

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

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- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. MINUTES:
1. Consider approval of the minutes from the November 6, 2012 Board of City Commission meeting.
- C. PUBLIC HEARING:
1. Consider approval of Heart Ridge 2<sup>nd</sup> Addition Zone Change. (First consideration of ordinance #1134)
- D. BIDS:
- E. CONSENT AGENDA:
1. Consider approval of monthly bills.
  2. Consider proclamation of Small Business Saturday on Nov. 24
  3. Consider games of chance for ND Chapter of Wildlife Soc. at the Seven Seas Motel on February 13, 2013.
  4. Consider transferring funds from Fiscal Year 2012 to Fiscal Year 2013 for WTP Capital Outlay Budget.
  5. Consider budget amendment request for fire department 2012 training funding.
  6. Consider time extension request to complete Street Improvement District No 161 & 167
  7. Consider approval of specifications and authorization of advertisement for bids on outdoor warning siren system for the City of Mandan.
- F. OLD BUSINESS:
- G. NEW BUSINESS:
1. Consider proposals for redevelopment of Collins & Main property
  2. Consider purchase agreement with Harmony Properties, LLC, for the former water reservoir property
  3. Presentation by Mike Manstrom, Dougherty & Company LLC, regarding the sale of \$480,000 Refunding Improvement Bonds, Series SCG-2012. (See Resolutions #4)

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4. Consider appointment to the Morton Mandan Public Library (MMPL) Board of Trustees.
5. Update by Kurt Keifer, Dynatest Consulting Inc., on the MicroPAVER pavement management system.

H. RESOLUTIONS AND ORDINANCES:

1. *Consider second consideration and final passage of Ordinance No. 1132 - An Ordinance to Create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Prohibition Against Occupying a Recreational Vehicle or Camper Vehicle for the Purpose of a Residence Within the City Limits of Mandan as amended.*
2. *Consider first consideration of Ordinance No. 1134 Zone Change for Heart Ridge 2<sup>nd</sup> Addition, Lots 15 & 16 – An ordinance to amend and reenact section 21-03-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map*
3. Second and final reading of resolution to correct an unnamed street on Lakewood 6<sup>th</sup> Addition plat. Approval of the Resolution will name the street 34<sup>th</sup> Avenue SE.
4. Consider Resolution Awarding Sale of Warrants and Bonds for Sidewalk, Curb and Gutter of 2011 and Sidewalk, Curb and Gutter of 2012.
5. *Consider introduction and first consideration of Ordinance 1135 - An Ordinance to Create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Neighborhood Recreation and Open Space Requirements.*

I. OTHER BUSINESS:

1. Consider rescheduling January 1, 2013 City Commission Meeting
2. Consider moving into executive session under North Dakota Century Code Section 44-04-19.1 for attorney consultation regarding contract negotiations and instructions related to the proposals for development of city-owned property located at the corner of Collins Ave & Main Street.

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. December 4, 2012
2. December 18, 2012
3. January 1, 2013 (Change date?)

K. ADJOURN

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

The Mandan City Commission met in regular session at 4:00 p.m. on November 6, 2012 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Frank, and Braun. Department Heads present were: Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, Engineering Project Manager Kim Fettig, and City Assessor Barta.

2. *Employee Service Awards:* Mayor Van Beek presented the following awards:

**40 YEARS OF SERVICE:**

Gary Schmidt Water Plant Operator III

**35 YEARS OF SERVICE:**

Richard Barta Assessor/Building Inspection Official

Lori Flaten Police Lieutenant/CID

**30 YEARS OF SERVICE:**

Dennis Braun Firefighter

**25 YEARS OF SERVICE:**

Jon Benz Senior Appraiser/Inspector

Terry Piper Circulation/Technical Service Assistant

Chris Miller Police Lieutenant/Information Technology

Ed Boehm Equipment Operator II

Steve Himmelspach Wastewater Plant Superintendent

**20 YEARS OF SERVICE:**

Greg Welch Finance Director

Bruce Beehler Fire Captain

Ray Eckroth Firefighter/Safety Officer

**15 YEARS OF SERVICE:**

Steve Kilen Fire Captain

Daniel Poppe Police Field Training Officer

Gerald Getz Equipment Operator II

**10 YEARS OF SERVICE:**

Calvin Bullinger Animal Control Officer

**5 YEARS OF SERVICE**

Nancy Moser Administrative Assistant

Deb Zodrow Administrative Technician

Eddy Olson Senior Building and Grounds Worker

Clayton Schaff Firefighter/EMT

Linda Austin Children’s Program Coordinator

Patrick Haug Police Sergeant

Peter Czapiewski Police Detective

Robert McClure Equipment Operator I

**MINUTES:**

1. Consider approval of the following minutes from the Board of City Commission meetings: October 16, 2012 – Regular meeting and October 31, 2012 – Special Meeting.

Commissioner Tibke moved to approve the minutes of the October 16, 2012 Regular meeting and the October 31, 2012 Special Meeting. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

PUBLIC HEARING:

1. (Scheduled for 4:30 p.m.) *Public Hearing to consider an Ad Valorem tax exemption for Mandan Hotel Group – Comfort Inn.* City Assessor Barta reviewed with the Board a request from the Mandan Hotel Group to consider a 5-year tax exemption for the development of a new 86-room hotel structure. The County, School District and Park Board were notified and there was no opposition received. The property is located at 2801 Sunset Drive Northwest. Barta stated that the Mandan Growth Fund has recommended approval of the exemption with conditions of 100% exemption in years 1 and 2, 75% in year 3, 50% in year 4, 25% in year 5 due to the number of jobs created all pursuant to the City of Mandan's Commercial Property Tax Exemption policy and guidelines and also under state statute. He estimated the taxes to be approximately \$100,000. Don McGuire from the Mandan Hotel group came forward and commented that the cost of the project will be approximately \$8.5 million and that it will generate approximately \$5 million revenue to the community.

Mayor Van Beek announced that this is a public hearing and invited comments from the public. A second announcement was made to invite comments from the public. Hearing none, this portion of the public hearing was closed.

BIDS:

CONSENT AGENDA:

1. *Approve the MOU with the Mandan School District for the School Resource Officer Program.* The Board approved of the MOU with the Mandan School District for the School Resource Officer Program.
2. *Consider approval of a variance for Douglas Bohl.* The Board approved of a variance for Douglas Bohl.
3. *Consider for approval the final plat of Titan Addition.* The Board approved of the final plat of Titan Addition.
4. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications for Street Improvement District No. 176, Project No. 2012-20 (Lakewood 6<sup>th</sup> & 7<sup>th</sup> Additions).* The Board approved of the creation of, approval of the feasibility report for, approve the plans and specifications for Street Improvement District No. 176, Project No. 2012-20 (Lakewood 6<sup>th</sup> & 7<sup>th</sup> Additions).
5. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications for and authorize a call for bids on Water & Sewer Improvement District No. 60, Project 2012-21 (Lakewood 6<sup>th</sup> & 7<sup>th</sup> Additions).* The Board approved of the creation of, approval of the feasibility report for, approve the plans and specifications for and authorize a call for bids on Water & Sewer Improvement District No. 60, Project 2012-21 (Lakewood 6<sup>th</sup> & 7<sup>th</sup> Additions).

6. *Consider budget amendment to the 2012 Forestry Department Budget to replace old Chipper.* The Board approved of the budget amendment to the 2012 Forestry Department Budget to replace the old Chipper.
7. *Consider closing Administrative offices day after Thanksgiving.* The Board approved of the closing of the Administrative offices the day after Thanksgiving.
8. *Consider games of chance for Bucks for Bales at the Broken Oar from November 6, 2012 through December 17, 2012.* The Board approved of games of chance for Bucks for Bales at the Broken Oar from November 6, 2012 through December 17, 2012.
9. *Consider transferring Capital Outlay funds from the 2013 Street Department Budget to purchase Front End Loaders and snow removal equipment in 2012.* The Board approved the transferring of Capital Outlay funds from the 2013 Street Department Budget to purchase Front End Loaders and snow removal equipment in 2012.

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

OLD BUSINESS:

1. *Request to vacate resolutions approved September 18<sup>th</sup>, 2012, for Project # 2012-20 Street Improvement District 176 (Lakewood 6<sup>th</sup> & 7<sup>th</sup>) and Project # 2012-21 Water and Sewer District 60 (Lakewood 6<sup>th</sup> & 7<sup>th</sup>).* Engineering Project Manager Kim Fettig reviewed this project with the Board. She stated that errors were discovered in this project that was approved on September 18, 2012. The Engineer's Report had numbers that were incorrect, street name information that was wrong and the legal description of districts was not included. In addition, the petition was not signed. She stated this is brought back before the Commission to vacate the action taken on September, 18, 2012. Once vacated, the project will be brought back for approval that will include the correct information.

Commissioner Frank moved to vacate the resolutions approved September 18<sup>th</sup>, 2012, for Project # 2012-20 Street Improvement District 176 (Lakewood 6<sup>th</sup> & 7<sup>th</sup>) and Project # 2012-21 Water and Sewer District 60 (Lakewood 6<sup>th</sup> & 7<sup>th</sup>). Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

NEW BUSINESS:

1. *Introduction of new Police Officers:* Chief Bullinger introduced new officers:
  - i. *Jared Lemieux:* Officer Lemieux is a graduate of Dakota College in Bottineau where he earned an Associate's Degree in Liberal Arts. He completed the Law Enforcement Training Program. His previous work experience includes working security at the ND State Capitol with the Highway Patrol office, a Residential Treatment Advisor with Dakota Boys Ranch and a School Detention officer at Wachter Middle School in Bismarck. Chief Bullinger and Mayor VanBeek extended a welcome to Officer Lemieux.

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*ii. Joshua Pastir:* Officer Pastir is a graduate of Northland Community College in Thief River Falls and earned an Associate's Degree in Criminal Justice. He completed the Law Enforcement Training Program. He has served with the US Army in both Iraq and Afghanistan. Chief Bullinger and Mayor VanBeek extended a welcome to Officer Pastir.

2. *Consider authorizing a work change order on Street Improvement District No. 174, Project No. 2012-16 (Plainview Heights 13<sup>th</sup> Addition).* Engineering Project Manager Kim Fettig stated this project is brought before the Commission for approval to change the work order. The purpose for the change is to accommodate weather conditions and to provide paved construction access through the winter season.

Commissioner Tibke moved to approve authorizing a work change order on Street Improvement District No. 174, Project No. 2012-16 (Plainview Heights 13<sup>th</sup> Addition). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

~~3. *Reviewing addresses for Keidel South Terrace Development (Duplicate - see New Business No. 9.)*~~

4. *Consider approval of a Class F beer and wine liquor license for Cory Zimmer at 210 W. Main Street formerly known as Mysteria Theatre.* City Administrator Neubauer reviewed with the Board a request from O.N.E. for a Class F liquor license. He stated that all the background checks have been conducted and came back clear and that all paperwork is in order. The owners are present if the Board wishes to ask any questions of them. A O.N.E. representative, Scott Bennett, stated that the plan is to host concerts, symphony, comedy and dinner theatre type events and they would like to have the option of offering liquor at the venue. Commissioner Frank inquired if the events would include events wherein all-age groups would be included and there would not be a set menu. A Class F license is one that is intended for restaurants so there would be a proportionate amount of food as the beverages served. Cory Zimmer of O.N.E. indicated that a set menu would not be determined until the chef has an idea of what the customer interest is. Commissioner Frank inquired if there is a plan in place to keep track of how much food vs. liquor is sold. Zimmer replied that there will be a P.O.S. system in place that will track the sales. Commissioner Frank inquired how the establishment will handle under-age drinking if there are concerts held. Zimmer stated that they have inquired and were told they would have to rope off the sections, in which they have a plan in place. They also indicated they will have Bis-Man security staff on the premises for such events.

Commissioner Tibke moved to approve the approval of a Class F beer and wine liquor license for Cory Zimmer at 210 W. Main Street formerly known as Mysteria Theatre. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

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5. *Consider Growth Fund Committee recommendation on a property tax incentive for a new business – Mandan Hotel Group at for construction adjacent to 27<sup>th</sup> Street NW.* Business Development and Communication Director Ellen Huber stated that the Mandan Growth Fund met on October 29, 2012 to review the application by the Mandan Hotel Group. She concurred with the figures provided by Mr. McGuire that the hotel projected hospitality taxes are estimated at \$45,000. She stated that The Ridge was the last hotel to be constructed in Mandan and that was in 1983. Bismarck has issued building permits for 6 new hotels since 2010. She stated that the recommendation from the Mandan Growth Fund is within the criteria for a property tax exemption of the 100% in years 1 and 2, 75% in year 3, 50% in year 4, 25% in year 5.

Commissioner Frank moved to approve a property tax exemption for the Mandan Hotel Group at its 27<sup>th</sup> Street NW location for years 1 and 2 at 100%; and years 3, 4, and 5 at 75%, 50% and 25% respectively. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

City Administrator Neubauer stated that he has met with members of the Mandan Growth Fund and they have put together a revised draft of the policy (Property Tax Exemptions) with plans to bring it to the Board the first part of December.

6. *Consider the creation of, approve the feasibility report for, approve the plans and specifications for, and authorize the advertisement of the Resolution of Necessity for Street Improvement District No. 163 Project # 2012-01 (Sunset Drive NW).* Engineering Project Manager Kim Fettig stated this request is brought for approval to create a special assessment district and to authorize the paperwork for the project. The project has been created to allow for new street work on Sunset Drive NW including new curb and gutter, asphalt or concrete street, storm sewer, street lights and chip seal.

Commissioner Frank inquired of the percentage of homeowners who will be affected with assessments for this project and the northwest project. Fettig replied that the office has not had a chance to determine the assessment cost per lot or the overlap for the streets being affected. Commissioner Frank inquired as to what would be the arterial to the west of Sunset Drive that will be accessible for homeowners in that area. City Administrator Neubauer stated that Lohstreter Street.

Commissioner Frank asked whether there is any flexibility without knowing what the assessment cost will be? Neubauer stated that the DOT has the project out for bids and they can hold those bids for 30 days. He explained that once the assessment district is approved, you are unable to go in and change those boundaries. The costs are being worked on and a letter will be sent to the homeowners in that district for a range of what those costs will be within a week or two. Because Collins Ave is a main arterial a combination of funding sources will be utilized including sales tax, city wide mill levy, federal and state matching funds and a portion special assessed, thereby bringing down the costs to the homeowner. Commissioner Frank stated that it will be important not to overburden the costs to the residents. Houston Engineering explained how the detour route will be

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placed during the construction phase. Commissioner Rohr inquired about parking. Casey Einrem of Houston Engineering replied that off street parking will be allowed in that area on a temporary basis – based on their canvassing of those living along Sunset Drive, 90-95% of those in favor of off street parking at the public input meeting.

Commissioner Tibke moved to approve the creation of, approve the feasibility report for, approve the plans and specifications for, and authorize the advertisement of the Resolution of Necessity for Street Improvement District No. 163 Project # 2012-01 (Sunset Drive NW). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

7. *Consider the creation of, approve the feasibility report for, approve the plans and specifications for Storm Sewer Improvement District No. 32 Project # 2012-23 (Sunset Drive NW).* Engineering Project Manager Kim Fettig stated this request is to create a special assessment district and to authorize the paperwork for the project. It has been created to add sewer inlets, manholes, and pipe storm water that is running down Sunset drive causing erosion and some flooding of private properties. Commissioner Frank inquired if there are any cost estimates for this district. Fettig replied that the project cost has been determined but individual resident cost assessments have not yet been determined.

Commissioner Frank moved to approve the creation of, approve the feasibility report for, approve the plans and specifications for Storm Sewer Improvement District No. 32 Project # 2012-23 (Sunset Drive NW). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

8. *Consider the creation of, approve the feasibility report for, approve the plans and specifications for Water & Sewer Improvement District No. 61 Project # 2012-24 (Sunset Drive NW).* Engineering Project Manager Kim Fettig stated this request is to create a special assessment district and to authorize the paperwork for the project. It has been created to replace the aging water and sewer mains along Sunset Drive NW. The water mains in that area have several breaks and have become unreliable in providing water and fire protection in that area.

Commissioner Tibke moved to approve the creation of, approve the feasibility report for, approve the plans and specifications for Water & Sewer Improvement District No. 61 Project # 2012-24 (Sunset Drive NW). Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

9. *Consider approval of residents requesting to re-establish their previous house number changes in the new Keidel's South Terrace development.* Wayne Muth, one of

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the residents who filed the request to re-establish their previous house number changes in the new Keidel's Development came forward to speak in support of this request. He stated the four homes involved recently received a letter advising them their house numbers were going to change. He mentioned they did not have an opportunity to provide input and they do not see any reason to change the numbers. He referenced a letter that was signed by all four parties and sent to the City Commission on October 15, 2012 in opposition to the house number changes. He indicated they were concerned about the costs involved to the four parties if the numbers were to change. He said there were at least four occasions in which he discussed his housing plans with the City Assessor; in particular, what the house number would be on his home. He said their request before the Commission is to allow the six house numbers that would be affected be exempt from the number changes.

Commissioner Rohr questioned whether there would be any repercussions if the numbers were left as they are? Tammy Lapp-Harris from Morton County Emergency Management explained that when the numbers start on that road in the 1800's, they then drop down to these lower numbers and then go back up to the 1500's. She said that the Police and Fire Departments were asked if the numbers could be confusing to them and they replied "yes" for the newer members of their departments that come on. That is what prompted the request to the City Assessor's office to change those house numbers. Barta explained that he used the 400 numbers initially because of the street that is in there. It is the emergency responders who are asking these 400 numbers be changed for consistency.

Mr. Muth stated that his contractor said the cost would be in excess of \$500 to change out the numbers. However, there are other costs involved such as driver's license address changes, legal documents, banking documents. There is a cost incurred every time you change an address. Commissioner Frank stated that it appears this was an error on the city's behalf. She inquired if it has been discussed as to how this would impact the needs of the citizens and the emergency services involved. Barta replied that it has been discussed with city staff, not the homeowners.

Fire Chief Nardello stated that the first responders do not see the address. He said he was made aware of the problem by the Emergency Management Department and in the future first responders should be part of the discussions on these matters. He stated that Bismarck had a similar problem. The homeowners corrected their information and provided Bismarck with the receipts of expenses and it was paid for out of the Building Permit Revenue fund. He stated that correct sequencing of house numbers is important for emergency responders. Commissioner Tibke commented that this actually happened to her at one time and she agreed that it was very frustrating. She recommended the changes be made consistent with the request of the Emergency Management and that the costs should come out of the City Assessor budget.

Commissioner Frank motioned to change the house addresses to reflect the request based on emergency services but also to have homeowners submit receipts to the City for their expenses directly associated with the changes. Commissioner Braun seconded the

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

RESOLUTIONS & ORDINANCES:

1. *Consider second consideration and final passage of Ordinance No.1133 Zone Change for Meadows 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.*

Commissioner Frank motioned to approve the second consideration and final passage of Ordinance No.1133 Zone Change for Meadows 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. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider second consideration and final passage of Ordinance 1131, 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 2-138N-81W).*

Commissioner Tibke moved to approve second consideration and final passage of Ordinance 1131, 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 2-138N-81W). Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider introduction and first consideration of Ordinance No.1132 - An Ordinance to Create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Prohibition Against Occupying a Recreational Vehicle or Camper Vehicle for the Purpose of a Residence Within the City Limits of Mandan.* Police Chief Bullinger stated the purpose of Ordinance 1132 is to limit the use of camper vehicles and other non-permanent structures for permanent human habitation. This ordinance would allow for safe, comfortable and sanitary use of camper vehicles and other non-permanent structures for short term temporary use for human habitation purposes. This is an ordinance that the City of Williston recently adopted and passed.

For enforcement purposes, the Mandan Police Department will receive the call and contact City Assessor Barta's office for investigation; and, if necessary, turn it over to the City Prosecutor's office. Assessor Barta requested this policy include a provision so that it could also be utilized by an owner of the property (and not just limited to construction site workers). City Attorney Brown stated that this can be approved as written and the second consideration could address a property owner being allowed to place a recreational vehicle on his property for his use.

Commissioner Frank moved to approve, as drafted, the introduction and first consideration of Ordinance No.1132 - An Ordinance to Create and Enact Chapter 14-12 of the Mandan Code of Ordinances Relating to Prohibition Against Occupying a

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Recreational Vehicle or Camper Vehicle for the Purpose of a Residence Within the City Limits of Mandan.

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

4. *Consider Financing Resolution for Street Improvement District #161 (North Mandan Street Project). (Note: Bond sale was approved by the Board on October 31, 2012).* Finance Director Welch stated that this resolution and the following resolution are necessary to complete the action that was taken at the last meeting approving the bond sales. Commissioner Rohr motioned to approve the Financing Resolution for Street Improvement District #161 (North Mandan Street Project). (Note: Bond sale was approved by the Board on October 31, 2012). Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Consider Resolution Authorizing Issuance of \$5,155,000 Refunding Improvement Bonds of 2012, Series B. (Note: Relates to Agenda item H.4).* Commissioner Tibke moved to approve the Resolution Authorizing Issuance of \$5,155,000 Refunding Improvement Bonds of 2012, Series B. (Note: Relates to Agenda item H.4). Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

6. *Consider Resolution to correct an unnamed street on Lakewood 6<sup>th</sup> Addition plat. Approval of the Resolution will name the street 34<sup>th</sup> Avenue SE.* City Attorney Brown stated that when Lakewood 6<sup>th</sup> was platted there was a street on the west side that was not named and the street needs to be named. Commissioner Tibke moved to approve the Resolution to correct an unnamed street on Lakewood 6<sup>th</sup> Addition plat. Approval of the Resolution will name the street 34<sup>th</sup> Avenue SE. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

**OTHER BUSINESS:**

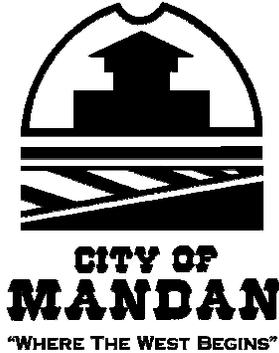
1. *Election Day 2012:* Mayor Van Beek reminded everyone to get out and vote today.

There being no further actions to come before the Board of City Commissioners, Commissioner Frank moved to adjourn the regular meeting at 5:30 p.m. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

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James Neubauer,  
City Administrator

Arlyn Van Beek,  
President, Board of City  
Commissioners



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20<sup>th</sup>, 2012  
**PREPARATION DATE:** November 13<sup>th</sup>, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:** Kim Fettig, Project Manager  
**PRESENTER:** Kim Fettig, Project Manager  
**SUBJECT:** Consider a change of zoning of Lots 15 & 16,  
Block 2 of Heart Ridge 2<sup>nd</sup> Addition

STATEMENT/PURPOSE: Request to change the zoning of Lots 15 & 16, Block 2 of Heart Ridge 2<sup>nd</sup> Addition from R7 (Single-Family Residential) to RM (Multi-Family Residential) restricted to 10 units per acre on Lot 15 and R3.2 (Two-Family Residential) on Lot 16.

BACKGROUND/ALTERNATIVES: The Planning & Zoning Commission first voted on this item on September 24, 2012. That vote was split and the item was brought forth again on October 22<sup>nd</sup>, 2012. The item passed 7 aye/3 nay (*Bitz, Van Beek and Laber*), with the following restrictions: Lot 15 changed to RM (Multi-Family Residential) restricted to 10 units per acre. Lot 16 changed to R3.2 (Two-Family Residential). Jim Davis, resident, was present at both meetings. He is concerned about saturation and multi-family being next to the single family in Keidels Addition.

ATTACHMENTS:

1. Office Report
2. Map
3. Ordinance
4. Planning & Zoning minutes on this item

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, restricted to 10 units per acre) on Lot 15 and R3.2 (Two-Family Residential) on Lot 16.

MANDAN PLANNING OFFICE REPORT  
November 13<sup>th</sup>, 2012

Applicant(s): Wachter Development

Owner(s): same

Requested Action: Zone Change Approval

Name of Subdivision: Heart Ridge 2<sup>nd</sup> Addition

Legal Description: Lots 15 & 16, Block 2

Located: 19<sup>th</sup> Street SE

Parcel Acreage: 20.2

Existing Land Use: vacant

Proposed Land Use: multi-family

Adjacent Land Use: Ag and Single Family

Existing Zoning: R7 (Single-Family Residential)

Proposed Zoning: Lot 15 -RM (Multi-Family Residential, restricted to 10 units per acre), and Lot 16-R3.2 (Two-Family Residential).

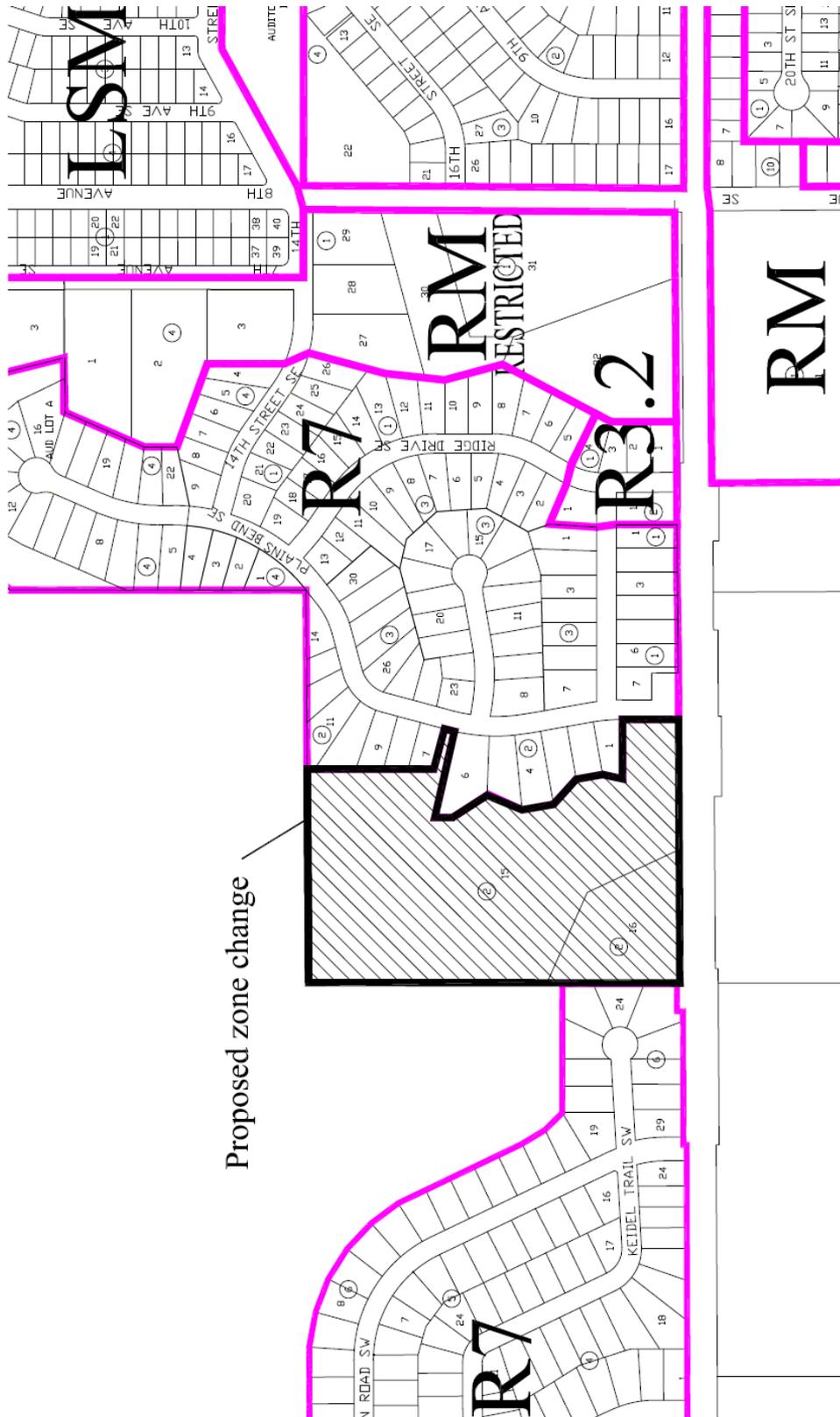
Adjacent Zoning: R7 (Single-Family Residential) and A (Agricultural)

Fee(s) Required: \$250.00      Date Received: August 30, 2012

Adjacent Property Owner Notification: October 25<sup>th</sup>, 2012

Dates of Legal Notices: November 2<sup>nd</sup> & 9<sup>th</sup>, 2012

Recommendations:



**ORDINANCE NO. 1134**

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

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

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

The following described property located within the City of Mandan, Morton County, North Dakota shall be excluded from the R7 (Single -Family Residential) and shall be included in the following:

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

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

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

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

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

Attest:

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

Public Hearing:	<u>October 22, 2012</u>
First Consideration:	<u>November 20, 2012</u>
Second Consideration and Final Reading:	<u>December 4, 2012</u>
Publication Date:	_____
Recording Date:	_____

from the September 24<sup>th</sup>, 2012 Planning & Zoning Minutes:

**New Business**

**2. A request from Wachter Development for a change of zoning. The request is to change the zoning of Lots 15 & 16, Block 2, Heart Ridge 2<sup>nd</sup> Addition, in Section 34, Township 139N, Range 81W from R7 (Single-Family Residential) to RM (Multi-Family Residential). The property is located on 19<sup>th</sup> Street SE.**

Kim Fettig, Engineering and Planning Department, identifies and describes the area. Kim says the office does not recommend RM (Multi-Family), because it is situated in the middle of R7 (Single-Family) on either side.

Dave Patience, Swenson and Hagen, says it is R7 because anytime land is annexed into the city it is automatically R7 no matter what the intended use is. This property is extremely steep and he says there are only about 30% usable areas on each of the lots. For a developer, the only way to get any use out of the property is to cluster townhomes or condos on top of the hill. They would have to construct an approximate 1000 ft. road down to the creek before building by the creek and that won't happen.

Commissioner Laber is hesitant to change the zoning to RM before knowing what the project will be.

Dave Patience says the developer can't market without zoning it to RM.

Commissioner Leingang points out there would be a lot of green space between this development and the single family. He suggests restricting to 10 units per acre.

*Commissioner Leingang motions to approve the zone change of Lot 16 to R3.2 (Two-Family Residential) and Lot 15 to RM (Multi-Family Residential) restricted to 10 units per acre. Commissioner Fleischer seconds.*

A gentleman addresses the commission and says his friend is building a single family in Keidel's Addition next to Lot 16 and was not expecting multi-family.

