application. "Application" shall mean the State Small Business Credit Initiative Application dated April 13, 2012, including any written information in connection therewith and any attachments, appendices and/or written supplements thereto, submitted by the Participating Municipalities to Treasury.

Approved Municipal Program. "Approved Municipal Program" means the Loan Participation Program, approved by Treasury as eligible for Federal contributions to, or for the account of, the Municipalities' programs.

Authorized Municipal Official. "Authorized Municipal Official" means each of the Participating Municipalities' officials having oversight responsibility for the Approved Municipal Program(s).

Cooperative Agreement. "Cooperative Agreement" shall mean the required agreement between the Participating Municipalities that delineates obligations among the Participating Municipalities.

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

Disbursement. "Disbursement" shall mean a transfer of Allocated Funds by Treasury to the Participating Municipalities under this Agreement.

Principal. "Principal" shall mean, for purposes of Section 4.9, if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity.

Program Income. "Program Income" shall mean gross income received by the Participating Municipalities that is directly generated by an Allocation-supported activity or earned as a result of this Allocation during the Allocation Time Period. Program Income includes, but is not limited to, income from: fees for services performed that were funded or supported with Allocated Funds; and interest earned on loans made using Allocated Funds. Program Income does not include interest on Allocated Funds, the receipt of principal on loans made using Allocated Funds, rebates, credits, discounts, or refunds, or interest earned on any of them.

Schedule. "Schedule" shall have the meaning ascribed to such term in Section 4.2 and Annex 3 of this Agreement.

Subawardee. "Subawardee" shall mean the legal entity to which a Subgrant is awarded and which is accountable to the Participating Municipalities for the use of Allocated Funds provided.

Subgrant. "Subgrant" shall mean an award of Allocated Funds by the Participating Municipalities to an eligible Subawardee. The term does not include procurement purchases.

This Agreement. "This Agreement" or "this Agreement" shall mean this Allocation Agreement dated as of August 31, 2012, together with the Annexes attached hereto, and the Assurances (Non-Construction) submitted by the Participating Municipalities as part of its Application, as the foregoing may be amended or

modified from time to time in accordance with their respective terms.

Section 1.2 Rules of Interpretation. Unless the context shall otherwise indicate, the terms defined in Section 1.1 of this Agreement shall include the plural as well as the singular and the singular as well as the plural. The words "herein," "hereof," and "hereto," and words of similar import, refer to this Agreement as a whole.

**ARTICLE II
THIS ALLOCATION**

Section 2.1 The Allocation Commitment. Subject to all of the terms and conditions hereof and in reliance upon all representations, warranties, assurances, certifications, covenants and agreements contained herein, Treasury will provide to the Participating Municipalities, an Allocation in the aggregate amount not to exceed nine million, seven hundred ten thousand, seven hundred sixty-eight dollars (\$9,710,768).

Section 2.2 Purpose of this Allocation. The purpose of this Allocation is to carry out the Approved Municipal Program(s) as described in Annex 1 attached hereto, which is/are incorporated herein by reference.

Section 2.3 Allocation Time Period. The effective date of this Allocation shall be the date of this Agreement. The expiration date of this Allocation is March 31, 2017. The period of time between the effective date and the expiration date is the Allocation Time Period. The Participating Municipalities may charge to this Allocation allowable costs incurred, in accordance with Section 4.2 hereof, during the Allocation Time Period. Costs incurred prior to the Allocation Time Period are not allowable unless authorized in writing by Treasury. After the Allocation Time Period, the Participating Municipalities may charge to unobligated Allocated Funds in their possession allowable costs incurred in accordance with Section 4.2 hereof.

ARTICLE III

DISBURSEMENTS AND CONDITIONS PRECEDENT TO DISBURSEMENTS

Section 3.1 Disbursements of Allocated Funds. Subject to the terms and conditions hereof, Treasury will make Disbursements of Allocated Funds via electronic funds transfer to the account of the Participating Municipalities designated in advance by the Participating Municipalities. Treasury will make Disbursements to the Participating Municipalities in accordance with Annex 2, attached hereto, which is incorporated herein by reference.

Section 3.2 Cooperative Agreement. Before Treasury's initial Disbursement of the Allocated Funds, the Participating Municipalities shall have executed and delivered to Treasury a Cooperative Agreement in form and substance satisfactory to Treasury.

Section 3.3 Opinion of Participating Municipal Counsel. Before Treasury's initial Disbursement of all or a portion of the Allocated Funds, Treasury shall have received, from counsel for each Participating Municipality, a favorable opinion satisfactory in scope, form, and substance to Treasury, with respect to the matters stated in Sections 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 hereof. Such opinions shall also cover such other matters incident hereto as Treasury may require. Opinions conforming substantially to the form opinion of counsel attached hereto as Annex 6 will be satisfactory to Treasury.

Section 3.4 Conditions Precedent for Disbursements. In addition to the prerequisite set forth in Sections 3.2 and 3.3 hereof, each Participating Municipality shall provide before each successive Disbursement following the initial one-third Disbursement certifications signed by each Authorized Municipal Official that such Participating Municipality has performed and complied with all applicable agreements and conditions contained herein, and that with respect to each Participating Municipality, the representations and warranties set forth in this Agreement and in the Assurances (Non-Construction) contained as part of the Application shall be true and correct in all material respects. The form of the certification is in Exhibit 2-1 of Annex 2 attached hereto. If any condition or prerequisite specified herein or in any document connected herewith shall not have been fulfilled to the satisfaction of

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

Treasury, Treasury may, in its sole discretion, elect not to make a Disbursement until such time as such condition or prerequisite shall be fulfilled to the satisfaction of Treasury.

ARTICLE IV

COVENANTS AND AGREEMENTS OF THE PARTICIPATING MUNICIPALITIES

Each Participating Municipality shall duly perform and observe each and all of the following covenants and agreements unless the text clearly requires a different duration:

Section 4.1 Compliance with Government Requirements. In carrying out its responsibilities pursuant to this Agreement, such Participating Municipality shall comply with the Act, Treasury regulations or other requirements prescribed by Treasury pursuant to the Act, and applicable provisions of the grants management common rule referenced in the attachment to OMB Circular A-102 ("Grants and Cooperative Agreements with State and Local Governments"), which are incorporated herein by reference. The Participating Municipality also shall comply with all applicable Federal, State, and local laws, regulations, ordinances, and OMB Circulars, including, but not limited to, the regulations at 31 C.F.R. Part 21, related to lobbying.

Section 4.2 Authorized Uses of Allocated Funds/Allowable Costs. The Participating Municipality shall only use the Allocated Funds for the purposes and activities specified in this Agreement including, but not limited to, the Schedule contained in Annex 3 attached hereto, which is incorporated herein by reference, and for paying allowable costs of those purposes and activities in accordance with the cost principles set forth in OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments) and codified in 2 C.F.R. Part 225.

Section 4.3 Authorized Uses of Program Income. The Participating Municipality shall add Program Income to the Allocated Funds, and shall use such Program Income for the same purposes and under the same conditions as the Allocated Funds.

Section 4.4 Restrictions on the Use of Allocated Funds Funds and Program Income.

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- (a) No Participating Municipality shall use any Allocated Funds in a manner other than as authorized hereunder, without the prior written approval of Treasury.
- (b) No Participating Municipality shall use any Allocated Funds to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or Local Government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or Local Government contract, grant, loan or cooperative agreement as such terms are defined in 31 U.S.C. § 1352.
- (c) No member of or delegate to the United States Congress or resident U.S. Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise herefrom.
- (d) No Participating Municipality shall use any Allocated Funds to pay any costs incurred in connection with (i) any defense against any claim or appeal of the United States Government, any agency or instrumentality thereof (including Treasury), against the Participating Municipality, or (ii) any prosecution of any claim or appeal against the United States Government, any agency or instrumentality thereof (including Treasury), which the Participating Municipality instituted or in which the Participating Municipality has joined as a claimant.
- (e) No Participating Municipality shall use any Allocated Funds for loans used to finance, in whole or in part, business activities prohibited by Treasury regulations, including Treasury regulations promulgated after the date of this Allocation Agreement and the SSBCI Policy Guidelines as published by Treasury on its website at www.treasury.gov/ssbci.
- (f) No Participating Municipality may use Allocated Funds outside the geographic borders of the Participating Municipality unless the Authorized Municipal Official or chief executive of the Participating Municipality

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warrants, in writing, that the loan or investment will result in significant economic benefit to the Participating Municipality.

Section 4.5 Commencement of Performance. Each Participating Municipality shall be fully positioned within 90 days of the date of this Agreement to act on providing the type of credit support that the Approved Municipal Program was established to provide using the Allocated Funds.

Section 4.6 SSBCI Policy Guidelines, National Standards and Internal Control and Financial Management System Requirements.

- (a) Each Participating Municipality shall comply with the SSBCI Policy Guidelines published by Treasury on its website at www.treasury.gov/ssbci, including any SSBCI Policy Guidelines and national standards that are established by Treasury after the date of this Allocation Agreement.
- (b) Each Participating Municipality shall comply with the standards for financial management systems, including internal control requirements, specified in the grants management common rule at § __.20. Notwithstanding the foregoing, the cash management requirements in § __.20(b)(7) of the grants management common rule shall not apply to the Participating Municipalities.

Section 4.7 Quarterly Reporting. Within 30 days after the end of each quarterly reporting period (excluding the quarterly reporting period ending on the expiration date of this Allocation), the Participating Municipalities shall deliver to Treasury a quarterly report, which shall be signed by each of the Participating Municipalities' Authorized Municipal Official. The reporting period covered by, and the due date for, each quarterly report are listed in Annex 5 attached hereto. Each report shall be in such form as Treasury may, from time to time prescribe, and shall consist of the following information:

- (a) A report on the use of Allocated Funds for each Approved Municipal Program on both a quarterly and a cumulative basis, including the total amount of Allocated Funds used for direct and indirect

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administrative costs, the total amount of Allocated Funds used, the amount of Program Income generated, and the amount of charge-offs against the Federal contributions to the reserve funds set aside for any Approved Capital Access Programs; and

(b) A certification in the form prescribed in Annex 4.

Section 4.8 Annual Reports.

(a) For CAPs and OCSPs other than venture capital programs, by March 31 of each year, beginning March 31, 2013, the Participating Municipalities shall submit to Treasury an annual report, for the prior calendar year ending December 31st, which shall be signed by each Authorized Municipal Official, in such form as Treasury may from time to time prescribe, that contains the following information for each loan, indicating the SSBCI-approved loan program in which the loan is enrolled (e.g. capital access program, loan guarantee, loan participation, direct loan, collateral support):

1. A unique loan identifier number, the census tract and zip code of the borrower's principal location in the municipality;
2. The lending institution's name and Employer Identification Number (EIN);
3. The total amount of principal loaned/authorized as a line of credit, and of that amount, the portion that is from non-private sources;
4. Date of initial disbursement;
5. For CAP loans, the insurance premiums paid by the borrower, the lender, and the Participating Municipalities; or for loans in which the Participating Municipalities are participating, the amount of the participation; or for loans guaranteed by the Participating Municipalities, the amount of loan guarantee provided by the SSBCI recipient and the amount of funds set aside by the

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Participating Municipalities to cover the loan guarantee; or for loans for which the Participating Municipalities provide collateral support, the amount of collateral support provided and the amount of funds set aside by the Participating Municipalities to cover the collateral support obligation;

6. The borrower's annual revenues in the last fiscal year;
7. The borrower's Full Time Equivalent (FTE) employees;
8. The 6-digit North American Industry Classification System (NAICS) code for the borrower's industry;
9. The year the borrower's business was incorporated; and
10. The estimated number of jobs created or retained as a result of the loan.
11. The amount of additional private financing occurring after the loan closing, if required under the provisions of Annex 7.

All data elements (1) through (10) shall be reported only in the annual report covering the period in which the loan was made. If required under the provisions of Annex 7, the Participating Municipalities will provide the data required in (11) for the periods specified in Annex 7.

- (b) For OCSF venture capital programs, by March 31 of each year, beginning March 31, 2013, each Participating Municipality shall submit to Treasury an annual report, for the year ending December 31st, which shall be signed by each Authorized Municipal Official, in such form as Treasury may from time to time prescribe, that contains the following information for each investment in an eligible small business, indicating the SSBCI -approved venture capital program:

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1. A unique investment identifier number, the census tract and zip code of the investee's principal location in that state;
2. The State Small Business Credit Initiative-approved program in which the venture capital investment is enrolled;
3. The total amount of venture capital and other financing invested or loaned, and of that amount, the portion that is from non-private support;
4. The amount of venture capital provided by the Approved Municipal venture capital fund program;
5. Date of initial disbursement;
6. The business's annual revenues in the last fiscal year;
7. The business's Full Time Equivalent (FTE) employees;
8. The 6-digit North American Industry Classification System (NAICS) code for each business's industry;
9. The year the business was incorporated; and
10. The estimated number of jobs created and the estimated number of jobs retained as a result of the investment;
11. The amount of additional private financing occurring after the investment closing, if required under the provisions of Annex 7.

All data elements (1) through (10) shall be reported only in the annual report covering the period in which the investment was made. If required under the provisions of Annex 7, each Participating Municipality will provide the data required in (11) for the periods specified in Annex 7.

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- (c) The Participating Municipalities shall also provide detailed information on any qualifying loan or swap funding facility and information on aggregate loan losses.
- (d) For the final annual report due on March 31, 2017, a summary of the performance results of this Allocation, including a narrative of how or the extent to which the purpose of this Allocation, as described in Annex 1 attached hereto, was accomplished using Allocated Funds.

In addition, each Authorized Municipal Official shall attach to the Participating Municipalities' annual report a completed and executed Federal Financial Report, SF-425. The due dates for the submission of the annual reports are listed in Annex 5 attached hereto.

Treasury may require the Participating Municipalities to submit this report using an electronic reporting system.

Section 4.9 Access to Records of and Certifications from Financial Institutions. Before providing any loan, loan guarantee, or other financial assistance using Allocated Funds to a financial institution or any other private entity, the Participating Municipalities shall obtain the following:

- (a) the binding written agreement of the financial institution or other private entity to make available to the Treasury Inspector General all books and records related to the use of the Allocated Funds, subject to the Right to Financial Privacy Act (12 U.S.C. § 3401 et seq.), including detailed loan records, as applicable;
- (b) a certification from the financial institution that the financial institution is in compliance with the requirements of 31 C.F.R. § 103.121; and
- (c) a certification from the private entity, including any financial institution, that the Principals of such entity have not been convicted of a sex offense against a minor (as such terms are defined in section

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111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).

Section 4.10 Notices of Certain Material Events. The Participating Municipalities shall promptly notify Treasury in writing in reasonable detail of any of the following events:

- (a) any proceeding instituted against any Participating Municipality in, by or before any court, governmental or administrative body or agency, which proceeding or its outcome could have a material adverse effect upon the operations, assets or properties of the Participating Municipality;
- (b) any material adverse change in the condition, financial or otherwise, or operations of any of the Participating Municipalities;
- (c) the occurrence of any event described in Sections 6.1 and 6.2 herein (General Events of Default and Specific Events of Default);
- (d) problems, delays, or adverse conditions, real or anticipated, that will materially impair any Participating Municipality's ability to accomplish the purpose of this Allocation set forth in Annex 1 attached hereto, with a description of actions taken or contemplated to be taken, and any assistance needed to resolve the situation;
- (e) deviations from the annual schedule submitted by the Participating Municipalities under Section 4.8 apportioning Allocated Funds among the Approved Municipal Programs if the deviations will result in the need for additional funding from any third party to accomplish the purpose of this Allocation set forth in Annex 1 attached hereto; and
- (f) favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

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- (g) any material change to the Cooperative Agreement referenced in Section 3.2 which includes, but is not limited to the addition or withdrawal of any municipality from the Cooperative Agreement, changes in any governance structure of the Cooperative Agreement, or change in the relationship to the administering entity in the Cooperative Agreement.

