***AGENDA***
***MANDAN CITY COMMISSION***
***DECEMBER 4, 2012***
***ED "BOSH" FROEHLICH MEETING ROOM,***
***MANDAN CITY HALL***
***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 November 20, 2012 Board of City Commission meeting.

C. PUBLIC HEARING:
   1. Public Hearing to consider the vacation of Oxbow Trail SE.
   2. Public Hearing to consider for approval the final plat of Mandan Industrial Park 8th Addition.
   3. Public Hearing to consider for approval the final plat of Riverwood Commercial Park 3rd Addition.
   4. Public Hearing to consider for approval the final plat of Christianson's 1st Addition.
   5. Public Hearing to consider an Ad Valorem tax exemption for Winbauer Koch Partnership.

D. BIDS:

E. CONSENT AGENDA:
   1. Consider the Service Agreement for the City's Employee Assistance Program with Sanford Health.
   2. Consider Comprehensive Drug-Free Workplace Program.
   3. Consider Fraud Policy.
   4. Consider approval of abatement for Richard Bushee – reduction in structure value.
   5. Consider approval of site authorization for Mandan Baseball at Captain Freddy's Riverside Restaurant & Bar from January 1, 2013 through June 30, 2013.

F. OLD BUSINESS:
   1. Consider supplemental information to be provided by BNC National Bank related to their offer on the Collins & Main property.

G. NEW BUSINESS:
   1. Consider Growth Fund Committee recommendations
      i. Application for property tax incentive by Winbauer Koch Partnership for project at 2928 37th St NW

ii. Revisions to commercial property tax exemption policy and guidelines

2. Consider appointment to the Mandan Airport Authority.
3. Consider entering into contract negotiations for a comprehensive plan with Stantec Consulting Services Inc.

H. RESOLUTIONS AND ORDINANCES:

1. *Consider first consideration of Ordinance No.1134 Zone Change for Heart Ridge 2nd Addition, Lots 15 & 16* – 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 Resolution to vacate Oxbow Trail SE.*
3. Consider Financing Resolution for Sidewalk, Curb and Gutter Warrant of 2011. *(Note: Bond sale was approved by the Board on November 20, 2012)*
4. Consider Financing Resolution for Sidewalk, Curb and Gutter Warrant of 2012. *(Note: Bond sale was approved by the Board on November 20, 2012)*
5. Consider Resolution Authorizing Issuance of $480,000 Refunding Improvement Bonds, Series SCG-2012. *(Note: Relates to Agenda items H.3. and H.4.)*
6. Consider a Resolution of Amendment Authorizing the Issuance of Water Improvement Interim Certificates of 2008, Series B and Water Improvement Revenue Bonds of 2008, Series B, and the State Revolving Fund Program Loan Agreement with the North Dakota Public Finance Authority for South Side Water Reservoir and Water Transmission Main Improvements.

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 proposals for development of city-owned property located at the corner of Collins Ave & Main Street.

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. December 18, 2012
2. January 8, 2013
3. January 15, 2013

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 November 20, 2012 in the Ed "Bosh" Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, and Rohr. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, and Engineering Project Manager Kim Fettig. Absent: Commissioner Frank, Commissioner Braun, City Attorney Brown and City Assessor Barta.

MINUTES:

*1. Consider approval of the following minutes from the Board of City Commission meetings: November 6, 2012 – Regular meeting.* Commissioner Tibke moved to approve the minutes of the November 6, 2012 Regular meeting. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

PUBLIC HEARING:

*1. Consider approval of Heart Ridge 2nd Addition Zone Change. (First consideration of ordinance #1134).* Kim Fettig, Engineering Project Manager, presented a request to consider changing the zoning of Lots 15 & 16, Block 2, Heart Ridge Second Addition from R7 (single-family residential) to RM (multi-family residential) restricted to 10 units per acre on Lot 15 and R3.2 (two family residential) on Lot 16. Some of the concerns brought forward by the Planning and Zoning (P&Z) Committee were saturation and multi-family being located between R7 single family zoning on both sides. In addition, there were also concerns from residents who had already built there regarding the view of looking at rooftops. She noted that Dave Patience from Swenson & Hagen had also been present for the Planning & Zoning Committee meetings discussions.

Mayor Van Beek announced that this is a public hearing and invited comments from the public. A second and third announcement was made to invite comments 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.

*2. Consider proclamation of Small Business Saturday on Nov. 24.* Business Development and Communications Director Huber stated that in addition to Small Business Saturday, Santa arrives on Main Street in Mandan at 10:30 a.m. There will be a Santa Sweepstakes with more than $2,000 in gift cards and prizes available from 32 participating stores and eateries. The Board approved the proclamation of Small Business Saturday on Nov. 24.

*3. Consider games of chance for ND Chapter of Wildlife Soc. at the Seven Seas Motel on February 13, 2013.* The Board approved of games of chance for ND Chapter of Wildlife Soc. at the Seven Seas Motel on February 13, 2013.

*4. Consider transferring funds from Fiscal Year 2012 to Fiscal Year 2013 for WTP Capital Outlay Budget.* The Board approved of transferring funds from Fiscal Year 2012 to Fiscal Year 2013 for WTP Capital Outlay Budget.

*5. Consider budget amendment request for fire department 2012 training funding.* The Board approved of the budget amendment request for fire department 2012 training funding.

*6. Consider time extension request to complete Street Improvement District No.161 & 167.* The Board approved the time extension request to complete Street Improvement District No. 161 & 167.

*7. Consider approval of specifications and authorization of advertisement for bids on outdoor warning siren system for the City of Mandan.* The Board approved of specifications and authorization of advertisement for bids on outdoor warning siren system for the City of Mandan.

Commissioner Tibke moved to approve the Consent Agenda as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

OLD BUSINESS:

NEW BUSINESS:

*1. Consider proposals for redevelopment of Collins & Main property.* Business Development and Communications Director Huber reviewed some of the background history on this topic. In summary, through the Renaissance Zone and Storefront Improvement Plan there have been a total of 44 new and improved buildings in downtown Mandan. The Collins and Main property request for proposal is a continuum of the whole process that had been established in 2003 when the Downtown Development Plan for Mandan was adopted to increase density in the downtown area. She stated there are two proposals to come before the Commission at this meeting and she reviewed with the Board the selection criteria for these developments stating they are both consistent with the City of Mandan Vision.

The following two proposals were presented in detail:

*(1) BNC National Bank, presented by Dave Hoekstra, President and Jason Arenz, Senior VP.* Jason Arenz came forward and introduced himself and provided a brief history of BNC Bank since its inception in 1988/1989. He said that BNC would like to join the Mandan Community and would like to offer a full service bank including a drive-through that would involve consumer banking, mortgage banking, along with a strong commercial and Ag banking opportunities. Arenz stated that BNC is interested in constructing a facility similar to its office located on Century Avenue in Bismarck. He indicated that it will meet the building requirements stating that it will be 23 feet high and the colors will enhance the atmosphere around the area. There will be 16 additional parking spaces for downtown Mandan parking. It will be a larger facility than the one on Century Avenue. As far as the project is concerned, Arenz mentioned that this been in the process for about two years now and BNC feels that they have complied with all the rules and regulations to get to this point. He commented that they will not be requesting

any tax incentive dollars but rather they are looking for a strong business partnership with the City of Mandan. They are looking at employing 12-15 employees housed at that facility. Dave Hoekstra also came forward and reiterated all points alluded to by Arenz. He indicated that Arenz will become the President of the Bank at this location and will bring years of experience to the community for all full service banking needs. He provided the architectural footprints of the building. If awarded the property, construction is expected to begin in the late spring/early summer of 2013. Arenz mentioned that eventually they would like to open branches in both the north and south sides of town. The costs for this project are estimated to be approximately $1.5 million.

*(2) Dakota Commercial & Development Co. presented by Kevin Ritterman, Lead Developer and Community Contractors presented by Craig Tweten, Lead Contractor.* Kevin Ritterman of Dakota Commercial and Development came forward to present his project stating that he had been contacted by Business Development Director Huber in 2008 and since then the Mandan Place mixed-use property was constructed. For a comparison project to the current proposal, Ritterman reviewed with the Board a similar structure located in Grand Forks, ND. The proposed Mandan project will be a 3,000 sq. ft. of commercial facility with alternatives to be expandable on Main Street. The units would start on Collins Avenue. The building will be 4 stories of approximately 29 units with a height of about 46 ft. and will be similar to the features of the Mandan Place building and will fit well in downtown Mandan. He anticipates the project would start in the spring of 2013 and it will take approximately one year to complete. He stated there have been five similar facilities built in downtown Grand Forks and those are all doing very well. The project cost is estimated at about $4.2 million.

One of the downfalls is that there isn't any parking associated with this building. The parking lot to the northeast would have to be utilized. The reserved parking for Mandan Place is the lot on the other side of the Old Town Tavern. Ritterman stated that Dakota Commercial Company will be requesting tax incentives for this project, via the request similar to that granted for the Mandan Place. The plan is for the main floor to house a commercial type business and the upper levels will house residents. Ritterman stated that the company would be interested in partnering with the BNC Bank or looking at options that would provide opportunities for both businesses. Business Development Director Huber stated that the Mandan Place utilized the Renaissance Zone incentive; a five-year exemption on the value of the building, taxes on the land in all cases, and tax increment financing providing an extended exemption for the 2$^{nd}$, 3$^{rd}$ and 4$^{th}$ stories of the building in years 6 through 15. The main level of the building was worth significantly more than the previous structure there and when that comes on to the tax role in year 6 it will generate far more than what the previous structures did. Ritterman explained that the tax incentives are needed in order to assist with the cost of constructing the project. For example, the Mandan Place dirt removal cost about $100,000 which was not anticipated. Commissioner Tibke commented that tax incentives are given to improve the scope of the project.

Commissioner Tibke recommended that the Board take these two proposals under advisement. She recommended the two project managers get together and at least have a

discussion about the possibility of joining the two projects to make one project. She stated she would like the project developers to come back to the December 18th meeting with any possibility of combining the projects. Commissioner Tibke stated she would also like the commissioners who are absent to be given the opportunity to listen to the two project plans. Commissioner Tibke stated that if the two developers feel they can be ready by December 4th meeting, it could be brought before the Board at that time rather than wait until December 18th.

*2. Consider purchase agreement with Harmony Properties, LLC, for the former water reservoir property.* Business Development and Communications Director Huber reviewed with the Board the proposed purchase agreement with Harmony Properties for the sale and demolition of the reservoir structure located at the intersection of Old Red Trail and 8th Avenue NW. This matter was approved at a previous meeting in September. Huber stated that under the agreement the closing would be delayed until after demolition of the reservoir with a payment of $5,000 as earnest money at the time the purchase agreement is executed. The agreement gives the buyer the right to cease the demolition project and terminate the agreement if any hazardous substances would be discovered during the demolition process. Huber stated that these issues were discussed at a department head meeting earlier this week and Duane Friesz, Water Treatment Plant Superintendent, stated that there are no hazardous substances found to date nor he does expect any will be found during the demolition. She indicated that City Attorney Brown has recommended that the agreement be approved because it has the least risk and highest benefits given the scenario and alternatives presented.

Commissioner Rohr motioned to approve the purchase agreement with Harmony Properties, LLC, for the sale and demolition of the former water reservoir structure. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

*3. Presentation by Mike Manstrom, Dougherty & Company LLC, regarding the sale of $480,000 Refunding Improvement Bonds, Series SCG-2012. (See Resolutions #4).* Mike Manstrom reviewed with the Board the sale of $480,000, Refunding Improvement Bonds, Series SCG-2012 authorizing the sale of and approving the resolution awarding the sale of warrants and bonds to finance sidewalk, curb and gutter of 2011 construction, repairs and rebuilding in the amount of $245,926.61 and bonds to finance sidewalk, curb and gutter of 2012 construction, repairs and rebuilding in the amount of $234,073.39. The net interest cost is at 1.33%. Manstrom stated that Attorney Steven Vogelpohl has prepared the Resolution for review and consideration. Dougherty & Company has offered and agreed to purchase the warrants.

*4. Consider appointment to the Morton Mandan Public Library (MMPL) Board of Trustees.* Kelly Steckler, Library Director presented a request to appoint Margaret Focht to the Morton Mandan Public Library Board of Trustees. Steckler stated that Focht submitted a letter of interest to fill the vacant position on the MMPL. Focht is a retired Hebron School Board member and will bring that expertise with her to the MMPL Board.

Steckler recommended Focht as a qualified candidate to fill the vacant position on the MMPL Board of Trustees.

Commissioner Tibke moved to approve the appointment of Margaret Focht to the Morton Mandan Public Library (MMPL) Board of Trustees to a three-year term to be held through June 2015. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

*5. Update by Kurt Keifer, Dynatest Consulting Inc., on the MicroPAVER pavement management system.* Kim Fettig, Engineering Project Manager, introduced Kurt Keifer, from Dynatest Consulting Inc. to provide an update on the MicroPAVER Pavement Management Project. This project was implemented in March 2012. Keifer stated that the scope of this project was to implement a pavement management system for the City of Mandan. He mentioned that they also completed a study for the City of Bismarck and the project was funded by the Bismarck-Mandan MPO. The first step was to create a pavement management system and after that an evaluation was conducted on the streets. He explained that the idea for implementing a pavement management system not only looks at the conditions of the roads in their current state but also assists with the creation of a preventative maintenance program and incorporating that into the way the City does business. Keifer provided an overview PowerPoint presentation showing that the primary objectives of this project were to (1) Implement the MicroPAVER pavement management system, and (2) Perform a network level pavement condition survey of the City's roadway pavements. Both objectives were completed successfully and the City has an up-to-date implementation in place of the MicroPAVER payment management system populated with recent pavement condition data. Kiefer reported that the City's pavements were found to be adequate, some roads better than others. Of the pavement inventory, 87% is contributed to asphalt-surface pavements.

Keifer provided the following recommendations:
(1) Identify an in-house MicroPAVER champion who would be responsible for maintaining the system and to train staff to use MicroPAVER. There is training available through Dynatest at Colorado State University.
(2) Perform regular pavement condition inspections.
(3) Customize MicroPAVER.
(4) Expand the existing Preventative Maintenance Program. It was also recommended that the City adopt preventative maintenance activities for its concrete pavements such as joint seal replacement and crack sealing.

Commissioner Rohr moved to approve the report presented by Kurt Keifer, Dynatest Consulting Inc., on the MicroPAVER pavement management system. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

RESOLUTIONS & ORDINANCES:

*1. Consider second consideration and final passage of Ordinance No. 1132 - An Ordinance to create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Prohibition against Occupying a Recreational Vehicle or Camper Vehicle for the Purpose of a Residence within the City Limits of Mandan as amended.*

Commissioner Tibke moved to approve the second consideration and final passage of Ordinance No. 1132 - An Ordinance to create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Prohibition against Occupying a Recreational Vehicle or Camper Vehicle for the Purpose of a Residence within the City Limits of Mandan as amended. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Braun: absent; Commissioner Van Beek: Yes. The motion passed.

*2. Consider first consideration of Ordinance No.1134 Zone Change for Heart Ridge 2nd Addition, Lots 15 & 16 – 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 asked how many units are being considered for the multi-family. Fettig replied they are looking at 4-unit apartment buildings for the RM. Rohr commented that there seems to be an indication to leave it single family so he has a concern with the change. Mayor Van Beek stated that the discussion at the two Planning & Zoning Committee meetings was concerning the multi-family units being right up next to the single family homes. Also, that there would not be more than four down at the bottom of the coulee so they were not built up so high. Another concern discussed was the traffic entrance & exit on only one road. Commissioner Tibke voiced concern about the request for the zone change. There are single family homes adjacent on each side of the request. She stated she has concerns with placing RM in between two R7's. Commissioner Tibke pointed out that when this geographic area was discussed before regarding the outer rims of this neighborhood the Commission was flexible with the developer because it was on the outside. But now with regard to the discussion on the inside, it is her opinion that it would be best just to have single family residential all the way through for this development.

Dave Patience from Swenson Hagen came forward and stated they discussed this with the Planning & Zoning Committee several times over the last couple years. He said they were trying to accommodate the neighbors all along 8th Ave trying to work out the multi-families. When you annex to the City of Mandan, it is instantly single family. Subsequently the property will have to be re-zoned. So they proceeded with putting together a site plan and brought that back to the P & Z Committee and then met with the residents to come up with a plan to put twin homes in, which according to P & Z is a neighbor to single family. That is how this evolved along with the recommendation from the P & Z Committee: to have twin homes on top and have a restricted density RM down at the bottom of the coulee. Hence the density of 10 units to the acre. Commissioner Tibke commented that she would not say all the neighbors were happy about these plans. She requested a clarification of where the twin homes would be placed. An explanation

was given that the buildings would be on the other side of the coulee-creek running behind the single family cul-de-sac area, thus the request for RM.

At the last public hearing there was only one person, a resident on 8th Street, who was present in opposition. He came back later to see if the limited density was proposed. Commissioner Tibke stated she is concerned about spot zoning. As a City Commission they rely on the Planning and Zoning to consider what is best for the neighborhood and to take into consideration the requests of the developer. Commissioner Rohr stated that it is not really clear how it comes out to play within the neighborhood, whether it is really a detriment or an advantage. Mayor Van Beek commented that he voted against this zone change on two occasions because of the location and land access in and out of the area if there will be ten (10) fourplexes in that area with only one access road. Commissioner Rohr inquired how this compares to access in and out to the Lohstreter area. Mayor Van Beek commented that there are more accesses out of Lohstreter Street. He indicated that he thought the developer was willing to work with the buffer-zone. Commissioner Rohr commented that due to two commissioners being absent, there is a disadvantage to coming to a resolution or recommendation on this matter. Commissioner Tibke stated she is not in favor of the zone change as presented because it does not fit in that neighborhood.

Commissioner Tibke moved to table this matter until the meeting scheduled for December 4, 2012, to allow for discussion and comments from Commissioners Frank and Braun. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

*3. Second and final reading of resolution to correct an unnamed street on Lakewood 6th Addition plat. Approval of the Resolution will name the street 34th Avenue Southeast.* Commissioner Rohr moved to approve the second and final reading of the resolution to correct an unnamed street on Lakewood 6th Addition plat. Approval of the Resolution will name the street 34th Avenue Southeast. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

*4. Consider Resolution Awarding Sale of Warrants and Bonds for Sidewalk, Curb and Gutter of 2011 and Sidewalk, Curb and Gutter of 2012.* Commissioner Tibke moved to approve the Resolution Awarding Sale of Warrants and Bonds for Sidewalk, Curb and Gutter of 2011 and Sidewalk, Curb and Gutter of 2012. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

*5. Consider introduction and first consideration of Ordinance 1135 - An Ordinance to create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Neighborhood Recreation and Open Space Requirements.* Cole Higlin, Director of Parks

and Recreation, presented information related to this ordinance. The main purpose of this ordinance is to protect the community green space. Higlin pointed out that with all the construction going on in the community, not a lot of consideration is being given to green space throughout the development of properties.

*Statement/Purpose:* Consider for approval implementing a land dedication/green space ordinance for the city of Mandan. The purpose of a land dedication is to protect the future of Mandan by allocating green space for residential and community needs today and into the future.

*Background Information:* The current Ordinance has been in effect since 1983 and the City Commission was required to set the dollar amount which is currently at $100 per unit. Higlin presented the land dedication in 2007 which was approved by the Planning and Zoning Committee. The item was held off from going before City Commission because of special assessment matters with Lakewood bridges and because the current City Commission felt the timing wasn't right. Recently the Park District purchased 46 acres of land for $300,000 which required a loan to acquire the property. In the last five years the Park District has generated $57,100 from the $100 park development fees. Based on the trend, it would take 26 years to pay off the $300,000 land purchase. The Park District is anticipating $700,000 of construction costs to develop the property. Other matters addressed by Higlin within the Ordinance:

- The ordinance addresses the net developable area, minus the streets.
- The developer would have to come before the Park District before they go to the Planning and Zoning Committee.
- A portion of the green space can be considered for trails to tie them in.
- This is only for residential and commercial – does not include industrial.
- Land dedication at 7% or cash in lieu at market value.
- The City Commissioners have the final authority to determine the land dedication.
- Payment of land dedication should be provided prior to annexation.

Higlin stated that the only other concerns he would have with the ordinance would be to partner with the City lift stations and things of that nature related to maintenance, etc.

Higlin explained how the 7% ties into the tax allocation for operation and maintenance of the parks. In 2012 the amount levied was $1,625,902. He provided the following data:

Tax Revenues:

| Fund: | Amt. Levied: | |
|---|---|---|
| General Fund | $1,033,376 | |
| Capital Improvement | $ 214,839 | |
| Subtotal: | | $1,248,215 |
| Park Revenues: | $ 11,000 | |
| Total: | | $1,259,215 |

Expenditures:

| | | |
|---|---|---|
| O & M of Parks | $ 169,764 | |

Divide O & M expenditures ($169,764) by revenues ($1,259,215) = Equals 13% of taxes allocated towards parks. A $150,000 home in the city of Mandan would pay $255 in taxes to the Mandan Park District. The total amount allocated to park improvements would be $33.15 per year. 24 actual parks and trails equals $1.38 for each park throughout the City of Mandan.

**List of Parks** (Excludes golf courses)

| | |
|---|---|
| 1. Archery Range | 13. Little Haven Park |
| 2. Base Ball Field | 14. Nicola Park |
| 3. Borden Park | 15. Optimist Park |
| 4. Dakota Centennial Park | 16. Roughrider Park |
| 5. Dev. West Park | 17. Soccer Fields |
| 6. Eagle Park | 18. Soft Ball Fields |
| 7. H.A. Kautzmann | 19. Spirit of Life Park |
| 8. KC Park | 20. Star Gazer Park |
| 9. Kiwanis Park | 21. Teamster Park |
| 10. Legion Park | 22. Tennis Courts |
| 11. Lions Park | 23. Ventures Park |
| 12. Little Haven | 24. WM.Bauknecht Park |

*Higlin reviewed for the Commission the status of Mandan Park District 2012 Park Acreage:*

| | *Current* | *5% acreage* |
|---|---|---|
| City of Mandan Population | 20,000 | |
| Total Acreage for the City of Mandan | 7,600 | |
| Mandan Park District Acreage | 377 | |
| Mandan Park District Percentage of Acres | 5% | |
| | | |
| Future Population Increase | | |
| *City of Mandan Population | 30,000 | 30,000 |
| **Total acreage for City of Mandan | 11,400 | 11,400 |
| Mandan Park District Acreage | 377 | 570 |
| Mandan Park District Percentage of Acres | 3% | 5% |
| Acreage difference to purchase | | 193 |

Without land dedication to maintain % increases in acreage

| | |
|---|---|
| Acres to purchase | 193 |
| Land Purchase ($10,000 per acre) | $1,930,000.00 |
| Land Development Costs ($15,000 per acre) | $2,895,000.00 |
| Total Cost: | $4,825,000.00 |

*20,000 x50% = 10,000 plus 20,000 population
**7,600 x50% = 3,800 plus 7,600 acreage

Mayor Van Beek commented that it is his opinion that parks are important for everyone and this is an important area for Mandan to consider. He stated he is in favor of Higlin's

presentation. Higlin mentioned that the property taxes generated from residents will be applied toward this. He commented that new developments in Fargo assess the residents in those areas so that could be a consideration for Mandan to do the same. Commissioner Tibke stated she is in favor of the plan and it will be a benefit to the community.

Commissioner Rohr moved to approve the introduction and first consideration of Ordinance 1135 - An Ordinance to create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Neighborhood Recreation and Open Space Requirements pending approval of Bismarck passing their land dedication. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Absent; Commissioner Braun: Absent; Commissioner Van Beek: Yes. The motion passed.

OTHER BUSINESS:

1. *Consider rescheduling January 1, 2013 City Commission Meeting.*

Commissioner Rohr motioned to move the January 1, 2013, City Commission meeting to Tuesday, January 8, 2013, for the first meeting in January. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

2. Mayor Van Beek encouraged anyone who is able to, to attend the Small Business Saturday event scheduled for November 24, 2012.

~~*2. 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 proposals for development of city-owned property located at the corner of Collins Ave & Main Street.*~~

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the regular meeting at 7:43 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

James Neubauer,
City Administrator

Arlyn Van Beek,
President, Board of City Commissioners

Public Hearing No. 1 & Resolution No. 2

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4, 2012 |
| **PREPARATION DATE:** | November 27, 2012 |
| **SUBMITTING DEPARTMENT:** | Engineering and Planning |
| **DEPARTMENT DIRECTOR:** | Kim Fettig, Project Manager |
| **PRESENTER:** | Kim Fettig, Project Manager |
| **SUBJECT:** | Public Hearing to consider the vacation of Oxbow Trail SE |

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STATEMENT/PURPOSE: To vacate Oxbow Trail SE

BACKGROUND/ALTERNATIVES: A request from Leeroy Mitzel and Lourdes Nelson to vacate a public street as platted in Lakewood 6th Addition. There is a concern that this would cut off access to the property lying to the west.

ATTACHMENTS: 1. Map of street to be vacated
2. Resolution

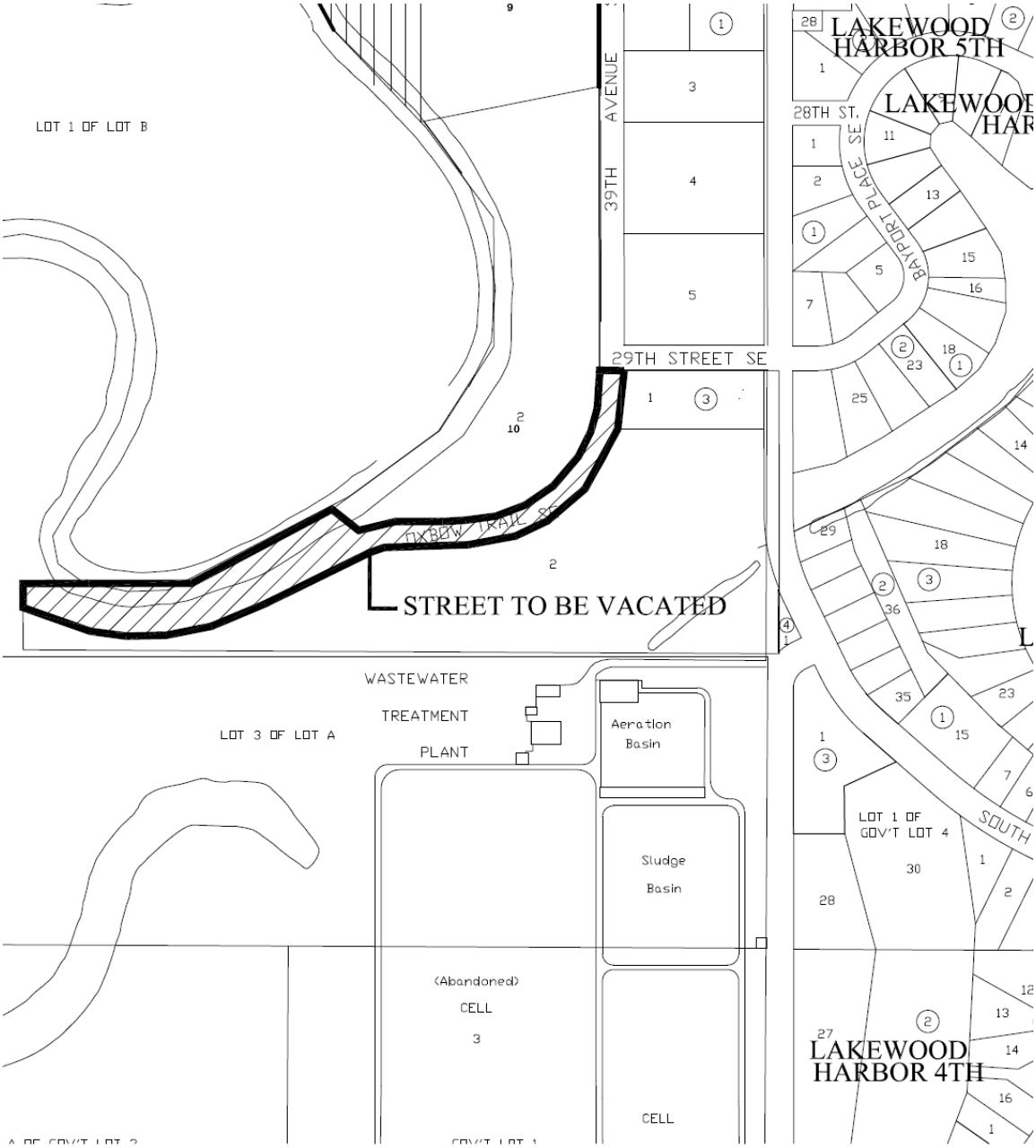
FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION: I recommend denial of the vacation until further time that adequate access is provided to the property that is located at the end of the street.

SUGGESTED MOTION: Motion to deny the vacation of Oxbow Trail SE.


LOT 1 OF LOT B
39TH AVENUE
29TH STREET SE
LAKEWOOD HARBOR 5TH
28TH ST.
BAYPORT PLACE SE
OXBOW TRAIL SE
STREET TO BE VACATED
WASTEWATER
TREATMENT
PLANT
LOT 3 OF LOT A
Aeration Basin
Sludge Basin
(Abandoned)
CELL
3
CELL
LOT 1 OF GOV'T LOT 4
SOUTH
LAKEWOOD HARBOR 4TH

**RESOLUTION OF VACATION**
**Board of City Commissioners**
**City of Mandan, North Dakota**

WHEREAS, Leeroy Mitzel and Lourdes Nelson have submitted to the Board of City Commissioners of the City of Mandan a verified petition asking that all of that public right-of-way of Oxbow Trail SE, as platted in Lakewood 6th Addition, to the City of Mandan, Morton County, North Dakota be vacated. Said tract of land having a nominal width of 80 feet, 40 feet on both sides of the center line, more fully described as follows:

All of Oxbow Trail SE that lies south of 29th Street SE adjoining Lot 10 Block 2 and Lots 1 and 2 Block 3 of Lakewood 6th Addition, lying in Section 1, Township 138N, Range 81W of the 5th Principal Meridian, City of Mandan, Morton County, North Dakota.