Dave Patience says the preliminary plat was before the commission a year and a half ago with the plans calling for RM on these two lots.

Commissioner Bitz says it is illegal for the County Planning & Zoning Commission to restrict uses in a zoning category. He does not know if it is for the city.

*The commission takes a roll call vote on the motion made. Bitz-nay, Fleischer-aye, Hilfer-aye, Robinson-aye, Klein-nay, Knoll-nay, Van Beek-nay, Leingang-aye, Laber-nay, Wetch-aye. The vote is split. Discussion on the item will continue onto the next meeting.*

from the October 22, 2012 Planning & Zoning minutes:

**Old Business**

**Continue discussion on a request from Wachter Development for a change of zoning. The request is to change the zoning of Lots 15 & 16, Block 2, Heart Ridge 2<sup>nd</sup> Addition, in Section 34, Township 139N, Range 81W from R7 (Single-Family Residential) to RM (Multi-Family Residential). The property is located on 19<sup>th</sup> Street SE.**

The vote was split at the September 24<sup>th</sup> meeting. Discussion continues.

Commissioner Leingang drove out to look at the site. He recommends R3.2 on Lot 16 and multi-family on Lot 15. Residential to duplex to multi-family makes sense. If multi-family is not allowed, over 20 acres will not be viable for single-family residential. A school is not far away.

Dave Patience, Swenson & Hagen, shows the commissioners a contour map and a site plan. The site plan shows 6 duplexes on Lot 16 and several apartment buildings that would have no more than 4 units per building. Plans are for several smaller buildings.

Commissioner Bitz says the commission cannot worry if a developer makes money or not. People purchased lots in Keidels for single family and the commission needs to look at protecting them.

Commissioner Pickett suggests a buffer. After reviewing the site, there is green space in between. Commissioner Pickett asks about stormwater and if this is in a floodplain.

Commissioner Leingang feels if it is kept R7 it will never be developed because it is too costly to build single family there.

Dave Patience says the drainage system is well defined. The coulee is 50' wide on bottom, 100' wide on top and 12' deep.

Jim Davis, "My only concern was the saturation level...how many houses were going in down there. The elevation that he's talking about...when you come down the hill from Keidels, it's not 90', it's 90' to the bottom of the coulee, which is...it's much more shallow than from Keidel's down to where the development goes. I was more concerned with the numbers that were going in there. If Wachter was trying to get more than 10 units per acre, because it's the same type of argument as was used along 8<sup>th</sup> Avenue SE and I'm afraid that would come back to haunt me later on if I didn't say something now. The acres that are involved with the amount that is buildable ...I don't want them coming back saying we need to increase the numbers. The Keidel Addition...a friend of mine who was unable to make it last time, I'm not sure why he's not here, anyway he had bought a lot over there and he was a little concerned that if you start building the multi-

family right next to that R7 that the roof tops and stuff are definitely going to be up next to that housing. Because that elevation right beside Keidel is not that low. You have to go over a little ways before your talking 90'. 90' is to the bottom of that coulee there.”

*Commissioner Leingang motions to approve the zone change to RM (Multi-Family Residential) restricted to 10 units per acre on Lot 15 and R3.2 (Two-Family Residential) on Lot 16. Commissioner Fleischer seconds. Upon vote, the motion passes with 7 vote aye and 3 votes nay. Commissioners Bitz, Van Beek and Laber voted nay.*



# CITY OF MANDAN

MANDAN CITY HALL - 205 2nd Avenue NW  
MANDAN, NORTH DAKOTA 58554

701-667-3215 • FAX: 701-667-3223 • www.cityofmandan.com

## Small Business Saturday Proclamation

### CITY DEPARTMENTS

ADMINISTRATION	667-3215
ASSESSING/BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3405
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3208
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

**WHEREAS**, the government of the Mandan, ND, believes that small businesses are the backbone of our economy and the glue that holds communities together; according to the United States Small Business Administration, there are currently 28 million small businesses in the United States, they represent more than 99 percent of American companies, create two-thirds of the net new jobs, and generate half of private gross domestic product; and

**WHEREAS**, small businesses employ ½ of the employees in the private sector in the United States; and

**WHEREAS**, 93% of US consumers believe it's important to support the local small businesses that they value in their community and 89% agree that locally-owned, independent businesses contribute positively through taxes and jobs; and

**WHEREAS**, Mandan, ND supports our local businesses that create jobs, boost our local economy and preserve our neighborhoods; and

**WHEREAS**, advocacy groups and public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

**NOW, THEREFORE**, I, Arlyn Van Beek, Mayor of Mandan, ND do hereby proclaim, November 24, 2012, as:

### **SMALL BUSINESS SATURDAY**

**And** urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

Signed this 20th day of November, in the year 2012.

By: \_\_\_\_\_  
Arlyn Van Beek, President  
Board of City Commissioners

Attest:

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



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

Consent No. 3

Type:     Local Permit    \*  Charity Local Permit

Permit Number  
2012-53

Name of Organization North Dakota Chapter Of Wildlife Soc.		Date(s) Authorized (Read instruction 2) 2/13/2013 to 2/13/2013 Beginning Ending	
Contact Person Chuck Bosch	Business Phone Number (701) 355-8515		
Mailing Address P.o. Box 1442	City Bismarck	State ND	Zip Code 58501-0000
Site Name Seven Seas Motel	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 11/13/2012	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 back 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.

#12-53

Rec. 12-12



APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT  
OFFICE OF ATTORNEY GENERAL  
SFN 9338 (9-2009)

Application for:  Local Permit \*  Charity Local Permit (one event per year)

Name of Non-profit Organization <b>North Dakota Chapter of Wildlife Soc.</b>		Date(s) of Activity <b>February 13, 2013 to February 13, 2013</b>	
Person Responsible for the Gaming Operation and the Disbursement of Net Income <b>Chuck Bosch</b>		Title <b>Fund-raising Chairman</b>	Business Phone Number <b>701-355-8515</b>
Business Address <b>PO Box 1442</b>	City <b>Bismarck</b>	State <b>ND</b>	Zip Code <b>58501</b>
Mailing Address (if different)	City	State	Zip Code
Name of Site Where Game(s) will be Conducted <b>Seven Seas</b>		Site Address <b>2611 Old Red trail</b>	
City <b>Mandan</b>	State <b>ND</b>	Zip Code <b>58554</b>	County <b>Morton</b>
Check the Game(s) to be Conducted: * 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 *	

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Raffle	Gift Card(s)	200	Raffle	wildlife bear	300
Raffle	Gift Card(s)	100	Raffle	wildlife bear	300
Raffle	Decoy	300			
Raffle	Art + wildlife	200			
Raffle	Hunting bear	500			
Raffle	Hunting bear	500			
Raffle	Hunting bear	300			
Raffle	Art	200			
Raffle	Hunting bear	100			
					(Limit \$12,000 per year)
Total:					\$ 3,000

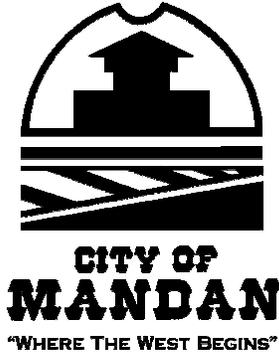
Intended uses of gaming proceeds: \_\_\_\_\_

Does the organization presently have a state gaming license?  No  Yes - If "Yes," the organization is not eligible for a local permit or charity local permit and should call the Office of Attorney General at 1-800-326-9240.

Has the organization received a charity local permit from this or another city or county for the fiscal year July 1 through June 30?  No  Yes - If "Yes," the organization does not qualify for a local permit or charity local permit.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30?  No  Yes - If "Yes," indicate the total value of all prizes previously awarded: \$ 720.00. This amount is part of the total prize limit of \$12,000 per year.

Signature of Organization's Top Executive/Official <i>Scotty McFar</i>	Date <b>10-31-12</b>	Title <b>President</b>	Business Phone Number <b>701-527-1671</b>
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## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20, 2012  
**PREPARATION DATE:** November 14, 2012  
**SUBMITTING DEPARTMENT:** Water Treatment Plant  
**DEPARTMENT DIRECTOR:** Duane Friesz, WTP Superintendent  
**PRESENTER:** Duane Friesz, WTP Superintendent  
**SUBJECT:** Budget Transfer from Fiscal Year 2012 to Fiscal Year 2013.

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STATEMENT/PURPOSE: Transfer funds from the 2012 Water Treatment Plant Capital Outlay budget to the 2013 Water Treatment Plant Capital Outlay budget.

BACKGROUND/ALTERNATIVES: The 2012 Water Treatment Plant Capital Outlay budget contained \$72,000 for the Abrasive Blast and Coating of 2 Million Gallon Concrete Reservoir Dome. Due to weather conditions the contractor was unable to blast and coat the reservoir dome therefore a transfer of \$62,600 from the Water Treatment Plant Capital Outlay 2012 budget to the Water Treatment Plant Capital Outlay 2013 budget would allow for the coating of the reservoir in 2013.

ATTACHMENTS: Contract for Reservoir Coating

FISCAL IMPACT: : Zero overall impact, however, the 2012 budget would be \$62,600 less and the 2013 budget would increase by \$62,600 within account #601.658.62112 Capital Outlay budget for the Water Treatment Plant

STAFF IMPACT: N/A

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

RECOMMENDATION: I recommend approval of the budget transfer of \$62,600 from the 2012 Water Treatment Plant Capital Outlay budget to the 2013 Water Treatment Plant Capital Outlay budget.

SUGGESTED MOTION: I move to approval the budget transfer of \$62,600 from the 2012 Water Treatment Plant Capital Outlay budget to the 2013 Water Treatment Plant Capital Outlay budget.

#### CONTRACT

THIS AGREEMENT Made and entered into as of the 24<sup>th</sup> day of August, 2012, by and between Oxentenko Inc., hereinafter called the "Contractor" and the City of Mandan, hereinafter called the "Owner".

WITNESSETH, that the Contractor and the Owner for the consideration stated herein agree as follows:

#### ARTICLE 1 - SCOPE OF WORK

The Contractor shall furnish all of the materials and perform all of the work necessary described in the specifications titled, Specification for Reservoir Coating, prepared by the Owner, acting as, and in these Contract Documents titled the "Engineer" and the Contractor shall do everything required by this agreement.

#### ARTICLE 2 - COMMENCEMENT AND COMPLETION OF WORK

The Contractor shall commence work on this Contract on a date to be specified in a written order of the City of Mandan, North Dakota, and shall fully complete all work required no later than July 31, 2013.

Extension of time may be granted if the Contractor be delayed at any time in the progress of the work by any act or neglect of the Owner or his employees, or by any other Contractor employed by the Owner, or by changes ordered in the work, or by strikes, lockouts, fires, unusual delay in transportation, unavoidable casualties or any causes beyond the control of the Contractor, or by delay authorized by the Owner, or by cause which the Owner shall determine to justify the delay. Any such extension of time shall be extended for such reasonable time as the Owner may determine.

#### ARTICLE 3 - THE CONTRACT SUM

The Owner shall pay to the Contractor for the performance of this Contract according to the schedule of approximate quantities and the unit prices therefore as indicated in the facsimile copies of the accepted proposal attached hereto, the aggregate of which is \$56,887.50.

#### ARTICLE 4 - PAYMENTS

On or about the tenth day of each month ninety percent of the value for labor and materials incorporated into the work based upon the unit prices therefore as indicated in the accepted proposal, together with the invoiced cost of the materials to be incorporated into the work and

suitably stored at the site of the work or local storage areas therefore, shall be paid to the Contractor as a Progress Payment. The Contractor shall prepare and submit to the Owner the necessary documentation for such Progress Payment.

When the monetary value of the work satisfactorily completed and accepted equals or exceeds fifty percent of the costs indicated in Article 3 herein, further retainage of estimated amounts shall discontinue.

Further, when ninety-five percent of the work is completed under the terms of these Contract Documents as measured by the progress payments therefor, ninety five percent of the amounts retained shall be paid by the Owner in such equal payments that will permit complete and full payment upon approval and acceptance of the work and materials subject to the warranties and similar assurances outlined in the Contract Documents.

#### ARTICLE 5 - SUSPENSION OF WORK

The Owner shall have the right to suspend the work under this Contract at any time because of improper construction, and the Owner may relet the Contract therefor, or he may order reconstruction of any portions improperly constructed, all in accordance with the provisions of the Contract Documents and of the Statutes of the State of North Dakota.

#### ARTICLE 6 - ADDITIONAL WORK

The Owner may from time to time during the operation of this contract order additional work of the same character to be performed complying with the same terms and conditions contained in the Contract Documents so long as the same shall not exceed twenty percent of the amount payable as estimated for the contract work indicated in Article 3 preceding.

#### ARTICLE 7 - GUARANTEE

The Contractor shall guarantee his work against defective material and faulty workmanship for a period of at least one year after the date of final acceptance. Such warranty shall be explicitly set forth in the Performance Bond furnished by the Contractor.

#### ARTICLE 8 - GENERAL LIABILITY

The Owner and his representatives shall be saved harmless from any general liability under the terms of the Contract or any of the work performed under this Contract, and the provisions pertaining to such liability as contained in the Contract Documents and State Statutes shall prevail.

ARTICLE 9 - CONTRACT DOCUMENTS

The Contract Documents shall consist of the following component parts:

1. Advertisement for bids.
2. Facsimile copy of accepted proposal.
3. Guaranty and required insurance.
4. Contract.
5. Performance bond.
6. Specifications.

This instrument, together with the documents hereinabove mentioned, form the Contract and they are as fully a part of the Contract as if hereto attached or herein repeated. In the event that any provision in any of the component parts of the Contract conflicts with any provision of any other component part, the provision in the component part first enumerated herein shall govern, except as otherwise specifically stated.

ARTICLE 10 - EXTENDED CONSTRUCTION TIME

The Contractor shall pay to the Owner sums equal to the Administrative costs, Engineering Supervisory and inspection costs, fiscal costs and such other costs directly related to the project arising from the construction that extends beyond the time allocated for commencement and completion of the work as indicated in Article 2 hereinabove to include any waiver or extensions of time that may have been granted. A construction day shall be determined as having been spent when the crews of the Contractor have spent five hours, or more, in any one particular day in the prosecution and execution of this Contract exclusive of machinery repair and maintenance time. The payments hereinabove shall be paid by the Contractor for costs of the items indicated as accruing to the project for each day extending beyond the time stipulated, together with waivers or extensions, for accomplishing and completing the work. This sum shall not be less than \$50.00 per day.

ARTICLE 11 - DEFECTIVE WORK

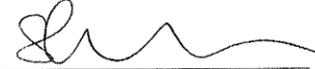
Failure to reject defective materials and faulty workmanship by the Engineer shall not release the Contractor from liability for any failure on his part to perform the work or furnish the materials in accordance with the Contract Documents.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in two original counterparts as of the day and month and year first above written.

Countersigned:

\_\_\_\_\_  
  
\_\_\_\_\_

Oxentenko, Inc.

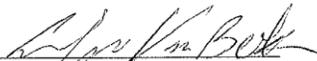


Shellae Backman, President

Attest:

CITY OF MANDAN

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

BY   
\_\_\_\_\_  
Arlyn Van Beek  
President  
Board of City Commissioners

(SEAL)

*State of North Dakota*  
SECRETARY OF STATE



**CONTRACTORS LICENSE RENEWAL**

NO: 2108 CLASS A

I, Alvin A. Jaeger, Secretary of State of the State of North Dakota, and as Registrar of Contractors, certify that **OXENTENKO, INC.** whose address is Bismarck, ND has filed in this office proper application for Renewal of Class A Contractor's License valid to March 1, 2013, and has paid the required fee, and has complied with all requirements of Chapter 43-07, North Dakota Century Code.

**OXENTENKO, INC.** therefore, is entitled to bid on and accept contracts as authorized by law, under this license, without limit as to value of any single contract.

Dated February 7, 2012.

A handwritten signature in cursive script that reads "Alvin A. Jaeger".

Alvin A. Jaeger  
Secretary of State



**CERTIFICATE OF PREMIUM PAYMENT**  
 WORKFORCE SAFETY & INSURANCE  
 EMPLOYER SERVICES  
 SFN 4920 (04/2007)

1600 EAST CENTURY AVENUE, SUITE 1  
 PO BOX 5585  
 BISMARCK ND 58508-5585  
**Telephone 1-800-777-5033**  
 Toll Free Fax 1-888-786-8695  
 TTY (hearing impaired) 1-800-366-6888  
 Fraud and Safety Hotline 1-800-243-3331  
[www.WorkforceSafety.com](http://www.WorkforceSafety.com)

SHELLAE BACKMAN  
 OXENTENKO INC  
 PO BOX 756  
 BISMARCK ND 58502-0756

Employer Account Number: 379891

Issued Date: 08/01/2012

Expiration Date: 09/13/2013

### CERTIFICATE OF PREMIUM PAYMENT

This is to certify that North Dakota Workers Compensation coverage is effective for the employer named on this certificate. Employees of the named employer are entitled to apply for the rights and benefits of Workforce Safety and Insurance (WSI).

Coverage under this certificate extends to North Dakota based employers for their North Dakota exposure. Limited coverage extends beyond the physical boundaries of North Dakota. Contact the Policyholder Services Department of WSI at 1-800-777-5033 for further information on coverage issues or to inquire into the status of the holder of this certificate.

North Dakota Century Code § 65-04-04 requires that each employer post this Certificate of Premium Payment in a conspicuous manner at the workplace. A penalty of \$250 may apply for failure to comply with this requirement.

A Certificate of Premium Payment may be revoked for failure to make required premium payments.

*Barry Schumacher*

Barry Schumacher  
 Chief of Employer Services

Class	Classification Description
3630B	Contr Equip-Rpr-Winter Shop Only
5474	Painting
5545E	Sandblasting
8747	Professional/Business Reps
8747X	Optional Coverage
8805	Clerical Office Employees

SEP-04-2012 10:03

Kramer Agency

7012554956

P.01/01

OXENINC-01

MAMO



**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)  
 9/4/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Kramer Agency 123 East Broadway Avenue P O Box 1318 Bismarck, ND 58502-1318	(701) 255-4502 CONTACT NAME: Patrick A. Thomas PHONE (A/C, No, Ext): (701) 255-4502 E-MAIL: pthomas@krameragency.com ADDRESS:	FAX (A/C, No): (701) 255-4956
INSURER(S) AFFORDING COVERAGE INSURER A: Employers Mutual Casualty Company		NAIC #
INSURED Oxentenko Inc. P O Box 756 Bismarck, ND 58502-0756		
INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:		

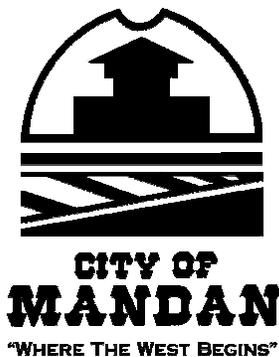
COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD/ENDOR/INSR WVR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		4X41364	10/1/2011	10/1/2012	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Eq occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		4X41364	10/1/2011	10/1/2012	COMBINED SINGLE LIMIT (Eq accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE		4X41364	10/1/2011	10/1/2012	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N N/A If yes, describe under DESCRIPTION OF OPERATIONS below						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 ND Stop Gap/Employer's Liability; \$1,000,000 Each Accident/Each Employee/Policy Limit  
 Water Storage Tank - Mandan, ND

CERTIFICATE HOLDER Mandan Water Treatment Plant 1994 38th St Mandan, ND 58554-	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20, 2012  
**PREPARATION DATE:** November 15, 2012  
**SUBMITTING DEPARTMENT:** Fire  
**DEPARTMENT DIRECTOR:** Steve Nardello, Fire Chief  
**PRESENTER:** Steve Nardello, Fire Chief  
**SUBJECT:** 2012 Budget Amendment

**STATEMENT/PURPOSE:** The Mandan Fire Department requested and was awarded an Energy Infrastructure & Impact grant for the purpose of hazardous materials training.

**BACKGROUND/ALTERNATIVES:** The Mandan Fire Department was awarded an Energy Impact grant in the amount of \$5,450.00 for hazardous materials training. The fire department training budget will need to be amended to indicate \$5,450.00 revenue and allow for \$5,450.00 expenditure to HazMatIQ for training. The City of Mandan has already received the \$5,450.00 funding.

**ATTACHMENTS:** Grant award and HazMatIQ training invoice.

**FISCAL IMPACT:** Amend the 2012 fire department training fund to include \$5,450.00 revenue and expenditure for the purpose of hazardous materials training. There is no request, to the City of Mandan, for additional funding as the grant funding and cost for additional training are equal amounts.

**STAFF IMPACT:** Firefighters will be trained with a new procedure for response to hazardous materials incidents.

**LEGAL REVIEW:** None

**RECOMMENDATION:** That the Mandan City Board of Commissioners approve the fire department request to amend the 2012 training budget to provide for additional hazardous materials training.

**SUGGESTED MOTION:** Move to amend the fire department 2012 training fund to include \$5,450.00 Energy Impact Grant and \$5,450.00 training expenditure for additional hazardous materials training.

**ENERGY INFRASTRUCTURE & IMPACT OFFICE**  
**Request for Reimbursement**

**Please Remit to:**  
 Energy Infrastructure and Impact Office  
 1707 North 9th Street  
 PO Box 5523  
 Bismarck, ND 58506-5523  
 Email: [energyimpact@nd.gov](mailto:energyimpact@nd.gov)  
 Fax: 701-328-3650  
 Office: 701-328-2800

Funds will not be disbursed until projects are substantially complete and cash is available in the fund.

To the extent possible, accumulating and grouping of reimbursement requests would be appreciated

Name of Subdivision: \_\_\_\_\_ City of Mandan Fire Department \_\_\_\_\_ Grant #: \_\_\_\_\_ G130027 \_\_\_\_\_

Project Title: \_\_\_\_\_ HazMat IQ Training for Area Public Safety Staff \_\_\_\_\_

Amount Requested in This Claim (Attach copies of invoices to document this request): \$ \_\_\_\_\_ 5,450.00 \_\_\_\_\_

**Listing [By Vendor] Of Expenses For Construction, Equipment, And Other Purchases Covered By This Grant**

	Vendor	Amount
1.	_____ Hazmat IQ _____	\$ _____ 5,450.00 _____
2.	_____	\$ _____
3.	_____	\$ _____
4.	_____	\$ _____
5.	_____	\$ _____
6.	_____	\$ _____
7.	_____	\$ _____
8.	_____	\$ _____
9.	_____	\$ _____

Under the penalties of perjury, I swear that the foregoing information is true and correct to the best of my knowledge, information and belief, and that I am duly authorized to conduct business on behalf of the aforementioned political subdivision; and that the requested funds will be used for the stated purpose in accordance with the approved grant documentation.

\_\_\_\_\_ 11-8-12 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature of Board Chairman/President

\_\_\_\_\_ 11-8-12 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature of Financial Officer



# HazMatIQ™

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Onsite, Online HazMat/WMD Training & Products

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[info@HazMatIQ.com](mailto:info@HazMatIQ.com)

800-518-9895



OCTOBER 27, 2012

## HazMatIQ L.L.C.

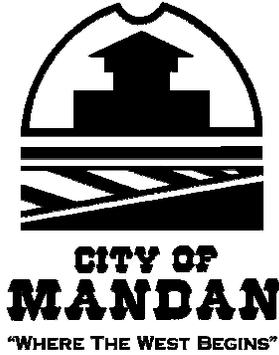
## TRAINING INVOICE

FED ID # 20-5396616  
PO Box 274  
Waxhaw, NC 28173  
Email:  
[timothykilgannon@hazmatiq.com](mailto:timothykilgannon@hazmatiq.com)

TO: ANDREW BECK/TRAINING DIVISION  
Mandan City Fire Department Station#1  
110 Collins Ave  
Mandan, ND 58554

INVOICE NUMBER 4140

DESCRIPTION	AMOUNT
1 day HazMatIQ Training (October 27, 2012)	\$5,450.00
<b>Please Remit To: HazMatIQ LLC P.O. Box 274 Waxhaw, NC 28173</b>	
<b>Terms: Payment Due Upon Receipt</b> <i>Please include the invoice number on payment</i>	
<b>TOTAL DUE</b>	<b>\$5,450.00</b>



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20, 2012  
**PREPARATION DATE:** November 16, 2012  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Request for extension of time to complete Street Improvement District 161 and 167

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**STATEMENT/PURPOSE:** To consider a request for an extension of time to complete Street Improvement District # 161 & 167 (North Mandan Street Maintenance)

**BACKGROUND/ALTERNATIVES:** The award of the bids on this project was delayed due to the vote on Measure #2. Therefore, the start of construction was delayed. Recommendations for approving the extension request from the consultant engineers are attached.

**ATTACHMENTS:** Correspondence from Toman Engineering & Wenck & Associates  
Request from NIC

**FISCAL IMPACT:** n/a

**STAFF IMPACT:** n/a

**LEGAL REVIEW:**

**RECOMMENDATION:** Based on the recommendations from the project engineers, I recommend approval of the extension of time to August 31, 2013

**SUGGESTED MOTION:** I recommend approval of the extension of time to August 31, 2013 to complete the work in Street Improvement District 161 & 167.

Board of City Commissioners

Agenda Documentation

Meeting Date: November 20, 2012

Subject: Request for extension of time to complete Street Improvement District 161 and 167

Page 2 of 4

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**From:** Andra Marquardt

**Sent:** Tuesday, October 23, 2012 1:24 PM

**To:** Harvey Schneider

**Subject:** NIC extension letter

October 22, 2012

City of Mandan

Jim Neubauer

City Administrator

Reference Time Extension

SID #161 & #167

Mandan, ND

Reference is made to the October 8, 2012 correspondence received from Northern Improvement Co.

Northern Improvement did work on a continuous basis on the projects as stated in the letter, including nights and weekends.

Priorities were set, and continuous efforts were made on both projects throughout the construction season.

Discussions were held on a weekly basis with the city, contractors, and engineering companies in reference to the scheduling, progress, and project concerns.

Based on the meetings and the letter from Northern Improvement Co. we recommend a time extension as requested to August 31<sup>st</sup>, 2013.

Sincerely,

Toman Engineering Co. and Wenck & Associates



Home Office  
Fargo, North Dakota  
4000-12<sup>th</sup> Avenue North  
58102-2910  
PO Box 2846  
58108-2846  
Phone 701-277-1225  
Fax 701-277-1516

Office  
Bismarck, North Dakota  
PO Box 1254  
58502-1254  
Phone 701-223-6695  
Fax 701-224-0937

Office  
Dickinson, North Dakota  
PO Box 1035  
58602-1035  
Phone 701-225-5197  
Fax 701-225-0207

Thomas M<sup>c</sup>Cormick, President/CEO  
Steve M<sup>c</sup>Cormick, Executive Vice-President

October 8, 2012

*DEB-  
SCAN to  
Jim. Done  
J*

Mr. Jim Neubauer  
City Administrator  
City of Mandan  
205 2<sup>nd</sup> AVE NW  
Mandan, ND 58554

RE: Time Extension  
SID #161 and #167  
Mandan, ND

Dear Jim,

As per our meeting of September 28, 2012, we are requesting a time extension for the completion of SID #161 and #167. Several factors have contributed to our request. They are as follows:

- The award of SID #161 was delayed until the results of Measure #2 were tabulated from the June 12, 2012 voting process. This subsequently delayed the construction start date.
- During the course of work since the award of SID #161 and #167, several projects have been change ordered on both projects. We greatly appreciate the additional work, however, the work required additional resources (equipment, labor, materials, and subcontractors) which directly impacted both SID's.
- Northern Improvement Company and our subcontractors have worked diligently throughout the year (long hours and most Saturdays) to complete as much work as possible on both the original contracts and the work which was added by change order.
- Historically, our construction season ends on about November 7<sup>th</sup> of any given year. We will continue our best effort to complete as much of the original contract and the change order work as we can until the weather shuts us down for the year.

Please see page 2

[www.nicnd.com](http://www.nicnd.com)  
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Board of City Commissioners

Agenda Documentation

Meeting Date: November 20, 2012

Subject: Request for extension of time to complete Street Improvement District 161 and 167

Page 4 of 4

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Continued from page 1

We are requesting your positive consideration to grant a time extension for all items of the original contract on SID #161, as well as the current change orders on SID #167 until August 31, 2013.

Our community is growing. We will work closely with the City of Mandan, Toman Engineering, and Wenck Associates, Inc. to coordinate and schedule a plan of work which will provide the most benefit for the community. Thank you.

Very Truly Yours,

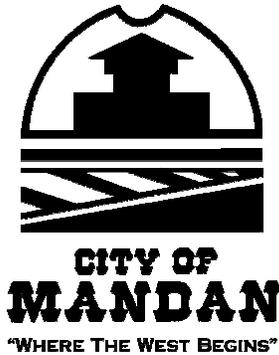


NORTHERN IMPROVEMENT COMPANY

Bradley A. Ballweber

VP/Treasurer

cc: Harvey Schneider, Principal, Toman Eng.  
Abe Ulmer, PE, Toman Eng.  
Kevin Magstadt, PE, Wenck Associates, Inc.  
Bruce Thompson, VP/Est., NIC  
Jason Irely, Project Mgr./Est., NIC  
Bryce Wuori, Project Mgr./Est., NIC  
Gary Richter, Gen. Supt., NIC  
Teri Marquart, Office Mgr., NIC



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20, 2012  
**PREPARATION DATE:** November 15, 2012  
**SUBMITTING DEPARTMENT:** Fire Department  
**DEPARTMENT DIRECTOR:** Steve Nardello, Fire Chief  
**PRESENTER:** Steve Nardello, Fire Chief  
**SUBJECT:** Upgrade to Outdoor Warning System

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**STATEMENT/PURPOSE:** Consideration of the Mandan City Commission to approve the specifications and advertisement of bids for updating the outdoor warning siren system within the City of Mandan.

**BACKGROUND/ALTERNATIVES:** The City of Mandan outdoor warning system will no longer work after January 1, 2013 as all radio systems must be narrow banded and the current system must be upgraded to receive the narrow band system. In addition, the current siren system does not provide proper coverage to our expanding city.

Advertisements would be published November 30<sup>th</sup> and December 7<sup>th</sup> 2012 with bid opening on January 7<sup>th</sup> at 2:00 p.m.