Section 4.11 High Risk. Notwithstanding the foregoing, Treasury may unilaterally increase the frequency and the scope of Participating Municipalities' reporting requirements if Treasury finds the Participating Municipalities to be high risk in accordance with the grants management common rule at § __.12.

Section 4.12 Subgrants. The Participating Municipalities shall not make any Subgrants using Allocated Funds without the prior written approval of Treasury.

Section 4.13 Retention of Records. The Participating Municipalities shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Allocation for a period of three years from the date of submission of the final quarterly report under Section 4.7 herein, except as otherwise provided in the grants management common rule at § __.42.

Section 4.14 Right to Inspect, Audit and Investigate. Treasury, the Treasury Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of the Participating Municipalities that are pertinent to the Allocation, in order to make audits, investigations, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to the Participating Municipalities' personnel for the purpose of interview and discussion related to such documents. This right of access shall last as long as records are retained, except that Treasury's right of access expires on September 27, 2017.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Participating Municipalities hereby jointly and severally make each and all of the following representations and warranties:

Section 5.1 Designation of Eligible Organization. Each Participating Municipality has designated the party identified in Annex 8 to implement each Participating Municipality's Approved Municipal Program. Each party identified is a department, agency, or political subdivision of the Participating Municipality.

Section 5.2 Authority. Each Participating Municipality has all requisite power and authority under the constitution and the laws of the State of North Dakota to execute and deliver this Agreement, to consummate the transactions contemplated hereby, and to perform its obligations hereunder.

Section 5.3 Due Authorization. The execution and delivery by each Participating Municipality of this Agreement, the consummation by each Participating Municipality of the transactions contemplated hereby, and the performance by each Participating Municipality of its obligations hereunder have been duly authorized by all necessary action on the part of the Participating Municipality.

Section 5.4 Due Execution and Delivery; Binding Agreement. This Agreement has been duly executed and delivered by each Participating Municipality, and constitutes the legal, valid and binding obligation of each Participating Municipality enforceable in accordance with its terms.

Section 5.5 No Conflicts. The execution and delivery by each Participating Municipality of this Agreement, the consummation by each Participating Municipality of the transactions contemplated hereby, and the performance by each Participating Municipality of its obligations hereunder do not and will not:

- (a) conflict with or violate any existing law or administrative regulation, or any existing administrative or judicial decree or order; and

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- (b) conflict with, result in a breach of, or constitute a default under any existing agreement or other instrument to which such Participating Municipality is subject or by which it is bound.

Section 5.6 Litigation. There is no lawsuit or judicial or administrative action, proceeding, or investigation pending or threatened against any Participating Municipality which is likely to have a material adverse effect on the ability of such Participating Municipality to perform its obligations under this Agreement.

Section 5.7 Disclosure. Neither this Agreement nor any Annex attached hereto, nor any certification or assurance referenced herein, nor any other document or instrument delivered to Treasury by any Participating Municipality pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading. Each Participating Municipality has disclosed, in writing, to Treasury all facts that might reasonably be expected to result in a material adverse effect upon such Participating Municipality's ability either to conduct its business or to carry out the purpose of this Allocation. No Participating Municipality has knowingly and willfully made or used a document or writing containing any false, fictitious or fraudulent statement or entry as part of its correspondence or communication with Treasury.

**ARTICLE VI
TERMINATION FOR CAUSE AND OTHER REMEDIES**

Section 6.1 General Events of Default. In the event that either:

- (a) any representation, warranty, certification, assurance or any other statement of fact contained in this Agreement or the Application of any Participating Municipality including, but not limited to, the Assurances (Non-Construction) contained as part of the Application, or any representation or warranty set

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forth in any document, report, certificate, financial statement or instrument now or hereafter delivered to Treasury in connection with this Agreement, is found to be inaccurate, false, incomplete or misleading when made, in any material respect; or

- (b) any Participating Municipality materially fails to observe, comply with, meet or perform any term, covenant, agreement or other provision contained in this Agreement including, but not limited to, any Participating Municipality's failure to submit complete and timely quarterly reports or annual reports, or any Participating Municipality ceases to use the Allocated Funds to undertake the activities authorized in Annex 1 attached hereto;

Treasury, in its sole discretion, may find any or all of the Participating Municipalities to be in default.

Section 6.2 Discretionary Remedies. If Treasury finds any Participating Municipality to be in default under Section 6.1 of this Agreement, Treasury may, in its sole discretion, take any one or more of the following actions, subject to Section 6.6 of this Agreement:

- (a) withhold Disbursements pending the Participating Municipalities' correction of the default; or
- (b) wholly or partly reduce, suspend, or terminate the commitment of Treasury to make Disbursements to the Participating Municipalities under this Agreement, whereupon the commitment of Treasury to make Disbursements to any or all Participating Municipalities under this Agreement will be reduced, suspended, or terminated, as the case may be.

Section 6.3 Specific Events of Default. In the event of a Treasury Inspector General audit finding of either:

- (a) intentional or reckless misuse of Allocated Funds by any Participating Municipality; or

- (b) any Participating Municipality having intentionally made misstatements in any report issued to Treasury under the Act;

Treasury shall find any or all the Participating Municipalities to be in default.

Section 6.4 Mandatory Remedies. If Treasury finds the Participating Municipalities to be in default under Section 6.3 of this Agreement, Treasury shall take the following actions:

- (a) in the case of an event of default under Section 6.3(a), recoup any misused Allocated Funds that have been disbursed to the Participating Municipalities; or
- (b) in the case of an event of default under Section 6.3(b), terminate the commitment of Treasury to make Disbursements to the Participating Municipalities under this Agreement, and find the Municipalities ineligible to receive any additional funds under the Act, whereupon the commitment of Treasury to make Disbursements to the Participating Municipalities under this Agreement will be terminated and the Municipalities will be ineligible to receive any additional funds under the Act.

Section 6.5 No Waiver. No delay or failure by Treasury in the exercise of any right, power, or remedy accruing upon the occurrence of any event described in Section 6.1 or Section 6.3 herein shall impair any such right, power, or remedy, or be construed to be a waiver of or acquiescence in such event, nor shall any abandonment or discontinuance of steps taken to exercise any right, power or remedy preclude any further exercise thereof.

Section 6.6 Prior Notice to Participating Municipalities of Exercise of Remedies. Prior to exercising or imposing any remedy contained in Section 6.2 other than a withholding of a Disbursement(s) under Section 6.2(a), Treasury will, to the maximum extent practicable, provide the Participating Municipalities with written notice of the event(s) described in Section 6.1 hereof and the proposed remedy. Treasury's written notice will give the Participating Municipalities 10 calendar

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days from the date of the notice to respond. Treasury may, in its sole discretion, also afford the Participating Municipalities 20 calendar days from the date of the notice to correct the event. If the Participating Municipalities fail to correct the event within either the 10 calendar day response time or, if applicable, the 20 calendar day correction or cure period, Treasury may, in its sole discretion, impose or exercise the remedy or remedies set forth in its written notice. Moreover, if the Participating Municipalities fail to respond timely to Treasury's written notice, Treasury may impose or exercise the remedy or remedies set forth in its written notice, effective as of the date specified in such notice. Nothing in this Agreement, however, will provide the Participating Municipalities with any right to any formal or informal hearing or comparable proceeding not otherwise required by law.

**ARTICLE VII
TERMINATION OF AVAILABILITY**

Section 7.1 Termination of Availability. Treasury may, upon submitting to the Participating Municipalities written notification, terminate any or all of the Participating Municipalities' Allocation of any portion of the Allocated Funds that Treasury has not disbursed to the Participating Municipalities by 2-years from the date of this Allocation Agreement.

**ARTICLE VIII
MISCELLANEOUS**

Section 8.1 Notices. All notices, requests, demands, consents, waivers and other communications given under any provision of this Agreement shall be in writing and shall be delivered by hand, mailed by postage-prepaid first-class mail, delivered by overnight courier service, or transmitted electronically via facsimile (fax) or email transmission to the addresses indicated below:

if to Treasury:

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Department of the Treasury
ATTN: State Small Business Credit Initiative
Main Treasury Building
Room 1310
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Telephone No. (202) 622-0713
Facsimile No. (202) 622-9947
Email address: SSBCIapplications@treasury.gov

if to the Participating Municipalities, please see Annex 8 for detailed contact information.

The address, telephone number, email address or facsimile number for either party hereto may be changed at any time and from time to time upon written notice given to the other party.

Section 8.2 Entire Agreement. This Allocation Agreement (including all annexes and amendments thereto), the Application and the attachments, exhibits, appendices and supplements to the Application, and the Allocation notice letter, between the Participating Municipalities and Treasury with respect to the obligation of funds necessary to provide transfers to the Participating Municipalities contain the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements or understandings, written or oral, in respect thereof. The Application, including any attachments, exhibits, appendices and supplements thereto, any attachments, schedules, annexes, appendices and supplements to the Allocation Agreement, and said Allocation notice letter are incorporated in and made a part of this Agreement.

Section 8.3 Amendments. Unless otherwise expressly provided in this Agreement, no provision of this Agreement may be amended, modified, waived, supplemented, discharged or terminated orally but only by an instrument in writing duly executed by Treasury and each Participating Municipality. If the Participating Municipalities propose to make an amendment to the Allocation Agreement, they must submit a request, in writing, to Treasury.

Section 8.4 Assignment. The Participating Municipalities may not assign or transfer their rights under this Agreement without the prior written consent of Treasury.

Section 8.5 Successors. This Agreement shall be binding upon and inure to the benefit of Treasury and the Participating Municipalities and their respective successors and permitted assigns.

Section 8.6 Cumulative Rights. Each and every right, power, and remedy conferred in this Agreement shall be cumulative and shall be in addition to every other right, power and remedy herein conferred or now or hereafter existing at law or in equity, by statute or otherwise.

Section 8.7 No Election. Each and every right, power, and remedy, whether conferred in this Agreement or otherwise existing, may be exercised from time to time and as often and in such order as may be determined by Treasury, and the exercise or the beginning of the exercise of any right, power or remedy shall not be construed to be an election or a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

Section 8.8 Rights Confined to Parties. Nothing expressed or implied herein is intended or shall be construed to confer upon, or to give, any person other than the Participating Municipalities or Treasury, and their respective successors and permitted assigns, any right, remedy or claim under or by reason of this Agreement or of any term, condition, representation, warranty, covenant, or agreement contained herein, and all of the terms, conditions, representations, warranties, covenants, and agreements contained herein shall be for the sole and exclusive benefit of the Participating Municipalities, and Treasury, and their respective successors and permitted assigns.

Section 8.9 No Partnership. Neither this Agreement nor any part or provision hereof, nor the exercise by Treasury of any of its respective rights or remedies hereunder, shall evidence or establish, be construed as evidencing or establishing, any partnership, joint venture, or similar relationship of Treasury with the Participating Municipalities.

Section 8.10 Survival of Representations and Warranties.

All representations, warranties, covenants, and agreements made by each Participating Municipality in this Agreement (including, without limitation, the Application and the Assurances (Non-Construction) submitted by the Participating Municipalities as part of the Application and the Cooperative Agreement referenced in section 3.2) or in any document, report, certificate, financial statement, note, or instrument now or hereafter furnished in connection with this Agreement shall survive the execution and delivery of this Agreement and the Disbursement of Allocated Funds pursuant hereto.

Section 8.11 Applicable Law. This Agreement, and the rights and obligations of the parties hereunder, shall be governed by, and construed and interpreted in accordance with United States Federal law and not the law of any State or locality of the United States. To the extent that a court looks to the laws of any State to determine or define the Federal law, it is the intention of the parties hereto that such court shall look only to the laws of the State of North Dakota.

Section 8.12 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not of itself invalidate or render unenforceable such provision in any other jurisdiction.

Section 8.13 Headings. The descriptive headings of the various articles and sections contained in this Agreement were formulated and are for convenience only and shall not be deemed to affect the meaning or construction of the provisions hereof.

Section 8.14 Counterparts. This Agreement may be executed in separate counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

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TREASURY: United States Department of the Treasury

By: _____
Name: Don Graves Jr.
Title: Deputy Assistant Secretary

PARTICIPATING MUNICIPALITY: City of Almont

By: _____
Name: Russell Kramer
Title: Mayor

Date:

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PARTICIPATING MUNICIPALITY: City of Beach

By: _____
Name: Walter Losinski
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Beulah

By: _____
Name: Darrel Bjerke
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Bismarck

By: _____
Name: John Warford
Title: President, Board of City
Commissioners

Date:

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PARTICIPATING MUNICIPALITY: City of Bowman

By: _____
Name: Lyn James
Title: President, Board of City
Commissioners

Date:

PARTICIPATING MUNICIPALITY: City of Carson

By: _____
Name: Donna VandenBurg
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Casselton

By: _____
Name: Edward McConnell
Title: Mayor

Date:

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PARTICIPATING MUNICIPALITY: City of Crosby

By: _____
Name: Leslie Bakken
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Dickinson

By: _____
Name: Dennis W. Johnson
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Dodge

By: _____
Name: Leonard J. Streifel
Title: Mayor

Date:

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

PARTICIPATING MUNICIPALITY: City of Dunn Center

By: _____
Name: Scott Lynch
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Fargo

By: _____
Name: Dennis Walaker
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Garrison

By: _____
Name: Shannon Jeffers
Title: Mayor

Date:

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PARTICIPATING MUNICIPALITY: City of Glen Ullin

By: _____
Name: Ray Haverluk
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Halliday

By: _____
Name: David Walth
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Hazelton

By: _____
Name: Melvin Fortner
Title: President, Board of City
Commissioners

Date:

PARTICIPATING MUNICIPALITY: City of Hazen

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By: _____
Name: Mark Nygard
Title: Board of City Commissioners

Date:

PARTICIPATING MUNICIPALITY: City of Hebron

By: _____
Name: Grant Walth
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Hettinger

By: _____
Name: Steven Turner
Title: Mayor

Date:

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

PARTICIPATING MUNICIPALITY: City of Killdeer

By: _____
Name: Dan Dolechek
Title: President, Board of City
Commissioners

Date:

PARTICIPATING MUNICIPALITY: City of Lincoln

By: _____
Name: Robert Johnston
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Linton

By: _____
Name: Timothy F. Volk
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Mandan

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

By: _____
Name: Arlyn VanBeek
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of McClusky

By: _____
Name: Theresa Jorgenson
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Minot

By: _____
Name: Curt Zimbleman
Title: Mayor

Date:

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

PARTICIPATING MUNICIPALITY: City of Mott

By: _____
Name: Troy Mosbrucker
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of New England

By: _____
Name: Marty Opdahl
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of New Salem

By: _____
Name: Lynnette Fitterer
Title: Mayor

Date:

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

PARTICIPATING MUNICIPALITY: City of Regent

By: _____
Name:
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Sentinel Butte

By: _____
Name: Rick Olson
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Steele

By: _____
Name: Murray Strom
Title: Mayor

Date:

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

PARTICIPATING MUNICIPALITY: City of Turtle Lake

By: _____
Name: Richard Britton
Title: President, Board of City
Commissioners

Date:

PARTICIPATING MUNICIPALITY: City of Underwood

By: _____
Name: Rick Olson
Title: President, Board of City
Commissioners

Date:

PARTICIPATING MUNICIPALITY: City of Watford City

By: _____
Name: Brent Sanford
Title: President, Board of City
Commissioners

Date:

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

PARTICIPATING MUNICIPALITY: City of West Fargo

By: _____
Name: Rich Mattern
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: City of Williston

By: _____
Name: Ward Koeser
Title: President, Board of City
Commissioners

Date:

PARTICIPATING MUNICIPALITY: City of Wilton

By: _____
Name: Ron Peck
Title: Mayor

Date:

PARTICIPATING MUNICIPALITY: Standing Rock Sioux Tribe

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

By: _____
Name: Charles W. Murphy
Title: Chairman

Date:

ANNEX 1

PURPOSE OF THE ALLOCATION

This Annex 1 constitutes an integral part of the Allocation Agreement dated as of August 31, 2011, between the Treasury and the Participating Municipalities.