WHEREAS, The Board having deemed it expedient to consider such petition and having ordered that said petition be heard by the Board at its regular meeting held at City Hall in the City of Mandan, North Dakota, on December 4th, 2012, at 5:30 o'clock p.m., CT, and the City Administrator having published notice of the filing of the petition and the object therein in the official newspaper once each week for four (4) consecutive weeks, as required by law, which notice stated that the petition would be heard and considered on the date and time aforesaid, at which time any persons interested might appear and be heard, and proof of such publication of the notice having been made and filed; and

WHEREAS, on the 4th day of December, 2012, at 5:30 o'clock p.m., CT, being not less than thirty days after the first publication of the notice aforesaid, the Board of City Commissioners proceeded to hear the testimony and evidence of persons interested and no one having appeared against said petition of vacation, and it appearing to the satisfaction of the Board of City Commissioners that said petitioners are the owners in fee simple of the property adjoining the street to be vacated; that no objections to the requested vacation were raised at the public hearing, that said petition was accompanied by a map of the area proposed to be vacated; which map is on file in the office of the City Administrator of Mandan; that by vacating the street described above, the property can be developed and returned to the tax rolls of the City of Mandan; and the facts and reason for the vacation of such area as established by the petition and the testimony and evidence are good and sufficient to justify the vacation of such area;

NOW, THEREFORE, BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, that all of that public right-of-way of Oxbow Trail SE, as platted in Lakewood 6th Addition, City of Mandan, Morton County, North Dakota be and the same are hereby vacated.

BE IT FURTHER RESOLVED, That the within and foregoing Resolution shall become effective from the time of its passage and publication.

Approved and passed December 4th, 2012, by at least two-thirds vote of all the members of the Board of City Commissioners.

_____
President, Board of City Commissioners
City of Mandan, North Dakota

Attest:

_____
City Administrator

| | |
|---|---|
| Public Notice Dates: | November 2nd, 9th, 16th & 23rd, 2012 |
| Public Hearing: | December 4th, 2012 |
| First Reading: | December 4th, 2012 |

STATE OF NORTH DAKOTA )
COUNTY OF MORTON ) ss. **C E R T I F I C A T E**
CITY OF MANDAN )

James Neubauer, the duly appointed city administrator and city auditor of the City of Mandan, Morton County, State of North Dakota, does hereby certify that attached hereto is a true and correct copy of a Resolution of Vacation of the City of Mandan, which was duly and finally passed and adopted by said Board of City Commissioners after notice of the public hearing on the request for vacation of the street right-of-way described therein had been duly published in the official newspaper of said City prior to the public hearing and final passage of said Resolution.

I do further certify that notice of the Board's approval to vacate said public right-of-way has been published and the original copy of said Resolution is on file in the office of the City Administrator of the City of Mandan.

Dated at Mandan, North Dakota, this 4th day of December, 2012.

_____
James Neubauer, City Administrator
City of Mandan, North Dakota

**PUBLIC NOTICE OF**

**STREET VACATION**

Notice is hereby given that the Mandan City Commission, on Tuesday, December 4th, 2012, following a public hearing on December 4th, 2012, approved a resolution vacating the following public street namely, all of Oxbow Trail SE that lies south of 29th Street SE adjoining Lot 10 Block 2 and Lots 1 and 2 Block 3, of Lakewood 6th Addition, lying in Section 1, Township 138N, Range 81W , Section 35, T139N, R81W of the 5th Principal Meridian, City of Mandan, Morton County, North Dakota more fully described in the resolution. This resolution is available for inspection and copying during normal working hours in the office of the City Administrator.

Dated this 4th day of December, 2012.

By: James Neubauer, City Administrator

**Please Note:** The city administrator is to cause the above notice to be published once following adoption of the street vacation resolution.

Public Hearing No. 2

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4th, 2012 |
| **PREPARATION DATE:** | November 28th, 2012 |
| **SUBMITTING DEPARTMENT:** | Planning |
| **DEPARTMENT DIRECTOR:** | Kim Fettig, Project Manager |
| **PRESENTER:** | Kim Fettig, Project Manager |
| **SUBJECT:** | Consider for approval the final plat of Mandan Industrial Park 8th Addition |

---

STATEMENT/PURPOSE: To consider for approval the final plat of Mandan Industrial Park 8th Addition.

BACKGROUND/ALTERNATIVES: A request from RBROS Developers, LLC, for final plat approval. They want to add a commercial building. The plat was approved by the Planning & Zoning Commission on November 26th, 2012.

ATTACHMENTS:
1. Office Report
2. Final Plat
3. Vicinity Map

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 plat.

SUGGESTED MOTION: I move to approve the final plat of Mandan Industrial Park 8th Addition.

**MANDAN PLANNING OFFICE REPORT**
**November 28, 2012**

Applicant: RBROS Developers, LLC

Owner: same

Requested Action: Final plat approval.

Name of Subdivision: Mandan Industrial Park 8th Addition

Legal Description: Replat of Lot 2 and Auditor's Lot "A" of Lot 7, Block 2, Mandan Industrial Park

Location: 37th Street NW

Parcel Acreage: 2.79

Number of Blocks: 1 Number of Lots: 2

Preliminary Plat Approval: Short Form

Existing Land Use: Industrial

Proposed Land Use: same

Adjacent Land Use: Industrial

Existing Zoning: MA (Light Non-Nuisance Industrial/Heavy Commercial)

Proposed Zoning: same

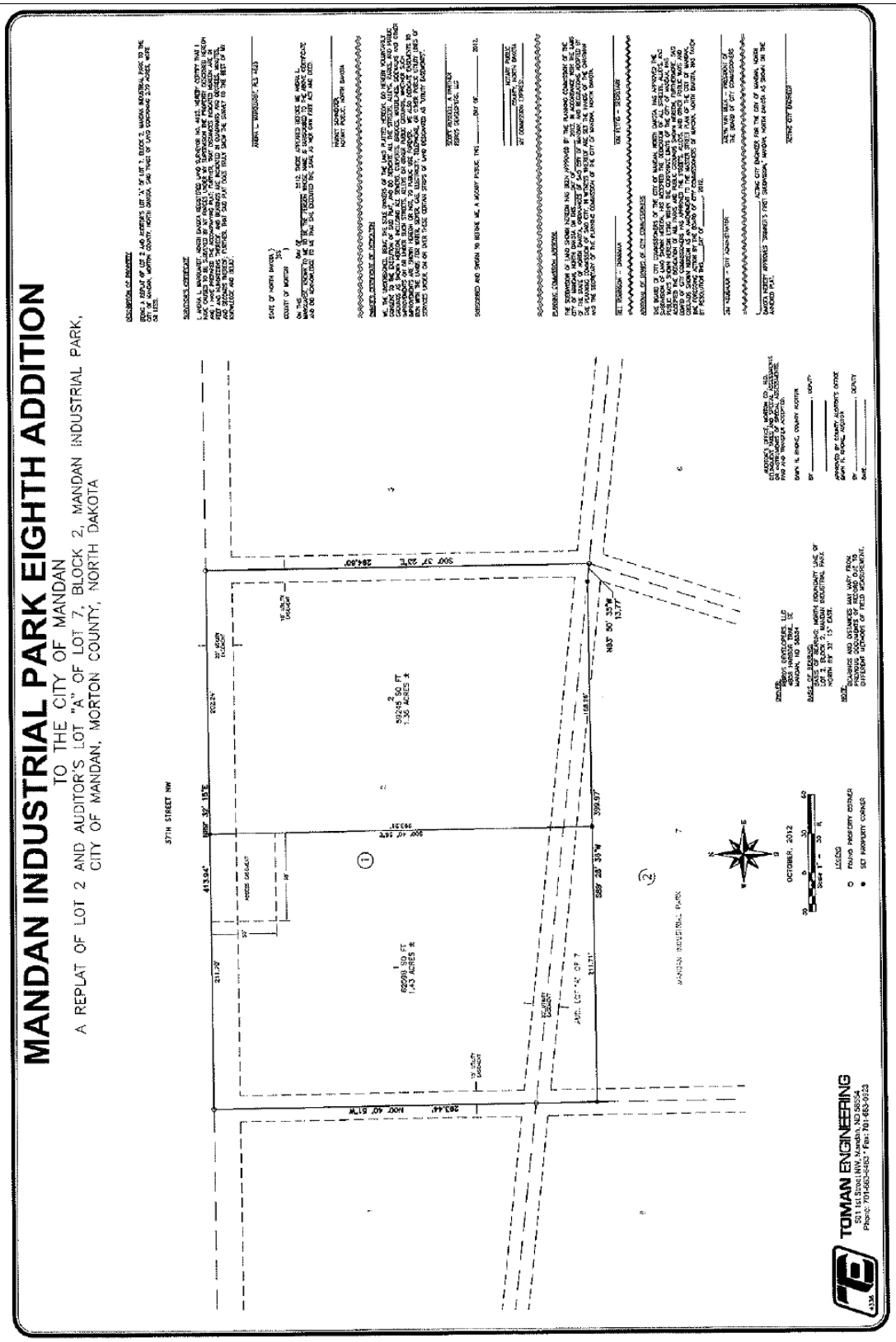
Adjacent Zoning: MA (Light Non-Nuisance Industrial/Heavy Commercial)

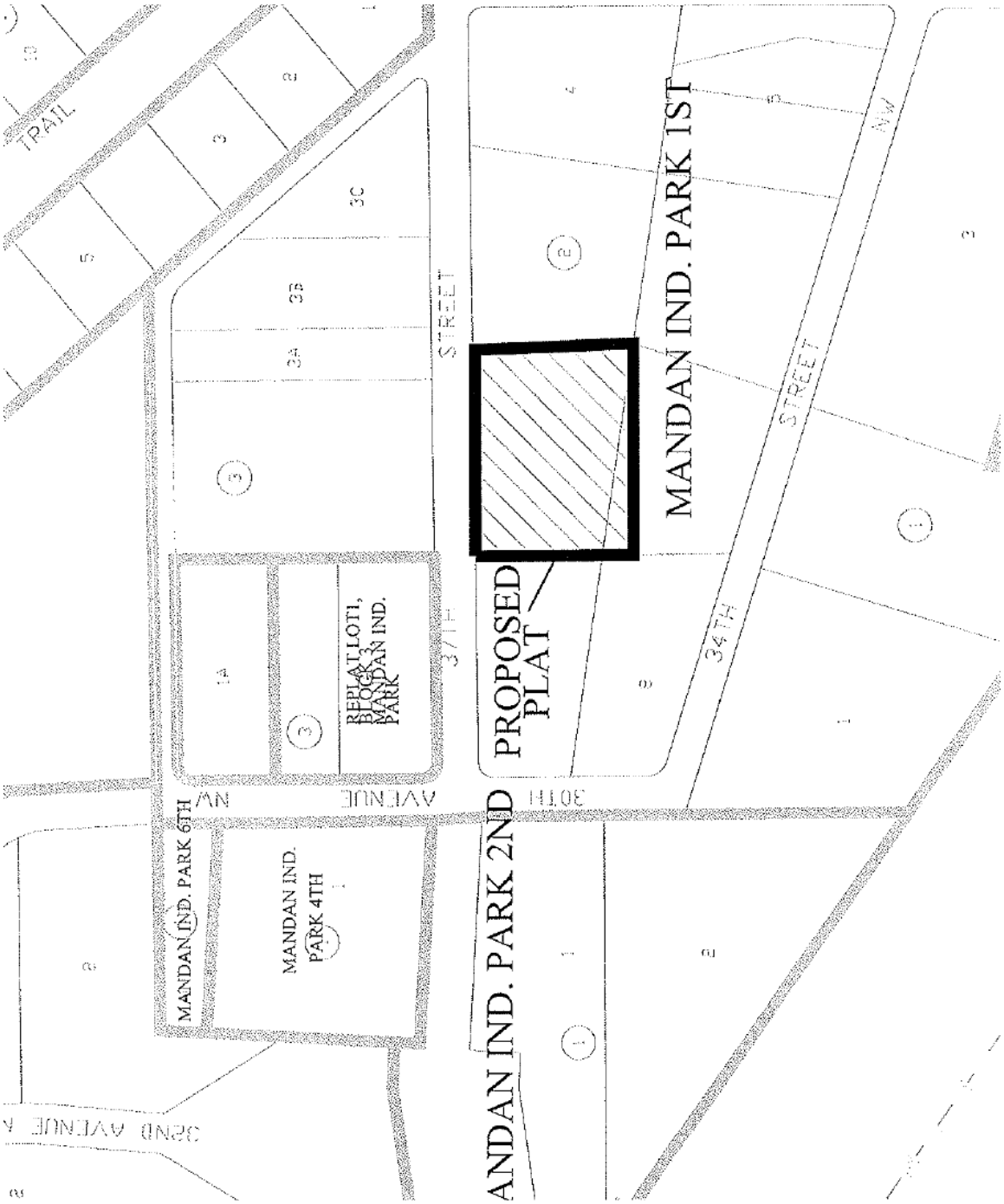
Fee Required: $250.00 Date Received: November 14th, 2012

Adjacent Property Owner Notification: November 14th, 2012

Dates of Legal Notices: November 16th & 23rd, 2012

Recommendation: Planning office recommends approval.


MANDAN INDUSTRIAL PARK EIGHTH ADDITION
TO THE CITY OF MANDAN
A REPLAT OF LOT 2 AND AUDITOR'S LOT "A" OF LOT 7, BLOCK 2, MANDAN INDUSTRIAL PARK,
CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA
37TH STREET NW
OCTOBER, 2012
TOMAN ENGINEERING


TRAIL
3C
3B
3A
STREET
3RD
REPLAT LOT 1, BLOCK 3 MANDAN IND. PARK
NW
AVENUE
MANDAN IND. PARK 6TH
MANDAN IND. PARK 4TH
30TH
PROPOSED PLAT
MANDAN IND. PARK 1ST
ANDAN IND. PARK 2ND
34TH
STREET
NW
2ND AVENUE

Public Hearing No. 3

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4th, 2012 |
| **PREPARATION DATE:** | November 28th, 2012 |
| **SUBMITTING DEPARTMENT:** | Planning |
| **DEPARTMENT DIRECTOR:** | Kim Fettig, Project Manager |
| **PRESENTER:** | Kim Fettig, Project Manager |
| **SUBJECT:** | Consider for approval the final plat of Riverwood Commercial Park 3rd Addition |

---

STATEMENT/PURPOSE: To consider approval of the final plat of Riverwood Commercial Park 3rd Addition.

BACKGROUND/ALTERNATIVES: Steve Thilmony is platting to clean up the auditors lots from the area. The Planning & Zoning Commission approved the final plat on November 26th, 2012.

ATTACHMENTS:
1. Office Report
2. Final Plat
3. Vicinity Map

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 plat.

SUGGESTED MOTION: I move to approve the final plat of Riverwood Commercial Park 3rd Addition.

**MANDAN PLANNING OFFICE REPORT**
**November 28th, 2012**

Applicant: Steve Thilmony, Riverwood Commercial Park, LLC

Owner: same

Requested Action: Final plat approval.

Name of Subdivision: Riverwood Commercial Park 3rd Addition

Legal Description: All of Lot 1, Block 1, All of Lot 1 and part of Lot 2, Block 2, Riverwood Commercial Park, and part of Lot C of the SE ¼ of Section 26,Township 139N, Range 81W

Location: Memorial Highway & Riverwood Avenue SE

Parcel Acreage: 13.67

Number of Blocks: 2 Number of Lots: 7

Preliminary Plat Approval: Short Form

Existing Land Use: Vacant and Industrial

Proposed Land Use: Industrial

Adjacent Land Use: Industrial

Existing Zoning: MB (Heavy Industrial/Heavy Commercial)

Proposed Zoning: MA (Light Non-Nuisance Industrial/Heavy Commercial)

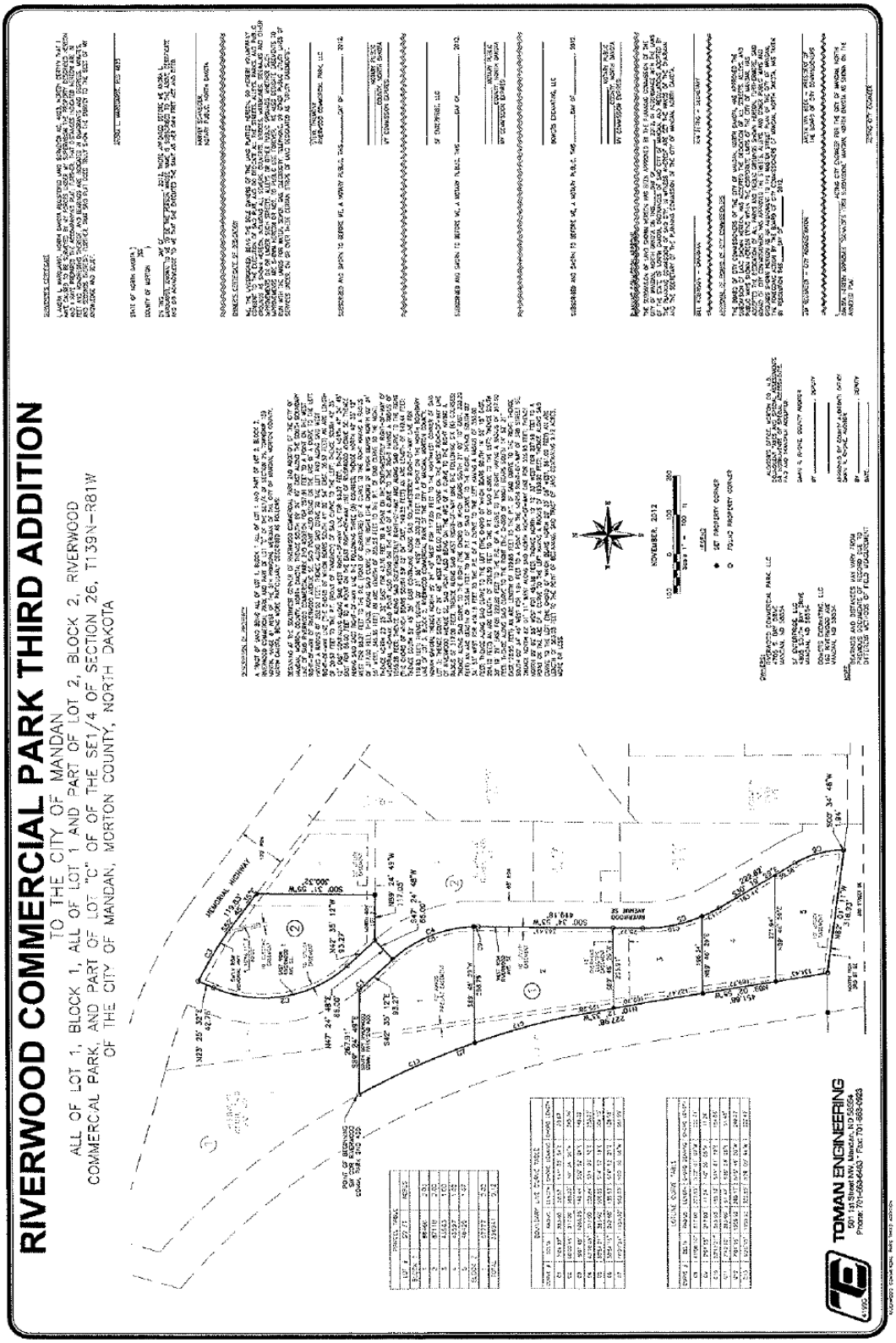
Adjacent Zoning: MA (Light Non-Nuisance Industrial/Heavy Commercial) and CB (Heavy Commercial)

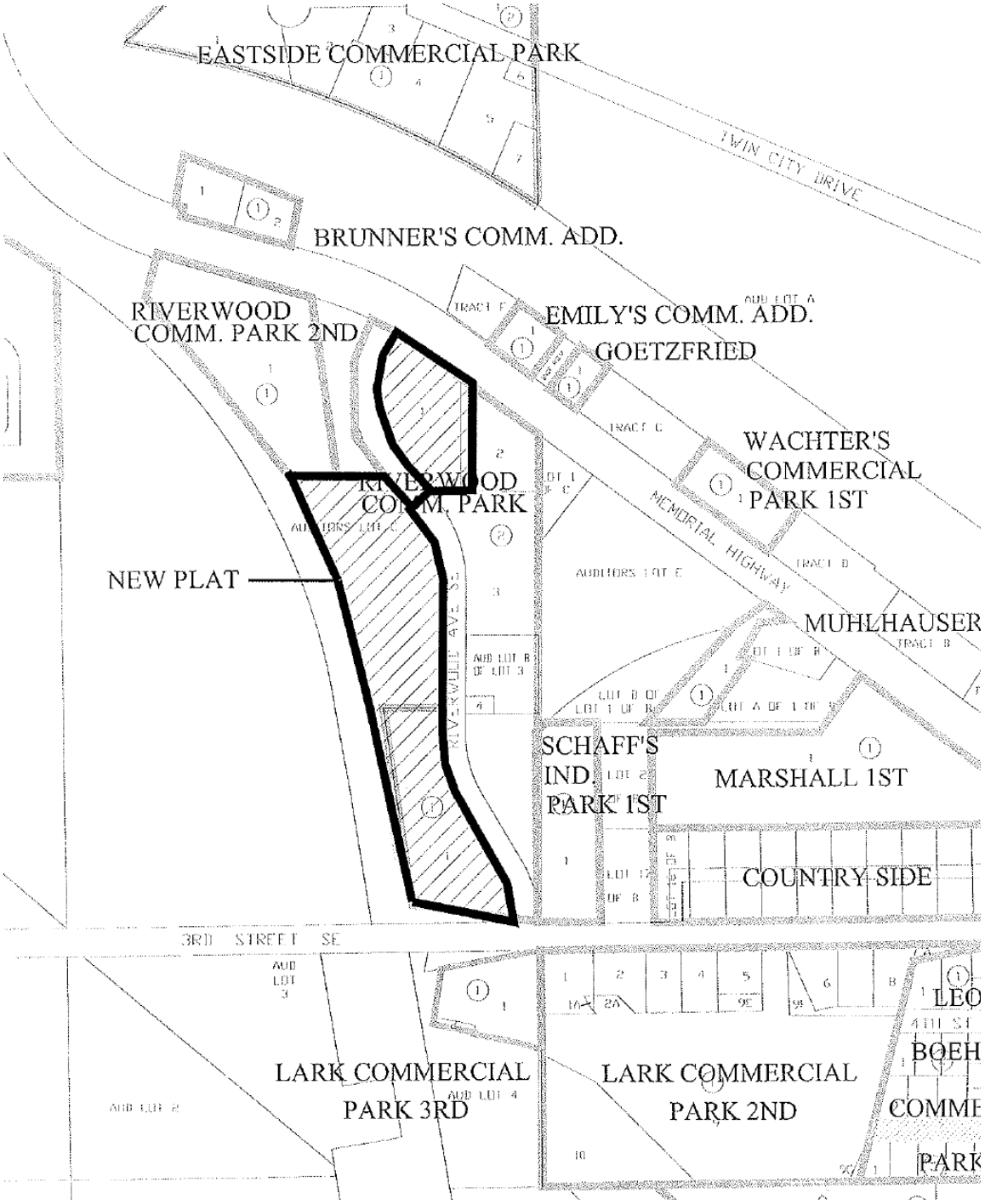
Fee Required: $250.00 Date Received: November 9th, 2012

Adjacent Property Owner Notification: November 19th, 2012

Dates of Legal Notices: November 16th & 23rd, 2012

Recommendation: Planning office recommends approval.


RIVERWOOD COMMERCIAL PARK THIRD ADDITION
TO THE CITY OF MANDAN
ALL OF LOT 1, BLOCK 1, ALL OF LOT 1 AND PART OF LOT 2, BLOCK 2, RIVERWOOD COMMERCIAL PARK, AND PART OF LOT "C" OF OF THE SE1/4 OF SECTION 26, T139N-R81W OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA
TOMAN ENGINEERING
601 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 Fax: 701-663-0983


EASTSIDE COMMERCIAL PARK
TWIN CITY DRIVE
BRUNNER'S COMM. ADD.
RIVERWOOD
COMM. PARK 2ND
EMILY'S COMM. ADD.
GOETZFRIED
WACHTER'S
COMMERCIAL
PARK 1ST
RIVERWOOD
COMM. PARK
MEMORIAL HIGHWAY
NEW PLAT
MUHLHAUSER
SCHAFF'S
IND.
PARK 1ST
MARSHALL 1ST
COUNTRY SIDE
3RD STREET SE
LARK COMMERCIAL
PARK 3RD
LARK COMMERCIAL
PARK 2ND

Public Hearing No. 4

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4th, 2012 |
| **PREPARATION DATE:** | November 28th, 2012 |
| **SUBMITTING DEPARTMENT:** | Planning |
| **DEPARTMENT DIRECTOR:** | Kim Fettig, Project Manager |
| **PRESENTER:** | Kim Fettig, Project Manager |
| **SUBJECT:** | Consider for approval the final plat of Christianson's 1st Addition. |

---

STATEMENT/PURPOSE: To consider approval of the final plat of Christianson's 1st Addition.

BACKGROUND/ALTERNATIVES: A request from Kenneth Lohstreter for final plat approval. Paces Lodging is in the process of purchasing the property for multi-family residential housing. A zone change from Agricultural to Multi-Family is forthcoming. The plat and zone change was approved by Planning & Zoning on November 26th, 2012.

ATTACHMENTS:
1. Office Report
2. Final Plat
3. Vicinity Map

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 plat.

SUGGESTED MOTION: I move to approve the final plat of Christianson's 1st Addition.

**MANDAN PLANNING OFFICE REPORT**
**November 28, 2012**

Applicant: Kenneth Lohstreter

Owner: same

Requested Action: Final plat approval.

Name of Subdivision: Christiansons's 1st Addition

Legal Description: part of the W ½ of Section 21, Township 139N, Range 81W and part of Lots 3 & 4, Block 1, Boutrous Addition.

Location: north of Boundary Road NW

Parcel Acreage: 9.31 (approximate)

Number of Blocks: 1 Number of Lots: 1

Preliminary Plat Approval: Short Form

Existing Land Use: vacant

Proposed Land Use: multi-family residential

Adjacent Land Use: vacant and church property

Existing Zoning: A (Agricultural)

Proposed Zoning: RM (Multi-Family Residential)

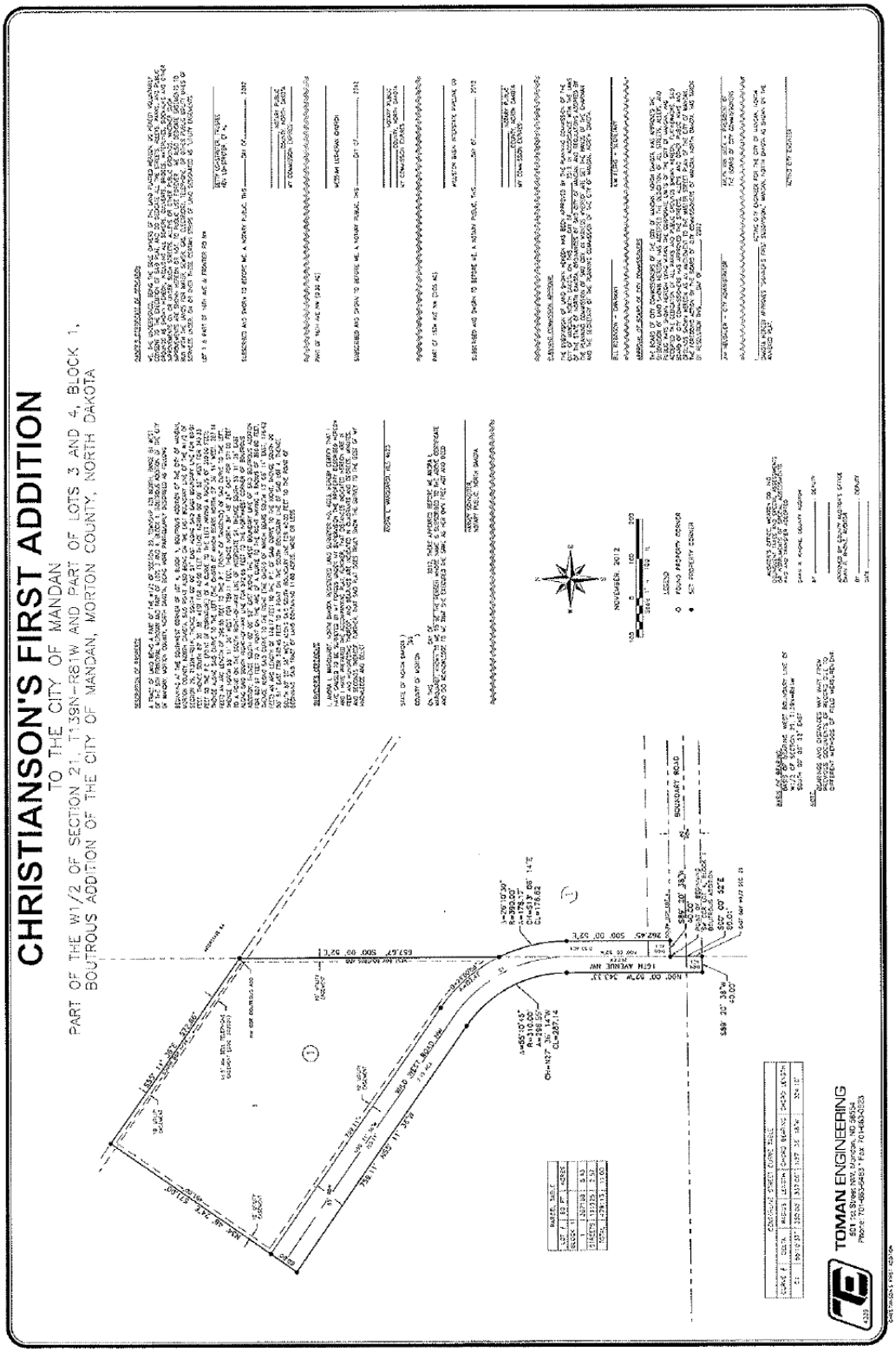
Adjacent Zoning: A (Agricultural) and CC (Heavy Commercial)

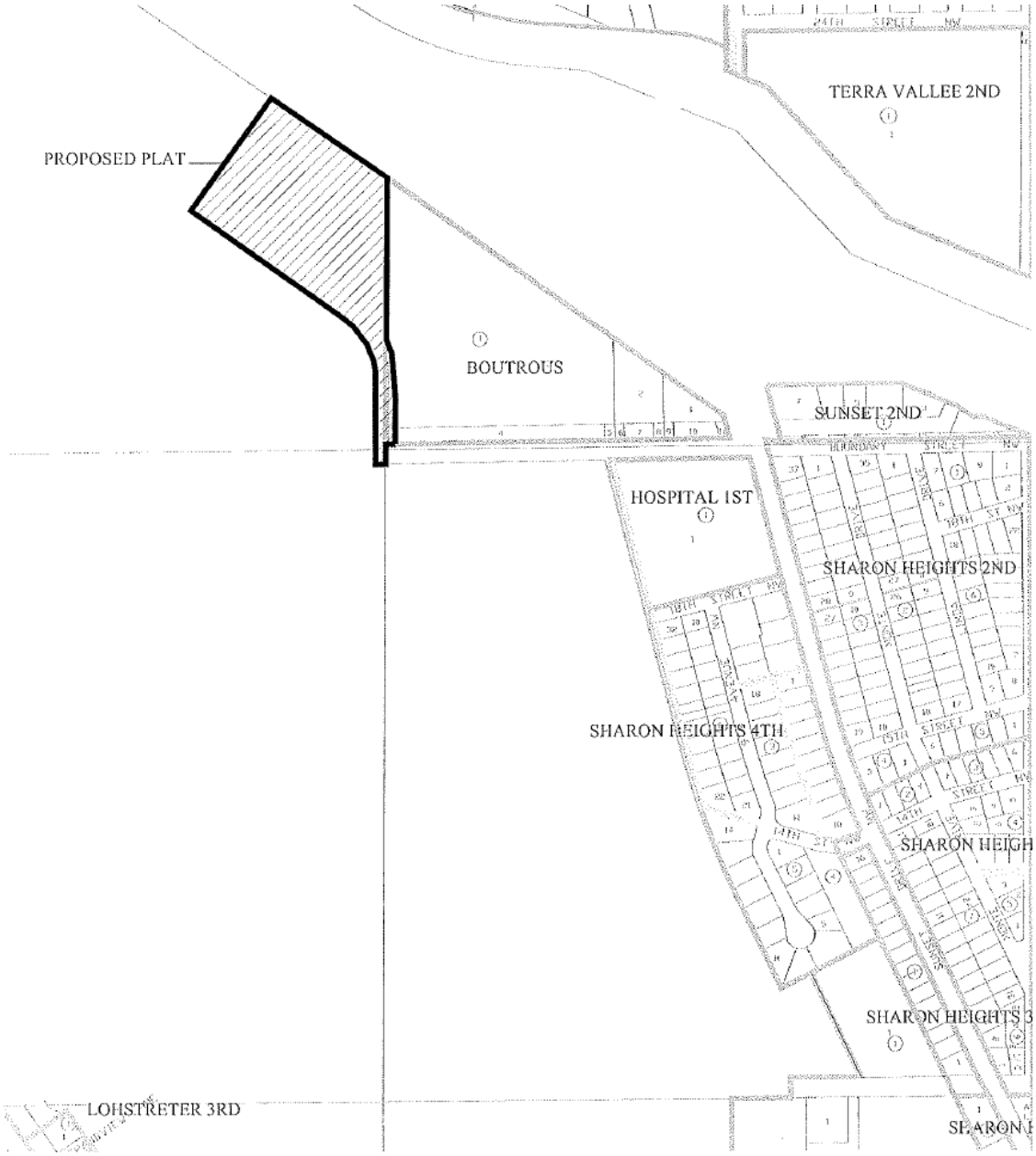
Fee Required: $250.00 Date Received: November 8th, 2012

Adjacent Property Owner Notification: November 14th, 2012

Dates of Legal Notices: November 16th & 23rd, 2012

Recommendation: Planning office recommends approval.