**ATTACHMENTS:** Map of current and proposed siren coverage.

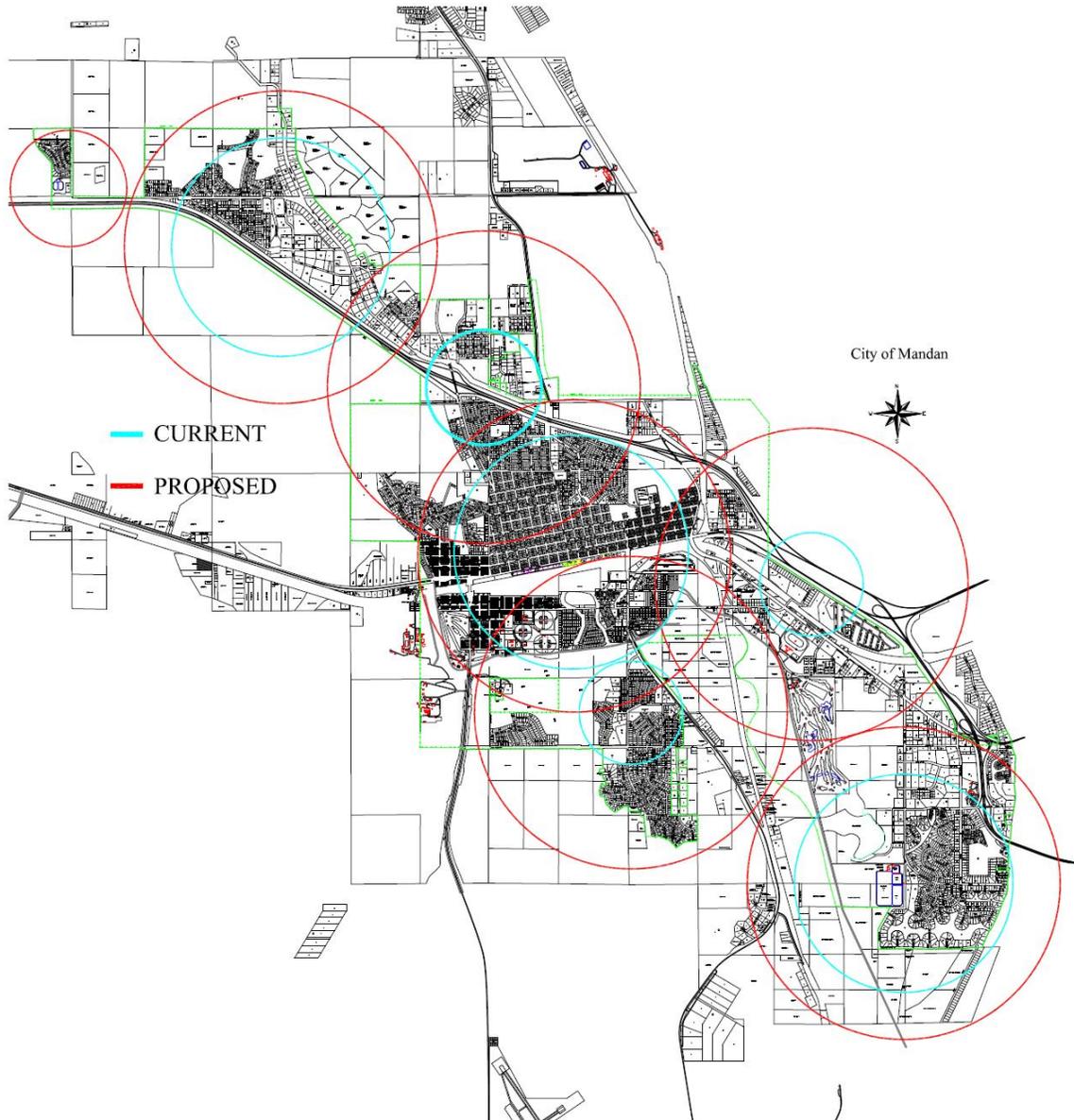
**FISCAL IMPACT:** The City of Mandan 2013 budget includes \$128,600 for funding of a new siren system.

**STAFF IMPACT:** Fire department personnel have prepared bid specifications.

**LEGAL REVIEW:** Bid Specifications

**RECOMMENDATION:** I recommend that the Mandan City Board of Commissioners approve specifications and advertisement of bids for updating the outdoor warning siren system within the City of Mandan.

**SUGGESTED MOTION:** Move to approve the specifications and advertisement of bids for updating the outdoor warning siren system within the City of Mandan.



### **City of Mandan Outdoor Warning Siren System Bid Specifications**

The City of Mandan is accepting sealed bids for the purchase of an Outdoor Warning Siren System. The City of Mandan reserves the right to reject any/or all bids, and to waive informalities or technicalities in the bidding without explanation. The City also reserves the right to award the contract in the best interest of the City.

The City of Mandan, located in Morton County North Dakota currently operates (6) Outdoor Warning Sirens. The Outdoor Warning Sirens are owned and maintained by the City of Mandan. The system is activated by the Mandan/Morton Combined Dispatch Center. In preparation for the FCC narrow banding requirement the City of Mandan will replace (6) sirens to operate effectively in the narrow band system.

#### ***Bidding Schedule***

The City will conduct the bidding process according to the following schedule:

The City of Mandan requires that bids be submitted prior to 2:00p.m. local prevailing time on Monday January 7, 2013 to the City of Mandan at 205 2nd Avenue NW, Mandan, ND 58554

The City of Mandan will evaluate the bids for the purpose of selecting the responsive and responsible bidder with the lowest price.

#### ***Contact Person***

All requests for information regarding this Request for Bids and the Bid Form are to be directed to:

Fire Chief Steve Nardello  
Mandan Fire Department  
110 Collins Ave.  
Mandan, ND 58554  
701-667-3288 Ext. 100  
[snardello@nd.gov](mailto:snardello@nd.gov)

**All Bidders Must Submit:**

1. A certified check, cashier's check, or bidders performance bond in the amount of being at least five percent (5%) of the total amount of the bid, attached hereto.
2. 100% Bid Performance Bond must be provided on Bid Acceptance
3. Performance history of bidder and proof of financial stability of the manufacturer over the last 5 years in the form of a Dunn & Bradstreet rating (also include most recent audited financial statement). List any bankruptcy filings in the last 10 years.
4. Documentation of ISO9001:2008 Certification. No exceptions.
5. A copy of the Warranty. Extended Warranty options must be listed separately.
6. Siren Control Assembly must be UL Approved.
7. List of similar sized projects located in comparable climates to that of North Dakota. Projects shall have been completed within the last 2 years including contact information. Provide Users List of model of siren being bid.
8. Bidder will provide an engineered sound propagation model map identifying recommended siren locations with latitude and longitude. Recommendations based on the model shall take into account topography, atmospheric and other weather conditions such as wind, temperature, humidity, atmospheric pressure. The model shall be based on industry standards. The model should clearly show the theoretical coverage of each siren location by indicating the output represented by contour lines from 80 dB(C) & 70 dB(C) on a map aerial photo or satellite view.

**Section II SPECIFICATIONS**

**BASIS OF AWARD.** The delivery date, availability of parts and service facilities, a complete analysis and comparison of specification details, past performance and financial stability of the manufacturer, and past experience of the City of Mandan with similar or related equipment, will be weighed in making a final decision of award.

It is understood and agreed the City of Mandan reserves the right to determine whether substitutions or deviations are within the intent of the specifications and will reasonably meet the service requirements of the City of Mandan.

Any substitutions or deviations from the specifications shall be clearly noted in a separate letter. They shall be listed in the same sequence as they appear in the specifications. All proposals must be in the same sequence as this document to enable the City of Mandan to study, evaluate and compare.

**DELIVERY.** The sirens and radio controls should be installed, fully operational and available for testing within four (4) months of bid award.

**SYSTEM.** The outdoor warning siren system shall consist of five (5) new sirens installed on 55 foot class 2 wood poles, one (1) new siren installed on roof of fire station 1, and relocation of one (1) existing Federal Signal siren installed on 55 foot class 2 wood pole.

**BIDDER SHALL QUOTE A NEW TURN-KEY INSTALLATION.** All equipment shall be new. The term turn-key means the successful bidder will include the installation costs.

The successful bidder shall be responsible for all subcontracts. Upon completion of the installation, the siren system manufacturer will inspect the system for correct installation, check all system components, and perform a system test. Contractor will provide a lien waiver including subcontractor lien waivers prior to receipt of final payment.

**THIS TURNKEY UPGRADE SYSTEM** will consist of Five (5) new 130 dB(C) Rotating Electromechanical AC Powered (240-VAC) Sirens with One-Way VHF Narrowband Radio Receivers, all in accordance with specifications prepared by the City of Mandan. Sirens will be installed in the City of Mandan at locations recommended by City of Mandan Fire Chief.

*It is the bidder's responsibility to personally obtain locations of sirens from the City of Mandan Office of the Fire Chief. Written requests can be delivered to 110 Collins Avenue, Mandan, ND 58554 or Electronic mail requests can be delivered to snardello@nd.gov. It is also the bidder's responsibility to obtain site approval from the City Engineer and Public Utility serving the site areas.*

Bidder will consult with the City of Mandan Fire Chief, City Engineers and or appropriate City departments to determine appropriate ownership of land and obtain necessary easements for all sites.

**NEW ELECTROMECHANICAL SIRENS** 130 dB(C) +/- 1 dB(C) (5 ea) shall be rated at a minimum of 130 dB(C) single tone format at 100 feet distance; producing no more than 123 dB(C) at ground level as described in FEMA CPG-1-17 which lists this limit at which sound may be dangerous to human hearing. All measurements shall be conducted in free-field conditions at a minimum of 50 feet above ground level on axis. Provide Acoustical Test Report by outside source documenting Siren Output.

**ELECTROMECHANICAL SIRENS** shall provide a minimum of a steady **ALERT** tone, a wavering **ATTACK** tone, and a **FAST WAIL**, for a period of at least three minutes when activated. Sirens will also respond to a **CANCEL** or "stop" command which will instantly shut off any of the above mentioned tones.

All equipment shall be grounded per manufacturers specifications.

Sirens shall include adjustable mounting brackets for different sized poles and shall be easily removable for servicing.

**ROTATING SIRENS** shall rotate at not less than 2.0 revolutions per minute adjustable to 4.0 revolutions per minute and have sufficient mechanical strength and torque to withstand sustained wind speeds up to 100 miles per hour and operate effectively. Rotation speed must be constant and uniform and not vary in relation to the signal type.

**SIRENS** shall meet FEMA's CPG-1-17 outdoor warning siren performance specification guidelines. This guide requires an attack warning which is a 3-5 minute wavering tone, and an attention or alert warning tone which is a 3-5 minute steady signal. Once the alert signal attains a peak in frequency, the frequency of the signal shall not sweep or fluctuate.

Sirens shall not exceed 123 dB(C) at ground level to prevent hearing damage and shall not produce ultrasonic signals that may be hazardous to the environment. This shall be certified by the manufacturer.

**SIREN SHALL OPERATE** in temperature ranges from -30 degrees Celsius to +60 degrees Celsius. The effects of lightning, rain, ice or snow shall not hinder operation.

**PRIMARY POWER** Seven (7) AC Sirens will require 220/240-volt single phase AC Power for operation.

**POLES** Six (6) of the Sirens and Radio Control Units shall be mounted on 55 Foot Class 2 wood poles. Siren on top of Fire Station 1 will be roof mounted in same location as existing.

**SIREN ONE-WAY RADIO CONTROL UNITS** The siren system will be remotely activated by a narrowband radio signal. These specifications for paging must be compatible with existing transmitting used by the City of Mandan. The Radio Control units must be UL approved. No exceptions. Controls shall be installed in weather proof enclosures which conform to NEMA type specifications. The siren control units must be capable of programming for radio frequency, signal length, and signal timing. A level adjustment must be provided for squelch and receive audio levels. Each siren must be capable of being activated individually and independently, in groups, or as part of the system as a whole. Control units must have terminals for connecting landline and/or radio activation lines. The siren control unit shall have a single PCBA for decoding. This control unit shall have the ability to decode AFSK, DTMF, and Two-Tone Sequential paging tones

simultaneously in the single board configuration.

#### **WIRING AND DIAGRAM SCHEMATICS**

Bidders shall include;

1. The type of cable used in all wiring and antenna cabling
2. Number of conductors and wire size
3. Method of connection
4. Size of recommended conduit

#### **CRITERIA FOR CODE CONFORMANCE**

All equipment must comply with all applicable government regulatory specifications, particularly FEMA and OSHA and all equipment must meet UL specifications.

#### **WARRANTY**

All electromechanical siren equipment must carry a minimum of a (2) two year warranty against any defects in workmanship, materials, electrical and mechanical components.

All bids will include a 30 days warranty against defects in installation. The Contractor shall warranty the entire siren head (unit on top of pole) for a period of 5 years from the date of installation.

Bid may include a service contract covering all maintenance costs beginning at such time any part of the manufacturer's warranty expires and for a period of five years there after, with the purchaser's option to continually accept or renew said service contract every five years at a renegotiated price.

The proposed cost of such a contract is considered a separate item from the bid. It may be accepted or dismissed at the option of the buyer and if accepted, will be paid at the time of its implementation, or during the final month of the successful bidder's labor and material warranty.

#### **INTENTIONS**

These specifications are not intended to include any proprietary items, components, circuits, or devices which would preclude any outdoor warning siren manufacturer from producing equipment to meet these specifications. All components, hardware and software must be 100% compatible with the current siren system. All ratings, power outputs, and specific criteria are currently being met by commercially available equipment. The fact that a manufacturer chooses not to produce equipment to meet these specifications providing the following criteria are met will not be sufficient cause to adjudge these specifications as restrictive.

**DOCUMENTATION – PRIOR TO EXECUTION OF CONTRACT**

The Contractor is required to submit the following documentation along with the fully executed Contract

1. Payment and Performance Bonds meeting statutory requirements on Bid Acceptance
2. Documentation of ISO9001:2008 Certification. No exceptions.
3. A copy of the warranty. Extended warranty options must be provided separately.
4. A coverage map and aerial photographs indicating the exact locations of proposed sirens for maximum efficiency and effect.

**Section III BIDDING PROCEDURES AND CONTRACT REQUIREMENTS:**

***1. Format of Bid***

Contractors must respond to this Request for Bids on the forms contained in the document titled "Bid Form: Siren Warning System"

***2. Bidding Requirements***

- A. Bids are to be securely sealed, labeled "Bids for Siren Warning System" and delivered to the office of the City Administrator, City of Mandan, Mandan, ND, no later than 2:00pm on Monday January 7<sup>th</sup> 2013, at which time they will be opened and publicly read in the Commission Chambers.
- B. Each bid must be accompanied by a bid bond or certified cashier's check, payable to the City of Mandan in an amount equal to at least five (5) percent of the total net bid.
- C. Bids may not be withdrawn until ninety (90) days after the bids are opened.

***3. Consideration of Bids***

- A. If any questions or interpretation, discrepancies, omissions or conflicts occur during the examination of contract documents, the bidder shall submit a request for interpretation not less than three (3) working days prior to the due date for bids. Any interpretation or changes of the documents will be made
- B. The City reserves the right to accept or reject any or all bids or any part of any bid, to waive minor defects or technicalities, or to advertise for new bids, as it may deem best for its interest.
- C. The bid shall be in ink or typed. Prices submitted in the bid by the bidder for a particular identified City department shall be construed as prices submitted for all City departments using like items.

- D. In case of difference between written words and figures in a bid, the amount stated in written words shall govern.
- E. Altercations or erasures must be crossed out and the corrections thereof printed in ink or typewritten adjacent thereto. Each person signing the bid must initial the corrections in ink.
- F. All bids must comply with and not deviate from the provisions of the specifications and/or other bid or contract documents if any.
- G. Revisions or interpretations made by the City shall be by addendum issued prior to the date set for bid opening.
- H. Changes to the bid may be cause for rejection of said bid.

**13. Insurance**

The Contractor shall furnish and maintain during the project such public liability and property damage insurance as shall protect Contractor and any subcontractors performing work covered by this contract from claims for damages by Worker's Compensation Statute, and from claims for property damages or personal injury which may arise from operations under this contract, whether such operations are by Contractor or by any subcontractor or anyone directly or indirectly employed by either of them, and the amounts of such insurance shall be as follows:

- a) Workmen's Compensation – as provided in the applicable law.
- b) Employer's Liability – as provided in the applicable law.
- c) Comprehensive Public Liability – Personal Injury - \$1,000,000.00  
Property Damage - \$1,000,000.00
- d) Comprehensive Automobile Liability – Personal Injury - \$1,000,000.00  
Property Damage - \$1,000,000.00
- e) Blanket Contractual (hold harmless) protection and fire, theft and vandalism insurance for the full value of all materials and equipment furnished by the supplier shall be provided until the complete contract is formally accepted.

The successful bidder must submit, prior to contract award, evidence of insurability in the amounts as provided above. (A Certificate of Insurance).

The Contractor shall indemnify and save the City, its officers, affiliates and employees from any and all claims, suits, losses, damages or expenses on account of injuries or death of any or all persons, or property damages sustained and caused by an act, omission, neglect or misconduct of said Contractor.

**14. Requirements for all Insurance**

All insurance policies (or riders) required by this Agreement shall be (i) taken out by Provider and maintained with responsible insurance companies organized under the laws of one of the states of the United States and (ii) shall name Provider as an insured party and City as an additional insured, (iii) shall be in accordance with specifications approved by the insurance advisory for City, and (iv) shall be evidenced by a Certificate of Insurance listing City as an additional insured which shall be filed with the City.

**15. Performance and other Bonds**

a) Contractor shall furnish performance and Payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as otherwise provided by Law or Regulation or by the Contract Documents. Contractor shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the forms prescribed by Law or Regulation or by the Contract Documents and be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as

**Section IV BID FORM**

**Siren Warning System**

For The City of Mandan, ND

Bid Opening: 2:00 P.M. C.S.T.  
January 7<sup>th</sup> 2013  
Mandan City Hall  
205 2<sup>nd</sup> Avenue NW  
Mandan, ND 58554

Company Name \_\_\_\_\_

Address \_\_\_\_\_

City, State \_\_\_\_\_

Name and Title \_\_\_\_\_

Authorized Signature \_\_\_\_\_

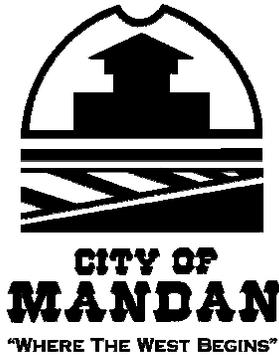
Phone # \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Date \_\_\_\_\_

**BID AMOUNT:**

\$ \_\_\_\_\_



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20, 2012  
**PREPARATION DATE:** November 15, 2012  
**SUBMITTING DEPARTMENT:** Business Development & Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Representatives of BNC & Dakota Commercial and Development Company  
**SUBJECT:** Presentation and consideration of proposals for redevelopment of Collins & Main property

---

**STATEMENT/PURPOSE:** To hear presentations of two proposals for the redevelopment of the city-owned land parcels at the corner of Collins Avenue and Main Street (100 Collins, 104 E Main, 106 E Main, 108 E Main) and to consider such proposals.

**BACKGROUND/ALTERNATIVES:** The City Commission approved at its Sept. 18, 2012, meeting a request for redevelopment proposals with responses due on Nov. 9, 2012. Two responses were received as follows:

1. BNC National Bank proposes to construct a 3,000 to 3,500, \$1 million-plus facility to serve as a full-service banking branch. Offering \$10 psf or \$162,500. Project representatives are Dave Hoekstra, President, and Jason Arenz, Senior Vice President.
2. Dakota Commercial and Development Company, Community Contractors and JLG Architects, all based in Grand Forks, propose to construct a four-story mixed use building with commercial at the main level and 29 or 30 market-rate apartments on the second to fourth stories with an approximate 11,500 sf foot print for about 46,000 sf in total. Seeking additional discussion in regards to purchase price, sale conditions and development incentives. The principal project representative is Dakota Commercial and Development Company President Kevin Ritterman.

The conceptual site and building plan submitted by BNC may not meet all standards within the Downtown Core zoning overlay ordinance (Title 21-04-17.1) with respect to

the continuity of zero setback and alignment with adjoining facades, and the average height of buildings occupying adjacent corners.

The downtown redevelopment plan for Mandan adopted in 2003 calls for increased density in the downtown area through more vertical and mixed-use redevelopment projects and livelihood through downtown housing.

North Dakota Century Code section(s)44-04-19.1 allows for an executive session for attorney consultation and discussion of contract negotiation strategy. The Commission may wish to consider an executive session at the conclusion of its public business to provide negotiating instructions for the sale and development of the subject city-owned property.

ATTACHMENTS:

1. Request for proposals
2. Proposal by BNC National Bank
3. Proposal by Dakota Commercial and Development Company, Community Contractors, and JLG Architects

FISCAL IMPACT: To be determined.

STAFF IMPACT: To be determined.

LEGAL REVIEW: Attorney Brown has reviewed the information.

RECOMMENDATION: I recommend the Commission hear the proposals, ask questions to obtain more information, and consider entering into an executive session after the conclusion of public business to provide negotiating direction to staff.

SUGGESTED MOTION: I move the Commission enter into an executive session under NDCC 44-04-19.1 for attorney consultation and discussion of contract negotiating strategy pertaining to the sale and development of the Collins and Main property.

Map of Downtown Redevelopment Site



Redevelopment Opportunities at Collins Ave. & Main St.

# REQUEST FOR PROPOSALS For the Purchase & Redevelopment of a Downtown Site in Mandan, North Dakota

City-owned parcels on 100 Block of East Main Street



**CITY OF  
MANDAN**

"WHERE THE WEST BEGINS"

Issued September 24, 2012  
Responses due November 9, 2012  
City of Mandan  
205 Second Avenue NW  
Mandan, North Dakota 58554  
Phone: 701-667-3215  
[www.cityofmandan.com](http://www.cityofmandan.com)

**Seeking Buyers Interested in Redevelopment of Prime Downtown Parcels**

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

The City is interested in proposals that provide retail and services for the community's residents, businesses and visitors; that increase the city's commercial tax base; and that offer employment opportunities for area residents. The proposed purchase price will be one of multiple criteria for evaluating proposals. Other important criteria include intended uses, immediacy of the development schedule, amount of investment, scope of the project, developer experience and relationships with potential retail, restaurant or other commercial occupants or tenants.

Proposals are due Nov. 9, 2012. Once proposals are received and verified as complete, the City Commission may invite entities submitting proposals to present concepts and participate in an interview at a regular or special meeting.

For further information, please contact City of Mandan Business Development and Communications Director Ellen Huber at 701-667-3485 or [ehuber@cityofmandan.com](mailto:ehuber@cityofmandan.com). More information about the community is also available at [www.cityofmandan.com](http://www.cityofmandan.com).

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

Responses are requested in PDF format and e-mailed to Jim Neubauer, City Administrator, City of Mandan, at [jneubauer@cityofmandan.com](mailto:jneubauer@cityofmandan.com). Any material that needs to be provided in hard copy may be sent or delivered to City Hall, 205 2<sup>nd</sup> Avenue NW, Mandan, ND 58554. Complete proposals must be e-mailed, mailed or delivered for receipt by 3 p.m. on Nov. 9, 2012.

**REQUIREMENTS**

Asking price · \$10 psf or \$162,500

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

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

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

Start of construction.....Within 1 year of closing  
(Property reverts back to City of Mandan if deadline is not met and deposit retained.)

Building substantially complete.....Within 2 years of closing  
(Deposit returned to buyer)

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

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

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

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○ Property Taxes	
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○ Zoning	
○ Lot Coverage	
○ Architectural Standards	
○ Ingress/egress	
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○ Historic District	
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## DOWNTOWN VISION

A Redevelopment Plan for Downtown Mandan adopted by the City Commission in 2003 offers the following vision for downtown Mandan:

*To establish downtown Mandan as a place where residents and visitors can work, live, shop and play in a pedestrian-friendly and safe environment.*

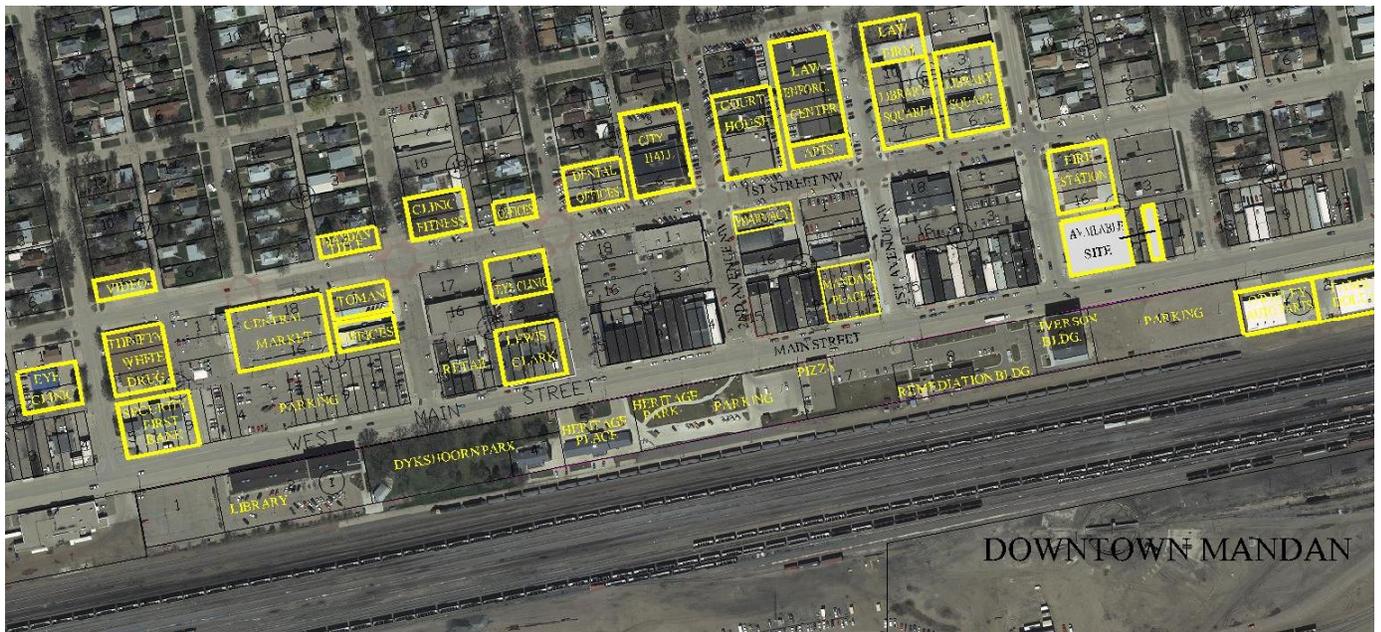
The redevelopment plan calls for mixed uses including new offices and professional services, dense housing, niche retail and casual/family dining. Goals are as follows:

- ✓ Improve overall street character and image through investment, beautification and heritage.
- ✓ Fill gaps in the community's retail, restaurant and service sectors.
- ✓ Create and maintain critical mass to support these businesses through vertical mixed-uses including office and residential spaces above the ground level.
- ✓ Ensure safe circulation and adequate parking and improve the image and attractiveness of surface parking areas.

The City of Mandan is seeking purchase and redevelopment proposals for the Collins and Main site that are consistent with these redevelopment goals.

More information is available at the city website: [www.cityofmandan.com](http://www.cityofmandan.com). To download the URS Market Study and Redevelopment Plan, use the following path: [Home](#) > [City Departments](#) > [Engineering & Planning](#) > [Planning & Zoning](#) > [Development Plans](#)

## PROJECT CONSIDERATIONS



### **Downtown Overview**

Downtown Mandan is revitalizing. Nearly 20 years after discovery of an underground fuel spill in an approximate six-block area, the city reached a settlement in 2004 with Burlington Northern

Santa Fe Railway for \$30.25 million, which included \$1.2 million in property and buildings and \$29 million held in trust for remediation and redevelopment. Construction and installation of a comprehensive remediation system was completed in 2007. The system is now fully operational and effectively removing the contaminants. With state law enacted to relieve property owners and private lenders of liability concerns, the City is now focusing on redevelopment.

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

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

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

- Since the Renaissance Zone and Storefront Improvement programs were established in 2005 and 2006, 37 commercial properties have been newly constructed, expanded or rehabilitated. Another six projects are in process including renovation of the three-story building across the street. The owner plans to invest approximately \$3.6 million to make 101 E Main a professional office center.

## **Site Profile**

### 100 Block of East Main

These properties are on a city block that includes the Mandan Fire Station, a city-owned parking lot, insurance agency, hair salon, home construction and apartment management firm, and a soon-to-open screen printing, embroidery and gift shop business. Traffic was last counted by the N.D. Department of Transportation in 2009 with average daily volumes reported at 14,745 vehicles on Main Street, 5,085 vehicles on Collins Avenue and 4,980 to 5,380 vehicles traveling on First Street to the west and east of Collins Avenue. Numbers have likely increased in years since.

1. 100 Collins Avenue and 104, 106, 108 East Main Street
  - Block 6, Lots 11-15, Mandan Proper
  - 16,250 ft<sup>2</sup> (125x130)

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

## Other Site Facts

### Site control

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

### Property Tax Estimates (2011 levy of 403 mills equal to 2.02% of value

#### *Full and true value followed by annual property tax payment*

- 100 Collins Avenue · land, \$31,900; \$643 annually
- 104 E Main Street · land, \$16,300; \$328 annually
- 106 E Main Street · land, \$15,700; \$316 annually
- 108 E Main Street · land, \$15,300; \$308 annually

### Special Assessments

#### *Payoff balances figured to 2/28/2012*

- 100 Collins Avenue · payoff of \$11,631.86; annual payment of \$1719.21
- 104 E Main Street · payoff of \$2,410.30; annual payment of \$368.36
- 106 E Main Street · payoff of \$2,410.30; annual payment of \$368.36
- 108 E Main Street · payoff of \$2,410.30; annual payment of \$368.36

### Zoning

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

### Lot coverage

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

### Architectural standards

The property is subject to the Downtown Core District zoning overlay ordinance (Mandan Municipal Code, 21-04-17). Key requirements include:

- A minimum height of two stories or 20 feet. Corner buildings are to be within the average height of buildings occupying adjacent corners. In this case, the adjacent buildings are two and three stories (historic Kelsch Law Firm, Fire Station and Iverson buildings).
- Colors and materials are to be compatible with or complementary to those used for buildings on adjoining parcels.
- Regarding building materials, the ordinance states %all walls visible from the street shall be primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or an equivalent or better. The use of plain surface concrete or block shall be prohibited (i.e. the surface must be dimensional). Non-transparent glass shall be prohibited from covering more than 40 percent of the exterior walls.+
- No set backs are required on this property and 100% lot coverage is allowed. As such, the Mandan Architectural Review Commission is apt to discourage a visual break between a building on this set of parcels and the adjacent Main Street building. Regarding alignment, the ordinance states, %New infill development in the Downtown District shall maintain the continuity of setback and alignment of adjoining facades at the property line.+

Final site plan and building design is subject to application for consideration by Mandan Architectural Review Commission prior to receiving a building permit.