The purpose of the Allocation is to assist the Participating Municipalities to increase the amount of capital made available by private lenders to small businesses through its Approved Municipal Programs.

To accomplish this, the Participating Municipalities will use \$9,710,768 of their Allocated Funds to support the new Loan Participation Program (LPP), a loan participation program that will make either a companion loan or purchase participation of up to 50% of any loan.

The LPP will be administered by the Participating Municipalities, as identified in Annex 8, in accordance with the Cooperative Agreement.

In the application dated, April 13, 2012, the Participating Municipalities identified the Lewis and Clark Regional Development Corporation (LCRDC) as a contracting entity which would be administering specific aspects of the Approved Municipal Program. LCRDC is a non-profit entity supervised by the Participating Municipalities. As a result of LCRDC's administration of specific aspects of the Approved Municipal Program, the Participating Municipalities shall extend and apply to LCRDC, and shall require LCRDC to also comply with, the provisions of Article IV and VI of the Allocation Agreement (except that, for the purpose of extending and applying Articles IV and VI LCRDC's administration of specific aspects of the Approved Municipal Program, the Participating Municipalities shall substitute references to "Participating Municipalities" in Articles IV and VI with references to "LCRDC") and substitute reference to OMB Circular A-87 in Section 4.2 with reference to OMB Circular A-122).

ANNEX 2

DISBURSEMENT
POLICIES AND PROCEDURES

This Annex 2 constitutes an integral part of the Allocation Agreement dated as of August 31, 2012, between the Treasury") and the Participating Municipalities.

1. Treasury Disbursement of Initial One-Third of Allocated Funds to the Participating Municipalities.

Treasury will promptly disburse the first one-third of the Allocation to the Participating Municipalities after each Participating Municipality executes the Allocation Agreement and Treasury receives the opinions required by Annex 6.

2. Subsequent Disbursements of Allocated Funds

Except as provided in paragraphs 2 and 3 herein, Treasury will disburse to the Participating Municipalities each successive one-third of the Allocation Funds after each Participating Municipality certifies to Treasury that it has expended, transferred, or obligated 80 percent of the last transferred one-third for federal contributions to, or for the account of, the Approved Municipal Program. Each Participating Municipality's certification shall be in the form attached hereto as Exhibit 2-1.

3. Authority to Withhold Disbursements Pending Audit

Treasury may withhold the Disbursement of any successive one-third of the Allocated Funds pending the results of a financial audit. Treasury will notify the Participating Municipalities of its decision to withhold such Disbursement.

4. Withholding or Suspending Payments

Notwithstanding any other provision contained in the Allocation Agreement, Treasury may, in its discretion, withhold or suspend making Disbursements to the Participating Municipalities for failure to comply with any term, agreement, covenant or condition of the Allocation Agreement. Treasury will generally

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resume making Disbursements to the Participating Municipalities upon the Participating Municipalities' subsequent compliance.

5. Cash Depositories

- (a) Disbursements shall be deposited and maintained in a United States Government-insured interest-bearing account whenever possible.
- (b) Consistent with the United States Government national goal of expanding opportunities for women-owned and minority-owned business enterprises, Treasury encourages the Participating Municipalities to use women-owned or minority-owned depository financial institutions (a depository financial institution which is owned at least 50 percent by women or minority group members).
- (c) The Participating Municipalities are not required to maintain a separate depository account for receiving Disbursements of Allocated Funds. If the Participating Municipalities maintain a single depository account where Allocated Funds are commingled with funds from other sources, the Participating Municipalities shall maintain on its books a separate subaccount for the Allocated Funds.

EXHIBIT 2-1

CERTIFICATION OF PERFORMANCE AND
REPRESENTATIONS AND WARRANTIES

United States Department of the Treasury
Main Treasury Building, Room 1310
1500 Pennsylvania Avenue
Washington, D.C. 20220

Reference is made to the Allocation Agreement dated as of August 31, 2012 (the "Allocation Agreement"), between the United States Department of the Treasury ("Treasury") and the Participating Municipalities. Capitalized terms used herein and not defined herein shall have the respective meanings ascribed to them in the Allocation Agreement.

This certification is delivered to Treasury pursuant to paragraph 2 ("Subsequent Disbursement Requests of Allocated Funds") of Annex 2 ("Disbursement Policies and Procedures") attached to the Allocation Agreement.

The undersigned, on behalf of each Participating Municipality, hereby makes the following certifications as of the date of this certification:

1. the Participating Municipality has performed and complied with all applicable terms, covenants, agreements and conditions required by the Allocation Agreement to be performed or complied with by it as of this date;
2. the representations and warranties set forth in the Allocation Agreement and in the Assurances (Non-Construction) contained as part of the Application are true and correct in all material respects;
3. the Participating Municipality has expended, transferred, or obligated 80 percent or more of the last disbursed one-third of Allocated Funds for federal contributions to, or for the account of, the Participating Municipality's Approved Municipal Programs; and
4. the authority of the undersigned to execute and deliver

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this certification on behalf of the Participating
Municipality is valid and in full force and effect.

By: _____
Name:
Title:

Date: _____

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

ANNEX 3

SCHEDULE

This Annex 3 constitutes an integral part of the Allocation Agreement dated as of August 31, 2012 between the Treasury and the Participating Municipalities.

Limitation on Use of Allocated Funds for Administrative Expenses

Each Participating Municipality may use its Allocation to pay both direct and indirect administrative costs incurred in carrying out the Approved Municipal Program subject to the aggregated limitations described in the table below.

Allocation	Maximum Amount Available to Pay for Direct and Indirect Administrative Costs
First One-Third (33%) or \$3,204,553	Five Percent (5%) or <u>\$160,228</u>
Second One-Third (33%) or \$3,204,553	Three Percent (3%) or <u>\$96,137</u>
Third One-Third (34%) or \$3,301,662	Three Percent (3%) or <u>\$99,050</u>

ANNEX 4

QUARTERLY USE-OF-FUNDS-REPORT

This Annex 4 constitutes an integral part of the Allocation Agreement dated as of August 31, 2012, between the "Treasury") and the Participating Municipalities. Capitalized terms used herein and not defined herein shall have the respective meanings ascribed to them in the Allocation Agreement.

As part of its quarterly reporting requirement, each Participating Municipality shall submit a certification in the form attached hereto as Exhibit 4-1.

EXHIBIT 4-1

CERTIFICATION ON USE-OF-ALLOCATED FUNDS

United States Department of the Treasury
Main Treasury Building, Room 1310
1500 Pennsylvania Avenue
Washington, D.C. 20220

Reference is made to:

the Allocation Agreement dated as of August 31, 2012 (the "Allocation Agreement"), between the United States Department of the Treasury ("Treasury") and the _____ (the "Participating Municipality"). Capitalized terms used herein and not defined herein shall have the respective meanings ascribed to them in the Allocation Agreement.

This certification is delivered to Treasury pursuant to Section 4.7 ("Quarterly Reports") of the Allocation Agreement.

The undersigned, on behalf of the Participating Municipality, hereby makes the following certifications as of the date of this certification:

1. the information provided by the Participating Municipality under Section 4.7 ("Quarterly Reports") of the Allocation Agreement on the use of Allocated Funds is accurate;
2. funds continue to be available and legally committed to contributions by the Participating Municipality to, or for the account of, Approved Municipal Programs, less any amount that has been contributed by the Participating State to, or for the account of, Approved Municipal Programs subsequent to the Participating Municipality being approved for participation in the State Small Business Credit Initiative;
3. the Participating Municipality is implementing its Approved Municipal Program or Programs in accordance with the Act and the regulations or other guidance issued by Treasury under the Act; and
4. the authority of the undersigned to execute and deliver this certification on behalf of the Participating

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Municipality is valid and in full force and effect.

By: _____

Name:

Title:

Date: _____

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ANNEX 5

REPORTING SCHEDULE FOR THE CONSORTIUM OF [INSERT]

Quarterly Report Due Dates	
Report for period covering:	Due Date:
August 31, 2012 through September 30, 2012	October 30, 2012
October 1, 2012 through December 31, 2012	January 30, 2013
January 1, 2013 through March 31, 2013	April 30, 2013
April 1, 2013 through June 30, 2013	July 30, 2013
July 1, 2013 through September 30, 2013	October 30, 2013
October 1, 2013 through December 31, 2013	January 30, 2014
January 1, 2014 through March 31, 2014	April 30, 2014
April 1, 2014 through June 30, 2014	July 30, 2014
July 1, 2014 through September 30, 2014	October 30, 2014
October 1, 2014 through December 31, 2014	January 30, 2015
January 1, 2015 through March 31, 2015	April 30, 2015
April 1, 2015 through June 30, 2015	July 30, 2015
July 1, 2015 through September 30, 2015	October 30, 2015
October 1, 2015 through December 31, 2015	January 30, 2016
January 1, 2016 through March 31, 2016	April 30, 2016
April 1, 2016 through June 30, 2016	July 30, 2016
July 1, 2016 through September 30, 2016	October 30, 2016
October 1, 2016 through December 31, 2016	January 30, 2017

Annual Report Due Date	
Report for period ending on:	Due Date:
December 31, 2012	March 31, 2013
December 31, 2013	March 31, 2014
December 31, 2014	March 31, 2015
December 31, 2015	March 31, 2016
December 31, 2016	March 31, 2017

ANNEX 6

DRAFT OPINION OF COUNSEL

[Treasury Will Generally Deem A Legal Opinion in this Form To Be Satisfactory Under Section 3.2 of the Allocation Agreement]

[Letterhead of Participating Municipality Counsel]

[Dated on or after the Date of the Allocation Agreement]

United States Department of the Treasury
ATTN: State Small Business Credit Initiative
Main Treasury Building
Room 1310
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Re: State Small Business Credit Initiative Allocation Agreement
Ladies and Gentlemen:

We have acted as counsel for [*Insert Name of Participating Municipality*] (the "Participating Municipality") in connection with the transactions contemplated by the State Small Business Credit Initiative Allocation Agreement for Participating Municipalities dated as of [*Insert Date of Allocation Agreement*], by and between the United States Department of the Treasury and the Participating Municipality (the "Agreement"). This opinion is furnished to you pursuant to Section 3.2 of the Agreement.

We have examined the Agreement and considered such questions of law as we have deemed appropriate. Based on the foregoing, it is our opinion that:

1. The Participating Municipality has designated [*Insert name of department, agency, or political subdivision*] to implement the Participating Municipality's Approved Municipal Program (as defined in Section 1.1 of the Agreement). [*Insert name of designated department, agency, or political subdivision*] is a [*Insert department, agency, or political subdivision*] of the Participating Municipality.

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2. The Participating Municipality has all requisite power and authority under the constitution and the laws of [*Insert name of Participating Municipality*] to execute and deliver this Agreement, to consummate the transactions contemplated by the Agreement, and to perform its obligations under the Agreement.

3. The execution and delivery by the Participating Municipality of the Agreement, the consummation by the Participating Municipality of the transactions contemplated under the Agreement, and the performance by the Participating Municipality of its obligations under the Agreement have been duly authorized by all necessary action on the part of the Participating Municipality.

4. The Agreement has been duly executed and delivered by the Participating Municipality, and constitutes the legal, valid, and binding obligation of the Participating Municipality enforceable in accordance with the terms of the Agreement.

5. The execution and delivery by the Participating Municipality of the Agreement, the consummation by the Participating Municipality of the transactions contemplated by the Agreement, and the performance by the Participating Municipality of its obligations under the Agreement do not and will not:

- (a) Conflict with or violate any existing law or administrative regulation, or any existing administrative or judicial decree or order; and
- (b) To the best of our knowledge, conflict with, result in a breach of, or constitute a default under any existing agreement or other instrument to which the Participating Municipality is subject or by which it is bound.

6. To the best of our knowledge, there is no lawsuit or judicial or administrative action, proceeding, or investigation pending or threatened against the Participating Municipality which is likely to have a material adverse effect on the ability of the Participating Municipality to perform its obligations under the Agreement.

This opinion letter is based on the laws of the [*Insert Name of Participating Municipality*] and the Federal laws of the United States. This opinion is solely for your benefit and may not be

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relied upon by any other person without our prior written consent.

ANNEX 7

SUBSEQUENT ANNUAL REPORTING

Section 4.8 of this Allocation Agreement references Annex 7 to determine the conditions under which Participating Municipalities are required to provide, in the annual report to be submitted to Treasury, data on private financing occurring after the loan/investment closing. Reporting this data for subsequent years allows the SSBCI to determine program effectiveness in achieving the Participating Municipalities' projected 10 to 1 private leveraging expectation across all Approved Municipal Programs and the projected 1 to 1 private leveraging requirement for each Approved Municipal Program that is an OCSP.

Section 3006(c) of the Act includes the following eligibility criteria referencing the 10 to 1 private leverage expectation for OCSPs: "For a Municipality other credit support program to be approved under this section, that program shall be required to be a program of the Municipality that... can demonstrate a reasonable expectation that, when considered with all other Municipal programs of the Municipality, such Municipality programs together have the ability to use the amount of new Federal contributions to, or for the account of, all such new programs in the Municipality to cause and result in amounts of new small business lending at least 10 times the new Federal contribution amount."

I. Definitions for use in this Annex. Terms used in this Annex that are not defined shall have the same meaning as in the Act and this Agreement.

Cumulative Private Leverage Ratio for all Approved Municipal Programs. "Cumulative Private Leverage for all Approved Municipal Programs" shall mean the result of dividing the Total Cumulative Private Financing Generated by all Approved Municipal Programs by the Total SSBCI Funds Used by all Approved Municipal Programs. This resulting weighted average is known as the Cumulative Private Leverage ratio formula which is outlined below and reflects the Participating Municipality's ability to meet its reasonable expectation of 10 to 1 leveraging to date.

Cumulative Private Leverage Ratio for Individual Approved

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OCSP Program. "Cumulative Private Leverage Ratio for Individual Approved OCSP Program" shall mean the result of dividing the Total Cumulative Private Financing Generated by the individual Approved OCSP Municipal Program by the Total SSBCI Funds Used by the individual Approved OCSP Municipal Program. This resulting figure is known as the Cumulative Private Leverage ratio formula which is outlined below and reflects the Participating Municipality's ability to meet its leveraging requirement of 1 to 1.

Total Cumulative Private Financing Generated by all Approved Municipal Programs. "Total Cumulative Private Financing Generated by all Approved Municipal Programs" shall mean cumulative sum, to date of the reporting, of all private financing across all Approved Municipal Programs across the multiple years of the programs. This includes all loans or investments from a private source to an eligible borrower or eligible portfolio company, whether occurring at or subsequent to loan/investment closing, and whether funded or unfunded. It encompasses equity investments, written commitments of future equity investments, term loans, lines of credit, and any new infusions of cash by the borrower.

