

**AGENDA**  
**MANDAN CITY COMMISSION**  
**MARCH 20, 2012**  
**ED "BOSH" FROEHLICH MEETING ROOM**  
**5:30 P.M.**  
**[www.cityofmandan.com](http://www.cityofmandan.com)**

- 
- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. MINUTES:
1. Consider approval of the minutes from the March 6, 2012 Board of City Commission meeting.
- C. PUBLIC HEARING:
1. A Public Hearing to consider an Ad Valorem tax exemption for Lakewood Living Center/Shorestone Development
- D. BIDS:
1. Consider the award of Concrete and Asphalt crushing project at the Landfill.
- E. CONSENT AGENDA:
1. Consider approval of expenditure budget amendments for fiscal year 2011.
  2. Consider approval of monthly bills.
  3. Consider approval of Games of Chance for the ND Society of Radiology Technologists at the Seven Seas (Apr. 12-14, 2012)
  4. Consider approval of the vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> Zone Change. (*First consideration of ordinance #1112*)
  5. Consider approval of the Lakewood 6<sup>th</sup> Addition Zone Change. (*First consideration of ordinance #1113*)
  6. Consider request for the transfer of funds from the 2011 Budget to the 2012 Budget for the Wastewater Treatment Plant.
  7. Consider approval for Out-of-State travel for Surface Water Treatment Workshop for the Water Treatment Plant.
  8. Consider approval of an abatement for Chris & Jessica Haluzak – new construction
  9. Consider request for the transfer of funds from the 2011 Budget to the 2012 Budget for the Police Department.
  10. Consider request for the transfer of funds from the 2011 Budget to the 2012 Budget for the Mandan Growth Fund.
  11. Consider request for the transfer of funds from the 2011 Budget to the 2012 Budget for the Solid Waste Utility Fund.
  12. Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition.

*Agenda  
Mandan City Commission  
March 20, 2012  
Page 2 of 2*

---

F. OLD BUSINESS:

1. Consider proposals for development of land parcels near I-94

G. NEW BUSINESS:

1. Consider a contract extension for Retail Attractions
2. Consider the approval of plans and specifications, Engineers Report, and authorize the call for bids for the 2012 Municipal Sidewalk Improvement.
3. Consider the creation of Street Improvement District No. 168 Project # 2017-09. (Heart Ridge Addition – Phase 1).
4. Consider the creation of Street Improvement District No 167 Project # 2012-04. (Keidels South Heart Terrace – Keidel Trail SW ).

H. RESOLUTIONS & ORDINANCES:

1. Consider Resolution Authorizing Issuance of \$1,490,000 Refunding Improvement Bonds of 2012, Series A.
2. *Consider first consideration of Ordinance No.1112 Zone Change for the vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.*
3. *Consider first consideration of Ordinance No.1113 Zone Change for Lakewood 6<sup>th</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map*

I. OTHER BUSINESS:

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. March 27, 2012 Special Meeting
2. April 3, 2012
3. April 17, 2012
4. May 1, 2012

K. ADJOURN

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

---

The Mandan City Commission met in regular session at 5:30 p.m. on March 6, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Helbling, Rohr, Frank, and Jackson. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development and Communications Director Huber, Engineering Project Manager Bechtel, and City Assessor Barta. Absent: Commissioner Tibke and Director of Public Works Wright.

MINUTES: Consider approval of the minutes for February 21, 2012 regular meeting. Commissioner Jackson moved to approve the minutes of the February 21, 2012 regular meeting. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Public Hearing to consider an Ad Valorem tax exemption for Jessara Properties, LLC.* City Assessor Barta stated that this project was at one time going to be on 40<sup>th</sup> Avenue; however they, (Jessara Properties, LLC), have moved it to 27<sup>th</sup> Street Northwest in the area of Terra Vallee. There have been no protests received by the City Assessor’s Office. The other public entities have been notified and there has been no response received from them. Barta stated that he recommends approving the project based on the Mandan Growth Fund (MGF) recommendation. The MGF has requested that the Board rescind the request that was passed last year and that there be a repayment provision if the facility would be sold to a tax exempt entity within five years from expiration of the exemption period.

Mayor Helbling announced that this is a public hearing and asked for comments from the public.

Mark Bitz, an apartment complex owner, came forward and requested that the Commission vote “No” on this matter. As he previously pointed out, apartment buildings do not create jobs or create any sales taxes which are two of the “main ingredients” for property tax exemptions to be granted. He commented on the Mayor’s statement at the last meeting regarding changing the policy. He clarified that the group he was with was not requesting any change in policy but merely to grant the exemption, do nothing, or somewhere in between. The request is to deny the request for tax exemption. The other comment that was made was that it wouldn’t be fair to the staff if the Commission voted no on this. The process leading up to the public hearing has to go through the staff. There is no other opportunity for anyone to support or protest tax exemptions if the process is not followed. Bitz again requested that the Ad Valorem tax exemption for Jessara Properties, LLC be rejected.

Susan Beehler, a resident at 702 14<sup>th</sup> St NW, Mandan ND 58554, came forward and stated: I object to a tax exemption being given for these reasons:

1. The exemption needs to be done in the county or city it is in: if this land is not already annexed into the city then this application is premature. The city does not have

---

jurisdiction until the annexation is done. Bring back at the next meeting when the annexation is done.

2. If you are putting off roads because of Measure 2 then why not a moratorium on tax exemptions. Dot Frank and Jim Neubauer both were in attendance when hearing from the communities in Glen Ullin what they would have done differently if they would have known what they know now. We were told don't give away your land, your services, and it is okay to declare a moratorium on whatever, till you get a handle on how this boom will affect you.

3. Century Code 40-57.1 clearly states there must be a declaration and finding of public purpose. It is questionable whether housing is a public purpose. It is the intent of the legislative assembly that political subdivisions and the state board of equalization in their determination of whether the tax exemptions authorized by this chapter shall be granted shall give due weight to their impact and effect upon existing industry and business to the end that an unfair advantage shall not be given to new or expanded enterprises which is to the substantial detriment of existing enterprises.

Later on tonight you will receive a BMDA report one of the lowest scoring items for businesses was the assessing of their property taxes, this is not good for businesses to shoulder the cost of housing in the form of their property tax increases.

1. The funding of housing will cast the tax burden to other property tax paying properties in our community. It would not just be the \$116,000 lost in revenue from the exemption it could be increased cost to the taxpayers if these 96 apartments bring in families with 1 to 2 children this will cost the tax payer about 5,000 per school age child each year so if we have an additional 100 children attending our schools this could end up being \$500,000 in taxes needed to pay for their school and if we don't have room it will be another 18 mils to finance a school, their rent will not be paying for the use of the schools even after the tax exemption expires the rest of the property owners are left to pick up the tab.. This would be like raising our mil levy by 10 mils (if a mil is worth about \$60,000) for 96 units, when we have streets in need of desperate repair? It will take an additional 300 \$100,000 homes\* to equal the amount of cost this could be for the taxpayers to support these multi units. These buildings the way I look at it could cost us 28mils. Will they build without the exemption? My guess is yes. Why give an incentive when the demand for housing is already here?

2. Does multi-unit housing meet the definition of public purpose?

3. At what cost are we as taxpayers supposed to support growth and when is it unfair?

4. Every dollar taken out of my pocket to subsidize another business is one less dollar I have to invest in my business and my property.

---

\*If \$100,000 home brings in \$2000 in taxes it would take 300 homes to make up the lost revenue for the exemption and the increase cost if they have children using our school system.

Mike Wachter, Jessara Properties, LLC, came forward to speak in support of the request for a property tax exemption for Jessara Properties, LLC. He stated that the annexation and the platting is on the Agenda and will be voted on tonight. He stated that this matter was looked at last year and was voted on as two 24-unit apartment buildings in Lakewood and due to the flood the project was put on hold. He stated that consideration was given to building the complex in Bismarck but because of the tax incentive he decided to build in Mandan instead. The goal is to get a higher density on the taxes on the land. In summary, the City will get more tax revenue out of the 24/36 unit building as opposed to an 8/10 unit building.

Commissioner Frank commented that by bringing in green space as part of the development plan as an important aspect of the project stating that by accommodating families it will bring retail and eventually population growth to the community.

Mayor Helbling announced that this is a public hearing and invited anyone in favor or opposition to come forward. A second announcement was made and hearing none, this portion of the hearing was closed.

Mayor Helbling asked City Attorney Brown about the Susan Beehler testimony No. 1: *The exemption needs to be done in the county or city it is in: if this land is not already annexed into the city then this application is premature. The city does not have jurisdiction until the annexation is done.* City Attorney Brown concurred and stated that Resolutions and Ordinances No. 3 is on the Agenda for review and discussion and final passage which is the annexation of this area. He suggested that if the Commission is inclined to grant the exemption that it is acted upon after the adoption and final passage of that Ordinance.

Mayor Helbling asked for clarification from City Attorney Brown regarding Susan Beehler's testimony No. 3: *Century Code 40-57.1 clearly states there must be a declaration and finding of public purpose.* Brown stated that the chapter on granting exemptions is very broad and he believes that any city or county entity has plenty of leeway to grant or deny. It is consistent with the policy that the Commission adopted previously.

Commissioner Jackson stated that for apartment complexes, he understands the policy that has been adopted by the City and this request is in line with the policy. In previous action, when the Wachters brought the Lakewood area forward it passed unanimously. He stated that the Commission has set the policy, thus this request should be approved

---

even though he is not in total agreement with the terms of the policy as written for apartment complexes.

Commissioner Rohr stated that he recalls voting in favor of the action brought last year when the Wachters requested the exemption in the Lakewood area. He agreed with Commissioner Jackson's view on allowing these exemptions for apartments; however, it is policy that has been established by the Commission.

Commissioner Jackson noted:

- (1) Although he does not agree with the policy he agrees with the purpose of the policy.
- (2) At this point the policy exists and Jessara Properties is looking at developing the property in part because of the policy that the Commission passed. If the Commission were to deny the request based on the policy that exists, which is free for everyone to read, and that is where his concern lies with this particular request.

Mayor Helbling stated that the third point of reference from Ms. Beehler's testimony is related to Measure 2, infrastructure and roads. The City's stance to this point is telling all the developers not to look for the City to special assess in these developments for streets, roads, etc. until we know the outcome of Measure No. 2. There is one exception and that is the Chad Wachter property south of town because that had already started and all laws have to be followed accordingly.

Commissioner Jackson moved to approve the two-year Ad Valorem Tax exemption for Jessara Properties LLC and rescind the previous Ad Valorem Tax exemption that was granted to Jessara Properties in approximately June 2011 subject to repayment if the facility would be sold to a tax exempt entity within five years from the expiration of the exemption period. Commissioner Frank seconded the motion.

Commissioner Frank commented on Ms. Beehler's comment on Measure 2: We need to keep in mind that incentives such as this are what make sense for Mandan right now since Mandan is a community that is in competition; knowing that there may be a possibility of the elimination of property taxes and we should take advantage of marketing in our community while the opportunity exists. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

2. *Public Hearing to consider the vacation of the Pioneer Industrial Park Plat.* Engineering Project Manager Bechtel reviewed with the Board a request from WW Ranch, Mike and Pat Wachter, to vacate portions of Pioneer Industrial Park. Bechtel provided an overhead view of the request. He stated there was a request from the

Planning and Zoning Committee to vacate this plat. City Attorney Brown clarified that the proposed resolution indicates it was requested by “Mike Wachter” and that is the way it will be recorded. He advised that if WW Ranch is the requesting entity that the document be recorded as such. It needs to be the same (entity) as the deed to the property.

Commissioner Frank moved to approve to vacate the requested portions of Pioneer Industrial Park. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

### BIDS:

### CONSENT AGENDA:

1. *Consider approval of budget amendment to the 2012 Alarm Equipment-Reserve.* The Board approved of the budget amendment to the 2012 Alarm Equipment-Reserve.
2. *Consider approval of Games of Chance - Junior Achievement for May 18, 2012.* The Board approved of the Games of Chance - Junior Achievement for May 18, 2012.
3. *Consider site authorization for Mandan Hockey Club, Inc. at Captain Freddy's Inc. from March 1, 2012 through June 30, 2012.* The Board approved of the site authorization for Mandan Hockey Club, Inc. at Captain Freddy's Inc. from March 1, 2012 through June 30, 2012.
4. *Consider the following proclamations: (i) Designating May 19, 2012 as "STRIDES: Lions Walk for Diabetes Awareness" Day. (ii) Designating April 30<sup>th</sup> – May 5<sup>th</sup>, 2012 as "Spring Clean-Up Week" in the City of Mandan.* The Board approved of the proclamations as listed.
5. *Consider out-of-state travel request from Steve Himmelspach, Waste Water Treatment Plant Superintendent.* The Board approved of the out-of-state travel request from Steve Himmelspach, Waste Water Treatment Plant Superintendent
6. *Consider for approval the final plat of Meadow Ridge 1st Addition.* The Board approved of the final plat of Meadow Ridge 1st Addition.
8. *Consider to advertise for sale a Bauer Mariner E3 air compressor.* The Board approved of the request to advertise for sale of a Bauer Mariner E3 air compressor.
10. *To consider for approval funding local match for Missouri River Geomorphic Assessment.* The Board approved of funding local match for Missouri River Geomorphic Assessment.
12. *Consider for approval a site authorization for Ducks Unlimited at the Seven Seas Hotel and Waterpark on March 21, 2012.* The Board approved of the site authorization for Ducks Unlimited at the Seven Seas Hotel and Waterpark on March 21, 2012.
13. *Consider approval of the Fire Hydrant Painting agreement with HIT Inc.* The Board approved of the Fire Hydrant Painting agreement with HIT Inc.

Commissioner Jackson moved to approve the Consent Agenda items No. 1 through 6, 8, 10, 12 and 13 as presented. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

---

Commissioner Frank requested Items No. 9 and No. 11 be removed from the Consent Agenda for discussion:

9. *Consider approval to dispose of a 1993 Cushman Scooter.* Police Chief Bullinger reviewed with the Board a request to dispose of a 1993 Cushman Scooter. He reviewed the problems the machine has had and the research conducted to attempt to repair the machine and/or trade it off.

Commissioner Frank suggested that further conversation be had with TurfWerks, the company who has tried to repair the scooter, and the City may enter into an agreement with them to dispose of the machine in an attempt to get a little more value out of the machine. The Chief replied that negotiations were attempted and the end result was that TurfWerks offered a salvage credit of \$500 (reducing the invoice to \$1,455 for parts and labor already expended). He also stated that extensive inquiries have been made to find an engine for the machine but to no avail.

Commissioner Frank moved to approve the request from the Police Department to relinquish ownership of the Cushman Scooter to TurfWerks, Sioux Falls, SD. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present. The motion passed.

Commissioner Frank moved to approve the budget transfer request in the amount of \$1,955 from the 2011 Police Budget into the 2012 Parking Authority Budget. Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present. The motion passed.

11. *Consider an abatement for Richard and Pearl Rhone.* The Board approved of an abatement for Richard and Pearl Rhone. Commissioner Frank requested City Assessor Barta provide background on this. Assessor Barta stated that assessments are now handled by the county. In this case, Mr. Rhone had the abatement filled out for \$13,900 and he agreed to leave it at that if the City came up with \$13,900. However, the City came up with \$14,000 abatement. It was noted that even though the City's value was the \$14,000 the homeowner only accepted \$13,900. Commissioner Frank stated that the City will deviate from the numbers given them from the Assessor's office as determined when it comes to the reduction in value in discussion with the owner.

Mayor Helbling stated that at a previous meeting, there was a taxpayer looking for a reduction in value due to damages from the flooding. He asked City Assessor Barta how he determined these two were different. Barta explained that in this circumstance, there was actual damage done in the finished basement and with the other individual's there was a 100 sq. ft. area finished and that is why he did not get a reduction because of basement damage.

Commissioner Frank moved to approve the abatement for Richard and Pearl Rhone from \$137,600 to \$123,700 due to structural damage to the foundation. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke:

---

Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

Commissioner Jackson requested Items No. 7 and No. 14 be removed from the Consent Agenda for discussion:

7. *Consider out-of-state travel request from Richard Barta, City Assessor.*

City Assessor Barta stated that this is the annual NCRAAO Conference that he has attended for approximately 25 years. He indicated that if the conference is held in North Dakota, South Dakota or Minnesota he will have another employee attend with him. Commissioner Jackson moved to approve an out-of-state travel request from Richard Barta, City Assessor to attend the NCRAAO Conference in Kansas City, MO, the week of June 11, 2012. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

14. *Consider approval of Class E Liquor License for Holli Lang at Captain Freddy's.* Commissioner Jackson inquired whether Captain Freddy's already has a liquor license; and if so, what kind of license is it. City Administrator Neubauer stated that Captain Freddy's has a Class A liquor license but they are looking at putting a restaurant in a portion of the building which would require a Class E license. So there would have to be two licenses for that establishment. He stated that parts of the upstairs and downstairs will be used as a restaurant during the day and then turned over to a bar later on in the day. There is only one other Class E license in existence and Class E licenses are not limited. The only requirement is that more than 50% of the sales are in food. City Attorney Brown clarified that individuals under 21 years of age cannot be admitted to a Class A licensed establishment. The ordinance also requires a certain separation between the areas where those under 21 years are permitted in the restaurant and the bar area. Neubauer indicated that there will be a separate operator for the restaurant and a separate operator for the bar. Attorney Brown stated that he is not aware of any limitations within the Ordinance that would prohibit more than one liquor license within an establishment. Mayor Helbling questioned whether would be any problem with the Police Department or other areas of the City should any incident occur on the property or any other property that may have a similar situation? Brown stated that there is a provision in the Ordinance that outlines serving food and liquor where minors are permitted.

Commissioner Jackson moved to approve a Class E Liquor License for Holli Lang at Captain Freddy's. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

#### OLD BUSINESS:

1. *Consider award of bids for flood removal projects including, Hesco & various earthen levees, Bridgeview Bay, Marina Bay, Borden Harbor and Lakewood Harbor.* City Administrator Neubauer stated that this matter was tabled from the last meeting in order to research irregularities that existed. He stated those problems have been resolved and the matter is now ready to move forward.

---

Mayor Helbling mentioned that he takes the same position as previously in that no response has been received from FEMA, and he would suggest not awarding the bids until it is received. He stated that the 30 days are up on the bids on March 15<sup>th</sup> so a Special Meeting may be needed. Neubauer stated that there is a Special Meeting date already set for March 15<sup>th</sup> and the Commission could wait until that time to award the bids.

Commissioner Jackson stated that his concern about tabling the matter again would be that several bids have come in as reasonable and indicated that he would not be in favor of taking the chance of the Commission not meeting on that date for whatever reason.

Brent Erickson, PE, Project Manager for Kadrmas, Lee and Jackson, said that by awarding the bids tonight that does not mean that the Notice to Proceed would have to occur. The Notice to Proceed has been set up when load restrictions have been removed for the final time in the spring or when directed by the City. It will take 14-21 days to put together contracts, obtain bonding and insurance in order to issue the Notice to Proceed.

Mayor Helbling commented that the FEMA concern involves the risk of flooding. It is not known when the two rivers are going to open up completely. If they do not grant the extension we will have to move forward with the load restrictions in place and damage would occur to the streets. We have to wait until FEMA gets back to us and it is to the City's benefit to wait as long as possible. Damage to the streets is not reimbursable from FEMA. The way the bids were written the City does not have a say as to when the project starts. Erickson said he does not believe anyone would require the plugs be removed if there is a flooding situation. Mayor Helbling indicated that is what the City is waiting for FEMA to determine.

Erickson stated that he would recommend the City award the bids (tonight) and direct Kadrmas, Lee and Jackson to start the contracts and to put insurance and bonding in place with the Notice to Proceed issued by the City in the future. Erickson stated that if the Commission prefers to wait until March 15<sup>th</sup> to move on this action - that would also be acceptable to him.

City Administrator Neubauer indicated that he has been working with FEMA, DES and other entities on this matter and the possibility of requesting an extension to leave the plugs intact. If they say "no" to an extension that means that the City will have to award the contracts and allow for enough time for the contractor(s) to remove the material hauling smaller loads which potentially will drive up the cost and do more damage to the roads, etc. That's why the granting of an extension is saving a lot of time, money and resources in the long run. It also allows for us to see what kind of precipitation occurs in March and April in order to make a better decision when to remove the plugs. He stated that the City has one year in which to remove the temporary structures. The congressional delegation has also requested an extension on Mandan's behalf, thus the City continues to await word from FEMA. Commissioner Jackson stated that if the wait to award bids continues much longer, the bid pricing will more than likely go up. Brent Erickson stated that by awarding the bids under contract this is not a Notice to Proceed

---

with the work. That part of the process will not occur until all contracts are signed, insurance and bonding is in place and the City designates when to proceed which can be as late as June 1, 2012.

Brent Erickson stated that the contracts were originally bid with the completion date of April 15, 2012 and that the work was intended to be done before load restrictions applied. There was an alternative starting date of May 15, 2012 with the completion done within 45 days. During the bid periods, bids were let in January and they were going to be opened in February. Load restrictions went on during the bid period resulting in that original completion date not being practical. A Bid Addendum was issued that included language that would allow the contract to start after load restrictions were lifted as to not specifically say they were going to start basically after May 1<sup>st</sup> which was past the FEMA deadline. Which at that point we still hadn't had moved. The way it was bid gave the Commission the greatest flexibility with the constraints presented at the time the Addendum was written.