### Ingress/egress

Main Street is a business loop for I-94. As such, requests for ingress and egress, along with a site plan, need to be submitted to the City of Mandan Engineering and Planning Department. Staff will, in turn, consult with the N.D. Department of Transportation.

### Parking

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

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

Public parking areas are located in close proximate to the parcels. Following is their status:

- Lot C (south of Main Street between Collins Avenue and First Avenue NW) · 52 spaces with 7 for public parking restricted to 90 minutes, 4 spaces designated for Papa Murphy's parking, and 41 available free of charge for all-day parking with exception of no overnight parking allowed two to three nights a week.
- Lot D (west of Collins Avenue) · contains 26 spaces including 17 spaces available to the public with a 90-minute restriction and 9 spaces rented for all-day parking.
- Lot E (south side of Fire Station) · 11 spaces; all currently rented at \$20 per month.
- Lot F (east side of Fire Station) · 11 spaces reserved for firefighters; 46 spaces available for rent at \$20 per month; only 20 spaces are currently rented. Removal of a shed on the lot could free up a couple more spaces. A request for a long-term lease arrangement of parking spaces could be considered by the Parking Authority.
- Additionally, 90-minute customer parking is available on Main Street and the avenues. Lots on the south side of Main and west of Collins Avenue are free and available for use by the public.

A parking map is available.

### Historic district

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

### Utilities

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

### Site remediation

The City originally acquired the site for the purpose of remediating an underground fuel spill with redevelopment as the ultimate goal. Remediation has been occurring on the site since 2007 with eight monitoring and extraction wells located within the property lines. Monitoring wells have shown no measurable product for some time. The Mandan Remediation Trust is likely to allow removal of the wells and associated pipes contingent upon final approval by the N.D. Health Department.

Per the city's environmental institutional control ordinances, new construction must be slab on grade, but elevators and underground parking are permissible with appropriate designs. A

contingency plan is required that may need to incorporate vapor barriers or a venting system as determined by a professional engineer. Plans are subject to City of Mandan Building Inspection and N.D. Health Department approval.

#### Site Access

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

#### Liability Protection

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

#### Institutional Control Ordinance

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

#### **Development Incentives**

The City of Mandan offers several incentive tools to assist with business start-ups and expansions. Programs for development projects and businesses locating downtown include the Renaissance Zone, which provides 100% five-year property and state income tax exemptions for qualified projects. A full or partial extended exemption through Tax Increment Financing may be considered for projects of at least \$1.25 million that meet program objectives. These incentives are subject to application, review and approval by the appropriate decision-making bodies. Other programs include a low interest loan fund for gap financing available through the Lewis and Clark Regional Development Council, plus a retail and restaurant incentive program for new and growing businesses that fill gaps in the community's market profile.

#### **PROPOSAL REQUIREMENTS**

- 1) Within 45 days of the issuance of this request, or by Nov. 9, 2012, interested parties should provide the following information:
  - a. Proposed purchase price, including terms, conditions and preferred closing date.
  - b. Intended use of the property. Describe nature of uses and the target rent/sale price for any commercial, multi-family and residential units.
  - c. Site plan and, if feasible, elevation drawings or examples of the proposed structure.
  - d. Development budget to include the construction cost estimate and detailed sources and uses of funds for the project. For uses of funds, itemize the anticipated costs of the project including site acquisition, hard and soft construction costs, any improvements to be left to tenants, and any other project costs. For sources of funds, indicate the type of financing planned . e.g. debt, equity, other . and describe the status of securing those funds. If available, include of a letter of interest to provide financing from a lender if debt financing is proposed.

- e. Any public financial assistance requested, particularly any from the City. Write-downs of the land acquisition price below fair market value will be considered City financial assistance and will require a business incentive agreement.
- f. Construction schedule, which indicates development will commence within 12 months from closing and be substantially complete within 2 years, unless otherwise approved by the City Commission. City will require a \$25,000 deposit to ensure compliance with approved development schedule.
- g. Statement of developer qualifications and summary of previous experience with projects of a similar magnitude.
- h. Summary of benefits to the local economy including estimated tax impact (property, 1% sales, 1% restaurant and lodging).

**DEVELOPER SELECTION PROCESS**

1. Responses are requested in PDF format and e-mailed to Jim Neubauer, City Administrator, City of Mandan, at [jneubauer@cityofmandan.com](mailto:jneubauer@cityofmandan.com). Any material that needs to be provided in hard copy may be sent or delivered to City Hall at 205 2<sup>nd</sup> Avenue NW, Mandan, ND 58554. Complete proposals must be e-mailed, mailed or delivered for receipt by 3 p.m. on Nov. 9, 2012.
2. The Mandan City Commission will make the final selection based upon the following criteria:
  - a. Consistency with the City’s vision and the extent to which the proposal will fill opportunity gaps and meet market needs.
  - b. The experience, financial and organizational capacity of the developer in successfully planning and completing development projects of similar type and scale.
  - c. Public benefits provided by the project including the proposed purchase price for the land, the amount of investment in the project(s), the provision of retail goods and services, contributions to the tax base, and the creation and retention of jobs.
  - d. Estimated taxable value upon completion and annual real estate taxes of the site.
  - e. Architectural character and quality of building materials.
  - f. Timeline for project completion.

The City and the selected developer will subsequently execute an agreement conveying the property and stipulating the terms and conditions of the project. Purchase and development agreements will be negotiated within 45 days of selection.

Following is an anticipated timeline:

*Submission deadline for proposals	Nov. 9, 2012
City Commission review/evaluation of proposals completed	Dec. 4, 2012
Final selection by City Commission	Dec. 18, 2012

The City reserves the right to: 1) reject any and all proposals or parts of proposals, 2) waive any informality or irregularity, 3) hold all proposals for a period of thirty (30) days after the date fixed for the opening thereof, 4) negotiate modifications of proposals submitted into a project of lesser or greater magnitude than described in the request for proposals or the proposer’s reply, 5) accept the proposal(s) deemed most favorable to the best interest of the City of Mandan, and 6)

advertise for new proposals as may be deemed necessary. Be advised as per North Dakota open records law that proposals are open records.

**Resource Contact Information**

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

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



**BNC**  
**National Bank**  
*The Art of Financial Success*

322 East Main Bismarck, ND 58501 www.bncbank.com Telephone: (701) 250-3000 Fax: (701) 250-3028

November 8, 2012

Mr. Jim Neubauer, City Administrator  
Ms. Ellen Huber, Business Development Director  
City of Mandan  
205 Second Avenue NW  
Mandan, ND 58554

Dear Mr. Neubauer and Ms. Huber:

BNC National Bank (Buyer) hereby submits the following letter of intent to the City of Mandan (Seller) for the city-owned parcels located at 100 Collins Avenue, 104 East Main, 106 East Main, and 108 East Main. The subject property consists of four parcels totaling approximately 125 feet by 130 feet (16,250 sq ft). It is BNC's intent to acquire the land and to build, or have built, a full-service banking branch on this site, with a first-class building comprised of approximately 3,000 – 3,500 square feet. We are anticipating that our investment in construction will be in excess of \$1,000,000 when complete. We have attached one version of our engineer's preliminary site plan to this letter, along with a few architect's renderings (conceptual from the front and overhead). As you will see, the project will have a very professional look for the space. If accepted, it is our intent to have construction begin within 9-12 months from the closing date of the land acquisition.

When completed, this shall be a full service, retail and commercial banking branch of BNC National Bank, providing Mandan with a number of new jobs and economic support.

Our proposed terms of this letter of intent are as follows:

<b>PURCHASER:</b>	BNC National Bank or related entity
<b>PROPERTY:</b>	100 Collins Avenue, 104 East Main, 106 East Main, and 108 East Main. The subject property consists of four parcels totaling approximately 125 feet by 130 feet (16,250 sq ft).
<b>PURCHASE PRICE:</b>	\$162,500 (at full asking price)



Page 2

DEVELOPMENT INCENTIVES: None required by BNC National Bank

TERMS: \$25,000 deposit at closing of escrow, held by the Mandan until the issuance of the Certificate of Occupancy. Purchase Price paid by Cash at Closing.

EARNEST MONEY: Within 10 days after the date of the final execution and delivery of a Purchase Agreement by Buyer and Seller, BNC shall deposit in escrow with the title company specific in the Purchase Agreement the sum of \$10,000. If the Purchase Agreement does not close, for any reason, the \$10,000 shall be return to BNC within 10 days of notice.

CLOSING DATE: On or before December 31, 2012

DOCUMENTATION: Upon the Seller's acceptance of this letter of intent, Buyer and Seller shall negotiate in good faith, a formal Purchase Agreement contract consistent with the terms and conditions set forth in this letter of intent, also containing such additional covenants, representations, and conditions as are customary for transactions of this type and size as may be reasonably required by Buyer and Seller.

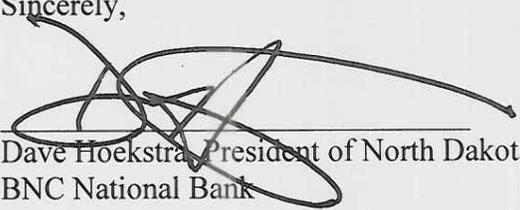
INTENT / AGREEMENT: This letter of intent shall not be binding upon the parties and is subject to the execution of a formal Purchase Agreement between BNC and Mandan.

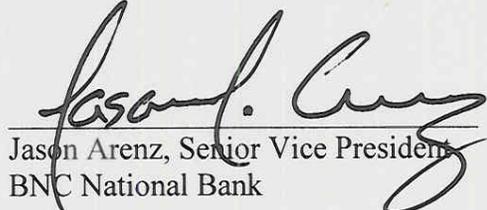


Page 3

THIS LETTER IS INTENDED ONLY TO EXPRESS THE INTEREST OF THE BUYER TO PURCHASE THE PROPERTY. EXCEPT AS HEREINAFTER SET FORTH, NEITHER BUYER NOR SELLER SHALL BE LEGALLY OBLIGATED TO PURCHASE OR SELL THE PROPERTIES UNLESS AND UNTIL THE PARTIES EXECUTE THE CONTRACT. THE PARTIES ACKNOWLEDGE THAT THIS NON-BINDING LETTER OF INTEREST DOES NOT ADDRESS ALL ESSENTIAL TERMS OF THE CONTRACT AND THAT SUCH ESSENTIAL TERMS WILL BE THE SUBJECT OF FURTHER NEGOTIATION.

Sincerely,

  
\_\_\_\_\_  
Dave Hoekstra, President of North Dakota  
BNC National Bank

  
\_\_\_\_\_  
Jason Arenz, Senior Vice President  
BNC National Bank

Enclosures



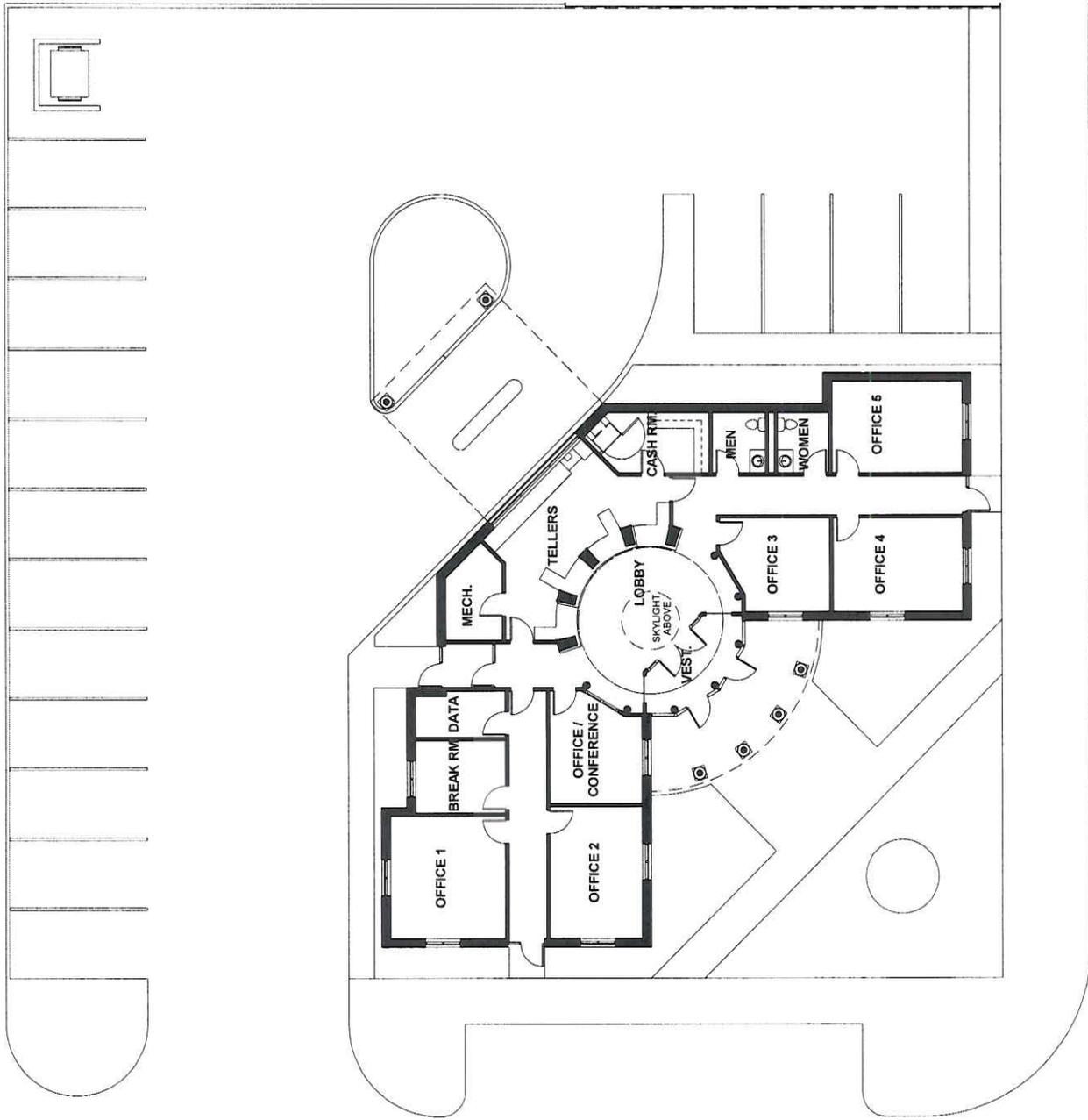




**MAIN STREET**



**COLLINS AVE.**



① Level 1  
1" = 10'-0"

# MANDAN Historical Society

Working to Preserve & Promote Mandan's Heritage since 2004

[Welcome](#)
[Membership](#)
[Activities](#)
[Mandan Museum](#)
[Biographies A-E](#)
[Biographies F-R](#)
[Biographies R-Z](#)
[What's New](#)  
[Area History](#)
[Area Landmarks](#)
[Gone Forever](#)
[Heritage Homes](#)
[View Collections](#)
[Genealogy Links](#)
[Endowment Fund](#)

## Father Daniel V. Collins (1841-1909)

In July 1894, a humble priest arrives from Fargo to assume the spiritual leadership of the local Catholic parish. Who would have predicted he would have such a significant impact to the city? Consider in 1917 when Mandan renamed its streets and avenues, the only non-numeric titles assigned were "Main" and "Collins."



Daniel Collins was born on January 15, 1841 in County Cork, Ireland. His father passed away when Daniel was only three years old. At the height of the Irish Potato Famine in 1847, he and his mother immigrated to the United States to Cleveland, Ohio. He was later placed in the care of the Christian Brothers and attended the first Catholic grade school in the city.

With increasing local unrest preceding the Civil War, he was moved to Wheeling, WV where responsibility for his well being and education was formally accepted by its first Catholic bishop, His Excellency Richard V. Whelan. He continued his studies at St. Mary's Seminary in philosophy and theology. On September 8, 1868 he was ordained in St. Joseph's Cathedral, Wheeling. He performed frontier mission work for twelve years under the direction of the infamous Bishop Whelan and his

successor in the West Virginia frontier. He had also been chaplain of the Home Guards of Cleveland at the onset of the Civil War.

In 1880, Bishop Martin Marty, first Catholic bishop of Dakota Territory, invited him to join in the mission work in the west. While ministering in the southern counties of Dakota Territory, "Captain" Collins served as chaplain of the Second Regiment of the Dakota Territorial National Guard of Elk Point. Due to his successes in what is today South Dakota, he was promoted to the pastorate of St. Mary's Church in Fargo, DT. He remained in Fargo six years. In July 1894, he was transferred to St. Joseph's Catholic Church in Mandan as its pastor taking over for Father John A. Lemmieux.

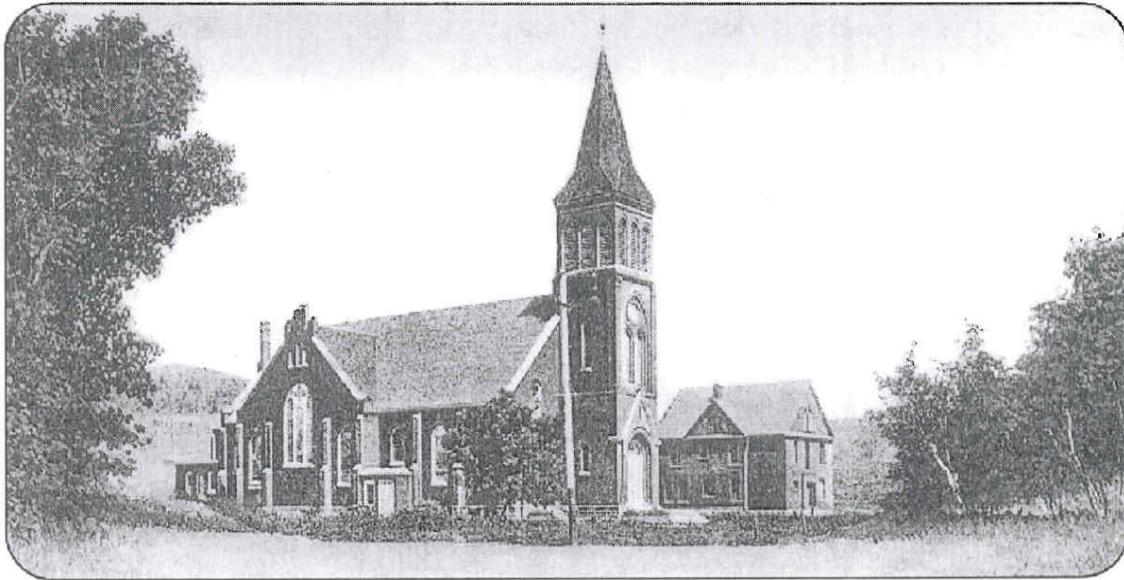
The original congregation was heavily comprised of Irish-heritage railroad construction workers and their families. But by 1892 German's from the Ukraine began arriving in Morton County drawn by homestead opportunities. Railroad land agents specifically targeted German farmers because of their industrious reputations. Church records indicate requests for a German priest and the use of the German language in services in confirmation instruction. However the French-American was replaced with an Irish-born priest.



The previous church building

Father Collins quickly identified the need for larger physical facilities to serve the expanding parish. He undertook the task of securing funds for and the actual construction of the ninth church in his career. The selection of German-born Anton Dohmen to design the church may have been an attempt to address the desire for more German influences in the operation of the parish. Father

attempt to address the desire for more German influences in the operation of the parish. Father Collins personally loaned \$13,500 toward the \$40,000 cost of the new church building. While a new rectory was also started, work on it had to be temporarily suspended due to limited funds.



The current St. Joseph's church building and former rectory circa 1924

Father Collins died unexpectedly at age 68 on September 13, 1909 due to pneumonia aggravated by a heart condition. He had celebrated the fortieth anniversary of his priesthood only days prior. His funeral held in Mandan was the largest the city had ever seen. The Reverend Thomas Egan of Fargo challenged the people of Mandan to "always remember the loyal and heroic service of Father Collins." Reverend Edward Geraghty of Jamestown remarked that the church would stand as a lasting memento to his untiring zeal and generous nature.

He had expressed his desire to be buried beneath the church. Following the funeral, his body was buried in Union Cemetery. In February 1911, his coffin was exhumed and his remains were moved to a vault located in the church's basement.

In his will, he cancelled the \$13,500 remaining on the on the note. He also gave a few lots in that area of the city to the bishop to be used for the good of the parish. The \$14,500 total value of this bequest is worth an estimated \$330,000 in 2008 dollars.

Father Collins was a power for his parish, the community and Morton County. It was said he was universally loved and respected by all who had contact with him, regardless of religion. He was energetic, outspoken and a man of exemplary life with a mission of "Peace on Earth, Good Will to Men."

**Notes:** Father Daniel Collins shares his name with the Daniel Collins who was appointed Justice of the Peace during the first meeting of the Mandan Village Trustees on February 28, 1881. This Daniel Collins was a successful Morton County farmer, early Mandan promoter, and later presided over the murder trial of the Marquis de Mores held in Bismarck from September 12-19, 1885. Father Collins did not arrive in Mandan until 1894.



# COLLINS PLACE

DEVELOPMENT PROPOSAL

 **COMMUNITY CONTRACTORS INC.**  
Construction Management &  
General Contracting

 **DAKOTA**  
COMMERCIAL  
& Development Co.

 **JLGdwell**  
architects

Dakota Commercial, JLG Architects and Community Contractors have worked together on a number of downtown projects, including Mandan Housing, shown here.





Jim Neubauer  
City Administrator  
205 2nd Avenue NW  
Mandan, ND 58554

RE: Property located on Main Street at the corner of Collins Avenue

Dear Mr. Neubauer,

On behalf of our development group, we appreciate the opportunity to submit qualifications for the above mentioned proposal. We are excited for the potential of working with the City of Mandan on another great project in downtown Mandan.

Our team includes Dakota Commercial, Community Contractors and JLG Architects. You will find more information about our companies within our package. Our initial thoughts for the project would be approximately 29-30 apartment units of which we would have portions of commercial space for retail, restaurant and/or office-type uses. We would incorporate many design ideas and responses that directly contribute to the development of community in downtown Mandan. A mixture of housing and commercial attracts a diverse group of people to live in the development.

The residential units would be market rate, and would be available to empty nesters and married couples, or individuals that work and live in the downtown neighborhood.

Since we developed the Mandan Place mixed-use property, we have learned that finding a commercial tenant is key to the success of any project. We would like to secure a main floor tenant before beginning construction. We would like to have additional discussions with the city in regards to purchase price, sale conditions, and tax-increment financing along with approvals of the Renaissance Zone programs.

Upon selection we'll structure a final proposal with detailed financials and costs, along with our financing and equity injection. We are confident that our team would bring experience, energy, resources and commitment to create an additional project that will bring life and vitality and a sense of community to your existing downtown.

Please feel free to call me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Ritterman', is written over the typed name.

Kevin Ritterman, Dakota Commercial & Development, Inc.  
kritterman@dakotacommercial.com  
T (701) 772.3101  
F (701) 772.2654

Sunshine Terrace;  
East Grand Forks, MN



# DEVELOPMENT TEAM

# ABOUT THE FIRMS

## DAKOTA COMMERCIAL & DEVELOPMENT CO.

Dakota Commercial & Development Co was established in 1988 as Dakota Financial & Development, Inc., an exclusive commercial real estate corporation. In 1998, we changed our name to better reflect our additional services. We understand the commercial real estate challenges and market conditions. Every day, we seek solutions to our investor's and our client's needs. We specialize in real estate brokerage and leasing, development, property management, construction management, business brokerage, and real estate investments. Office, industrial, multi-family, retail, and land encompass our expertise in an ever-changing commercial industry. Our services include:

**Development:** Dakota Commercial & Development Co has extensive experience in build-to-suit facilities for office, industrial, retail, and multi-family properties. Our thorough knowledge, through our understanding of your business, allows us to combine our expertise with your objectives to complete your investment on time and on schedule. We coordinate and recommend a development team which encompasses an architect, engineers, and contracts that are best suited for the development project. Dakota Commercial & Development Co also has the expertise to do multi-tenant investment properties. We offer our clients excellent opportunities to achieve the investment return they are looking for.

**Real Estate:** Our associates are experienced in investment property sales, leasing, and tenant representation. They also specialize in retail, industrial, and commercial office property. We are able to offer both purchasers and sellers a very high level of efficiency and in-depth analysis in every transaction. We have a wide array of experience in all aspects of the business, and continually strive to maintain our reputation by providing results.

**Property Management:** Dakota Commercial's property management division has through knowledge in office, industrial, retail, and multi-family property management. We try to understand and develop management plans to meet the clients' objectives and make necessary changes to achieve satisfaction on the tenants' level and the owners' level. For property management, we provide financial reporting, maintenance services, deliberation, capital improvement reporting, property budgeting, marketing and promotional planning, leasing/sales brokerage, and code compliances.

**Construction Management:** Dakota Commercial & Development Co will provide project management to help save time and money through varied construction needs. We will plan the project and construction schedules, go through the bid process to obtain the best price without compromising quality, work closely with architects and engineers to ensure that the office/retail/commercial building will be delivered on time and on budget.

## JLG ARCHITECTS

JLG's dedicated housing group, named JLGdwell, has over 20 years of experience designing the full range of new and renovated multi-family rental housing - from high-end condos to Low Income Housing Tax Credits projects. In the last three years alone, we have completed multi-family projects in North Dakota, Minnesota, Iowa, and Wisconsin. We currently own and manage the Opera House Lofts in Grand Forks, which we renovated into market-rate apartments - one of four buildings we have developed, renovated, and managed. Our experience as an owner and manager of these apartment buildings gives us an understanding of the issues faced by owners that few others can match. JLG knows how to work with tight budgets to create buildings that fit within the historic fabric of the surrounding character of the downtown. This character links us to the past development of a place, enhancing its charm and creating a comfortable place for all to feel proud of.

## COMMUNITY CONTRACTORS

Community Contractors, Inc. is a general contractor/construction management firm located in Grand Forks, ND. Community Contractors has been in business since December 1981. Community Contractors is qualified as a general contractor in the state of North Dakota, we have a Class A license No. 3815. The president of the company is Craig Tweten; he graduated from the University of North Dakota, with a degree in Industrial Technology. Community Contractors started with 3 carpenters/job foreman and since have expanded to a construction management company with a custom cabinet shop. Community Contractors employees project managers, accounting administrative staff, project superintendents, woodworking craftsmen, carpenters and laborers. Our Motto is "Whatever it takes, we will make it happen."

# TEAM ORGANIZATION

**CITY**  
EAST GRAND FORKS, MINNESOTA

**DEVELOPER**  
DAKOTA COMMERCIAL  
& DEVELOPMENT

Kevin Ritterman  
*Lead Developer*

**ARCHITECT**  
JLG ARCHITECTS

Michelle Allen, AIA, LEED AP  
*Lead Architect*

**CONSTRUCTION MANAGER**  
COMMUNITY CONTRACTORS

Craig Tweten  
*Lead Contractor*



## KEVIN RITTERMAN

**FIRM** Dakota Commercial and Development

**ROLE** Lead Developer

**RESUME** Kevin Ritterman owns a multi-million-dollar commercial real estate firm, which develops commercial, retail, office, multi-family, and industrial developments. The firm manages 400,000 sq. ft. of office/retail properties and 500 multi-family units. Kevin brokers and leases retail, office and warehouse commercial real estate, arranges financing through local lenders, life insurance companies, or pension funds for developments, and handles all aspects of a development – brokering, leasing, planning, organizing and construction management. In his career, he has developed, guided and monitored over 25 million dollars of commercial real estate development and construction management projects in the past 3 years, sold over 2.5 million in real estate sales each year for the past 3 years, and arranged and placed over 25 million dollars of construction and permanent loans for commercial developments in the past 3 years. He holds a North Dakota Real Estate License, a North Dakota Real Estate Broker's License, and a North Dakota Mortgage Broker License.

### RECENT EXPERIENCE

- Minnesota Heights Development; East Grand Forks, MN
- Mandan Place; Mandan, ND
- Northern Heights at Griggs Square; Grand Forks, ND
- Pioneer Professional Building; Fargo, ND
- Homestead Grove Complex & Bank Building; Grand Forks, ND
- On 32nd Retail Strip/Office & Retail; Grand Forks, ND
- Urban Plains Office; Fargo, ND
- University Service Village I/Office & Retail Strip; Grand Forks, ND
- University Service Village II/Office, Retail and Multi-Family; Grand Forks, ND
- Bank Forward; Grand Forks, ND



## MICHELLE MONGEON ALLEN, AIA, LEED AP

**FIRM** JLG Architects

**ROLE** Lead Architect

**RESUME** As COO of JLG and the head of the firm's housing division, Michelle was recently named "Outstanding Woman Manager" by Prairie Business Magazine. Michelle holds architecture licensure in Minnesota, North Dakota, Iowa and Wisconsin, and is a LEED-Accredited Professional. She received a Bachelor of Architecture from North Dakota State University in 1993, and has served as the State Coordinator of AIA North Dakota's Intern Development Program and carried out terms on the AIA North Dakota Board, NDSU Department of Architecture and Landscape Architecture Advisory Board and the AIA Minnesota Convention Committee, which she has chaired since 2009.