Total Cumulative Private Financing Generated by the Individual Approved Municipal OCSP Program. "Total Cumulative Private Financing Generated by the Individual Approved Municipal OCSP Program" shall mean the cumulative sum, to date of the reporting, of all private financing associated with one particular Approved Municipal Program across the multiple years of this program. This includes all loans or investments from a private source to an eligible borrower or eligible portfolio company, whether occurring at or subsequent to loan/investment closing, and whether funded or unfunded. It encompasses equity investments, written commitments of future equity investments, term loans, lines of credit, and any new infusions of cash by the borrower.

Total Cumulative SSBCI Funds Used by all Approved Municipal Programs. "Total Cumulative SSBCI Funds Used by all Approved Municipal Programs" shall mean the sum of those SSBCI funds which are, to date of the reporting, (a) deposited with a lender to cover the federal SSBCI contributions to a CAP reserve fund, (b) disbursed or committed to a specific borrower as part of a loan participation, collateral support, or direct lending program, (c) set aside to cover obligations arising from

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individual loan guarantees, loan participations, or collateral support agreements to specific borrowers, or (d) invested or committed to be invested in specific businesses, pursuant to a venture capital investment. In the event that the sum of (a) plus (b) plus (c) plus (d) exceeds the Participating Municipality's original total allocation (because some of the funds invested have generated program income that has been added to allocated funds), the "Total SSBCI Funds Used by all Approved Municipal Programs" shall be the Participating Municipality's requested total allocation.

Total SSBCI Funds Used by the Individual Approved Municipal OCSP Program. "SSBCI Funds Used by the Individual Approved Municipal OCSP Program" shall mean the sum of those SSBCI funds which are, to date of the reporting (a) disbursed or committed to a specific borrower as part of a loan participation, collateral support, or direct lending program, and (b) set aside to cover obligations arising from individual loan guarantees, loan participations, or collateral support agreements to specific borrowers, and (c) invested or committed to be invested in specific businesses, pursuant to a venture capital investment. In the event that the sum of (a) plus (b) plus (c) exceeds the amount that the Participating Municipality's sub-allocation for that particular Approved Municipal OCSP Program (because some of the funds invested have generated program income that has been added to allocated funds), the "Total SSBCI Funds Used by all Approved Municipal Programs" shall be the Participating Municipality sub-allocation for that particular Approved Municipal OCSP Program.

II. Formulas for calculating leverage.

A. Calculating 10:1 Expectation.

Participating Municipalities calculate their leveraging for purposes of demonstrating a 10 to 1 ratio across all of their Approved Municipal Programs according to the following formula:

Cumulative Private Leverage Ratio for all Approved Municipal Programs = [Total Cumulative Private Financing Generated by all Approved Municipal Programs]/[Total Cumulative SSBCI Funds Used by all Approved Municipal Programs]

B. Calculating 1:1 Requirement for OCSPs.

Section 3006(c) also requires that each OCSP of a Participating Municipality demonstrate that, at a minimum, \$1 of public

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investment by the Municipality program will cause and result in \$1 of new private credit. Participating Municipalities calculate their leveraging for purposes of demonstrating the statutorily required 1 to 1 ratio within an individual OCSP according to the following formula:

Cumulative Private Leverage Ratio for Individual Approved Municipality OCSP Program = [Total Cumulative Private Financing Generated by the Individual Approved Municipality OCSP Program]/[SSBCI Funds Used by the Individual Approved Municipal OCSP Program]

III. When Must a Participating Municipality Report Subsequent External Financing?

Generally, Participating Municipalities shall include in each year's annual report transaction-level data only on loans and investments closed in the reporting period year. CAP loans will be reported only once because the design of CAPs is such that they exceed the 10 to 1 private leverage ratio in the same reporting period as their closing.

However, Participating Municipalities must also include in their annual report the amount of subsequent private financing (that is caused by or resulting from the initial OCSP loan or investment) for every previously closed OCSP loan or investment if Total Cumulative Private Financing Generated by all Approved Municipal Programs, as reflected in its annual report, is less than 10 to 1. (Please see Section IV of this Annex to determine if the subsequent private financing obtained by a company receiving an earlier loan or investment from an Approved Municipal Program can be considered "caused by or resulting from the initial OCSP loan or investment.")

Even if the Participating Municipality has achieved the 10 to 1 private leverage ratio in a given reporting year, if the Participating Municipality operates an Approved Municipal OCSP Program that has not met the 1 to 1 private leverage ratio required of individual OCSPs, the Participating Municipality must also include in its annual the amount of subsequent private financing (that is caused by or resulting for the initial OCSP loan or investment) for every previously closed loan or investment enrolled in the non-compliant Approved OCSP Municipal Program. This reporting on subsequent private investment associated with prior loans or investments must continue until that OCSP program has achieved the 1 to 1 private leverage

ratio. (Please see Section IV of this Annex to determine if the subsequent private financing obtained by a company receiving an earlier loan or investment from an Approved Municipal Program can be considered "caused by or resulting from the initial OCSP loan or investment.")

The Participating Municipality has the option to report subsequent financing for previously closed OCSP loans or investments if their Total Cumulative Private Financing Generated by all Approved Municipal Programs has already exceeded 10 to 1. Under these circumstances, reporting is not mandatory.

Please see Exhibit 7-1 for a flowchart summarizing how to determine whether a Participating Municipality must report subsequent private financing for OCSP loans and investments.

IV. When Is Subsequent Financing Caused by, or Resulting from, the Initial SSBCI-supported OCSP Financing?

Subsequent financing may be considered to be caused by, or resulting from, the initial SSBCI-supported OCSP financing when the initial SSBCI-supported OCSP financing increases the current and future creditworthiness of a company. If the Participating Municipality is required to report subsequent private financing, either for all OCSP programs or for a particular OCSP program, the Participating Municipality should record an amount greater than \$0 only when the subsequent private financing is caused by, or resulting from, the initial SSBCI-supported OCSP financing, based on the guidance provided below.

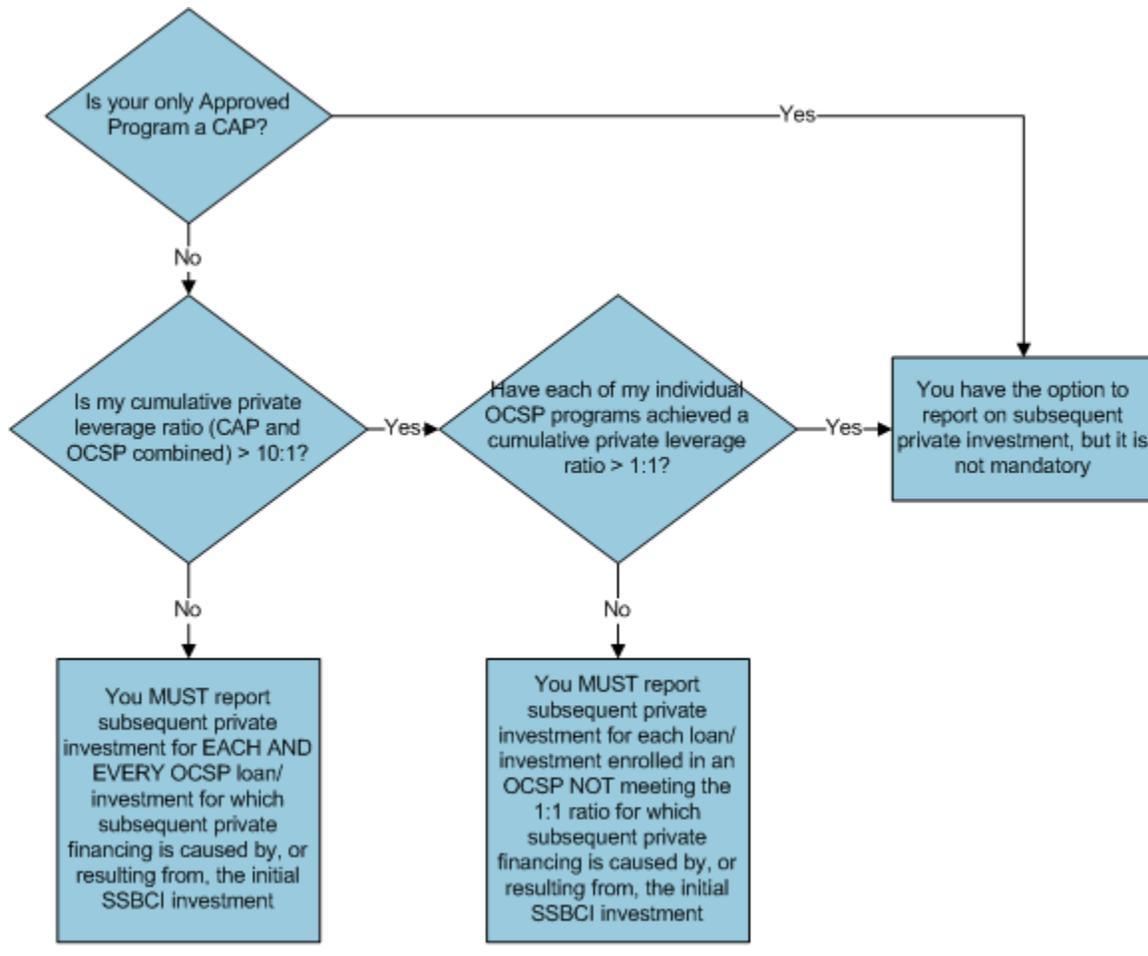
For example, some loans or investments made under venture capital programs, or direct loan or loan participation programs, satisfy this condition. By investing equity or subordinated debt, their financing can directly strengthen a company's balance sheet and allow it to (a) acquire assets that can collateralize a bank loan or (b) increase the cash available to service bank debt. The direct nexus between the initial SSBCI-supported loan/investment and subsequent private financing occurs only when the initial loan/investment is a form of subordinate, mezzanine or equity financing – in other words a form of financing that actually strengthens the company's balance sheet or that can be used to secure or repay debt. Therefore, Participating Municipalities should record subsequent private financing for venture capital investments, direct loans, or loans enrolled in loan participation programs only when the

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initial loan/investment involves subordinate, mezzanine, or equity financing.

Loan guarantee and collateral support programs, in contrast, are designed to reduce the current risk associated with funding a company with weaker collateral or cash flow projections. Generally, these types of programs do not directly add assets to a company's balance sheet that improve its creditworthiness for further loans or investments. For this reason, the Participating Municipality should record subsequent private financing for these types of investments as \$0, unless the Participating Municipality has received explicit permission from Treasury, based on Treasury's review of the structure of the Participating Municipality's program(s).

Exhibit 7-1 – Is my Municipality required to report on subsequent private financing?



ANNEX 8

Participating Municipalities

City of Almont

Designated Municipality Office: Office of the Mayor

Authorized Representative: Russell Kramer, Mayor

Authorized Representative Contact Information:

Mailing Address: P.O. Box 73
Almont, ND 58520

Email: lynne@westriv.com

Phone: 701-843-7589

City of Beach

Designated Municipality Office: Office of the Mayor

Authorized Representative: Walter Losinski, Mayor

Authorized Representative Contact Information:

Mailing Address: 153 East Main St.
P.O. Box 278
Beach, ND 58621-0278

Email: cityofbeach@midstate.net

Phone: 701-872-4103

City of Beulah

Designated Municipality Office: Office of the Mayor

Authorized Representative: Darrel Bjerke, Mayor

Authorized Representative Contact Information:

Mailing Address: P.O. Box 910
120 Central Ave., N
Beulah, ND 58523

Email: jpbeulah@westriv.com

Phone: 701-873-2110

City of Bismarck

Designated Municipality Office: Office of the Mayor

Authorized Representative: John Warford, President, Board of
City Commissioners

Authorized Representative Contact Information:

Mailing address: 221 North 5th Street

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PO Box 5503
Bismarck, ND 58506

Email: kbohrer@nd.gov
Phone: 701-355-1300

City of Bowman

Designated Municipality Office: Office of the Mayor
Authorized Representative: Lyn James, President, City Commission
Authorized Representative Contact Information:

Mailing address: P.O. Box 12
101 First St., NE
Bowman, ND 58623

Email: ljames@ndsupernet.com
Phone: 701-523-6972

City of Carson

Designated Municipality Office: Office of the Mayor
Authorized Representative: Donna Vandenburg, Mayor
Authorized Representative Contact Information:

Mailing address: 100 South Main St.
Carson, ND 58529

Email: donna.vandenburg@ndsu.edu
Phone: 701-622-3470

City of Casselton

Designated Municipality Office: Office of the Mayor
Authorized Representative: Edward McConnell, Mayor
Authorized Representative Contact Information:

Mailing address: P.O. Box 548
Casselton, ND 58012

Email: cassaudit@casselton.org
Phone: 701-347-4861

City of Crosby

Designated Municipality Office: Office of the Mayor
Authorized Representative: Leslie Bakken, Mayor
Authorized Representative Contact Information:

Mailing address: P.O. Box 67
Crosby, ND 58730

Email: snoot@nccray.com
Phone: 701-339-2884

City of Dickinson

Designated Municipality Office: Office of the Mayor
Authorized Representative: Dennis W. Johnson, President of City
Commission

Authorized Representative Contact Information:

Mailing address: 99 2nd Street East
Dickinson, ND 58601

Email: shawn.kessel@dickinsongov.com
Phone: 701-456-7744

City of Dodge

Designated Municipality Office: Office of the Mayor
Authorized Representative: Leonard J, Streifel, Mayor

Authorized Representative Contact Information:

Mailing address: 103 Highway 200 W
Dodge, ND 58625

Email: dodgend@hotmail.com
Phone: 701-846-7330

City of Dunn Center

Designated Municipality Office: Office of the Mayor
Authorized Representative: Scott Lynch, Mayor

Authorized Representative Contact Information:

Mailing address: 3 Main Street
Dunn Center, ND 58626

Email: dunncenter@ndsupernet.com
Phone: 701-548-8130

City of Fargo

Designated Municipality Office: Office of the Mayor
Authorized Representative: Dennis Walaker, Mayor

Authorized Representative Contact Information:

Mailing address: 200 3rd Street North
Fargo, ND 58102

Email: dwalaker@cityoffargo.com
Phone: 701-241-1308

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City of Garrison

Designated Municipality Office: Office of the Mayor

Authorized Representative: Shannon Jeffers, Mayor

Authorized Representative Contact Information:

Mailing address: PO Box 459
Garrison, ND 58540

Email: shannonw_jeffers@yahoo.com

Phone: 701-460-0923

City of Glen Ullin

Designated Municipality Office: Office of the Mayor

Authorized Representative: Ray Haverluk, Mayor

Authorized Representative Contact Information:

Mailing address: Box 70
Glen Ullin, ND 58631

Email: glenullinauditor@midconetwork.com

Phone: 701-348-3683

City of Halliday

Designated Municipality Office: Office of the Mayor

Authorized Representative: David Walth

Authorized Representative Contact Information:

Mailing address: 32 E. Main Street
Halliday, ND 58636

Email: cityofhalliday@ndsupernet.com

Phone: 701-938-4680

City of Hazelton

Designated Municipality Office: Board of City Commissioners

Authorized Representative: Melvin Fortner, President of
Commission

Authorized Representative Contact Information:

Mailing address: 342 Main Street
Hazelton, ND 58544

Email: cityofhazelton@bektel.com

Phone: 701-782-6878

City of Hazen

Designated Municipality Office: Board of City Commissioners

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Authorized Representative: Mark Nygard, President of the City Commission

Authorized Representative Contact Information:

Mailing address: 146 Main St., E
Box 717
Hazen, ND 58545

Email: hazennd@westriv.com
Phone: 701-748-2550

City of Hebron

Designated Municipality Office: Office of the Mayor

Authorized Representative: Grant Walth, Mayor

Authorized Representative Contact Information:

Mailing address: 620 Washington Avenue
Hebron, ND 58638

Email: hebron@westriv.com
Phone: 701-878-4600

City of Hettinger

Designated Municipality Office: Office of the Mayor

Authorized Representative: Steven Turner, Mayor

Authorized Representative Contact Information:

Mailing address: P.O. Box 569
602 Adams Ave.
Hettinger, ND 58638

Email: pcarroll@nd.gov
Phone: 701-567-4363

City of Killdeer

Designated Municipality Office: Board of City Commissioners

Authorized Representative: Dan Dolechek, Commission President

Authorized Representative Contact Information:

Mailing address: 165 Railroad St., SE
PO Box 270
Killdeer, ND 58640

Email: cityofkilldeer@killdeer.com
Phone: 701-764-5295

City of Lincoln

Designated Municipality Office: Office of the Mayor

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Authorized Representative: Robert Johnston, Mayor
Authorized Representative Contact Information:

Mailing address: 74 Santee
Lincoln, ND 58504

Email: cityoflincoln@midconetwork.com
Phone: 701-222-3504

City of Linton

Designated Municipality Office: Office of the Mayor
Authorized Representative: Timothy F. Volk, Mayor
Authorized Representative Contact Information:

Mailing address: PO Box 57
101 1st St NE
Linton, ND 58552

Email: cityoflinton@bektel.com
Phone: 701-254-4460

City of Mandan

Designated Municipality Office: Office of the Mayor
Authorized Representative: Arlyn VanBeek , Mayor
Authorized Representative Contact Information:

Mailing address: 205 2nd Ave, NW
Mandan, ND 58554

Email: jneubauer@cityofmandan.com
Phone: 701-667-3215

-City of McClusky

Designated Municipality Office: Office of the Mayor
Authorized Representative: Theresa Jorgenson, Mayor
Authorized Representative Contact Information:

Mailing address: PO Box 548
McClusky, ND 58463

Email: mcclusky@westriv.com
Phone: 701-363-2449

City of Minot

Designated Municipality Office: Office of the Mayor
Authorized Representative: Curt Zimbleman, Mayor
Authorized Representative Contact Information:

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

Mailing address: PO Box 5006
Minot, ND 58702

Email: jchavez@minotusa.com
Phone: 701-852-1075

City of Mott

Designated Municipality Office: Office of the Mayor
Authorized Representative: Troy Mosbrucker, Mayor
Authorized Representative Contact Information:

Mailing address: 202 East 3rd St
PO Box 116
Mott, ND 58646

Email: troy@ndsupernet.com
Phone: 701-874-2774

City of New England

Designated Municipality Office: Office of the Mayor
Authorized Representative: Marty Opdahl, Mayor
Authorized Representative Contact Information:

Mailing address: 9 E 7th St
New England, ND 58647

Email: jopddahl@ndsupernet.com
Phone: 701-483-3212

City of New Salem

Designated Municipality Office: Office of the Mayor
Authorized Representative: Lynette Fitterer, Mayor
Authorized Representative Contact Information:

Mailing address: PO Box 393
New Salem, ND 58563

Email: newsalem@westriv.com
Phone: 701-843-7828

City of Regent

Designated Municipality Office: Office of the Mayor
Authorized Representative:
Authorized Representative Contact Information:

Mailing address: City Hall, PO Box 86
Regent, ND 58650

Email: regentcity@ndsupernet.com Phone: 701-563-4454

City of Sentinel Butte

Designated Municipality Office: Office of the Mayor

Authorized Representative: Rick Olson, Mayor

Authorized Representative Contact Information:

Mailing address: 20 South West St
PO Box 187
Sentinel Butte, ND 58654

Email: cityofsb62@gmail.com
Phone: 701-218-0178

Standing Rock Sioux Tribe

Designated Municipality Office: Office of the Chairman

Authorized Representative: Charles W. Murphy, Chairman

Authorized Representative Contact Information:

Mailing address: Building 1 North Standing Rock Ave.,
PO Box D
Fort Yates, ND 58538

Email: cwmurphy@standingrock.org
Phone: 701-845-8500

City of Steele

Designated Municipality Office: Office of the Mayor

Authorized Representative: Murray Strom, Mayor

Authorized Representative Contact Information:

Mailing address: PO Box 346
Steele, ND 58482

Email: cityofsteele@bektel.com
Phone: 701-475-2805

City of Turtle Lake

Designated Municipality Office: Office of the Mayor

Authorized Representative: Richard Britton, President, Board of
City Commissioners

Authorized Representative Contact Information:

Mailing address: PO Box 338
Turtle Lake, ND 58575

Email: cityttl@westriv.com
Phone: 701-448-2596

City of Underwood

Designated Municipality Office: Office of the Mayor
Authorized Representative: Rick Olson, President, Board of City
Commissioners
Authorized Representative Contact Information:

Mailing address: 88 Lincoln Avenue
PO Box 368
Underwood, ND 58576

Email: rolson@westriv.com
Phone: 701-442-5683

City of Watford City

Designated Municipality Office: Office of the Mayor
Authorized Representative: Brent Sanford, President, Board of
City Commissioners
Authorized Representative Contact Information:

Mailing address: 213 2nd St, NE
PO Box 494
Watford City, ND 58854

Email: brent@sansmotorsinc.com
Phone: 701-444-2533

City of West Fargo

Designated Municipality Office: Office of the Mayor
Authorized Representative: Rich Mattern, Mayor
Authorized Representative Contact Information:

Mailing address: 800 4th Avenue East,
West Fargo, ND 58078

Email: mayor@westfargond.gov
Phone: 701-433-5300

City of Williston

Designated Municipality Office: Office of the President of the
City Commission
Authorized Representative: Ward Koeser, President, Board of City
Commissioners
Authorized Representative Contact Information:

(STATE SMALL BUSINESS CREDIT INITIATIVE ACT OF 2010)

Mailing address: PO Box 1306
Williston, ND 58802

Email: johnk@ci.williston.nd.us
Phone: 701-577-8100

City of Wilton

Designated Municipality Office: Office of the Mayor

Authorized Representative: Ron Peck, President, Board of City
Commissioners

Authorized Representative Contact Information:

Mailing address: PO Box 278
Wilton, ND 58579

Email: wiltonnd@bektel.com
Phone: 701-734-6707

August 31, 2012

United States Department of the Treasury
Attn: State Small Business Credit Initiative
Main Treasury Building
Room 1310
1500 Pennsylvania Avenue NW
Washington, DC 20220

Re: State Small Business Credit Initiative Allocation Agreement

Ladies and Gentlemen:

We are the duly appointed and have acted as counsel for the City of Mandan (the “Participating Municipality”) in connection with the transactions contemplated by the State Small Business Credit Initiative Allocation Agreement dated as of August 31, 2012, by and between the United States Department of the Treasury and the Participating Municipality (the “Agreement”). This opinion is furnished to you pursuant to Section 3.2 of the Agreement.

We have examined the Agreement and considered such questions of law as we have deemed appropriate. Based on the foregoing, it is our opinion that:

1. The Participating Municipality has designated the Office of the Mayor to implement the Participating Municipality’s Approved Program (as defined in Section 1.1 of the Agreement). The City of Mandan is a political subdivision of the State of North Dakota.
2. The Participating Municipality acknowledges that the City of Mandan will serve as the lead municipality which has voluntarily taken responsibility for compiling and transmitting to Treasury the documents from the Participating Municipality required under Section 3.4, 4.7, and 4.8 of the Agreement.

3. The Participating Municipality has all requisite power and authority under the constitution and the laws of the State of North Dakota, to execute and deliver this Agreement, to consummate the transactions contemplated by the Agreement, and to perform its obligations under the Agreement.

4. The execution and delivery by the Participating Municipality of the Agreement, the consummation by the Participating Municipality of the transactions contemplated under the Agreement, and the performance by the Participating Municipality of its obligations under the Agreement have been duly authorized by all necessary action on the part of the Participating Municipality.

5. The Agreement has been duly executed and delivered by the Participating Municipality, and constitutes the legal, valid, and binding obligation of the Participating Municipality enforceable in accordance with the terms of the Agreement.

6. The execution and delivery by the Participating Municipality of the Agreement, the consummation by the Participating Municipality of the transactions contemplated by the Agreement, and the performance by the Participating Municipality of its obligations under the Agreement do not and will not:

- (a) Conflict with or violate any existing law or administrative regulation, or any existing administrative or judicial decree or order; and
- (b) To the best of our knowledge, conflict with, result in a breach of, or constitute a default under any existing agreement or other instrument to which the Participating Municipality is subject or by which it is bound.

7. To the best of our knowledge, there is no lawsuit or judicial or administrative action, proceeding, or investigation pending or threatened against the Participating Municipality which is likely to have a material adverse effect on the ability of the Participating Municipality to perform its obligations under the Agreement.

This opinion letter is based on the laws of the Participating Municipality, the State of North Dakota and the Federal laws of the United States. This opinion is solely for your benefit and may not be relied upon by any other person without our prior written consent.

(Signature of Counsel)

COOPERATIVE JOINT POWERS AGREEMENT

This Cooperative Joint Powers Agreement, made as of this ____ day of _____, 2012, by and between the City of Mandan, North Dakota (Lead Municipality) and the City of _____, North Dakota (Participating Municipality), in execution of programs implemented under an application to the United States Department of the Treasury for the State Small Business Credit Initiative.

WHEREAS, Lead Municipality and Participating Municipality submitted an Application to the United States Department of the Treasury for the State Small Business Credit Initiative (SSBCI) on April 13, 2012; and

WHEREAS, The Department of the Treasury, in connection with said Application, requires that the Participating Municipalities enter into a Cooperative Joint Powers Agreement (õAgreementö) outlining the internal allocation of funds received and the role and responsibility of the Lead Municipality and Participating Municipality with regard to participation in the SSBCI. It is intended that this Agreement, as executed between the parties, will constitute an agreement between all Participating Municipalities, jointly and severally. (See attached Exhibit õAö for a list of all Participating Municipalities).

WHEREAS, The Participating Municipalities are authorized by Chapters 54-40 and 54-40.2, N.D.C.C., to enter into a Joint Powers Agreement.

NOW, THEREFORE, Lead Municipality and Participating Municipality (hereafter jointly) agree as follows:

ADMINISTRATION:

Lead Municipality will be the recipient of all funds awarded to the consortium based on the combined represented population. Each Participating Municipality will contract with the Lewis & Clark Regional Development Council (LCRDC), an entity authorized by Chapter 54-40.1, N.D.C.C., for administration of a loan participation program. To the extent, not inconsistent with this Agreement, the terms of the State Small Business Credit Initiative Allocation Agreement and LCRDC administrative contract are incorporated herein.

The Lead Municipality will deposit the United States Department of the Treasury disbursement of allocated funds in a segregated FDIC insured bank account. Leading Municipality shall retain any interest earned on this account. Should this interest accumulate to more than \$250 per calendar year, the Leading Municipality shall remit the

interest to the U.S. Department of Health and Human Services.

The LCRDC, under a contract for the provision of certain administrative functions on behalf of the Participating Municipalities with the Lead Municipality and Participating Municipality, will submit invoices to the City of Mandan for allowable expenses related to administration of the Loan Participation Program. LCRDC will draw funds as needed for approved loans. LCRDC will set up a FDIC insured account and all loan re-payments will be deposited into that account. LCRDC will use that account to fund all loan requests on revolved funds.

All funds for all Participating Municipalities will be pooled and made available via loans to businesses in the participating municipalities or that benefit the participating municipalities. No funds will be set aside for use in any particular participating municipality, but rather will be available to qualified business applicants in a participating municipality on a first-come, first-serve basis.

Participating Municipalities authorized official (or its designated representative) will oversee the management, reviews and reporting required by the Allocation Agreement. The Participating Municipality will ensure that it provides sufficient information so that the LCRDC files accurate, complete and timely reports with the City of Mandan for submittal to the United States Department of the Treasury on a quarterly and annual basis or as otherwise required in the Allocation Agreement. Each Participating Municipality will insure that all records are maintained pursuant to Section 4.13 of the Allocation Agreement.

The City of Mandan, as the "Lead Municipality" will be reimbursed by the LCRDC from funds set aside for administration purposes for actual staff time and costs expended for assembling information and documentation on behalf of other municipalities, such as quarterly and annual reports or any other information required by the U.S. Department of the Treasury as part of the allocation agreement. The City of Mandan will also be reimbursed for any audit expenses associated with the SSBCI funds within allowable SSBCI administrative caps.

Each Participating Municipality will appoint a representative to a steering committee. The steering committee will provide direction on the Participating Municipalities' implementation of the Loan Participation Program.

The steering committee will also appoint a 15 member loan committee consisting of:

- 1 member from each municipality with a population greater than 10,000
- 1 additional member for each additional 30,000 of population from municipalities with populations greater than 10,000

- 3 members elected by the remaining municipalities and Indian Tribes.

Re-appointment to fill vacancies shall be as stated above.

The loan committee membership will have two year terms, will be experienced in commercial lending, venture capital investing, business start-up and expansion and economic development.

NO REIMBURSEMENT FOR TRAVEL EXPENSES:

No consortium member, nor their representatives, will be reimbursed for any travel expenses associated with participating in meetings of the steering committee and the loan committee without prior authorization from the steering committee. Travel expenses may be considered for participation in U.S. Treasury Department hosted conferences for SSBCI participants upon approval of the steering committee.

RESPONSIBILITIES - OVERSIGHT:

The Participating Municipality will take steps to ensure that the LCRDC has adequate internal controls and compliance mechanisms and systems over the course of the allocation period to administer the loan participation program. The Participating Municipality will also ensure that the LCRDC maintains the operational and financial capacity to deliver on the consortium's program goals. Specifically:

É The Participating Municipality's authorized representatives will be responsible for reviewing quarterly and annual reports for accuracy and completeness, and compliance with the requirements of the Small Business Job Act, Pub. L. 111-240, and the allocation agreement prior to submission to the Treasury.

É The Participating Municipality will maintain records of reports and financial documents provided by the contractor, including those required to verify the eligibility of loans and program expenditures. The Participating Municipality will also maintain records related to the performance of the LCRDC.

É An annual meeting of the steering committee will be held for purposes of reviewing the annual audit report, other financial reports, and a performance appraisal of the LCRDC to assure sound management of programs, appropriate risk management, adequate financial record-keeping and thorough reporting.

É In the event that the committee identifies deficiencies in the performance or financial capacity of LCRDC, the steering committee will set forth a plan of corrective action and a timeline for compliance that is

commensurate with the nature of any such findings. If LCRDC fails to correct the deficiency the consortium, with a 2/3rds majority vote of the steering committee, will take corrective action up to and including termination of the contract for services. The consortium will submit a written request to the U.S. Treasury Department for approval of any modification.

É The loan committee will have the responsibility of conducting an annual performance appraisal of the LCRDC as the contractor and administrator for implementation of the loan participation program. The loan committee will provide a summary of the performance appraisal with a recommendation as to the continuation of the implementation contract to the steering committee at its annual meeting. A 2/3rds majority vote of the steering committee membership would be required for any change in contractor again subject to written request and approval from the U.S. Treasury Department.

RESPONSIBILITIES - MARKETING & PUBLIC OUTREACH:

Participating Municipalities will publicize information about SSBCI programs through means such as municipal or community-based websites and newsletters. Participating Municipalities will seek assistance in publicizing program information from allied organizations in their communities, such as economic development organizations, job development authorities, and chambers of commerce. Participating Municipalities will make program information available at public locations such as city halls, public libraries, Small Business Development Centers, SCORE offices, economic development organizations, chambers of commerce, and career centers at institutions of higher learning including tribal colleges.