CHRISTIANSON'S FIRST ADDITION
TO THE CITY OF MANDAN
PART OF THE W1/2 OF SECTION 21, T138N-R81W AND PART OF LOTS 3 AND 4, BLOCK 1,
BOUTROUS ADDITION OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA
NOVEMBER 2012
TOMAN ENGINEERING


TERRA VALLEE 2ND
PROPOSED PLAT
BOUTROUS
SUNSET 2ND
HOSPITAL 1ST
SHARON HEIGHTS 2ND
SHARON HEIGHTS 4TH
SHARON HEIGH
SHARON HEIGHTS 3
LOHSTRETER 3RD

Public Hearing No. 5

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4, 2012 |
| **PREPARATION DATE:** | November 29, 2012 |
| **SUBMITTING DEPARTMENT:** | Assessing Dept. |
| **DEPARTMENT DIRECTOR:** | Richard Barta |
| **PRESENTER:** | Richard Barta |
| **SUBJECT:** | Property Tax Incentives for New or Expanding Businesses for Winbauer Koch Partnership |

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STATEMENT/PURPOSE: To consider a five year tax exemption for a commercial structure pursuant to North Dakota Century Code 40-57.1.

BACKGROUND/ALTERNATIVES: Winbauer Koch Partnership is asking for an exemption for the construction of a new commercial structure.

The Notice to Competitors was published in the October 26th and November 2nd of the Mandan News, email notification was sent to the Morton County Auditor, Morton County Tax Equalization Director, Mandan Public School District Superintendent, and Mandan Park District Director on October 26, 2012 and November 30, 2012. No objections have been submitted as of November 30th.

SHORT DESCRIPTION OF PROJECT: Winbauer Koch Partnership is proposing an Electrical Shop, Heating & Plumbing Shop, Trucker Shop, Concrete Shop, and Industrial Service Shop. This is 11,400 SF building (190' x 60' pre-engineered).

# OF JOBS TO BE CREATED: 16 by 2017.

This parcel is also known as Parcel # 2693A at 2928 37th St. N.W. on Lot 1B (Less 125') of Block 3, Addition 0079 of Mandan Industrial Park 1st.

ATTACHMENTS: Application

FISCAL IMPACT: $8,000.00 per year for a five-year total of $40,000

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approval of a Property Tax Incentive for New or Expanding Businesses for Winbauer Koch Partnership in accordance with the recommendation from the Mandan Growth Fund Committee with a 100% exemption for the five years based on verification of the minimum number of jobs being created at the end of year two and sustained through year five.

SUGGESTED MOTION: (The action relates to the Public Hearing, the motion is appropriately dealt with under New Business motion from the MGF) A motion to approve a Property Tax Incentive for New or Expanding Businesses for Winbauer Koch Partnership in accordance with the recommendation from the Mandan Growth Fund Committee for a 100% exemption for the five years subject to verification of the minimum number of jobs being created at the end of year two and sustained through year five.

#2693A · Dec. 6, 2012
5:30 pm

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

Notice is hereby given that the Mandan City Commission (City or county governing body)

of Mandan (City or county), North Dakota, will meet at 5:30 p.m. (Time)

on 12-04-12 (Date) at City Hall (Location) to consider the application of

☐ Winbauer Koch Partnership
2928 37th St. NW
Mandan, ND 58554
(Project operator name and address)

for property tax relief on the project which the applicant will use in the operation of Electrical shop, Plumbing shop, Service Shop & Heating Shop. (Type of business)

at 2928 37th N.W, Mandan, N.D. 58554 (Address)

Lot 1B (less 12.5') Block 3 Mandan Industrial Park, ut (Legal description)

Any competitor of that applicant may appear and be heard by the Mandan City Commission (City or county governing body)

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-named applicant pursuant to the provisions of North Dakota Century Code § 40-57.1-03

Payment will be made by applicant for publication of this notice.

## *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** CITY
City or County

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 WINBAUER KOCH PARTNERSHIP
2. Address of project 2928 37th STREET NW
   City MANDAN County MORTON
3. Mailing address of project operator POST OFFICE BOX 621
   City MANDAN State ND Zip 58554
4. Type of ownership of project
   ☒ Partnership ☐ Subchapter S corporation ☐ Individual proprietorship
   ☐ Corporation ☐ 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, specify the state and date of incorporation N/A
8. Name and title of individual to contact DAVID KOCH - JOE WINBAUER
   Mailing address POST OFFICE BOX 621
   City, State, Zip MANDAN, ND 58554 Phone No _____

**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 |
| 100% 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

24734
(Rev. 7/99)

**Description of Project Property**

11. Legal description of project real property

LOT 1B (LESS 125') BLOCK 3 ADDITION 0079 NANDAN INDUSTRIAL PARK 1st

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 applicatio. 3-31-13

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

190' x 60' PRE-ENGINEERED BUILDING WITH OVERHEAD DOORS, MAN DOORS, OFFICE AREAS, STEEL WALLS AND FRAME WITH INSULATION AND LINER PANEL. BUILDING MEETS ALL PERTINENT ENERGY CODES

c. Projected number of construction employees during the project construction 10

14. Approximate date of commencement of operations for this project . 7-10-13

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

a. Land ..... $ 20,000

b. Existing buildings and structures for which an exemption is claimed ..... $ 400,000

c. Newly constructed buildings and structures when completed ..... $ 400,000

d. Total ..... $ 820,000

e. Machinery and equipment ..... $ N/A

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 ..... $ _____

c. Newly constructed buildings and structures when completed ..... $ 400,000

d. Total taxable valuation of property eligible for exemption (Add lines b and c) ..... $ 20,000

e. Enter the consolidated mill rate for the appropriate taxing district ..... .400

f. Annual amount of the tax exemption (Line d multiplied by line e) ..... $ 8,000

**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).

ELECTRICAL SHOP, TRUCKER SHOP, PLUMBING SHOP, CONCRETE SHOP, HEATING AND PLUMBING SHOP, INDUSTRIAL SERVICE SHOP

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

N/A

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

| Year | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|
| Annual revenue | 1.2 MILLION | 1.3 MILLION | 1.4 MILLION | 1.5 MILLION | 1.6 MILLION |
| Annual expense | 1.0 MILLION | 1.09 MILLION | 1.25 MILLION | 1.3 MILLION | 1.4 MILLION |
| Net income | 200,000 | 210,000 | 275,000 | 2,00000 | 200,000 |

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 | | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|---|
| No. of Employees | (1) | 12 | 13 | 14 | 15 | 16 |
| | (2) | — | — | — | — | — |
| Estimated payroll | (1) | 360,000 | 390,000 | 420,000 | 450,000 | 500,000 |
| | (2) | — | — | — | — | — |

(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).

☐

**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

YES, THERE ARE OTHER SIMILAR BUSINESSES IN THE AREA THAT HAVE PREVIOUSLY BEEN APPROVED

**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, DAVID KOCH, 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 | Title | Date |
|---|---|---|
| | PRESIDENT | 10-20-12 |

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

CITY OF MANDAN
"WHERE THE WEST BEGINS"

# Board of City Commissioners

# Agenda Documentation

**MEETING DATE:** December 4, 2012
**PREPARATION DATE:** November 28, 2012
**SUBMITTING DEPARTMENT:** Human Resources
**DEPARTMENT DIRECTOR:**
**PRESENTER:**
**SUBJECT:** Service Agreement for the City's Employee Assistance Program with Sanford Health.

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PURPOSE
Consider the Service Agreement for the City's Employee Assistance Program with Sanford Health.

BACKGROUND
The City provides employees with an Employee Assistance Program (EAP) which services are provided by Sanford Health. Employees, their spouses, and dependent children through personal contact may address a variety of issues with the Program Administrator. The number of allotted, free sessions per circumstance is delegated in the Service Agreement. Departments Heads and Supervisors may recommend employees to the EAP if an incident becomes unresolved and job related. The City has on occasion made referrals to the EAP for issues such as anger management and conflict resolution. EAP counselors have also provided training to the City's employees. North Dakota Workforce Safety & Insurance (WSI) requires an EAP to qualify for premium discounts.

Sanford Health, formerly Medcenter One, has provided these services to the City for many years.

Utilization of the EAP services, by percentage of City employees, is as follows:

- 2007 = 8.46%
- 2008 = 14.06%
- 2009 = 8.76%
- 2010 = 10.22%
- 2011 = 10.50%

ATTACHMENT
Service Agreement (January 1, 2013 to December 31, 2013)

FISCAL IMPACT
$24.05 per employee/per year or approximately $3,000 annually. This is a budgeted item.

STAFF IMPACT
None

LEGAL REVIEW
Reviewed by Malcolm Brown, City Attorney.

RECOMMENDATION
To approve the Service Agreement for the City's Employee Assistance Program with Sanford Health.

SUGGESTED MOTION
Move to approve the Service Agreement for the City's Employee Assistance Program with Sanford Health.

Sanford Medical Center
300 N Seventh Street
Bismarck, ND 58501

Ph: (701) 323-6000
sanfordhealth.org

SANFORD
HEALTH

# SERVICE AGREEMENT FOR THE CITY OF MANDAN

Sanford Health Center will provide an **Employee Assistance Program (EAP)** to

- All eligible employees (eligible employee will be defined by the CITY OF MANDAN) and family members (spouse, and dependent children) of the **CITY OF MANDAN.** NOTE: An eligible employee who is terminated and or resigns will have continued eligibility for 90 calendar days past the last date of employment.

- The EAP will assist the employees and family members with personal, social, emotional or other problems in living that may be disruptive to their life or job performance.

- The EAP at Sanford is comprised of clinical face to face, confidential counseling for issues such as; marital/relationship/family concerns; physical, mental or emotional illnesses, workplace stress, finances, legal problems and substance abuse evaluation. The employees/family members will meet with the EAP providers at their offices by appointment.

- The Sanford Employee Assistance Program has a statewide provider network.

- Sanford will provide **up to eight (8) one hour sessions per person, per issue, per year through its provider network.** These sessions are free of charge to the employees and eligible family members. All attempts will be made to resolve the problem within the allowed sessions.

- If necessary the EAP shall make best efforts to refer the employee/family member if their identifying problems require resources outside the Sanford provider network. If the employee/family member requires more than eight sessions to resolve the problem the EAP shall work to refer to appropriate services and also help explore alternate payment options. After completion of the eligible sessions the EAP shall not be accountable for payment of referral services. The employee shall be held liable for the cost of the additional services.

- Sanford EAP will be available for the purpose of consultation with supervisors and managers of the CITY OF MANDAN. The consultation may occur by phone or by appointment. The purpose of these consultations would be to allow the supervisor or manager an opportunity to discuss with a professional the difficulty that he/she may be experiencing with one of his/her employees and how best to utilize the EAP in resolving the challenges. Management consultation is provided on an as needed basis with no additional charges to the CITY OF MANDAN.

- Sanford EAP will provide **employee orientation** to all eligible employees of the CITY OF MANDAN informing them of the EAP, the range of services and how to utilize those services. Orientation sessions can be scheduled with the EAP coordinator once per contract year. One session can be scheduled for every 100 employees. The sessions will not exceed 1 hour and will be provided in a group setting on the same day. Employees hired during the contract year will be oriented to the EAP by the CITY OF MANDAN. Sanford will provide orientation materials for all eligible employees.

- **On Site educational presentations** can be arranged through the Sanford EAP office. Two one-hour sessions can be provided to eligible employees and family members and/or supervisors throughout the course of a contract year. The presentations will be considered a part of the EAP at no cost. There will be a charge for mileage at IRS approved rates. Additional sessions (over 2) may be scheduled at a charge of $150 per session plus mileage.

- CITY OF MANDAN will identify an EAP Contact Person within its organization to serve as the primary liaison person between the CITY OF MANDAN and Sanford EAP.

- The **24/7 crisis line** is available for eligible individuals of the CITY OF MANDAN for those times when they need to talk to a professional immediately. The crisis line is accessed by calling toll-free 1-877-829-1219.

- The Employee Assistance Program permits **formal employer referral** of employees to EAP services. When supervisors and managers do a formal referral of employees to the EAP, a Supervisor Referral Form is required. All information regarding the sessions remains confidential unless the employee signs an appropriate Release of Information.

- The Sanford EAP will provide **utilization reports** on a quarterly basis to the CITY OF MANDAN. The utilization reports will be in a format that is easy to understand.

- One free **drug/alcohol assessment** is available to each eligible individual per calendar year.

- Referrals for one hour of free **legal consultation** per contract year may be provided to all eligible employees and family members at no cost.

- A free one on one **"Fitness Testing"** will be available to all eligible employees. This consists of a free consultation to complete a fitness assessment and gain recommendations for an exercise routine for better health. This is available on an individual basis only and available for employees only.

**The CITY OF MANDAN** agrees that all participation by its employees and their family members in the EAP programs is confidential. Sanford shall not disclose any individual employee or dependent information to the **CITY OF MANDAN** or its' representatives without the prior written consent of the employee or family member. Sanford will have exclusive control over the direction and guidance of the professionals rendering services under this agreement. Sanford agrees to keep confidential all **CITY OF MANDAN** information obtained in the course of delivering services.

1. STATUS OF EMPLOYEES: In the performance of the services to be rendered, Sanford shall provide its employees and agents to undertake such services. Said employees and/or agents shall always be considered to be the employees and/or agents of Sanford and not the contracting party to this agreement. Employees of the contracting party shall at no time or under any circumstance be considered to be an employee or agent of Sanford, and are not authorized to undertake or engage in any acts on behalf of Sanford.

2. DIRECT SERVICES TO CLIENTS: Sanford shall provide direct services through its provider network to the employees and family members of the contracting party. They can contact their local Sanford Employee Assistance Program (EAP) provider directly to arrange an appointment time that is convenient to them.

3. REPRESENTATION AS TO ADEQUATE INSURANCE COVERAGE: Each party to this contract represents and warrants to the other that it has, and shall maintain in effect, adequate liability insurance, Worker's Compensation, and other appropriate forms of insurance coverage sufficient to generally protect the respective parties to the contract and their employees in carrying out the objective to the contract.

4. CITY OF MANDAN will be responsible to **provide quarterly employee numbers and listing of employee names** to the Sanford EAP Coordinator for billing purposes. This can be done either by phone, fax, e-mail or mail.

5. BILLING: Sanford EAP will provide the above mentioned services to CITY OF MANDAN at the cost **of $24.05 per employee/per year** and **will be billed quarterly at the beginning of each quarter** by Sanford.

6. TERMS OF AGREEMENT: This agreement shall be for a one year term unless either party provides written notice to the other of its intension to modify the services and be sent by regular mail. Written notice of termination shall be sent by certified mail, return receipt requested. All notices must be sent at least thirty (30) days prior to the designated modification/termination date. This 30-day provision may be waived upon mutual agreement of both parties.

7. APPLICABLE LAW: This agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

8. NOTICES: All notices required or permitted by the terms hereof and all correspondence, communications and payments pertaining to the Medcenter One Sanford Employee Assistance Program contracts shall be directed to the following address:

Sanford Employee Assistance Program
ATTN: Tammy Bulman, EAP Coordinator
414 N 7th St
Bismarck, ND 58506-5525
(701)323-8879 / 1-800-526-8648
FAX: (701) 323-5492
E-Mail: **tbulman@mohs.org**

In witness thereof that parties have executed this agreement for the contract period of January 1, 2013 to December 31, 2013.

**CITY OF MANDAN** authorized signature **DATE**

Kevin Wilson
Name of Designated EAP Contact Person

hr@CityofMandan.com
e-mail Address

205 2nd Ave NW Mandan ND 58554
Business Billing Address

701 667 3217
Phone Number

**SANFORD MENTAL HEALTH, DIRECTOR** **DATE**

Consent No. 2

CITY OF MANDAN
"WHERE THE WEST BEGINS"

# Board of City Commissioners

# Agenda Documentation

**MEETING DATE:** December 4, 2012
**PREPARATION DATE:** November 30, 2012
**SUBMITTING DEPARTMENT:** Human Resources
**DEPARTMENT DIRECTOR:** Kevin Wilson, CBI
**PRESENTER:** Kevin Wilson, CBI
**SUBJECT:** Comprehensive Drug-Free Workplace Program

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STATEMENT/PURPOSE:
To consider adopting a Comprehensive Drug-Free Workplace Program.

BACKGROUND/ALTERNATIVES:
A Comprehensive Drug-Free Workplace Program includes policy, supervisor training, employee education, employee assistance and drug testing. Current Mandan Municipal Code does not provide for, as a condition of employment, requirements to participate in pre-employment, pre-duty, periodic, random, post-accident, reasonable suspicion, return-to-duty and follow-up testing upon selection or request of management. There are no established post-accident criteria.

The City of Mandan Safety Committee in conjunction to qualifying for a North Dakota Workforce Safety & Insurance (WSI) "Drug-Free Workplace" discount reviewed current practices and found employees in the CDL pool are subject to random and pre-employment drug testing. Police, fire and public works utilize pre-employment drug testing. No department (except CDL pool) utilizes random drug testing. Departments have utilized post-accident testing, reasonable suspicion and return to duty testing. There are no established post-accident criteria for testing. Supervisor and employee training have been conducted in the past.

The proposed Policy was developed by utilizing the Department Of Labor elaws Drug-Free Workplace Policy Builder.

ATTACHMENTS:
- Drug-Free & Alcohol Workplace Policy
- Criteria for Post-Accident Testing

FISCAL IMPACT:
None

STAFF IMPACT:

LEGAL REVIEW:
Submitted to Malcolm Brown, City Attorney.

RECOMMENDATION:
To approve the Comprehensive Drug-Free Workplace Program.

SUGGESTED MOTION:
Move to approve the Comprehensive Drug-Free Workplace Program.

# Drug-Free & Alcohol Workplace Policy

## Purpose and Goal

City of Mandan is committed to protecting the safety, health and wellbeing of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

City of Mandan encourages employees to voluntarily seek help with drug and alcohol problems.

## Scope of Policy

Any individual who conducts business for the City of Mandan, is applying for a position or is conducting business on the City of Mandan's property is covered by our drug-free and alcohol workplace policy. Our policy includes, but is not limited to full-time employees, part-time employees, volunteers, elected and appointed officials. For the purpose of this policy, the words Drug Free and Alcohol are synonymous.

## Applicability

Our drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the City of Mandan. Therefore, this policy applies during all working hours, whenever conducting business or representing the City of Mandan, while on call, paid standby, while on City of Mandan property and at City of Mandan-sponsored events.

## Prohibited Behavior

It is a violation of our drug-free workplace policy to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs, synthetic drugs or intoxicants.

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty, notify supervisor) to avoid unsafe workplace practices.

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of our drug-free workplace policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken if job performance deterioration and/or other accidents occur.

Notification of Convictions

Any employee who is convicted of a criminal drug or alcohol violation must notify the City of Mandan in writing within five calendar days of the conviction. The City of Mandan will take appropriate action within 30 days of notification. Federal contracting agencies will be notified when appropriate.

Searches

Entering the City of Mandan's property constitutes consent to searches and inspections. If an individual is suspected of violating the drug-free workplace policy, he or she may be asked to submit to a search or inspection at any time. Searches can be conducted of pockets and clothing, lockers, wallets, purses, briefcases and lunchboxes, desks and work stations and vehicles and equipment.

Drug Testing

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody.

All drug-testing information will be maintained in separate confidential records.

Each employee, as a condition of employment, will be required to participate in pre-employment, pre-duty, periodic, random, post-accident, reasonable suspicion, return-to-duty and follow-up testing upon selection or request of management.

The substances that will be tested for are: Amphetamines, Cannabinoids (THC), Cocaine, Opiates, Phencyclidine (PCP), Alcohol, Barbiturates, Benzodiazepines, Methaqualone, Methadone and Propoxyphene.

Testing for the presence of alcohol will be conducted by analysis of breath.

Testing for the presence of the metabolites of drugs will be conducted by the analysis of urine.

Any employee who tests positive will be immediately removed from duty, suspended without pay for a period of 30 days, referred to a substance abuse professional for assessment and recommendations, required to successfully complete recommended rehabilitation including continuing care, required to pass a Return-to-Duty test and sign a Return-to-Work Agreement, subject to ongoing, unannounced, follow-up testing for a period of five years and terminated immediately if he/she tests positive a second time or violates the Return-to-Work Agreement.

An employee will be subject to the same consequences of a positive test if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, will not sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.

Consequences

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates this policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment can be withdrawn. The applicant may reapply after eighteen months and must successfully pass a pre-employment drug test. Probationary employees will be terminated for violation of policy.

If an employee violates the policy, he or she will be subject to progressive disciplinary action and may be required to enter rehabilitation. An employee required to enter rehabilitation and fails to successfully complete rehabilitation or repeatedly violates this policy will be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or terminated for other violations and/or performance problems.

In determining what action to take the city will consider the nature of the charge, circumstances of the arrest, the employee's record with the city, current job assignment and the impact the arrest may have on other employees, the public and the city's general reputation.

Employee's with job descriptions requiring licensure to operate equipment, trucks and vehicles are subject to a 30 day unpaid suspension for violation of policy. Employees who lose their CDL license are subject to termination.

Assistance

City of Mandan recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.

Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.

Offers all employees and their family member's assistance with alcohol and drug problems through the Employee Assistance Program (EAP).

Allows the use of accrued sick/leave while seeking treatment for alcohol and other drug problems.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

Confidentiality

All information received by the City of Mandan through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

Shared Responsibility

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs.

In addition, employees are encouraged to:

Be concerned about working in a safe environment.

Support fellow workers in seeking help.

Use the Employee Assistance Program.

Report dangerous behavior to their supervisor.

It is the supervisor's responsibility to:

Inform employees of the drug-free workplace policy.

Observe employee performance.

Investigate reports of dangerous practices.

Document negative changes and problems in performance.

Counsel employees as to expected performance improvement.

Refer employees to the Employee Assistance Program.

Clearly state consequences of policy violations.

Communication

Communicating our drug-free workplace policy to both supervisors and employees is critical to our success. To ensure all employees are aware of their role in supporting our drug-free workplace program:

All employees will receive a written copy of the policy.

The policy will be reviewed in orientation sessions with new employees.

The policy and assistance programs will be reviewed at safety meetings.

Posters and brochures will be available at all locations.

Employee education about the dangers of alcohol and drug use and the availability of help will be provided to all employees.

Every supervisor will receive training to help him/her recognize and manage employees with alcohol and other drug problems.

# Criteria for Post-Accident Testing

A driver or equipment operator must have a post-accident drug and alcohol test when:

Involved in an on the job accident and safety sensitive functions; and,

There is a fatality or injury that requires treatment away from the scene and employee receives a citation under state or local law; or

A vehicle is damaged so that it cannot be legally driven or needs to be towed and the driver receives a citation under state or local law (testing is not required if only lamps are broken),

When observed using alcohol or illegal drugs,

If allowed to return to duty after violation of drug or alcohol policies,

There is reasonable suspicion,

Identified by a substance abuse professional with drug or alcohol abuse.

An employee who refuses to consent and submit to a test or obstructs the testing process will be subject to disciplinary action up to and including dismissal. The employee may not refuse or defer the test. A refusal will be treated as a positive test.

CITY OF
MANDAN
"WHERE THE WEST BEGINS"

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4, 2012 |
| **PREPARATION DATE:** | November 30, 2012 |
| **SUBMITTING DEPARTMENT:** | Finance |
| **DEPARTMENT DIRECTOR:** | Greg Welch |
| **PRESENTER:** | Greg Welch |
| **SUBJECT:** | Fraud Policy |

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PURPOSE
To consider approval of the City of Mandan's Fraud Policy.

BACKGROUND
Based on the City's Internal Controls Examination performed by Eide Bailly, the following recommendations were suggested:

1. The City needs to implement a fraud awareness section in the employee handbook. This should outline what constitutes fraud in the workplace and what the consequences of committing fraud would be. Management should communicate this policy to its employees on a periodic basis to increase the perception of detection among employees.

2. The City should implement a third-party anonymous reporting system for employees to report fraud. The reporting system should be composed of both an external hotline number that employees can call to report any fraud and abuse along with an online submission form. The ability of employees to report fraud anonymously to a third-party is important to reduce an employee's fear of retaliation.

The Fraud Policy was prepared by the City's Human Resource Department and was submitted to the City's departments for review and comment on April 13, 2012.

ATTACHMENT
Fraud Policy

FISCAL IMPACT
None

STAFF IMPACT
Minimal

LEGAL REVIEW
Submitted to Malcolm Brown, City Attorney.

RECOMMENDATION
To approve the City's Fraud Policy.

SUGGESTED MOTION
Move to approve the City's Fraud Policy.

CITY OF MANDAN
FRAUD POLICY

The City of Mandan will not condone violation of ethics, laws, ordinances, regulations, policies and procedures that protects its employees, revenue, property, information and other assets from any attempt to gain, by theft, deception or fraud, financially or benefit at the expense of the City of Mandan taxpayer

This policy applies to employees, the public, contractors, vendors, elected and appointed officials, volunteers, agents and taxpayers.

The City of Mandan does not permit any activity that does not stand the closest possible public scrutiny.

**Definitions**

**Asset Inventory Misuse** - converting City assets/inventory for personal use i.e. gas, vehicles, office supplies, etc.

**Asset Misappropriation** - theft or misuse of City assets.

**Bribery** – offering, giving, receiving, or soliciting of anything of value to influence an official act or a business decision.

**Cash Larceny** - cash stolen from the City after recording on the City books.

**Conflict of Interest** -undisclosed economic or personal interest in a transaction that adversely affects the City.

**Corruption** – wrongful use of influence to procure a benefit to self or another person contrary to duty to City or taxpayer.

**Economic Extortion** – employee demand of pay to influence an official act or a business decision.

**Fraudulent Cash Disbursements** - disbursement of funds through trick or device i.e. false invoices, time records, expense reports, check tampering etc.

**Fraudulent Statements** – falsification of an organization's financial statements.

**Illegal Gratuities** – person benefiting from an official act or a business decision who gives a gift to a person who made the decision.

**Larceny** - stealing assets/inventory from the City.

**Occupational Fraud** - the use of ones occupation for personal enrichment through misuse or misapplication of employer's resources or assets.

**Other similar irregularities** - any activity involving questionable behavior or business dealings that put City revenue, property, information and other assets at risk of waste or abuse.

**Skimming** - cash stolen from the City before recording on City books.

**Responsibilities**

City will investigate any acts of fraud or other similar irregularities.

Department heads and elected officials are responsible for instituting and maintaining internal controls.