Mayor Helbling reminded the Commission members that physical presence at a meeting is not required wherein presence can be acknowledged via telephone or approved meeting means in order to award the contract(s).

Commissioner Jackson moved to approve awarding low bidders on each of the projects:

Bid Package # 8 – Marina Bay Clay Plug Removal, H & S Contracting, Moorhead, Minnesota with a bid of \$414,920.00.

Bid Package #9 - Borden Harbor Clay Plug Removal, Rachel Contracting, St. Michael, Minnesota with a bid of \$153,338.00.

Bid Package #10 – Lakewood Harbor Clay Plug Removal, Tom's Backhoe Service, Inc. Brainerd, Minnesota with a bid of \$166,500.00.

Bid Package #11 Bridgeview Bay Clay Plug Removal, Park Construction Company of Hampton, Minnesota with a bid of \$321,177.50.

Bid Package #12 Earth Levee Removal, Hesco Barrier Removal, Sandbag Removal, Disposal and Restoration, Park Construction Company of Minneapolis, with a bid of \$354,970.00.

Commissioner Rohr seconded the motion.

Commissioner Frank stated that she takes issue with the fact that if it is delayed until March 15<sup>th</sup> we make the Mayor more comfortable and we buy ourselves some more time to get communications from FEMA. Plus we are still within that 30-day deadline.

Mayor Helbling commented his displeasure with the Kadrmas, Lee and Jackson Engineering firm for not including that alternative in the bid package. It put the City in a

---

position it should not have to be in. It would have eliminated what the discussion has been and we may have had two different bid amounts and then whatever FEMA would have decided, the City would have been covered.

City Administrator Neubauer stated there has been communication with DES regarding removal of the sand from the plugs to the river. In turn they will deny the request for reimbursement for that and the City can in turn not concur with their finding and move that. We can appeal their decision. We have requested access to the river. At that time we will contact the congressional delegation to get that covered.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: No; Commissioner Helbling: No; Commissioner Jackson: Yes. The motion failed.

City Attorney Brown stated that the motion failed. The Commission can consider the subject again if there is another motion or go on to another item. The item on this Agenda was to award the bids. You voted to not award the bids. You have not rejected the bids. It is still an open issue. It can be put on the Special Meeting Agenda for March 15<sup>th</sup>.

Commissioner Rohr motioned to put the award of bids on the March 15<sup>th</sup> Special Meeting Agenda. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present. The motion passed.

2. *Discussion regarding liquor licenses.* City Administrator Neubauer stated he has worked with City Attorney Brown on this matter. He stated there are several possible amendments that may need revising. Attorney Brown stated that any revisions would be prospective, not retroactive.

Mayor Helbling mentioned that he has a relative in the City who holds a liquor license in Mandan; however he does not have a financial interest attached to the business. However, he does have an interest in the building.

It was recommended that a distinction be determined between the Class licenses so that there are specifics for each of them (Class A, Class B, Class C, etc.) The staff was directed to come up with criteria. Attorney Brown suggested that a Class A or Class 1 is a blended traditional license. He stated he will work with staff on defining the classes.

The Commission addressed the following:

1. Mandan Code of Ordinances (MCO) Section 12-01-04(1) deals with the distance between license holders and schools, churches, etc. The current ordinance is not clearly defined where the 300 feet limit begins or ends. Therefore, it was recommended to adopt language similar to the City of Bismarck policy, which is property line to property line, in addition allows for the affected entity consents to the issuance of the license.

2. Mandan Code of Ordinances (MCO) Section 12-02-07(7) would be created to specifically allow drive up window sales. Nothing in the current ordinances prevents this and therefore it would be allowed. This ordinance will clarify that issue.
3. Mandan Code of Ordinances (MCO) Section 12-02-05.1 deals with certification of food sales a restaurant license holder would be responsible for providing a statement by a certified public accountant that the gross revenue from sale of food is equal or exceeds the gross revenue from the sale of alcoholic beverages (from Grand Forks).
4. Mandan Code of Ordinances (MCO) Section 12-02-02 licenses issued under this chapter are a privilege and do not constitute property rights.
5. Mandan Code of Ordinances (MCO) Section 12-02-08 relating to the transfer of licenses – no more than two licenses of each class may be issued to any applicant.
6. Mandan Code of Ordinances (MCO) Section 12-02-04 and 12-02-05 related to beverage licenses that were left blank:
  - a. Number of Class A – on-off sale licenses is currently at 17 and Class D (off sale beer and wine cooler) decision for the Board would be what number that would that change to?
  - b. Inserted language related to increasing the number of licensures after 500 additional living units are created as determined at the end of each calendar year.

City Administrator Neubauer reviewed with members the number of licenses within each class. He explained there is a distinction between liquor and beer & wine. He cautioned that when doing this the City needs to be cognizant of the state's rules on this subject matter. He stated he understands that the license class names can be re-named and defined as to what they really mean. If we want to have one additional off-sale liquor, beer, wine, whatever, both Class D's will increase by one.

Commissioner Frank stated that she has spoken with the Attorney General's Office and they voiced concern with the Mandan licenses that are issued. She recommended visiting with the state to clear up the separate classes and how they align with beer only, etc. Administrator Neubauer stated there are things that can be cleaned up by working with the Attorney General Office.

City Attorney Brown stated that this section of the Ordinance may have to be scrapped and a whole new policy be drafted.

It was recommended to draft one plan for each (liquor class) scenario:

- (1) Limited with an issuance fee (or not);
- (2) Limited number and some other options in the ordinance: (i) Sealed minimum bid; (ii) Live Auction (iii) Lottery

City Administrator Neubauer and City Attorney Brown were directed to put together options for discussion at the next meeting.

NEW BUSINESS:

1. *Bismarck Mandan Development Association (BMDA) Update.* Business Development and Communications Director introduced Russ Staiger, Richard Mower

---

and Brian Ritter, representatives from the BMDA to present the 2011 Annual Report.

(i) Russ Staiger extended a thank-you to the Commission for the support and involvement over the last year. He stated a lot of good things have happened in the face of diversity. He commended the Commission for their handling of the matters it had to deal with. A conclusion has been made to bring a large big box store in the form of the Super Wal-Mart store that is being constructed at the Terra Vallee site. Construction will begin in late summer and open for business in first quarter of 2013. It will open the door for additional retail stores in the community. The BMDA is in the process of putting together a list of hopeful contacts at the International Council Center in May, 2012 in hopes of bringing in additional development to Mandan. He provided the Commission with a copy of the 2011 Annual Report.

(ii) 2011 Business Retention & Expansion Programs:

a) Summary updates on Primary Sector Results (Brian Ritter)

Company Life Cycle

Company Sales

Market Share

Industry Capacity

Expansion Plans

Employment Needs

Workforce

Community Services

Strengths and Weaknesses

b) Summary updates on Mandan Retail & Service Sector (Richard Mower)

Trade Area Size

Increase, Decrease, stable sales

Company Expansion Plans

Workforce

Community Services Availability (Kudos to the Police, Fire, and Ambulance Services for high scores in each of these)

Strengths and Weaknesses

c) Conclusions:

Overall Tone of 2010 BRE “cautiously optimistic”

Increases in taxable sales and purchases and sales tax collections

Increases in commercial and housing permits

Record airport boardings

U.S. lowest metropolitan unemployment rate

(iii) The BMDA 2012 Work Plan for Mandan presented by Richard Mower:

I. BMDA/Commission Communications

II. Industrial, Retail and Office Park Development Sites

III. Business Attraction and Marketing Program

IV. Business Retention and Expansion Program

V. Mandan Tomorrow

---

On behalf of the City of Mandan, Mayor Helbling extended a thank-you to the Bismarck Mandan Development Association for their efforts and participation in the Mandan Community and all they have contributed to community events and growth.

2. *Presentation by Mike Manstrom, Dougherty & Company LLC, regarding the sale of \$1,490,000 Refunding Improvement Bonds of 2012, Series A. (See Resolutions #1).* Mike Manstrom presented a brief summary of the “Refunding Summary (Savings)” report with the Commission. The purpose of this action is to award the sale of \$1,490,000 refunding improvement Bonds of 2012, Series A, for the purpose of refunding the City’s refunding improvement bonds of 2005 Series C and Refunding Improvement of Bonds 2008, Series A. The refinancing of the old bonds is necessary in order to take advantage of the lower interest rates with the sale of the new bonds. Mayor Helbling inquired how Measure 2 will be affected. Manstrom stated that Measure No. 2 does not impact past issues and that anything that is in place remains in place. It involves general obligation bonds and Manstrom stated they will be doing special assessment bonds in the future but not as part of Measure No. 2. He recommended moving forward with all these bond issues at this point. Manstrom stated that the Moody’s rating remains intact in good standing.

3. *Consider preliminary request for tax increment financing for 101 E Main project.* Business Development and Communications Director Huber reviewed a request from developers Al Leingang and Loran Galpin for TIF consideration for the Plaza Square Development project. The form requested in this action is for property tax exemption in years 6-15. The property was approved at the last meeting for years 1-5 for an exemption under Renaissance Zone parameters and this is a request for additional funds due to the size of the project. If this request is approved, a full application and review will be conducted by the Growth Fund Committee, etc. This is the former John Iverson building and the proposed renovation is a complete renovation of the second and third stories. The estimated cost is between \$3.1 and \$3.6 million dollars. Huber reviewed the additional criteria for larger projects such as this in comparison to the more commonly seen regular sized projects both by state statute and city policy. The estimated value of the building will be approximately \$3.2 million when completed. There will be a \$5,000 deposit required to move forward. Huber recommended approval of the tax increment financing for this project.

Commissioner Jackson motioned to grant preliminary approval of tax increment financing (TIF) in the form of a property tax exemption for years 6 to 15 for improvements to the building at 101 E. Main Street project. Commissioner Frank seconded the motion.

Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed.

#### RESOLUTIONS & ORDINANCES:

1. *Consider Resolution Awarding Sale of \$1,490,000 Refunding Improvement Bonds of 2012, Series A.* Commissioner Frank moved to approve the Resolution Awarding Sale

---

of \$1,490,000 Refunding Improvement Bonds of 2012, Series A. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed. A copy of the resolution is on file and open for public inspection during regular business hours in the Office of the City Administrator.

2. *Consider second consideration and final passage of Ordinance No.1110 Zone Change for Meadow Ridge 1<sup>st</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Jackson moved to approve the second consideration and final passage of Ordinance No.1110 Zone Change for Meadow Ridge 1<sup>st</sup> Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed. A copy of the ordinance is on file and open for public inspection during regular business hours in the Office of the City Administrator

3. *Consider second consideration and final passage of Ordinance 1111, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of the NW ¼ of 22-139N-81W).* Commissioner Jackson moved to approve the second consideration and final passage of Ordinance 1111, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of the NW ¼ of 22-139N-81W). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Absent; Commissioner Frank: Yes; Commissioner Helbling: Yes; Commissioner Jackson: Yes. The motion passed. A copy of the ordinance is on file and open for public inspection during regular business hours in the Office of the City Administrator

#### OTHER BUSINESS:

1. Commissioner Jackson reported that he and Assessor Barta met with the State Board of Equalization on March 1, 2012, regarding the reassessment process. Mandan was a test case for handling it internally versus hiring an outside entity to do it. He stated that they were satisfied with the results and how the City performed the tasks over the last two years.

2. Mark Bitz came forward and stated that as an interested party for a Class D beer and wine only license, (should they become available), he has some concerns about some of the comments he heard at this evening's meeting. One of them is that the Board feels it has an obligation as a City Commission to generate as much revenue as it can. He recommended that the businesses be allowed to generate the revenue for the City in the form of sales taxes. He asked if cigarette, building, and restaurant licenses would also be subject to open bidding? He stated that the bidding process would be unfair to the small business owner vs. going up against a large business owner. He stated that the lottery process would be fair in that everyone would have to qualify via application process and

then only the select few would be drawn which would be fair. He also questioned whether, if a bidding process would be implemented, would there be a dollar amount set as to what they think the bids would come in as?

3. Mayor Helbling stated that the “Measure 2” forum is set for Thursday, March 8, 2012 at 2:00 p.m. in the City Commission Room and encouraged attendance.

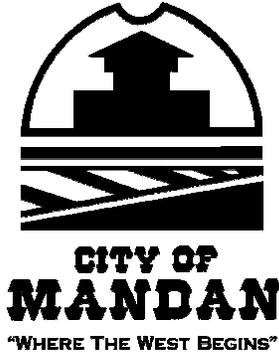
There being no further actions to come before the Board of City Commissioners, Commissioner Jackson moved to adjourn the meeting at 8:33 p.m. Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

---

James Neubauer,  
City Administrator

---

Timothy A. Helbling,  
President, Board of City  
Commissioners



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 6, 2012  
**PREPARATION DATE:** February 22, 2012  
**SUBMITTING DEPARTMENT:** Assessing Dept  
**DEPARTMENT DIRECTOR:** Richard L Barta  
**PRESENTER:** Richard L Barta  
**SUBJECT:** Property Tax Incentives for New or Expanding  
Businesses for  
Lakewood Living Center/Shorestone Development

---

**STATEMENT/PURPOSE:** To consider a tax exemption for Lakewood Living Center pursuant to North Dakota Century Code 40-57.1.

**BACKGROUND/ALTERNATIVES:** Lakewood Living Center is asking for an exemption on the construction of 32 senior units and 40 assisted living units. The Notice to Competitors was published in the February 24<sup>th</sup> and the March 2<sup>nd</sup> editions of the Mandan News and no competitors have submitted a written protest.

The Mandan Growth Fund Committee reviewed this project on February 28<sup>th</sup>. The project was recommended for approval for a 100% exemption for first two years; 75% for year three; 50% for year four; and 25% for year five by unanimous vote with the condition that they are subject to repayment if the facility would be sold to a tax-exempt entity within five years from expiration of the exemption period.

Morton County, the School District and the Park District were given notification of this exemption on February 22<sup>nd</sup> and again in March.

This parcel is also known as Lots 4 & 5, Block 2, Lakewood Commercial Park 3<sup>rd</sup> Addition at 4401 21 St SE on Parcel #10118.

**ATTACHMENTS:** Application.

**FISCAL IMPACT:** Approximately \$100,845 per year for the first two years; \$75,633 for year three; \$50,423 for year four; and \$25,211 for year five.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approval of the request by Lakewood Living Center to receive a 100% exemption for first two years; 75% for year three; 50% for year four; and 25% for year five by unanimous vote with the condition that they are subject to repayment if the facility would be sold to a tax-exempt entity within five years from expiration of the exemption period in accordance with the recommendation from the Mandan Growth Fund Committee due to meeting all criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines and also under State Statute; subject to repayment if the facility would be sold to a tax-exempt entity within five years from expiration of the exemption period.

SUGGESTED MOTION: A motion to approve the request by Lakewood Living Center to receive a 100% exemption for first two years; 75% for year three; 50% for year four; and 25% for year five by unanimous vote with the condition that they are subject to repayment if the facility would be sold to a tax-exempt entity within five years from expiration of the exemption period in accordance with the recommendation from the Mandan Growth Fund Committee due to meeting all criteria under the City of Mandan's Commercial Property Tax Exemption Policy and Guidelines and also under State Statute; subject to repayment if the facility would be sold to a tax-exempt entity within five years from expiration of the exemption period.

**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 of Mandan  
 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	<u>Lakewood Living Center SUBDIVISION DEVELOPMENT</u>		
2.	Address of project	<u>4401 21 ST SE</u>		
	City	<u>Mandan</u>	County	<u>Morton</u>
3.	Mailing address of project operator	<u>4654 Amber Valley Parkway</u>		
	City	<u>Fargo</u>	State	<u>N.D</u> zip <u>58104</u>
4.	Type of ownership of project	<input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input checked="" type="checkbox"/> Subchapter S corporation <input type="checkbox"/> Cooperative <input type="checkbox"/> Individual proprietorship <input type="checkbox"/> Limited liability company		
5.	Federal Identification No. or Social Security No.	<u>510462468</u>		
6.	North Dakota Sales and Use Tax Permit No.	_____		
7.	If a corporation, specify the state and date of incorporation	<u>5-1-2003</u>		
8.	Name and title of individual to contact	<u>MARK PAYNE</u>		
	Mailing address	<u>4654 Amber Valley Parkway</u>		
	City, State, Zip	<u>Fargo</u>	<u>N.Dak</u>	Phone No. <u>701-364-4000</u>

**Project Operator's Application For Tax Incentives**

9.	Indicate the tax incentives applied for and terms. Be specific.			
	<input checked="" type="checkbox"/> <b>Property Tax Exemption</b>	<input type="checkbox"/> <b>Payments In Lieu of Taxes</b>		
	<u>5</u> Number of years	_____	Beginning year	_____ Ending year
	<u>100%</u> 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:			
	<input checked="" type="checkbox"/> New business project	<input type="checkbox"/> Expansion of a existing business project		

**Description of Project Property**

11. Legal description of project real property  
LOT 475 BLK 2 LAKEWOOD COMMERCIAL PARK 3RD

---

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

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

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

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

If existing facility, when was it constructed? \_\_\_\_\_

If new construction, complete the following:

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

b. Description of project to be constructed including size and quality of construction  
WOOD FRAME 1 STORY 40 UNIT ASSISTED LIVING FACILITY ATTACHED TO A 32 UNIT 3 STORY SENIOR LIVING FACILITY WITH 1ST FLOOR GARAGES

c. Projected number of construction employees during the project construction 160

14. Approximate date of commencement of operations for this project April 2012

---

<p>15. Estimated market value of the property used for this project:</p> <p>a. Land.....\$<u>557,200.-</u></p> <p>b. Existing buildings and structures for which an exemption is claimed.....\$ <del>5,000,000</del></p> <p>c. Newly constructed buildings and structures when completed .....\$ <u>5,000,000</u></p> <p>d. Total.....\$ <u>5,557,200.-</u></p> <p>e. Machinery and equipment .....\$ _____</p>	<p>16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:</p> <p>a. Land (not eligible)..... <span style="background-color: black; color: black;">[REDACTED]</span></p> <p>b. Eligible existing buildings and structures.....\$ _____</p> <p>c. Newly constructed buildings and structures when completed.....\$ <u>5,000,000</u></p> <p>d. Total taxable valuation of property eligible for exemption (Add lines b and c).....\$ <u>250,000</u></p> <p>e. Enter the consolidated mill rate for the appropriate taxing district ..... <u>40338</u></p> <p>f. Annual amount of the tax exemption (Line d multiplied by line e).....\$ <u>100,845.-</u></p>
---	---

**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).

To serve as a Senior Assisted + Senior Living Center ranging  
from low to mild seniles + moving to Assisted Living care  
into Alzheimer care  
(32) Senior Units + (40) Assisted Living

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	2012	2013	2014	2015	2016
Annual revenue	\$2,000	\$804,000	\$1,000,000	\$1,300,000	\$1,460,000
Annual expense	<del>\$1,100,000</del>	\$984,000	\$994,000	\$1,150,000	\$1,200,000
Net income	<del>\$200,000</del>	\$180,000	\$6,000	\$150,000	\$260,000

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	2012	2013	2014	2015	2016
No. of Employees	(1) 14	15	15	15	15
	(2) 9	10	11	12	13
Estimated payroll	(1) \$47,000	\$87,200	\$197,160	\$207,000	\$217,350
	(2) \$31,000	\$146,000	\$156,000	\$163,800	\$171,990

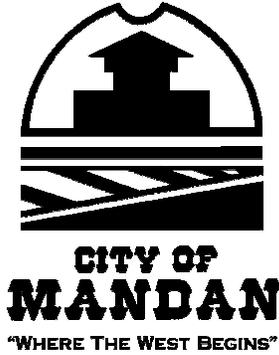
(1) - full time  
 (2) - part time

**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).

\_\_\_\_\_



Bids No. 1

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 14, 2012  
**SUBMITTING DEPARTMENT:** Public Works  
**DEPARTMENT DIRECTOR:** Jeff Wright, Public Works Director  
**PRESENTER:** Jeff Wright, Public Works Director  
**SUBJECT:** Consider for approval the award of the Concrete and Asphalt crushing project at the Landfill to Kraemer Trucking.

---

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

**BACKGROUND/ALTERNATIVES:** On February 8, 2012 bids were opened for the crushing of concrete and asphalt at the Landfill. Consider awarding bid to low bidder, Kraemer Trucking, to crush the concrete and asphalt at the landfill not to exceed the budgeted amount of \$50,000.

Years of accumulating asphalt and concrete taken in at the landfill is causing issues with space at the landfill and needs to be recycled and reused. We do that by crushing the oversized chunks into usable material, to be used as road base, material for water break repairs, temporary road surface during winter months, and material that can be sold to contractors for similar use. This material is much in demand and we will not have any trouble selling this material. This material is taken at the landfill at no charge, solely for recycling, saving space in our inert landfill. We are charging \$12/ton and we sold approximately \$22,000 worth in 2011 and utilized the material during the 2011 Flood Fight, which saved the City from having to purchase this type of material.