Participating Municipalities will report public information and outreach activities for SSBCI programs to the LCRDC for annual tracking and monitoring purposes.

DE-FEDERALIZATION/DISBURSEMENT OF FUNDS ON APRIL 1, 2017:

The steering committee will meet in the first quarter of 2017, and annually thereafter, to make a recommendation regarding the future of the funds and programs.

The steering committee may, with a simple majority vote, approve disbursement of excess revenues over expenses to the members of the consortium. Such disbursements will be based upon the audited financial statement for the SSBCI program of LCRDC. Disbursement amount will be at the discretion of the steering committee, however, cannot exceed the total excess revenue over expenses for the period. Disbursements will be distributed pro rata to the participants based upon member population at the 2010 census, less 10% paid to the LCRDC.

The steering committee may, with a 2/3rds majority vote, approve dissolution of the Loan Participation Program. Dissolution of the liquid assets will occur within 60 days of written notice to LCRDC. Upon notification of the intent to dissolve, LCRDC will cease to close any loans. Dissolution will be based upon the audited financial statement for the SSBCI program of LCRDC. Dissolution of the remaining assets, including, but not limited to, loans receivable will be distributed to the members on an annual basis. Disbursement will be based upon the liquid assets of the fund at each fiscal year end and will be based upon the audited financial statements of LCRDC. Dissolution will continue on an annual basis until all loans are collected and disbursed to the members. Disbursements will be distributed pro rata to the participants based upon member population at the time of program approval, less 10% of that paid to LCRDC.

MISCELLANEOUS:

This Agreement is not intended to create any financial obligation on a Participating Municipality. Each Participating Municipality is entitled to participate or not in the loan funds of this Initiative.

TERMINATION:

No Participating Municipality may withdraw from this Agreement without a majority vote from the Steering Committee and consent of the United States Department of the Treasury. In the event a Participating Municipality does not participate in loan activity, or fails to comply with reporting requirements of the Allocation Agreement, it may be terminated from this Agreement by a majority vote of the Steering Committee and consent of the United States Department of the Treasury.

(Signature page separate)

(Signature Page)

LEAD MUNICIPALITY:

CITY OF MANDAN

By: _____
Its _____

PARTICIPATING MUNICIPALITY:

CITY OF _____

By: _____
Its _____

COOPERATIVE JOINT POWERS AGREEMENT

Annex A

Municipalities or Tribe (listed alphabetically)	Population (2010 Census)
1. Almont city	122
2. Beach city	1,019
3. Beulah city	3,121
4. Bismarck city	61,272
5. Bowman city	1,650
6. Carson city	293
7. Casselton city	2,329
8. Crosby city	1,070
9. Dickinson city	17,787
10. Dodge city	87
11. Dunn Center city	146
12. Fargo city	105,549
13. Garrison city	1,453
14. Glen Ullin city	807
15. Halliday city	188
16. Hazelton city	235
17. Hazen city	2,411
18. Hebron city	747
19. Hettinger city	1,226
20. Killdeer city	751
21. Lincoln city	2,406
22. Linton city	1,097
23. Mandan city	18,331
24. McClusky city	380
25. Minot city	40,888
26. Mott city	721
27. New England city	600
28. New Salem city	946
29. Regent city	160
30. Sentinel Butte city	56
31. Standing Rock Sioux Tribe	4,153
32. Steele city	715
33. Turtle Lake city	581
34. Underwood city	778
35. Watford City city	1,744
36. West Fargo city	25,830
37. Williston city	14,716
38. Wilton city	711
TOTAL	317,076

CONTRACT FOR ADMINISTRATIVE SERVICES

WHEREAS, the Consortium of Cities led by the City of Mandan (hereinafter the "Consortium") has applied for funding through the United States Department of Treasury's State Small Business Credit Initiative (hereinafter "SSBCI").

WHEREAS, the Consortium does not have the personnel necessary to provide all management, marketing, packaging, processing, closing, servicing and reporting actions it will be required to provide under the SSBCI.

WHEREAS, it is the desire of the Consortium to contract with Lewis and Clark Regional Development Council (hereinafter the "Council") for the delivery of such management, marketing, packaging, processing, closing, servicing and reporting activities.

NOW THEREFORE for good and valuable consideration, the Consortium and the Council covenant and agree as follows:

1. This agreement will be for a term of five (5) years, commencing as of the date set forth below. This agreement will renew automatically for successive one year terms until terminated under Section 13 below.

2. The Consortium shall have the sole responsibility and discretion in determining all activities to be undertaken pursuant to the SSBCI and in establishing guidelines, goals and/or performance criteria with respect to the same.

3. The management, marketing, packaging, processing, closing, servicing and reporting activities (hereinafter referred to as "services") to be provided to the Consortium by the Council under contract, may include those activities detailed in Exhibit A annexed hereto. The employees

of the Council delivering services pursuant to contract with the Consortium and the compensation are detailed in Exhibit A annexed hereto.

4. The Council, which is the actual employer of the individuals providing services under the contract, shall be responsible for payment of all salaries, benefits, taxes, workers compensation insurance premiums, etc. for said employees. The Consortium shall have no liability or obligation for such salaries, benefits, taxes, workers compensation insurance premiums, etc.

5. All requirements and stipulations of the State Small Business Credit Initiative Act of 2010 (öAct). Specifically:

- **Compliance with Government Requirements.** In carrying out its responsibilities pursuant to this Agreement, Council shall comply with the Act, Treasury regulations or other requirements prescribed by Treasury pursuant to the Act, and applicable provisions of the grants management common rule referenced in the attachment to OMB Circular A-102 (öGrants and Cooperative Agreements with State and Local Governmentsö), which are incorporated herein by reference. The Council also shall comply with all applicable Federal, State, and local laws, regulations, ordinances, and OMB Circulars, including, but not limited to, the regulations at 31 C.F.R. Part 21, related to lobbying.
- **Authorized Uses of Allocated Funds/Allowable Costs.** The Council shall only use the Allocated Funds for the purposes and activities specified in this Agreement including, but not limited to, the Schedule contained in Annex 3 Exhibit C attached hereto, which is incorporated herein by reference, and for paying allowable costs of those purposes and activities in accordance with the cost principles set forth in OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments) and codified in 2 C.F.R. Part 225.
- **Authorized Uses of Program Income.** The Council shall add Program Income to the Allocated Funds, and shall use such Program Income for the same purposes and under the same conditions as the Allocated Funds.
- **Restrictions on the Use of Allocated Funds and Program Income.**
 - (a) Council shall not use any Allocated Funds in a manner other than as authorized hereunder, without the prior written approval of Treasury.
 - (b) Council shall not use any Allocated Funds to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or Local Government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or Local Government contract, grant, loan or cooperative agreement as such terms are defined in 31 U.S.C. §1352.
 - (c) No member of or delegate to the United States Congress or resident U.S. Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise here from.
 - (d) Council shall not use any Allocated Funds to pay any costs incurred in connection with
 - (i) any defense against any claim or appeal of the United States Government, any agency or instrumentality thereof (including Treasury), against the Participating Municipality, or
 - (ii) any prosecution of any claim or appeal against the United States Government, any agency or instrumentality thereof (including Treasury), which the Council instituted or in which the Council has joined as a claimant.
 - (e) Council shall not use any Allocated Funds for loans used to finance, in whole or in part, business activities prohibited by Treasury regulations, including Treasury regulations promulgated after the date of this Allocation Agreement and the SSBCI Policy Guidelines as published by Treasury on its website at www.treasury.gov/ssbcj.
 - (f) Council may not use Allocated Funds outside the geographic borders of the Participating Municipalities unless the Authorized Municipal Official or chief executive of the Participating Municipality warrants, in

writing, that the loan or investment will result in significant economic benefit to the Participating Municipality.

- **Commencement of Performance.** Council shall be fully positioned within 90 days of the date of this Agreement to act on providing the type of credit support that the Approved Municipal Program was established to provide using the Allocated Funds.
- **SSBCI Policy Guidelines, National Standards and Internal Control and Financial Management System Requirements.**
 - (a) Council shall comply with the SSBCI Policy Guidelines published by Treasury on its website at www.treasury.gov/ssbci, including any SSBCI Policy Guidelines and national standards that are established by Treasury after the date of this Allocation Agreement.
 - (b) Council shall comply with the standards for financial management systems, including internal control requirements, specified in the grants management common rule at § __.20. Notwithstanding the foregoing, the cash management requirements in § __.20(b)(7) of the grants management common rule shall not apply to the Council.
- **Quarterly Reporting.** The council shall insure that within 30 days after the end of each quarterly reporting period (excluding the quarterly reporting period ending on the expiration date of this Allocation), the Participating Municipalities shall deliver to Treasury a quarterly report, which shall be signed by each of the Participating Municipalities' Authorized Municipal Official. The reporting period covered by, and the due date for, each quarterly report are listed in Annex 5 attached hereto. Each report shall be in such form as Treasury may, from time to time prescribe, and shall consist of the following information:
 - (a) A report on the use of Allocated Funds for each Approved Municipal Program on both a quarterly and accumulative basis, including the total amount of Allocated Funds used for direct and indirect administrative costs, the total amount of Allocated Funds used, the amount of Program Income generated, and the amount of charge-offs against the Federal contributions to the reserve funds set aside for any Approved Capital Access Programs; and
 - (b) A certification in the form prescribed in Annex 4 of Exhibit C.
- **Annual Reports.** Council shall insure:
 - (a) For CAPs and OCSFs other than venture capital programs, by March 31 of each year, beginning March 31, 2013, the Participating Municipalities shall submit to Treasury an annual report, for the prior calendar year ending December 31st, which shall be signed by each Authorized Municipal Official, in such form as Treasury may from time to time prescribe, that contains the following information for each loan, indicating the SSBCI-approved loan program in which the loan is enrolled (e.g. capital access program, loan guarantee, loan participation, direct loan, collateral support):
 1. A unique loan identifier number, the census tract and zip code of the borrower's principal location in the municipality;
 2. The lending institution's name and Employer Identification Number (EIN);
 3. The total amount of principal loaned/authorized as a line of credit, and of that amount, the portion that is from non-private sources;
 4. Date of initial disbursement;
 5. For CAP loans, the insurance premiums paid by the borrower, the lender, and the Participating Municipalities; or for loans in which the Participating Municipalities are participating, the amount of the participation; or for loans guaranteed by the Participating Municipalities, the amount of loan guarantee provided by the SSBCI recipient and the amount of funds set aside by the Participating Municipalities to cover the loan guarantee; or for loans for which the Participating Municipalities provide collateral support, the amount of collateral support provided and the amount of funds set aside by the Participating Municipalities to cover the collateral support obligation;
 6. The borrower's annual revenues in the last fiscal year;
 7. The borrower's Full Time Equivalent (FTE) employees;
 8. The 6-digit North American Industry Classification System (NAICS) code for the borrower's industry;
 9. The year the borrower's business was incorporated; and
 10. The estimated number of jobs created or retained as a result of the loan.
 11. The amount of additional private financing occurring after the loan closing, if required under the provisions of Annex 7 of Exhibit C.

All data elements (1) through (10) shall be reported only in the annual report covering the period in which the loan was made. If required under the provisions of Annex 7 of Exhibit C, the Participating Municipalities will provide the data required in (11) for the periods specified in Annex 7 of Exhibit C.

(b) For OCSF venture capital programs, by March 31 of each year, beginning March 31, 2013, each Participating Municipality shall submit to Treasury an annual report, for the year ending December 31st, which shall be signed by each Authorized Municipal Official, in such form as Treasury may from time to time prescribe, that contains the following information for each investment in an eligible small business, indicating the SSBFI -approved venture capital program:

1. A unique investment identifier number, the census tract and zip code of the investee's principal location in that state;
2. The State Small Business Credit Initiative approved program in which the venture capital investment is enrolled;
3. The total amount of venture capital and other financing invested or loaned, and of that amount, the portion that is from non-private support;
4. The amount of venture capital provided by the Approved Municipal venture capital fund program;
5. Date of initial disbursement;
6. The business's annual revenues in the last fiscal year;
7. The business's Full Time Equivalent (FTE) employees;
8. The 6-digit North American Industry Classification System (NAICS) code for each business's industry;
9. The year the business was incorporated; and
10. The estimated number of jobs created and the estimated number of jobs retained as a result of the investment;
11. The amount of additional private financing occurring after the investment closing, if required under the provisions of Annex 7 of Exhibit C.

All data elements (1) through (10) shall be reported only in the annual report covering the period in which the investment was made. If required under the provisions of Annex 7 of Exhibit C, each Participating Municipality will provide the data required in (11) for the periods specified in Annex 7 of Exhibit C.

(c) The Participating Municipalities shall also provide detailed information on any qualifying loan or swap funding facility and information on aggregate loan losses.

(d) For the final annual report due on March 31, 2017, a summary of the performance results of this Allocation, including a narrative of how or the extent to which the purpose of this Allocation, as described in Annex 1 attached hereto, was accomplished using Allocated Funds. In addition, each Authorized Municipal Official shall attach to the Participating Municipalities' annual report a completed and executed Federal Financial Report, SF-425. The due dates for the submission of the annual reports are listed in Annex 5 attached hereto. Treasury may require the Participating Municipalities to submit this report using an electronic reporting system.

- **Access to Records of and Certifications from Financial Institutions.** Before providing any loan, loan guarantee, or other financial assistance using Allocated Funds to a financial institution or any other private entity, the Council shall obtain the following:
 - (a) the binding written agreement of the financial institution or other private entity to make available to the Treasury Inspector General all books and records related to the use of the Allocated Funds, subject to the Right to Financial Privacy Act (12 U.S.C. § 3401 et seq.), including detailed loan records, as applicable;
 - (b) a certification from the financial institution that the financial institution is in compliance with the requirements of 31 C.F.R. § 103.121; and
 - (c) a certification from the private entity, including any financial institution, that the Principals of such entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).

- **Notices of Certain Material Events.** The Council shall promptly notify Treasury in writing in reasonable detail of any of the following events:
 - (a) any proceeding instituted against Council in, by or before any court, governmental or administrative body or agency, which proceeding or its outcome could have a material adverse effect upon the operations, assets or properties of the Council;
 - (b) any material adverse change in the condition, financial or otherwise, or operations of any Council;
 - (c) the occurrence of any event described in Sections 6.1 and 6.2 of Allocation Agreement (General Events of Default and Specific Events of Default);
 - (d) problems, delays, or adverse conditions, real or anticipated, that will materially impair any Participating Municipality's ability to accomplish the purpose of this Allocation set forth in Annex 1 of Exhibit C attached hereto, with a description of actions taken or contemplated to be taken, and any assistance needed to resolve the situation;
 - (e) deviations from the annual schedule submitted by the Participating Municipalities under Section 4.8 apportioning Allocated Funds among the Approved Municipal Programs if the deviations will result in the need for additional funding from any third party to accomplish the purpose of this Allocation set forth in Annex 1 of Exhibit C attached hereto; and
 - (f) favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.
 - (g) any material change to the Cooperative Agreement referenced in Section 3.2 which includes, but is not limited to the addition or withdrawal of any municipality from the Cooperative Agreement, changes in any governance structure of the Cooperative Agreement, or change in the relationship to the administering entity in the Cooperative Agreement.
- **High Risk.** Notwithstanding the foregoing, Treasury may unilaterally increase the frequency and the scope of Participating Municipalities' reporting requirements if Treasury finds the Participating Municipalities to be high risk in accordance with the grants management common rule at § __.12.
- **Subgrants.** The Council shall not make any Subgrants using Allocated Funds without the prior written approval of Treasury.
- **Retention of Records.** The Council shall retain all original financial records, supporting documents, statistical records, and all other records pertinent to the Allocation for a period of three years from the date of submission of the final quarterly report under Section 4.7 herein, except as otherwise provided in the grants management common rule at § __.42. Council shall provide convenience copies to Participating Municipalities through USPS mail, courier service, facsimile or electronic mail.
- **Right to Inspect, Audit and Investigate.** Treasury, the Treasury Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of the Council that are pertinent to the Allocation, in order to make audits, investigations, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to the Council's personnel for the purpose of interview and discussion related to such documents. This right of access shall last as long as records are retained, except that Treasury's right of access expires on September 27, 2017.