City Administrator has primary responsibility for administering this policy.

City Administrator will be notified of allegations of fraud.

City Administrator is subject to the advice of the City Attorney.

Investigation results will be reported to City Attorney and City Administrator.

City Attorney will pursue reasonable efforts to obtain recovery of City losses and possible criminal referral.

**Procedures**

**Employees / Elected Officials** - Any employee or elected official who has knowledge of an occurrence of irregular conduct, or has reason to suspect that a fraud has occurred, shall immediately notify his/her supervisor or City Administrator. If the employee has reason to believe their supervisor may be involved or does not feel comfortable reporting the occurrence to their supervisor, the employee shall immediately notify City Administrator.

**Employees /Elected Officials** have a duty to cooperate during an investigation

**Employees /Elected Officials** who knowingly make false allegations will be subject to discipline and or termination.

**Whistle-Blower Protection** – Will be accorded in accordance with appropriate laws and ordinances. The City will protect employees who act in accordance with the requirements of this policy from acts of coercion, intimidation, threats of termination, discipline or suspension.

**City Management/Elected Officials** - Upon notification from an employee of suspected fraud, or if management has reason to suspect that a fraud has occurred, they shall immediately notify City Administrator.

**City Administrator** - Upon notification or discovery of a suspected fraud, the City Administrator will promptly investigate the suspected fraud. In all circumstances, where there are reasonable grounds to indicate that a fraud may have occurred, the City Administrator will inform the City Attorney. Subject to the advice of the City Attorney, the City Administrator will contact the Morton County Sates Attorney and/or the Mandan Police Department and/or NDBCI.

**Security of Evidence** – City Administrator shall take immediate action to prevent the theft, alteration, or destruction of relevant records. Such actions include, but are not necessarily limited to, removing the records and placing them in a secure location, limiting access to the location where the records currently exist, and preventing the individual suspected of committing the fraud from having access to the records.

**Personnel Actions** - If a suspicion of fraud is substantiated by the investigation, disciplinary action, in accordance with MMC Title IV, shall be taken by the Appointing Authority, in consultation with the City Administrator and City Attorney.

## Media Issues

Any City employee or elected official contacted by the media with respect to alleged fraud or audit investigation shall refer the media to the City Administrator. The alleged fraud or audit investigation shall not be discussed with the media by any person other than through the City Administrator, in consultation the City Attorney.

## Documentation

At the conclusion of the investigation, the results will be reported to the members of the Board of Commissioners, the City Attorney, and others as determined necessary. If the report concludes that the allegations are founded, the report will be forwarded to the Office of Morton County States Attorney and/or the Mandan Police Department and/or NDBCI.

## Reporting to External Administrators

City Administrator will report to the external Auditors of the City all information relating to investigations.

## Training

New employees are trained at the time of hiring about the City's Fraud Policy and sign an acknowledgement.

Existing Employees will be trained on the policy and sign an acknowledgment form.

Consent No. 4

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4, 2012 |
| **PREPARATION DATE:** | November 29, 2012 |
| **SUBMITTING DEPARTMENT:** | Assessing/Bldg Inspections |
| **DEPARTMENT DIRECTOR:** | Richard L Barta |
| **PRESENTER:** | Richard L Barta |
| **SUBJECT:** | Consider a reduction in the structure value for the 2012 year for Richard Bushee property, due to assessment that was made as a street appraisal and final review |

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STATEMENT/PURPOSE: To consider a reduction in the structure value for the 2012 year for Richard Bushee property, due to assessment that was made as a street appraisal and final review.

BACKGROUND/ALTERNATIVES: This parcel is also known as Parcel #5008 on Lot 3, Block 1, Nicola's 1st.

Reason for abatement: To lower the structure value for the 2012 year from $99,500 to $82,200. After the final walk through of Mr. Bushee's property to determine accuracy of our data and conducting a market analysis, I have arrived at a true and full value of $94,300 after 9% decrease of $103,600 for the 2012 year rather than $111,600, a difference in true and full value of $17,300. This 9% was given to all of the properties within the city of Mandan after final values were arrived at. State is allowing a 10% tolerance for sales ratio or 90% of market value.

ATTACHMENTS: Application for 2012, market analysis and data sheet.

FISCAL IMPACT: Approximately $314.00

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: I recommend a motion to approve to lower the true and full value for the 2012 year to $94,300 for Mr. Bushee's property.

SUGGESTED MOTION: A motion to approve a reduction for Mr. Bushee's property in the 2012 year with a true and full value to $94,300.

## Application For Abatement And Settlement Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1st of the year following the year in which the tax becomes delinquent.

State of North Dakota
County of Morton
Name BUSHEE RICHARD M & K
Address 1204 7 AVE SE
Legal Description of the property involved in this application
Lot: 3
Block: 1
NICOLA'S 1ST

Property ID Number
City 5008
County 65-3801000

| Total true and full value of the property described above for the year 2012 is: | | Total true and full value of the property described above for the year 2012 should be: | |
|---|---|---|---|
| Land | $12,100 | Land | $12,100 |
| Improvements | $99,500 | Improvements | $82,200 |
| Total (1) | $111,600 | Total (2) | $94,300 |

The difference of $17,300 true and full value between (1) and (2) above is due to the following reason(s):

___ 1. Agricultural property true and full value exceeds its agricultural vale defined in N.D.C.C § 57-02-27.2
___ 2. Residential or commercial peroperty's true and full value exceeds the market value
___ 3. Error in property description, entering the description, or extending the tax
___ 4. Nonexisting improvement assessed
___ 5. Complainant or property is exempt from taxation (Attach a copy of Application for Property Tax Exemption)
___ 6. Duplicate assessment
___ 7. Property improvement was damaged by fire, flood or tornado (see N.D.C.C. § 57-23-04(1)(g))
___ 8. Error in noting payment of taxes, taxes erroneously paid
___ 9. Property qualifies for Homestead Credit According to N.D.C.C. § 57-02-08.1 (Attach a copy of Homestead Credit Application)
X 10. Other (Explain) was done as street appraisal, had final review done 11/27/12

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go to question #5.

1. Purchase price of property: $ _____ Date of Purchase: _____
   Terms: Cash _____ Contract _____ Trade _____ Other (explain) _____
   Was there personal property involved in the purchase price? _____ Estimated value: $ _____
2. Has the property been offered for sale on the open market? _____ If yes, how long? _____
   Asking price: $ _____ Terms of sale: _____
3. The property was independently appraised: _____ Purpose of appraisal: _____
   _____ Market value estimate: $ _____
   Appraisal was made by whom? _____
4. The applicant's estimate of market value of the property involved in this application is $ _____
5. The estimated agricultural productive value of this property is excessive because of the following condition(s): _____

The Applicant asks that _____

By filing this application, I consent to an Inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the Inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a government matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) — Date 11-28-12 — Signature of Applicant Kathryn M Bushee — Date

## Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of Mandan City Commissioners

On _____ the governing board of this municipality, after examination of this applicationa and the facts, passed a resolution recommending to the Board of County Commissionsers thatt he application be _____

_____

_____

Dated this _____ day of _____ , _____ .

_____
City Auditor or Township Clerk

## Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approve/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from $ _____ to $ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extend of $ _____ . The Board accepts $_____in full settlement of taxes for the tax year _____.

We reject this application for the following reason(s): _____

_____

_____

_____

Dated _____ , _____ .

_____ _____
County Auditor Chairperson

## Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the drecords of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

| Year | Taxable Value | Tax | Date Paid(if paid) | Payment Made Under Written Protest? |
|---|---|---|---|---|
| | | | | yes / no |

I further certify that the taxable valueation and the taxes ordered abated or refunded by the Board of Commissioners are as follows:

| Year | Reduction in Taxable Valuation | Reduction in Taxes |
|---|---|---|
| | | |

_____
County Auditor Date

Application For Abatement
And Settlement Of Taxes

Name of Applicant _____

County Auditor's File No. _____

Date Application Was Filed
With The County Auditor _____

11/27/12 RESIDENTIAL ASSESSMENTS FOR CITY OF MANDAN AS1325 TEST PAGE 2

APPRAISAL OF IMPROVED PROPERTY

| | SUBJECT | ADJ FACTOR | | COMPARABLE SALE #1 DESCRIPTIVE | ADJ | COMPARABLE SALE #2 DESCRIPTIVE | ADJ | COMPARABLE SALE #3 DESCRIPTIVE | ADJ | COMPARABLE SALE #4 DESCRIPTIVE | ADJ |
|---|---|---|---|---|---|---|---|---|---|---|---|
| SEQUENCE NUMBER | 05008 | | | 05024 | | 05027 | | 05034 | | 05132 | |
| APPRAISAL DATE | 11/27/2012 | | | 09/29/2010 | | 10/12/2010 | | 01/31/2011 | | 01/01/2011 | |
| SALE PRICE | | | | 76700 | | 98500 | | 107900 | | 86700 | |
| YEAR BUILT | 1983 | 500 | $ | 1974 | 4500 | 1977 | 3000 | 1999 | 8000- | 1993 | 5000- |
| EFFECTIVE YEAR | 1983 | 400 | $ | 1974 | 3600 | 1977 | 2400 | 1999 | 6400- | 1993 | 4000- |
| CONDITION | 6 | 13 | P | 6 | | 6 | | 6 | | 6 | |
| QUALITY | 6 | 13 | P | 6 | | 6 | | 6 | | 6 | |
| EXTERIOR WALLS | 4 | .1 | P | 4 | | 5 | 99- | 9 | 540- | 4 | |
| AIR CONDITIONING | 2 | 300 | $ | 1 | 900 | 2 | | 2 | | 2 | |
| BATHS/FIXTURES | 6 | 500 | $ | 5 | 500 | 5 | 500 | 6 | | 6 | |
| NO. OF FIREPLACES | 0 | 1000 | $ | 0 | | 1 | 1000- | 0 | | 0 | |
| FIREPLACE QUALITY | 0 | 100 | $ | 0 | | 0 | | 0 | | 0 | |
| FLOOR PLAN | 2 | 22 | P | 2 | | 2 | | 2 | | 2 | |
| BASEMENT | 0 | 8 | P | 0 | | 0 | | 0 | | 0 | |
| BASEMENT FINISH | 0 | 10 | $ | 0 | | 0 | | 0 | | 0 | |
| GARAGE | 2 | 200 | $ | 2 | | 2 | | 2 | | 2 | |
| NO. OF STALLS | 2 | 2500 | $ | 2 | | 2 | | 1 | 2500 | 2 | |
| GARAGE QUALITY | 5 | 100 | $ | 4 | 100 | 4 | 100 | 4 | 100 | 4 | 100 |
| SWIMMING POOL | 0 | 5000 | $ | 0 | | 0 | | 0 | | 0 | |
| 1ST FLOOR AREA | 1685 | 27 | $ | 1352 | 8991 | 1666 | 513 | 1680 | 135 | 1216 | 12663 |
| COVERED PATIO COST | 0 | 8 | $ | 0 | | 0 | | 0 | | 0 | |
| AREA FACTOR | 13 | 4500 | $ | 13 | | 11 | 9000 | 13 | | 12 | 4500 |
| DATE OF SALE | 0 | | | 201183 | 261 | 201141 | 1162 | 201091 | 2352 | 201200 | 1734 |
| PROPERTY LOCATION | 2 | | | 2 | | 2 | | 2 | | 2 | |
| BSMT FNSH AREA/QLTY | 0/00 | | | 0/00 | | 0/00 | | 0/00 | | 0/00 | |
| ADJUSTED SALE | | | | | 95,552 | | 114,076 | | 98,047 | | 96,697 |

WEIGHTED AVG 103,575 MEAN ADJUSTED SALE 101,093 STD DEV 7,547 COEF OF VAR 7.5%
INDICATED MKT VALUE 103,600 AS OF 2-1-2012
PREVIOUS MKT VALUE 71,400 LISTING PRICE 0 DATE 00/00/0000 VALUE PER SQ FT 61.48

94,300 ~~Land~~ 9%

11/27/12 Mandan Assessing Dept Page 1
AS1057 Property Data Sheet

BUSHEE RICHARD M & K
1204 7 AVE SE
MANDAN ND 58554

City Parcel No. 05008
County No. 65-003801000
Assessment Year 2012

Property Address: 1204 7 AVE SE

Property Type: RESIDENTIAL

Legal Description

Lot 3 Block 1 Addition 0040 NICOLA'S 1ST

**Total Property - Land**

| | |
|---|---|
| Area Factor | 13 M/H DOUBLE WIDE |
| Zoning | LSD |
| Lot Width | 60 Ft |
| Lot Depth | 95 Ft |
| Lot Sq Ft | 5700 SqFt |
| Irregular Shape | No |
| Alley | No |
| Cul-De-Sac | No |
| Corner | No |
| Utilities | Yes |
| Underground Util | Yes |
| Street | Hard Surface |
| Sidewalk | Yes |
| Location | Inland |
| Flood Plain Degree | |
| Acres | .13 |
| Lot Sale Price | 0 |
| Lot Sale Date | |

**Building Data**

| | |
|---|---|
| Year Built | 1983 |
| Effective Year | 1983 |
| Basement Walls | Concrete Block |
| Condition | Good |
| Quality | Good |
| Construction Type | 2x4 Construction |
| Stories | One Story |
| Roof Cover | Asphalt/Compound |
| Roof Type | Gable |
| Heating Fuel | Gas |
| Heating Type | Forced Air |
| Air Conditioning | Central |

| Flr | Tot Rms | Bed | Bath | |
|---|---|---|---|---|
| 01 | 6 | 3 | 2.00 | 1685 SqFt |

| | |
|---|---|
| Tot Finished Area | 1685 SqFt |
| Exterior Walls | Wood Siding |
| Basement | None |
| Dining Room Area | Formal |
| Kitchen Cabinets | Custom Hardwood |
| Built-Ins | Yes |
| Interior Walls | Panel |
| Interior Finish | Combination |
| Fireplace | No |
| Floors | Softwood |
| Floor Covering | Linoleum |
| | Carpet |
| | Hardwood |
| Apartment | None |

**Garage**

Detached 2 Stall with 574 SqFt
Quality Average/Good

**Additional Data**

| | |
|---|---|
| Electronics | No |
| Home Theater | No |
| Smart Home | No |
| Swimming Pool | No |
| **Sump Pump** | **No** |

**Additional Area**

**Other Area**

| | | | |
|---|---|---|---|
| Listing Date | | | |
| Listing Price | 0 | | |
| Review Date | 09/07/2011 GEORGER | | |
| **Final App. Date** | **11/27/2012 RLB** | | |
| 2012 Mrkt Value | 111600 | Land | 12100 |
| | | Bldg | 99500 |
| 2011 Mrkt Value | 71400 | Land | 11700 |
| | | Bldg | 59700 |
| 2012 Est Tax Amount | | | 2025.77 |

Selling Price Includes Special Assessments

| | |
|---|---|
| Current Sale Price | 0 |
| Current Sale Date | |
| Previous Sale Price | 0 |
| Previous Sale Date | |

Data Sheet Printed By: Shirley Shaw

Consent No. 5

G - ___ ___ ___ ___ (___ ___ ___)___
Site License Number
**(Attorney General Use Only)**

# GAMING SITE AUTHORIZATION
OFFICE OF ATTORNEY GENERAL
SFN 17996 (02-2011)

Mandan Baseball Club, Inc. is hereby authorized to conduct games of
(Full, Legal Name of Gaming Organization)

chance under the license granted by the Attorney General of the State of North Dakota at the following location: Captain Freddy's Riverside Restaurant & Bar the address of which is:

| 2500 Pirates Loop SE | Mandan | 58554 | Morton |
|---|---|---|---|
| (Street) | (City) | (Zip Code) | (County) |

Date(s) Authorized: Beginning 1/1/13 Ending 6/30/13

Specific location where games of chance will be conducted and played at the site (**required**): Games will be played in bar and patio area, excluding restroom areas.

Number of twenty-one tables (**required**) (if zero, enter "0") : 0

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)

1. Days of week of gaming operations _____
2. Hours of gaming _____
3. List each specific game type prohibited _____

Attorney General Date

Signature of City/County Auditor Date

**PRINT** Name / Official Position of person signing above

## INSTRUCTIONS:

1. City/County Auditors - Retain a **copy** of the Site Authorization for your files.
2. City/County Auditors - Return the **original** Site Authorization form to the Organization.
3. Organizations - Send the **original**, **signed**, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval.

## RETURN ALL DOCUMENTS TO:

Office of Attorney General
Licensing Section
600 E Boulevard Ave, Dept. 125
Bismarck, ND 58505-0040
Telephone: 701-328-2329 **OR** 800-326-9240

# RENTAL AGREEMENT
OFFICE OF ATTORNEY GENERAL
SFN 9413 (Rev. 06-2010)

| STATE USE ONLY |
|---|
| SITE LICENSE NO. |
| G-_____(____)__ |

| Site Owner (Lessor) | | Site Name | | Site Phone Number |
|---|---|---|---|---|
| Captain Freddy's, Inc. | | Captain Freddy's | | (701) 751-3348 |
| Site Address | City | State | Zip Code | County |
| 2500 Pirates Loop Se | Mandan | ND | 58554 | Morton |
| Organization (Lessee) | Rental Period | | | Monthly Rent Amount |
| Mandan Baseball Club, Inc. | 1/1/2013 | to | 6/30/2013 | |

| | | | | |
|---|---|---|---|---|
| 1. Is Bingo going to be conducted at this site? | | ☒ No | ☐ Yes | $ |
| 1a. If "Yes" to number 1 above, is Bingo the **primary** game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts. | | ☐ No | ☐ Yes | |
| 2. Is a raffle drawing going to be conducted at this site? | | ☒ No | ☐ Yes | $ |
| 3. Is Prize Boards involving a dispensing device conducted at this site? | | ☒ No | ☐ Yes | $ |
| 4. Is Twenty-One conducted at this site? | | ☒ No | ☐ Yes | $ |
| Number of Tables with wagers **up to** $5 ____ | X Rent per Table $ ____ | | | |
| Number of Tables with wagers **over** $5 ____ | X Rent per Table $ ____ | | | $ |
| 5. Is Paddlewheels conducted at this site? Number of Tables ____ | X Rent per Table $ ____ | ☒ No | ☐ Yes | $ |
| 6. Is Pull Tabs involving **both** a jar bar and dispensing device conducted at this site? If "Yes," skip questions 7 & 8. | | ☒ No | ☐ Yes | $ |
| 7. Is Pull Tabs involving **only** a jar bar conducted at this site? | | ☒ No | ☐ Yes | $ |
| 8. Is Pull Tabs involving **only** a dispensing device conducted at this site? | | ☐ No | ☒ Yes | $ 275.00 |
| | | | | Total Monthly Rent $ 275.00 |

**TERMS OF RENTAL AGREEMENT:**

This RENTAL AGREEMENT is between the Owner (LESSOR) and Organization (LESSEE) that will be leasing the site to conduct games of chance.

The LESSOR agrees that no game will be directly operated as part of the lessor's business.

The LESSOR agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab or prize boards involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization.

The LESSOR agrees that the lessor's oncall or temporary or permanent employee will not, directly or indirectly, conduct games at the site as an employee of the lessee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.

If the LESSEE provides the Lessor with a temporary loan of funds for redeeming pull tabs or prize boards, or both, involving a dispensing device, **the Lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.**

The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.

The LESSOR agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee.

At the LESSOR'S option, the lessee agrees that this rental agreement may be automatically terminated if the lessee's gaming license is suspended at this site for more than fourteen days or revoked.

| Signature of Lessor | Title | Date |
|---|---|---|
| Susanne White | Mgr. | 1/26/12 |
| **Signature of Lessee (Top Executive Official)** | **Title** | **Date** |
| Alan Arntt | President | 11/30/12 |

(over)

Old Business No. 1

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4, 2012 |
| **PREPARATION DATE:** | November 30, 2012 |
| **SUBMITTING DEPARTMENT:** | Administration |
| **DEPARTMENT DIRECTOR:** | Jim Neubauer, City Administrator |
| **PRESENTER:** | Jason Arenz, Senior VP, BNC National Bank |
| **SUBJECT:** | BNC Updated Offer Collins & Main |

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STATEMENT/PURPOSE: To provide additional information related to the BNC National Bank offer on the Collins & Main property.

BACKGROUND/ALTERNATIVES: Additional information as provided by BNC.

ATTACHMENTS: fiscal analysis provided by BNC
Updated Rendering

FISCAL IMPACT:

STAFF IMPACT:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

**From:** Jason Arenz [mailto:JArenz@BNCBANK.COM]
**Sent:** Friday, November 30, 2012 10:50 AM
**To:** Jim Neubauer; Ellen Huber
**Cc:** Dave Hoekstra; jeff@jiranpc.com
**Subject:** RE: Collins & Main Property

Jim and Ellen:

Attached you will find 2 documents:

The 1st document (Excel spreadsheet) showing the present value of future cash flow. This was based on figures given to us by the Mandan tax assessor's office along with the tax exemptions and TIF program that Dakota Commercial is currently on and has requested.

The 2nd document (picture): The changes made to the building include increasing the top of our main building to 22' and to the top of the dome at 33' (3 stories). It also includes a decorative planter with benches to make more of a connection to the adjacent building without taking away any of the 16 parking spaces on the property. In addition, the Fr. Collins plaque feature was enhanced.

Thanks for the time.

Jason

**Jason J. Arenz**
**SVP - Commercial Lending**
***BNC National Bank***
***322 E. Main***
***Bismarck, ND 58502***
*www.bncbank.com*

| | $413,196.06 | $234,635.81 | | |
|---|---|---|---|---|
| 0 | $162,500 | $0 | | |
| 1 | $2,950 | $0 | | |
| 2 | $24,000 | $0 | | |
| 3 | $24,000 | $0 | | |
| 4 | $24,000 | $0 | | |
| 5 | $24,000 | $0 | **TIF accumulation** | |
| 6 | $24,000 | $14,720 | $49,280 | |
| 7 | $24,000 | $14,720 | $49,280 | |
| 8 | $24,000 | $14,720 | $49,280 | |
| 9 | $24,000 | $14,720 | $49,280 | |
| 10 | $24,000 | $14,720 | $49,280 | |
| 11 | $24,000 | $14,720 | $49,280 | |
| 12 | $24,000 | $14,720 | $49,280 | |
| 13 | $24,000 | $14,720 | $49,280 | |
| 14 | $24,000 | $14,720 | $49,280 | |
| 15 | $24,000 | $57,520 | $6,480 | |
| 16 | $24,000 | $64,000 | $450,000 | |
| 17 | $24,000 | $64,000 | | |
| 18 | $24,000 | $64,000 | | |
| 19 | $24,000 | $64,000 | | |
| 20 | $24,000 | $64,000 | | |
| 21 | $24,000 | $64,000 | | |
| 22 | $24,000 | $64,000 | | |
| 23 | $24,000 | $64,000 | | |
| 24 | $24,000 | $64,000 | | |
| 25 | $24,000 | $64,000 | | |
| 26 | $24,000 | $64,000 | | |
| 27 | $24,000 | $64,000 | | |
| 28 | $24,000 | $64,000 | | |
| 29 | $24,000 | $64,000 | | |
| 30 | $24,000 | $64,000 | | |

**Present Value of Cash Flow**

| | 6% | 7% | 8% |
|---|---|---|---|
| BNC Offer - 10 years | $ 319,284 | $ 311,393 | $ 304,051 |
| Other Offer - 10 years | $ 43,712 | $ 40,217 | $ 37,037 |
| BNC Offer - 20 years | $ 417,920 | $ 397,083 | $ 378,645 |
| Other Offer - 20 years | $ 199,347 | $ 172,277 | $ 149,324 |
| BNC Offer - 25 years | $ 449,442 | $ 422,513 | $ 399,204 |
| Other Offer - 25 years | $ 278,649 | $ 235,653 | $ 200,087 |
| BNC Offer - 30 years | $ 472,997 | $ 440,644 | $ 413,196 |
| Other Offer - 30 years | $ 337,908 | $ 280,840 | $ 234,636 |

Discount Rate: meant to reflect the expected rate of return for a similar project.

Cap Rates for mixed-use commercial projects are right around 8%.

**Commissioners:**
**The above analysis assumes tax payments based on 80% of total construction costs. For BNC, the tax assessed value would be $1,200,000 and for Dakota Commercial it would be $3,200,000. The 80% of costs used was the value estimated by the Mandan Assessors office. The tax exemptions were based on the competitors request for identical terms on their project down the street.**

New Business No. 1i

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4, 2012 |
| **PREPARATION DATE:** | November 28, 2012 |
| **SUBMITTING DEPARTMENT:** | Business Development & Communications |
| **DEPARTMENT DIRECTOR:** | Business Development & Communications Director Ellen Huber |
| **PRESENTER:** | Business Development & Communications Director Ellen Huber |
| **SUBJECT:** | MGF Recommendation on Application for Property Tax Exemption (see also Public Hearing No. 5) |

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STATEMENT/PURPOSE: To consider a recommendation from the Mandan Growth Fund Committee regarding an application for property tax exemption for a new business.

BACKGROUND/ALTERNATIVES: The Mandan Growth Fund Committee at a meeting held Oct. 29, 2012, reviewed and considered an application by the Winbauer Koch Partnership for construction of a new building at 2928 37th Street NW. The application is seeking a 100% five-year property tax exemption on the new building. The building is to be 190 ft X 60 ft or 11,400 sf total. The building is to include multiple shop/office unites for lease to trade-oriented businesses such as electrical, plumbing, heating and air, trucking or other services. The applicant did not yet have any tenant commitments. The estimated building value is $400,000, thus a total of 4 full-time employee positions are needed to reach the threshold indicated in current policy for the 100% exemption for all five years.

ATTACHMENTS: Application included under Public Hearings No. 5

FISCAL IMPACT: The value of the exemption is estimated at $8,000 annually for a five-year total of $40,000 in tax savings to the applicant.

STAFF IMPACT: Minimal

LEGAL REVIEW: Attorney Brown has reviewed the application information and was in attendance at the MGF meeting.

RECOMMENDATION: The MGF voted to recommend approval a property tax exemption of up to 100% for five years based on verification of the minimum number of jobs being created at the end of year two and sustained through year five.

SUGGESTED MOTION: I move to approve a property tax exemption of up to 100% for five years for the Winbauer Koch Partnership, subject to verification of the minimum number of jobs being created at the end of year two and sustained through year five.

New Business No. 1ii

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4, 2012 |
| **PREPARATION DATE:** | November 28, 2012 |
| **SUBMITTING DEPARTMENT:** | Business Development & Communications |
| **DEPARTMENT DIRECTOR:** | Business Development & Communications Director Ellen Huber |
| **PRESENTER:** | Business Development & Communications Director Ellen Huber &/or MGF Members |
| **SUBJECT:** | MGF Recommendation for a Revised Property Tax Exemption Policy for New & Expanding Businesses |

---

STATEMENT/PURPOSE: To consider Mandan Growth Fund Committee recommendations for revisions to the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines.

BACKGROUND/ALTERNATIVES: The Mandan City Commission and Mandan Growth Fund (MGF) committee met in joint working sessions on Sept. 18 and Sept. 27 to examine the existing policy. After achieving some informal consensus on a policy outlining exemptions in three tiers and agreeing to remove any exemption for multi-family housing from the purview of the MGF, a working subgroup was assigned to further identify criteria to be associated with these tiers. This subgroup consisted of Commissioner Mike Braun and MGF members Mark Weide and Mike Schaff. Staff liaisons included Administrator Jim Neubauer, Business Development Director Huber, Attorney Malcolm Brown along with Richard Mower of the Bismarck Mandan Development Association and Brent Ekstrom of the Lewis and Clark Regional Development Council.

The subgroup met Oct. 11 and agreed to the following measurable and objective criteria for the three tiers of exemption:

- Jobs creation as measured by the number of jobs.
- Job quality as measured by average hourly wages and benefits
- Increased local use taxes including sales, restaurant and lodging, and hotel occupancy taxes
- Filling a gap in the community or region's market profile as determined by market data which shows that demand exceeds supply, or in accordance with a list of

targeted businesses identified as a need in the community, generally based on a 2008 household survey of retail preferences.

Criteria that are more subjective were retained within the proposed policy as other factors for consideration, particularly if deliberating on whether a project merits an exemption or when debating between two levels.

Proposed new limitations indicate that:

1) Projects involving relocation of an existing business from another N.D. community to Mandan will not generally receive an incentive unless the business is expanding in some capacity, and
2) Jobs must be based at the project location to apply toward the jobs creation thresholds. Out-of-town or traveling jobs stemming from the project location may be awarded partial credit in situations where permanent local residency of employees is likely.

A portion of the existing policy is deleted in the proposal. It addressed a potential transfer of an exemption to a new building.

The portion of the policy addressing payment in lieu of taxes (PILOT) was revised to indicate that this extended form of partial exemption would only be considered by the City Commission and in rare circumstances involving extraordinary public benefit.

The clawback provision of the policy is strengthened to indicate that if a project fails to deliver on public benefits that were the basis for approval of an exemption, or any other requirements including timely reporting, the City Commission may revoke the exemption and/or require that all or part of the exemption be paid back.

Because the proposed revisions to the property tax exemption policy rely on additional criteria not address in the state exemption application form, a supplemental application form is proposed. Additionally, a set of instructions and outline of procedures is recommended for implementation.

Because it’s recommended that any applications for exemptions for multi-family housing be dealt with directly by the City Commission, any policy in this regard may need to be addressed separately or at a future date.

The MGF met Nov. 15 to review proposed changes and recommended the revised policy for approval. An item missed at the meeting, suggested by MGF member Schaff, was a suggestion to also consider under tier 3 a project that provides at least 2 of the tier 2 benefits.

ATTACHMENTS:
1) Property tax exemption policy – fall 2012 proposal
2) Instructions & Procedures
3) Supplemental exemption application

FISCAL IMPACT: Generally speaking, the proposed policy tightens the qualifications for property tax exemption and should result in an overall reduction of levels of exemption provided to new and expanding businesses while retaining the full authority allowed by state law for projects providing substantial public benefits.

STAFF IMPACT: More staff time will likely be needed to review applications for thoroughness and accuracy. As well, more time will be needed for follow-up to assure accountability and compliance.

LEGAL REVIEW: Attorney Brown has reviewed all proposed documents.