**ATTACHMENTS:** Bid Tab

**FISCAL IMPACT:** \$50,000 has been approved for the 2012 Budget for crushing.

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** N/A

**Business Competition**

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

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**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, Mark Payne, 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

MARK PAYNE PRESIDENT 2-14-2012

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

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider for approval the award of the Concrete and Asphalt crushing project at the Landfill to Kraemer Trucking

Page 2 of 2

---

**RECOMMENDATION:** Recommend to award the Concrete and Asphalt Crushing Project to Kraemer Trucking for the amount of \$50,000.

**SUGGESTED MOTION:** Move to award the Concrete and Asphalt Crushing Project to Kraemer Trucking for the amount of \$50,000.

ASPHALT AND CONCRETE CRUSHING PROJECT			
BID TAB			
			Opened FEBRUARY 8, 2012
Company	APPROX. QUANTITY	SUNDRE S&G, INC.	KRAEMER TRUCKING
CONCRETE PER TON	10,000	\$ 10.98	\$ 7.25
ASPHALT PER TON	2,000	\$ 10.98	\$ 4.00
MOBILIZATION		\$ 5,000.00	\$ 3,000.00
<b>SCOPE OF WORK</b>			
Concrete to be crushed to 1" minus diameter.			
Asphalt to be crushed to 1" minus diameter.			
All iron, rebar and or garbage shall be left on site and will remain the property of the City of Mandan.			
Belt scale readings will be used for billing purposes.			
The City of Mandan will have free access to the belt scale readings at any time as so desired.			
Work is to be completed by June 3, 2012.			
It appears that KRAEMER TRUCKING is the apparant low bidder.			
I recommend we contract with KRAEMER TRUCKING to crush the concrete and asphalt at the landfill up to the \$50,000 budget.			



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 14, 2012  
**SUBMITTING DEPARTMENT:** Finance  
**DEPARTMENT DIRECTOR:** Greg Welch  
**PRESENTER:** Greg Welch  
**SUBJECT:** Expenditure budget amendments for fiscal year 2011

---

### PURPOSE

To amend the expenditure budget for fiscal year 2011.

### BACKGROUND

The City of Mandan has funds that have expenditures exceeding their budgetary appropriations at year-end; however, the City has sufficient revenue collections, receivables, and/or existing cash balances available in those funds at December 31, 2011 to offset these expenditures. The expenditures have already been approved by the Board; however, the formality to amend the expenditure budget is needed under NDCC 40-40-15 as indicated below:

***40-40-15. Expenditures made or liabilities incurred beyond appropriation – Joint and several liability of members of governing body.***

*Except as otherwise provided in section 40-40-18, no municipal expenditure may be made nor liability incurred, and no bill may be paid for any purpose in excess of the appropriation made therefore in the final budget. Expenditures made, liabilities incurred, or warrants issued in excess of the appropriations are a joint and several liability of the members of the governing body who authorized the making, incurring, or issuing thereof or who were present when they were authorized and did not vote against authorizing the same.*

### ATTACHMENT

None

FISCAL IMPACT

<u>Fund</u>	<u>Amount</u>
City's Share of Special Assessments <i>(The City inadvertently paid the City's 2011 Share of Special Assessments to Morton County during December 2011 instead of January 2012. Existing cash was available in the Fund to pay for this expenditure.)</i>	\$158,318
City Visitors' Promotion <i>(The City's 2% Occupancy Taxes exceeded projections of which 90% is remitted monthly to the Bismarck-Mandan Convention and Visitors Bureau.)</i>	\$16,864
Narcotics Task Force Asset <i>(The Metro Area Narcotics Task Force (MANTF) is a multiagency and multijurisdictional task force, including the Mandan Police Department. Revenues in this Fund are derived from asset forfeitures /seizures and restitution. On a periodic basis, the MANTF will allocate funds back to the agencies. The City records its share of these funds in the Police Equipment Reserve Fund. The Narcotics Task Force Asset Fund will also pay for expenditures not reimbursed by the Narcotics Task Force Grant. Due to the uncertainty of the activity in the Narcotics Task Force Asset Fund, an annual budget is not prepared. Existing cash was available in the Fund to pay for these expenditures.)</i>	\$46,518
Underage Drinking Enforcement Grant <i>(The City received revenues for reimbursement of eligible expenditures.)</i>	\$167
Community Development Block Grant <i>(The City received revenues for reimbursement of eligible expenditures.)</i>	\$1,000
Justice Assistant Grant <i>(The City received revenues for reimbursement of eligible expenditures.)</i>	\$11,267
Flood Control <i>(The current funding formula for these expenditures is as follows: FEMA-90%, State of ND-7%, and City-3%.)</i>	\$5,493,479
Health and Safety <i>(Expenditures for Tree Removal Fees, Waterline Repairs, and Sewerline Repairs, as requested by property owners, exceeded projections. These costs are assessed back to the benefiting property owners.)</i>	\$11,098

Mandan Community Center

Revenue Bonds of 2005 \$8  
*(Expenditures for fiscal agent fees for Debt Service payments exceeded projections. Existing cash was available in the Fund to pay for these expenditures.)*

Refunding Improvement Bonds-

Sidewalk, Curb and Gutter \$1,273  
*(Expenditures for fiscal agent fees for Debt Service payments exceeded projections. Existing cash was available in the Fund to pay for these expenditures.)*

STAFF IMPACT

None

LEGAL REVIEW

The expenditure budget amendments for fiscal year 2011 are needed to comply with NDCC 40-40-15.

RECOMMENDATION

To approve the expenditure budget amendments for fiscal year 2011.

SUGGESTED MOTION

Move to approve the expenditure budget amendments for fiscal year 2011.





**LOCAL PERMIT OR CHARITY LOCAL PERMIT**  
 OFFICE OF ATTORNEY GENERAL  
 SFN 17926 (9-2009)

Type:       Local Permit      \*  Charity Local Permit

Permit Number 2012-13
--------------------------

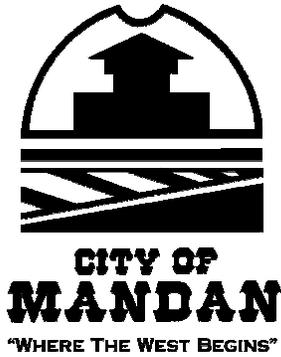
Name of Organization North Dakota Society Of Radiologic Technologists		Date(s) Authorized (Read instruction 2) 4/12/2012 to 4/14/2012 Beginning Ending	
Contact Person Amy Hofmann	Business Phone Number (701) 255-3354		
Mailing Address 1634 Omaha Drive	City Bismarck	State ND	Zip Code 58504-0000
Site Name Seven Seas Inn	Site Address 2611 Old Red Trail		
City Mandan	State ND	Zip Code 58554-0000	County Morton
Check the Game(s) Authorized: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.			
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker* <input type="checkbox"/> Twenty-one* <input type="checkbox"/> Paddlewheels*			
Restriction:			
Requirement: For a "Charity Local Permit," the organization must file a "Report on a Charity Local Permit" with the city or county auditor <u>and</u> Office of Attorney General within 30 days of the event.			
Date 3/12/2012	Signature of: <input checked="" type="checkbox"/> City Auditor <input type="checkbox"/> County Auditor <i>Jay Gruebele</i>	Printed Name of City or County Auditor Jay Gruebele	Auditor Telephone Number (701) 667-3250

Please see the instructions on the backside of this form on how to complete the Permit.  
 For a raffle or calendar raffle, read "Information Required to be Preprinted on a Standard Raffle Ticket" below.

-----  
 cut along this line  
 -----

**INFORMATION REQUIRED TO BE PREPRINTED ON A STANDARD RAFFLE TICKET:**

1. Name of organization;
2. Ticket number;
3. Price of the ticket, including any discounted price;
4. Prize, description of an optional prize selectable by a winning player, or option to convert a merchandise prize to a cash prize that is limited to the lesser of the value of the merchandise prize or four thousand dollars. However, if there is insufficient space on a ticket to list each minor prize that has a retail price not exceeding twenty dollars, an organization may state the total number of minor prizes and their total retail price;
5. For a licensed organization, print "office of attorney general" and license number. For an organization that has a permit, print the authorizing city or county and permit number;
6. A statement that a person is or is not required to be present at a drawing to win;
7. Date and time of the drawing or drawings and, if the winning player is to be announced later, date and time of that announcement. For a calendar raffle, if the drawings are on a same day of the week or month, print the day and time of the drawing;
8. Location and street address of the drawing;
9. If a merchandise prize requires a title transfer involving the department of transportation, a statement that a winning player is or is not liable for sales or use tax;
10. If a purchase of a ticket or winning prize is restricted to a person of minimum age, a statement that a person must be at least "\_\_\_" years of age to buy a ticket, or win a prize;
11. A statement that a purchase of the ticket is not a charitable donation;
12. If a secondary prize is an unguaranteed cash or merchandise prize, a statement that the prize is not guaranteed to be won and odds of winning the prize based on numbers of chances; and
13. If a prize is live beef or dairy cattle, horse, bison, sheep or pig, a statement that the winning player may convert the prize to a cash prize that is limited to the lesser of the market value of the animal or four thousand dollars.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20<sup>th</sup>, 2012  
**PREPARATION DATE:** March 13<sup>th</sup>, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider a change of zoning of a part of vacated Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> Addition from R7 (Single Family Residential) and R3.2 (Two-Family Residential) to CB Restricted (Heavy Commercial with no retail group B allowed).

**STATEMENT/PURPOSE:** Request from the City of Mandan. The City is currently seeking purchase and commercial development proposals for this property.

**BACKGROUND/ALTERNATIVES:** The zone change was approved by the Planning & Zoning Commission on February 27<sup>th</sup>, 2012.

**ATTACHMENTS:**

1. Office Report
2. Map
3. Ordinance

**FISCAL IMPACT:** Minimal

**STAFF IMPACT:** Minimal

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

**SUGGESTED MOTION:** To approve the zone change to CB Restricted (Heavy Commercial with no retail group B allowed).

MANDAN PLANNING OFFICE REPORT  
February 8, 2012

Applicant(s): The City of Mandan

Owner(s): The City of Mandan

Requested Action: Zone Change Approval

Name of Subdivision:

Legal Description: Part of the SE ¼ vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> Addition (less part of Auditor's Lot G, located in the W½ of the SW ¼ of the SE ¼ in Section 16, Township 139N, Range 81W)

Located: Sunset Drive NW (west of the Mandan Middle School)

Parcel Acreage: 18.22

Existing Land Use: Agricultural

Proposed Land Use: Commercial & residential mixed use.

Adjacent Land Use: School, HIT, Dacotah Alpha, commercial, residential and agricultural

Existing Zoning: R7 (Single-Family Residential), RM (Multi-Family Residential) & R3.2 (Two-Family Residential)

Proposed Zoning: CB Restricted (Heavy Commercial-no retail group B)

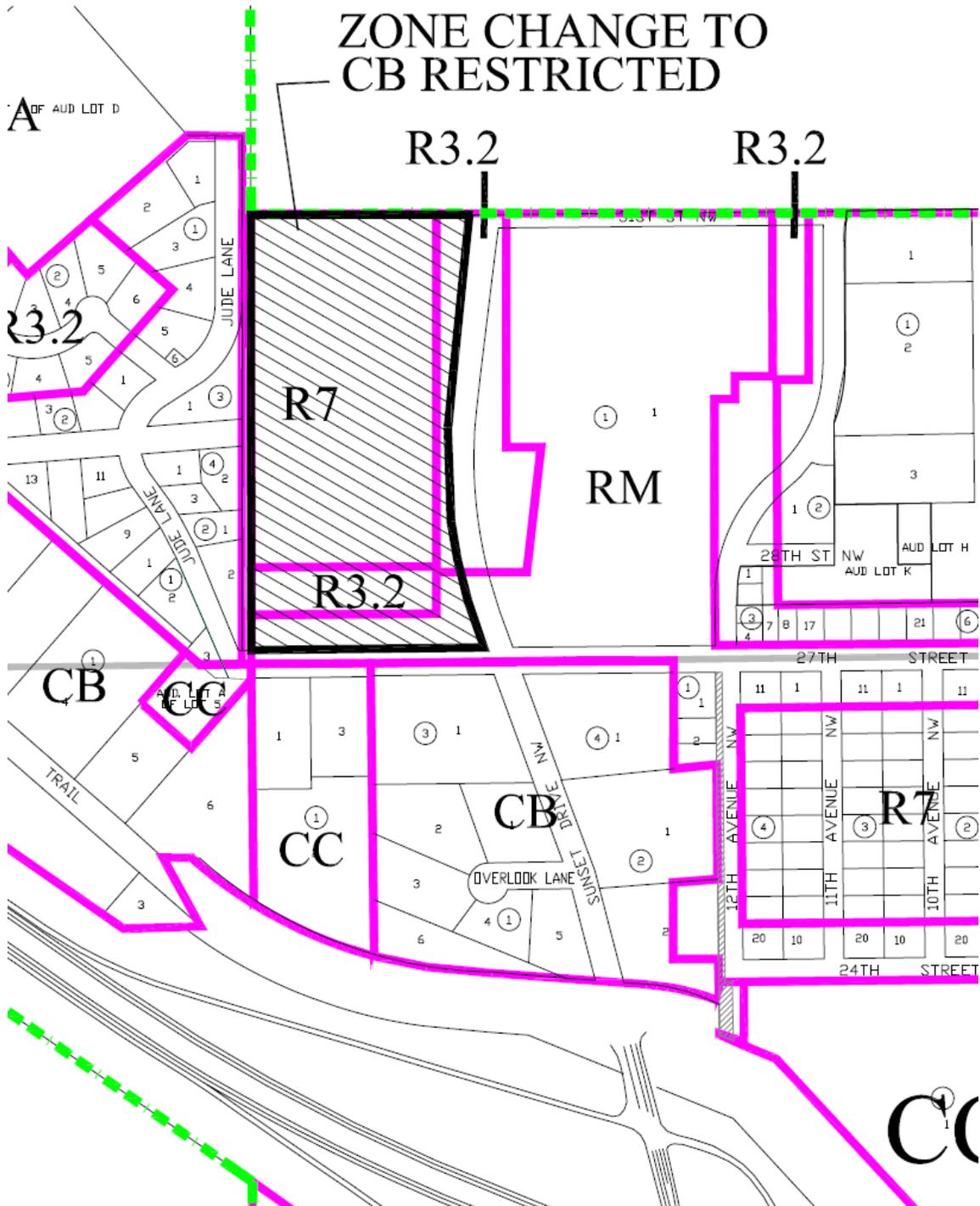
Adjacent Zoning: A (Agriculture), R7 (Single-Family Residential), R3.2 (Two-Family Residential), RM (Multi-Family Residential), CC (Heavy Commercial), CB (Heavy Commercial)

Fee(s) Required: waived      Date Received: 2-6-2012

Adjacent Property Owner Notification: February 7, 2012

Dates of Legal Notices: February 17<sup>th</sup> and 24<sup>th</sup>, 2012

Recommendations: The Planning Office recommends approval.



**ORDINANCE NO. 1112**

**AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 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 Municipal Code is amended to read as follows:

The following described property located within the City of Mandan shall be excluded from the R7 (Single Family Residential) and R3.2 (Two-Family Residential) zoning and shall be included in the CB Restricted (Heavy Commercial with no retail group B allowed) namely,

part of the SE ¼ vacated part of Terra Vallee 3<sup>rd</sup> & 4<sup>th</sup> Addition (less part of Auditor's Lot G), located in the W ½ of the SW ¼ of the SE ¼ , in Section 16, Township 139N, Range 81W

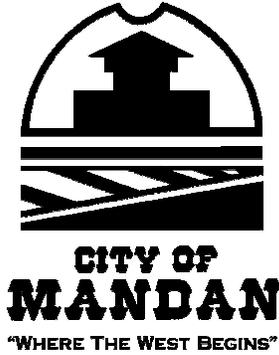
and as so amended said section is hereby reenacted. The purpose of the zone change is to allow for commercial development. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

\_\_\_\_\_  
President, Board of City Commissioners

Attest:

\_\_\_\_\_  
City Administrator

Publication Dates:	<u>February 17<sup>th</sup> &amp; 24<sup>th</sup>, 2012</u>
Public Hearing:	<u>February 27<sup>th</sup>, 2012</u>
First consideration:	<u>March 20<sup>th</sup>, 2012</u>
Second consideration and final passage:	<u>April 3<sup>rd</sup>, 2012</u>
Publication Date:	_____
Recording Date:	_____



Consent No. 5 & Ord No. 3

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20<sup>th</sup>, 2012  
**PREPARATION DATE:** March 13<sup>th</sup>, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider a change of zoning of Lakewood 6<sup>th</sup> Addition from A (Agricultural) to RM (Multi-Family Residential).

STATEMENT/PURPOSE: Request from Mitzel Builders to change Lakewood 6<sup>th</sup> Addition from A (Agricultural) to RM (Multi-Family Residential).

BACKGROUND/ALTERNATIVES: The zone change was approved by the Planning & Zoning Commission on February 27<sup>th</sup>, 2012.

ATTACHMENTS:

1. Office Report
2. Map
3. Ordinance

FISCAL IMPACT: Minimal

STAFF IMPACT: Minimal

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

SUGGESTED MOTION: To approve the zone change to RM (Multi-Family Residential).

February 8, 2012

Applicant(s): Mitzel Builders, Inc

Owner(s): same

Developer(s):

Requested Action: Zone Change Approval

Name of Subdivision: Lakewood 6<sup>th</sup> Addition

Legal Description: A part of Auditor's Lot A of Section 1, Township 138N, Range 81W

Located: 39<sup>th</sup> Avenue SE & McKenzie Drive

Parcel Acreage: 18

Existing Land Use: Agricultural and wetland mitigation. Wetland will remain A zoning.

Proposed Land Use: Multi-Family Residential

Adjacent Land Use: Mutli-Family Residential

Existing Zoning: A (Agricultural)

Proposed Zoning: RM (Multi-Family Residential)

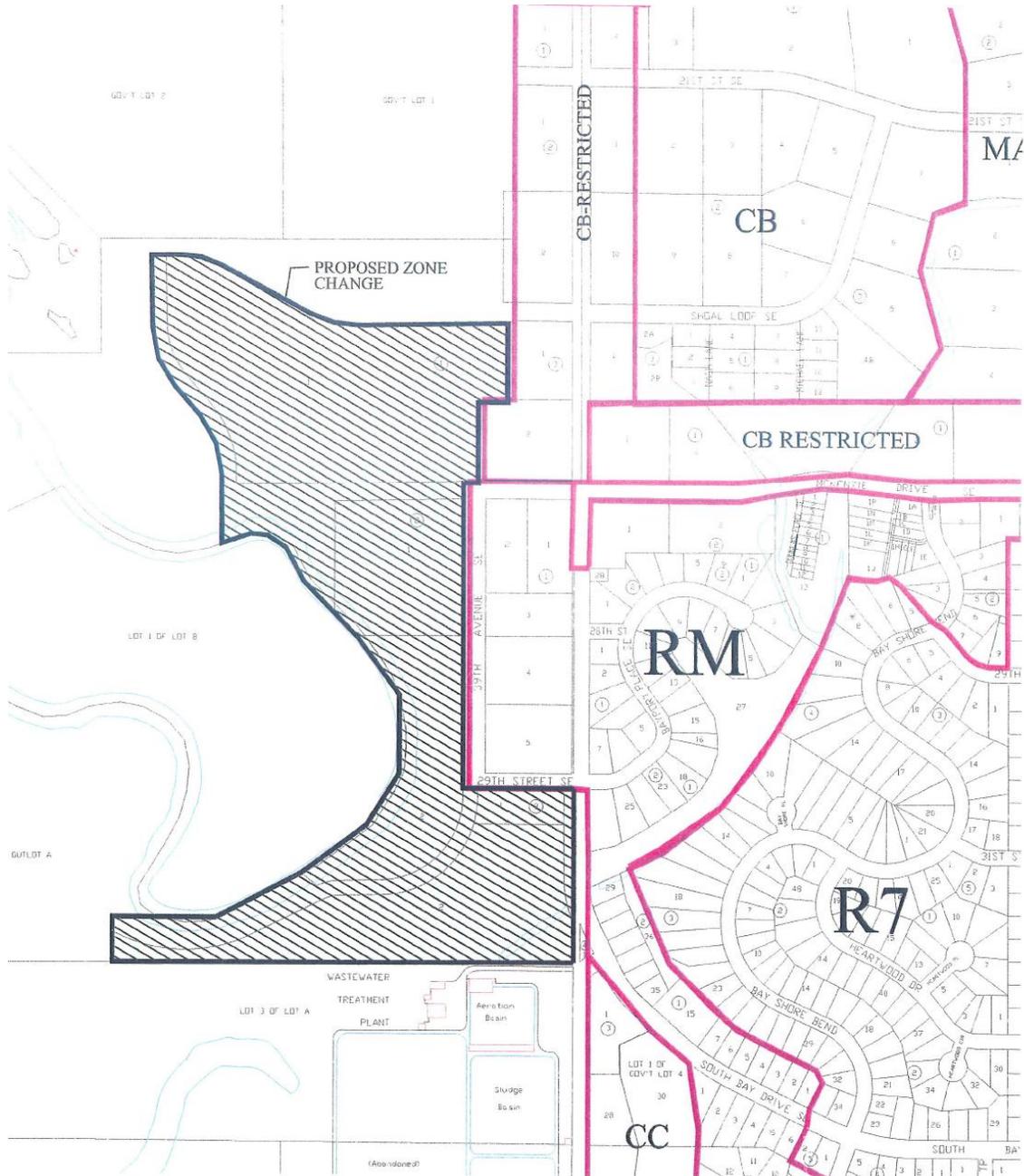
Adjacent Zoning: A (Agricultural) and RM (Multi-Family Residential)

Fee(s) Required: \$250.00      Date Received: 2-7-2012

Adjacent Property Owner Notification: February 8, 2012

Dates of Legal Notices: February 17<sup>th</sup> and 24<sup>th</sup>, 2012

Recommendations: The Planning Office recommends approval.