TERMINATION FOR CAUSE AND OTHER REMEDIES

- **General Events of Default.** In the event that either: (a) any representation, warranty, certification, assurance or any other statement of fact contained in this Agreement or the Application of any Participating Municipality including, but not limited to, the Assurances (Non-Construction) contained as part of the Application, or any representation or warranty set forth in any document, report, certificate, financial statement or instrument now or hereafter delivered to Treasury in connection with this Agreement, is found to be inaccurate, false, incomplete or misleading when made, in any material respect; or (b) any Participating Municipality materially fails to observe, comply with, meet or perform any term, covenant, agreement or other provision contained in this Agreement including, but not limited to, any Participating Municipality's failure to submit complete and timely quarterly reports or annual reports, or any Participating Municipality ceases to use the Allocated Funds to undertake the activities authorized in Annex 1 of Exhibit C attached hereto; Treasury, in its sole discretion, may find any or all of the Participating Municipalities to be in default.
- **Discretionary Remedies.** If Treasury finds any Participating Municipality to be in default under Section 6.1 of the Allocation Agreement, Treasury may, in its sole discretion take any one or more of the following actions, subject to Section 6.6 of the Allocation Agreement:
 - (a) withhold Disbursements pending the Participating Municipalities' correction of the default; or

(b) wholly or partly reduce, suspend, or terminate the commitment of Treasury to make Disbursements to the Participating Municipalities under the Allocation Agreement, whereupon the commitment of Treasury to make Disbursements to any or all Participating Municipalities under the Allocation Agreement will be reduced, suspended, or terminated, as the case may be.

- **Specific Events of Default.** In the event of a Treasury Inspector General audit finding of either:
 - (a) intentional or reckless misuse of Allocated Funds by any Participating Municipality; or
 - (b) any Participating Municipality having intentionally made misstatements in any report issued to Treasury under the Act; Treasury shall find any or all the Participating Municipalities to be in default.
- **Mandatory Remedies.** If Treasury finds the Participating Municipalities to be in default under Section 6.3 of the Allocation Agreement, Treasury shall take the following actions:
 - (a) in the case of an event of default under Section 6.3 of the Allocation Agreement
 - (a), recoup any misused Allocated Funds that have been disbursed to the Participating Municipalities; or
 - (b) in the case of an event of default under Section 6.3(b) of the Allocation Agreement, terminate the commitment of Treasury to make Disbursements to the Participating Municipalities under this Agreement, and find the Municipalities ineligible to receive any additional funds under the Act, whereupon the commitment of Treasury to make Disbursements to the Participating Municipalities under this Agreement will be terminated and the Municipalities will be ineligible to receive any additional funds under the Act.
- **No Waiver.** No delay or failure by Treasury in the exercise of any right, power, or remedy accruing upon the occurrence of any event described in Section 6.1 or Section 6.3 of the Allocation Agreement shall impair any such right, power, or remedy, or be construed to be a waiver of or acquiescence in such event, nor shall any abandonment or discontinuance of steps taken to exercise any right, power or remedy preclude any further exercise hereof.
- **Prior Notice to Participating Municipalities of Exercise of Remedies.** Prior to exercising or imposing any remedy contained in Section 6.2 other than a withholding of a Disbursement(s) under Section 6.2(a) of the Allocation Agreement, Treasury will, to the maximum extent practicable, provide the Participating Municipalities with written notice of the event(s) described in Section 6.1 of the Allocation Agreement and the proposed remedy. Treasury's written notice will give the Participating Municipalities 10 calendar days from the date of the notice to respond. Treasury may, in its sole discretion, also afford the Participating Municipalities 20 calendar days from the date of the notice to correct the event. If the Participating Municipalities fail to correct the event within either the 10 calendar day response time or, if applicable, the 20 calendar day correction or cure period, Treasury may, in its sole discretion, impose or exercise the remedy or remedies set forth in its written notice. Moreover, if the Participating Municipalities fail to respond timely to Treasury's written notice, Treasury may impose or exercise the remedy or remedies set forth in its written notice, effective as of the date specified in such notice. Nothing in the Allocation Agreement, however, will provide the Participating Municipalities with any right to any formal or informal hearing or comparable proceeding not otherwise required by law.

6. Council shall abide by the requirements and stipulation of the Consortium cooperative agreement and Allocation agreement in Exhibit C annexed hereto, shall be binding on any employees, agents and/or representatives of the Council providing services to the Consortium hereunder, but only to the extent of said services.

7. The Council may subcontract for additional professional services including but not limited to venture capital management, marketing, packaging, processing, closing, servicing and reporting, accounting, collections, etc.

8. The Council or any employee of the Council shall not be a voting or non-voting member of the Consortium's Steering Committee or Loan/Venture Capital Sub-Committee.

9. This Contract shall not be deemed to create a joint venture relationship or agency relationship between the Consortium and Council.

10. The Council shall indemnify and hold harmless the Consortium with respect to any claims, causes of action, demands, losses, damages, attorney's fees, and/or costs incurred by the Consortium as a consequence of actions or omissions by Council, its officers, agents and/or employees in discharging its duties under the terms of this agreement. The Consortium shall indemnify and hold harmless Council with respect to any claims, causes of action, demands, losses, damages, attorney's fees, and/or costs incurred by Council as a consequence of actions or omissions by Consortium, its officers, agents and/or employees (excluding employees, agents and/or representatives of the Council providing services to Consortium hereunder) discharging its duties under the terms of this agreement.

11. This agreement may not be modified, altered, or amended other than by a subsequent writing executed by the parties.

12. This agreement shall be construed under the laws of the State of North Dakota.

13. This agreement may be terminated "for cause", the grounds for which are defined below. In the case of termination for cause, Consortium shall have no obligation for compensation to Council except for:

- (a) compensation earned prior to the effective date of termination

Grounds for "Cause" Termination of Contract

Commission of any of the following acts by Council constitutes grounds for the Consortium to terminate Council "for cause" under this paragraph:

- (a) Council fails to perform duties in a competent manner;
- (b) Council violates duties of confidentiality under the laws of the State of North Dakota;
- (c) Council misappropriates funds

(d) Council fails to comply with directives from Consortium Steering Committee or the United States Department of Treasury

(e) Council commits any act or acts that harm the Consortium's reputation, standing, or credibility within the community(ies) it operates or with its clients;

Should the consortium identify a cause for termination of the contract, the consortium shall notify LCRDC in writing of the deficiency. LCRDC shall have 30 days to respond to the notification. Upon expiration of the 30 day notice period the consortium shall allot LCRDC reasonable time to correct the deficiency. If LCRDC fails to correct the deficiency the consortium may terminate this contract with a 2/3 majority vote of all consortium members.

Should state or federal law require a notice period, the notice period so required under the law shall be applicable to this contract.

14. Dissolution of Consortium

In the event the Consortium is dissolved, this agreement will terminate with compensation of Council as set forth in the cooperative agreement of the Consortium.

15. Counterparts

This Agreement may be executed in separate counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

Dated this ___ day of _____, 2012.

ADMINISTRATOR:

Lewis and Clark Regional Development Council

By: _____

Its: Chairman

PARTICIPATING MUNICIPALITY:

City of _____

By: _____

Name: _____

Title: _____

EXHIBIT A

Program Oversight

Responsible staff: **Paul E. Rechlin**, Executive Director, LCRDC
Executive Director, CommunityWorks North Dakota

Duties: Overall staff responsibility for program operation and compliance.
Reports directly to the Board of Directors.

Related Experience: Mr. Rechlin has over 30 years experience in economic and community development, having joined the staff of Lewis and Clark Regional Development Council in 1979. In 1984 he was appointed executive director of the Council, which at that time had only two other part-time employees, a three-year history of deficit spending, and net assets of under \$30,000. Since then, between the Council and the co-managed CommunityWorks North Dakota which he also directs, the two organizations have grown to 10 employees with a combined net worth approaching \$9 million.

He was instrumental in working with then-Gov. Ed Schafer in localizing the state's Small Cities CDBG program so that decision-making on commercial lending and community development grants was transferred from the state to regional councils. Control of those funds, combined with two EDA revolving loan funds and three Intermediary Relending Program (IRP) RLFs developed under Mr. Rechlin's leadership, have helped the Council in growing its programs to more than \$1 million in business lending a year. In addition, the Council is administering Mandan's RLF for economic development (the Growth Fund), and it manages for the state's Vocational Rehabilitation a micro loan program for clients starting or expanding their businesses.

Recognizing that mortgage financing problems and other housing issues were a major impediment to success in community and economic development, Mr. Rechlin spearheaded an effort resulting in the establishment in 1995 of a new 501(c)(3) nonprofit, CommunityWorks North Dakota. CWND has developed many programs and projects, including serving as co-general partner on multi-million-dollar, award-winning housing developments in Beulah and Mandan, and General Partner on a \$6 million mixed use development in downtown Mandan.

CommunityWorks's key program is a unique mortgage lending RLF, called the **DREAM** Fund, begun in 2001. Since then, over 800 loans have been closed totaling about \$25 million now loaned by the program. The newer DREAM II Fund has provided over \$2.6 million in loans to develop and create more than 400 housing units in the state.

Under Mr. Rechlin's guidance, CommunityWorks was designated as a CDFI by the Department of Treasury and is the only affiliate in North Dakota of the congressionally chartered NeighborWorks America. It has won numerous awards for its lending and development activities, including six Champion of Affordable Housing awards from the ND Housing Finance Agency, an Excellence Award from the Federal Home

Loan Bank of Des Moines, and a Top 100 Best Practices Award from HUD.

Mr. Rechlin, who was named by North Dakota Housing Finance Agency as the 2004 Champion of Affordable Housing Leadership winner, recently completed the 18-month Achieving Excellence in Community Development program through Harvard University's John F. Kennedy School of Government, and he is the first graduate of NeighborWorks America's Management and Leadership Program of Study. He has served on numerous local, state, regional and national boards, including currently on the Federal Home Loan Bank of Des Moines Affordable Housing Advisory Committee. Recent past positions include board member on the North Dakota Rural Development Council, the National NeighborWorks Association, and the state Fannie Mae Advisory Board.

Responsible staff: **Brent A. Ekstrom**, Director of Commercial Lending, LCRDC

Duties: Day to day management of LCRDC lending programs including the SSBCI program, USDA Rural Development IRP Programs, the Economic Development RLF program, and the administration of the CDBG, Mandan Growth Fund and VR revolving loan fund programs. Responsibilities include compliance with federal program regulations, management of loan portfolios including loan underwriting, and preparation of all quarterly, semi-annual and annual reporting. Mr. Ekstrom has served in his current capacity for over ten years.

Related Experience: Mr. Ekstrom's experience includes tenure as commercial loan officer with BNC National Bank in which he managed a \$10 million dollar portfolio. Mr. Ekstrom has a Bachelor of Science Degree in Accounting from Minot State University and a Masters of Business Administration from the University of North Dakota. Mr. Ekstrom has also completed the Certification in Community Economic Development through the Neighborhood Reinvestment training Institute and expects to complete the final course for Certification as an Economic Development Professional through the National Development Council in April of 2008.

Loan Packaging/Processing/Closing

Responsible staff: **Brent A. Ekstrom**, Director of Commercial Lending, LCRDC
Justin Ell, Loan Administrator
Lyle Hogue, Loan Administrator

Duties: Mr. Ekstrom is involved from the beginning of development projects by working with businesses, lending institutions and other economic development in the preparation of financing packages. Upon agreement of a financing package by all entities involved and once specific programs are identified, businesses submit applications for LCRDC sponsored programs directly to LCRDC. Mr. Ekstrom reviews the application material, including the business plan, historical financial statements and financial projections. Mr. Ekstrom prepares the financial

analysis, an overview of the strengths and weaknesses and prepares a recommendation for or against financing. Upon completion of the analysis and recommendation the information is forwarded to the Loan Committee via email and a meeting is scheduled for the committee to review the request.

Mr. Ell and/or Mr. Hogue prepare all loan closing documents. Mr. Ell and/or Mr. Hogue enter all loan information into the loan software system. Mr. Ekstrom and Mr. Ell and/or Mr. Hogue conduct loan closings and provide follow-up with the borrowers. Mr. Ekstrom and Mr. Ell are both notary publics for the State of North Dakota. The SSBCI would incorporate this procedure for project development and loan review.

Related Experience: Mr. Ekstrom - see above

Mr. Ell - Mr. Ell has 9 years of lending experience. He has been with the LCRDC since May, 2011. He was previously employed at Capital Credit Union, where his job duties included underwriting loans, closing loans and administering loans. His job duties for the LCRDC include loan document preparation, entering loan information on the loan software, conduct loan closings. Mr. Ell was chosen as a ND Business Watch 40 under 40.

Mr. Hogue ó Mr. Hogue has more than twenty-one years experience in the economic and community development area. He has been with LCRDC for a little over thirteen years, previously employed at the Roosevelt-Custer Regional Council in Dickinson, ND, where he was involved in land use planning, grant writing, financial packaging and loan and grants administration. His duties at LCRDC include grant writing and administration, strategic planning, housing and community development. Mr. Hogue graduated from Minot State University, Minot, ND, with a B.S. in Finance and a minor in Economics. He has also completed the National Development Councils Economic Development Finance Professional course, the Consortium for Housing and Asset Management's Certified Housing Asset Manager program and NeighborWorks America's Housing program.

Loan Servicing

Responsible staff: **Brent A. Ekstrom**, Director of Commercial Lending, LCRDC
Justin Ell, Loan Administrator
Lyle Hogue, Loan Administrator

Duties: Mr. Ell and/or Mr. Hogue prepare all loan closing documents according to the commitment letters provided by the Director of Commercial Lending. Once the loan is closed Mr. Ell and/or Mr. Hogue are responsible for recording documents to secure collateral, preparing aging of customer receivables reports, preparing and mailing delinquency notices and forwarding copies of delinquency reports to the Director of Commercial Lending and the Executive Director for review. Mr. Ell and/or Mr. Hogue are also responsible for the collection of all company

documentation including financial reporting, proof of insurance, and employment statistics. The Executive Director, the Director of Commercial lending and the loan administrator hold regular meetings to discuss delinquencies and courses of action. Mr. Ekstrom works closely with the borrowers to determine workout arrangements and liquidation, if necessary. Courses of action regarding loan workouts are guided by loan policy. In some cases, LCRDC's attorneys advise the course of action. The SSBCI will incorporate this procedure for loan servicing.