RECOMMENDATION: The MGF voted to recommend approval of the revised commercial property tax exemption policy as presented.

SUGGESTED MOTION: I move to approve the revised commercial property tax exemption policy, supplemental application and procedural guidelines with an effective date of Jan. 1, 2013.

Adopted by the City Commission - February 15, 2011
Revised June 5, 2012
*Proposed Changes Fall 2012*

# CITY OF MANDAN
# COMMERCIAL PROPERTY TAX EXEMPTION
# POLICY AND GUIDELINES

The City of Mandan is committed to high quality development in all parts of the city, to growing its commercial property base and to the improvement of the quality of life for its citizens through enhanced employment opportunities, reduced property taxes, increased sales and use tax revenues, and better access to needed products and services. To help meet these goals, the City Commission has adopted guidelines and criteria for granting business incentives. Applications are subject to the review and approval by the Mandan Growth Fund Committee and Mandan City Commission.

Businesses that are primarily industrial, commercial, retail or service are eligible for property tax incentives for new and expanding businesses if they meet state requirements (NDCC 40.57.1).

It is the policy of the City to provide business incentives for the purpose of attracting new business and industry to the City and to encourage expansion and modernization of existing business facilities. The City will generally consider a property tax exemption only for business facilities and/or properties that provide one or more measureable public benefits.

*The criteria outlined in this document are guidelines only. Each application will be evaluated on its own merits and is subject to the review and approval by the Mandan City Commission. The criteria are to be reviewed and updated at least annually and may be modified at any time to assure that the criteria address current priorities and needs.*

**<u>BASE LEVEL/TIER 1 — 100% exemption for 2 years</u>**

Project should provide at least 1 of the following significant, measurable public benefits:

1. **JOBS CREATION — Minimum 3 FTEs by first anniversary of certificate of occupancy (or the first anniversary of occupancy for a lease project)**

2. **JOB QUALITY (WAGES & BENEFITS) — Minimum $9/hr, $18,720/yr or 30% of median household income.** *Based on 2011 City of Mandan average household income estimated at $60,466. Employee benefits including retirement and insurance contributions may be quantified on an hourly basis and applied toward the threshold. Applicant, if approved, shall be required to submit an annual payroll report.*

3. **INCREASED LOCAL USE TAXES (1% sales tax, 1% restaurant & lodging tax, 2% hotel occupancy) — $5,000 to $10,000 annually**
   - *$1 million in annual sales generates $10,000 in local sales tax collections.*
   - *Applicant, if approved, shall be required to submit annual sales tax report.*

4. **FILLING A GAP IN THE COMMUNITY OR REGION'S MARKET PROFILE**
   **Note: Project may qualify under either 4a or 4b**

   a. **Business in retail category in which demand exceeds supply — Generates $500,000 to $1 million annual sales**
      - *Based on Nielsen Claritas, ESRI or other market data for Morton County. Community surveys may also be considered.*
      - *Applicant, if approved, shall be required to submit annual sales tax report or other proof of annual sales.*

   b. **Targeted business approach** (Based on 2008 household survey results.)
      *i.* Retail/Services (1st to build) — under 5,000 sf
         - Hardware/home improvement
         - Clothing, shoe or department store
         - Dry cleaning
         - Movie theater
         - Full-service car wash

      ii. Restaurants — Fast food (counter service or drive-up only)

      iii. Hotels — Minimum 20 rooms, investment of $45,000/room, no amenities

**<u>TIER 2/INTERMEDIATE — 100% for 2 years, 75% year 3, 50% year 4, 25% year 5</u>**

Project should provide:

- at least 2 of the tier 1 benefits as listed above, OR
- at least 1 of the tier 2 benefits as follows

1. **JOBS CREATION — At least 3 FTEs by first anniversary of certificate of occupancy (or the first anniversary of occupancy for a lease project), PLUS an additional FTE for each $100,000 in structural value subject to exemption**

2. **JOB QUALITY (WAGES & BENEFITS) — Minimum $20.35/hr, $42,326/yr or 70% of median household income.** *Employee benefits including retirement and insurance contributions may be quantified on an hourly basis and applied toward the threshold. Applicant, if approved, shall be required to submit an annual payroll report.*

3. **INCREASED LOCAL USE TAXES (1% sales tax, 1% restaurant & lodging tax, 2% hotel occupancy) — $10,001 to $100,000 in local use taxes**
   - *$1 million in annual sales generates $10,000 in local sales tax collections.*
   - *Applicant, if approved, shall be required to submit annual sales tax report.*

4. **FILLING A GAP IN THE COMMUNITY OR REGION'S MARKET PROFILE**
   **Note: Project may qualify under either 4a or 4b**

   a. **Business in retail category in which demand exceeds supply — Generates $1 million to $10 million in annual sales**
      - *Based on Nielsen Claritas, ESRI or other market data for Morton County. Community surveys may also be considered.*
      - *Applicant, if approved, shall be required to submit annual sales tax report or other proof of annual sales.*

   b. **Targeted business approach (based on 2008 household survey results)**
      *i.* Retail/Services (1st to build) — 5,000 sf to 10,000 sf
         - Hardware/home improvement
         - Clothing, shoe or department store
         - Dry cleaning
         - Movie theater
         - Full-service car wash

      ii. Restaurants — Limited service (order w/ cashier, food brought to table)

      i. Hotels — 21 to 40 rooms, $60,000/room construction cost, meeting room

**<u>TIER 3/TOP LEVEL – 100% exemption for five years</u>**

Project should:

- Provide at least 3 of the tier 1 benefits as listed previously, OR
- Provide at least 1 of the tier 3 benefits as follows, OR
- Be a primary sector business. Through the employment of knowledge or labor, the business adds value to a product, process, or service that results in the creation of new wealth. The term includes tourism but does not include production agriculture.

1. **JOBS CREATION — Minimum 3 FTEs by first anniversary of certificate of occupancy (or the first anniversary of occupancy for a lease project), PLUS an additional 2 FTEs for each $100,000 in structural value subject to exemption**

2. **JOB QUALITY (WAGES & BENEFITS) — Minimum $$29.07/hr, $60,466/yr or 100% of median household income.** *Employee benefits including retirement and insurance contributions may be quantified on an hourly basis and applied toward the threshold. Applicant, if approved, shall be required to submit an annual payroll report.*

3. **INCREASED LOCAL USE TAXES (1% sales tax, 1% restaurant & lodging tax, 2% hotel occupancy) —$100,001 in local use taxes annually**
   - *$1 million in annual sales generates $10,000 in local sales tax collections.*
   - *Applicant, if approved, shall be required to submit annual sales tax report.*

4. **FILLING A GAP IN THE COMMUNITY OR REGION'S MARKET PROFILE**
   **Note: Project may qualify under either 4a or 4b**

   a. **Business in retail category in which demand exceeds supply — Generates $10 million or more in annual sales**
      - *Based on Nielsen Claritas, ESRI or other market data for Morton County. Community surveys may also be considered.*
      - *Applicant, if approved, shall be required to submit annual sales tax report or other proof of annual sales.*

   b. **Targeted business approach (based on 2008 household survey results)**
      *i.* Retail/Services (1st to build) — 10,000 or more sf
         - Hardware/home improvement
         - Clothing, shoe or department store
         - Dry cleaning
         - Movie theater
         - Full-service car wash

      ii. Restaurants — Full service (Table side service)

      iii. Hotels — 40+ rooms, $75,000/room construction cost, includes meeting rooms or a pool or convention center

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

## OTHER POTENTIAL IMPACTS (POSITIVE AND NEGATIVE)

- Diversification of economic base (an industry not represented or under-represented in our business community)
- Ability of the project to attract people from other communities
  - Radius of draw for customers and frequency of patronage (often an inverse relationship with the market area increasing as the frequency decreases)
  - Uniqueness of business
  - Breadth of customer base
- Synergies with existing businesses in the community
  - Enhancing an industry sector that is a base of the local economy
  - Filling a gap in the supply chain for a core industry or business sector
  - Providing a product or service needed by other businesses in the region
- Growth potential of company and industry and potential spin-off benefits
- Adding value to local resources
- Making use of an underutilized asset (either facilities or land)
- Economic impact through increased construction activity, equipment purchases, additional product purchases, additional work activity, immediate and projected increases in property values, and impact on future tax collections.
- Impact on city services
  - Can the company be accommodated within existing service levels, or will additional capacity be needed?
  - Is the company locating where better use of existing services will take place or further the development plans of the City?
- Fostering entrepreneurism (boosting the economic feasibility of the project)

## ADDITIONAL LIMITATIONS AND STANDARDS

- A new or expanded business in the community must not gain unfair advantage with existing competitors through use of the exemption. Applicant should be prepared to demonstrate that an unfair advantage is not gained over any possible existing competitor for the amount of exemption received.

- Property tax incentives must be approved prior to the start of construction.

- Projects that are primarily warehousing (for the storage of goods, raw materials or commodities) would not receive an incentive unless the owner proves need or provides other information to justify the exemption.

- Projects involving relocation of an existing business from another N.D. community to Mandan will not generally receive an incentive unless the business is expanding in some manner such as square footage, number of employees, or scope of products and services.

- Jobs created in the 12 months prior to the date of application may be considered toward meeting job creation thresholds as indicated in the criteria.

- Jobs must be based at the project location to apply toward the jobs creation thresholds. Out-of-town or traveling jobs stemming from the project location may be awarded partial credit in situations where permanent local residency of employees is likely.

- Annual reports — By February 15 of each year, the recipient of the exemption will file an annual employment verification report with the Bismarck – Mandan Development Association.

- An exemption that has been granted will be considered lapsed and invalid if construction has not begun in one year and completed in two years. Notice will be sent to the project operator 90 days prior to the exemption lapsing.

**Improvements to Commercial**

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

**Payments in Lieu of Taxes**

The City of Mandan may consider up to a five-year payment in lieu of tax (PILOT) in years 6-10 for a new or expanded business whereby a project may be required to pay only an approved percentage of taxes that would otherwise be due. This incentive is generally used only in rare circumstances for projects of extraordinary public benefit. Such requests shall be considered directly by the City Commission.

**Sale to Non-Profit**

If a property receiving a tax exemption is sold or in any way transferred within a period of time equal to 2.5 times the length of the exemption to an entity exempt from property tax, the property owner will be required to pay back all tax revenue given as part of the exemption.

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

**Other Clawback Provisions**

If the project fails to deliver on public benefits that were the basis for approval of an exemption, or any other requirements including timely reporting, the City Commission may revoke the exemption and/or require that all or part of the exemption be paid back.

Proposed

**APPLICATION FOR PROPERTY TAX INCENTIVES**
**FOR NEW OR EXPANDING BUSINESSES**

**City of Mandan Application and Procedural Instructions**

## Application Instructions

North Dakota Century Code ch. 40-57.1 provides incentives in the form of property tax exemptions, payments in lieu of taxes, or a combination of both to a qualifying business. The incentives may be granted at the discretion of the city or county in which the property is located, to any new or expanded revenue-producing project. Buildings, structures or improvements used in the operation of the project may qualify. Land does not qualify for the exemption.

To apply for projects within the City of Mandan, a helpful first step is to contact City of Mandan Business Development and Communication Office to arrange a meeting or conference call to discuss your project and receive information regarding exemption requirements and guidelines, application forms, and the review and approval process. The City of Mandan Business Development and Communication Office is located at Mandan City Hall, 205 Second Avenue NW, Mandan, ND 58554, phone 701-667-3485.

Recommended next steps are as follows:

1. Review N.D. Tax Department Guidelines — Property Tax Incentives for New or Expanding Businesses
2. Review the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines
3. Complete application forms and submit to the City Assessing and Building Inspection Department, Mandan City Hall, 205 Second Avenue NW, Mandan, ND 58554. If you would like assistance filling out the application or need additional information, call 701-667-3230.
    a. N.D. Tax Department Form — "Application For Property Tax Incentives For New or Expanding Businesses
        i. Helpful Notes:
            - Question 16 — The City of Mandan's mill levy for 2012 is 403.38 mills, which for section 16e translates into 0.40338
            - Question 20 — Include projected property taxes in your projected annual expenses.
    b. City of Mandan Commercial Property Tax Exemption Supplemental Application

## Application Review Procedures

1. Applicants are advised to file their forms at least 45 days prior to their desired construction start date.

2. When an application is received, Assessing Department staff will assist with the scheduling of a public hearing during a meeting of the Mandan City Commission, which typically meets the first and third Tuesday of the month at 5:30 p.m. at City Hall. Staff will also assist with the placement of the legal advertisement in the *Mandan News* (published Fridays, deadline Monday) as required by state law:

    *The project operator publishes two notices to competitors of hearing on the application. The notices are published in the official newspaper of the city or county at least one week apart. The last notice must be published at least 15*

*days, but not more than 30 days, before the city or county considers the application. For example, notices published one week apart on May 1 and May 8 would be appropriate for a hearing scheduled any time between May 23 and June 7. An affidavit of publication is presented to the governing body prior to the hearing as proof of publication. Publication of notices is not required if the municipality determines that project competitors do not exist in the municipality.*

3. Assessing Department staff will provide a copy of the application to the City Administrator and the Business Development and Communications Office to schedule for review and consideration by the Mandan Growth Fund Committee, a nine-person committee generally comprised of businesses people from within the community.

4. Assessing Department staff will also provide a copy of the application to designated representatives of the Morton County Commission, Mandan School Board and Mandan Park Board.

5. The Mandan Growth Fund Committee will meet, typically at least 5 days prior to the public hearing date before the Mandan City Commission, to review the application and consider a recommendation to the Mandan City Commission. Applicants are encouraged to have a representative attend the meeting or alternatively participate via conference call. Committee members will likely ask questions of the applicant to obtain more information regarding the benefit of the project to the community and to clarify items on the application. The meeting is open to the public.

6. The Mandan City Commission will conduct a public hearing (as scheduled in accordance with state law) to receive comment on the application. The applicant is encouraged to have a representative in attendance. The applicant may address the Commission during the public hearing to summarize the project and may also be called upon to answer questions. The Mandan Growth Fund Committee's recommendation regarding the application will be presented to the Mandan City Commission for consideration after the closure of the public hearing.

**Follow-up Requirements**

Recipients of exemptions, once implemented, must file an annual employment verification report with the Bismarck-Mandan Development Association for as many years as the exemption lasts. Applicants will be required to enter into a jobs verification agreement prior to implementation of the exemption.

Applicants may be held to other performance-based requirements and asked to enter into other clawback agreements, with reporting as necessary, as recommended by the Mandan Growth Fund Committee and approved by the Mandan City Commission.

After application approval, an applicant may begin project construction.

Proposed

**APPLICATION FOR PROPERTY TAX INCENTIVES**
**FOR NEW OR EXPANDING BUSINESSES**

**City of Mandan Supplemental Application**

Name of project operator _____

Address of project _____

*Based on the City of Mandan's commercial property tax exemption policy and guidelines (see separate document), please indicate the level of exemption being sought.*

**Level of Exemption**

☐ Tier 1 — 100% exemption for 2 years
☐ Tier 2 — 100% exemption years 1-2, 75% year 3, 50% year 4, and 25% year 5
☐ Tier 3 — 100% exemption for 5 years

*Please indicate all significant public benefits to be provided by the subject project. These are the factors that should serve as the basis for your request. Please check all that apply and please be sure that you provide justification for each claimed benefit through information provided in the "Application for Property Tax Incentives For New and Expanding Businesses" and through this supplemental form. Attach additional sheets and information as needed. If a question is not applicable to the subject project, please indicate such with an "n/a" in the blank.*

**Public Benefits**

☐ Creation and retention of job opportunities within the community (factors to be considered include numbers of jobs, average wages and benefits)
☐ Increased local use taxes (sales, hotel and restaurant, or occupancy)
☐ Filling a gap in the community or region's retail market profile (based on Nielsen Claritas or other published market data)
☐ Diversification of economic base
☐ Ability of the project to attract people from other communities (typically for destination purchases for services)
☐ Synergies with existing businesses in the community (Examples: enhancing an industry sector important to the local economy, filling a gap in the supply chain for a core industry or business sector, providing a product or service needed by other businesses in the region)
☐ Growth potential of company and industry and potential spin-off benefits
☐ Adding value to local resources
☐ Making use of an underutilized asset (either facilities or land)

**Project Development**

Please describe the overall impact of the expansion, relocation, additional location or new business on the City of Mandan and the surrounding economic base. Please note any necessary investment beyond the building in site or infrastructure improvements.

Current assessed land value per square foot: _____

Cost of land (if purchased as part of this project) per square foot: _____

Estimated added land value (per square foot): _____

Estimated annual end-of-the year inventory: _____

Sites being considered: _____

Is this business relocating from another North Dakota site? _____

If yes …

Where is the business relocating from? _____

Please explain the reason for the relocation including details of any expansion in square footage, employment, products or service offerings: _____

_____

**Employment**

Total number of permanent employees in full-time equivalents: _____

Total number of permanent employees estimated to live within 50 miles of proposed site: _____

Hourly wage range by key positions or categories of positions _____

_____

Please describe the benefits offered to employees (retirement, health insurance, dental, etc.) and the eligibility requirements for participation. Indicate value of benefits on an hourly basis.

_____

_____

**Impact on Local Use Taxes**

Estimated value of annual purchases for project location _____

Percentage of purchases for project location subject to local sales or use tax _____

Estimated value of annual sales to be generated from project location _____

Percentage of sales subject to local sales or use tax _____

**Market Context (for retail-oriented businesses only)**

General retail category (check category that best applies)

☐ Motor Vehicle & Parts Dealers
☐ Furniture & Home Furnishing Stores
☐ Electronics & Appliance Stores
☐ Building Materials & Garden Equipment
☐ Food and Beverage Stores
☐ Health & Personal Care Stores
☐ Gas Stations
☐ Clothing & Accessories
☐ Sporting Goods, Hobby, Book, Music Stores
☐ General Merchandise Stores
☐ Foodservice and Drinking Places
☐ Miscellaneous (please indicate) _____

Please use Nielsen Claritas, ESRI or Buxton market analyses as references for the following:

Estimated consumer expenditures in city or county _____

Estimated retail sales in city of county _____

Estimated surplus or gap _____

**Importance of Incentive (use a separate sheet as needed)**

Please describe why an incentive is necessary for the success of this project and how the improvements will benefit the property at the conclusion of the abatement.

**Future Expansion Plans (use a separate sheet as needed)**

Please describe any plans for future expansion beyond the initial development. Describe investments and employment associated with those plans on a year-to-year basis.

I _____ do hereby certify that the answers to the questions above 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 | Title | Date |

New Business No. 2

# Board of City Commissioners

# Agenda Documentation

CITY OF MANDAN
"WHERE THE WEST BEGINS"

**MEETING DATE:** December 4, 2012
**PREPARATION DATE:** November 23, 2012
**SUBMITTING DEPARTMENT:** Mandan Airport
**DEPARTMENT DIRECTOR:** Jim Lawler, Manager Mandan Municipal Airport
**PRESENTER:** Jim Lawler, Manager, Mandan Airport Authority
**SUBJECT:** Appointment to the Mandan Airport Authority

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STATEMENT/PURPOSE: The Board of City Commissioners makes appointments to the Mandan Airport Authority.

BACKGROUND/ALTERNATIVES: The Mandan Airport Authority consists of 5 members who are Dr. Dale Klein, Sandy Tibke, Marc Taylor, Lee Weinhandl, and Dennis Adams. The Airport Authority is tasked with managing the affairs of Mandan Airport. There is currently one position up for appointment. In order to solicit interested parties announcements were placed in the Mandan News on November, 2012, on the Mandan Airport and City of Mandan's website and word of mouth.

Four letters of interest were received, which are attached.

ATTACHMENTS: Letters of Interest:
Shannon Boehm
Marc Taylor
Mike Gardner
Harold Parkin - Withdrawn

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: The Mandan Airport Authority met on November 19, 2012 and recommends the reappointment of Marc Taylor. The term of the Mandan Airport Authority is for a period of 5 years beginning January 1, 2013 through December 31, 2017.

SUGGESTED MOTION: I move to reappoint Marc Taylor to the Mandan Airport Authority for a period of 5 years ending December 31, 2017.

Mandan City Commission
Mandan Airport Authority
Mandan, North Dakota
October 30, 2012

Members,

The following resume is submitted as my interest in serving the Mandan Airport Authority as a member of the board.

Age 85 years.

1953 to 1961: Pilot and lead mechanic, FAA Authorized Aircraft Inspector for Capital Aviation Corporation, Bismarck, ND.

1962 to 1970: General Manager of Kundert Aviation, Fargo, ND.

1971 to 1984: Owner of Lake Region Aviation, Inc., Devils Lake, ND.

1985 to 1994: Instrument Technician, North Dakota National Guard.

1974 to 1984: President and Member of Devils Lake Airport Authority, Devils Lake, ND.

For your consideration,

Sincerely;

Harold L. Parkin
131 3rd Avenue S.E.
Mandan, ND 58554
701-663-5070
hlparkin@bis.midco.net

October 30, 2012

Re: Mandan Airport Authority Board Position

Mr. Jim Lawler, Airport Manager

Mr. Lawler,

I am interested in seeking another term as a member of the Mandan Airport Authority Board.As a member of the Mandan Airport Authority Board, I have assisted Mr. Lawler in meetings with the FAA to secure the funding for the runway improvement grant.

In addition to my tenure on the Mandan Airport Authority Board, my experience includes:

1) Current member of the Bismarck-Mandan Chamber Board. Recently elected as Board Treasurer for 2013.
2) Was selected as "Small Businessman" of the year by the Bismarck-Mandan Chamber
3) Presently a board member of the North Dakota Implement Dealers Association Health Trust. The Board oversees the health insurance program for the North Dakota Implement and Auto Dealers Associations.
4) Rough Rider Board Member. The Board is responsible for promotion of the Case IH brand in North Dakota/Northwest Minnesota.
5) Past President of the North Dakota Implement Dealers Association
6) Past President of the North Dakota Ag Association
7) Pilot since 1971. I have kept an airplane at the Mandan airport since the late 1980's.
8) Currently President of the EAA 1008 club, an aircraft enthusiast club that is based at the Mandan Airport. The club promotes aviation in the community.
9) Current President and owner of Northern Plains Equipment Co., Inc.
   Northern Plains Equipment Co., Inc. has been an equipment dealer located in Mandan for 28 years.

Sincerely,

Marc Taylor

**Mandan Airport**

**From:** Shannon Boehm [slboehm@mohs.ORG]
**Sent:** Friday, November 09, 2012 1:04 PM
**To:** mdnaport@extendwireless.net
**Subject:** Letter of Interest

Shannon Boehm
5400 Old Red Trail
Mandan, ND 58554
701-391-6208

Dear Mr Lawler,

I'm writing this letter to express interest in the position to the Mandan Airport Authority.

I have been employed with Sandford Health in the Information Technology Dept for 12 years. I hold a Private Pilot Single Engine Land and Y19 is my home airport. I have a Bachelors of Science in Business. Lived in Mandan for 41 years , married with 3 children. I would be interested to learn how a Municipal Airport functions and how by background in computers, mechanical maintenance, and construction could benefit.

Thanks for your consideration,
Shannon Boehm.

Shannon Boehm
System Administrator
701-323-5981
SANFORD HEALTH

Jim Lawler
Manager
Mandan Municipal Airport
PO Box 250
Mandan, ND 58554

Transmitted via email to: mdnaport@extendwireless.net

November 9, 2012

Re: Expression of interest

Mr. Lawler:

I am writing to express my interest in the recently advertised position with the Mandan Airport Authority. I understand this would be a five year term beginning January 1, 2013. I further understand that the Authority exists to provide, maintain, and promote a safe airport environment for the community and others.

I am relatively new to North Dakota, my wife and I moved to Mandan from the West Coast in February of 2011. I have always been interested in general aviation, and have had a long time goal of obtaining my private pilot's license. Since moving to North Dakota, I have started that journey, I currently have a little over 30 hours, and look forward to completing this first step, and moving on towards IFR certification. KY19 will be my "home" airport. In fact, your Chairman Dr. Dale Klein was my physician for my FAA medical. Regardless of whether or not I obtain this position, I intend to become active in the aviation community in Mandan.

Since moving to North Dakota, I have made it a goal to become active in the local community. I have been elected to the Lakewood Homeowners Association Board of Directors, and have since been elected secretary of the organization. I am active with the Bismarck Downtowners Association, and participate on a few of their committees. I am also on the Initiative Funding Committee for the MSA United Way. I have also volunteered for the Central Dakota Humane Society, as well as the Bismarck Marathon.

Professionally, I am an Executive Vice President with Montana-Dakota Utilities. I have experience in strategic planning, goal setting, budgeting, marketing, operations, customer service, and IT. I would be happy to lend these skills to the Authority.

I am applying under the assumption that there is a vacancy. If all five of the incumbents would like to continue their service, I do not want to contest the position, and would withdraw my letter of interest.

Sincerely,

Michael J Gardner
4717 Inlet Bay Dr
Mandan, ND 58554
206-465-2378
Mike.gardner@mdu.com

New Business No. 3

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4, 2012 |
| **PREPARATION DATE:** | November 28, 2012 |
| **SUBMITTING DEPARTMENT:** | Administration |
| **DEPARTMENT DIRECTOR:** | Jim Neubauer, City Administrator |
| **PRESENTER:** | Jim Neubauer, City Administrator |
| **SUBJECT:** | Comprehensive Plan |

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STATEMENT/PURPOSE: To consider entering into contract negotiations for a comprehensive plan.

BACKGROUND/ALTERNATIVES: The Board of City Commissioners approved issuing a request for proposals for a comprehensive plan on May 15, 2012. We received four proposals in August 2012. The four proposals were reviewed and ranked by the following individuals:

- Mandan Parks & Rec Director, Cole Higlin and Commissioner Wanda Knoll
- City Commissioner, Dennis Rohr (Planning & Engineering Portfolio Holder)
- City Commissioner, Dot Frank (Planning & Zoning Portfolio Holder)
- Interim Planning & Engineering Project Manager, Kim Fettig
- Planning & Zoning Commissioner, Shauna Laber

After receiving the rankings, the top two (Kadrmas Lee & Jackson and Stantec) were invited to make presentations.

November 27th, the two firms presented to the individuals listed above along with Business Development & Communications Director Huber, Public Works Director Wright and myself.

Both firms made excellent proposals to the group. The consensus of the group was to recommend entering into contract negotiations with Stantec. This consensus would fall in line with the original ratings of the proposals.

In order to perform a thorough and complete plan for the City of Mandan and Mandan Park District we anticipate a 14 month time frame.

We propose to complete contract negotiations in order to bring a contract to the Commission for consideration at the December 18th meeting.

ATTACHMENTS: Proposals are available upon request

FISCAL IMPACT: $100,000 is budgeted for this project from the City of Mandan along with $20,000 from the Mandan Park District.

STAFF IMPACT: Considerable staff and commission time will required

LEGAL REVIEW: City Attorney Brown will be involved consultations regarding contract negotiations.

RECOMMENDATION: The recommendation is to move into contract negotiations with Stantec for services related to providing a Comprehensive Plan for the City of Mandan.

SUGGESTED MOTION: I move to enter contract negotiations with Stantec for services related to providing a Comprehensive Plan for the City of Mandan

Res. & Ord. No. 1

**ORDINANCE NO. 1134**

**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 R7 (Single -Family Residential) and shall be included in the following:

Lot 15 to RM (Multi-Family Residential, restricted to 10 units per acre).

Lot 16 to R3.2 (Two-Family Residential).

of Heart Ridge 2nd Addition in Section 34, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota

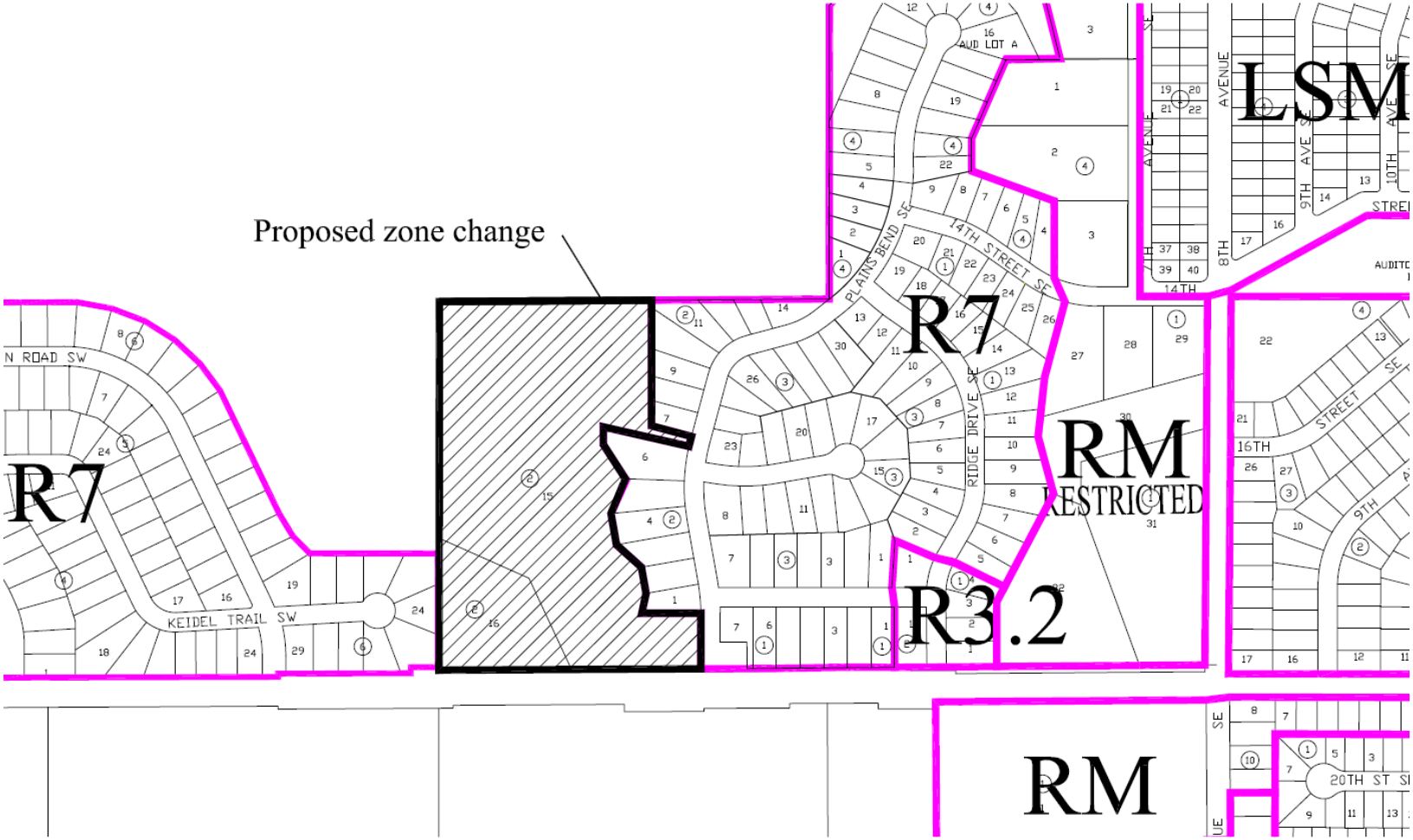
and as so amended said section is hereby reenacted. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

_____
President, Board of City Commissioners

Attest:

_____
City Administrator

| | |
|---|---|
| Public Hearing: | October 22, 2012 |
| First Consideration: | December 4, 2012 |
| Second Consideration and Final Reading: | December 18, 2012 |
| Publication Date: | January 18, 2012 |
| Recording Date: | |


Proposed zone change
R7
R7
RM
RESTRICTED
R3.2
RM
LSM
N ROAD SW
KEIDEL TRAIL SW
PLAINS BEND SE
14TH STREET SE
RIDGE DRIVE SE
AUD LOT A
14TH
8TH
9TH AVE SE
10TH
16TH
STREET
9TH
20TH ST

Res. & Ord. No. 2

**RESOLUTION OF VACATION**
**Board of City Commissioners**
**City of Mandan, North Dakota**

WHEREAS, Leeroy Mitzel and Lourdes Nelson have submitted to the Board of City Commissioners of the City of Mandan a verified petition asking that all of that public right-of-way of Oxbow Trail SE, as platted in Lakewood 6th Addition, to the City of Mandan, Morton County, North Dakota be vacated. Said tract of land having a nominal width of 80 feet, 40 feet on both sides of the center line, more fully described as follows:

All of Oxbow Trail SE that lies south of 29th Street SE adjoining Lot 10 Block 2 and Lots 1 and 2 Block 3 of Lakewood 6th Addition, lying in Section 1, Township 138N, Range 81W of the 5th Principal Meridian, City of Mandan, Morton County, North Dakota.