**ORDINANCE NO. 1113**

**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 Municipal Code 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 A (Agricultural) zoning and shall be included in the RM (Multi-Family Residential) zoning namely,

Lakewood 6<sup>th</sup> Addition in Section 1, Township 138N, Range 81W

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

---

President, Board of City Commissioners

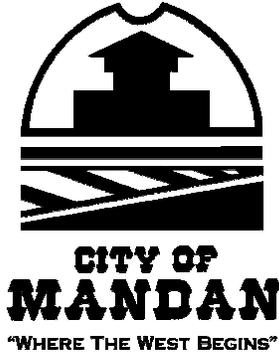
---

Attest:

---

City Administrator

Public Hearing:	<u>February 27<sup>th</sup>, 2012</u>
First Consideration:	<u>March 20<sup>th</sup>, 2012</u>
Second Consideration and Final Reading:	<u>April 3<sup>rd</sup>, 2012</u>
Publication Date:	_____
Recording Date:	_____



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 13, 2012  
**SUBMITTING DEPARTMENT:** Wastewater Treatment Plant  
**DEPARTMENT DIRECTOR:** Steve Himmelspach, Superintendent WWTP  
**PRESENTER:** Steve Himmelspach  
**SUBJECT:** Transfer of funds from the Wastewater Treatment Plant 2011 Budget to the 2012 Budget

---

STATEMENT/PURPOSE:

To request the transfer of funds from the Wastewater Treatment Plant 2011 Budget to the 2012 Budget.

BACKGROUND/ALTERNATIVES:

- 1.) The City of Mandan used the professional services of Toman Engineering Company to assist in a grant application for 3<sup>rd</sup> street lift station relocation and cost benefit ratio. The cost of services was \$6,202.75. We also used the professional services of AE2S for a hazardous mitigation grant application for the relocation of the Wastewater Treatment Plant Effluent discharge line. The cost for this was \$5,356.00. The Wastewater Treatment Plant requests that \$11,558.75 be transferred from the 2011 Budget to the 2012 Budget for Engineering Fees (601.659.52114).
- 2.) In 2011, \$15,000.00 was budgeted for a new sludge pump. The pump was ordered in November of 2011. We received the pump in late January of 2012. The WWTP requests \$12,598.00 to be transferred from the 2011 Budget to the 2012 Budget for Machinery and Equipment (601.659.62114).
- 3.) In February 2012, we had City Air Mechanical work on the Heat-tex odor control unit in the pretreatment building. The wiring for the burner controls was corroded and we had to rewire the unit. The WWTP requests \$4,768.00 to be transferred from the 2011 Budget to the 2012 Budget for Heavy Equipment Repairs (601.659.60312).
- 4.) In January 2012, we had Adventure Divers camera our discharge line to see what effects the flood had on the line. The cost for this was \$2,500.00. I request \$2,500.00 be transferred from the 2011 Budget to the 2012 Budget for Heavy Equipment Repairs (601.659.60312).

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Transfer of funds from the Wastewater Treatment Plant 2011 Budget to the 2012 Budget

Page 2 of 2

---

- 5.) At the end of March 2012, Adventure Divers will be at the plant to fix a weir in the clarifier building. This cost is estimated at \$5,000.00. I request \$5,000.00 be transferred from the 2011 Budget to the 2012 Budget for Heavy Equipment Repairs (601.659.60312).
- 6.) In October 2011, the City Commission approved Phase 1 Interim Improvements for the Wastewater Treatment Plant (Valve replacement and grit equipment replacement). The project was to be paid for with SRF funding and the remainder from the 2011 WWTP Budget. To cover the amount, I request a transfer of \$65,000.00 from the 2011 Budget to the 2012 Budget for Building Improvements (601.659.62112).
- 7.) The WWTP had \$20,000.00 in the 2011 Budget for General Construction (601.659.62210). This money was to fence the WWTP property. City Attorney Malcolm Brown is working with Toman Engineering to determine the WWTP boundaries. Once the boundaries are determined we would like to fence in the property. I request the transfer of \$20,000.00 for fencing from the 2011 Budget to the 2012 Budget for General Construction (601.659.62210).

ATTACHMENTS:

None

FISCAL IMPACT:

The total of these seven items above amounts to \$121,424.75. According to Finance Director Welch, the funding for these transfers would come from the following sources:

- 2011 Water and Sewer Utility Fund Balance = \$64,552.05
- Water and Sewer Utility Fund Capital Improvement Fund Balance = \$56,872.70

STAFF IMPACT:

None

LEGAL REVIEW:

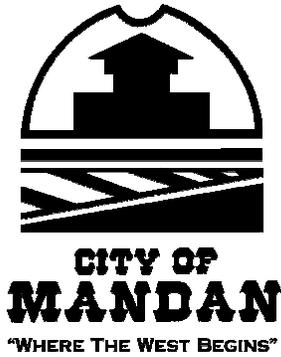
None required.

RECOMMENDATION:

To approve the transfer of funds from the Wastewater Treatment Plant 2011 Budget to the 2012 Budget.

SUGGESTED MOTION:

Move to approve the transfer of funds from the Wastewater Treatment Plant 2011 Budget to the 2012 Budget.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 13, 2012  
**SUBMITTING DEPARTMENT:** Water Treatment Plant  
**DEPARTMENT DIRECTOR:** Duane Friesz, WTP Superintendent  
**PRESENTER:** Duane Friesz, WTP Superintendent  
**SUBJECT:** Out-of-State travel for Surface Water Treatment Workshop

---

STATEMENT/PURPOSE: To consider out-of-state travel permission as required by Mandan Municipal Code.

BACKGROUND/ALTERNATIVES: The Surface Water Treatment Workshop covers regional water treatment topics and allows our staff to keep up with new technology. Participants receive continuing education credit hours which are used to maintain water treatment operator licenses.

ATTACHMENTS: Tentative Surface Water Treatment Workshop Agenda

FISCAL IMPACT: Expenses for two participants are estimated at approximately \$805 in total to include roughly \$270 for lodging, \$75 for meals, \$390 for conference fees and a \$70 transportation cost. The expense is within the bounds of the travel and training line items for the Water Treatment Plant budget for 2012.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

**RECOMMENDATION :** I recommend the City of Mandan send Water Treatment Plant Superintendent Duane Friesz and Assistant Superintendent Jamie Rath to the Surface Water Treatment Workshop in April.

SUGGESTED MOTION: I move the City of Mandan send Water Treatment Plant Superintendent Duane Friesz and Assistant Superintendent Jamie Rath to the Surface Water Treatment Workshop in Moorhead, MN on April 24<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup> 2012.

## TENTATIVE SURFACE WATER TREATMENT WORKSHOP AGENDA

TUESDAY, APRIL 24, 2012

10:00 am - 12:00 pm	Fundamentals of Surface Water Treatment - Dr. Delvin DeBoer, SD State University
12:00 pm	Registration (No lunch provided)
1:00 pm	Workshop Kickoff - Welcome - Steve Burian, AE2S
1:15 pm	Decisions that Lead from Concept to Potable Water - Troy Nemmers, City of Fairmont & Grant Meyer, AE2S
2:00 pm	Stage II Refresher/Optimization - Rob Isabel, CDM
3:45 pm	Break
3:15 pm	Watertown South Dakota's Experience with Pretreatment for DBP Compliance - Brian Bergantine, PE, AE2S
4:00 pm	Using Water Distribution System Modeling for Improved Water Quality - Tom Welle, Apex Engineering Group & Lisa Vollbrecht, City of St. Cloud
4:45 pm	NDMA - Not Just Another Acronym - Uma Vempati, HDR
5:30 - 7:30 pm	Poster Session (hor d'oeuvres/cash bar)

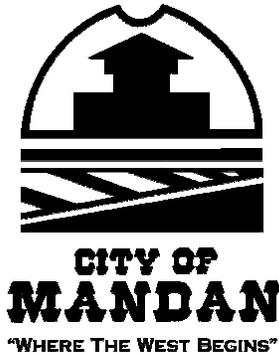
WEDNESDAY, APRIL 25, 2012

SUPPLY / DISTRIBUTION TRACK		TECHNOLOGY / CASE STUDIES	
7:00 am	Breakfast - provided	7:00 am	Breakfast - provided
8:00 am	Effect of Mixing on Water Quality in Storage Tanks - Dr. Delvin DeBoer, SD State University	8:00 am	Grand Forks Pilot Study - Biologically Activated Carbon Filtration and Granular Activated Carbon Contactors - Hazel Sletten, City of Grand Forks
8:30 am	Tank Mixing - Mike Christensen, Solarbee		
9:00 am	Impacts of Devils Lake on Fargo Water Treatment Plant - Bruce Grubb, City of Fargo	9:00 am	UV Advanced Oxidation for the Treatment of Taste & Odor and Algae-Related Compounds in Drinking Water - Rob Haas, TrojanUV
10:00 am	Break - with refreshments	10:00 am	Break - with refreshments
10:15 am	Bismarck Horizontal Collector Well - Brett Jochim, PE, AE2S	10:15 am	A Tale of Three Pilots - Evaluating RO Membranes at the Fargo Water Treatment Facility - Bo Johnston, PE, Black & Veatch
11:30 am	Zebra Mussels: What's Black and White and Spread All Over? - Brian Bergantine, PE, AE2S	11:30 am	Membrane Procurement & Installation/Retrofit of Small to Medium Size Installations - Brian Hoellein, Bartlett & West
12:00 pm	Lunch	12:00 pm	Lunch

TREATMENT / OPTIMIZATION TRACK		TECHNOLOGY / CASE STUDIES	
1:00 pm	Source/Treatment Distribution - Optimizing the Burns-ville Water Treatment Facility from Start to Finish - Nick Burns, Black & Veatch	1:00 pm	Ozone & Advanced Oxidation Process - Grand Forks Pilot Study - Hazel Sletten, City of Grand Forks
2:00 pm	Optimization of Moorhead WTF Processes Using Inline UV254 Instrumentation and Multi-Parameter Analysis - Kris Knudson, City of Moorhead	2:00 pm	HiPOx® for Groundwater Recharge: Atrazine Destruction, Bromate Control, and Disinfection - Keel Robinson, Applied Process Technology
2:30 pm	SCADA Optimization for Distribution Systems - Troy Hall, City of Moorhead		
3:00 pm	Break	3:00 pm	Break
3:15 pm	Distribution System Nitrification Optimization - Dan Portlock, Moore Engineering	3:15 pm	2011 ND Fresh Ideas Poster Winner Presentation - Tanush Wadhawan
4:00 pm	Lime Softening Optimization at Minneapolis Softening Facility - Chris Catlin, PE, City of Minneapolis	4:00 pm	Valley City Membrane Filtration Case Study - Wade Hesch, City of Valley City & Jordan Grasser, AE2S
5:00 pm	Adjourn	5:00 pm	Adjourn

THURSDAY, APRIL 26, 2012

7:00 am	Breakfast - provided
8:00 am	Exploring Advanced Technologies for Taste & Odor Removal - George Kraynick, Minneapolis Water
8:45 am	GAC Taste & Odor Removal - Predicted vs Full Scale Performance - Roger Scharf, CH2M Hill
9:45 am	Break - with Refreshments
10:00 am	Nutrient Loading Impacts on Water Utilities - Bob Clement, US-EPA
11:15 am	Department of Health Representatives from MN, SD, ND
12:00 pm	Adjourn
1:00 pm	Facility Tour - Fargo Water Treatment Facility Membrane Pilot Operation & Fargo Effluent Reuse Facility (Pre-Registration Required)



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 12, 2012  
**SUBMITTING DEPARTMENT:** Assessing Dept  
**DEPARTMENT DIRECTOR:** Richard L Barta  
**PRESENTER:** Richard L Barta  
**SUBJECT:** 2-Year Exemption for  
Chris & Jessica Haluzak

---

**STATEMENT/PURPOSE:** To consider an exemption for new construction of a residential structure for the year 2011.

**BACKGROUND/ALTERNATIVES:** Mr. and Mrs. Haluzak qualify for an exemption of the first \$75,000 of structure value on a new single family dwelling.

This parcel is also known as Lot 11, Block 2, Plainview Heights 12<sup>th</sup> Addition at 2809 14 Ave SE on Parcel #10580.

**ATTACHMENTS:** Application.

**FISCAL IMPACT:** Approximately \$1,361

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** N/A

**RECOMMENDATION:** Approval of the requested exemption for the first \$75,000 of structure value for the year 2011 on a newly constructed single family dwelling due to all qualifications being met.

**SUGGESTED MOTION:** I recommend a motion to approve the request by Mr. and Mrs. Haluzak for an exemption of the first \$75,000 of structure value for the year 2011 on a newly constructed single family dwelling due to all qualifications being met.

**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 HALUZAK CHRIS & JESSICA

Address 2809 14 AVE SE

Legal Description of the property involved in this application

Lot: 11

Block: 2

PLAINVIEW HTS 12TH

Property ID Number

City 10580

County 65-6103614

Received by the Morton County Auditor

Date 3-2-12 KP

Total true and full value of the property described above for the year 2011 is:

Land \$12,900  
 Improvements \$155,100  
 Total (1) \$168,000

Total true and full value of the property described above for the year 2011 should be:

Land \$12,900  
 Improvements \$80,100  
 Total (2) \$93,000

The difference of \$75,000 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 value defined in N.D.C.C § 57-02-27.2
- 2. Residential or commercial property'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)
- 10. Other (Explain) 2-year exemption

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): \_\_\_\_\_

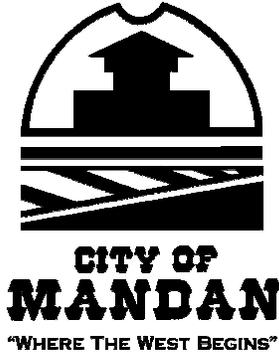
The Applicant asks that \_\_\_\_\_

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 \_\_\_\_\_

Genica Haluzak 3/2/12  
 Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20<sup>th</sup>, 2012  
**PREPARATION DATE:** March 14<sup>th</sup>, 2012  
**SUBMITTING DEPARTMENT:** Police  
**DEPARTMENT DIRECTOR:** Chief Dennis A. Bullinger  
**PRESENTER:** Chief Dennis A. Bullinger  
**SUBJECT:** Transfer of funds from the Police Department 2011 Budget to the 2012 Budget

---

STATEMENT/PURPOSE:

To request the transfer of funds from the Police Department 2011 Budget to the 2012 to purchase a new specialty vehicle for parking enforcement and to make the annual payment for 2011 to the Law Enforcement Building Fund.

BACKGROUND/ALTERNATIVES:

1) The 1993 Cushman that has been used for parking enforcement for the past 19 years is not repairable and needs to be replaced. Product reviews for a replacement vehicle has provided limited options. Cushman quit manufacturing these types of vehicles about 10 years ago and most other specialty vehicles are electric powered and may not be conducive to our climate. The product we identified as most serviceable for our needs is the "GO-4 Interceptor" manufactured by Westward Industries. It was the only gas powered vehicle available that is designed for parking enforcement. Other gas powered vehicles were considered, but they are not as safe or as functional as the Interceptor due to their design.

2) Members of the Law Enforcement Building Committee have agreed to make annual payments to the Law Enforcement Building Committee Fund in an effort to provide funding for maintenance, repairs and upgrades to the Law Enforcement Center. The annual payment for 2011 was not made.

ATTACHMENTS:

- GO-4 Proposal
- GO-4 Brochure
- GO-4 Example

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Transfer of funds from the Police Department 2011 Budget to the 2012 Budget

Page 2 of 2

---

FISCAL IMPACT:

1) Purchase price and delivery of the GO4 Interceptor is estimated at \$24,189, with added accessories including a front nerf bar and extra keys the total is \$24,400.

2) Annual payment for 2011 to the Law Enforcement Building Committee Fund is \$15,000.

According to Finance Director Welch, the funding for these transfers would come from the 2011 Police Department Budget.

STAFF IMPACT:

1) A vehicle will be available for staff to conduct parking enforcement in downtown Mandan.

2) Funding provided to the Law Enforcement Building Committee is per agreement with Morton County.

LEGAL REVIEW:

None required.

RECOMMENDATION:

To approve the transfer of funds from the Police Department 2011 Budget to the 2012 Budget.

SUGGESTED MOTION:

Move to approve the transfer of funds from the Police Department 2011 Budget to the 2012 Budget.

**CUSHMAN PROPOSAL PREPARED FOR:  
MANDAN POLICE DEPARTMENT  
ATTN: PAUL LEINGANG**

**Cushman Motor Company, Inc.**  
2909 East Franklin Ave.  
Minneapolis, MN 55406  
Fax 612-333-5903  
Phone 612-333-3487

**Date: 3/14/12**

We are pleased to submit the following quotation for your consideration:

<u>QUANTITY</u>	<u>DESCRIPTION</u>	<u>TOTAL</u>
1	<b>2012 WESTWARD INDUSTRIES, INTERCEPTOR III VEHICLE</b> <ul style="list-style-type: none"> <li>• 61 HP, 4-cylinder EFI engine</li> <li>• 4-Speed automatic transmission</li> <li>• 40 MPH electronically governed top speed</li> <li>• Automotive power assisted hydraulic disc brakes on all three wheels</li> <li>• 13" All-season radial tires</li> <li>• 20,000 BTU heater/defroster</li> <li>• Headlights, tail lights, brake lights and turn signals</li> <li>• Full gauge and indicator light system</li> <li>• Color: White</li> </ul>	22,900.00
1	1-04-106D, PARTS & SERVICE MANUAL ON CD	33.00
1	1-96-006, 12 V PLUG AND SWITCHES & RELAYS (to run accessory equipment)	106.00
1	FREIGHT AND SET-UP	650.00
	Delivery to Mandan	<u>500.00</u>
		<b>\$24,189.00</b>
	Optional Accessories & Modifications	
1	1-96-028, AM/FM/CD RADIO	\$376.00
1	1-96-002, SLIDING REAR WINDOW	\$283.00
1	1-96-004, PADDED ARM REST (with storage box)	\$204.00
1	1-96-024, EXTRA SET OF KEYS	\$11.00
1	1-86-114-01, FRONT NERF BAR	\$268.00

TERMS: NET 30 DAYS  
F.O.B. DELIVERED  
AVAILABILITY: 180 DAYS A.R.O .  
WARRANTY: 3 YEAR PARTS AND LABOR (5 Year corrosion coverage)

Submitted by:

Thank you for your consideration.

Timothy G. Commers

## SPECIFICATIONS

### ENGINE

61 h.p., liquid cooled  
4-cylinder, overhead cam  
4-cycle, electronically fuel injected

### TRANSMISSION

4-speed automatic  
(automotive transaxle with  
electronically controlled shift)

### DIMENSIONS

Overall height with cab 69.5"  
Overall length 118"  
Overall width 52.5"  
Outside turning radius 114"  
Inside turning radius 36"  
Wheelbase 78.5"

### BRAKING

Service - Automotive power assisted  
hydraulic disc brakes on all three wheels  
with dual master cylinder  
Parking - Hydraulic over mechanical

### ELECTRICAL SYSTEM

Charging - Heavy duty 70 amp  
automotive alternator  
Lights - Two halogen headlights  
Stop/tail lights with high visibility stoplights  
turning lights  
Turn signals

### Starting - 12-volt starting motor

Interlock prevents starter from operating  
unless shift lever is in "neutral or park" position  
Gauges - Speedometer, fuel level and hour meter  
Indicator Lights - Oil pressure warning, Three stage  
water temperature light (Blue - below running  
temperature, Off - normal running temperature,  
Red - above normal running temperature),  
Overdrive indicator, Charging system

### Low fuel

Wiring - Wiring harness with abrasion-resistant loom  
Multiple plug in connectors for accessories  
Governor - Electronic on the fuel injection system

### Transmission Cooler - Integrated

LTI - (Lateral Thrust Indicator)  
for safer operation of vehicle

Specifications are subject to change without notice. These vehicles comply with the U.S. D.O.T. vehicle safety standards "motorcycles",  
as well as meet E.P.A. and C.A.B. standards.