### RECENT EXPERIENCE

- Minnesota Heights Development; East Grand Forks, MN
- Mandan Place; Mandan, ND
- Northern Heights at Griggs Square; Grand Forks, ND
- The Aurora at Griggs Square; Grand Forks, ND
- Fifth Avenue Live Redevelopment; St. Cloud, MN
- 19th Avenue Mixed-Use Development; Fargo, ND
- Sunrise North Senior Housing; Fargo, ND
- University Place Apartments; Grand Forks, ND
- The Current Apartments; Grand Forks, ND
- Jackson Block; Elk River, MN
- Bluff Block; Elk River, MN
- Riverwood Pines; Little Falls, MN
- St. Alban's Condominiums; Minneapolis, MN
- Riverview Housing; Minneapolis, MN



## CRAIG TWETEN

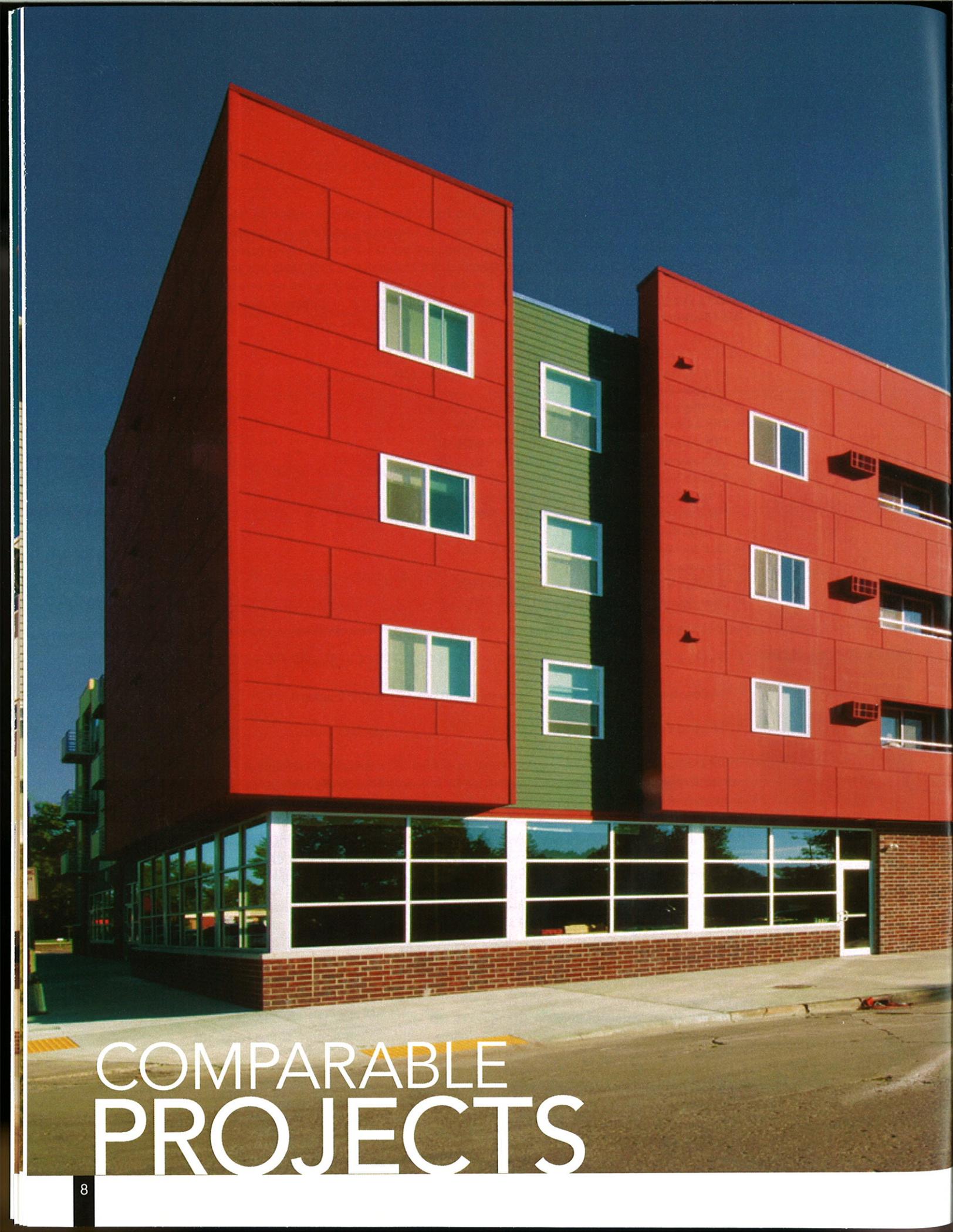
**FIRM** Community Contractors

**ROLE** Lead Contractor

**RESUME** Craig started Community Contractors, Inc. in 1981. He is the President of the company, with responsibility for the overall management and involvement in daily activities. Craig works with the owners in the early development of their project, assisting the setup of financing (as needed) and selection of Design Team members. He works closely with Developers, Architects, and Engineers in the design of projects assuring it stays within budget but without sacrificing the use of high quality products and workmanship. After receiving approval of plans and budgeting Craig appoints the project manager(s) and superintendent(s). Together, as a cohesive team, they see the project through to the final inspection.

### RECENT EXPERIENCE

- Minnesota Heights Development; East Grand Forks, MN
- Mandan Place; Mandan, ND
- Northern Heights at Griggs Square; Grand Forks, ND
- The Aurora at Griggs Square; Grand Forks, ND
- Moving Target Simulator Building; Grand Forks, ND
- GF Airport renovation and Skywalks; Mark Andrews International Airport; Grand Forks, ND
- Interior Upgrades; Mark Andrews International Airport; Grand Forks, ND
- Misc. small projects; Mark Andrews International Airport; Grand Forks, ND
- Hallock Jail; Hallock, MN
- Juvenile Detention Center; Crookston, MN
- Community Bank (2 locations); Grand Forks, ND
- Community Bank ; East Grand Forks, MN



# COMPARABLE PROJECTS



GRAND FORKS, NORTH DAKOTA

## NORTHERN HEIGHTS AT GRIGGS SQUARE

The community Civic Auditorium building, located on the entrance of downtown, had been vacant after a replacement structure had been built. Metro-Plains and Dakota Commercial partnered with JLG to offer up a solution for the site and an adjacent parking lot in order to transform the area into a revitalized housing and commercial neighborhood. The architectural solution provides two buildings - one multi-family housing, the other mixed use - in order to create an iconic gateway into downtown and reinforce the urban grid. Both projects include innovative green elements and a modern architectural aesthetic.

### PROJECT INFORMATION

Completion Date 2011  
 Square Footage 105,256 | 53 units + 7,500 commercial  
 Project Budget \$6,200,000  
 Final Cost \$6,200,000  
 Financing \$4.2 M loan

### PROJECT TIMELINE

Design Start 03/10  
 Construction Completion 08/11

### PROJECT TEAM

Developer Dakota Commercial  
 Architect JLG Architects  
 Contractor Community Contractors

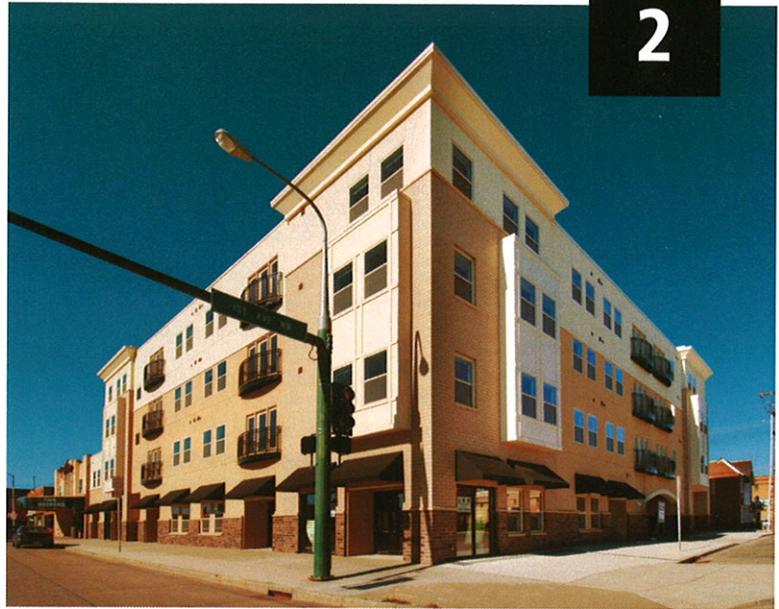
### PROJECT REFERENCE

Greg Hoover, Urban Development  
 (701) 746.2645

### SUSTAINABILITY

Northern Heights uses local materials and energy efficient fixtures.





## MANDAN, NORTH DAKOTA

# MANDAN MIXED-USE

Teamed with Dakota Commercial & Development, JLG Architects designed a mixed-use development to fill a prime area of City-owned property in downtown Mandan. The City selected the team after requesting submittals to create a comprehensive redevelopment strategy for commercial, retail and residential growth. The new structure incorporates many design ideas and responses that directly contribute to the development of community and tourism in downtown Mandan. The housing-and-restaurant mix broadens the types of housing available in downtown Mandan, giving people the choices that they desire and deserve. Housing in the downtown both extends the economic viability and also gives us what Jane Jacobs calls “eyes on the street,” which significantly increases the safety and vitality of the city center. The scale of the development reinforces the very idea of downtown while the architectural details reference tradition but are firmly set in the twenty-first century.

### PROJECT INFORMATION

Completion Date 2010  
 Square Footage 6,000 sf commercial | 27 units  
 Project Budget \$3,000,000  
 Final Cost \$3,000,000  
 Financing Local Perm Financing

### PROJECT TIMELINE

Design Start 09/09  
 Construction Completion 06/10

### PROJECT TEAM

Developer Dakota Commercial  
 Architect JLG Architects  
 Contractor Community Contractors

### PROJECT REFERENCE

Ellen Huber, Business Development Director  
 (701) 667.3485

### SUSTAINABILITY

Sustainable elements include: a high-density development; a site on previously-developed land with access to existing infrastructure; use of regional materials; inclusion of natural lighting and ventilation; individual thermal comfort controls in each unit; minimum parking capacity; use of durable materials to reduce maintenance and increase building life; and water-efficient landscaping.





ROCHESTER, MINNESOTA

# CASCADE CREEK

The Cascade Creek Masterplan takes an integrated approach to site design by looking at three uses starting as a whole on one parcel. Located at the SE intersection of Civic Center Drive and 6th Avenue NW in Rochester near the Mayo Clinic, the masterplan includes a New Horizons Daycare, future townhomes, and Cascade Creek Apartments. In addition to working on the masterplan, JLG Architects designed Cascade Creek Apartments. This project contains forty affordable housing units funded in part thru MHFA, below grade parking, a small commercial space, playground and outdoor area. While required to follow the MN Green Criteria, the project is also submitting for LEED for Homes certification.

## PROJECT INFORMATION

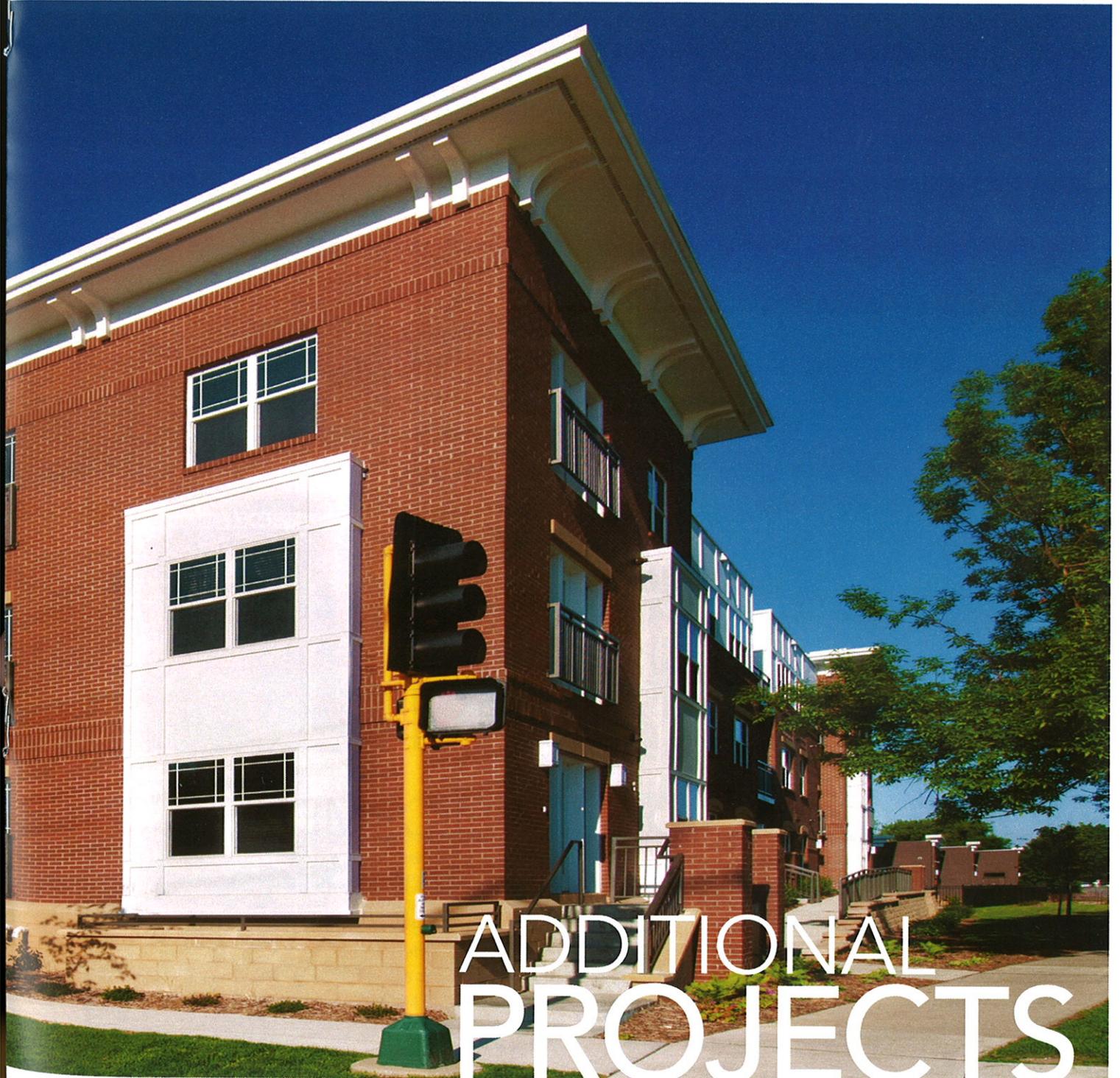
Completion Date 2011  
 Square Footage 60,000 | 40 units  
 Project Budget \$5,600,000  
 Final Cost \$5,563,000

## CLIENT REFERENCE

LaVerne Hanson, MetroPlains  
 (651) 523.1245

## SUSTAINABILITY

Cascade Creek received a 2011 CUDE Award for following the MN Green Criteria while beautifying Rochester.



# ADDITIONAL PROJECTS



**SUSTAINABILITY**

The Phoenix Parkside is a compact development within urban area that creates a connected and walkable neighborhood with access to existing infrastructure.

**PROJECT INFORMATION**

Completion Date 2009  
Square Footage 59,711  
Project Budget \$4,300,000  
Final Cost \$4,299,900

**CLIENT REFERENCE**

Michael Lander, Lander Group  
(612) 825.4954



EAU CLAIRE, WISCONSIN

# PHOENIX PARKSIDE DEVELOPMENT

The Phoenix Park Neighborhood revitalizes what was formerly the dilapidated North Barstow District, and has set the stage for a much-anticipated, large-scale downtown upgrade in a popular area known for its outdoor riverside concerts, bike trails, and Farmer's Market. The building includes 33 one-and two-bedroom apartments units with first floor retail and underground parking that frees on-street parking for shoppers. Designed in collaboration with Lander Design Group, the structure keeps with the neighborhood's historic fabric, but still feels fresh and modern. All of the units feature the over-sized windows, high ceilings, and modern finishes that define loft living, and most apartments will have outdoors space - some with incredible river views. Environmentally friendly building materials and methods appeal to the younger, energy-conscious market attracted to urban living centers. The development provides access to trails and bus stops, bicycle parking, water-efficient plumbing fixtures and landscaping, low-VOC paints/adhesives/sealants, energy-efficient windows and increased insulation to improve energy performance; the use of durable materials and a carefully-considered and well-executed design will ensure that this building is a fixture for years to come. This project received a 2009 DECI Development of the Year Award.

## GRAND FORKS, NORTH DAKOTA

## THE CURRENT APARTMENTS

This downtown redevelopment in Grand Forks takes advantage of a key site along the Red River, affording excellent river views and urban living for forty moderate-income apartments. Street-level walk-up units bring energy to the street level, and parking located at the interior of the site allows new construction to fill this former parking lot site with massing that reinforces the urban fabric. The architectural details and rhythm speak to tradition, but are firmly set in the twenty-first century.

Sustainable elements include:

- Built with minimal footprint on previously developed land
- High density (40 units)
- Pedestrian access to banks, groceries, parks, restaurants, school, theater
- Access to city bus routes
- Minimized parking capacity
- Landscaping not requiring irrigation
- Regionally produced materials
- Renewable materials
- Natural lighting and ventilation
- Individual unit thermal control

## PROJECT INFORMATION

Completion Date 2008  
 Square Footage 45,022  
 Project Budget \$3,600,000  
 Bid Award Amount \$3,441,775  
 Project Change Orders \$23,785  
 Owner Change Orders \$56,488  
 Final Cost \$3,522,048

## LEASE RATES

Time to Lease Up 150 days  
 Average Vacancy 12 days

## CLIENT REFERENCE

Gary Stenson, Metroplains Development  
 (612) 646.7848

## SUSTAINABILITY

The Current Apartments were designed for LEED Certification, although they were not registered.



ELK RIVER, MINNESOTA

# THE BLUFFS OF ELK RIVER



A new four-story multi-use building now graces the downtown Elk River landscape. The Bluffs of Elk River injects eight new first-floor retail storefronts along Main Street, and brings more people to the downtown area by providing 67 for-sale condominium units. Two levels of below-grade parking accommodate 110 cars. New residents will be an integral part of the downtown neighborhood, while also being able to enjoy dramatic views of the Mississippi River and connection to the city-planned river walk.



#### PROJECT INFORMATION

Completion Date 2007  
Square Footage 99,662  
Project Budget \$10,000,000  
Final Cost \$10,000,000

#### CLIENT REFERENCE

Vern Hanson, AIA  
MetroPlains Development, Inc.  
(651) 646.7848

#### SUSTAINABILITY

The Bluffs were designed to Minnesota Green Communities criteria.

*“It certainly doesn’t try to look old. It just fits in and I think it does it very well.”*

Stephanie Klinzing  
Mayor

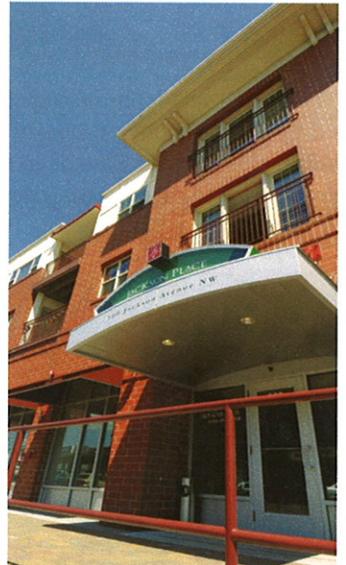
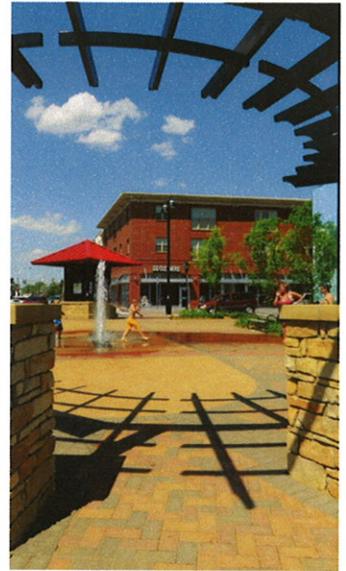
ELK RIVER, MINNESOTA

# JACKSON PLACE

The new Jackson Place Development, located in historic downtown Elk River, replaces a small public parking lot in the heart of the city. The new building provides underground parking, on-grade commercial tenant space, and two levels of rental housing. In addition to supporting the existing businesses through increased population density, the three-story structure provides critical massing in the urban fabric, enhancing the existing one- and two-story historic storefronts by simply balancing the built and open environments and thus strengthening the sense of "downtown."

3

COMPARABLE PROJECTS



#### SUSTAINABILITY

Jackson Place used energy-efficient systems and low-flow plumbing.

#### PROJECT INFORMATION

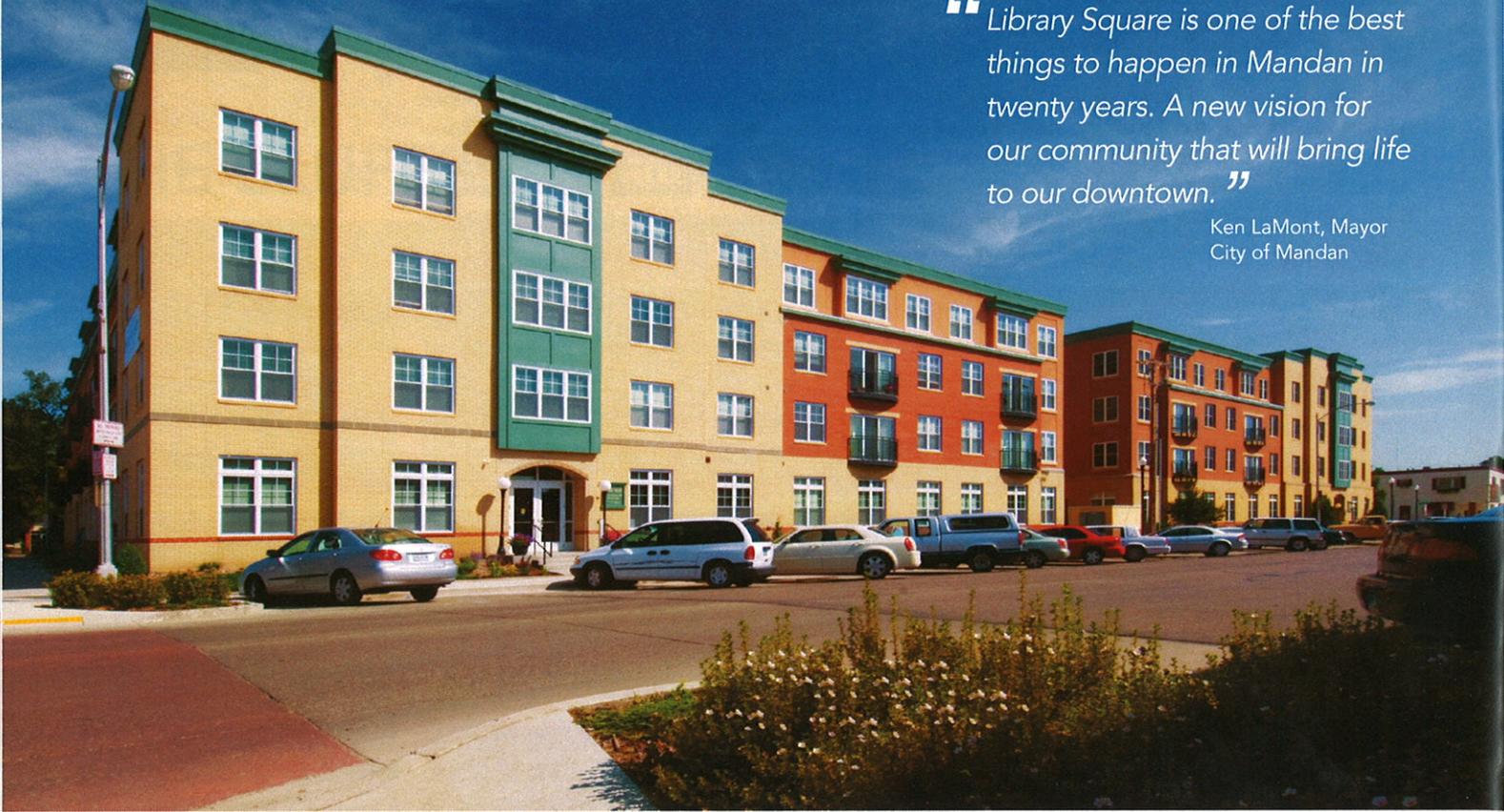
Completion Date 2008  
Square Footage 66,430  
Project Budget \$4,800,000  
Final Cost \$4,800,000

#### CLIENT REFERENCE

LaVerne Hanson, MetroPlains  
(651) 523.1245

“Library Square is one of the best things to happen in Mandan in twenty years. A new vision for our community that will bring life to our downtown.”

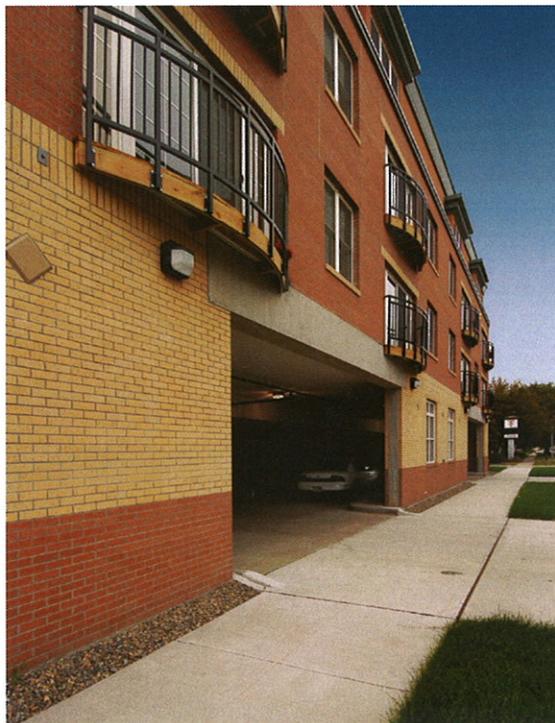
Ken LaMont, Mayor  
City of Mandan



MANDAN, NORTH DAKOTA

## LIBRARY SQUARE

This 44 unit senior housing complex located on a vacant site in downtown Mandan, North Dakota is designed to fit the urban context and relate to the historic city library located next door. The four levels provide a mix of community spaces and amenities and a mix of one and two bedroom units. Ease of access, location to city services and a comfortable palette of materials will make this a desirable destination for seniors. Library Square is developed by MetroPlains Development of St. Paul, Minnesota, and received the 2005 Housing Production Award from the North Dakota Housing Finance Agency.



### PROJECT INFORMATION

Completion Date 2003  
Square Footage 44 units  
Project Budget \$3,355,000  
Bid Award Amount \$3,351,000  
Project Change Orders n/a  
Owner Change Orders n/a  
Final Cost \$3,351,000

### CLIENT REFERENCE

Gary Stenson, MetroPlains  
Development  
(612) 646.7848

### SUSTAINABILITY

Library Square used local materials and energy-efficient light fixtures.



CEDAR RAPIDS, IOWA

## CEDAR CREST APARTMENTS

Cedar Crest Apartments is a 45-unit senior housing project located on a former farmstead in Cedar Rapids, IA. The plan solution was derived as a response to the contours of the site, the location of the existing farm house, and the scale of the surrounding residential neighborhood. The three-story building tucks into the contours of the site, reducing the perceived building height where it's in closest proximity to its residential neighbors and providing at-grade access to the lower level parking. The project converts the existing farmhouse to community space for the residents and establishes the language for the building's architectural image. The Cedar Crest Apartments meet Iowa Green Street criteria for sustainable design.



### PROJECT INFORMATION

Completion Date 2010  
 Square Footage 70,000  
 Project Budget \$5,500,000  
 Final Cost \$5,500,000

### CLIENT REFERENCE

LaVerne Hanson, Jr., Metroplains, LLC  
 (651) 646.7848

### SUSTAINABILITY

The Cedar Crest Apartments meet Iowa Green Street criteria for sustainable design.



## FARGO, NORTH DAKOTA SNG CENTER

This mixed-use project contains 75 apartment units, 27,500 sf of retail space, and 75 underground parking spaces. It is designed in a collegiate style to relate to the nearby North Dakota State University campus. The apartment units are designed with large expanses of windows, high ceilings, and exposed ductwork to appeal to the prospective tenants, who are NDSU faculty and students. To reduce the scale of this large complex the building is broken into two parts which are connected by a "bridge" on the upper levels. Two towers mark the corners and give the project its north Fargo identity. This project received a 2008 ND Ready-Mix Excellence in Concrete Award.



### SUSTAINABILITY

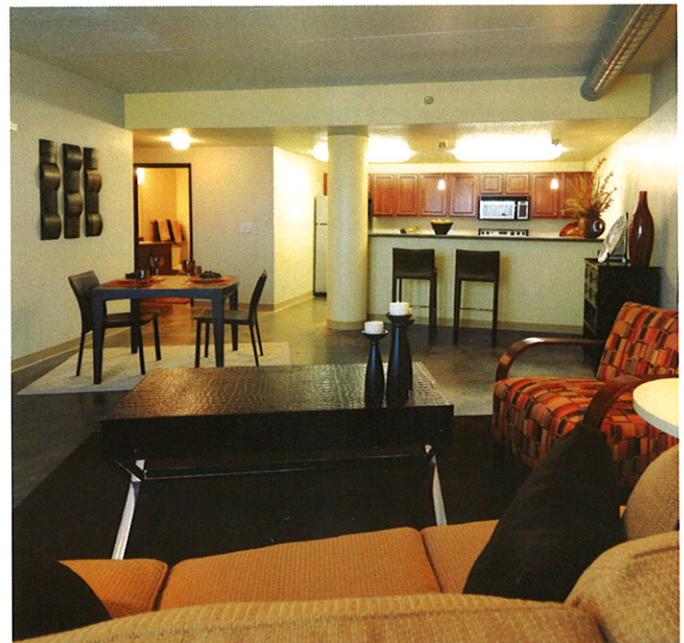
The SNG Center used energy-efficient systems and low-flow plumbing.