Related Experience: Mr. Ekstrom - see above
Mr. Ell ó see above
Mr. Hogue ó see above

Liquidation

Responsible staff: **Brent A. Ekstrom**, Director of Commercial Lending, LCRDC

Duties: Mr. Ekstrom currently litigates delinquencies and liquidation of collateral on behalf of the USDA IRP Program, the EDA RLF program, the CDBG program, the Mandan Growth Fund Program and the VR Program. Mr. Ekstrom works closely with LCRDC's attorney, Mahoney and Mahoney Attorneys, as well as their contracted collection agency, Johnson Rodenburg and Lauinger. Litigation and liquidation matters for the IRP Program and the EDA RLF Program recommended by Mr. Ekstrom and approved by the loan committee. Litigation and liquidation actions for the CDBG, the Mandan Growth Fund, and the VR Fund are recommended by Mr. Ekstrom and approved or denied by the respective decision making body based on the contract for administration and collection.

Related Experience: Mr. Ekstrom - see above

EXHIBIT B

Compensation of Council

INITIAL FUNDING COMPENSATION

- Council shall receive compensation for costs incurred up to five percent 5% of the initial funding allocation from the United States Department of Treasury for administration of the program as outlined in the above agreement.
- Council shall receive compensation for costs incurred up to three percent 3% of each subsequent allocation United States Department of Treasury for administration of the program as outlined in the above agreement.
- Council shall retain interest earned on bank accounts held by the Council
- Interest earned on outstanding loans and origination and late fees paid by borrower shall be retained by the SSBCI fund
- Council shall retain all hard cost paid by borrowers for reimbursement of actual expenditures
- Council staff shall be reimbursed for travel and per diem under General Services Administration (GSA) guidelines.
- Compensation of Council staff shall be paid at the following rates:

	Billable Rate
Office Manager Duties: Copies, filing, receipting, other duties as necessary	\$50.00
Loan Administrators Duties: Credit Analysis, Loan Processing, Loan Administration, other duties as necessary	\$60.00
Director of Commercial Lending Duties: Marketing, underwriting, packaging, closing, servicing, liquidation, other duties as necessary	\$100.00
Executive Director Duties: Marketing, budgeting, program oversight, other duties as necessary	\$125.00

COMPENSATION SUBSEQUENT TO DISBURSEMENT OF INITIAL FUNDING

Upon disbursement of all allocated funds the Council shall be compensated as follows:

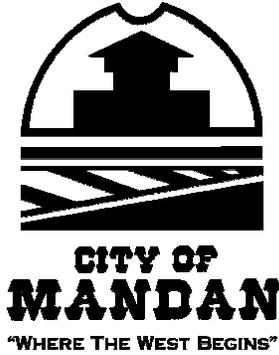
- Council shall receive compensation for costs incurred in the administration of the fund
- Council shall retain interest earned on bank accounts
- Interest earned on outstanding loans and origination and late fees paid by borrower shall be retained by the SSBCI fund
- Council shall retain all hard cost paid by borrowers for reimbursement of actual expenditures
- Council staff shall be reimbursed for travel and per diem under General Services Administration (GSA) guidelines.
- Compensation of Council staff shall be paid at the following rates:

	Billable Rate
Office Manager Duties: Copies, filing, receipting, other duties as necessary	\$50.00
Loan Administrators Duties: Credit Analysis, Loan Processing, Loan Administration, other duties as necessary	\$60.00
Director of Commercial Lending Duties: Marketing, underwriting, packaging, closing, servicing, liquidation, other duties as necessary	\$100.00
Executive Director Duties: Marketing, budgeting, program oversight, other duties as necessary	\$125.00

COMPENSATION SUBSEQUENT SSBCI AWARD PERIOD

Upon close out of the SSBCI Award the Council shall be compensated as follows:

- Council shall retain all origination fees and administration fees paid by borrower
- Council shall retain all late fees incurred and paid by borrower
- Council shall retain fifty percent 50% of the interest paid by borrowers



Board of City Commissioners

Agenda Documentation

MEETING DATE: August 7, 2012
PREPARATION DATE: August 3, 2012
SUBMITTING DEPARTMENT: Business Development & Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development & Communications Director
PRESENTER: BMDA Staff Members
SUBJECT: BMDA Mid-Year Report

STATEMENT/PURPOSE: To receive information from the Bismarck-Mandan Development Association about recent economic development activities conducted on behalf of the two counties and Mandan specifically as well as to receive updated information about available properties for industrial, retail and office development.

BACKGROUND/ALTERNATIVES: As part of its 2012 work plan, the BMDA has agreed to help monitor the availability of property for industrial, office and retail uses and to create a strategy to assist the community in creating a single, prioritized list of parcels for industrial, retail and office development. Among tasks:

- Identify and update the top five sites per sector and provide a recommendation to the City Commission about the sites.
- Review uses, determine the criteria and prepare a recommendation to the City Commission of the highest and best use per parcel.
- Identify and develop potential funding sources and assist potential development of the key parcels.
- Create a plan of steps need to develop the sites.

ATTACHMENTS: A site inventory of available properties for industrial, retail and office development is posted on the City of Mandan website under the meeting agenda section at this link:

http://www.cityofmandan.com/vertical/sites/%7B38C3EFDC-F4D8-4D02-9E13-0987A081A7A4%7D/uploads/BMDA_Mandan_Site_Inventory_8_2012.pdf

A copy of the report is also available upon request in the Business Development and Communications Office.

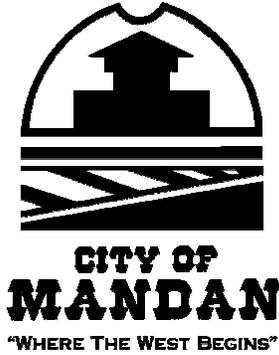
FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: n/a

SUGGESTED MOTION: n/a



New Business No. 4

Board of City Commissioners

Agenda Documentation

MEETING DATE: August 7, 2012
PREPARATION DATE: August 3, 2012
SUBMITTING DEPARTMENT: Assessing/Bldg Inspections
DEPARTMENT DIRECTOR: Richard L Barta
PRESENTER: Richard L Barta
SUBJECT: Introduction of Appraiser

STATEMENT/PURPOSE: Introduction of Shirley Shaw, Appraiser, to the Board of City Commission.

BACKGROUND/ALTERNATIVES: Shirley comes to the City from Morton County where she worked as the Deputy Tax Director. Prior to that, she was employed in Burleigh and Emmons Counties as an appraiser. Shirley has been in the appraisal/assessing field for approximately 10 years.

ATTACHMENTS: N/A

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: N/A

SUGGESTED MOTION: N/A

ORDINANCE NO. 1126

AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF ORDINANCE 1088 OF THE MANDAN CODE OF ORDINANCES RELATING TO DISTRICT BOUNDARIES AND ZONING MAP.

BE IT ORDAINED By the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, as follows:

SECTION 1. AMENDMENT. Section 21-03-02 of the Mandan Code of Ordinances is amended to read as follows:

The following described property located within the City of Mandan, Morton County, North Dakota shall be excluded from the MC (Light Non-Nuisance Industrial/Heavy Commercial) and R3.2 (Two-Family Residential) and shall be included in the RM (Multi-Family Residential), namely,

Lots 1-3, Block 1 of Meadow Ridge 2nd Addition in the NW ¼ Section 22, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota

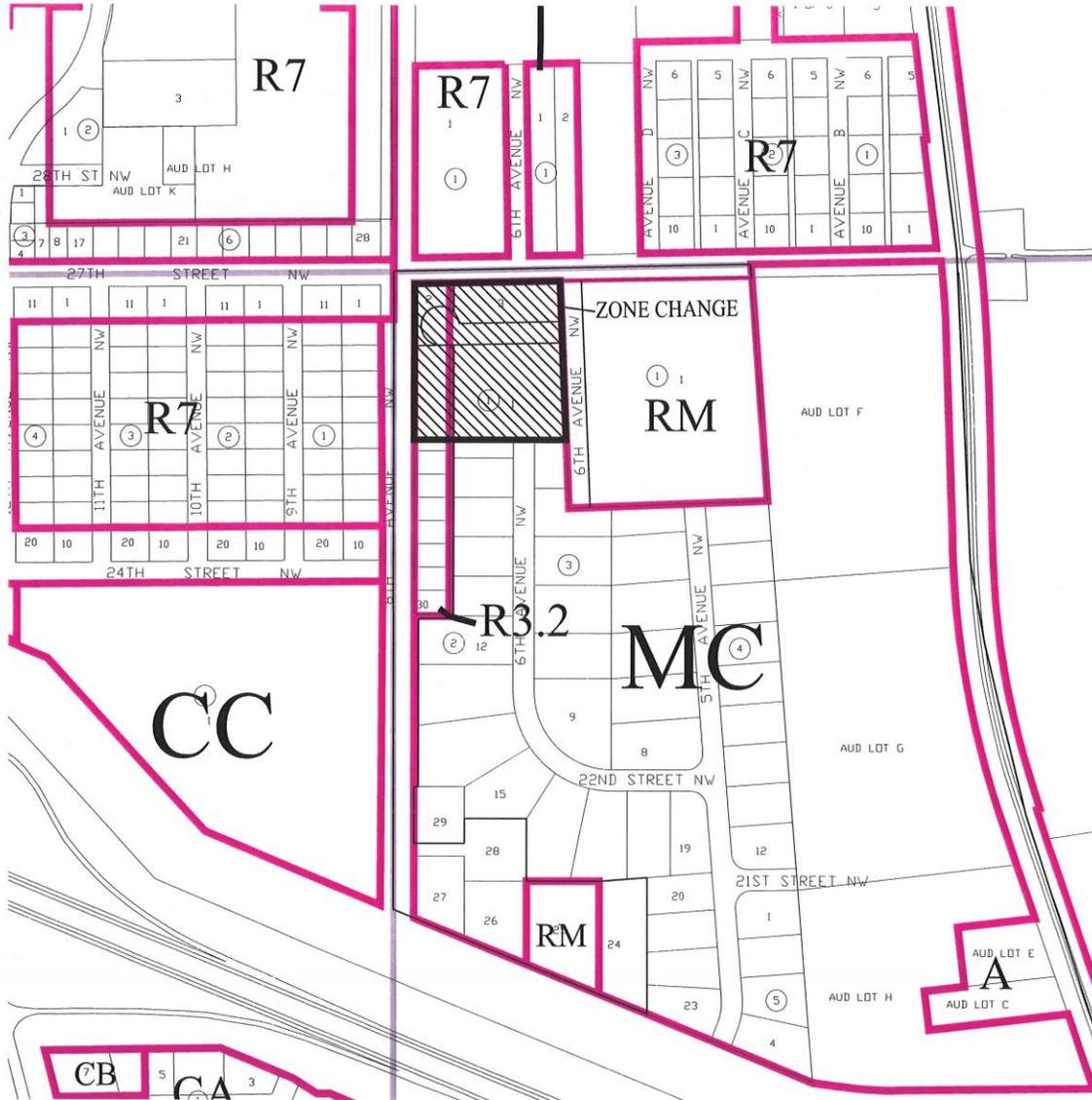
and as so amended said section is hereby reenacted. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

President, Board of City Commissioners

Attest:

City Administrator

Public Hearing:	<u>June 25, 2012</u>
First Consideration:	<u>July 17, 2012</u>
Second Consideration and Final Reading:	<u>August 7, 2012</u>
Publication Date:	<u>August 31, 2012</u>
Recording Date:	_____



ORDINANCE NO. 1127

AN ORDINANCE ANNEXING CERTAIN ADJOINING LANDS TO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, AND EXTENDING THE CORPORATE BOUNDARIES THEREOF.

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

WHEREAS, the City of Mandan, North Dakota has determined it to be its interests to annex the hereinafter described property, which is contiguous to the City of Mandan, Morton County, North Dakota, but not embraced within the limits thereof, and has met all requirements as directed by Section 40-51.2-03 of the North Dakota Century Code.

SECTION 1. Property Annexed. The following described land is situated in the County of Morton, State of North Dakota, and contiguous to the corporate limits of the City of Mandan, North Dakota, is hereby added to, taken into, annexed and made part of the City of Mandan, namely:

Living Water Addition in Section 35, Township 139N, Range 81W. More fully described as follows:

Beginning at the southeast lot corner of Lot 8, Block 1, Replat of Evergreen Heights 2nd Addition; thence south 00 degrees 03 minutes 01 seconds east a distance of 66.00 feet; thence south 89 degrees 56 minutes 44 seconds east a distance of 510.79 feet; thence north 00 degrees 21 minutes 28 seconds west a distance of 487.40 feet; thence north 89 degrees 56 minutes 44 seconds west a distance of 345.35 feet; thence south 00 degrees 03 minutes 01 seconds east a distance of 421.39 feet; thence north 89 degrees 56 minutes 44 seconds west a distance of 163.00 feet to the point of beginning, City of Mandan, Morton County, North Dakota.

SECTION 2. Corporate Boundary Extended. Upon the taking effect of this Ordinance, the corporate limits and boundary lines of the City of Mandan shall thereafter include said lands.

By: _____
Arlyn Van Beek, President,
Board of City Commissioners

Attest:

James Neubauer, City Administrator

First Consideration: July 17, 2012
Second Consideration
and Final Passage: August 7, 2012
Publication Date: August 31, 2012
Date of Recording: _____



ORDINANCE NO. 1128

AN ORDINANCE ANNEXING CERTAIN ADJOINING LANDS TO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, AND EXTENDING THE CORPORATE BOUNDARIES THEREOF.

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

WHEREAS, the City of Mandan, North Dakota has determined it to be its interests to annex the hereinafter described property, which is contiguous to the City of Mandan, Morton County, North Dakota, but not embraced within the limits thereof, and has met all requirements as directed by Section 40-51.2-03 of the North Dakota Century Code.

SECTION 1. Property Annexed. The following described land is situated in the County of Morton, State of North Dakota, and contiguous to the corporate limits of the City of Mandan, North Dakota, is hereby added to, taken into, annexed and made part of the City of Mandan, namely:

Keidel’s South Heart Terrace 2nd Addition in Section 34, Township 139N, Range 81W. More fully described as follows:

Beginning at the northeast corner of Lot 3, Block 6, Keidel’s South Heart Terrace 1st Addition to the City of Mandan, County of Morton; thence south 89 degrees 48 minutes 06 seconds west a distance of 12.37 feet to the true point of beginning; thence from the said true point of beginning, westerly along the east/west quarter line of section 34, Township 139 North, Range 81 West, to a point on the west property line of Lot 11, Block 1, Keidel’s South Heart Terrace 2nd Addition; thence north along said west property line to the northeast property corner of said Lot; thence north 30 degrees 00 minutes 51 seconds west a distance of 557.07 feet, to the southeast lot corner of Lot 1, Block 2, Keidel Estates 1st Addition; thence north 89 degrees 35 minutes 10 seconds east a distance of 307.50 feet; thence north 00 degrees 02 minutes 25 seconds east a distance of 150.00 feet; thence north 89 degrees 35 minutes 10 seconds east a distance of 219.88 feet; thence south 00 degrees 03 minutes 22 seconds west to the point of intersection with the said east/west quarter line of section 34, Township 139 North, Range 81 West; thence easterly along said quarter line to the true point of beginning, City of Mandan, Morton County, North Dakota.

SECTION 2. Corporate Boundary Extended. Upon the taking effect of this Ordinance, the corporate limits and boundary lines of the City of Mandan shall thereafter include said lands.

By: _____
Arlyn Van Beek, President,
Board of City Commissioners

Attest:

James Neubauer, City Administrator

First Consideration: July 17, 2012
Second Consideration
and Final Passage: August 7, 2012
Date of Recording: _____

Board of City Commissioners

Agenda Documentation

Meeting Date: August 7th, 2012

Subject: Annexation of Keidel's South Heart 2nd Addition in Section 34, Township 139, Range 81W.

Page 2 of 2