# THE NEW GO-4 INTERCEPTOR III

SAFETY • RETURN ON INVESTMENT • OPERATOR COMFORT



1077 Highway 26  
St. Francois Xavier, Manitoba  
Canada R4L 1A5  
Phone: (204) 864-2056  
Fax: (204) 864-2364  
E-mail: info@westwardindustries.com  
Web: www.westwardindustries.com

## THE NEW GO-4

# INTERCEPTOR III

SAFETY • RETURN ON INVESTMENT • OPERATOR COMFORT



## SAFETY

LTA (lateral thrust alarm):

- when cornering at too high a rate of speed
- When working on too great a side slope

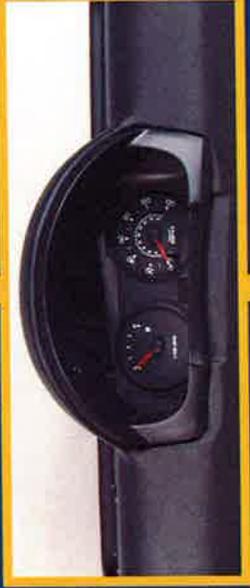
Full roll cage designed frame protects operator in side, front and rear impact collisions

Highly visible due to unique styling and height of vehicle

Automotive style seat, belt, with shoulder harness

P.E.O. can perform most of their duties right from the vehicle without interfering with traffic flow

High mounted, highly visible, rear brake and running lights and turn signals



## RETURN ON INVESTMENT

Two to six month payback on original purchase price based on:

- increased productivity due to reduced fatigue
- Increased productivity due to less time to travel to and from beats
- Increased revenue due to more rapid circuits of beats
- Increased mobility allows the vehicle to be used in other areas, such as traffic control, accident scene attendance, parking meter cash retrieval and maintenance, etc
- over 40 miles per gallon

## "CONTROL LINK" FRONT SUSPENSION

Westward Industries, Ltd. is proud to introduce its new leading link, anti-dive front suspension. This coil over shock design has been tested at the Bosch Durability Test Facility, under extreme conditions to an equivalent of 100,000 miles without failure of any kind.



## OPERATOR COMFORT

automotive automatic transmission

ergonomically designed vinyl seat

automotive instrument cluster

optional automotive air conditioning

20,000 b.t.u. automotive heater

power assisted hydraulic disc brakes on all three wheels

optional roof mounted am/fm radio

tiltable steering wheel

powerful 61 horse power gas engine

large lockable trunk (room for six standard boots, or a cash box)

*(see our separate "Accessories" page for a pictures and descriptions of all of our optional equipment)*



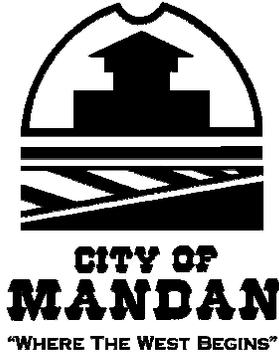


STOR COMPANY, INC.  
734-200-9226

SECURITY

MALL OF AMERICA





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 14, 2012  
**SUBMITTING DEPARTMENT:** Business Development & Communications Department  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Ellen Huber, Business Development & Communications Director  
**SUBJECT:** Growth Fund Budget Transfer

---

STATEMENT/PURPOSE: To consider transferring funds from the 2011 budget to the 2012 budget for approved Growth Fund economic development activities and business development operations.

BACKGROUND/ALTERNATIVES: Included in the FY2011 budget for the Growth Fund was funding allotted to certain projects that had received Growth Fund Committee and City Commission approval. Payment of the funds is pending completion of the projects. I would like to transfer the following amounts to the FY2012 budget to allow for completion of the following projects:

#### **SUBSIDY-OTHER (224.224.65118)**

Storefront Projects — \$40,000

- Golden Comb (318 E Main) - \$10,000 (in process, deadline of March 31, 2012)
- Dennis Kwandt (318 W Main) - \$10,000 (not started, deadline for completion is May 1, 2012)
- Dennis Kwandt (320 W Main) - \$10,000 (not started, deadline for completion is May 1, 2012)
- Scott Johnson (316 E Main) - \$10,000 (not started, deadline of Nov. 1, 2012)

Retail and Restaurant Incentive - \$22,855.50

- Harvest Brazilian Grill - \$16,668 of a total \$20,000 allotment
- Brea - \$6,187.50

Flex PACE Interest Buydown — \$54,000

- Acteva Assisted Living Center - \$54,000

**Business Development O&M section**

**CONSULTANT FEES (224.224.52110) — \$9,500**

- Retail Attractions – February & March payments @ \$3,500 each = \$7,000
- Crossroad Communications - \$2,500

**TRAVEL & TRAINING (224.224.55110) TO OTHER FEES (224.224.52128) - \$2,000**

- I am requesting to transfer \$2,000 of unspent travel/training funds from 2011 to 2012 for a household survey. This would be primarily to update data gathered from a 2008 survey. Topics would include retail needs and preferences, satisfaction with community services and direction, and feedback regarding community marketing and image. This project was budgeted for in 2010 but not completed due to time constraints.

ATTACHMENTS: n/a

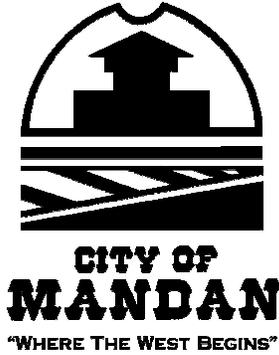
FISCAL IMPACT: Finance Director Welch indicates the funding from 2011 is still available.

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: I recommend transferring the amounts outlined from the FY2011 Budget balance to FY 2012 Budget.

SUGGESTED MOTION: I move to approve the outlined budget transfers for the Growth Fund economic development activities and business development operations.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 14, 2012  
**SUBMITTING DEPARTMENT:** Public Works Dept.  
**DEPARTMENT DIRECTOR:** Jeff Wright, Public Works Director  
**PRESENTER:** Jeff Wright  
**SUBJECT:** Transfer of funds from the Landfill 2011 Budget to the 2012 Budget

---

STATEMENT/PURPOSE:

To request the transfer of funds from the Landfill 2011 Budget to the 2012 Budget.

BACKGROUND/ALTERNATIVES:

The requested transfer will be used to purchase 2 compactor boxes that were in the 2011 Budget to be purchased, but were not able to go out to bid until late in the year due to the Flooding and other issues during the year. The low quote was accepted on January 26, 2012 with a 90 day delivery date anticipated. The cost of the boxes is \$23,700 which includes freight to the City of Mandan. We had \$30,000 budgeted in 2011 Capital Outlay.

ATTACHMENTS:

None

FISCAL IMPACT:

According to Finance Director Welch, the funding for this transfer would come from the following sources:

- 2011 Solid Waste Utility Budget = \$16,123.74
- Solid Waste Utility Fund Capital Improvement Fund Balance = \$7,576.26

STAFF IMPACT:

None

LEGAL REVIEW:

None required.

RECOMMENDATION:

To approve the transfer of funds from the Landfill 2011 Budget to the 2012 Budget.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Transfer of funds from the Landfill 2011 Budget to the 2012 Budget

Page 2 of 2

---

**SUGGESTED MOTION:**

Move to approve the transfer of funds from the Landfill 2011 Budget to the 2012 Budget.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition.

Page 2 of 4

---

March 15, 2012

City of Mandan  
Board of Commissioners  
205 2<sup>nd</sup> Ave. NW  
Mandan, ND 58554

RE: Keidel's South Heart Terrace 1<sup>st</sup> Addition  
Underground Utility mains and services – phase 2  
TECo #2012-03

Honorable Commissioners;

Morty's LLC, owner of the property within Keidel's South Heart Terrace 1<sup>st</sup> Addition, respectfully petition the Board to permit us to enter into a three way agreement between the City of Mandan, Basaraba Excavating, and ourselves to allow private installation of public utilities along Keidel Trail in Keidel's South Heart Terrace First Addition (Keidel's). The area is the same one illustrated in our request to create an assessment district for curb, gutter, paving, and street lights in Keidel's.

Sincerely,



Steve Iverson  
on behalf of Morty's LLC  
4265 45<sup>th</sup> Street South #200  
Fargo, ND 58104

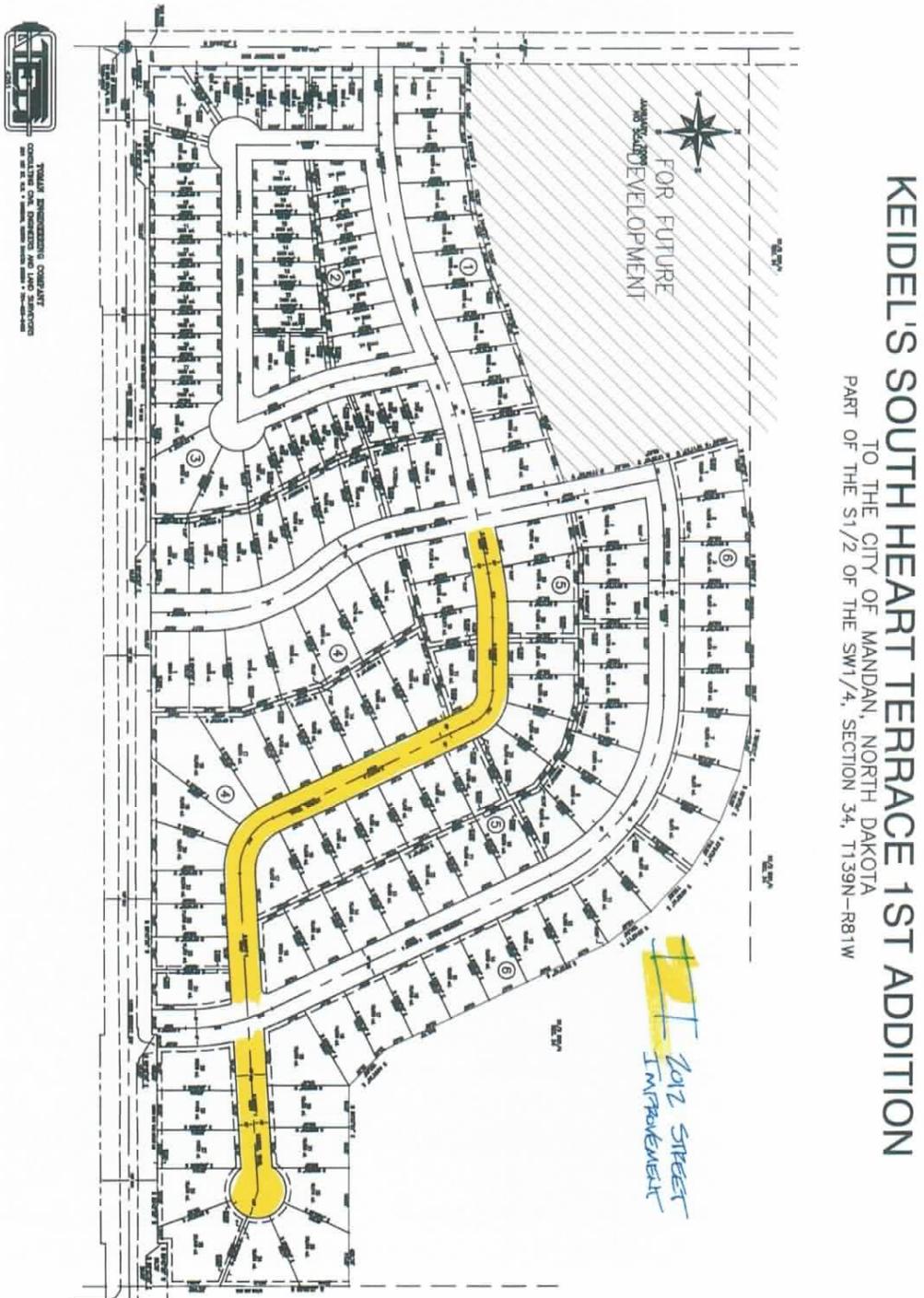
Board of City Commissioners

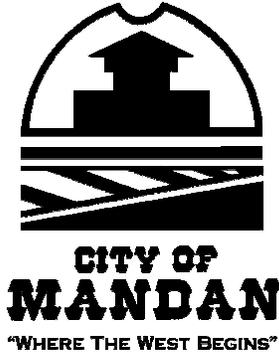
Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition.

Page 3 of 4





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 15, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition.

---

**STATEMENT/PURPOSE:** To authorize the installation of water and sewer for the development of the subject area.

**BACKGROUND/ALTERNATIVES:** The subject work would take place on Keidel Trail within the existing Keidel's South Heart Terrace subdivision. Currently Canyon Road and 4<sup>th</sup> Avenue SW are the only streets completed within the subdivision. Keidel Trail would connect these two streets in an east/west manner and open up approximately 37 additional lots for building. These lots are single family R7 zoned lots. The project would provide water and sanitary sewer utilities to these lots.

**ATTACHMENTS:**

1. Letter of request
2. Map of area of work
3. resolution

**FISCAL IMPACT:** The entire cost of the project is being paid by the developer as part of the 3-way agreement. The approximate construction costs and Engineering come to \$275,000.

**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 authorization to move forward with this project.

**SUGGESTED MOTION:** I move to authorize the execution of the 3-way agreement for the construction of the subject project.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider for approval the plans and specifications for and the execution of a 3-way agreement for the installation of water & sewer in Keidel's South Heart Terrace Addition.

Page 4 of 4

---

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND  
AUTHORIZING EXECUTION OF 3-WAY AGREEMENT FOR WATER AND  
SEWER IMPROVEMENT PROJECT NO. 2012-03**  
(Serving a portion of Keidels South Heart Terrace)

BE IT RESOLVED BY the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

1. That the plans and specifications for the Water and Sewer Project No. 2012-03 serving a portion of Keidels South Heart Terrace in the City of Mandan, as presented by Morty's LLC on behalf of themselves, are hereby approved, ratified and confirmed as the plans and specifications for said project, in accordance with which said improvement project will be constructed, subject to any further modifications of the plans and specifications by the Board as provided by law. The plans and specifications shall be filed in the Office of the City Administrator and City Engineer and open for public inspection. The named streets within the subdivision to receive the improvements are: Keidel Trail SW.

2. That the President of the Board is hereby authorized to enter into a 3-way agreement between the City of Mandan; the developer, Morty's LLC, and the developer's contractor, contingent upon the City's receipt of an irrevocable escrow account covering construction costs.

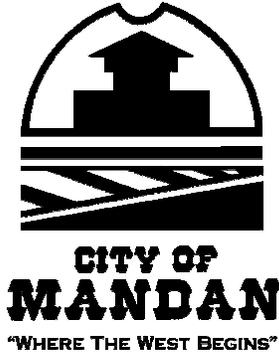
3. This resolution shall be in full force and effect from the date of its passage.

\_\_\_\_\_  
President, Board of City Commissioners

ATTEST:

\_\_\_\_\_  
James Neubauer, City Administrator

Date of Passage:            March 20, 2012



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 16, 2012  
**SUBMITTING DEPARTMENT:** Business Development & Communications Department  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Ellen Huber, Business Development & Communications Director  
**SUBJECT:** Land Development Proposals

---

**STATEMENT/PURPOSE:** To consider proposals for development of land parcels located near I-94.

**BACKGROUND/ALTERNATIVES:** The City of Mandan issued a Request for Proposals for commercial or mixed commercial/residential development on Jan. 3, 2012 for two parcels of property totaling 21.32 acres:

Parcel 1 — 1403 27th Street NW — *located in the southwest quadrant of the intersection of Sunset Drive and 27<sup>th</sup> Street NW.*

- Lot 1, Block 1, Addition 0264, School District #5
- 3.10 acres (135,022 sf)

Parcel 2— City Parcel 2698AA —*located in the northwest quadrant of Sunset Drive and 27<sup>th</sup> Street NW, across the street from the Mandan Middle School.*

- Part of the SE4-Vac Pt of TV 3 & 4 ADD; (less part of Auditor's Lot G), located in the W1/2 SW1/4 SE1/4.
- 18.22 acres (793,607 sf)

Proposals were due Feb. 17, 2012. Four responses were received. These four entities and individuals presented overviews of their proposals and participated in interviews with the City Commission at a special meeting held March 15, 2012.

ATTACHMENTS: The RFP and proposals were part of documentation accompanying the agenda for the special meeting of the City Commission held March 15, 2012. Copies are available upon request at the Business Development Office and any updates (due Monday at 5 p.m.) will be provided Tuesday.

FISCAL IMPACT: Variable depending upon the proposal(s) selected. City Parcel 2 (2698AA) has a special assessment balance of \$429,776 with an annual payment of \$65,768.

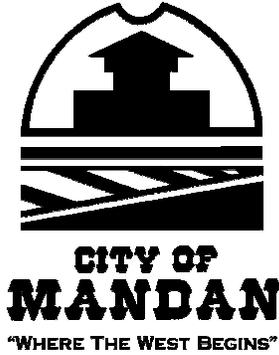
If the properties are sold for less than market value (\$3.08 psf or \$416,000 for Parcel 1 and \$1.67 psf or \$1,321,500 for Parcel 2), business incentive agreements with accountability provisions will be required. Such agreements are needed whenever a business incentive exceeds \$25,000.

STAFF IMPACT: Staff and attorney time will be needed to craft development agreements, purchase agreements and to monitor fulfillment.

LEGAL REVIEW: The original RFP and the proposals have been reviewed by Attorney Brown.

RECOMMENDATION: I recommend the Commission provide direction as to which proposal or proposals it would like to pursue with inclusion of any specific parameters that should be subject to negotiation and inclusion in development, purchase and business incentive agreements.

SUGGESTED MOTION: I move to approve to accept the proposal(s) from \_\_\_\_\_.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 16, 2012  
**SUBMITTING DEPARTMENT:** Business Development & Communications Department  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Ellen Huber, Business Development & Communications Director  
**SUBJECT:** Retail Attractions Contract Extension

---

**STATEMENT/PURPOSE:** To consider a contract extension or renewal with Retail Attractions for assistance with national recruitment of commercial/retail land developers as well as retail, restaurants and other hospitality sector businesses.

**BACKGROUND/ALTERNATIVES:** The City of Mandan's contract with Retail Attractions expires April 30, 2012. With the momentum that Mandan is gaining due to the thriving economy, impacts from oil and gas activity in western areas, Walmart's planned Supercenter, and development plans for nearby sites, the city is in a better position than ever to recruit commercial land developers as well as retail, restaurants and hospitality users. The opportunities in Mandan need to be communicated nationally to site selectors for land development firms and retailers. Mandan needs representation by someone with the ability to make contacts and arrange key appointments during the upcoming International Council of Shopping Centers (ICSC) global retail real estate expo on May 20-22. A three-month extension in the contract for representation allows for advance preparation and conference follow-up. The attached proposal offers this service for \$3,000 per month or \$9,000 total. Retail Attractions has agreed to include the market analysis (otherwise offered for \$2,500) free of charge. Approval before the end of March is needed for advanced preparation. Any consideration of a longer term contract renewal may be considered in June or July following evaluation of progress and results achieved at that point.

**ATTACHMENTS:** Retail Attractions Proposal

**FISCAL IMPACT:** \$9,000 from the unallocated portion of the Growth Fund (sales tax dollars) set aside for economic development activities.

STAFF IMPACT: Regular staff contact is needed to supply site information, updates on building permits and other market factors and changes. Staff representation at the ICSC expo should also be considered.

LEGAL REVIEW: The proposal has been provided to Attorney Brown for review.

RECOMMENDATION: I recommend approval of a 3-month extension of the Retail Attractions contract.

SUGGESTED MOTION: Move to approve the 3-month extension of the Retail Attractions contract as proposed.



## **Project Proposal**

Prepared for: The City of Mandan, North Dakota

Ellen Huber, Director of Economic Development

Prepared by: Rickey Hayes

### **Retail Attractions LLC**

Office (918) 376-6707

12150 E. 96<sup>th</sup> Street North, Suite 202

Owasso, Oklahoma 74055

[www.retailattractions.com](http://www.retailattractions.com)

# **Table of Contents**

About Retail Attractions, LLC	Page 3-4
Our Staff	Page 5-6
Executive Summary/Objective	Page 7
Process/Deliverables	Page 8
Fees	Page 10-9
Disclaimer	Page 11
References	Page 12-13



## About Retail Attractions, LLC

Rickey Hayes is the founder and CEO of Retail Attractions. During his tenure as the Economic Development Director for the City of Owasso, Oklahoma, the city's general fund revenue more than doubled and new commercial construction totaled more than 4.2 million square feet at more than a quarter of a billion dollars in total value. The City of Owasso's economy continues to grow. Because of his extensive relationships with multiple developers, retailers, restaurants, and other retail professionals, Rickey founded Retail Attractions to help other communities understand their markets and successfully recruit retail. Since starting the company, Retail Attractions has worked **directly** (city, chamber, or EDC has contracted directly with the company) or **indirectly** (a developer or retailer has hired the company to represent them in the market) with over 75 cities. Rickey has successfully facilitated retail deals in several states through assisting cities in marketing and recruiting national retailers, providing site and market data direct to the retailers and restaurants, and helping developers streamline the retail process that sometimes changes from market to market. Retail Attractions, LLC also helps secure financing through various lending institutions and incentives for retail development through public / private partnerships.

Retail Attractions is an economic development consulting firm specializing in market research and validation, creative and effective incentive packages and retail recruiting. Our firm believes healthy economic development is a process. Retail Attractions is a grass-roots team, who partners with our clients in coordinated and strategic courses of action, resulting in extraordinary results.

Retail Attractions believes smart, successful retail development is a vital part of a community's economic development program. We leverage our national network of relationships and our proven expertise to bring retailers, developers, land-owners and communities together to grow new retail business one relationship at a time. We partner with our client cities to achieve their community goals primarily through retail development. Far beyond concentric rings, drive times or just another bound report, we develop actionable information and make sure the right people have access to it. In short, we make a difference for your community.

The truth is that anyone or any competent firm can pull demographics for a location based on a radius or a drive time. What makes us different is our custom approach to developing a community's trade area. We evaluate the existing retail options nearby, physical barriers to traffic, natural existing shopping patterns, and the potential draw of new shopping opportunities to develop a custom trade area for each community we serve.