WHEREAS, The Board having deemed it expedient to consider such petition and having ordered that said petition be heard by the Board at its regular meeting held at City Hall in the City of Mandan, North Dakota, on December 4th, 2012, at 5:30 o'clock p.m., CT, and the City Administrator having published notice of the filing of the petition and the object therein in the official newspaper once each week for four (4) consecutive weeks, as required by law, which notice stated that the petition would be heard and considered on the date and time aforesaid, at which time any persons interested might appear and be heard, and proof of such publication of the notice having been made and filed; and

WHEREAS, on the 4th day of December, 2012, at 5:30 o'clock p.m., CT, being not less than thirty days after the first publication of the notice aforesaid, the Board of City Commissioners proceeded to hear the testimony and evidence of persons interested and no one having appeared against said petition of vacation, and it appearing to the satisfaction of the Board of City Commissioners that said petitioners are the owners in fee simple of the property adjoining the street to be vacated; that no objections to the requested vacation were raised at the public hearing, that said petition was accompanied by a map of the area proposed to be vacated; which map is on file in the office of the City Administrator of Mandan; that by vacating the street described above, the property can be developed and returned to the tax rolls of the City of Mandan; and the facts and reason for the vacation of such area as established by the petition and the testimony and evidence are good and sufficient to justify the vacation of such area;

NOW, THEREFORE, BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, that all of that public right-of-way of Oxbow Trail SE, as platted in Lakewood 6th Addition, City of Mandan, Morton County, North Dakota be and the same are hereby vacated.

BE IT FURTHER RESOLVED, That the within and foregoing Resolution shall become effective from the time of its passage and publication.

Approved and passed December 4th, 2012, by at least two-thirds vote of all the members of the Board of City Commissioners.

_____
President, Board of City Commissioners
City of Mandan, North Dakota

Attest:

_____
City Administrator

| | |
|---|---|
| Public Notice Dates: | November 2nd, 9th, 16th & 23rd, 2012 |
| Public Hearing: | December 4th, 2012 |
| First Reading: | December 4th, 2012 |

STATE OF NORTH DAKOTA )
COUNTY OF MORTON ) ss. **C E R T I F I C A T E**
CITY OF MANDAN )

James Neubauer, the duly appointed city administrator and city auditor of the City of Mandan, Morton County, State of North Dakota, does hereby certify that attached hereto is a true and correct copy of a Resolution of Vacation of the City of Mandan, which was duly and finally passed and adopted by said Board of City Commissioners after notice of the public hearing on the request for vacation of the street right-of-way described therein had been duly published in the official newspaper of said City prior to the public hearing and final passage of said Resolution.

I do further certify that notice of the Board's approval to vacate said public right-of-way has been published and the original copy of said Resolution is on file in the office of the City Administrator of the City of Mandan.

Dated at Mandan, North Dakota, this 4th day of December, 2012.

_____
James Neubauer, City Administrator
City of Mandan, North Dakota

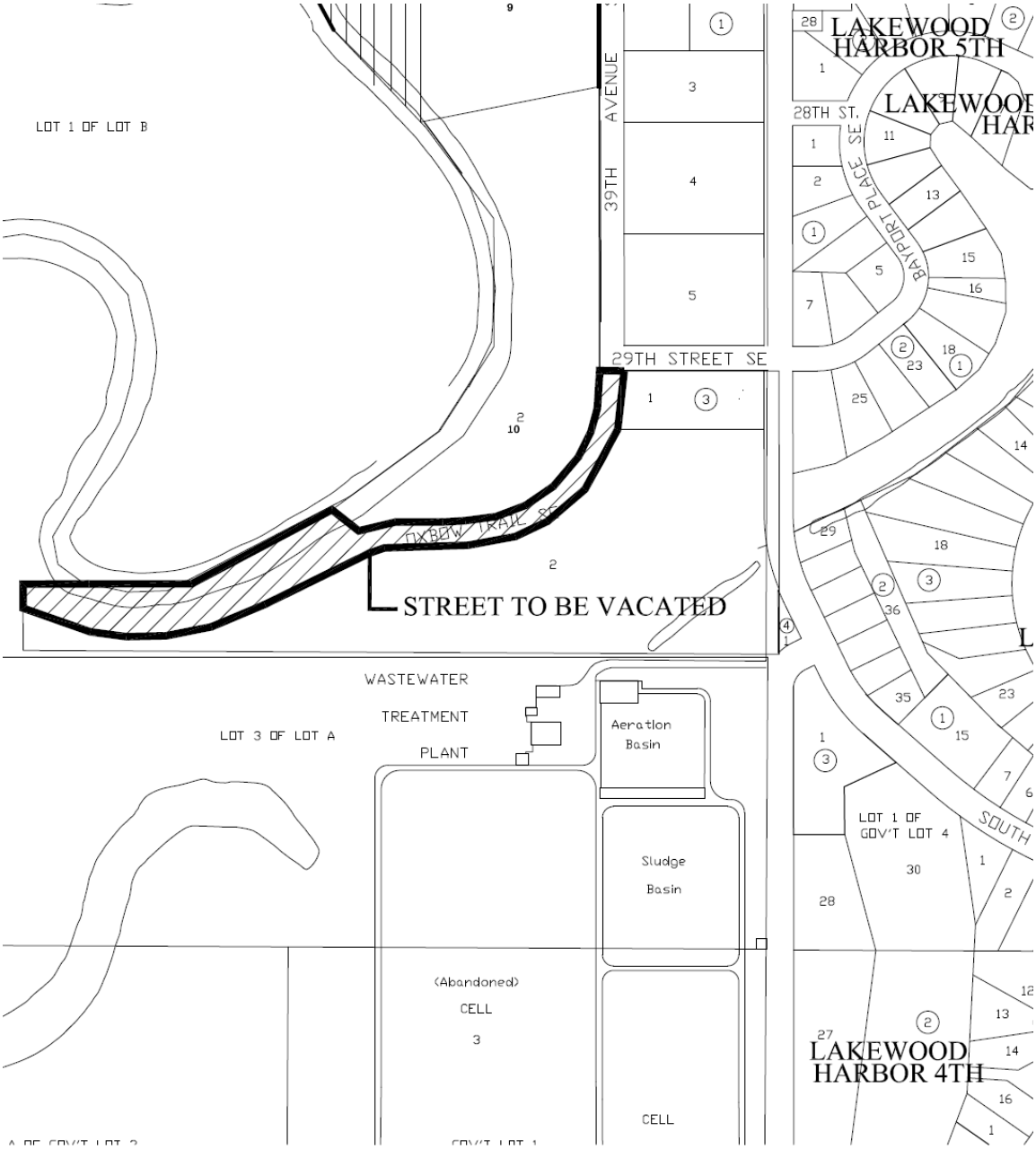
**PUBLIC NOTICE OF**
**STREET VACATION**

Notice is hereby given that the Mandan City Commission, on Tuesday, December 4th, 2012, following a public hearing on December 4th, 2012, approved a resolution vacating the following public street namely, all of Oxbow Trail SE that lies south of 29th Street SE adjoining Lot 10 Block 2 and Lots 1 and 2 Block 3, of Lakewood 6th Addition, lying in Section 1, Township 138N, Range 81W , Section 35, T139N, R81W of the 5th Principal Meridian, City of Mandan, Morton County, North Dakota more fully described in the resolution. This resolution is available for inspection and copying during normal working hours in the office of the City Administrator.

Dated this 4th day of December, 2012.

By: James Neubauer, City Administrator

**Please Note:** The city administrator is to cause the above notice to be published once following adoption of the street vacation resolution.


LAKEWOOD HARBOR 5TH
LOT 1 OF LOT B
39TH AVENUE
28TH ST. SE.
BAYPORT PLACE SE.
29TH STREET SE
STREET TO BE VACATED
WASTEWATER
TREATMENT
PLANT
LOT 3 OF LOT A
Aeration Basin
Sludge Basin
LOT 1 OF GOV'T LOT 4
SOUTH
(Abandoned)
CELL
3
CELL
LAKEWOOD HARBOR 4TH

Resolutions 3


# STEVEN L. VOGELPOHL
ATTORNEY AT LAW

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

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


November 28, 2012

Greg Welch
City of Mandan
205 2nd Ave. NW
Mandan, ND 58554

Re: Mandan Refunding Improvement Bonds, Series SCG-2012

Dear Greg:

Enclosed are three resolutions for adoption by the City Commission on December 4 in the order listed, as follows:

1. Financing Resolution (Warrant of 2011);

2. Financing Resolution (Warrant of 2012); and

3. Resolution Authorizing Issuance of $480,000 Refunding Improvement Bonds, Series SCG-2012.

Upon adoption of the resolutions, please fill in the respective voting records on each and fax the voting record pages of each to me. I'll then prepare and provide copies of the resolutions for execution.

Thank you for your assistance and please contact me if you've any questions.

Sincerely,

Steven L. Vogelpohl
Attorney at Law

SLV/dl
12-006/112812.ltr

Encs

c: Malcolm H. Brown (w/Encs)

CITY OF MANDAN
COUNTY OF MORTON
STATE OF NORTH DAKOTA

**FINANCING RESOLUTION**

**$245,926.61**
**SIDEWALK, CURB AND GUTTER WARRANT OF 2011**

RECITALS

The City of Mandan, North Dakota (the "City"), a political subdivision and municipal corporation of the State of North Dakota, incorporated under the provisions of Title 40 (Municipal Government) of the North Dakota Century Code (the "NDCC"), with full power and authority to cause construction, rebuilding and repair of sidewalks, curb and gutter in the City and assess the costs thereof against benefitted property and incur debt for the payment of such cost recites that the City:

1. Prescribed plans and specifications, widths, kinds and quality of materials and manner of construction for sidewalks, curb and gutter in the City;

2. Deemed it necessary and duly ordered construction, rebuilding or repair of certain sidewalks, curb and gutter in 2011 and entered into a contract for construction of such improvements with the lowest responsible and best bidder therefor and approved the contractor's performance bond; and

3. Performed all other acts required of the governing body by the constitution and laws of the State of North Dakota prerequisite to the issuance and sale of warrants for the purpose of providing money to pay for the cost of such improvements in the manner required of the City by law with full power and authority conferred on it as a political subdivision of the State of North Dakota and does hereby ratify, confirm and adopt all acts performed, resolutions, motions or ordinances passed or adopted and publications had in and incidental to the construction and financing of the improvements whether or not reflected on the official minutes and records of the City.

BE IT RESOLVED:

CONDITIONS AND AGREEMENTS

1. The Warrant (the "Warrant") authorized by the terms of this Resolution to be issued on the Sidewalk, Curb and Gutter Special Fund (the "Fund") of the City is issued for the purpose of paying the cost of sidewalk, curb and gutter construction, rebuilding and repair ordered and contracted for in 2011 (the "Improvements") and is issued pursuant to the terms and provisions of NDCC Chapters 40-29 and 40-31 and Mandan Code of Ordinances Chapter 10-02.1 (the "Ordinance") which is hereby incorporated herein.

2. The total cost of the Improvements, including construction, engineering, administrative, and other fees and all other expenses incidental to the completion of the Improvements, is estimated to be not less than $245,926.61.

3. The City has performed all statutorily required procedures preliminary to the issuance of the Warrant and asserts that as a condition of issuance, all required acts, conditions and things prerequisite to issue do exist and have been performed by the governing body which is legally constituted and empowered to bind the City.

4. All monies required to be deposited in or transferred to the Principal and Interest Account 2011 Sub-account of the Fund referenced in this Resolution and any other monies from whatever source dedicated to the retirement of the Warrant payable from the Fund are hereby dedicated and appropriated to the payment of outstanding principal and interest on the Warrant properly chargeable against the Fund when due and payable.

5. All monies required to be deposited in or transferred to the Construction Account of the Fund referenced in this Resolution are hereby dedicated and appropriated to the payment when due and payable of the construction cost of the Improvements and all administrative costs and fees incident to the construction, the levying of assessments and the issuance of the Warrant on the Fund, and to the reimbursement of the City for funds advanced from other sources for such purposes.

6. Expenditure of monies from the Fund referenced in this Resolution shall be made and accounted for by the officers of the City empowered to expend and required to account for City general funds.

7. The City recognizes its obligations under the provisions of NDCC Sections 40-29-14 and 40-31-08 that whenever all taxes and special assessments, appropriated and theretofore collected for the Improvements for which the Warrant was issued are insufficient to pay

the Warrant with interest, this governing body, upon maturity of the last Warrant principal installment, is required by law to levy a tax upon all taxable property within the City for the payment of such deficiency. The City is also authorized to and in accordance with the Ordinance will levy such a tax if at any time prior to the maturity of the last Warrant principal installment, such deficiency exists or is deemed likely to occur within one year. Such taxes may be levied without limitation as to rate or amount, and the City covenants and agrees that all collections thereof will be credited to the Principal and Interest Account 2011 Sub-account of Fund referenced in this Resolution and used to pay principal and interest on the Warrant.

8. The cost of the Improvements shall be assessed against the lots or tracts of land properly chargeable therewith in accordance with NDCC Sections 40-29-05 and 40-31-02. The City will cause the installments of said special assessments as finally confirmed by the City to be annually certified to the County Auditor for collection with the general taxes chargeable against the property. The City will continue to cause annual certification of balances of special assessments unpaid to be certified for repayment over a period of ten (10) years subject to a reduction or extension of such period of time as may be deemed necessary by the City due to collection of assessments with the first certification in 2011 for collection in 2012 and annually thereafter.

9. The City authorizes officers of the City and Morton County to furnish certified copies of all proceedings had with regard to the issuance of the Warrant by the governing body of the City. The City agrees to furnish additional certifications of its officers as are necessary to establish the validity of the Warrant, the tax-exempt status of interest payable thereon, the absence of litigation materially affecting the issuance of the Warrant and any other certifications or information reasonably necessary to insure marketability and compliance with the conditions of underwriting.

10. The City covenants that (i) it will restrict the use of the proceeds of the Warrant in such manner and to such extent as may be necessary, in view of the City's reasonable expectations at the time of issuance of the Warrant, so that the Warrant will not constitute an "arbitrage bond" under Section 148 of the Internal Revenue Code of 1986 and regulations prescribed under such Section, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Warrant) so that the interest on the Warrant will be and remain excluded from gross income

for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

11. The Warrant may be exchanged for Refunding Improvement Bonds, Series SCG-2012, in principal amounts aggregating the total principal balance due on the Warrant at the time of such exchange, at the option of the registered owner of the Warrant.

## FUND AND PROCEEDS

The City has created the Fund pursuant to NDCC Chapters 40-29 and 40-31 and the Ordinance and the Fund shall be held by the City Administrator of the City and shall at all times be kept on deposit with a qualified depository of public funds as provided in Chapter 21-04, North Dakota Century Code, as a special fund for the sole purpose of payment of all costs incidental to the construction and financing of sidewalk, curb and gutter improvements and principal and interest on any outstanding warrant secured by the Fund and shall be maintained until all balances of principal or interest on the Warrant of the Fund are fully paid.

Upon issuance of the Warrant, the net sale proceeds of the Warrant not required to be deposited to the Principal and Interest Account 2011 Sub-account referenced below shall be deposited to the Construction Account established within the Fund by the Ordinance.

Within the Principal and Interest Account of the Fund established by the Ordinance, there is hereby created a Principal and Interest Account 2011 Sub-account which shall be separately maintained until all principal of and interest on the Warrant has been paid and into which there shall be deposited the accrued interest and any funded interest on the Warrant when sold, and any paid, prepaid, and all future collections of the special assessments levied for the Improvements.

Disbursements from the Construction Account for construction and other related costs and the Principal and Interest Account 2011 Sub-account for principal and interest payments shall be by warrant duly signed by the Executive Officer and the City Administrator of the City.

## WARRANT

In anticipation of the levy and collection of assessments with respect to the Improvements, the City herewith determines it to be in its best interests to issue the Warrant on the Fund. The City covenants that it will diligently pursue completion of

the Improvements, if not completed prior to the date of this Resolution, and cause valid and final levy of special assessments upon all properties properly chargeable therewith. The Warrant is hereby authorized for issuance and shall be issued according to the following terms and conditions:

1. Principal Amount, Denomination and Number - One Warrant, numbered R-1, shall be issued on the Fund in principal amount and denomination of $245,926.61;

2. Date of Warrant - The Warrant shall be dated December 15, 2012;

3. Maturity - The principal of the Warrant shall be payable in installments due annually on May 1 in the years and amounts provided in the form of Warrant which is Attachment 1 hereto;

4. Type of Warrant - Single Fully Registered Definitive Warrant;

5. Prepayment - The installments of principal due on the Warrant in 2018 and thereafter shall be subject to prepayment, at the option of the City, in inverse order of maturity, in whole or in part, on May 1, 2017, and on any date thereafter selected by the City, at par plus accrued interest; not less than thirty (30) days prior to the date specified for prepayment, the City shall cause notice of prepayment to be mailed or delivered to the registered owner of the Warrant;

6. Payment - The Mandan City Administrator, hereby designated Registrar and Paying Agent, will make payment of interest and principal when due in lawful money of the United States by mailing or delivering to the registered owner of the Warrant a check or draft in an amount sufficient to meet principal and interest maturities on the Warrant;

7. Preparation, Execution and Delivery - The Warrant shall be printed under the supervision and at the direction of the City Administrator, executed and authenticated by the signature of the Executive Officer of the City and attested to by the City Administrator and sealed and delivered to the buyer at closing upon receipt of the purchase price plus any accrued interest;

8. Interest - Each annual installment of principal of the Warrant shall bear interest from the date of the Warrant until such installment is paid at the annual rate shown opposite the respective installment on the form of Warrant which is Attachment 1 hereto, which interest shall be payable

on May 1 and November 1 in each year, commencing May 1, 2013, and shall be computed on a 30-day month and 360-day year basis;

9. Source of Payment/Security - The Warrant is payable as to principal and interest from the Principal and Interest Account 2011 Sub-account of the Fund which derives its revenues from the levy and collection of special assessments against benefitted property;

10. Registration - The Warrant shall be registered as to both principal and interest and the Registrar shall establish and maintain a book of registry for the purposes of recording the names and addresses of the registered owners or assigns, the dates of such registration and the due dates and amounts for payment of principal and interest on the Warrant; and the City and the Registrar may treat the person in whose name the Warrant is registered as the absolute owner thereof, whether the Warrant is overdue or not, for the purpose of receiving payment of principal and interest and all other purposes, and shall not be affected by any notice to the contrary;

11. Assignment - The Warrant shall be transferable by its respective registered owner or the owner's attorney duly authorized in writing upon presentation thereof to the Registrar together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney, and each such transfer shall be made on the book of registry and noted on the reverse of the Warrant by the Registrar and the Warrant delivered to the transferee.

The Warrant shall be reproduced in substantially the form attached hereto as Attachment 1.

The City reserves the right to issue and sell additional sidewalk, curb and gutter warrants payable from the Principal and Interest Account 2011 Sub-account of the Fund in such amount, if any, as may be required to complete payment of the cost of the Improvements and to refund such additional warrants by the issuance of one or more series of refunding improvement bonds, but no such additional warrants shall be issued unless the aggregate amount of the special assessments for such Improvements levied or to be levied with respect thereto, shall be at least equal to the total cost of such Improvements financed by sidewalk, curb and gutter warrants.

Sale of the Warrant (and the Refunding Improvement Bonds, Series SCG-2012, for which the Warrant is to be exchanged) was awarded by resolution adopted on November 20, 2012.

CITY OF MANDAN

_____

President, Board of City Commissioners

Attest:

_____

City Administrator

( S E A L )

The governing body of the political subdivision acted on the foregoing resolution on December 4, 2012, as follows:

Adoption moved by _____ Seconded by _____

Roll Call Vote (List Last Names)

"Aye" _____

"Nay" _____

Absent _____

and after vote the presiding officer declared the resolution adopted.

ATTACHMENT 1

No. R-1

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
COUNTY OF MORTON
CITY OF MANDAN

SIDEWALK, CURB AND GUTTER WARRANT OF 2011

$245,926.61

KNOW ALL PERSONS BY THESE PRESENTS that the City of Mandan, North Dakota (the "City") acknowledges itself to be indebted and for value received promises to pay to Dougherty & Company LLC, Minneapolis, Minnesota, or registered assign, the principal sum of $245,926.61 payable in annual installments on May 1 in the following years and amounts, and each such installment shall bear interest from the date hereof until such installment is paid at the annual rate shown opposite such installment:

| Year | Amount | Rate | Year | Amount | Rate |
|---|---|---|---|---|---|
| 2013 | $35,864.32 | 0.50% | 2018 | $25,617.35 | 0.90% |
| 2014 | 28,179.09 | 0.50 | 2019 | 25,617.35 | 0.90 |
| 2015 | 28,179.09 | 0.50 | 2020 | 25,617.35 | 1.35 |
| 2016 | 28,179.09 | 0.90 | 2021 | 23,055.62 | 1.35 |
| 2017 | 25,617.35 | 0.90 | | | |

Interest is payable on May 1 and November 1 in each year, commencing May 1, 2013. The principal installments of and interest on this Warrant are payable in lawful money of the United States of America by check or draft mailed or delivered to the registered owner hereof as the registered owner's address appears on the book of registry at the office of the Mandan City Administrator, the designated Registrar and Paying Agent.

The installments of principal due hereon in 2018 and thereafter shall be subject to prepayment, at the option of the City, in inverse order of maturity, in whole or in part, on May 1, 2017, and on any date thereafter selected by the City, at par plus accrued interest. Not less than thirty (30) days prior to the date specified for prepayment, the City shall cause notice of prepayment to be mailed or delivered to the registered owner hereof.

The proceeds from the sale of this Warrant will be used to defray the cost of providing sidewalk, curb and gutter construction, rebuilding and repair within the City

ordered and contracted for in 2011, and this Warrant is issued for that purpose in full conformity with the constitution and laws of the State of North Dakota including Chapters 40-29 and 40-31 of the North Dakota Century Code and the ordinances and resolutions of the City duly adopted and approved prior to the issue hereof and is within the debt limit of the City. This Warrant is payable solely out of the Principal and Interest Account 2011 Sub-account (the "Account") of the Sidewalk, Curb and Gutter Special Fund (the "Fund") of the City which will contain the receipts derived by the City from special assessments levied to pay for the improvements and other monies which may be available for that purpose. Whenever all taxes and special assessments collected are insufficient to pay this Warrant, with interest, the City, upon maturity of the last principal installment hereof, shall levy a tax upon all the taxable property in the City for the payment of such deficiency. If at any time prior to the maturity of the last principal installment hereof, such deficiency exists or is likely to occur within one year, the City, in its discretion, may levy a general tax upon all the taxable property in the City for the payment of such deficiency.

It is further certified and recited that all requirements of law have been fully complied with by the officers of the City in the issue of this Warrant and that all proceedings or actions with reference to making the improvements, and to the providing for the assessment lien against the property benefited and improved have been or will be lawfully taken and performed and that for the payment of this Warrant and interest thereon, the City pledges all of its lawful corporate powers.

The Warrant is issued in anticipation of the levy and collection of special assessments and is payable therefrom and from any other monies pledged to the special Account established within the Fund, which Account is hereby dedicated and appropriated to the payment of principal and interest on the Warrant when due.

This Warrant shall be registered as to both principal and interest in the name of the owner on the books of the City kept for that purpose by the Registrar. This Warrant is transferable upon the book of the City by the registered owner or its attorney duly authorized in writing, upon presentation hereof with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney. Such transfer shall be noted on the reverse side hereof by the Registrar and delivered to the transferee. The City and the Registrar may treat the person in whose name this Warrant is registered as the absolute owner hereof, whether this Warrant is overdue or not, for the purpose of receiving payment of principal and interest and all other purposes, and shall not be affected by any notice to the contrary.

This Warrant may be exchanged for Refunding Improvement Bonds, Series SCG-2012, at the option of the registered owner.

IN WITNESS WHEREOF, the City has caused its corporate seal to be placed hereon, and this Warrant to be subscribed by the Executive Officer and attested to by its City Administrator as of this 15th day of December, 2012.

Attest:

| | |
|---|---|
| City Administrator | President, Board of City Commissioners |

( S E A L )

(To be printed on reverse of Warrant)

STATE OF NORTH DAKOTA )
) ss.
CITY OF MANDAN )

I hereby certify that the within Warrant is issued pursuant to law and is within the debt limit of the City of Mandan, Morton County, State of North Dakota.

WITNESS my hand as of the 15th day of December, 2012.

_____
Mandan City Administrator

ASSIGNMENT

For value received _____hereby sells, assigns and transfers unto _____ the within-mentioned Warrant and hereby irrevocably constitutes and appoints _____ _____ attorney-in-fact, to transfer the same on the book of registry with full power of substitution in the premises.

Dated:_____

_____

(To be printed on reverse of Warrant)

NO WRITING HEREON EXCEPT BY THE REGISTRAR

TRANSFER STATEMENT

The Registrar has transferred on the book of registry, on the date last noted below, to the registered assign noted opposite said date, ownership of the principal amount of and interest on this Warrant, except the amounts of principal and interest theretofore paid:

| Date of Transfer | Registered Assign | Signature of Registrar |
|---|---|---|
| | City of Mandan<br>Refunding Improvement<br>Bonds, Series SCG-2012 Fund | |
| | | |
| | | |

Resolutions 4

# STEVEN L. VOGELPOHL
ATTORNEY AT LAW

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

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

November 28, 2012

Greg Welch
City of Mandan
205 2nd Ave. NW
Mandan, ND 58554

Re: Mandan Refunding Improvement Bonds, Series SCG-2012

Dear Greg:

Enclosed are three resolutions for adoption by the City Commission on December 4 in the order listed, as follows:

1. Financing Resolution (Warrant of 2011);
2. Financing Resolution (Warrant of 2012); and
3. Resolution Authorizing Issuance of $480,000 Refunding Improvement Bonds, Series SCG-2012.

Upon adoption of the resolutions, please fill in the respective voting records on each and fax the voting record pages of each to me. I'll then prepare and provide copies of the resolutions for execution.

Thank you for your assistance and please contact me if you've any questions.

Sincerely,

Steven L. Vogelpohl
Attorney at Law

SLV/dl
12-006/112812.ltr

Encs

c: Malcolm H. Brown (w/Encs)

CITY OF MANDAN
COUNTY OF MORTON
STATE OF NORTH DAKOTA

# FINANCING RESOLUTION

## $234,073.39
## SIDEWALK, CURB AND GUTTER WARRANT OF 2012

RECITALS

The City of Mandan, North Dakota (the "City"), a political subdivision and municipal corporation of the State of North Dakota, incorporated under the provisions of Title 40 (Municipal Government) of the North Dakota Century Code (the "NDCC"), with full power and authority to cause construction, rebuilding and repair of sidewalks, curb and gutter in the City and assess the costs thereof against benefitted property and incur debt for the payment of such cost recites that the City:

1. Prescribed plans and specifications, widths, kinds and quality of materials and manner of construction for sidewalks, curb and gutter in the City;

2. Deemed it necessary and duly ordered construction, rebuilding or repair of certain sidewalks, curb and gutter in 2012 and entered into a contract for construction of such improvements with the lowest responsible and best bidder therefor and approved the contractor's performance bond; and

3. Performed all other acts required of the governing body by the constitution and laws of the State of North Dakota prerequisite to the issuance and sale of warrants for the purpose of providing money to pay for the cost of such improvements in the manner required of the City by law with full power and authority conferred on it as a political subdivision of the State of North Dakota and does hereby ratify, confirm and adopt all acts performed, resolutions, motions or ordinances passed or adopted and publications had in and incidental to the construction and financing of the improvements whether or not reflected on the official minutes and records of the City.