### PROJECT INFORMATION

Completion Date 2008  
Square Footage 27,500  
Construction Cost \$8,250,000

### CLIENT REFERENCE

Jim Roers, Developer  
(701) 282.6413

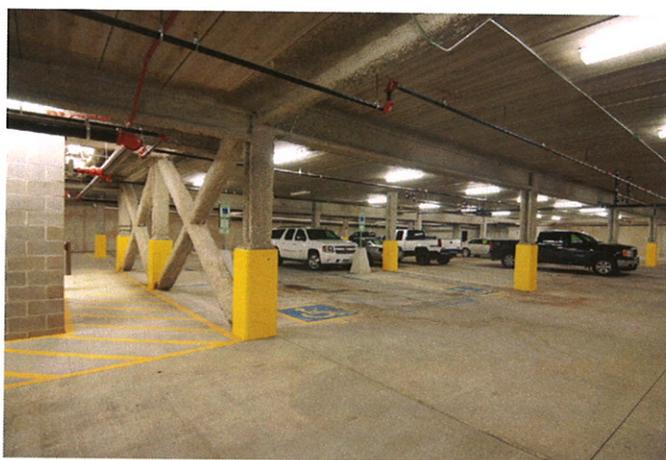




FARGO, NORTH DAKOTA

## CITYSCAPES PLAZA

Cityscapes Plaza is a five-story mixed-use building located on a key site in downtown Fargo, North Dakota. The project is owned by Cityscapes Development, but the upper four floors are managed by NDSU for students attending the new downtown campus of NDSU and are comprised of 104 apartments providing 214 student beds. The 42,920 square foot ground floor is devoted to retail space, including a food court. The basement level provides parking for 75 cars in a heated parking garage. Fast Track Construction ensured that the building was completed in time to welcome students from the new NDSU Downtown Business College.



### SUSTAINABILITY

Cityscapes Plaza used energy-efficient systems and low-flow plumbing.

### PROJECT INFORMATION

Completion Date 2009  
 Square Footage 195,440  
 Project Budget \$14,000,000  
 Bid Award Amount n/a  
 Project Change Orders n/a  
 Owner Change Orders n/a  
 Final Cost \$13,897,929

### CLIENT REFERENCE

Mike Bullinger, CEO  
 (701) 280.5885

# PROPOSED PROJECT

The concepts presented in this proposal reflect an understanding of the very specific needs of commercial and residential stakeholders, the City's long-term planning, and good urban design practice. Our team has significant experience in this project type, in working with municipalities, and in designing within a downtown context. While we are confident that the ideas are based solidly on that experienced judgment and design sensitivity, we welcome the opportunity to work with the City to refine the initial concepts.

The design process included meeting as a team to determine the building programs - including commercial square footage, number of housing units, unit mix and amenities - to analyze the site in terms of existing conditions and long-term visioning

## CONCEPT PLAN: INITIAL PROPOSAL

**SITE PLAN:** There were several drivers regarding the placement of the site elements:

- Urban design principles and the City of Mandan architectural standards suggest that the building elements should reinforce the grid of the existing fabric
- While housing is the predominant occupancy type in this proposal, commercial space was considered in terms of visibility and access
- Setbacks that allow for comfortable and responsible separation at residential units
- Greenspace and landscaping as development amenities
- Off-site parking in adjacent city lot

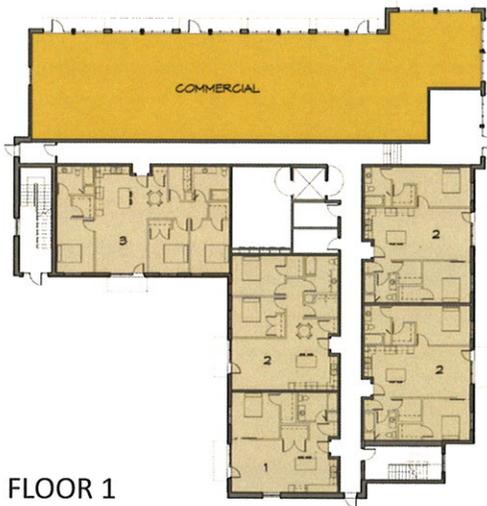
The proposed solution places the building squarely on the site, with building elements built to the property lines at the corners to reinforce the urban grid, and recessed at the remaining residential units to accommodate balconies and some slight separation from the street. As suggested in the RFP, parking will be provided off-site at a nearby city lot. While the residential units face both the street and alley, green space buffers provide area for landscaping and trees.



SITE PLAN



ELEVATION ALONG MAIN STREET



FLOOR 1



**BUILDING COMPONENTS:**

This four-story mixed-use building includes first floor commercial/retail space (approximately 3,000+/- s.f.) and market-rate rental housing with a mix of one-, two-, and three-bedroom units for a total of 29 units. Though a four-story structure, the lower floor-to-floor dimensions compared to nearby three-story buildings should allow the scale to tie-in well to the scale and character of the existing area.

**MATERIALS:** The building materials proposed in this initial concept were chosen for their following characteristics: durability, economy, and their ability to translate a traditional aesthetic. Brick/masonry and fiber cement siding and trim are materials that have become very common in metropolitan housing developments for the reasons noted above. The forms and proportions are based on classical standards and serve to complement, rather than compete with, the established core downtown buildings.



FLOORS 2

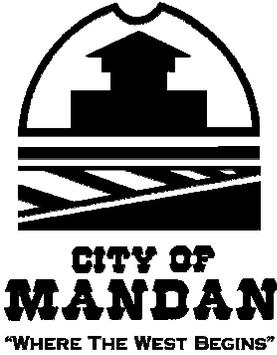


**UNIT MATRIX**

Floor	1B	2B	3B	Total	Total GSF
1st	1	3	1	5	11,513 GSF (commercial +/- 3,000 GSF)
2nd	1	5	2	8	11,513 GSF
3rd	1	5	2	8	11,513 GSF
4th	1	5	2	8	11,513 GSF
<b>Total</b>	<b>4</b>	<b>18</b>	<b>7</b>	<b>29</b>	<b>46,052 Total GSF</b>



ELEVATION ALONG COLLINS AVENUE



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20, 2012  
**PREPARATION DATE:** November 15, 2012  
**SUBMITTING DEPARTMENT:** Business Development & Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Attorney Malcolm Brown  
**SUBJECT:** Purchase Agreement for Sale of Former Water Reservoir Property

STATEMENT/PURPOSE: To consider a purchase agreement with Harmony Properties for the sale of the former water reservoir property and demolition of the reservoir structure, all located northeast of the intersection of Old Red Trail and 8<sup>th</sup> Avenue NW.

BACKGROUND/ALTERNATIVES: A bid submitted by Harmony Properties, LLC, for \$5,000 and waiver of landfill charges was approved by the City Commission at its Sept. 18, 2012, meeting. The proposed purchase agreement submitted by the client's attorney indicates, rather than a deed now and a refundable \$5,000 deposit as the City had proposed, the closing would be delayed until after completion of the reservoir demolition with payment of \$5,000 as earnest money at the time the purchase agreement is executed. The client's proposed agreement does give the buyer the right to cease the demolition project and terminate the agreement if any hazardous substances would be discovered during the demolition process.

Demolition of the structure will enhance the commercial development potential of the subject property and adjacent property due to its proximity to the Walmart supercenter site, Old Red Trail and I-94. The City's alternative to this proposal is rejecting the offer, paying for the demolition and then selling the property. It was determined in September that the City would be unlikely to recoup costs under this scenario. Leaving the water reservoir status quo is apt to hinder development.

ATTACHMENTS: Proposed purchase agreement

FISCAL IMPACT: Approximately \$20,000 in soft costs for the landfill waiver.

STAFF IMPACT: Minimal.

LEGAL REVIEW: Attorney Brown has reviewed the agreement and recommends approval.

Board of City Commissioners

Agenda Documentation

Meeting Date: November 20, 2012

Subject: Consider Purchase Agreement for Sale of Water Reservoir Property

Page 2 of 2

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RECOMMENDATION: I recommend approval of the purchase agreement with Harmony Properties, LLC, for the sale former water reservoir property and demolition of the reservoir structure.

SUGGESTED MOTION: I move to approve the purchase agreement with Harmony Properties, LLC, for the sale former water reservoir property and demolition of the reservoir structure.

## PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_ day of November, 2012 by and between the City of Mandan, North Dakota, a Municipal Corporation, of the post office address of 205 2<sup>nd</sup> Avenue NW, Mandan, North Dakota 58554, hereinafter referred to as "Seller", and Harmony Properties, LLC, a North Dakota limited liability corporation, of the post office address of PO Box 838, Bismarck, North Dakota 58502-0762, hereinafter referred to as "Buyer";

The Seller, in consideration of the covenants and agreements of the Buyer hereinafter contained, hereby sells and agrees to convey to Buyer, and its assigns, by Warranty Deed, conveying good and marketable title to the property hereinafter described, free of all encumbrances except non-objectionable easements and restrictions of record in the office of the County Recorder, Morton County, North Dakota, if any, upon the prompt and full performance by Buyer, of all parts of this Agreement, the tracts of land, lying and being in the County of Morton, State of North Dakota, described as follows:

Lot Twenty-eight (28), Block Two (2), Pioneer Industrial Park Addition to the City of Mandan, Morton County, North Dakota.

The terms and conditions of sale and purchase are:

1. PURCHASE PRICE AND PAYMENT TERMS: The purchase price shall be \$5,001 payable as follows: \$5,000 cash at time this document is executed as earnest money. Remaining balance due at closing. Closing shall occur on before July 31, 2013, or at such other times as mutually agreed upon by the undersigned. Closing shall occur at \_\_\_\_\_ a.m. at the offices of Malcolm Brown, Bismarck, North Dakota.
2. CONDITION OF PROPERTY: Except as otherwise provided herein, the property is conveyed "AS IS, WHERE IS".
3. HAZARDOUS SUBSTANCES: The Seller certifies that Seller is not aware of and has no reason to know as to the presence of hazardous substances located on the Property. Prior to closing, Buyer shall commence the demolition and removal of the water reservoir facility located on the subject premises. In the event Buyer discovers hazardous substances during the demolition process, Buyer shall be authorized to immediately cease work on the demolition project and notify Seller of Buyer's intention to terminate this Agreement, in its entirety. In the event such notice is given by Buyer to Seller, Buyer shall be entitled to a full refund of Buyer's earnest money. Hazardous substances are intended to include, but not be limited to, the following: asbestos, urea formaldehyde, polychlorinated biphenyls, nuclear fuel or materials, chemical waste, radioactive materials, explosives, known carcinogens, petroleum products or other dangerous, toxic or hazardous pollutant, contaminant, chemical

material or substances defined as hazardous or as a pollutant or contaminant in, or the release or disposal of which is regulated by any law or regulation.

4. EARNEST MONEY: Buyer has paid the sum of \$5,000 as earnest money to be credited on the purchase price, receipt of which is hereby acknowledged by the Seller. Buyer agrees to perform the other terms and conditions of this contract to be kept and performed by the Buyer upon the delivery of the Warranty Deed conveying the Property to the Buyer or to such other persons as the Buyer may designate. The Property may be subject to restrictive covenants, easements and grants and reservations of minerals of record, if any. The earnest money shall not be refunded for any reason other than a) defects in the title which cause title to be unmarketable, b) objectionable easements or restrictions of record, with Buyer determining what is or is not objectionable, or c) Buyer discovers hazardous waste during the demolition process.
5. DEFAULT: Should the Buyer default in completing the terms and conditions of this Agreement, as Seller's sole remedy, the earnest money hereunder paid by the Buyer shall be forfeited as liquidated damages and this contract shall be in all ways terminated and without any further legal effect.
6. TITLE INSURANCE AND ABSTRACT OF TITLE: Seller has notified Buyer that Seller shall not provide Buyer with an Abstract of Title or Title Insurance to the subject premises. Such Abstract or Title Insurance shall be obtained at Buyer's sole cost and expense.
7. REAL ESTATE TAXES AND SPECIALS: Taxes and special assessments for the year 2013 shall be prorated to date of closing. All taxes and special assessments certified to the County Treasurer for annual collection for calendar years 2012 and prior shall have been paid in full by Seller; Buyer promises and covenants to pay all taxes and special assessments that may hereafter be levied and assessed upon said property, including special assessments not yet annually certified for collection, before the same or any part thereof become delinquent.
8. CLOSING AND POSSESSION: Closing and possession of the Property shall occur on or before July 31, 2013, subject to any extension of time herein granted in the event that title to the Property should be found unmarketable and subject to change by mutual agreement of the Seller and Buyer.
9. CLOSING COSTS: Seller shall be responsible for the following closing costs: preparation of Warranty Deed, and preparation of and recording expense of all releases, satisfactions and corrective documents. Buyer shall be responsible for the abstract of title or title insurance policy, title

examination fees and recording of Warranty Deed to Buyer. Any closing cost not specifically enumerated herein shall be the responsibility of the party ordering such item or contracting therefor. In the special event that Buyer or Buyer's lender requires title insurance, the cost thereof shall be entirely paid by Buyer with the exception of the furnishing of a continued abstract by Seller.

10. CONDITIONS PRECEDENT TO CLOSING: This Agreement and the Buyer's obligation to close and purchase the property described herein is expressly contingent on the following:

- A. As noted herein, there is a water reservoir located on the subject premises which Buyer shall demolish. Buyer shall be authorized to commence demolition and removal of demolition waste at any time subsequent to the execution of this Purchase Agreement and the payment of the \$5,000 earnest money deposit. Through the date of closing, or July 31, 2013, whichever occurs first, Buyer shall be authorized to deliver to and deposit demolition waste from the site at the Mandan municipal waste site, with no tipping or waste disposal fees. Buyer shall be responsible for all demolition and hauling costs and expenses.
- B. The parties acknowledge and agree that, to the best of Buyer's and Seller's knowledge, information and belief, there are no hazardous wastes on the subject premises. If, during demolition, Buyer discovers hazardous waste, Buyer shall be authorized to elect to terminate this Contract, immediately, and obtain a full refund of the earnest money paid.

Should any one or more of the foregoing contingencies fail, the Buyer shall be authorized to terminate this agreement with a full refund of the earnest money paid,

11. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement by and between the parties and any and all prior representations, discussions or agreements are deemed merged herein and those not specified herein do not represent any agreement or promises or covenants or representations on the part of either party hereto. Buyer specifically acknowledges that Buyer has made an independent inspection of the premises; and if the property is income producing, Buyer shall independently and to Buyer's satisfaction verify its operations and income production. Buyer acknowledges that Seller has not made and that Buyer is not relying upon any statements or representations made by the Seller regarding operations, profitability or income production of the property.

12. AMENDMENTS, MODIFICATIONS, OR WAIVERS: No amendment, modification or waiver of any condition, provision or term shall be valid or

of any effect unless made in writing signed by the party or parties to be bound or a duly authorized representative and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default shall not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties thereto under and pursuant to this Agreement.

13. BINDING EFFECT: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, successors and assigns.
14. GOVERNING LAW: The enforcement and interpretation of this Agreement shall be governed by North Dakota law.

Time is deemed of the essence of each and every provision of this Agreement.

IN TESTIMONY WHEREOF, Said parties have hereunto set their hands the day and year first above written.

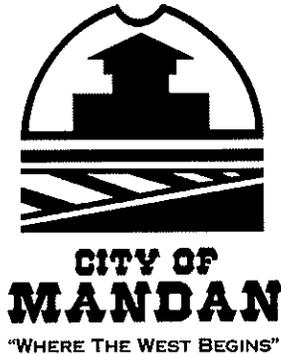
SELLER: CITY OF MANDAN, NORTH DAKOTA

By: \_\_\_\_\_  
\_\_\_\_\_  
Its \_\_\_\_\_

BUYER: HARMONY PROPERTIES, LLC

By: \_\_\_\_\_  
Mike Wachter, Managing Partner

By: \_\_\_\_\_  
Pat Wachter, Managing Partner



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20, 2012  
**PREPARATION DATE:** November 15, 2012  
**SUBMITTING DEPARTMENT:** Finance  
**DEPARTMENT DIRECTOR:** Greg Welch  
**PRESENTER:** Mike Manstrom, Dougherty & Company LLC  
**SUBJECT:** Sale of \$480,000 Refunding Improvement Bonds, Series SCG-2012.

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#### PURPOSES

1. To authorize the sale of \$480,000 Refunding Improvement Bonds, Series SCG-2012.
2. To approve the Resolution awarding the sale of warrants and bonds.

#### BACKGROUND

The sale of warrants and bonds is necessary to finance the following infrastructure projects:

- Sidewalk, Curb and Gutter of 2011 (for the construction, repair and rebuilding of sidewalks, curb and gutter) = \$245,926.61
- Sidewalk, Curb and Gutter of 2012 (for the construction, repair and rebuilding of sidewalks, curb and gutter) = \$234,073.39

Dougherty & Company LLC has offered and agreed to purchase the Warrants.

#### ATTACHMENTS

- Estimated Funding Required
- Official Statement
- Moody's Investors Service
- Official Bid Form
- Resolution Awarding Sale of Warrants and Bonds

FISCAL IMPACT

The proceeds from the sale of warrants and bonds are summarized as follows:

- \$465,765.43 for construction expenditures.
- \$14,234.57 for bonding and financing related costs.

The City assessed these projects and certified the assessments to the County. The assessment period for these projects will be 10 years to match the term of the Bonds. The interest rate on the assessments is projected to be 3.47%, no interest the first year.

STAFF IMPACT

None

LEGAL REVIEW

Steve Vogelpohl, Bond Counsel, prepared the Resolution.

RECOMMENDATION

To approve the Resolution Awarding Sale of Warrants and Bonds for Sidewalk, Curb and Gutter of 2011 and Sidewalk, Curb and Gutter of 2012.

SUGGESTED MOTION

Move to approve the Resolution Awarding Sale of Warrants and Bonds for Sidewalk, Curb and Gutter of 2011 and Sidewalk, Curb and Gutter of 2012.

**City of Mandan, North Dakota**  
**Refunding Improvement Bonds - Series SCG 2012**

**Estimated Funding Required:**

<b><u>(2) Costs of Issuance:</u></b>	<b><u>SCG 2011</u></b>	<b><u>SCG 2012</u></b>	<b><u>Total</u></b>
Construction	\$238,809.32	\$226,956.11	\$465,765.43
Financial Consulting	\$0.00	\$0.00	\$0.00
Transcript/Official Statement	\$0.00	\$0.00	\$0.00
Initial Registration(Starion Bond Services)	\$375.00	\$375.00	\$750.00
Bond Rating(Moody's Investor Service)	\$1,500.00	\$1,500.00	\$3,000.00
Bond Attorney	\$1,850.00	\$1,850.00	\$3,700.00
Bond Discount (1.25%)	\$0.00	\$0.00	\$6,000.00
Rounding	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$784.57</u>
<b>Total</b>	<b>\$242,534.32</b>	<b>\$230,681.11</b>	<b>\$480,000.00</b>

While every reasonable precaution has been taken to insure the accuracy herein,  
it is not guaranteed.

DOUGHERTY & COMPANY LLC

10/12/2012

*New Issue/Book Entry Only*

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

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FINAL OFFICIAL STATEMENT

(Dated November \_\_, 2012)

**CITY OF MANDAN  
MORTON COUNTY, NORTH DAKOTA**

**\$480,000 Refunding Improvement Bonds, Series SCG-2012**

Bonds Dated: December 15, 2012

Principal Due: May 1, as below

Rating has been applied for.

Interest will be payable on May 1 and November 1, commencing May 1, 2013. The Bonds will be issued as fully registered Bonds without coupons and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"). DTC will act as securities depository of the Bonds. Individual purchases may be made in book entry form only, in the principal amount of \$5,000 and integral multiples thereof. Purchasers will not receive certificates representing their interest in the Bonds purchased. See ("Book Entry System" herein.) Starion Bond Services of Mandan, North Dakota will serve as registrar.

<u>Year</u>	<u>Amount</u>	<u>Rate</u>	<u>Yield</u>	<u>CUSIP</u>
2013	\$50,000			
2014	\$55,000			
2015	\$55,000			
2016	\$55,000			
2017	\$50,000			
2018	\$50,000			
2019	\$50,000			
2020	\$50,000			
2021	\$45,000			
2022	\$20,000			

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

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

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**DOUGHERTY & COMPANY LLC**

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

# MOODY'S

Investors Service

Henrietta Chang  
Vice President  
Sr. Credit Officer

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Suite 2220  
Chicago, IL 60606  
312.706.9960 tel  
312.706.9999 fax  
henrietta.chang@moodys.com  
www.moodys.com

October 25, 2012

Mr. Greg Welch  
City of Mandan  
205 Second Ave. Northwest  
Mandan, ND 58554-3125

Dear Mr. Welch:

We wish to inform you that on October 23, 2012, Moody's Investors Service reviewed and assigned a rating of

- **A1** to MANDAN (CITY OF) ND, Refunding Improvement Bonds, Series SCG-2012
- **A1** to MANDAN (CITY OF) ND, Refunding Improvement Bonds of 2012, Series B

In order for us to maintain the currency of our ratings, we request that you provide ongoing disclosure of current financial and statistical information.

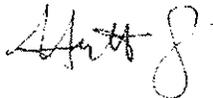
Moody's will monitor this rating and reserves the right, at its sole discretion, to revise or withdraw this rating at any time in the future.

The rating, as well as any revisions or withdrawals thereof, will be publicly disseminated by Moody's through normal print and electronic media and in response to verbal requests to Moody's Rating Desk.

In accordance with our usual policy, assigned ratings are subject to revision or withdrawal by Moody's at any time, without notice, in the sole discretion of Moody's. For the most current rating, please visit [www.moodys.com](http://www.moodys.com).

Should you have any questions regarding the above, please do not hesitate to contact me or the analyst assigned to this transaction, Chandra Ghosal at 312-706-9951.

Sincerely,



Henrietta Chang

CC:

Mr. Mike Manstrom  
Dougherty & Company

# MOODY'S

## INVESTORS SERVICE

**New Issue:** Moody's assigns A1 rating to the City of Mandan's (ND) \$480,000 Refunding Improvement Bonds, Series SCG-2012 and \$5.16 million Refunding Improvement Bonds of 2012, Series B

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Global Credit Research - 23 Oct 2012

### **A1 rating applies to \$41.4 million of post-sale GO debt**

MANDAN (CITY OF) ND  
Cities (including Towns, Villages and Townships)  
ND

### **Moody's Rating**

<b>ISSUE</b>	<b>RATING</b>
Refunding Improvement Bonds of 2012, Series B	A1
<b>Sale Amount</b>	\$5,155,000
<b>Expected Sale Date</b>	11/09/12
<b>Rating Description</b>	General Obligation
Refunding Improvement Bonds, Series SCG-2012	A1
<b>Sale Amount</b>	\$480,000
<b>Expected Sale Date</b>	11/09/12
<b>Rating Description</b>	General Obligation

### **Moody's Outlook**

#### **Opinion**

NEW YORK, October 23, 2012 --Moody's Investors Service has assigned a A1 rating to the City of Mandan's (ND) \$480,000 Refunding Improvement Bonds, Series SCG-2012 and \$5.16 million Refunding Improvement Bonds of 2012, Series B. Concurrently, Moody's maintains the A1 rating on the city's outstanding general obligation unlimited tax debt. Post-sale, the city will have \$41.4 million of outstanding general obligation debt.

#### **SUMMARY RATINGS RATIONALE**

Debt service is expected to be paid by special assessments, however, the bonds are ultimately secured by the city's general obligation unlimited tax pledge. Proceeds of the Series B bonds will be used to fund street improvements to Street District 161 and proceeds from the Series SCG-2012 bonds will be used for sidewalk, curb and gutter improvements in the city. Assignment of the A1 rating reflects the city's moderately sized tax base favorably located adjacent to the state capital, Bismarck (general obligation rated Aa1), sound financial profile supported by healthy General Fund reserves and revenue raising flexibility, and an elevated debt burden.

#### **STRENGTHS:**

- Strong regional economy marked by low unemployment rates compared to the nation
- Healthy reserve levels with revenue raising flexibility

#### **CHALLENGES:**

- Elevated debt burden

- High level of fixed costs relative to operating expenditures

#### DETAILED CREDIT DISCUSSION

#### MODERATELY SIZED TAX BASE FAVORABLY LOCATED NEAR STATE CAPITAL BENEFITING FROM ENERGY SECTOR EXPANSION

The City of Mandan covers nearly 12 square miles and sits directly across the Missouri River from the state capital, Bismarck. Mandan's economy is agriculturally focused with some light manufacturing, commercial, and retail sectors. In contrast to national trends, the city's taxbase continues to grow, though the pace has softened. The moderately sized \$1.0 billion tax base has grown at an average annual rate of 4.3% since 2007, though grew by a slightly more modest 3.5% in 2011. During the last decade, the city annexed a significant amount of land which is now available for continued development and growth as demand arises. Despite flooding along the Missouri River in May 2011, the damage was largely contained to the levees that regulate water levels rather than to property. We expect the city's tax base to continue to increase due to its favorable location near the state capital, the presence of land for future development and the increased demand resulting from the expansion of the energy industry in the western part of the state.

In January 2012, Wal-Mart Stores Inc. (senior unsecured rating Aa2/stable outlook) announced plans to build a 150,000 square foot Super Wal-Mart in northwest Mandan which is expected to open in fall 2013 with approximately 150 employees. The store is projected to generate between \$400,000 and \$500,000 in additional sales tax revenue annually. City officials also report increased interest in retail development on the parcels of land near the proposed Wal-Mart. The city of Mandan has benefited from the expansion of the energy industry in western North Dakota, with energy companies seeking additional office space and new residential development for workers who commute to oil fields in western part of the state. The Tesoro Corporation's (senior unsecured rated Ba1/negative outlook) refinery is not within the city's tax base, but a \$35 million expansion project to increase crude oil and diesel fuel production is expected to generate 20 new jobs for the region. Building permit activity has increased dramatically, going from \$47.3 million in 2011 to approximately \$105 million year to date in 2012, reflecting the demand for both residential and commercial properties. In June 2012, the unemployment rate in Morton County at 3.4% was slightly higher than the state at 3.2%, but significantly lower than the national rate of 8.4%. The city's resident income profile tracks slightly lower than the nation with per capita income at 97% of the state and 91% of the nation and median family income at 97% of both the state and the US.

#### SOUND FINANCIAL OPERATIONS CHARACTERIZED BY HEALTHY AND GROWING RESERVES

We expect the city's financial profile to remain sound due to the presence of healthy reserves and revenue raising flexibility. At the close of fiscal 2010, the General Fund balance stood at \$1.7 million, or a satisfactory 23.9% of General Fund revenues. While the city's original fiscal 2011 budget included an additional draw on reserves of \$472,900, the city ended the year with an operating surplus of more than \$770,000 due to significant growth in state aid. The operating surplus increased the General Fund reserve to approximately \$2.5 million, or a healthy 30.5% of 2011 General Fund revenues. For fiscal 2012, management is anticipating a \$1.3 million operating surplus, driven by increased state aid funding as well as higher than budgeted sales tax revenues. The year end fund balance is projected to be an ample 46% of 2011 General Fund Revenues.

The General Fund historically maintained strong liquidity, with a net cash position of \$1.5 million (21.1% of General Fund revenues) in fiscal 2010. The city's cash balance in the General Fund was depleted in fiscal 2011 for flood remediation projects for which federal reimbursements had not yet been received. Favorably, FEMA has since reimbursed the city for 90% of flood related expenditures with the State of North Dakota (issuer rated Aa1) reimbursing 7% of expenditures. Due to the timely reimbursements, the city's net cash position is projected to be close to \$3.6 million, or 44% of 2011 General Fund Revenues, at the end of fiscal 2012. The city's unreimbursed flood expenditures total less than \$250,000 out of an estimated \$5.5 million spent.

The city retains revenue generating flexibility as it currently levies approximately 20 mills below the cap allowed by its home rule charter. Property taxes are the largest source of revenue for the city and comprised 40.5% of General Fund revenues in fiscal 2011. Transfers in, which are made up of state highway tax and sales tax revenues, comprised the second highest revenue source at 26.5% of General Fund revenues followed by intergovernmental aid which accounted for 21%. Special assessment revenue is primarily used to pay debt service, which is the city's largest operating expenditure at 45.4% of operating revenues. While this is an exceptionally high proportion of spending, this high fixed cost is somewhat mitigated by the direct offset of the special assessment revenue stream. All special assessment debt is also backed by the full taxing authority of the city, which mitigates the risks posed by potential deficiencies in special assessment collections. The city notes

that it has not had to utilize this provision to support debt service in nearly two decades. The city also collects a 1% sales tax and 40% of collections are transferred to the General Fund for property tax relief. Annual sales tax revenue has been growing, with fiscal 2010 collections totaling \$1.5 million and fiscal 2011 results totaling \$1.7 million.

#### ELEVATED DEBT BURDEN SUPPORTED BY SPECIAL ASSESSMENTS; RAPID PRINCIPAL AMORTIZATION

At 5.8% of full valuation, the city's debt burden is significantly higher than both state and national medians. Approximately 98% of the city's general obligation debt is supported by special assessments. The city's overall debt burden, at 7.5% of full valuation, is also elevated due to borrowing by overlapping entities, including Mandan Public School District 1 (general obligation rated Aa3). At the close of fiscal 2011, the city had approximately \$5.6 million in reserves in its debt service fund resulting from prepaid assessments from property owners. Management reports limited future borrowing plans. Principal amortization is rapid with 91.6% of general obligation debt retired in ten years. All of the city's debt is fixed rate and the city is not a party to any interest rate swap agreements.

#### WHAT COULD CHANGE THE RATING UP:

- Significant diversification and expansion of the city's tax base and strengthening of the city's resident income profile
- Moderation of city's debt profile

#### WHAT COULD CHANGE THE RATING DOWN:

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

#### KEY STATISTICS

2010 Census population: 18,331 (9.6% increase since 2000)

2012 Full valuation: \$1.0 billion (4.3% average annual increase since 2007)

2012 Estimated full value per capita: \$54,183

2006-2010 Per Capita Income (American Community Survey 5-Year Estimates): \$24,960 (96.7% of ND; 91.3% of US)

2006-2010 Median Family Income (American Community Survey 5-Year Estimates): \$61,184 (97.2% of ND; 97.1% of US)

Morton County unemployment rate (June 2012): 3.4% (state at 3.2%; US at 8.4%)

Fiscal 2011 General Fund balance: \$2.5 million (30.5% of General Fund revenues)

Direct debt burden: 5.8%

Overall debt burden: 7.5%

Principal amortization (10 years): 91.6%

Post-sale general obligation debt: \$41.4 million

#### RATING METHODOLOGY

The principal methodology used in this rating was General Obligation Bonds Issued by U.S. Local Governments published in October 2009. Please see the Credit Policy page on [www.moodys.com](http://www.moodys.com) for a copy of this methodology.