Your trade area is prepared by seasoned retail recruitment professionals based on criteria we know is important to the audience who will be receiving the finished marketing materials.

We integrate demographic data with data we develop from other sources to create a complete picture of a community... one that will resonate with developers, brokers, and retailers. We work with a community to prepare materials and get them in the hands of interested parties rather than merely deliver data that then the community has to send out on its own. We also recognize that ~~one size DOESN'T~~ fit all+ when it comes to trade areas. Some sites may be perfect for a grocery store, with a more localized trade area, while others may support a more regional draw. If your community has unique opportunities that require more than one trade area, we deliver what you need rather than forcing your community into our %standard offering.+

Retail Attractions sends our custom marketing material, developed for each city based on the unique characteristics and demographic indicators for that city, to our network of developers, brokers and retailers. In addition, we contact retailers through our accurate, proprietary database to make sure they are aware of opportunities in your city that match their specs.

We have an extensive knowledge of various types of incentives, and their practical application, and the experience to work with city staff to develop a framework for evaluating opportunities and providing incentives that fit the deal in play. Beyond merely a list of incentive possibilities, Retail Attractions serves as an ongoing advisor to city staff, helping to craft incentives that make sense for the city, meet developer's needs and truly encourage new business development.

Retail Attractions understands how municipal government works and the interplay of city political, financial, and regulatory environments. We also understand how development works and what site selectors, developers and retail tenants need to see, hear, and feel from a potential location in order to move forward. Retail Attractions features a team of research and marketing professionals who assist in retail recruiters in developing the necessary data and marketing materials to prove the case for investment in your community.

Since beginning Retail Attractions, LLC, we have helped our client cities launch millions of square feet of additional retail space and reap the associated benefits of additional city revenues, in addition to new goods and services in the community, and an improved quality of life for the citizens.

# OUR STAFF

## ***KATE THORP- REGIONAL DIRECTOR KANSAS, RETAIL / DEVELOPER RELATIONS***



Kate has had a long and successful career in commercial real estate before joining Retail Attractions. She serves our Kansas clients as their direct contact, and works directly in marketing our client cities to our retail and development contacts. Kate attended the University of Arkansas, is a trustee on the board of the Carver Foundation, and is a member of the International Council of Shopping Centers (ICSC). Kate lives in Owasso, Oklahoma with her two daughters.

## ***BETH NICHOLS- OFFICE MANAGER/ DATA RESEARCH***



Beth has a Bachelor of Science in Electrical Engineering from Purdue University. She has been with Retail Attractions since inception and manages marketing and recruitment projects at Retail Attractions. Beth is a member of the International Council of Shopping Centers(ICSC). Beth lives with her husband and two children in Skiatook, Oklahoma.

## ***ROBERT NICHOLS- INFORMATION TECHNOLOGY***



Rob has a Bachelor of Science in Electrical Engineering from Oklahoma State University. He has been with Retail Attractions since inception and manages the website, data storage and access for Retail Attractions. Rob lives with his wife and two children in Skiatook, Oklahoma

# Executive Summary/Objective

## Objective

Our overall objective is to increase investment in the City of Mandan, ND, by sales tax producing commercial business entities, primarily national retailers and restaurants. The community's location is both a benefit and a challenge in terms of increasing retail investment in the city and expanding the available services to citizens and the sales tax base that is so critical to governmental operations. However, the retail community's traditional view of suburban markets will remain an obstacle to further investment unless the city undertakes specific efforts to combat it.

To help Mandan successfully accomplish this mission, our main objective is to research and continue to validate the community's retail market, continue to recruit national and regional retailers (including hospitality), and by growing the base of retail outlets enhance the over-all quality of life in the community. The recruitment efforts will be targeted to retailers and restaurants whose goods and services are supported by the data and that are missing in the current local inventory. Because every community is different, we customize our services rather than provide cookie-cutter solutions.

We look forward to the opportunity of continuing to build a strong and continued partnership with the City of Mandan, by meeting and exceeding its expectations.

# Process/Deliverables

## Analysis, Representation, and Recruitment of Target Retailers

Continue to research and validate Mandan, North Dakota retail trade area and retail potential;

1. Provide bound market and trade area demographic information and opportunity gap (retail leakage) report. Trade area data will be updated annually, at minimum, or as the market changes with a fee (to be determined) upon annual renewal of consulting agreement;
2. Prepare one page marketing piece with city market highlights for our use. This marketing piece will be provided to City staff and target developers and retailers. We will also provide staff, developers and retailers with a separate preliminary trade area map;
3. Develop an electronic marketing piece to be used by both Retail Attractions and the City
4. Represent city at May 2012 ICSC RECON shows in Las Vegas and Dallas and possibly the Chicago ICSC regional event (to be determined) in 2012
5. Consult with City staff and/or any designated official(s) to identify target retail businesses that will meet the needs of the city(from leakage data);
6. Actively recruit retail targets identified and approved by the city and supported by data. Recruitment efforts will be through personal contact, mail, email, ICSC events, and development/industry contacts and other events;
7. Contact extensive network of developers to gauge interest in the city and coordinate/attend meetings with city and developers;
8. Provide monthly updates to designated contact; and,
9. Retail Attractions, LLC will bid any specialized marketing materials, marketing videos, web updates or retail specific web sites under separate bid.
10. Retail Attractions will conference with City officials via telephone or via video conference
11. City will assist Retail Attractions in the identification of current retail inventory, sales tax revenue, building permit data and any other pertinent information as needed.

**[Commercial and retail development often feels painfully slow when observing the process from the outside. From initial interest in a site to doors open for business is often a 24 to 36 month process. For this reason and to maximize the City's investment, I propose a two-year agreement (renewable annually), and renewable for a third year at the discretion of the City / Retail Attractions at the rates/fees agreed to by both parties.]**

# Fees

Description	Quantity	Unit Price	Cost
Market Analysis, Leakage Study		\$2,500.00	\$2,500.00
Consultation fee, per month, (for another 12 months beginning 8-1-12) payable monthly on the 1st of each month during the term of the agreement to Retail Attractions, LLC.	12	\$2500.00	\$30,000.00
Consultation fee and May 2012 ICSC representation	3 mo	Per month	\$3,000.00
Travel and Lodging when on Mandan, North Dakota business when additional travel is required (subject to city approval)	TBD	TBD	TBD

**The market analysis update fee is payable upon contract renewal for initial three month extension. Consultation fee/retainer for additional 12 month contract shall be paid monthly, due on the first day of each month. Travel expenses on renewal contracts will be bid based on necessary travel to the City of Mandan. Fee for market update will be waived if 12 month renewal is done before the end of March 2012.**

**The contract for consulting can be extended for additional terms by the agreement of both parties.**

**The contract for consulting can be terminated by either party with written notice given 60 days prior to the termination, with the understanding that the payment of any and all outstanding fees and/or bonuses shall survive termination of the contract.**

**Retail Attractions LLC will provide a monthly or quarterly written report to designated Mandan, North Dakota official of the scope of work.**

**Retail Attractions will hold conference calls as necessary to discuss scope of work and strategy.**

**City will assist Retail Attractions in the identification of current retail inventory, sales tax revenue, building permit data and any other pertinent information as needed.**

# Disclaimer

While we do expect to successfully complete the objective of increasing retail in Mandan, North Dakota, it is impossible to guarantee a level of investment or even any investment since market conditions, retailers' business plans, county policies, and other market drivers are subject to change at any time and are beyond the control of Retail Attractions, LLC. The City understands and agrees that any advice provided under this proposal is true and correct to the best knowledge and ability of Retail Attractions, LLC and will be provided in good faith. The county accepts full responsibility for its decisions to act or not act according to said advice and agrees to indemnify and hold harmless Retail Attractions, LLC; its principals, employees, sub-contractors, and associates pertaining to outcomes or situations that arise from the advice, materials, or other items provided under this proposal agreement.

---

Accepted for Mandan, North Dakota	Title	Date
-----------------------------------	-------	------

---

Accepted for Retail Attractions, LLC	Owner	Date
--------------------------------------	-------	------

# References



---

**Eric Benson, City Manager**

City of Enid, Oklahoma  
PO Box 1768  
Enid, Oklahoma 73702  
Office (580) 234-0400 x2030  
Cell (580) 747-5666  
ebenson@enid.org

**Relationship:**

Client from 2008 . Present  
Retail Attractions identified and validated the trade area and retail sites for Enid, created necessary marketing materials, and represented the city of Enid for three years at the annual ICSC RECON event in Las Vegas. We have also consulted with the city on the design and creation of incentive packages for their targeted retailers. In addition, Retail Attractions is assisting in the rehabilitation of a shopping mall into a modern, pedestrian, retail center.

[Click to view video testimonial](#)

*%Mr. Hayes has built his widely respected reputation by constructing strong professional relationships, committed accessibility to his clients and more importantly, has shown he is a businessman of great integrity.+ . Eric Benson*

---

**Rodney Ray, City Manager**

City of Owasso, Oklahoma  
111 North Main St  
Owasso, Oklahoma 74055  
Office (918) 376-1512  
Cell (918) 510-5188  
rjray@cityofowasso.com

**Relationship:**

Before beginning Retail Attractions, Rickey Hayes worked for 7 years as the Economic Development Director for the City of Owasso under Mr. Ray. Rickey still has a close relationship with the city and its staff. During Rickey's tenure, Owasso became a nationally recognized retail market.

*%Rickey has a yeoman's work ethic and is not afraid to roll up his sleeves and get his hands dirty. He has made a positive impact on our community, and I firmly believe he can do the same for yours.+– Rodney Ray*

---

**Jim Shindler, Retail Developer**

Conifer Commercial Real Estate  
260 Miron Drive, Suite 108  
Southlake, Texas 76092  
Office (817) 552-7785  
Cell (214) 415-0007  
jim@coniferre.com

**Relationship:**

Retail Attractions has worked in various roles with Jim Shindler to develop over 1.5 million square feet of retail space in multiple cities, from big box anchored power centers to single lot quick service restaurants. We have assisted in site selection, financing, leasing, and asset transactions.

*%I have been in the development business over 20 years and can say without a doubt the \$55 million power center with Rickey was the smoothest and most successful project in which I have ever been involved.+– Jim Shindler*

---

## References



---

**Jim Tapp, Retail Developer**  
Tapp Development Company  
PO Box 5150  
Edmond, OK 73083-5150  
Office (405) 752-7522  
Cell (405) 203-2452  
jtapp@tappdevelopment.com

**Relationship:**

Retail Attractions has assisted Tapp Development with site selection and market analysis, negotiating incentive packages with cities and national retailers, and marketing of retail development projects, in cities nationwide. Tapp Development has been in retail and commercial real estate development for over thirty years and has developed for Wal-Mart and other national big-box tenants across the country.

[Click to view video testimonial](#)

*%Our company does development work for national retail clients, and when I have a problem or need help with local development issues, Retail Attractions is the first call I make.+– Jim Tapp*

---

**Steve Gilbert, CEO**  
Paris Economic Development Authority  
1125 Bonham St.  
Paris, TX 75460  
Office (903) 784-6964  
Cell (903) 495-4647  
sgilbert@paristexasusa.com

**Relationship:**

Client from 2010 . Present  
Retail Attractions identified and validated the trade area and retail sites for Paris, created necessary marketing materials, and represented the city of Paris at the annual ICSC RECON event in Las Vegas. Retail Attractions has also consulted with the city on the design and creation of incentive packages for their targeted retailers. Retail Attractions has marketed Paris to our retail and development contacts, which has resulted in four major retail tracts being placed under contract with a potential 200,000 square feet of additional GLA.

*%Retail Attractions brings a wealth of relationships with investors, developers and retail real estate decision makers. They will not only get your community in the door, they know how to close the deal.+ Steve Gilbert*

---

**Raymond Kane, Attorney At Law**  
Kane, Russell, Coleman, and Logan PC  
1601 Elm Street, Suite 3700  
Dallas, Texas 75201  
Office (214) 777-4290  
Cell (214) 773-2000  
kaner@krcl.com

**Relationship:**

Rickey has worked with Mr. Kane and his associates on complex retail deals in several cities. Kane, Russell, Coleman and Logan is a highly respected law firm specializing in commercial real estate and municipal law. Mr. Kane is a trusted source for legal advice on all matters pertaining to development.

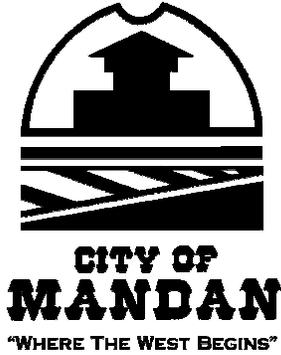
*%My practice principally involves the development of retail facilities, and Rickey Hayes is the most capable economic development professional I have worked with in my 20 years of legal practice.+– Ray Kane*

---

## MORE REFERENCES AVAILABLE AT



[WWW.RETAILATTRACTIONS.COM](http://WWW.RETAILATTRACTIONS.COM)



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 15, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider the approval of plans and specifications, Engineers Report, and authorize the call for bids for the 2012 Municipal Sidewalk Improvement.

---

**STATEMENT/PURPOSE:** To move forward with the project to construct sidewalks, driveways, and other concrete items throughout the City

**BACKGROUND/ALTERNATIVES:** This is an annual sidewalk construction project that we have had for many years. The participants in this project do so at request of themselves to have work done by the low bidder of this project and have that work assessed to their property. Work includes any concrete item within the public right-of-way that needs to be done. The City utilizes this contract also for various repairs.

**ATTACHMENTS:**

1. Advertisement for bids
2. Engineers Estimate

**FISCAL IMPACT:** Minimal, all work under this project is requested and special assessed to the benefitting property. We are cognizant of the Measure 2 vote and the bidding and possible award of this project will meet the timeframes required by law as well as our needs to facilitate the vote.

**STAFF IMPACT:** The Engineering staff will be performing the construction administration for this project

**LEGAL REVIEW:** All commission date has been forwarded to the City Attorney for his review

**RECOMMENDATION:** This office supports moving forward with the said project.

**SUGGESTED MOTION:** I move to approve the plans and specifications, Engineer's Report and authorize the call for bids for the Municipal Sidewalk Improvement Project.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the approval of Plans and Specifications, Engineers Report and authorize the call for bids for the 2012 Municipal Sidewalk Improvement Project

Page 2 of 4

---

**ADVERTISEMENT FOR BIDS FOR  
2012 ANNUAL SIDEWALK IMPROVEMENT PROJECT #2012-02  
MANDAN, NORTH DAKOTA**

Notice is hereby given, that the City of Mandan, North Dakota, will receive sealed bids at the Office of the City Engineer, City Hall, until May 23, 2012, at 3:00 p.m., local time, for the purpose of the construction and repair of sidewalks, curb and gutters, and all other work related to the 2012 Annual Sidewalk Improvement Project 2012-02. The work consists of all labor, skill and materials required to properly construct the improvement.

Plans and Specifications are on file in the office of the City Engineer. Plans may be obtained at the office of the City Engineer, 205 2<sup>nd</sup> Avenue Northwest, Mandan, North Dakota 58554, upon a non-refundable deposit of \$25.00 per set.

The Contractor shall include a copy of his license or certificate or renewal thereof enclosed in the required bid bond envelope as required pursuant to Section 43-07-12 of the North Dakota Century Code, as amended. Unless a bidder obtains a contractor's license for the full amount of its bid within twenty days after it is determined the bidder is the lowest and best bidder, the bid must be rejected and the contract awarded to the next lowest, best, and licensed bidder.

Each bid shall be accompanied by a separate envelope containing a bidder's bond in the amount of five (5) percent of the amount of the bids as required by Section 48-01.1-05 (3), North Dakota Century Code, as amended, and executed as provided by law. The bid bond shall be conditioned that if the principal's bid is accepted and the contract awarded to the principal, the principal, within ten days after notice of award shall execute a contract in accordance with the terms of the bid and a contractor's bond as required by law and the regulations and determinations of the city's governing body.

Bids shall be made on the basis of cash payment for the work to be done. All work under this advertisement shall be started on a date to be specified in a written order from the Board of City Commissioners, or no later than ten (10) days after written notice to proceed has been received from the city.

All work shall be completed no later than December 31, 2012. If the contractor fails to complete all the work within this time, or such additional time as has been granted for excusable delays, there shall be deducted from any money due the contractor the sum of One Hundred Dollars for each calendar day the completion of the work is delayed. Such deducted amounts shall be charged as liquidated damages and not as a penalty.

The bid proposals shall be sealed and endorsed "Proposal for the 2012 Annual Sidewalk Improvement Project #2012-02". Bids shall be delivered or mailed to: City Engineer, 205 2<sup>nd</sup> Avenue NW, Mandan, ND 58554. Bids will be opened and read aloud in the City Commission Meeting Room at 3:00 p.m., local time, on May 23, 2012. All bidders are invited to be present at the public opening of the bids. No bid may be read or considered if it does not fully comply with the requirements of NDCC '48-01.1-05 and any deficient bid submitted must be resealed and returned to the bidder immediately.

The Board of City Commissioners of the City of Mandan, North Dakota, will meet at the City Hall in said city on Tuesday, June 19, 2012 at 5:30 p.m., local time, to review the bids submitted, consider the engineer's recommendation, and to award the contract to the successful bidder, subject to the Board finding filed protests are insufficient to bar the work. The contract will be awarded on the basis of the low bid submitted by a responsible and responsive bidder deemed most favorable to the City's interest.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the approval of Plans and Specifications, Engineers Report and authorize the call for bids for the 2012 Municipal Sidewalk Improvement Project

Page 3 of 4

---

The Board of City Commissioners reserves the right to hold all bids for a period of thirty (30) days after the date fixed for the opening thereof, and to reject any or all bids and to waive irregularities whenever it is in the best interest of the City of Mandan.

Dated this 20th day of March 2012.

City of Mandan, North Dakota

BY: James Neubauer  
City Administrator

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the approval of Plans and Specifications, Engineers Report and authorize the call for bids for the 2012 Municipal Sidewalk Improvement Project

Page 4 of 4

---

ENGINEER'S ESTIMATE

MUNICIPAL SIDEWALK IMPROVEMENT

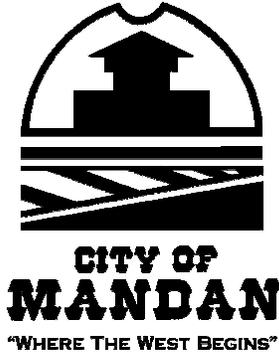
MARCH, 2012  
PROJECT NO. 2012-02

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE BOARD OF CITY COMMISSIONERS  
CITY OF MANDAN, MANDAN, NORTH DAKOTA

GENTLEMEN:

I HEREWITH SUBMIT AN ESTIMATE OF THE PROBABLE COST OF THE CONSTRUCTION OF  
MUNICIPAL SIDEWALK PROJECT NO. 2012-02 IN THE CITY OF MANDAN, N.D.

BID NO.	ITEM NO.	ITEM	APPROX QUANTITY		UNIT PRICE	AMOUNT
1	601	4" CONCRETE SIDEWALK	32,000	SF	\$2.75	\$88,000.00
2	601	6" CONCRETE SIDEWALK	15,000	SF	\$3.25	\$48,750.00
3	602	6" CONCRETE DRIVEWAY	25,000	SF	\$3.25	\$81,250.00
4	603	6" CURB AND GUTTER	3,000	LF	\$8.45	\$25,350.00
5	601	4" HANDICAP CURB RAMPS	800	SF	\$6.00	\$4,800.00
6	601	4" CONCRETE STEPS	100	SF	\$5.00	\$500.00
7	601	3/4" FELT EXPANSION MATERIAL	8,000	LF	\$1.00	\$8,000.00
8	202	UNCLASSIFIED EXCAVATION	2,200	CY	\$3.75	\$8,250.00
9	1504	CONCRETE REMOVAL	7,000	SF	\$1.50	\$10,500.00
10	1503	SAW CUTTING	400	LF	\$10.00	\$4,000.00
11	1505	ADJUST WATER CURB STOP	36	EA	\$45.00	\$1,620.00
12	1506	ADJUST WATER VALVE BOX	15	EA	\$45.00	\$675.00
13	1507	BLACK DIRT AND SEED	200	SY	\$5.00	\$1,000.00
14	1203	SOD	100	SY	\$3.00	\$300.00
15	201	TREE ROOT REMOVAL (2" TO 6")	3	EA	\$40.00	\$120.00
16	201	TREE ROOT REMOVAL (OVER 6" TO 12")	3	EA	\$65.00	\$195.00
17	201	TREE ROOT REMOVAL (OVER 12")	2	EA	\$110.00	\$220.00
18	501	COLD WEATHER PROTECTION- CURB & GUTTER	600	LF	\$0.50	\$300.00
19	501	COLD WEATHER PROTECTION- CONCRETE PAVEMENT	6,500	SF	\$0.20	\$1,300.00
TOTAL PROJECT COST						\$285,130.00



New Business No. 3

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 21012  
**PREPARATION DATE:** March 15, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider the creation of Street Improvement District No. 168 Project # 2017-09. (Heart Ridge Addition – Phase 1).