BE IT RESOLVED:

CONDITIONS AND AGREEMENTS

1. The Warrant (the "Warrant") authorized by the terms of this Resolution to be issued on the Sidewalk, Curb and Gutter Special Fund (the "Fund") of the City is issued for the purpose of paying the cost of sidewalk, curb and gutter construction, rebuilding and repair ordered and contracted for in 2012 (the "Improvements") and is issued pursuant to the terms and provisions of NDCC Chapters 40-29 and 40-31 and Mandan Code of Ordinances Chapter 10-02.1 (the "Ordinance") which is hereby incorporated herein.

2. The total cost of the Improvements, including construction, engineering, administrative, and other fees and all other expenses incidental to the completion of the Improvements, is estimated to be not less than $234,073.39.

3. The City has performed all statutorily required procedures preliminary to the issuance of the Warrant and asserts that as a condition of issuance, all required acts, conditions and things prerequisite to issue do exist and have been performed by the governing body which is legally constituted and empowered to bind the City.

4. All monies required to be deposited in or transferred to the Principal and Interest Account 2012 Sub-account of the Fund referenced in this Resolution and any other monies from whatever source dedicated to the retirement of the Warrant payable from the Fund are hereby dedicated and appropriated to the payment of outstanding principal and interest on the Warrant properly chargeable against the Fund when due and payable.

5. All monies required to be deposited in or transferred to the Construction Account of the Fund referenced in this Resolution are hereby dedicated and appropriated to the payment when due and payable of the construction cost of the Improvements and all administrative costs and fees incident to the construction, the levying of assessments and the issuance of the Warrant on the Fund, and to the reimbursement of the City for funds advanced from other sources for such purposes.

6. Expenditure of monies from the Fund referenced in this Resolution shall be made and accounted for by the officers of the City empowered to expend and required to account for City general funds.

7. The City recognizes its obligations under the provisions of NDCC Sections 40-29-14 and 40-31-08 that whenever all taxes and special assessments, appropriated and theretofore collected for the Improvements for which the Warrant was issued are insufficient to pay

the Warrant with interest, this governing body, upon maturity of the last Warrant principal installment, is required by law to levy a tax upon all taxable property within the City for the payment of such deficiency. The City is also authorized to and in accordance with the Ordinance will levy such a tax if at any time prior to the maturity of the last Warrant principal installment, such deficiency exists or is deemed likely to occur within one year. Such taxes may be levied without limitation as to rate or amount, and the City covenants and agrees that all collections thereof will be credited to the Principal and Interest Account 2012 Sub-account of Fund referenced in this Resolution and used to pay principal and interest on the Warrant.

8. The cost of the Improvements shall be assessed against the lots or tracts of land properly chargeable therewith in accordance with NDCC Sections 40-29-05 and 40-31-02. The City will cause the installments of said special assessments as finally confirmed by the City to be annually certified to the County Auditor for collection with the general taxes chargeable against the property. The City will continue to cause annual certification of balances of special assessments unpaid to be certified for repayment over a period of ten (10) years subject to a reduction or extension of such period of time as may be deemed necessary by the City due to collection of assessments with the first certification in 2012 for collection in 2013 and annually thereafter.

9. The City authorizes officers of the City and Morton County to furnish certified copies of all proceedings had with regard to the issuance of the Warrant by the governing body of the City. The City agrees to furnish additional certifications of its officers as are necessary to establish the validity of the Warrant, the tax-exempt status of interest payable thereon, the absence of litigation materially affecting the issuance of the Warrant and any other certifications or information reasonably necessary to insure marketability and compliance with the conditions of underwriting.

10. The City covenants that (i) it will restrict the use of the proceeds of the Warrant in such manner and to such extent as may be necessary, in view of the City's reasonable expectations at the time of issuance of the Warrant, so that the Warrant will not constitute an "arbitrage bond" under Section 148 of the Internal Revenue Code of 1986 and regulations prescribed under such Section, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Warrant) so that the interest on the Warrant will be and remain excluded from gross income

for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

11. The Warrant may be exchanged for Refunding Improvement Bonds, Series SCG-2012, in principal amounts aggregating the total principal balance due on the Warrant at the time of such exchange, at the option of the registered owner of the Warrant.

## FUND AND PROCEEDS

The City has created the Fund pursuant to NDCC Chapters 40-29 and 40-31 and the Ordinance and the Fund shall be held by the City Administrator of the City and shall at all times be kept on deposit with a qualified depository of public funds as provided in Chapter 21-04, North Dakota Century Code, as a special fund for the sole purpose of payment of all costs incidental to the construction and financing of sidewalk, curb and gutter improvements and principal and interest on any outstanding warrant secured by the Fund and shall be maintained until all balances of principal or interest on the Warrant of the Fund are fully paid.

Upon issuance of the Warrant, the net sale proceeds of the Warrant not required to be deposited to the Principal and Interest Account 2012 Sub-account referenced below shall be deposited to the Construction Account established within the Fund by the Ordinance.

Within the Principal and Interest Account of the Fund established by the Ordinance, there is hereby created a Principal and Interest Account 2012 Sub-account which shall be separately maintained until all principal of and interest on the Warrant has been paid and into which there shall be deposited the accrued interest and any funded interest on the Warrant when sold, and any paid, prepaid, and all future collections of the special assessments levied for the Improvements.

Disbursements from the Construction Account for construction and other related costs and the Principal and Interest Account 2012 Sub-account for principal and interest payments shall be by warrant duly signed by the Executive Officer and the City Administrator of the City.

## WARRANT

In anticipation of the levy and collection of assessments with respect to the Improvements, the City herewith determines it to be in its best interests to issue the Warrant on the Fund. The City covenants that it will diligently pursue completion of

the Improvements, if not completed prior to the date of this Resolution, and cause valid and final levy of special assessments upon all properties properly chargeable therewith. The Warrant is hereby authorized for issuance and shall be issued according to the following terms and conditions:

1. Principal Amount, Denomination and Number - One Warrant, numbered R-1, shall be issued on the Fund in principal amount and denomination of $234,073.39;

2. Date of Warrant - The Warrant shall be dated December 15, 2012;

3. Maturity - The principal of the Warrant shall be payable in installments due annually on May 1 in the years and amounts provided in the form of Warrant which is Attachment 1 hereto;

4. Type of Warrant - Single Fully Registered Definitive Warrant;

5. Prepayment - The installments of principal due on the Warrant in 2018 and thereafter shall be subject to prepayment, at the option of the City, in inverse order of maturity, in whole or in part, on May 1, 2017, and on any date thereafter selected by the City, at par plus accrued interest; not less than thirty (30) days prior to the date specified for prepayment, the City shall cause notice of prepayment to be mailed or delivered to the registered owner of the Warrant;

6. Payment - The Mandan City Administrator, hereby designated Registrar and Paying Agent, will make payment of interest and principal when due in lawful money of the United States by mailing or delivering to the registered owner of the Warrant a check or draft in an amount sufficient to meet principal and interest maturities on the Warrant;

7. Preparation, Execution and Delivery - The Warrant shall be printed under the supervision and at the direction of the City Administrator, executed and authenticated by the signature of the Executive Officer of the City and attested to by the City Administrator and sealed and delivered to the buyer at closing upon receipt of the purchase price plus any accrued interest;

8. Interest - Each annual installment of principal of the Warrant shall bear interest from the date of the Warrant until such installment is paid at the annual rate shown opposite the respective installment on the form of Warrant which is Attachment 1 hereto, which interest shall be payable

on May 1 and November 1 in each year, commencing May 1, 2013, and shall be computed on a 30-day month and 360-day year basis;

9. Source of Payment/Security - The Warrant is payable as to principal and interest from the Principal and Interest Account 2012 Sub-account of the Fund which derives its revenues from the levy and collection of special assessments against benefitted property;

10. Registration - The Warrant shall be registered as to both principal and interest and the Registrar shall establish and maintain a book of registry for the purposes of recording the names and addresses of the registered owners or assigns, the dates of such registration and the due dates and amounts for payment of principal and interest on the Warrant; and the City and the Registrar may treat the person in whose name the Warrant is registered as the absolute owner thereof, whether the Warrant is overdue or not, for the purpose of receiving payment of principal and interest and all other purposes, and shall not be affected by any notice to the contrary;

11. Assignment - The Warrant shall be transferable by its respective registered owner or the owner's attorney duly authorized in writing upon presentation thereof to the Registrar together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney, and each such transfer shall be made on the book of registry and noted on the reverse of the Warrant by the Registrar and the Warrant delivered to the transferee.

The Warrant shall be reproduced in substantially the form attached hereto as Attachment 1.

The City reserves the right to issue and sell additional sidewalk, curb and gutter warrants payable from the Principal and Interest Account 2012 Sub-account of the Fund in such amount, if any, as may be required to complete payment of the cost of the Improvements and to refund such additional warrants by the issuance of one or more series of refunding improvement bonds, but no such additional warrants shall be issued unless the aggregate amount of the special assessments for such Improvements levied or to be levied with respect thereto, shall be at least equal to the total cost of such Improvements financed by sidewalk, curb and gutter warrants.

Sale of the Warrant (and the Refunding Improvement Bonds, Series SCG-2012, for which the Warrant is to be exchanged) was awarded by resolution adopted on November 20, 2012.

CITY OF MANDAN

_____

President, Board of City Commissioners

Attest:

_____

City Administrator

( S E A L )

The governing body of the political subdivision acted on the foregoing resolution on December 4, 2012, as follows:

Adoption moved by _____ Seconded by _____

Roll Call Vote (List Last Names)

"Aye" _____

"Nay" _____

Absent _____

and after vote the presiding officer declared the resolution adopted.

ATTACHMENT 1

No. R-1

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
COUNTY OF MORTON
CITY OF MANDAN

SIDEWALK, CURB AND GUTTER WARRANT OF 2012

$234,073.39

KNOW ALL PERSONS BY THESE PRESENTS that the City of Mandan, North Dakota (the "City") acknowledges itself to be indebted and for value received promises to pay to Dougherty & Company LLC, Minneapolis, Minnesota, or registered assign, the principal sum of $234,073.39 payable in annual installments on May 1 in the following years and amounts, and each such installment shall bear interest from the date hereof until such installment is paid at the annual rate shown opposite such installment:

| Year | Amount | Rate | Year | Amount | Rate |
|---|---|---|---|---|---|
| 2013 | $14,135.68 | 0.50% | 2018 | $24,382.65 | 0.90% |
| 2014 | 26,820.91 | 0.50 | 2019 | 24,382.65 | 0.90 |
| 2015 | 26,820.91 | 0.50 | 2020 | 24,382.65 | 1.35 |
| 2016 | 26,820.91 | 0.90 | 2021 | 21,944.38 | 1.35 |
| 2017 | 24,382.65 | 0.90 | 2022 | 20,000.00 | 1.35 |

Interest is payable on May 1 and November 1 in each year, commencing May 1, 2013. The principal installments of and interest on this Warrant are payable in lawful money of the United States of America by check or draft mailed or delivered to the registered owner hereof as the registered owner's address appears on the book of registry at the office of the Mandan City Administrator, the designated Registrar and Paying Agent.

The installments of principal due hereon in 2018 and thereafter shall be subject to prepayment, at the option of the City, in inverse order of maturity, in whole or in part, on May 1, 2017, and on any date thereafter selected by the City, at par plus accrued interest. Not less than thirty (30) days prior to the date specified for prepayment, the City shall cause notice of prepayment to be mailed or delivered to the registered owner hereof.

The proceeds from the sale of this Warrant will be used to defray the cost of providing sidewalk, curb and gutter construction, rebuilding and repair within the City

ordered and contracted for in 2012, and this Warrant is issued for that purpose in full conformity with the constitution and laws of the State of North Dakota including Chapters 40-29 and 40-31 of the North Dakota Century Code and the ordinances and resolutions of the City duly adopted and approved prior to the issue hereof and is within the debt limit of the City. This Warrant is payable solely out of the Principal and Interest Account 2012 Sub-account (the "Account") of the Sidewalk, Curb and Gutter Special Fund (the "Fund") of the City which will contain the receipts derived by the City from special assessments levied to pay for the improvements and other monies which may be available for that purpose. Whenever all taxes and special assessments collected are insufficient to pay this Warrant, with interest, the City, upon maturity of the last principal installment hereof, shall levy a tax upon all the taxable property in the City for the payment of such deficiency. If at any time prior to the maturity of the last principal installment hereof, such deficiency exists or is likely to occur within one year, the City, in its discretion, may levy a general tax upon all the taxable property in the City for the payment of such deficiency.

It is further certified and recited that all requirements of law have been fully complied with by the officers of the City in the issue of this Warrant and that all proceedings or actions with reference to making the improvements, and to the providing for the assessment lien against the property benefited and improved have been or will be lawfully taken and performed and that for the payment of this Warrant and interest thereon, the City pledges all of its lawful corporate powers.

The Warrant is issued in anticipation of the levy and collection of special assessments and is payable therefrom and from any other monies pledged to the special Account established within the Fund, which Account is hereby dedicated and appropriated to the payment of principal and interest on the Warrant when due.

This Warrant shall be registered as to both principal and interest in the name of the owner on the books of the City kept for that purpose by the Registrar. This Warrant is transferable upon the book of the City by the registered owner or its attorney duly authorized in writing, upon presentation hereof with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney. Such transfer shall be noted on the reverse side hereof by the Registrar and delivered to the transferee. The City and the Registrar may treat the person in whose name this Warrant is registered as the absolute owner hereof, whether this Warrant is overdue or not, for the purpose of receiving payment of principal and interest and all other purposes, and shall not be affected by any notice to the contrary.

This Warrant may be exchanged for Refunding Improvement Bonds, Series SCG-2012, at the option of the registered owner.

IN WITNESS WHEREOF, the City has caused its corporate seal to be placed hereon, and this Warrant to be subscribed by the Executive Officer and attested to by its City Administrator as of this 15th day of December, 2012.

Attest:

SPECIMEN

City Administrator

President, Board of City Commissioners

(SEAL)

(To be printed on reverse of Warrant)

STATE OF NORTH DAKOTA )
) ss.
CITY OF MANDAN )

I hereby certify that the within Warrant is issued pursuant to law and is within the debt limit of the City of Mandan, Morton County, State of North Dakota.

WITNESS my hand as of the 15th day of December, 2012.

SPECIMEN

_____
Mandan City Administrator

ASSIGNMENT

For value received _____hereby sells, assigns and transfers unto _____ the within-mentioned Warrant and hereby irrevocably constitutes and appoints _____ _____ attorney-in-fact, to transfer the same on the book of registry with full power of substitution in the premises.

Dated:_____

_____

(To be printed on reverse of Warrant)

NO WRITING HEREON EXCEPT BY THE REGISTRAR

TRANSFER STATEMENT

The Registrar has transferred on the book of registry, on the date last noted below, to the registered assign noted opposite said date, ownership of the principal amount of and interest on this Warrant, except the amounts of principal and interest theretofore paid:

| Date of Transfer | Registered Assign | Signature of Registrar |
|---|---|---|
| | City of Mandan<br>Refunding Improvement<br>Bonds, Series SCG-2012 Fund | |
| | | |
| | | |

Resolutions 5

# STEVEN L. VOGELPOHL
ATTORNEY AT LAW

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

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

November 28, 2012

Greg Welch
City of Mandan
205 2nd Ave. NW
Mandan, ND 58554

Re: Mandan Refunding Improvement Bonds, Series SCG-2012

Dear Greg:

Enclosed are three resolutions for adoption by the City Commission on December 4 in the order listed, as follows:

1. Financing Resolution (Warrant of 2011);

2. Financing Resolution (Warrant of 2012); and

3. Resolution Authorizing Issuance of $480,000 Refunding Improvement Bonds, Series SCG-2012.

Upon adoption of the resolutions, please fill in the respective voting records on each and fax the voting record pages of each to me. I'll then prepare and provide copies of the resolutions for execution.

Thank you for your assistance and please contact me if you've any questions.

Sincerely,

Steven L. Vogelpohl
Attorney at Law

SLV/dl
12-006/112812.ltr

Encs

c: Malcolm H. Brown (w/Encs)

CITY OF MANDAN
COUNTY OF MORTON
STATE OF NORTH DAKOTA

**RESOLUTION AUTHORIZING ISSUANCE OF**
**$480,000**
**REFUNDING IMPROVEMENT BONDS, SERIES SCG-2012**

RECITALS

The City of Mandan, North Dakota (the "City") recites that it has:

1. Authorized issuance of a $245,926.61 Sidewalk, Curb and Gutter Warrant of 2011 and a $234,073.39 Sidewalk, Curb and Gutter Warrant of 2012 (together, the "Warrants") on the Sidewalk, Curb and Gutter Special Fund (the "Fund") of the City, which Warrants are outstanding as of the date of this Resolution Authorizing Issuance of $480,000 Refunding Improvement Bonds, Series SCG-2012 (the "Resolution").

2. Consented to the exchange of Refunding Improvement Bonds for the Warrants at the option of the registered owner.

3. In anticipation of the registered owner's request for exchange, the City hereby authorizes issuance of its Refunding Improvement Bonds, Series SCG-2012 as authorized by Chapter 40-27, NDCC, in the amount of $480,000 for the purpose of consolidating the issues of Warrants.

4. The Financing Resolutions authorizing issuance of the Warrants adopted December 4, 2012, by the governing body of the City are incorporated herein by reference as though set out in full except that in the event of conflict between any of the terms and provisions of the Financing Resolutions and this Resolution, the terms and provisions of this Resolution shall prevail.

REFUNDING FUND

There is hereby created City of Mandan Refunding Improvement Bonds, Series SCG-2012 Fund (the "Refunding Fund") which shall be maintained by the City Administrator as a special fund for the sole purpose of payment of principal and interest on any outstanding City of Mandan Refunding Improvement Bonds, Series SCG-2012 (the "Bonds") and shall be maintained until all balances of principal and interest on the Bonds are fully paid. The Refunding Fund shall exchange the Bonds for the uncancelled Warrants and retain the Warrants as assets of the Refunding Fund. The Refunding Fund shall maintain a Principal and Interest Account into which all principal and interest received on the Warrants shall be deposited and disbursed

according to the maturities of the Bonds hereinafter established. Monies in the Refunding Fund for the payment of principal and interest on the Bonds are hereby dedicated and appropriated.

BONDS

Sale having been awarded to Dougherty & Company LLC, Minneapolis, Minnesota, by resolution adopted November 20, 2012, the Bonds shall be issued according to the following terms and conditions:

1. Principal Amount of Bonds - The total principal amount of Bonds shall be $480,000.

2. Book Entry Registration -

(a) The Bonds shall be issued as book entry bonds as required by The Depository Trust Company, New York, New York ("DTC") in the aggregate principal amount equal to the principal amount of the Bonds. The Bonds shall be registered in the name of Cede & Co., as nominee of DTC, and the Bond Registrar and Paying Agent named in Paragraph 5 below (the "Bond Registrar and Paying Agent") shall treat the record owner as the absolute owner of the Bonds. So long as Cede & Co. is the registered owner of the Bonds, references herein to the Bondholder, owner, etc. shall mean Cede & Co. and shall not mean the beneficial owners of the Bonds. Sales by purchasers of the Bonds of beneficial interest participations in the Bonds to beneficial owners will be limited to minimum denominations of $5,000 or any integral multiple in excess thereof.

(b) With respect to the Bonds registered in the registration books kept by the Bond Registrar and Paying Agent in the name of Cede & Co., as nominee of DTC, the City and the Bond Registrar and Paying Agent shall have no responsibility or obligation to any Participant (as referenced in the Blanket Issuer Letter of Representations a copy of which is attached hereto as Attachment 3) or to any person on behalf of which a Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Bond Registrar and Paying Agent shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other person, other than a Bondholder, as shown in the registration books kept by the Bond Registrar and Paying Agent, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any Participant or any other person, other than a Bondholder, as shown in the registration books kept by the Bond

Registrar and Paying Agent, of any amount with respect to principal of, premium, if any, or interest on the Bonds. The City and the Bond Registrar and Paying Agent may treat and consider the person in whose name each Bond is registered in the registration books kept by the Bond Registrar and Paying Agent as the holder and absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Bond Registrar and Paying Agent shall pay all principal of, premium, if any, and the interest on the Bonds only to or upon the order of the respective Bondholders, as shown in the registration books kept by the Bond Registrar and Paying Agent, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Bondholder, as shown in the registration books kept by the Bond Registrar and Paying Agent, shall receive a certificated Bond evidencing the obligation of the City to make payments of principal, premium, if any, and interest pursuant to this Resolution. Upon delivery by DTC to the Bond Registrar and Paying Agent of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions herein with respect to record dates, the word "Cede & Co." shall refer to such new nominee of DTC.

(c) The Blanket Issuer Letter of Representations, a copy of which is attached hereto as Attachment 3, has been executed by the City and has been filed with DTC. The Bond Registrar and Paying Agent shall take all actions necessary to at all times comply with DTC's Operational Arrangements, as same may be amended from time to time.

(d) (1) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and the Bond Registrar and Paying Agent.

(2) The City may terminate the services of DTC with respect to the Bonds if the City determines that:

(i) DTC is unable to discharge its responsibilities with respect to the Bonds, or

(ii) A continuance of the requirement that all of the outstanding Bonds be registered in the registration books kept by the Bond Registrar and Paying Agent in the name of

Cede & Co., or any other nominee of DTC, is not in the best interest of the beneficial owners of the Bonds.

(3) Upon the termination of the services of DTC with respect to the Bonds, or upon the discontinuance or termination of the services of DTC with respect to any portion of the Bonds pursuant to either Paragraph 2(d)(2)(i) or Paragraph 2(d)(2)(ii) immediately above after which no substitute bond depository willing to undertake the functions of DTC hereunder can be found which, in the opinion of the City, is willing and able to undertake such functions upon reasonable and customary terms, the City is obligated to deliver Bond certificates to the Bondholders and the Bonds shall no longer be restricted to being registered in the registration books kept by the Bond Registrar and Paying Agent in the name of Cede & Co. as nominee of DTC, but may be registered in whatever name or names the Bondholders transferring or exchanging Bonds shall designate, in accordance with the provisions of this Resolution.

(e) Notwithstanding any other provision of this Resolution to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in accordance with the Blanket Issuer Letter of Representations.

3. Numbering - The Bonds shall be numbered in consecutive numerical order from R-1 upwards as issued.

4. Date of Bonds - The Bonds shall initially be dated December 15, 2012. Bonds issued upon exchanges and transfers of Bonds shall also be dated December 15, 2012 if issued prior to May 1, 2013, and if issued upon such exchanges and transfers on or after May 1, 2013, shall be dated as of May 1 or November 1 next preceding their issuance, or if the date of issuance shall be a May 1 or November 1, as of such date; provided, however, that if interest on the Bonds shall be in default, the Bonds shall be dated as of the date to which interest has been paid in full on the Bonds being transferred.

5. Payment - Interest on the Bonds and, upon presentation and surrender thereof, the principal thereof shall be payable in lawful money of the United States of America by check, draft or wire transfer by Starion Bond Services, Mandan, North Dakota, as Bond Registrar and Paying Agent, or its successor. In the event the Bonds are no longer registered as book-entry bonds pursuant to Paragraph 2 immediately above, such Bond

Registrar and Paying Agent is hereby appointed the sole paying agent for the Bonds.

6. Principal Maturities - The Bonds, which shall be term bonds, shall mature and shall be subject to mandatory sinking fund redemption prior to maturity at a price of 100% of the principal amount to be redeemed plus accrued interest to the redemption date, on the dates and in the principal amounts set forth opposite each such date as set out in the Schedule of Maturities and Interest Rates attached hereto as Attachment 1. The Bonds to be redeemed as a result of such mandatory sinking fund redemption requirements shall be selected by the Bond Registrar and Paying Agent from the outstanding Bonds by lot, assigned in proportion to their principal amount, or by other method of random selection, without further direction from the City. Not less than 30 days prior to each date specified for such mandatory redemption, the Bond Registrar and Paying Agent shall mail notice of such redemption to the registered owner of each of the Bonds to be redeemed. Upon each partial redemption of any Bond as a result of such mandatory redemption, a new Bond or Bonds will be delivered to the owner without charge, representing the remaining principal amount outstanding.

7. Optional Redemption - Bonds maturing in the years 2018 and thereafter shall be subject to redemption and prepayment in whole or in part at the option of the City, in inverse order of maturities and by lot, assigned in proportion to their principal amount, within any maturity, on May 1, 2017, and on any date thereafter selected by the City, at a price equal to the principal amount thereof plus accrued interest. Not less than 30 days nor more than 60 days prior to the date specified for prepayment and redemption of any Bonds the City will cause notice of the call thereof to be mailed to the registered owner and to the paying agent at which principal and interest are then payable. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the owner without charge, representing the remaining principal amount outstanding.

8. Type and Denomination of Bonds - The Bonds shall be in fully registered form in denominations of $5,000 or any integral multiple thereof, of single maturities.

9. Form, Preparation, Execution and Delivery - The Bonds shall be reproduced in substantially the form attached to this Resolution as Attachment 2. The Bonds shall be prepared under the supervision and at the direction of the City Administrator, executed by the manual or facsimile signature of the President of the Board of City Commissioners (or in the absence or inability of the President to act, by the manual or facsimile signature of the Vice President) and attested to by the manual

or facsimile signature of the City Administrator, and delivered to the owner at closing upon receipt of the uncancelled Warrants plus any accrued interest. The Bonds shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under this Resolution until the Certificate of Authentication thereon shall have been executed by the Bond Registrar by manual signature of one of its authorized representatives.

10. Interest - The Bonds shall bear interest at the annual rates set forth in the Schedule of Maturities and Interest Rates attached hereto as Attachment 1. Interest shall be payable on May 1 and November 1 in each year, commencing May 1, 2013, to the person in whose name each Bond is registered on the close of the 15th day (whether or not a business day) of the immediately preceding month. Interest shall be computed on a 30-day month and 360-day year basis. Interest on the Bonds shall cease at maturity or on a date prior thereto on which they have been duly called for redemption or are required to be redeemed unless the holder thereof shall present the same for payment and payment is refused.

11. Source of Payment/Security - The Bonds are payable from the payments of principal and interest received on the Warrants held by the Refunding Fund as secured assets. The Warrants held by the Refunding Fund as security are payable, as respectively specified in the Financing Resolutions, from the Principal and Interest Account 2011 Sub-account of the Fund and the Principal and Interest Account 2012 Sub-account of the Fund, which derive their revenues from the levy and collection of special assessments against benefited property.

12. Registration - The Bonds shall be registered as to both principal and interest and the Bond Registrar shall establish and maintain a register for the purposes of recording the names and addresses of the registered owners or assigns, the dates of such registration and the due dates and amounts for payment of principal and interest on the Bonds; and the City and the Bond Registrar may deem and treat the person in whose name any Bond is registered as the absolute owner thereof, whether the Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Bond Registrar shall be affected by any notice to the contrary.

13. Assignment - The Bonds are transferable upon the books of the City at the principal office of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Bonds of other authorized

denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange. No transfer of Bonds shall be required to be made during the fifteen days next preceding an interest payment date, nor during the forty-five days next preceding the date fixed for redemption of Bonds.

14. Discharge - When all of the Bonds, and the interest thereon have been defeased and discharged as provided in this Paragraph 14, all pledges, covenants and other rights granted hereinabove by this Resolution shall cease. The City may defease and discharge all Bonds and interest due on any date by depositing with the Paying Agent on or before that date a sum sufficient for the payment thereof in full; or if any Bond or interest thereon should not be paid when due, the same may nevertheless be defeased and discharged by depositing with the Paying Agent a sum sufficient for the payment thereof in full with interest accrued from the due date to the date of such deposit. The City may also defease and discharge all prepayable Bonds called for redemption on any date when they are prepayable according to their terms, by depositing with the Paying Agent on or before that date a sum sufficient for the payment thereof in full, provided that notice of the redemption thereof has been duly given as provided herein. The City may also defease and discharge all Bonds at any time by irrevocably depositing in escrow with an escrow agent, for the purpose of paying all principal and interest due on such Bonds prior to a date upon which all of the same will be prepayable according to their terms, and paying all remaining Bonds on that date, a sum of cash and securities of the types described in NDCC Section 40-27-13 in such aggregate amount, bearing interest at such rates and maturing or callable at the holder's option on such dates as shall be required to provide funds sufficient for this purpose; provided that notice of the redemption of all prepayable Bonds on or before such date has been duly given as required herein.

The City covenants that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, in view of the City's reasonable expectations at the time of issuance of the Bonds, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Internal Revenue Code of 1986 and regulations prescribed under such Section, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Bonds and the payment of required rebate, if any) so that the interest on the Bonds will be and remain excluded from gross income

for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

The City hereby designates the Bonds as "qualified tax-exempt obligations" under Section 265 of the Internal Revenue Code of 1986 (the "Code") relating to the deduction allowed financial institutions for interest expense allocable to tax-exempt interest. The City represents that: (i) the Bonds are not "private activity bonds" as defined in the Code; (ii) the reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Code Section 265(b)(3)(C)) which will be issued during the calendar year 2012 does not exceed $10,000,000; and (iii) not more than $10,000,000 of "qualified tax-exempt obligations" will be designated by the City (including subordinate entities) for the calendar year 2012.

The Final Official Statement relating to the Bonds, dated November 20, 2012, is hereby approved, and the City Administrator is authorized to execute and deliver such Final Official Statement and to certify to its correctness and completeness as provided therein.

The officers of the City and Morton County are authorized and directed to prepare and furnish to the attorneys passing on the legality of the Bonds, certified copies of all proceedings, ordinances, resolutions and records and such certificates and affidavits and other instruments as may be required to evidence the legality and marketability of the Bonds and the tax-exempt status of interest payable thereon, and all certified copies, certificates, affidavits and other instruments so furnished shall constitute representations of the City as to the correctness of all facts stated or recited therein.

(REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

Attest:

CITY OF MANDAN

_____

City Administrator

_____

President, Board of City Commissioners

( S E A L )

The governing body of the political subdivision acted on the foregoing resolution on December 4, 2012, as follows:

Adoption moved by _____ Seconded by _____

Roll Call Vote (List Last Names)

"Aye" _____

"Nay" _____

Absent _____

and after vote the presiding officer declared the resolution adopted.