#### REGULATORY DISCLOSURES

The Global Scale Credit Ratings on this press release that are issued by one of Moody's affiliates outside the EU are endorsed by Moody's Investors Service Ltd., One Canada Square, Canary Wharf, London E 14 5FA, UK, in accordance with Art.4 paragraph 3 of the Regulation (EC) No 1060/2009 on Credit Rating Agencies. Further

information on the EU endorsement status and on the Moody's office that has issued a particular Credit Rating is available on [www.moodys.com](http://www.moodys.com).

For ratings issued on a program, series or category/class of debt, this announcement provides relevant regulatory disclosures in relation to each rating of a subsequently issued bond or note of the same series or category/class of debt or pursuant to a program for which the ratings are derived exclusively from existing ratings in accordance with Moody's rating practices. For ratings issued on a support provider, this announcement provides relevant regulatory disclosures in relation to the rating action on the support provider and in relation to each particular rating action for securities that derive their credit ratings from the support provider's credit rating. For provisional ratings, this announcement provides relevant regulatory disclosures in relation to the provisional rating assigned, and in relation to a definitive rating that may be assigned subsequent to the final issuance of the debt, in each case where the transaction structure and terms have not changed prior to the assignment of the definitive rating in a manner that would have affected the rating. For further information please see the ratings tab on the issuer/entity page for the respective issuer on [www.moodys.com](http://www.moodys.com).

Information sources used to prepare the rating are the following: parties involved in the ratings, parties not involved in the ratings, public information, and confidential and proprietary Moody's Investors Service's information.

Moody's considers the quality of information available on the rated entity, obligation or credit satisfactory for the purposes of issuing a rating.

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INVESTORS SERVICE

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OFFICIAL BID FORM

CITY OF MANDAN  
MORTON COUNTY, NORTH DAKOTA

\$480,000

Refunding Improvement Bonds, Series SCG-2012  
November \_\_, 2012

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

HONORABLE MAYOR, CITY COMMISSION AND OFFICIALS:

For the City's Refunding Improvement Bonds, Series SCG-2012, dated December 15, 2012, we will pay you \$ \_\_\_\_\_, plus accrued interest to the date of delivery for Bonds paying interest on May 1, 2013, and each May 1 and November 1, thereafter, and maturing on May 1 as follows:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>
2013	\$50,000	_____ %
2014	\$55,000	_____ %
2015	\$55,000	_____ %
2016	\$55,000	_____ %
2017	\$50,000	_____ %
2018	\$50,000	_____ %
2019	\$50,000	_____ %
2020	\$50,000	_____ %
2021	\$45,000	_____ %
2022	\$20,000	_____ %

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

This proposal is for prompt acceptance and for anticipated delivery of said Bonds within 30 days (anticipated delivery \_\_\_\_\_, 2012.)

Respectfully,

Account Manager

Dougherty & Company LLC

By: \_\_\_\_\_  
David B. Juran, Executive Vice President

FOR INFORMATIONAL PURPOSES: Total Net Interest Cost \$ _____ Net Effective Rate _____ %
---

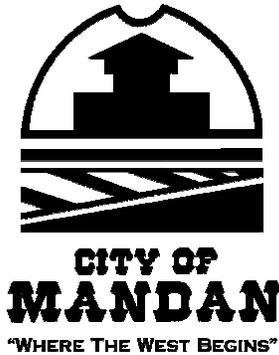
The foregoing proposal is hereby accepted by and on behalf of the CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, this \_\_\_ day of November, 2012.

\_\_\_\_\_  
President

ATTEST:

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

-----  
CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20, 2012  
**PREPARATION DATE:** November 15, 2012  
**SUBMITTING DEPARTMENT:** Morton Mandan Public Library  
**DEPARTMENT DIRECTOR:** Kelly Steckler, Library Director  
**PRESENTER:** Kelly Steckler, Library Director  
**SUBJECT:** Appoint trustee

STATEMENT/PURPOSE:

To have the Board of City Commissioners appoint a City representative to the Morton Mandan Public Library (MMPL) Board of Trustees.

BACKGROUND/ALTERNATIVES:

Currently, there are two vacancies on the MMPL Board. Per the Memorandum of Understanding signed by both Commissions, MMPL operates with an equal number of city and county representatives. Since the joint board has equal representation per the Memorandum of Understanding, both the City and County Commissions should approve MMPL trustee appointments.

The MMPL Board recommends Margaret Focht from Hebron.

ATTACHMENTS: Letter of interest from Margaret Focht

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION:

The MMPL Board of Trustees recommends appointing Margaret Focht as a trustee on the Morton Mandan Public Library Board of Trustees.

SUGGESTED MOTIONS:

To appoint Margaret Focht to the Morton Mandan Public Library Board of Trustees to a three-year term to be held through to June 2015.

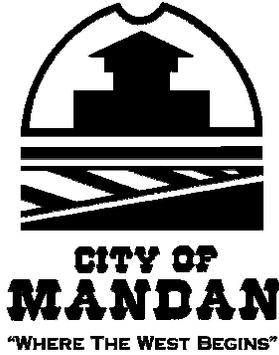
In reply to a request to  
fill a vacancy on the  
Morton County Library Board,  
I would be interested in  
sitting on the board.

I am Margaret Focht from  
Hebron. My husband, Eugene,  
and I are retired and this  
would give me an opportunity  
to be involved with county  
proceedings.

mfocht@ben.midco.net  
901-878-4892

**Margaret Focht**  
308 N Elm St.  
Hebron, ND 58638-7130

Margie Focht



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 20<sup>th</sup>, 2012  
**PREPARATION DATE:** November 16<sup>th</sup>, 2012  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:** Kim Fettig, Project Manager  
**PRESENTER:** Kurt Keifer, Dynatest Consulting Inc.  
**SUBJECT:** MicroPaver Pavement Management Update

STATEMENT/PURPOSE: Provide update of MicroPaver Pavement Management Project.

BACKGROUND/ALTERNATIVES: The kickoff meeting for this project started in March of this year. The data was collected, automated pavement inspection was completed, data interpretation and analysis completed and the final report is now done.

ATTACHMENTS: 1. State of Streets Report

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

SUGGESTED MOTION: To approve the State of the Streets Report.

**MicroPAVER Implementation and  
Pavement Condition Index (PCI) Survey Project**

# **State of the Streets Report**

**Prepared for:**

**City of Mandan, North Dakota**



DYNATEST CONSULTING INC.  
100 EAST 14<sup>TH</sup> STREET, SUITE 3104  
CHICAGO, ILLINOIS 60605  
UNITED STATES OF AMERICA  
[www.dynatest.com](http://www.dynatest.com)

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Appendix A      Pavement Management Maps

1. Pavement Ranks (Classifications)
2. Pavement Surface Types
3. Pavement Condition Index (PCI) Values

## EXECUTIVE SUMMARY

The objectives of this project were to: (1) implement the MicroPAVER pavement management system, (2) perform a network-level condition survey of the City’s pavements, and (3) estimate the future maintenance and rehabilitation (M&R) requirements of the City’s pavements.

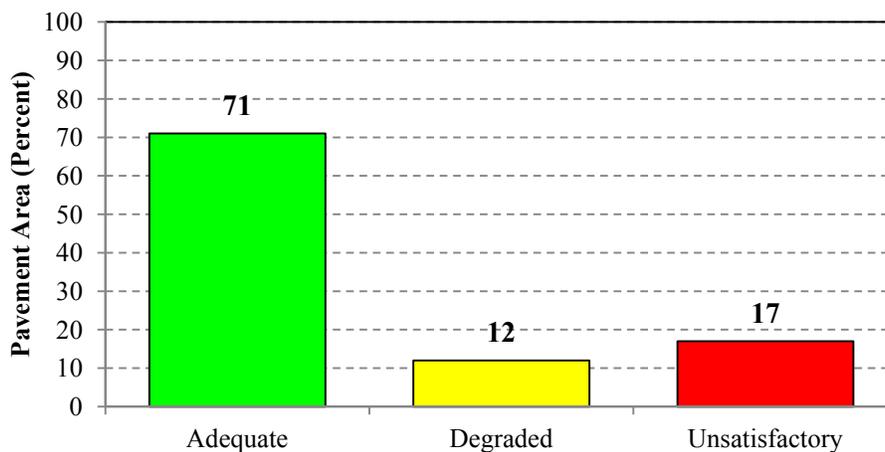
The scope of the project included the City’s approximately 104 miles of paved roadways, which includes roughly 26 miles of arterial roadways. Based on available historical pavement construction and rehabilitation records, approximately 77% of the City’s pavement network has been resurfaced, reconstructed, or newly constructed within the past fifteen years.

The Pavement Condition Index (PCI) method was used in assessing the condition of the City’s pavements. The PCI method is a more objective and repeatable method for assessing pavement conditions and is widely used in industry. Pavement conditions were categorized based on PCI values using the criteria shown in Table ES.1.

**Table ES.1: City’s Pavement Condition Assessment Criteria**

Condition Assessment	PCI Value
Adequate	71 – 100
Degraded	56 – 70
Unsatisfactory	0 – 55

At the time of Dynatest’s May 2012 inspection, the City’s roadway pavements were found to be in overall “Adequate” condition, with an average PCI of 76. The condition distribution of the City’s pavements at the time of inspection is shown in Figure ES.1.

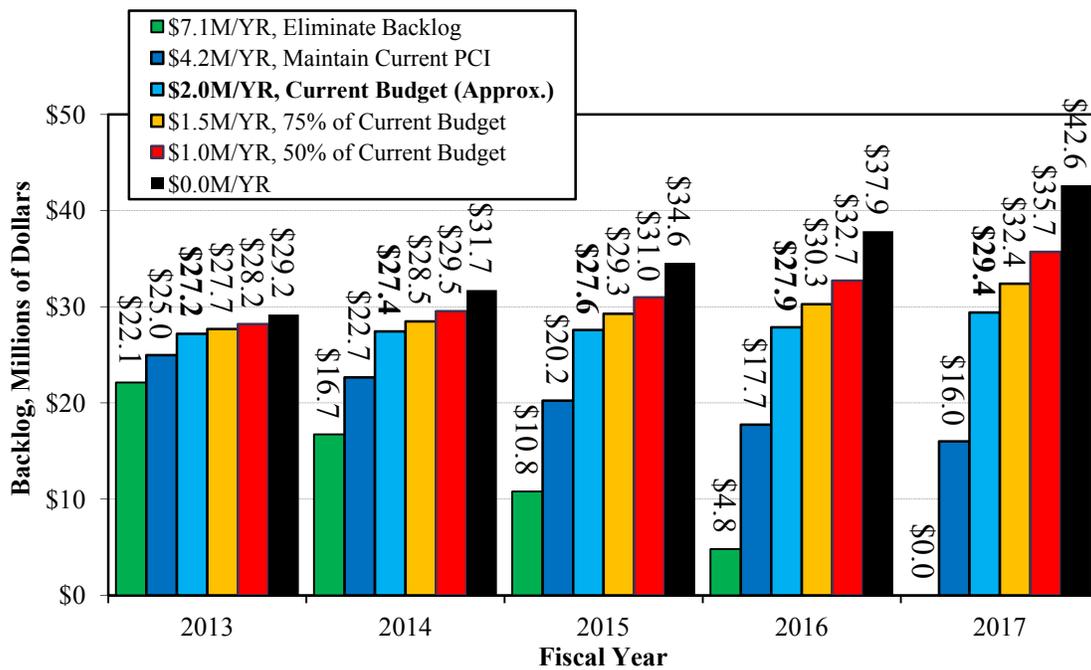


**Figure ES.1: Overall Roadway Pavement Condition Distribution**

Using the MicroPAVER pavement management system, the following five-year M&R budget analyses were performed on the City’s roadway pavements:

- Determine required annual budget to eliminate the City’s Major M&R backlog, \$7.1M/YR
- Determine required annual budget to maintain the City’s current PCI of 76, \$4.2M/YR
- Determine effect of City’s existing budget, \$2.0M/YR (Approx.)
- Determine effect of 75% of the City’s existing budget, \$1.5M/YR
- Determine effect of 50% of the City’s existing budget, \$1.0M/YR
- Determine effect of \$0.0M/YR

Figure ES.2 depicts the estimated change in the City’s backlog of Major M&R, such as resurfacing and reconstruction for the budget analyses considered.



**Figure ES.2: Effect of Budget on Roadway Pavement Major M&R Backlog**

The economic consequences of annual budgets ranging from \$0.0M/YR to \$7.1M/YR including their total costs and costs relative to the Major M&R “Eliminate Backlog” budget are shown in Table ES.2. This table shows that if both the annual M&R expenditures as well as the remaining M&R backlog are treated as costs incurred by the City, then the total overall cost to the City is less if the City eliminates its Major M&R backlog over a five year period.

**Table ES.2: Estimated Five Year Roadway Pavement Major M&R Budget Costs**

<b>Budget Scenario</b>	<b>Total Five Year M&amp;R Costs (2013-2017)</b>	<b>Remaining M&amp;R Backlog<sup>1)</sup> (2017)</b>	<b>Total Five Year Cost<sup>2)</sup></b>	<b>Cost Differential</b>
Eliminate Backlog \$7.1M/YR	\$35.5M	\$0.0M	\$35.5M	<i>Baseline</i>
Maintain Current PCI of 76 \$4.2M/YR	\$21.0M	\$16.0M	\$37.0M	\$1.5M
<b>Current Budget (Approx.) \$2.0M/YR</b>	<b>\$10.0M</b>	<b>\$29.4M</b>	<b>\$39.4M</b>	<b>\$3.9M</b>
75% of Current Budget \$1.5M/YR	\$7.5M	\$32.4M	\$39.9M	\$4.4M
50% of Current Budget \$1.0M/YR	\$5.0M	\$35.7M	\$40.7M	\$5.2M
\$0M/YR	\$0.0K	\$42.6M	\$42.6M	\$7.1M

1) "M&R Backlog" equals the lump-sum cost to resurface/reconstruct all pavements at or below the critical PCI value.

2) "Total five year cost" equals the sum of the five year Major M&R expenditures plus the remaining Major M&R backlog at the end of the five year analysis period.

Due, in part, to the expansion of the City's pavement network over the last few years, it is important to understand that the funding levels required over the next five years will likely need to be increased over the next six to ten years and beyond. The City's overall average PCI value is currently relatively high. The large inventory of pavements that are in good condition today will continue to deteriorate and will require more significant rehabilitation, such as resurfacing or reconstruction, a decade or so from now. Consequently, the City should anticipate and plan for an increase of its pavement M&R budgets in the mid- to long-term.

Moving forward, it is strongly recommended that the City identify an in-house MicroPAVER "champion" to be responsible for maintaining the system. Currently, the City does not have staff trained to use MicroPAVER.

As the City continues to grow and add new pavements to its inventory, it is recommended that the City's preventive maintenance program be expanded to include more of the asphalt-surfaced pavement inventory. It is also recommended that the City adopt preventive maintenance activities for its concrete pavements, such as joint seal replacement and crack sealing.

In an effort to capitalize on this PCI inspection effort and continue to improve its pavement management decision-making capabilities, it is also recommended that the City perform network-level pavement condition surveys on a three-year cycle. Doing so will enable the City to: (1) better track the deterioration of its pavements, (2) develop pavement deterioration trends to better predict future pavement conditions, and (3) assess the effectiveness of its pavement maintenance, preservation, and Major M&R activities.

## 1 INTRODUCTION

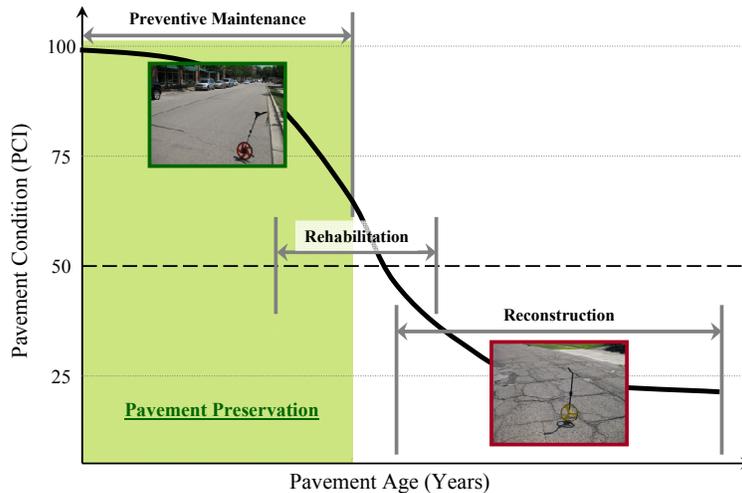
### 1.1 Background

The roadway network of the City of Mandan (City) is comprised of approximately 104 miles of paved roadways, which includes roughly 26 miles of arterial roadways. Asphalt-surfaced roadways account for approximately 87% of the City's pavement inventory, and concrete roadways account for approximately 13%. The City also maintains a small percentage of gravel roadways. Based on available historical pavement construction and rehabilitation records, approximately 77% of the City's pavement network has been resurfaced, reconstructed, or newly constructed within the past fifteen years.

In the Spring of 2012, in an effort to improve the City's existing in-house pavement management program and more objectively assess the network-level needs of its roadway pavement inventory, the City – in collaboration with the Bismarck-Mandan Metropolitan Planning Organization (MPO) – retained Dynatest to perform several pavement management-related services.

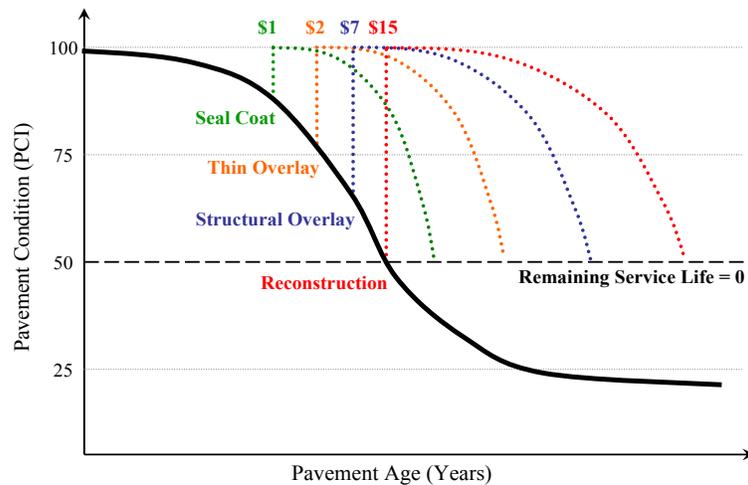
### 1.2 Pavement Management Overview

Pavement management is a systematic approach to forecasting pavement M&R requirements and then optimizing and prioritizing available M&R funding. As shown in Figure 1, the primary objective of pavement management is to preserve pavements in good condition rather than wait for them to fail and then reconstruct them.



**Figure 1: Pavement preservation.**

When the appropriate preventive M&R treatments (e.g., crack sealing, seal coats, etc.) are applied at the correct times during a pavement's service life, these relatively inexpensive preventive M&R treatments can cost-effectively extend the service life of the pavement, as shown in Figure 2.



**Figure 2: Increasing price and decreasing relative benefit of M&R as a function of pavement condition. (Note: Illustrative prices only.)**

As pavement management concepts have gained acceptance, computer-based pavement management systems have been developed to assist agencies in more optimally managing their pavements. Pavement management systems currently rely on a comprehensive pavement inventory, regular pavement condition assessments, pavement performance modeling, and sophisticated analysis tools that forecast future pavement condition and estimate future M&R needs.

### 1.3 Project Objectives

The primary objectives of this project were to: (1) implement the MicroPAVER pavement management system, and (2) perform a network-level pavement condition survey of the City's roadway pavements. Upon successful completion of this project, the City will be able to more objectively assess the relative conditions of its roadway pavements, better optimize and prioritize the expenditure of its existing M&R funding, and more effectively identify and justify future roadway pavement M&R funding needs. In addition, the results of this project will support the Bismarck-Mandan MPO 2010-2035 Long Range Transportation Plan (LRTP). Pavement condition data will be used in conjunction with other geocentric data to identify maintenance and operations projects in future updates of the LRTP.

### 1.4 Project Approach

In order to successfully accomplish the objectives of this project, Dynatest performed the following three major tasks:

1. Pavement management system implementation – *Implemented the MicroPAVER pavement management system.*
2. Pavement Condition Index (PCI) inspection – *Performed a network-level PCI inspection of the City's roadway pavements.*
3. Pavement M&R budget analyses – *Performed several five-year, network-level budget analyses to determine the impact of different funding levels on the City's pavement conditions.*

These tasks and their outcomes are described in the following sections.

## 2 PAVEMENT MANAGEMENT SYSTEM IMPLEMENTATION

---

### 2.1 Objective

The objective of this task was to implement the MicroPAVER pavement management system using the City's existing historical pavement data as the foundation for the system.



The following section provides a brief description of the major functional capabilities of MicroPAVER. This is followed by a description of the City's MicroPAVER database.

### 2.2 MicroPAVER Pavement Management System Overview

The MicroPAVER pavement management system helps agencies determine when, where, and what level of pavement maintenance and rehabilitation (M&R) is required and approximately how much it will cost. The system provides a suite of pavement management software tools that assist agencies in: (1) developing and organizing their pavement inventory; (2) assessing the current condition of their pavements; (3) developing models to predict future pavement conditions; (4) reporting on past and future pavement performance; (5) developing scenarios for M&R based on either budget or condition requirements; and (6) planning M&R projects. The primary MicroPAVER modules include:

- Inventory
- M&R History
- Inspection
- Prediction Modeling
- Condition Analysis
- M&R Planning
- Project Planning
- Reporting

A brief description of these modules is presented in the following sections.

#### 2.2.1 *Inventory and M&R History Modules*

The MicroPAVER Inventory and Work History modules are based on a hierarchical structure composed of networks, branches, and sections, with the section being the smallest “managed” pavement area (e.g., street block). This structure allows users to easily organize their inventory and historical M&R data while providing numerous fields for storing pavement data.

#### 2.2.2 *Inspection Module*

MicroPAVER uses the Pavement Condition Index (PCI) per ASTM D 6433 as its primary measure of pavement condition. The Inspection module enables agencies to store raw pavement condition survey data and then calculate PCI values.

#### 2.2.3 *Prediction Modeling Module*

The Prediction Modeling module in MicroPAVER helps identify and group pavements of similar construction that are subjected to similar traffic, weather, and any other factors affecting pavement performance. Historical pavement condition data are used to build models that can be used to predict

future pavement performance. If historical pavement data are not available, MicroPAVER provides default pavement prediction curves and allows the user to develop custom prediction curves.

#### *2.2.4 Condition Analysis Module*

The Condition Analysis module allows agencies to view the condition of the entire pavement network or any specified subset of the network over time. The module reports past conditions based on interpolated values between historical condition data, and it reports projected conditions based on prediction models.

#### *2.2.5 M&R Planning Module*

The MicroPAVER M&R Planning module is a sophisticated, flexible tool for multi-year, network-level and project-level M&R planning, scheduling, and budgeting. The M&R Planning module is able to determine the consequence of a predetermined budget on pavement condition and the resulting backlog of major work and is also able to determine budget requirements to meet specific management objectives. These capabilities enable agencies to: (1) develop optimal M&R programs given available resources, and (2) justify optimal M&R budget needs.

#### *2.2.6 Reporting Module*

Each module of MicroPAVER is capable of generating reports that assist the user in analyzing and interpreting data. MicroPAVER also comes equipped with several “canned” reports, which include:

- Summary Charts – *Simple graphs and data tables of inventory and inspection data*
- Inspection Reports – *Summary of collected pavement condition data*
- Work History – *Summary of historical maintenance, repair, and rehabilitation data*
- Branch Listing – *Summary of overall pavement inventory data*
- Branch Condition – *Summary of overall pavement condition data*
- Section Condition – *Summary of individual section data*
- GIS reports – *Internal/external reporting of inventory and condition data*

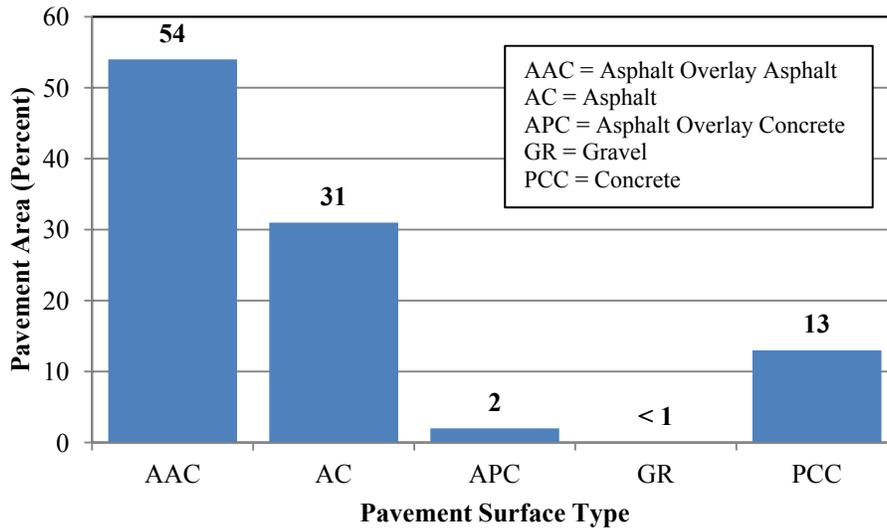
MicroPAVER is capable of generating “user-defined” reports, which can be tailored to meet the agency’s specific reporting needs. MicroPAVER user-defined reports enable the user to extract any data stored in the system and export it to either a spreadsheet or a text file.

### **2.3 Development of City’s MicroPAVER Database**

The first step in the MicroPAVER implementation was to divide the City’s roadway pavements into pavement sections. Each pavement section typically represents a single “block” of pavement (i.e., intersection to intersection). Pavement sections may be thought of as “homogenous” areas of pavement to which Major M&R (e.g., resurfacing and reconstruction) would be applied. The City’s existing AutoCAD map served as the foundation for the MicroPAVER section definitions, and approximately 969 pavement sections were defined.

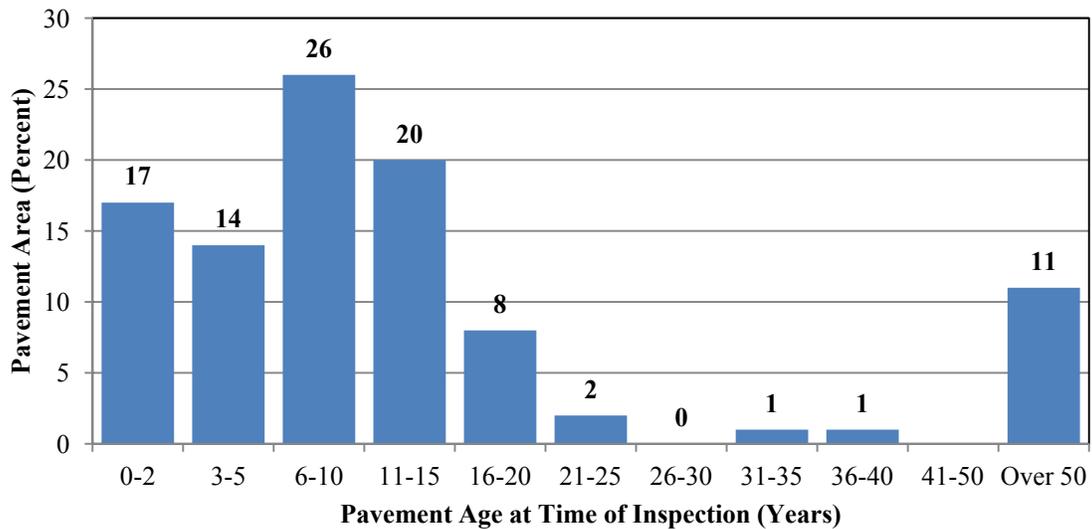
Dynatest then worked with the City to identify data attributes to be included for each pavement section in the MicroPAVER database, such as surface type, address from/to locations, construction dates, etc. Once the required pavement data had been collected, verified and entered into AutoCAD by City staff, the AutoCAD map was used to create the MicroPAVER database.

As shown in Figure 3, approximately 87% of the City’s pavements are asphalt surfaced. The City’s concrete pavements account for 13% of the pavement network. A few gravel roadways are also present in the City’s network, but these account for less than 1% of the total roadway area.



**Figure 3: Pavement Area by Surface Type**

Dynatest worked with the City to migrate the most recent resurfacing, reconstruction, or original construction record for each pavement section into the new MicroPAVER database. Pavement age is calculated from the date of resurfacing or reconstruction that is stored in the MicroPAVER database. If a pavement has not been resurfaced or reconstructed, its age is calculated from its original construction date. Figure 4 shows the distribution of pavement area by age.



**Figure 4: Pavement Area by Age**

It is important to note that the ages shown in Figure 4 are based on available historical construction records. Some records are not available or are incomplete. Based on available records, approximately 77% of the City’s pavement network has been resurfaced, reconstructed, or newly constructed within the past 15 years.

## **2.4 Customization of the City's MicroPAVER Database**

Following the successful creation of the MicroPAVER database, Dynatest worked with the City to establish MicroPAVER's system tables. MicroPAVER's system tables provide the foundation for all of MicroPAVER analyses. The tables include user-defined inventory fields, M&R policies, estimated M&R unit costs by pavement condition, M&R priorities, etc. Since this was a first-time pavement management system implementation for Mandan, the MicroPAVER system tables from Bismarck were used as the starting point. Over time, Mandan's system tables should be updated – as needed – to reflect the City's M&R practices, priorities, and projected funding levels.

## **2.5 Summary**

The MicroPAVER pavement management system was successfully implemented for the City. A new MicroPAVER database was created that contains relevant data pertaining to the City's roadway pavement network. By capitalizing on data from Bismarck, the MicroPAVER software was customized to approximate Mandan's existing and planned pavement management policies. The suite of tools provided by MicroPAVER will enable the City to more effectively manage its roadway pavement network.