---

**STATEMENT/PURPOSE:** To create a special assessment district for the requested project.

**BACKGROUND/ALTERNATIVES:** The Engineering office has received a petition from Lance Wachter requesting the special assessment of the streets within the Heart Ridge addition plat. The location of this plat is along 19<sup>th</sup> Street SE immediately north of Fort Lincoln School and west of 8<sup>th</sup> Avenue SE. The road to be paved would be Ridge Drive SE. The developer will need to install the needed water and sewer utilities to service the lots within this subdivision and will be required to pay 100% of those costs via a 3-way agreement. The paving of this street will bring approximately 27 lots onto the market for building of single family homes R7 and 4 lots for single or two family homes R3.2.

There has been much discussion on this project and the need to special assess the streets to make the project work from the owner of this project. I was directed by the Mayor and City administrator to get some form of surety that the lots in this project are backed with purchase agreements as a form of this surety. I met this Chad Wachter and viewed purchase agreements from 4 interested parties for 30 of the 31 lots that would be part of this district.

**ATTACHMENTS:**

1. Petition by Owner
2. District Map
3. Estimate of Cost

**FISCAL IMPACT:** Based on the estimate of cost included with your documentation, the cost of the project would be \$306,186.20, with engineering and administration adding approximately \$76,546.55, bringing the total to \$382,732.75. With 31 lots in the district, each lot would expect to receive approximately \$12,346.22 in specials from this project.

**STAFF IMPACT:** Minimal

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the creation of Street Improvement District No. 167 Project # 2012-04.  
(Keidels South Heart Terrace – Keidel Trail SW ).

Page 2 of 5

---

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

RECOMMENDATION: This office recommends approval for the creation of the district.

SUGGESTED MOTION: I move to approve the creation of this district.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the creation of Street Improvement District No. 167 Project # 2012-04.  
(Keidels South Heart Terrace – Keidel Trail SW ).

Page 3 of 5

---

**PETITION FOR PERMANENT STREET IMPROVEMENT**  
**For lots zoned R5, R10, RM, or RT Residential**

Date July 25, 2011

To the Honorable Board of City Commissioners  
Mandan, North Dakota

Commissioners:

The undersigned owners of the property liable to be assessed for the improvement respectfully petition your Honorable Board to have permanent street improvements completed on:

- Ridge Drive – from 19<sup>th</sup> Street SE north to the north line of Lot 18 and Lot 12 Block 1 Heart Ridge Addition.

It is agreed that the necessary permanent street improvements be completed following the installation of the necessary water and sewer service line stubouts by the abutting property owner(s). 100% of the paving cost of said permanent street improvements shall be assessed to or other funding arrangements made by the benefitted property according to the Current Development Costs Policy. It is agreed that 100% of any temporary street improvements shall be prepaid by the benefitted petitioned property.

**SIGNATURE (Property Owner/s)**

  
Lance Wachter  
PO Box 520  
Bismarck, ND 58502-0520

**PROPERTY DESCRIPTION**

Lots 1-18 Block 1  
Lot 1 Block 2  
Lots 1-12 Block 3  
Heart Ridge Addition

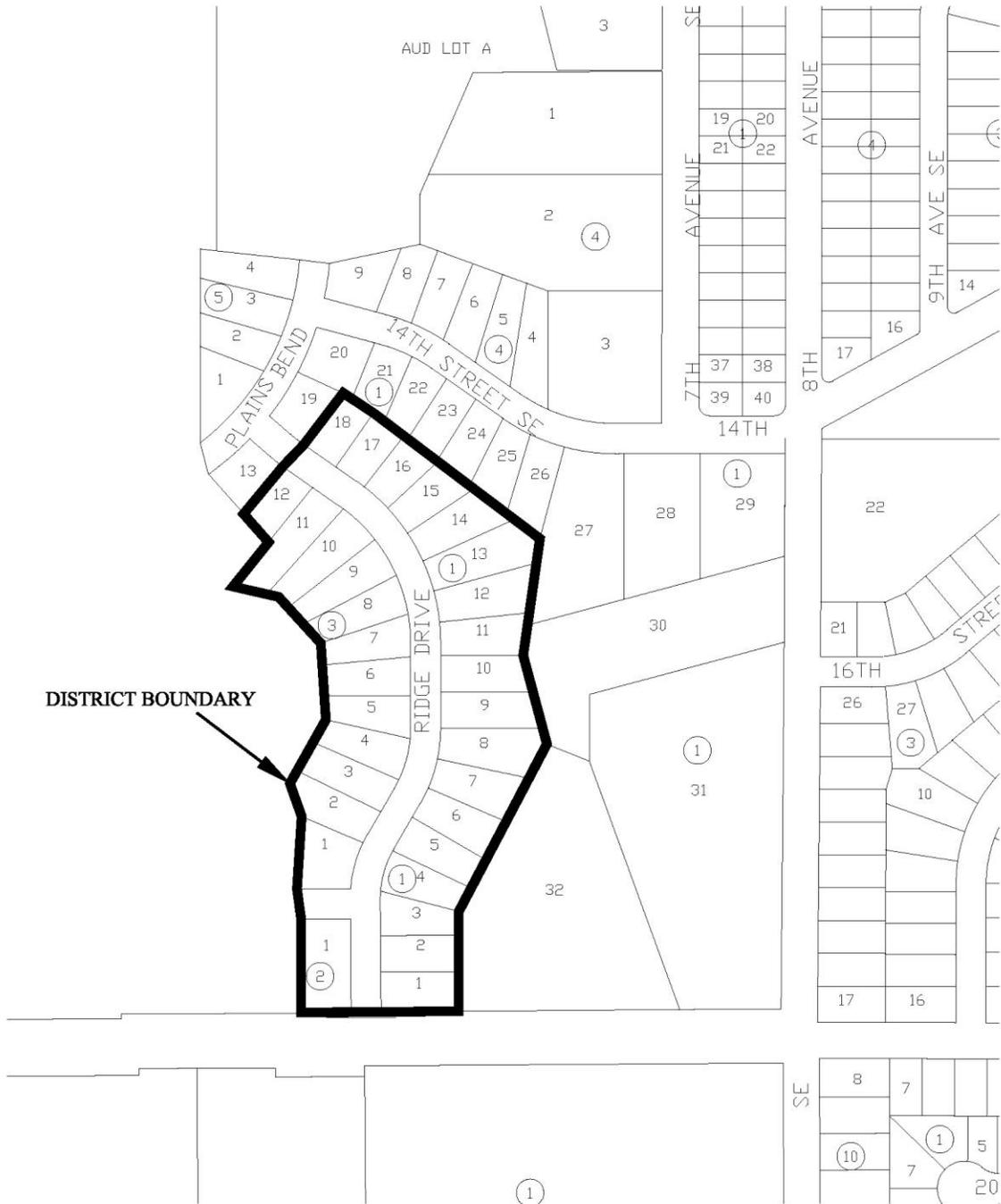
Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the creation of Street Improvement District No. 167 Project # 2012-04.  
(Keidels South Heart Terrace – Keidel Trail SW ).

Page 4 of 5



Board of City Commissioners

Agenda Documentation

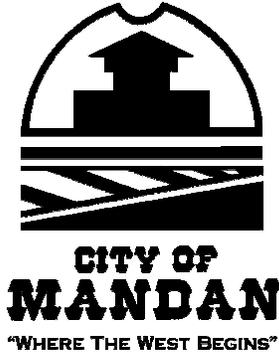
Meeting Date: March 20, 2012

Subject: Consider the creation of Street Improvement District No. 167 Project # 2012-04.  
(Keidels South Heart Terrace – Keidel Trail SW ).

Page 5 of 5

**ENGINEER'S ESTIMATE**  
**CONSTRUCTION OF STREET PAVING & LIGHTING**  
**STREET IMPROVEMENT DISTRICT 161, AREA C, PROJECT 2011-09**  
**HEART RIDGE ADDITION, MANDAN, ND**  
**January 17, 2011**

<b>GRADING ITEMS:</b>	<b>QUANTITY</b>		<b>UNIT PRICE</b>	<b>TOTAL PRICE</b>
Grading	1	LS	\$ 7,000.00	\$ 7,000.00
Watering	19.5	MGAL	\$ 40.00	\$ 780.00
Subgrade Preparation (1.0' Deep)	3,149	SY	\$ 2.00	\$ 6,298.00
Subgrade Preparation (1.5' Deep)	3,149	SY	\$ 3.00	\$ 9,447.00
4" Topsoiling	4,045	SY	\$ 2.20	\$ 8,899.00
Seeding (Class IV)	4,045	SY	\$ 0.50	\$ 2,022.50
Mulching (Straw)	4,045	SY	\$ 0.45	\$ 1,820.25
			<b>SUBTOTAL</b>	<b>\$ 36,266.75</b>
<b>ASPHALT ITEMS:</b>				
3" AC Base Course (Class B)	1,050	TON	\$ 80.00	\$ 84,000.00
2" AC Surface Course (Class B)	699	TON	\$ 80.00	\$ 55,920.00
Bituminous Tack Coat	755	GAL	\$ 2.20	\$ 1,661.00
Bituminous Seal Course	6,298	SY	\$ 2.40	\$ 15,115.20
Blotter Sand	10	TON	\$ 30.00	\$ 300.00
Adjust Manhole Casting in Asphalt Pavement	4	EA	\$ 350.00	\$ 1,400.00
Adjust Manhole Casting in Unpaved Area	1	EA	\$ 150.00	\$ 150.00
			<b>SUBTOTAL</b>	<b>\$ 158,546.20</b>
<b>CONCRETE ITEMS:</b>				
Standard Curb & Gutter	3,048	LF	\$ 14.00	\$ 42,672.00
8" Concrete Valley Gutter	1,038	SF	\$ 5.00	\$ 5,190.00
			<b>SUBTOTAL</b>	<b>\$ 47,862.00</b>
<b>MISCELLANEOUS ITEMS:</b>				
Adjust Valve Box in Unpaved Area	7	EA	\$ 150.00	\$ 1,050.00
Adjust Valve Box in Concrete	1	EA	\$ 200.00	\$ 200.00
Erosion Control	1	LS	\$ 2,500.00	\$ 2,500.00
Traffic Control	1	LS	\$ 1,000.00	\$ 1,000.00
Signage	1	LS	\$ 1,000.00	\$ 1,000.00
			<b>SUBTOTAL</b>	<b>\$ 5,750.00</b>
<b>REMOVAL ITEMS:</b>				
Curb & Gutter Removed	45	LF	\$ 4.00	\$ 180.00
Asphalt Removal	204	SF	\$ 2.50	\$ 510.00
			<b>SUBTOTAL</b>	<b>\$ 690.00</b>
<b>ELECTRICAL ITEMS:</b>				
Type B Street Light Unit	10	EA	\$ 3,200.00	\$ 32,000.00
Six #2 Conductors	1500	LF	\$ 10.00	\$ 15,000.00
Three #2 Conductors	200	LF	\$ 5.00	\$ 1,000.00
Two #2 Conductors	275	LF	\$ 2.75	\$ 756.25
Conduit	350	LF	\$ 2.40	\$ 840.00
Junction Box	1	EA	\$ 975.00	\$ 975.00
Feed Point	1	EA	\$ 6,500.00	\$ 6,500.00
			<b>SUBTOTAL</b>	<b>\$ 57,071.25</b>
			<b>TOTAL</b>	<b>\$ 306,186.20</b>



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** March 20, 21012  
**PREPARATION DATE:** March 15, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider the creation of Street Improvement District No. 167 Project # 2012-04. (Keidels South Heart Terrace – Keidel Trail SW ).

---

**STATEMENT/PURPOSE:** To create a special assessment district for the requested project.

**BACKGROUND/ALTERNATIVES:** The Engineering office has received a petition from Kevin Christianson or Morty's LLC requesting the special assessment of the street, Keidel Trail SW within the Keidels South Heart Terrace plat. The location of this plat is along 19<sup>th</sup> Street SE west of Fort Lincoln School and East of Highway 6. The road to be paved would be Keidel Trail SW. The developer will need to install the needed water and sewer utilities to service the lots within this subdivision and will be required to pay 100% of those costs via a 3-way agreement. The paving of this street will bring approximately 37 lots onto the market for building of single family homes.

**ATTACHMENTS:**

1. Petition by Owner
2. District Map
3. Estimate of Cost

**FISCAL IMPACT:** Based on the estimate of cost included with your documentation, the cost of the project would be \$390,556.70, engineering and administration will add \$97,639.18, bring the total to \$488,195.88. Corner lots would look to receive approximately \$7,179.35.00 per lot as they were assessed for approximately or at half the cost with the existing streets. All the other lots would expect to receive approximately \$14,358.70 as this street would be the primary street for these residences.

**STAFF IMPACT:** Minimal

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

**RECOMMENDATION:** Without a City policy on special assessments at this time, I would recommend approval of this project and stress strongly to the Commission that they adopt a

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the creation of Street Improvement District No. 167 Project # 2012-04.  
(Keidels South Heart Terrace – Keidel Trail SW ).

Page 2 of 5

---

stance on how we should conduct these requests in the future. With this summer looking to be a busy one for development, many more requests are expected to come before you.

SUGGESTED MOTION: This office recommends approval for the creation of the district.

Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the creation of Street Improvement District No. 167 Project # 2012-04.  
(Keidels South Heart Terrace – Keidel Trail SW ).

Page 3 of 5

---

March 12, 2012

City of Mandan  
Board of Commissioners  
205 2<sup>nd</sup> Ave. NW  
Mandan, ND 58554

RE: Keidel's South Heart Terrace 1<sup>st</sup> Addition  
Pavement, Storm Sewer & Street Light Petition  
TECo #TBD

Honorable Commissioners;

Morty's LLC, owner of the property within Keidel's South Heart Terrace 1<sup>st</sup> Addition, respectfully petition the Board to have pavement, storm sewer and street light improvements constructed by Special Assessment within said subdivision for Lots 8 thru 24 Block 4, Lots 16 thru 30 Block 5, and Lots 19 thru 29 Block 6 of Keidel's South Heart Terrace 1<sup>st</sup> Addition. The named street within said subdivision receiving these improvements is Keidel Trail.

We ask the engineering associated with the assessed improvements be performed by Toman Engineering Company and request that this work be added to and be made part of Street Improvement District No. TBD.

Enclosed is a copy of the plat showing the proposed improvement area. Please contact me if you need anything further.

Sincerely,



Kevin Christianson, President  
Morty's LLC  
4265 45<sup>th</sup> Street South #200  
Fargo, ND 58104

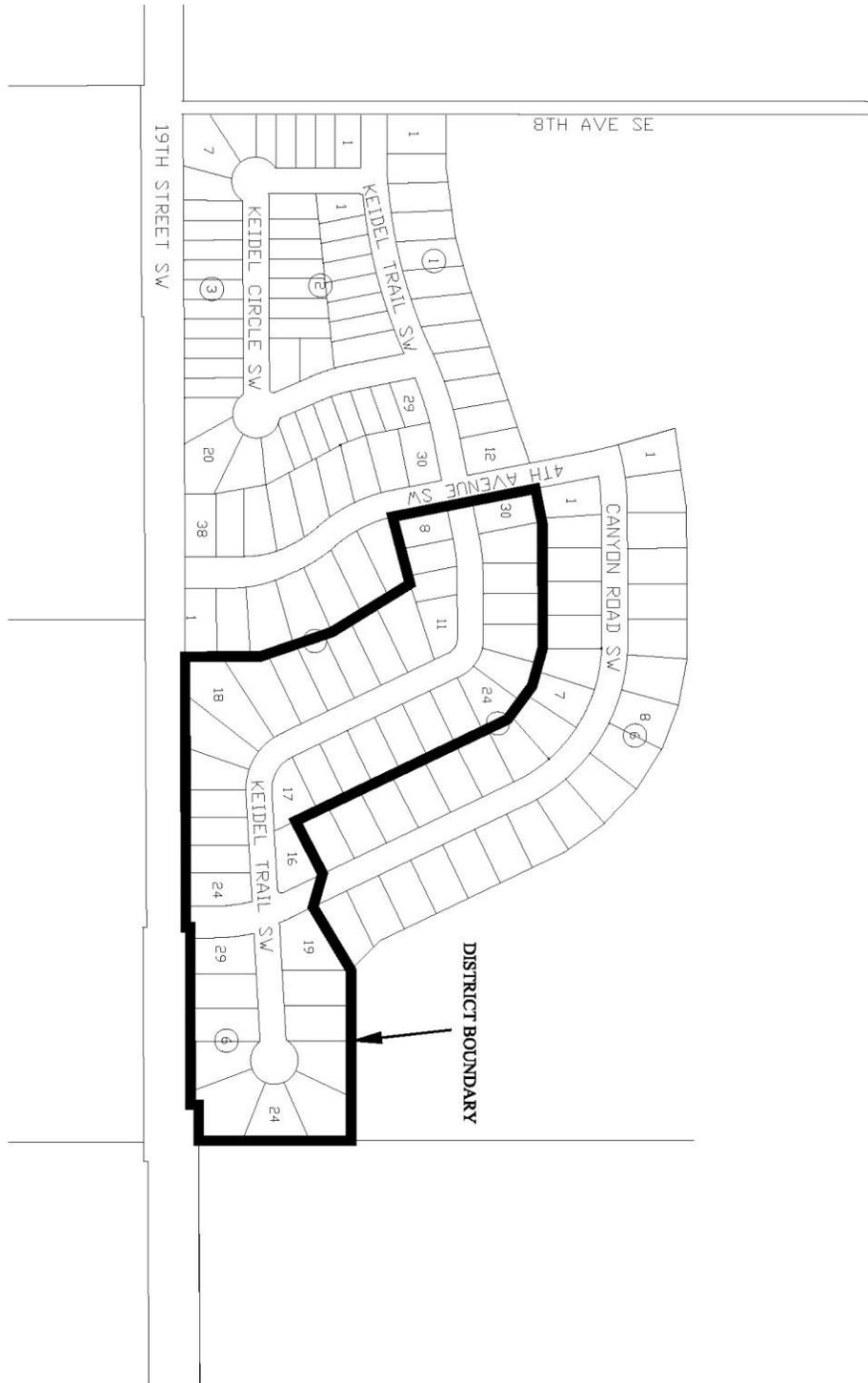
Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the creation of Street Improvement District No. 167 Project # 2012-04.  
(Keidels South Heart Terrace – Keidel Trail SW ).

Page 4 of 5



Board of City Commissioners

Agenda Documentation

Meeting Date: March 20, 2012

Subject: Consider the creation of Street Improvement District No. 167 Project # 2012-04.  
(Keidels South Heart Terrace – Keidel Trail SW ).

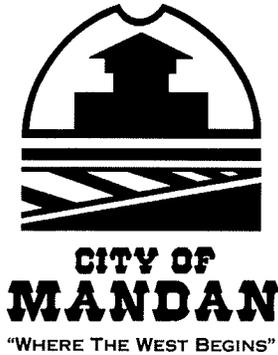
Page 5 of 5

TECO #2166

Mar-12

**KEIDEL'S SOUTH HEART TERRACE 1ST ADDT.**

<b>Street Project</b>						
Spec No.	Description	Unit	Quantity	Unit Price	Amount	
202-4.1	Unclassified excavation & embankment	CY	10,939	\$5.00	\$54,695.00	
203-3.1	Watering	M.Gal.	235	\$20.00	\$4,700.00	
204-3.1	Subgrade preparation (6")	SY	8,163	\$2.50	\$20,407.50	
401-6.2	AC Surface Course (2")	Ton	801	\$90.00	\$72,090.00	
304-6.1	AC Base Course (2 1/2")	Ton	1,001	\$90.00	\$90,090.00	
402-4.2	Bituminous tack coat	Gal.	361	\$2.75	\$992.75	
403-4.1	Bituminous seal coat	Gal.	217	\$2.50	\$542.50	
802-4.3	24" Storm Sewer Pipe(RCP)	LF	133	\$48.00	\$6,384.00	
802-4.5	18" Storm Sewer Pipe(RCP)	LF	41	\$40.00	\$1,640.00	
1205-4.7	Type 36" Inlet	Each	2	\$2,280.00	\$4,560.00	
1205-4.1C	60" CONCRETE MANHOLE(STORM)	Each	1	\$4,025.00	\$4,025.00	
1206-4.5	Adjust Type 36" Inlet Casting	Each	2	\$205.00	\$410.00	
801-4.60	Bedding Material	Ton	67	\$15.00	\$1,002.45	
SP	Apply soil sterilizer	LS	1	\$5,000.00	\$5,000.00	
603-5.5	Install mountable curb and gutter	LF	3,334	\$22.00	\$73,348.00	
1001-4.3	Street Lights 250W (galvanized Pole Type "C")	Each	8	\$2,500.00	\$20,000.00	
1001-4.20	Install junction box	Each	1	\$750.00	\$750.00	
SP	Copper conductor circuitry (3 - #4 & 1- #6)	LF	1,729	\$5.50	\$9,509.50	
1001-4.12	Trenching for conduit & circuitry	LF	1,729	\$2.50	\$4,322.50	
1206-4.1	Adjust Manhole Casting in Asphalt Pavement	Each	4	\$400.00	\$1,600.00	
SP	Remove/Salvage Road Closed Sign	Each	3	\$350.00	\$1,050.00	
1100-4.1	Street Name Post With 4 Signs	Each	2	\$200.00	\$400.00	
205-3.1	Install silt fence	LF	250	\$4.25	\$1,062.50	
1201-4.1	Respread 4" topsoil from onsite stockpile with Seeding & Hydromulch	Acre	1.65	\$6,500.00	\$10,725.00	
302-4.1	Stabilized Gravel Base	Ton	50	\$25.00	\$1,250.00	
CONSTRUCTION COST					\$390,556.70	
ENGINEERING & CONTINGENCY					\$117,167.01	
TOTAL COST					\$507,723.71	



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** March 20, 2012  
**PREPARATION DATE:** March 14, 2012  
**SUBMITTING DEPARTMENT:** Finance  
**DEPARTMENT DIRECTOR:** Greg Welch  
**PRESENTER:** Greg Welch  
**SUBJECT:** Resolution Authorizing Issuance of  
\$1,490,000 Refunding Improvement Bonds of  
2012, Series A.