ATTACHMENT 1

CITY OF MANDAN
COUNTY OF MORTON
STATE OF NORTH DAKOTA

$480,000
REFUNDING IMPROVEMENT BONDS, SERIES SCG-2012

## SCHEDULE OF MATURITIES AND INTEREST RATES

### $160,000 0.50% Term Bonds Due May 1, 2015

Mandatory Sinking Fund Redemption Installments

| Redemption Date (May 1) | Principal Amount |
|---|---|
| 2013 | $50,000 |
| 2014 | 55,000 |
| 2015* | 55,000 |

*Final Maturity

### $205,000 0.90% Term Bonds Due May 1, 2019

Mandatory Sinking Fund Redemption Installments

| Redemption Date (May 1) | Principal Amount |
|---|---|
| 2016 | $55,000 |
| 2017 | 50,000 |
| 2018 | 50,000 |
| 2019* | 50,000 |

*Final Maturity

### $115,000 1.35% Term Bonds Due May 1, 2022

Mandatory Sinking Fund Redemption Installments

| Redemption Date (May 1) | Principal Amount |
|---|---|
| 2020 | $50,000 |
| 2021 | 45,000 |
| 2022* | 20,000 |

*Final Maturity

ATTACHMENT 2

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
COUNTY OF MORTON
CITY OF MANDAN

REFUNDING IMPROVEMENT BOND, SERIES SCG-2012

No. R-

| RATE | MATURITY | DATE OF ORIGINAL ISSUE | CUSIP |
|---|---|---|---|
| | | December 15, 2012 | |

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS that the City of Mandan, North Dakota (the "City" or "Issuer"), acknowledges itself specially indebted and for value received hereby promises to pay to the registered owner specified above or registered assigns, the principal amount specified above, but only from the City of Mandan Refunding Improvement Bonds, Series SCG-2012 Fund (the "Refunding Fund") on the maturity date specified above, with interest thereon from the date hereof at the annual rate specified above, payable on May 1 and November 1 in each year, commencing May 1, 2013, to the person in whose name this Bond is registered on the close of the 15th day (whether or not a business day) of the immediately preceding month, all subject to the provisions referred to herein with respect to the redemption of the principal of this Bond before maturity. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by Starion Bond Services, Mandan, North Dakota, as Bond Registrar and Paying Agent, or its successor.

This book-entry Bond is one of a single series of Bonds (the "Bonds") issued in the aggregate principal amount of $480,000.00, all of like date of original issue and tenor except as to serial number, denomination, interest rate, redemption privilege and maturity date, issued, pursuant to a Resolution Authorizing Issuance of $480,000 Refunding Improvement Bonds, Series SCG-2012, adopted by the Board of City Commissioners (the "Resolution"), in exchange for two warrants in aggregate principal amount of $480,000 described in the Resolution (the "Warrants") issued on the City's Sidewalk, Curb and Gutter Special Fund (the "Fund") and which represent the cost of sidewalk, curb and gutter improvements within the City. The Warrants were issued in full conformity with the Constitution and laws of the State of North Dakota and the ordinances and resolutions of the City duly adopted and approved prior to the issue hereof. The Bonds are issued with a single book-entry bond for each of the principal

maturities of the Bonds and shall be initially registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York, and the Bond Registrar and Paying Agent shall treat the record owner as the absolute owner of the Bonds. So long as Cede & Co. is the registered owner of the Bonds, references herein to the Bondholder, owner, etc. shall mean Cede & Co. and sales by purchasers of the Bonds of beneficial interest participations in the Bonds to beneficial owners will be limited to minimum denominations of $5,000 or any integral multiple in excess thereof.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Notwithstanding any other provisions herein set out, so long as Cede & Co. is the registered owner hereof, the provisions of and requirements referenced in the Blanket Issuer Letter of Representations filed by the City with DTC with regard to the Bonds shall be controlling as to the matters addressed therein and all the terms and provisions therein are incorporated herein as though herein fully set out.

The Bonds of this issue are subject to optional redemption and mandatory sinking fund redemption prior to maturity in whole or in part, at such time or times, at such redemption prices, in such manner and upon such notice as provided in the Resolution, to which reference is hereby made for details with respect thereto.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the principal office of the Bond Registrar, by the registered owner hereof in person or by his attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

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

This Bond is payable solely out of the Refunding Fund which holds as assets pledged to the repayment of this Bond, the Warrants issued on the Fund. The Warrants are payable from special assessments levied to pay for sidewalk, curb and gutter improvements, and whenever all taxes and special assessments collected are insufficient to pay either of the Warrants held by the Refunding Fund, with interest, the City, upon the maturity of the last respective principal installment thereof, shall levy a tax upon all of the taxable property in the City for the payment of such deficiency and if at any time prior to the maturity of such principal installment, such deficiency exists or is likely to occur within one year, the City, in its discretion, may levy a general tax upon all the taxable property in the City for the payment of such deficiency.

Interest on this Bond shall cease at maturity or on a date prior thereto on which it has been duly called for redemption or is required to be redeemed unless the holder hereof shall present the same for payment and payment is refused.

It is hereby certified, recited, covenanted and agreed that all requirements of law have been fully complied with by the officers of the City in the issue of this Bond and the Warrants for which it was exchanged, and that all proceedings and things with reference to making the improvements, to the fixing of the assessment lien against the property improved have been or will be lawfully taken and performed and that for the payment of this Bond and interest thereon, the City pledges all its lawful corporate powers.

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

IN WITNESS WHEREOF, the City has caused this Bond to be executed on its behalf by the signatures of the President of its Board of City Commissioners and its City Administrator, and has caused this Bond to be dated as of the date set forth below.

DATED:

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned within.

STARION BOND SERVICES
MANDAN, NORTH DAKOTA
as Bond Registrar and Paying Agent

By: _____
Authorized Representative

CITY OF MANDAN, NORTH DAKOTA

_____
President, Board of City Commissioners

Attest:

_____
City Administrator

STATE OF NORTH DAKOTA )
) ss.
CITY OF MANDAN )

I hereby certify that the within Bond is issued pursuant to law, and is within the debt limit of the City of Mandan, Morton County, State of North Dakota.

WITNESS my hand this 15th day of December, 2012.

_____
City Administrator

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

PLEASE INSERT SOCIAL SECURITY NUMBER OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

_____

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

Signature Guaranteed:

_____
NOTICE: Signature(s) must be guaranteed by a member of a major stock exchange or a commercial bank or trust company.

$480,000
City of Mandan, North Dakota
Refunding Improvement Bonds, Series SCG-2012

I have acted as bond counsel in connection with the issuance by the City of Mandan, North Dakota (the "Issuer") of $480,000 Refunding Improvement Bonds, Series SCG-2012, initially dated as of December 15, 2012 (the "Bonds") pursuant to a resolution entitled "Resolution Authorizing Issuance of $480,000 Refunding Improvement Bonds, Series SCG-2012" adopted by the Board of City Commissioners (the "Resolution"). The Bonds are issuable as book-entry bonds in fully registered form in the denominations of $5,000 or any integral multiple thereof, of single maturities. The Bonds mature on May 1 in the years and amounts and bear interest from date of issue until paid at the annual rates as set forth in the Resolution. Interest is payable on May 1 and November 1 in each year, commencing May 1, 2013, to the holder of record on the close of the 15th day of the immediately preceding month. The Bonds are subject to optional redemption and mandatory sinking fund redemption prior to maturity in whole or in part, at such time or times, at such redemption prices, in such manner and upon such notice as provided in the Resolution.

I have examined the law and such certified proceedings and other papers as I deem necessary to render this opinion. As to questions of fact material to my opinion, I have relied upon the certified proceedings and other certifications of public officials furnished to me without undertaking to verify the same by independent investigation.

I have not been engaged or undertaken to review the accuracy, completeness or sufficiency of the Official Statement or other offering material relating to the Bonds and I express no opinion relating thereto.

Based on my examination, I am of the opinion, as of the date hereof and under existing law, as follows:

1. The Bonds are valid and binding special obligations of the Issuer payable from the City of Mandan Refunding Improvement Bonds, Series SCG-2012 Fund (the "Refunding Fund") which holds as assets pledged to repayment of the Bonds, two assessment warrants in like aggregate principal amount described in the Resolution (the "Warrants") issued on the Sidewalk, Curb and Gutter Special Fund of the Issuer.

2. The Warrants have been duly authorized, executed and delivered and are payable from special assessments levied to pay for sidewalk, curb and gutter improvements.

3. Whenever all taxes and special assessments collected are insufficient to pay either of the Warrants, with interest, the Issuer, upon the maturity of the last respective principal installment thereof, is required to levy a

tax upon all of the taxable property in the territory of the Issuer for the payment of such deficiency, and may levy such tax if at any time prior to the maturity of such principal installment, the deficiency exists or is likely to occur within one year. Such tax levies are without limitation as to rate or amount.

4. All payments made on the Warrants are to be credited to the Refunding Fund and applied in payment of the principal and interest on the Bonds.

5. Under existing law, the interest on the Bonds is excluded from gross income of the owners for federal and North Dakota income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings. The opinions set forth in the preceding sentence are subject to the condition that the Issuer comply with all requirements of the Internal Revenue Code of 1986 (the "Code") that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. Failure to comply with certain of such requirements could cause the interest on the Bonds to be so included in gross income retroactive to the date of issuance of the Bonds. The Issuer has covenanted to comply with all such requirements. The Bonds have been designated as "qualified tax-exempt obligations" under Section 265 of the Code. Interest on the Bonds is subject to the tax imposed on financial institutions under Chapter 57-35.3 of the North Dakota Century Code. I express no opinion regarding other state or federal tax consequences arising with respect to the Bonds.

It is to be understood that the rights of the holder or holders of the Bonds and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and that their enforcement may be subject to the exercise of judicial discretion in accordance with general principles of equity.

STEVEN L. VOGELPOHL
Bismarck, North Dakota

We certify that the foregoing is a full and correct copy of the text of the legal opinion of bond counsel on the issue of Bonds of the City of Mandan which includes the within Bond, rendered as of the date of the original delivery of and payment for the Bonds.

| | |
|---|---|
| City Administrator | President, Board of City Commissioners |

ATTACHMENT 3

# Blanket Issuer Letter of Representations

(To be Completed by Issuer)

CITY OF HANDAN, NORTH DAKOTA
(Name of Issuer)

November 2, 1999
(Date)

Attention: Underwriting Department — Eligibility
The Depository Trust Company
55 Water Street, 50th Floor
New York, NY 10041-0099

Ladies and Gentlemen:

This letter sets forth our understanding with respect to all issues (the "Securities") that Issuer shall request be made eligible for deposit by The Depository Trust Company ("DTC").

To induce DTC to accept the Securities as eligible for deposit at DTC, and to act in accordance with DTC's Rules with respect to the Securities, Issuer represents to DTC that Issuer will comply with the requirements stated in DTC's Operational Arrangements, as they may be amended from time to time.

Note:
Schedule A contains statements that DTC believes accurately describe DTC, the method of effecting book-entry transfers of securities distributed through DTC, and certain related matters.

Very truly yours,

City of Handan, North Dakota
(Issuer)

By: Phyllis Graner
(Authorized Officer's Signature)

Phyllis Graner, Acting City Auditor
(Typewritten Name & Title)

105 2nd Avenue NW
(Street Address)

Handan, ND 58554
(City) (State) (Zip)

701-667-3315
(Phone Number)

Received and Accepted:

THE DEPOSITORY TRUST COMPANY

By: [illegible]

SCHEDULE A

# SAMPLE OFFERING DOCUMENT LANGUAGE DESCRIBING BOOK-ENTRY-ONLY ISSUANCE

(Prepared by DTC—bracketed material may be applicable only to certain issues)

1. The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the securities (the "Securities"). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee). One fully-registered Security certificate will be issued for [each issue of] the Securities, [each] in the aggregate principal amount of such issue, and will be deposited with DTC. [If, however, the aggregate principal amount of [any] issue exceeds $200 million, one certificate will be issued with respect to each $200 million of principal amount and an additional certificate will be issued with respect to any remaining principal amount of such issue.]

2. DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds securities that its participants ("Participants") deposit with DTC. DTC also facilitates the settlement among Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc., and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks, and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The Rules applicable to DTC and its Participants are on file with the Securities and Exchange Commission.

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of Securities with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

[6. Redemption notices shall be sent to Cede & Co. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.]

7. Neither DTC nor Cede & Co. will consent or vote with respect to Securities. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Principal and interest payments on the Securities will be made to DTC. DTC's practice is to credit Direct Participants' accounts on payable date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on payable date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Agent, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the Issuer or the Agent, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

[9. A Beneficial Owner shall give notice to elect to have its Securities purchased or tendered, through its Participant, to the [Tender/Remarketing] Agent, and shall effect delivery of such Securities by causing the Direct Participant to transfer the Participant's interest in the Securities, on DTC's records, to the [Tender/Remarketing] Agent. The requirement for physical delivery of Securities in connection with a demand for purchase or a mandatory purchase will be deemed satisfied when the ownership rights in the Securities are transferred by Direct Participants on DTC's records.]

10. DTC may discontinue providing its services as securities depository with respect to the Securities at any time by giving reasonable notice to the Issuer or the Agent. Under such circumstances, in the event that a successor securities depository is not obtained, Security certificates are required to be printed and delivered.

11. The Issuer may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered.

12. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

CITY OF
MANDAN
"WHERE THE WEST BEGINS"

# Board of City Commissioners

# Agenda Documentation

| | |
|---|---|
| **MEETING DATE:** | December 4, 2012 |
| **PREPARATION DATE:** | November 28, 2012 |
| **SUBMITTING DEPARTMENT:** | Finance |
| **DEPARTMENT DIRECTOR:** | Greg Welch |
| **PRESENTER:** | Greg Welch |
| **SUBJECT:** | Resolution of Amendment Authorizing the Issuance of Water Improvement Interim Certificates of 2008, Series B and Water Improvement Revenue Bonds of 2008, Series B, and the State Revolving Fund Program Loan Agreement with the North Dakota Public Finance Authority for South Side Water Reservoir and Water Transmission Main Improvements. |

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PURPOSE

To consider a Resolution of Amendment Authorizing the Issuance of Water Improvement Interim Certificates of 2008, Series B and Water Improvement Revenue Bonds of 2008, Series B, and the State Revolving Fund Program Loan Agreement with the North Dakota Public Finance Authority for South Side Water Reservoir and Water Transmission Main Improvements.

BACKGROUND

On August 19, 2008, the Board of City Commissioners approved a Resolution Authorizing Undertaking for Municipal Improvement Consisting of South Side Water Reservoir and Water Transmission Main Improvements.

On September 16, 2008, the Board of City Commissioners approved a Resolution Authorizing the Issuance of Water Improvement Interim Certificates of 2008, Series B and Water Improvement Revenue Bonds of 2008, Series B to finance the cost of the South Side Water Reservoir and Water Transmission Main Improvements through the State Revolving Fund (SRF) Program.

The Resolution of Amendment makes certain changes to the earlier issuance Resolution to reflect the final SRF maturity terms for the Revenue Bonds to be issued for the financing.

The approved Loan amount was for $8,600,000. The Loan was fully funded on November 26, 2012. Currently, the outstanding principal balance on the Loan is $6,667,283 due to the City making annual debt service payments on the Loan since 2009. The final maturity date for the Bonds is September 1, 2028.

ATTACHMENT
Resolution of Amendment

FISCAL IMPACT
No additional debt is occurring since the temporary financing (Water Improvement Interim Certificates of 2008, Series B) is now being exchanged with the permanent financing (Water Improvement Revenue Bonds of 2008, Series B) as required by the State Revolving Fund Program Loan Agreement.

The annual debt service requirements are already included in the City's Water and Sewer Base Rates.

STAFF IMPACT
None

LEGAL REVIEW
The Resolution was prepared by Steven L. Vogelpohl, Attorney At Law, on behalf of the City.

RECOMMENDATION
To approve the Resolution of Amendment.

SUGGESTED MOTION
Move to approve the Resolution of Amendment.

# STEVEN L. VOGELPOHL
ATTORNEY AT LAW

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

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


November 28, 2012

Greg Welch
City of Mandan
205 2nd Ave. NW
Mandan, ND 58554

Re: DWSRF Financing - Water Reservoir Project

Dear Greg:

Please find enclosed a Resolution of Amendment for adoption by the Commission at its December 4 meeting. The Resolution makes certain changes to the earlier issuance resolution to reflect the final SRF maturity terms for the revenue bonds to be issued for the financing.

If you could fax me the filled in voting record page (*i.e.*, page 5), I will prepare copies of the Resolution for execution at the time of signing of the balance of the final financing documents.

Thank you for your assistance and please contact me if you've any questions.

Sincerely,

Steven L. Vogelpohl
Attorney at Law

SLV/dl
08-011/112812.ltr

Enc.

c: Malcolm H. Brown (w/Enc)

CITY OF MANDAN, NORTH DAKOTA

**RESOLUTION OF AMENDMENT**

WHEREAS, the City of Mandan, North Dakota (the "City") has authorized and made certain improvements to its water and sewer utility, including, but not limited to, construction, installation and equipping of a water reservoir and construction and installation of water transmission mains, as well as all other items of work and materials reasonably necessary or incidental to the completion of such improvements (the "Project");

WHEREAS, the City, pursuant to resolution of its governing body adopted September 16, 2008, entitled "Resolution Authorizing the Issuance of Water Improvement Interim Certificates of 2008, Series B and Water Improvement Revenue Bonds of 2008, Series B" (the "Resolution Authorizing Issuance") authorized its Water Improvement Interim Certificates of 2008, Series B (the "Interim Certificates") and its Water Improvement Revenue Bonds of 2008, Series B (the "Bonds") to finance the costs of the Project and authorized the State Revolving Fund Program Loan Agreement dated as of September 16, 2008 (the "Loan Agreement") entered pursuant thereto between the City and the North Dakota Public Finance Authority (the "Authority");

WHEREAS, pursuant to the Resolution Authorizing Issuance, the City issued Interim Certificates which are presently outstanding;

WHEREAS, the Project is complete and the City desires to exchange Interim Certificates for Bonds pursuant to the Resolution Authorizing Issuance;

WHEREAS, amendment of the Resolution Authorizing Issuance and the Loan Agreement is necessary; and

WHEREAS, the City desires to effect such amendments with the concurrence of the Authority;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the governing body of the City as follows:

1. That the second "WHEREAS" paragraph on page 1 of the Resolution Authorizing Issuance is amended to read as follows:

> WHEREAS, improvements are made to the Utility including, but not limited to, construction, installation and equipping of a water reservoir

and construction and installation of water transmission mains, as well as all other items of work and materials reasonably necessary or incidental to the completion of such project (the "Project") at a total cost of not less than $7,972,283;

2. That the fourth "WHEREAS" paragraph on page 1 of the Resolution Authorizing Issuance is amended to read as follows:

WHEREAS, the City has heretofore issued and has outstanding its Sewer Improvement Revenue Bonds of 1997 (the "1997 Bonds"), its Water Improvement Revenue Bonds of 2002 (the "2002 Bonds"), its Water and Sewer Revenue Bonds, Series 2005 (the "2005 Bonds"), its Sewer Improvement Revenue Bonds of 2008, Series A (the "2008 Series A Sewer Bonds"), its Sewer Improvement Revenue Bonds of 2008, Series B (the "2008 Series B Sewer Bonds") and its Water Improvement Revenue Bonds of 2008, Series A ( the "2008 Series A Water Bonds"), which 1997 Bonds, 2002 Bonds, 2005 Bonds, 2008 Series A Sewer Bonds, 2008 Series B Sewer Bonds and 2008 Series A Water Bonds pursuant to the respective resolutions authorizing issuance thereof are payable from net revenues of the Utility as defined in Subsection 3 of Section 9-01-06 of the Ordinance (the "Net Revenues");

3. That the fifth "WHEREAS" paragraph on page 1 of the Resolution Authorizing Issuance is amended to read as follows:

WHEREAS, other than the 1997 Bonds, the 2002 Bonds, the 2005 Bonds, the 2008 Series A Sewer Bonds, the 2008 Series B Sewer Bonds and the 2008 Series A Water Bonds (together, the "Outstanding Bonds"), the City has no outstanding bonds or evidences of indebtedness payable from the Revenue Bond Account (the "Revenue Bond Account") of the Water and Sewer Utility Fund (the "Fund") as described and defined in the Ordinance;

4. That Section 3 of the Resolution Authorizing Issuance is amended to read as follows:

Section 3. Terms of the Bonds . The Bonds delivered for the purpose of redeeming the Interim Certificates shall be initially dated the last date to which interest has been paid in full on the Interim Certificates redeemed. Bonds issued upon exchanges and transfers of Bonds before the first interest payment date of the Bonds shall also be dated as of the date of initial issuance. Bonds issued upon exchanges or transfers after the first interest payment date of the Bonds shall be dated as of March 1 or September 1 next preceding their issuance, or if the date of issuance shall be a March 1 or September 1, as of such date; provided, however, that if interest on the Bonds shall be in default, the Bonds shall be dated as of the date to which interest has been paid in full on the Bonds being transferred. The Bonds shall be issued in fully registered form in denominations of $1,000 or any integral multiple thereof or as otherwise agreed by the Authority and the President of the Board of City Commissioners and City Administrator, of single maturities. The Bonds shall be numbered in consecutive numerical order from R-1 upwards as issued and shall mature on September 1 in the years and in the amounts and shall bear interest at the rate as set forth in Attachment 1 to this Resolution.

Interest on the Bonds and, upon presentation and surrender thereof to the Bank of North Dakota as paying agent and registrar of the Bonds (the "Paying Agent" or "Registrar") or its successor, the principal thereof, shall be payable in lawful money of the United States of America by check or draft or by deposit to the registered owner's account at the Bank of North Dakota. Interest shall be payable on March 1 and September 1 in each year, commencing on the next March 1 or September 1 after the date upon which the Bonds commenced the accrual of interest, to the person in whose name the bond is registered at the close of business on the 15th day (whether or not a business day) of the immediately preceding month. Interest on the Bonds shall cease at maturity or on a date prior thereto on which they have been duly called for redemption unless the holder thereof shall present the same for payment and payment is refused.

The Bonds shall be payable from the Revenue Bond Account, as set out in Section 8 hereof.

5. That ATTACHMENT 1 to the Resolution Authorizing Issuance is amended to read as provided in ATTACHMENT B to this Resolution of Amendment.

6. That ATTACHMENT 3 to the Resolution Authorizing Issuance is amended to read in substantially the form as ATTACHMENT C to this Resolution of Amendment.

7. That the word "Resolution" as used in the Resolution Authorizing Issuance and in the Bonds thereby authorized and the term "Municipal Bond Resolution" as used in the Loan Agreement shall, without further requirement of any change to such documents and upon the taking effect of this Resolution of Amendment, mean the Resolution Authorizing Issuance as amended by this Resolution of Amendment.

8. That this Resolution of Amendment shall be in full force and effect upon execution of the North Dakota Public Finance Authority Consent attached hereto as ATTACHMENT A.

Dated this 4th day of December, 2012.

CITY OF MANDAN, NORTH DAKOTA

Attest:

_____
President, Board of City Commissioners

_____
City Administrator

( S E A L )

The governing body of the City of Mandan, North Dakota acted on the foregoing resolution on December 4, 2012, as follows:

Adoption moved by _____ Seconded by _____

"Aye" _____

"Nay" _____

Absent _____

and after vote the presiding officer declared the resolution adopted.

ATTACHMENT A

NORTH DAKOTA PUBLIC FINANCE AUTHORITY CONSENT

The North Dakota Public Finance Authority (the "Authority") hereby approves and consents to adoption of the annexed Resolution of Amendment and the amendments made thereby to the Resolution Authorizing Issuance referred to therein.

Dated as of the _____ day of _____, 2012.

NORTH DAKOTA PUBLIC FINANCE AUTHORITY

By _____

Title _____

ATTACHMENT B

ATTACHMENT 1

CITY OF MANDAN, NORTH DAKOTA

WATER IMPROVEMENT
INTERIM CERTIFICATES OF 2008, SERIES B

AND

WATER IMPROVEMENT
REVENUE BONDS OF 2008, SERIES B

## SCHEDULE OF MATURITIES AND INTEREST RATES

The principal amount of Water Improvement Revenue Bonds of 2008, Series B (the "Bonds"), as finally determined pursuant to the terms of the annexed resolution, will mature in annual amounts payable on September 1 in each year as agreed by the Authority and the President of the Board of City Commissioners and City Administrator at the date of original issuance, commencing in 2013, with final maturity in 2028. The interest on the outstanding principal amount of the Bonds shall be payable at an annual rate of 3.27% on each March 1 and September 1 during which the Bonds are outstanding. The principal maturing in each of the years shall be determined as of the date of issuance of the Bonds for the redemption of the Water Improvement Interim Certificates of 2008, Series B (the "Interim Certificates") by determining, to the nearest denomination of $1,000 or other amount agreed to by the Authority and the President of the Board of City Commissioners and City Administrator, the closest amount to equal annual payment of principal and interest on the Bonds as agreed to by the Authority and the President of the Board of City Commissioners and City Administrator.

The Interim Certificates shall bear interest at an annual rate of 3.27% from their date of authentication until the date of their redemption which accrued interest shall be payable on each March 1 and September 1 until the date of redemption.

ATTACHMENT C

ATTACHMENT 3

(BOND FORM)

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
COUNTY OF MORTON
CITY OF MANDAN

WATER IMPROVEMENT REVENUE BOND OF 2008, SERIES B

No. R-

| INTEREST RATE | MATURITY DATE | DATE OF ORIGINAL ISSUE |
|---|---|---|
| 3.27% | | September 1, 2012 |

REGISTERED OWNER: North Dakota Public Finance Authority, Bismarck, North Dakota

PRINCIPAL AMOUNT:

KNOW ALL PERSONS BY THESE PRESENTS that the City of Mandan, Morton County, North Dakota (the "Issuer"), a duly organized and existing municipal corporation, acknowledges itself specially indebted and for value received hereby promises to pay to the registered owner specified above or registered assigns, the principal amount specified above, but only from the Revenue Bond Account (the "Revenue Bond Account") of its Water and Sewer Utility Fund (the "Fund") on the maturity date specified above, with interest thereon from the date hereof at the annual rate specified above, payable on March 1 and September 1 in each year, commencing March 1, 2012, to the person in whose name this Bond is registered at the close of business on the 15th day (whether or not a business day) of the immediately preceding month, all subject to the provisions referred to herein with respect to the redemption of the principal of this Bond before maturity. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by the Bank of North Dakota, Bismarck, North Dakota, as Registrar and Paying Agent or its successor, by check or draft or by deposit to the registered owner's account at the Bank of North Dakota.

This Bond is one of a single series of Bonds authorized for issuance in the aggregate principal amount of not to exceed $6,667,283.00, all of like date of original issue, and tenor except as to serial number, denomination, interest rate and maturity

date, issued for the purpose of providing funds for construction and installation of a water reservoir and water transmission mains for the Issuer's Water and Sewer Utility (the "Utility"), and is issued pursuant to and in full conformity with the Constitution and laws of the State of North Dakota, including North Dakota Century Code Chapter 40-35, and pursuant to and in full conformity with ordinances and resolutions duly adopted by the City, including Mandan Code of Ordinances Chapter 9-01 (the "Ordinance") and the Resolution Authorizing the Issuance of Water Improvement Interim Certificates of 2008, Series B and Water Improvement Revenue Bonds of 2008, Series B adopted by Issuer's Board of City Commissioners on September 16, 2008 and amended by such Board of City Commissioners on December 4, 2012 (the "Resolution"). This Bond, including interest hereon, is payable solely from the net revenue of the Utility pledged pursuant to the Ordinance and the Resolution to the payment thereof and does not constitute a debt of the City within the meaning of any constitutional or statutory limitation. The Bonds of this series are issuable only as registered bonds in the denominations as provided in the Resolution, of single maturities.

The Bonds of this series are subject to redemption and prepayment prior to maturity only with the written consent of the North Dakota Public Finance Authority. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the owner without charge, representing the remaining principal amount outstanding.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the Issuer at the principal office of the Registrar by the registered owner hereof in person or by his attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange, the Issuer will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

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

It is hereby certified, recited, covenanted and agreed that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen and to be performed precedent to and in the valid issuance of this Bond, have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that the Issuer has duly established the Revenue Bond Account as a separate and special account of the Fund

and will credit and pay into the Revenue Bond Account as received, out of the net revenues of the Utility as defined in the Ordinance, sums sufficient to pay the principal and interest when due on each and all of the Bonds of this series and all other bonds payable from the Revenue Bond Account, and to create and maintain a reserve securing such payments, and will use the moneys in the Revenue Bond Account for no other purposes; that the Issuer has fixed and established, and will collect reasonable rates, charges and rentals for all services, facilities, commodities and benefits furnished by the Utility and by any improvements, betterments, extensions and enlargements thereof and will amend and revise the same from time to time to the extent required to produce net revenues sufficient to pay into the Revenue Bond Account the sums herein agreed; that in and by the Resolution and the Ordinance the Issuer has made the Bonds of this series subject to all of the terms and provisions contained in the Ordinance and has made other and further covenants and agreements with the holders from time to time of each and all of the Bonds, which covenants and agreements will be fully and promptly complied with by the Issuer and each and all of its officers and agents at all times until this Bond and interest hereon have been fully paid or the obligation of the Issuer hereon has been otherwise defeased and discharged as provided in the Resolution; and that the Bonds of this series are issued payable on a parity with the Issuer's Sewer Improvement Revenue Bonds of 1997, Water Improvement Revenue Bonds of 2002, Water and Sewer Revenue Bonds, Series 2005, Sewer Improvement Revenue Bonds of 2008, Series A, Sewer Improvement Revenue Bonds of 2008, Series B and Water Improvement Revenue Bonds of 2008, Series A and that no additional obligations will be issued or incurred and made payable from the aforementioned net revenues of the Utility on a parity with the Bonds of this series except as set forth in the Ordinance, to which reference is hereby made for details and covenants and recitals of the City with respect thereto.

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

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed on its behalf by the signatures of the President of its Board of City Commissioners and its City Administrator and has caused this Bond to be dated as of the date set forth below.

DATED: September 1, 2012

ATTEST:

CITY OF MANDAN, NORTH DAKOTA

_____
City Administrator

_____
President, Board of City Commissioners

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds delivered pursuant to the within-mentioned Resolution.

Bank of North Dakota
Bismarck, North Dakota, as Registrar

By _____
Authorized Representative