---

### PURPOSE

To consider Resolution Authorizing Issuance of \$1,490,000 Refunding Improvement Bonds of 2012, Series A for the purpose of refunding the City's Refunding Improvement Bonds of 2005, Series C and Refunding Improvement Bonds of 2008, Series A.

This Resolution completes the refinancing of the old Bonds.

### BACKGROUND

On March 6, 2012 the Board of City Commissioners awarded the sale of \$1,490,000 Refunding Improvement Bonds of 2012, Series A.

The following special assessment districts are affected as a result of the refinancing:

### Refunding Improvement Bonds of 2005, Series C

- Sanitary Sewer #28 (40<sup>th</sup> Avenue SE Lift Station).
- Street #120 (Meadows 1<sup>st</sup> Addition).
- Street #122 (Trail West Subdivision, Crimson Street to 30<sup>th</sup> Avenue).
- Water and Sewer #46 (Bridgeview Bay Addition).

Refunding Improvement Bonds of 2008, Series A

- Street #105 (Old Red Trail from Sunset Interchange to Collins Avenue; Old Red Trail from Sunset Interchange to Highland Road; Area A-West River Subdivision).
- Street #111 (Area A-Marina Road thru Ricker's 2<sup>nd</sup> Subdivision; Marina Road thru Old Heart 2<sup>nd</sup> Addition).
- Water #12 (46<sup>th</sup> Avenue SE from 19<sup>th</sup> Street SE-600 feet).

ATTACHMENT

- Resolution Authorizing Issuance of \$1,490,000 Refunding Improvement Bonds of 2012, Series A

FISCAL IMPACT

The total Net Present Value Benefit savings of \$101,557.67 or 6.98% from the refinancing will be passed on to the balances owed by the special assessment districts indicated above through lower interest rates, effective April 1, 2012.

STAFF IMPACT

None

LEGAL REVIEW

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

RECOMMENDATION

To approve the Resolution Authorizing Issuance of \$1,490,000 Refunding Improvement Bonds of 2012, Series A.

SUGGESTED MOTION

Move to approve the Resolution Authorizing Issuance of \$1,490,000 Refunding Improvement Bonds of 2012, Series A.

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

March 14, 2012

Greg Welch  
City of Mandan  
205 2<sup>nd</sup> Ave. NW  
Mandan, ND 58554

Re: Mandan Refunding Improvement Bonds of 2012, Series A

Dear Greg:

Enclosed for adoption by the City Commission on March 20 is the Resolution Authorizing Issuance for the above.

If you could fax me the voting record information (page 12), I'll then prepare execution copies of the Resolution.

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

Sincerely,



Steven L. Vogelwohl  
Attorney at Law

SLV/dl  
12-001/031412.ltr

Enc

c: Malcolm H. Brown (w/Enc)

CITY OF MANDAN  
COUNTY OF MORTON  
STATE OF NORTH DAKOTA

**RESOLUTION AUTHORIZING ISSUANCE OF  
\$1,490,000  
REFUNDING IMPROVEMENT BONDS OF 2012, SERIES A**

WHEREAS, the City of Mandan, North Dakota (the "City") by resolution duly adopted December 20, 2005 (the "2005 Resolution") authorized the issuance of its Refunding Improvement Bonds of 2005, Series C (the "2005 Bonds") payable from the City of Mandan Refunding Improvement Bonds of 2005, Series C Fund (the "2005 Fund"), a portion of which 2005 Bonds are outstanding as of the date of this Resolution Authorizing Issuance of \$1,490,000 Refunding Improvement Bonds of 2012, Series A (the "Resolution");

WHEREAS, the City by resolution duly adopted April 1, 2008 (the "2008 Resolution") authorized the issuance of its Refunding Improvement Bonds of 2008, Series A (the "2008 Bonds") payable from the City of Mandan Refunding Improvement Bonds of 2008, Series A Fund (the "2008 Fund"), a portion of which 2008 Bonds are outstanding as of the date of this Resolution (the 2005 Resolution and 2008 Resolution being hereinafter together referred to as the "Prior Resolutions" and the 2005 Fund and 2008 Fund being hereinafter together referred to as the "Prior Funds");

WHEREAS, there are not at the present time sufficient moneys in the 2005 Fund to pay and discharge all outstanding 2005 Bonds or in the 2008 Fund to pay and discharge all outstanding 2008 Bonds (the 2005 Bonds and 2008 Bonds being hereinafter together referred to as the "Prior Bonds"); and

WHEREAS, the Prior Bonds were issued pursuant to North Dakota Century Code Chapter 40-27, and through the issuance of new refunding improvement bonds for the purpose of refunding all Prior Bonds having stated maturities in 2013 and thereafter (the "Refunded Bonds"), the City can reduce debt service thereon;

NOW, THEREFORE, be it resolved by the governing body of the City as follows:

Section 1. Authorization and Sale. There is hereby authorized to be issued a series of bonds designated "City of Mandan Refunding Improvement Bonds of 2012, Series A", in the total principal amount set forth in Section 2 below (the "Bonds") for the purpose of refunding the Refunded Bonds. The sale of the Bonds was awarded on March 6, 2012, to Dougherty & Company LLC, Minneapolis, Minnesota (the "Purchaser"), on the terms and conditions set forth herein and at a purchase price of

\$1,475,100.00 plus accrued interest, and such sale of the Bonds for said purpose is hereby in all things ratified, approved and confirmed.

Section 2. Terms. The Bonds are issued pursuant to North Dakota Century Code Chapter 40-27 and shall be issued according to the following terms:

(a) Principal Amount of Issue - The total principal amount of Bonds shall be \$1,490,000 and shall consist of \$1,115,000 aggregate principal amount of serial bonds (the "Serial Bonds") and \$375,000 aggregate principal amount of term bonds (the "Term Bonds") as set out in the Schedule of Maturities and Interest Rates attached hereto as Attachment 1.

(b) Book Entry Registration -

(1) 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 Section 2(e) hereof (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.

(2) 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 4) 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.

(3) The Blanket Issuer Letter of Representations, a copy of which is attached hereto as Attachment 4, 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.

(4) (i) 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.

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

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

(B) 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.

(iii) 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 Section 2(b)(4)(i) or Section 2(b)(4)(ii) hereof 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.

(5) 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.

- (c) Numbering - The Bonds shall be numbered in consecutive numerical order from R-1 upwards as issued.
- (d) Date of Bonds - The Bonds shall initially be dated April 4, 2012. Bonds issued upon exchanges and transfers of Bonds shall also be dated April 4, 2012 if issued prior to November 1, 2012, and if issued upon such exchanges and transfers on or after November 1, 2012, 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.
- (e) 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 Section 2(b) hereof, such Bond Registrar and Paying Agent is hereby appointed the sole paying agent for the Bonds.

- (f) Principal Maturities - The Serial Bonds shall mature on May 1 in the years and in the amounts set forth in the Schedule of Maturities and Interest Rates attached hereto as Attachment 1. The 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. Term 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 Term 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 Term Bonds to be redeemed. Upon each partial redemption of any Term Bond as a result of such mandatory redemption, a new Term Bond or Term Bonds will be delivered to the owner without charge, representing the remaining principal amount outstanding.
- (g) Optional Redemption - Bonds maturing in the years 2013 through 2017 are payable on their respective stated maturity dates without option of prior payment. 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.

- (h) 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.
- (i) 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 purchase price 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.
- (j) 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 November 1, 2012, 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.
- (k) Source of Payment/Security - The Bonds shall be payable from the City of Mandan Refunding Improvement Bonds of 2012, Series A Fund into which will be deposited payments of principal and interest on the definitive improvement warrants referred to in Section 5 hereof (the "Warrants"), which Warrants were each issued either December 27, 2001 or December 22, 2005 and which Warrants are payable from the funds of various improvement districts specified in the Prior Resolutions which derive their revenues from the levy and collection of special assessments against benefited property.
- (l) 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.

- (m) 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.
  
- (n) Discharge - When all of the Bonds, and the interest thereon have been defeased and discharged as provided in this Section 2(n), all pledges, covenants and other rights granted 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 payable or

prepayable according to their terms, and paying all remaining Bonds on that date, a sum of cash and securities of the types described in North Dakota Century Code 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.

Section 3. Establishment of Refunding Fund. There is hereby created City of Mandan Refunding Improvement Bonds of 2012, Series A Fund (the "Refunding Fund") which shall be maintained by the City Administrator as a separate and special fund for the sole purpose of payment of principal and interest on any outstanding Bonds and shall be maintained until all balances of principal and interest on the Bonds are fully paid. Any proceeds received from the sale of the Bonds remaining after discharge of the Refunded Bonds and payment of costs of issuance pursuant to Section 4 hereof are hereby appropriated and shall be credited to the Refunding Fund. There is also hereby appropriated to the Refunding Fund on discharge of all Prior Bonds all of the funds heretofore appropriated for the payment of the Prior Bonds, and payments shall be made on the Warrants in the same manner as though none of the Refunded Bonds had been refunded. All earnings from investment of the Refunding Fund and all payments of principal and interest made on the Warrants shall be credited to the Refunding Fund and shall be used and applied in payment of the principal and interest on the Bonds as such principal and interest become due.

Section 4. Payment of Costs and Redemption of Refunded Bonds. The proceeds received from the sale of the Bonds (net of any accrued interest) together with any investment earnings on such proceeds and such amounts as needed from the Prior Funds shall be used and applied to pay and redeem the principal of the Refunded Bonds on May 1, 2012 and interest accrued thereon to such redemption date and to pay costs of issuance of the Bonds. The City Administrator is hereby authorized and directed, if not already having caused the same to be done, to cause Notices of Redemption, in substantially the forms as attached to this Resolution as Attachment 3, to be timely mailed to the registered owners of the Refunded Bonds and to the paying agent therefor. The City Administrator is further authorized and directed, in conjunction with the City's financial consultant, to cause the aforementioned payments and deposits, and such transfers necessary therefor, to be timely made.

Section 5. Transfer of Warrants. It is hereby found, determined and declared that the Warrants held as assets of the 2005 Fund pursuant to the 2005 Resolution and the 2008 Fund pursuant to the 2008 Resolution shall, simultaneously with discharge of the Refunded Bonds herein authorized, be immediately transferred and deposited into the Refunding Fund created hereby, and shall be held as assets in trust for the holders of the Bonds.

Section 6. Covenants and Agreements of the City. The City hereby covenants and agrees with the holders from time to time of the Bonds:

- (a) That the Warrants are validly issued and that special assessments are validly levied for the payment of the costs of the improvements defrayed thereby and are payable in years and amounts required by law and that the City will use due diligence to pay the Warrants and to levy and collect the special assessments.
- (b) That it will preserve and enforce for the security of the Bonds all of the rights, powers and privileges reserved to holders of the Warrants and all of the covenants of the City as provided in the original financing resolutions authorizing the same.
- (c) That the City recognizes its obligations under the provisions of Section 40-26-08 of the North Dakota Century Code that whenever all special assessments, utility revenues and taxes, if any, appropriated and theretofore collected for the improvements for which the Warrants were issued are insufficient to pay principal or interest then due on such Warrants, this governing body 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, in its discretion, to levy such a tax if at any time a deficiency 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 Refunding Fund.
- (d) In the event the monies in the Refunding Fund should at any time be insufficient to make payments of principal and interest then due on the Bonds, said moneys shall be applied as follows: First, to the payment to the persons entitled thereto of all installments of interest then due on the Bonds (including any interest on overdue principal) in the order of the maturity of such installments, earliest maturities first, and, if the amounts available shall not be sufficient to pay in full any installments of interest maturing on the same date, then to the payment thereof ratably, according to the amount due thereon, to the persons entitled thereto; and Second, to the payment to the persons entitled thereto of the unpaid principal and premium, if any, due and unpaid on the Bonds at the time of such payment, ratably, according to the amounts due respectively for principal and redemption premium, to the persons entitled thereto without any discrimination or preference. The City reserves the right and privilege of refunding any of such matured Bonds for the payment of which moneys are not at the time available by issuing new refunding

improvement bonds pursuant to Chapter 40-27 of the North Dakota Century Code.

Section 7. Arbitrage. 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 applicable thereto, 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.

Section 8. Qualified Tax-Exempt Obligations. 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 "private activity bonds" except for "qualified 501(c)(3) bonds" as defined in the Code) 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.

Section 9. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the holders of the Bonds, to enter into a written undertaking (the "Undertaking") required by SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. This Undertaking shall be enforceable by the holders of the Bonds, or by the Purchaser on behalf of such holders (provided that the rights of the holders and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific enforcement of the obligations thereunder and any failure by the City to comply with the provision of this Undertaking shall not be an event of default with respect to the Bonds). The City Administrator and President of the Board of City Commissioners shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 10. Other Proceedings. 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 all 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.

Section 11. Official Statement. The Final Official Statement, dated March 6, 2012, relating to the Bonds is hereby approved and the City Administrator is authorized to certify to its correctness and completeness.

Section 12. Amendment. All prior resolutions and other acts or proceedings of this governing body which are in any way inconsistent with the terms of this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

(REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

Adopted this 20th day of March, 2012.

ATTEST:

CITY OF MANDAN, NORTH DAKOTA

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
President, Board of City Commissioners

( S E A L )

The governing body of the political subdivision acted on the foregoing resolution on March 20, 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.

CITY OF MANDAN  
 COUNTY OF MORTON  
 STATE OF NORTH DAKOTA

\$1,490,000  
 REFUNDING IMPROVEMENT BONDS OF 2012, SERIES A

SCHEDULE OF MATURITIES AND INTEREST RATES

\$1,115,000 Serial Bonds

<u>Year</u>	<u>Amount</u>	<u>Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Rate</u>
2013	\$300,000	0.35%	2015	\$270,000	0.65%
2014	280,000	0.50	2016	265,000	0.80

\$195,000 1.05% Term Bonds Due May 1, 2018

Mandatory Sinking Fund Redemption Installments

<u>Redemption Date</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>
2017	\$100,000
2018*	95,000

\*Final Maturity

\$180,000 1.55% Term Bonds Due May 1, 2020

Mandatory Sinking Fund Redemption Installments

<u>Redemption Date</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>
2019	\$ 90,000
2020*	90,000

\*Final Maturity

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

REFUNDING IMPROVEMENT BOND OF 2012, SERIES A

No. R-

<u>RATE</u>	<u>MATURITY</u>	<u>DATE OF ORIGINAL ISSUE</u>	<u>CUSIP</u>
-------------	-----------------	-------------------------------	--------------

April 4, 2012

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS that the City of Mandan, North Dakota (the "City"), 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 of 2012, Series A 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 November 1, 2012, 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 \$1,490,000.00, 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 \$1,490,000 Refunding Improvement Bonds of 2012, Series A, adopted by the Board of City Commissioners (the "Resolution"), for the purpose of refunding the Refunded Bonds as defined and described in the Resolution (the "Refunded Bonds"), 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.

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 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 City has duly created the Refunding Fund as a separate and special fund and has appropriated thereto all of the funds heretofore appropriated for the payment of the Refunded Bonds; that the City has appropriated proceeds of the Bonds of this issue and other available funds to pay and redeem the Refunded Bonds at their earliest redemption date; that the assets appropriated to the Refunding Fund, all as more fully specified in the Resolution, consist of definitive improvement warrants (the "Warrants") validly issued and collections of special assessments validly levied for the payment of the cost of improvements benefiting various improvement districts within the City, which Warrants and assessments are payable in the years and amounts required by law; that the City shall use due diligence to pay the Warrants and to collect such special assessments and, in the event of a deficiency in any of the improvement district funds for the payment of the Warrants issued thereon, the City is further required to levy a tax on all taxable property within the City for the payment and discharge of such deficiency, without limitation as to rate or amount; and that all collections of such special assessments, and any deficiency taxes, are required to be credited to the Refunding Fund and applied in payment of the principal of and interest on the Bonds of this issue, all as more fully stated in the Resolution, to which reference is hereby made for further details and other covenants 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 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

CITY OF MANDAN, NORTH DAKOTA

\_\_\_\_\_  
President, Board of City Commissioners

Attest:

By: \_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
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 4th day of April, 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

\_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_  
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.

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

\$1,490,000  
City of Mandan, North Dakota  
Refunding Improvement Bonds of 2012, Series A

I have acted as bond counsel in connection with the issuance by the City of Mandan, North Dakota (the "Issuer") of \$1,490,000 Refunding Improvement Bonds of 2012, Series A, initially dated as of April 4, 2012 (the "Bonds") pursuant to a resolution entitled "Resolution Authorizing Issuance of \$1,490,000 Refunding Improvement Bonds of 2012, Series A" adopted by the Board of City Commissioners of the Issuer (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 November 1, 2012, 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.

Capitalized terms used in this opinion and not defined herein shall have the same meaning as given to such terms 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 any 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 of 2012, Series A Fund (the "Refunding Fund") in which, as specified in the Resolution, the Issuer holds, in trust for the owners of the Bonds, definitive improvement warrants (the "Warrants") issued on the funds of various improvement districts (the "Districts") of the Issuer.
2. The Warrants have been duly authorized, executed and delivered in anticipation of the collection of special assessments levied to pay for improvements for the Districts.

3. All taxable property in the territory of the Issuer is subject to ad valorem taxation without limitation as to rate or amount to pay any deficiency on the Warrants. The Issuer is required by law to include in its annual tax levy the principal and interest coming due on the Warrants to the extent the necessary funds are not provided from special assessments or other sources.
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. The Issuer has directed proceeds of the Bonds and other available funds to be deposited with the paying agent for the Refunded Bonds for the purpose of paying and redeeming the Refunded Bonds at their earliest redemption date.
6. 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 owner or owners 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

NOTICE OF REDEMPTION  
CITY OF MANDAN

STATE OF NORTH DAKOTA  
Refunding Improvement Bonds of 2005, Series C  
Dated December 15, 2005

NOTICE IS HEREBY GIVEN that the City of Mandan, North Dakota, has called for redemption and will redeem and pay on May 1, 2012, the 2013-2020 maturities (\$785,000) of the Refunding Improvement Bonds of 2005, Series C.

<u>Maturity</u>	<u>Principal Amount</u>	<u>Rate</u>	<u>CUSIP</u>
2013	\$100,000	3.75%	562570 UR0
2014	\$100,000	3.80%	562570 US8
2015	\$100,000	3.85%	562570 UT6
2016	\$100,000	3.90%	562570 UU3
2017	\$100,000	3.95%	562570 UV1
2018	\$95,000	4.00%	562570 UW9
2019	\$95,000	4.05%	562570 UX7
2020	\$95,000	4.10%	562570 UY5

Each Bond so called for redemption will become due and payable on May 1, 2012 at a redemption price equal to its face value plus accrued interest thereon to May 1, 2012. The said Bonds due after May 1, 2012, should be presented at Starion Bond Services, 109 First Street NW, Mandan ND 58554. The said Bonds will cease to bear interest after May 1, 2012 whether or not so presented.

City of Mandan  
North Dakota  
James Neubauer, City Administrator/City Auditor

NOTICE OF REDEMPTION  
CITY OF MANDAN

STATE OF NORTH DAKOTA  
Refunding Improvement Bonds of 2008, Series A  
Dated April 1, 2008

NOTICE IS HEREBY GIVEN that the City of Mandan, North Dakota, has called for redemption and will redeem and pay on May 1, 2012, the 2013-2016 maturities (\$670,000) of the Refunding Improvement Bonds of 2008, Series A.

<u>Maturity</u>	<u>Principal Amount</u>	<u>Rate</u>	<u>CUSIP</u>
2013	\$180,000	2.90%	562570 C33
2014	\$165,000	3.10%	562570 C41
2015	\$165,000	3.30%	562570 C58
2016	\$160,000	3.45%	562570 C66

Each Bond so called for redemption will become due and payable on May 1, 2012 at a redemption price equal to its face value plus accrued interest thereon to May 1, 2012. The said Bonds due after May 1, 2012, should be presented at Starion Bond Services, 109 First Street NW, Mandan ND 58554. The said Bonds will cease to bear interest after May 1, 2012 whether or not so presented.

City of Mandan  
North Dakota  
James Neubauer, City Administrator/City Auditor



Blanket Issuer Letter of Representations  
(To be Completed by Issuer)

CITY OF MANDAN, 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 10041-0089

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 Mandan, North Dakota  
(Issuer)

By: Phyllis Graner  
(Authorized Officer's Signature)

Phyllis Graner, Acting City Auditor  
(Type name and title)

209 2nd Avenue NW  
(Street Address)

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

701-667-3215  
(Phone Number)

Received and Accepted:

THE DEPOSITORY TRUST COMPANY  
By: [Signature]

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.