### 3 PAVEMENT CONDITION INSPECTION

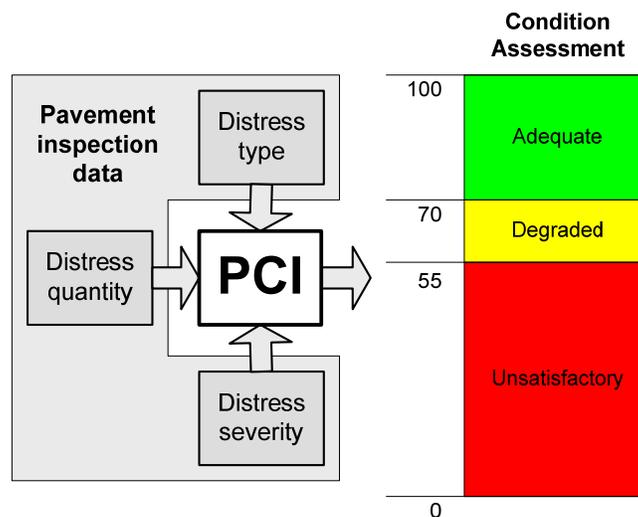
#### 3.1 Objective

The objective of the pavement condition inspection was to assess the existing condition of the roadway pavements managed by the City. This was accomplished by performing a semi-automated, network-level pavement condition inspection based on the Pavement Condition Index (PCI) method.

Both the pavement condition inspection procedure and general findings of the inspection are discussed in this chapter.

#### 3.2 Pavement Condition Index (PCI) Procedure

The pavement condition survey was performed using the modified ASTM D 6433-based PCI procedure described in the textbook, Pavement Management for Airports, Roads, and Parking Lots, 2<sup>nd</sup> Ed. by M. Y. Shahin. The PCI procedure is a more objective and repeatable method for determining existing pavement condition. A PCI value provides an indication of the structural integrity and operational condition for a pavement section. The PCI procedure consists of a routine visual inspection, during which pavement distress types, severity levels, and quantities are identified and recorded. These data are then input into the PCI algorithm to calculate a PCI value. PCI values range from 0 to 100, as shown in Figure 5.



**Figure 5: PCI Inputs and the City's Condition Assessment Scale**

If properly designed and constructed, a new pavement begins its service life with a PCI of 100. Due to the effects of loading and aging, a pavement deteriorates over time. For each combination of distress type, severity level, and quantity observed, points are deducted from 100, and its PCI decreases. When multiple distresses are present, the deduct values are modified such that the impact of multiple distresses is somewhat lessened. Due to the complexity of the PCI algorithm, PCI values are typically computed using a pavement management software package, such as MicroPAVER.

During a PCI inspection, nineteen (19) distress types are identified and evaluated for asphalt pavements and nineteen (19) distress types for concrete pavements, as shown in Table 1 and Table 2. The City's roadway network consists of asphalt-surfaced and concrete pavements as well as a few gravel roadways.

**Table 1: Asphalt Pavement Distress Types**

Code	Distress	Cause
01	Alligator Cracking	Load
02	Bleeding	Other
03	Block Cracking	Climate/Durability
04	Bumps and Sags	Other
05	Corrugation	Other
06	Depression	Other
07	Edge Cracking	Load
08	Joint Reflection Cracking	Climate/Durability
09	Lane/Shoulder Drop-Off	Other
10	Longitudinal and Transverse Cracking	Climate/Durability
11	Patching and Utility Cut Patching	Other
13	Pothole	Load
14	Railroad Crossing	Other
15	Rutting	Load
16	Shoving	Other
17	Slippage Cracking	Other
18	Swell	Other
19	Raveling	Other
20	Weathering <sup>1)</sup>	Climate/Durability

1) Extensive Chip Seal deterioration was considered low to medium severity Weathering.

**Table 2: Concrete Pavement Distress Types**

Code	Distress	Cause
21	Blowup/Buckling	Climate/Durability
22	Corner Break	Load
23	Divided Slab	Load
24	Durability ("D") Cracking	Climate/Durability
25	Faulting	Other
26	Joint Seal Damage	Climate/Durability
27	Lane/Shoulder Drop-Off	Other
28	Linear Cracking	Load
29	Patching, Large and Utility Cuts	Other
30	Patching, Small	Other
31	Polished Aggregate	Other
32	Popouts	Other
33	Pumping	Other
34	Punchout	Load
35	Railroad Crossing	Other
36	Scaling, Map Cracking, and Cracking	Other
37	Shrinkage Cracks	Climate/Durability
38	Spalling, Corner	Climate/Durability
39	Spalling, Joint	Climate/Durability

### 3.3 Semi-Automated Pavement Condition Index (PCI) Survey Data Acquisition

Dynatest deployed its state-of-the-art Multi Function Vehicle (MFV), shown in Figure 6, to collect high-quality pavement imagery and profile data requisite for the semi-automated PCI survey of the City's pavements. Described in the following paragraphs, the main hardware components of a MFV include:

- Laser Road Imaging System (LRIS) for high-resolution downward pavement imagery
- High-definition digital video right-of-way (ROW) camera for forward facing pavement imagery
- Seven (7) laser Dynatest Road Surface Profiler (RSP-5051) for pavement surface profiling
- Integrated Trimble AgGPS 132 and Applanix POS LV for locating imagery and profile data

The downward imaging LRIS system is composed of two high resolution linescan cameras and lasers that are configured to continuously image 13ft wide lanes (4096 pixels) with 1mm crack width resolution at speeds up to 100 km/h (60 mph). This imaging system was designed to increase the contrast and visibility of both small longitudinal and lateral road cracks.

Downward images were collected in both directions of each of the City's two-way streets. For City streets with four or more lanes, downward images were collected in just two lanes, one in each direction of travel. A high-definition, forward-facing Panasonic digital video was used to collect ROW images at 20ft intervals along all of the City's streets.



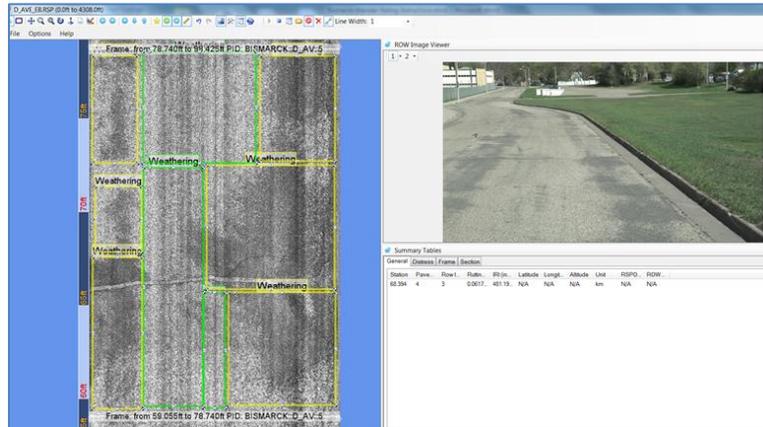
**Figure 6: Dynatest Multi Function Vehicle**

The Dynatest Road Surface Profilometer (RSP) mounted on the MFV is designed to provide accurate and repeatable pavement profile data. Using seven (7) lasers and two (2) accelerometers, the RSP is capable of real-time, continuous, highway-speed, dual-wheel-path measurements of longitudinal profile, transverse profile, and rut depth. RSP data were collected for all of the City's streets and used in establishing PCI values for each pavement section. All imagery and profile measurements collected with the MFV as part of this project are referenced to a linear chainage and coordinates from a Differential Geographical Positioning System (DGPS). The MFV's integrated Trimble AG-132 receiver and Applanix POS LV systems were used for recording accurate DGPS coordinates.

### **3.4 Pavement Condition Index (PCI) Survey Data Interpretation**

For this project, Dynatest used the ASTM D6433-based modified PCI inspection method developed by the US Army Corps of Engineers (USACOE) for performing image-based PCI inspections. This method incorporates systematic random sampling and requires that distresses be recorded by trained inspectors using software that enables the inspectors to identify and record pavement distress types, severities, and quantities visible on collected downward images.

The image-based pavement condition survey was executed using Dynatest's Distress Rating Module (DRM) software, which was developed specifically for performing PCI surveys on image data. As shown in Figure 7, DRM provides users with a graphical representation of and the ability to edit all the data sets collected using the MFV. These data sets, which are accessed and organized by DRM, include downward pavement images, right-of-way (ROW) images, profile datasets, DMI, and GPS readings.



**Figure 7: Dynatest’s Distress Rating Module (DRM) Software**

Dynatest used trained and experienced pavement inspectors under the supervision of Project Engineers for post processing collected pavement image data for the City. Each inspector was equipped with a workstation with two high-resolution LCD monitors that enabled him to identify, classify and report the pavement surface distresses using DRM. Visually recorded distress data were then supplemented in DRM by profile data to include any rutting data that was not visible on the collected images.

As previously mentioned, in an effort to achieve a comprehensive, network-level baseline PCI inspection, the City requested that data be collected in two directions for each roadway. A systematic random sampling procedure was then applied in interpreting the collected data. In keeping with standard network-level PCI inspection practices, a 33% sampling rate was implemented.

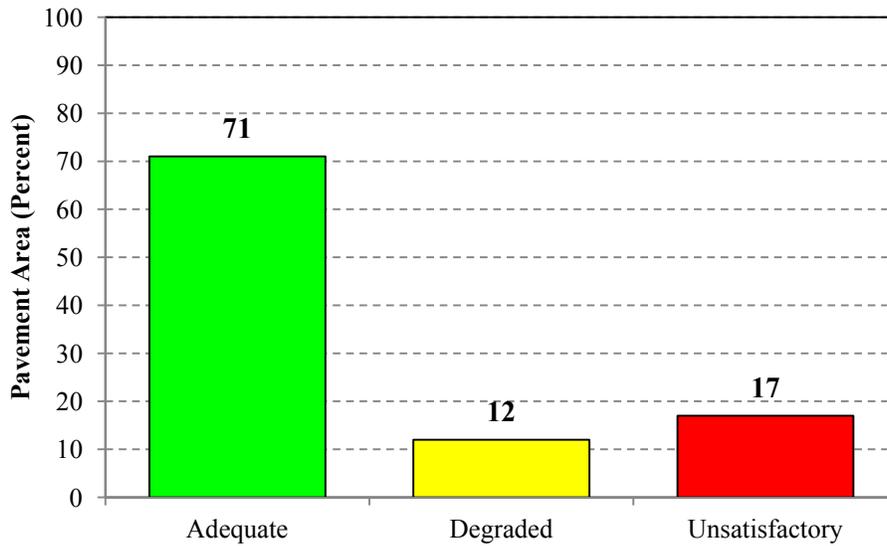
### 3.5 Summary of City’s Existing Pavement Conditions

Once the pavement images had been interpreted by Dynatest inspectors, resulting distress data were imported into MicroPAVER and PCI values were calculated for each pavement section. Table 3 shows the PCI condition assessment criteria used to analyze the pavement network.

**Table 3: City’s Pavement Condition Assessment Criteria**

Condition Assessment	PCI Value
Adequate	71 – 100
Degraded	56 – 70
Unsatisfactory	0 – 55

At the time of Dynatest’s May 2012 inspection, the City’s roadway pavements were found to be in overall “Adequate” condition, with an overall average PCI of 76. The condition distribution of the City’s pavements at the time of inspection is shown in Figure 8, and Table 4 illustrates pavement condition by pavement surface type.

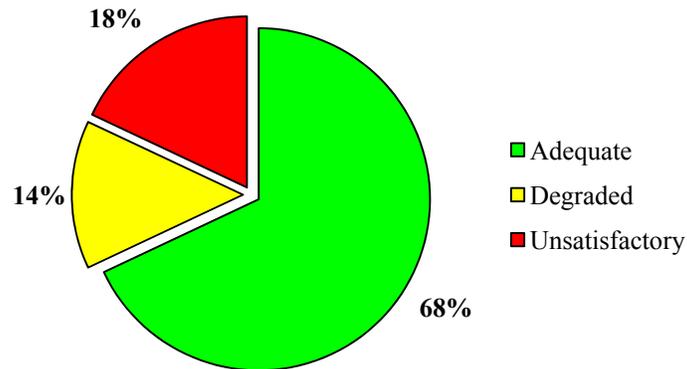


**Figure 8: Overall Roadway Pavement Condition Distribution**

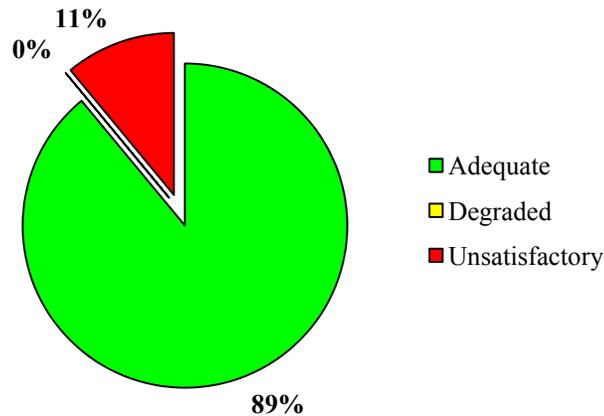
**Table 4: Roadway Pavement Condition Distribution by Surface Type**

Pavement Surface Type	Inspected Pavement Area (SF)	Pavement Area (%)	2012 Average PCI
Asphalt overlay over asphalt concrete (AAC)	10,318,459	54	70
Asphalt concrete (AC)	6,018,008	31	83
Asphalt overlay over Portland cement concrete (APC)	338,516	2	42
Gravel/unpaved (GR)	20,306	< 1	NA
Portland cement concrete (PCC)	2,490,863	13	87
All Combined	19,186,153	100	76

As shown in Figure 9, the overwhelming majority of the City’s asphalt-surfaced roadways (e.g., AAC, AC, and APC) were observed to be in “Adequate” condition, with an overall average PCI value of 74. As shown in Figure 10, the City’s concrete roadway pavements were observed to be in “Adequate” condition, with an overall average PCI of 87.



**Figure 9: Asphalt-Surfaced Roadway Pavement Condition Distribution at Inspection**



**Figure 10: Concrete-Surfaced Roadway Pavement Condition Distribution at Inspection**

The causes of pavement deterioration may be divided into the following three general categories: (1) Load Related, (2) Climate/Durability Related, and (3) Other. Table 5 shows the primary causes of pavement deterioration observed throughout the City’s pavement network.

**Table 5: Categorization of Observed Roadway Pavement Distresses**

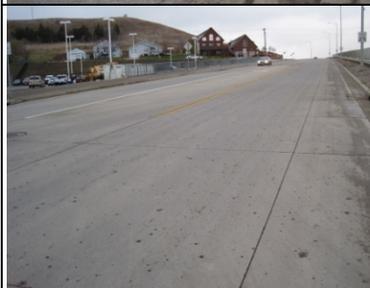
Distress Category	Example Distresses	Percentage of Observed Distresses
Load Related	Asphalt pavement distresses such as rutting and alligator cracking. Concrete pavement distresses such as corner breaks and divided slabs.	26%
Climate/ Durability Related	Asphalt pavement distresses such as weathering, longitudinal and transverse cracking, and block cracking. Concrete pavement distresses such as joint and corner spalling and joint seal damage.	66%
Other	Pavement distresses such as bleeding, patching, and slippage cracking for asphalt pavements. Popouts and scaling for concrete pavements.	8%



The deterioration observed on the City's pavements was caused primarily by a mixture of climate- and load-related distresses. Climate-related distresses – in particular, weathering of chip sealed pavements – were found across the City's concrete pavement inventory. Load-related distresses, such as alligator cracking and potholes, were also observed on the City's roadways.

### 3.6 Field Observations of Typical Pavement Conditions

Figure 11 illustrates a variety of pavement conditions observed throughout the City during the survey.

	Location	PCI	Recommended M&R Activity (Typical)
	<p>2<sup>nd</sup> St. NE Section 65</p> <p>Between 13<sup>th</sup> Ave. NE and Mandan Ave.</p>	100	Do Nothing
	<p>1<sup>st</sup> St. NE Section 35</p> <p>Between 6<sup>th</sup> Ave. NE and 8<sup>th</sup> Ave. NE</p>	89	Do Nothing or Preventive Maintenance Joint Sealant
	<p>46<sup>th</sup> Ave. SE Section 50</p> <p>Between 21<sup>st</sup> St. SE and 19<sup>th</sup> St. SE</p>	89	Do Nothing or Preventive Maintenance Crack Seal, Surface Treatment
	<p>Mandan Ave. Section 15</p> <p>Between 2<sup>nd</sup> St. NE and 3<sup>rd</sup> St. NE</p>	79	Preventive Maintenance Joint Sealant
	<p>1<sup>st</sup> St. NW Section 70</p> <p>Between 1<sup>st</sup> Ave. NW and Collins Ave.</p>	68	Preventive Maintenance Crack Seal, Localized Patching

	<p>2<sup>nd</sup> St. NE Section 60</p> <p><i>Between 12<sup>th</sup> Ave. NE and 13<sup>th</sup> Ave. NE</i></p>	<p>32</p>	<p>Major M&amp;R <i>Localized Structural Patching and Resurfacing or Reconstruction</i></p>
	<p>8<sup>th</sup> Ave. NE Section 10</p> <p><i>Between 1<sup>st</sup> St. NE and 2<sup>nd</sup> St. NE</i></p>	<p>24</p>	<p>Major M&amp;R <i>Localized Structural Patching and Resurfacing or Reconstruction</i></p>
	<p>16<sup>th</sup> St. NE Section 5</p> <p><i>Between 8<sup>th</sup> Ave. NE and Mandan Ave.</i></p>	<p>24</p>	<p>Major M&amp;R <i>Reconstruction</i></p>
	<p>12<sup>th</sup> Ave. NE Section 10</p> <p><i>Between 1<sup>st</sup> St. NE and 2<sup>nd</sup> St. NE</i></p>	<p>13</p>	<p>Major M&amp;R <i>Reconstruction</i></p>
	<p>E. Roughrider Cir. Section 5</p> <p><i>Between Lariat Ct. and W. Roughrider Cir.</i></p>	<p>11</p>	<p>Major M&amp;R <i>Reconstruction</i></p>

**Figure 11: Pavement Conditions Observed during PCI Inspection**

A distress observed on many of the City’s concrete pavements was joint seal damage, as shown in Figure 12. Joint seal damage may be caused by several mechanisms, including: (1) thermal expansion of adjacent slabs during hot temperatures, which may cause the sealant to “pop out” of the joint and be dragged away by traffic; and (2) oxidation of the sealant material, which may cause the sealant become brittle and debond from the joint.



**Figure 12: Deteriorated/Missing Joint Sealant between Concrete Slabs**

Irrespective of the mechanism causing joint seal damage, the resulting unsealed (or partially sealed) joint may lead to premature deterioration and failure of the concrete pavement. For example, unsealed joints allow water to infiltrate into the underlying pavement structure, and the presence of water may significantly weaken the pavement structure and reduce the service life of the pavement. Furthermore, unsealed joints may become filled with incompressible materials such as loose stones. These incompressible materials may restrict the expansive movement of adjacent slabs and result in high compressive stresses in the concrete slabs. These compressive stresses may lead to spalling of the concrete and, in extreme cases, vaulting of adjacent slabs and slab “blowups.”

## 4 MAINTENANCE AND REHABILITATION BUDGET ANALYSES

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### 4.1 Objective

The objectives of a pavement M&R budget include maintaining satisfactory overall pavement conditions and reducing the Major M&R backlog over time. Doing so will eventually ensure that all pavements in the City are in good condition and are therefore being managed as cost effectively as possible through preventive maintenance and less costly and less frequent rehabilitation projects. By incorporating recommendations and data obtained from MicroPAVER into its existing decision-making processes, the City should be able to not only better optimize and prioritize the expenditure of its existing M&R funding but also better justify its immediate and future roadway pavement M&R funding needs.

The M&R planning module in MicroPAVER provides *recommendations* for when and where M&R activities are needed and approximately how much they will cost. M&R plans may be developed either by: (1) defining an annual budget, or (2) specifying a desired pavement condition. Based on either an inputted annual budget or a desired condition, MicroPAVER will output an economically viable work plan.

The following five-year M&R budget analyses were performed on the City's roadway pavements:

- Determine required annual budget to eliminate the City's Major M&R backlog, \$7.1M/YR
- Determine required annual budget to maintain the City's current PCI of 76, \$4.2M/YR
- Determine effect of City's existing budget, \$2.0M/YR (Approx.)
- Determine effect of 75% of the City's existing budget, \$1.5M/YR
- Determine effect of 50% of the City's existing budget, \$1.0M/YR
- Determine effect of \$0.0M/YR

The following sections summarize the assumptions underlying the analyses performed and then present the findings of the analyses.

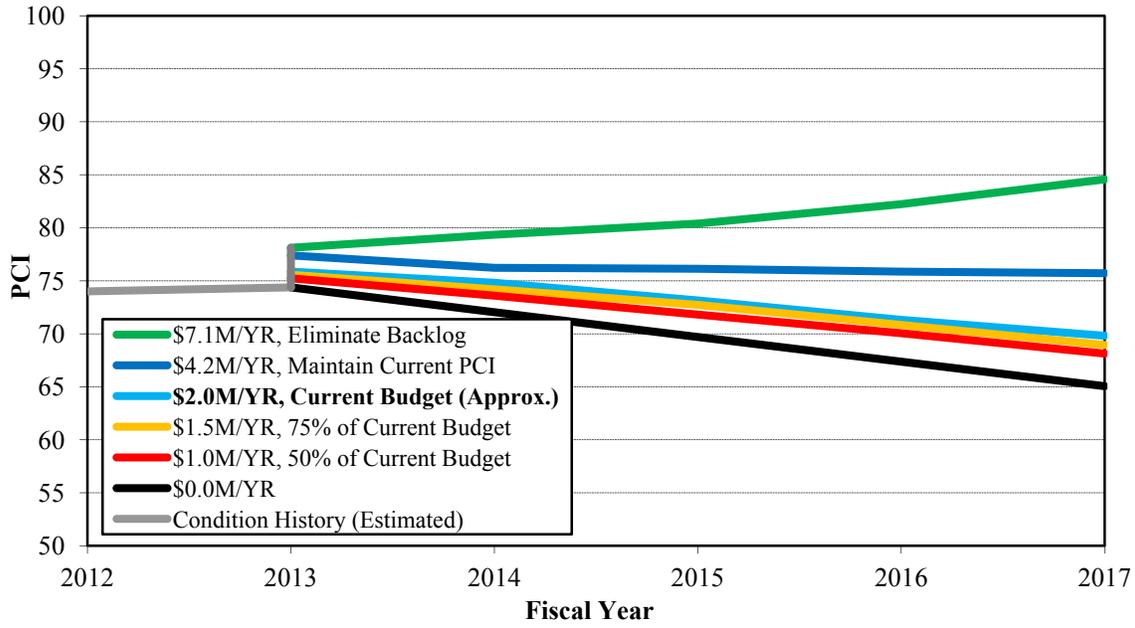
### 4.2 Assumptions

The M&R budget analyses performed as part of this project were based entirely on the data stored in the City's new MicroPAVER database. The pavement prediction models developed for the City were used in forecasting future pavement conditions, and critical PCI values of 60 and 55 were set for the asphalt-surfaced and concrete roadway pavements, respectively.

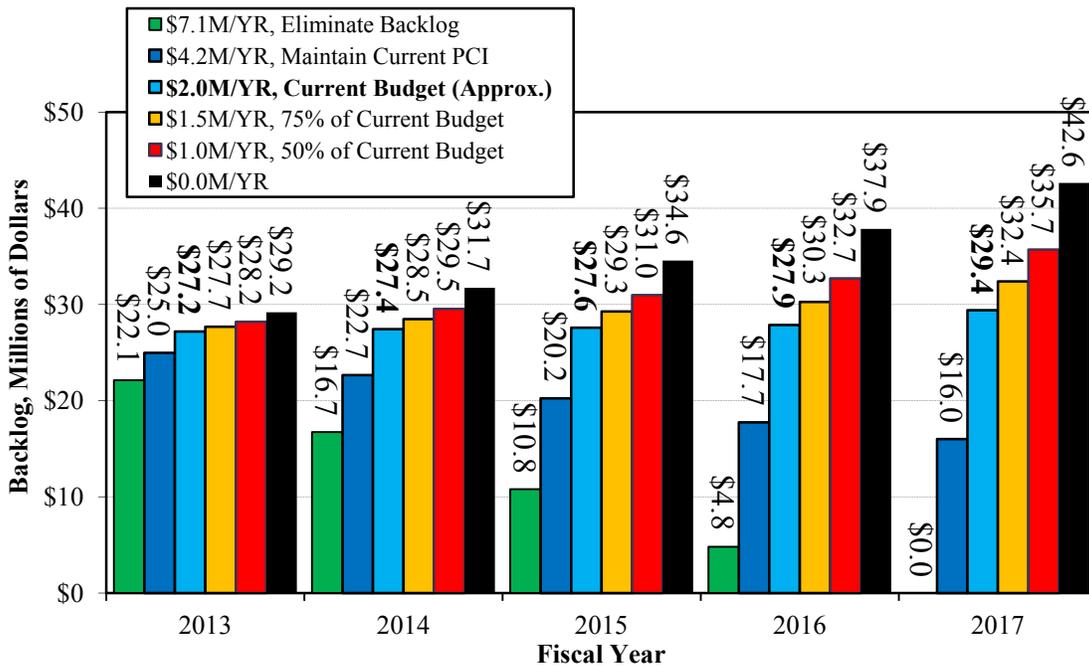
The City's existing \$2.0M/YR (approx.) budget was determined based on discussions with City staff. The M&R unit cost data acquired from Bismarck were used directly in MicroPAVER. An inflation rate of 3% was used for all analyses.

### 4.3 Results for the City's Roadway Pavements

The results of the six budget analyses are shown in the following two figures. Figure 13 illustrates the estimated five-year change in pavement condition resulting from the analyzed budget scenarios while Figure 14 depicts the estimated change in the City's Major M&R backlog.



**Figure 13: Effect of Budget on Overall Roadway Pavement Conditions**



**Figure 14: Effect of Budget on Roadway Pavement Major M&R Backlog**

The economic consequences of annual budgets ranging from \$0.0M/YR to \$7.1M/YR including their total costs and costs relative to the Major M&R “Eliminate Backlog” budget are shown in Table 6. This table shows that if both the annual M&R expenditures as well as the remaining M&R backlog are treated as costs incurred by the City, then the total overall cost to the City is less if the City eliminates its Major M&R backlog over a five year period.

**Table 6: Estimated Five Year Roadway Pavement Major M&R Budget Costs**

<b>Budget Scenario</b>	<b>Total Five Year M&amp;R Costs (2013-2017)</b>	<b>Remaining M&amp;R Backlog<sup>1)</sup> (2017)</b>	<b>Total Five Year Cost<sup>2)</sup></b>	<b>Cost Differential</b>
Eliminate Backlog \$7.1M/YR	\$35.5M	\$0.0M	\$35.5M	<i>Baseline</i>
Maintain Current PCI of 76 \$4.2M/YR	\$21.0M	\$16.0M	\$37.0M	\$1.5M
<b>Current Budget (Approx.) \$2.0M/YR</b>	<b>\$10.0M</b>	<b>\$29.4M</b>	<b>\$39.4M</b>	<b>\$3.9M</b>
75% of Current Budget \$1.5M/YR	\$7.5M	\$32.4M	\$39.9M	\$4.4M
50% of Current Budget \$1.0M/YR	\$5.0M	\$35.7M	\$40.7M	\$5.2M
\$0M/YR	\$0.0K	\$42.6M	\$42.6M	\$7.1M

1) “M&R Backlog” equals the lump-sum cost to resurface/reconstruct all pavements at or below the critical PCI value.

2) “Total five year cost” equals the sum of the five year Major M&R expenditures plus the remaining Major M&R backlog at the end of the five year analysis period.

#### 4.3.1 Major M&R Backlog Elimination (Eliminate Backlog)

MicroPAVER was used to estimate the annual funding required to eliminate the City’s Major M&R backlog for roadway pavements. This plan identifies which roadway pavements require Major M&R (e.g., resurfacing and reconstruction) during the upcoming five years so that – at the end of the five year period – all City maintained roadway pavements are either at or above their respective critical PCI value.

It was determined that approximately \$7.1M/YR are needed to eliminate the City’s existing M&R backlog over the next five years. This scenario results in an overall PCI increase from 76 at the beginning of 2013 to 85 at the end of 2017.

Furthermore, it is worth noting that if the City spends \$7.1M/YR over the next five years, the annual funding required to maintain the City’s roadway pavements at or above their respective critical PCI values from 2018 to 2022 is estimated by MicroPAVER to be roughly \$2.0M/YR. Hence, improving the condition of the City’s pavements in the short term will enable the City to maintain their pavements in overall better condition more cost effectively, without developing a significant backlog.

#### 4.3.2 Maintain Current Conditions (Maintain PCI of 76)

A similar MicroPAVER analysis was performed to estimate the annual funding required to maintain the current overall average PCI value of the City’s roadway pavements for the next five years. It was determined that approximately \$4.2M/YR are needed to achieve this goal. This budget scenario results in a steadily decreasing M&R backlog.

#### *4.3.3 Budget Consequence: Fixed Budget Analyses*

Several additional analyses were performed to determine the consequences of the following annual M&R budgets:

- \$2.0M/YR, City's current budget (approx.)
- \$1.5M/YR, 75% of City's current budget
- \$1.0M/YR, 50% of City's current budget
- \$0M/YR

As would be expected, the more money that the City spends on its roadway pavements, the greater the improvement in pavement condition and the greater the reduction in backlog. The City's existing \$2.0M/YR budget results in a steadily increasing backlog as well as a decreasing overall average PCI. Both the \$1.5M/YR and \$1.0M/YR budgets result in less desirable consequences.

## 5 SUMMARY AND RECOMMENDATIONS

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### 5.1 Summary

The primary objectives of this project were to: (1) implement the MicroPAVER pavement management system, and (2) perform a network-level pavement condition survey of the City's roadway pavements. Both objectives were successfully completed, and the City has in place an up-to-date implementation of the MicroPAVER pavement management system populated with recent pavement condition data.

The City's roadway pavements were found to be in "Adequate" condition, with an average PCI value of 76. The asphalt-surfaced pavements, which account for 87% of the pavement inventory, had an average PCI value of 74. The concrete pavements, which account for 13% of the pavement inventory, had a somewhat higher average PCI value of 87.

MicroPAVER was used to analyze the impact of different five-year funding scenarios on the condition of the City's roadway pavement network. It was determined that the City's currently anticipated \$2.0M/YR (approx.) funding level would likely result in a six point decrease in the overall PCI as well as an increasing M&R backlog over the next five years. The \$7.1M/YR "Eliminate Backlog" funding level was determined to result in the lowest "total cost" to the City over the five-year analysis period.

### 5.2 Recommendations

#### 5.2.1 *Identify an In-House MicroPAVER "Champion" and Invest in Training*

It is strongly recommended that the City identify an in-house MicroPAVER "champion" to be responsible for maintaining the system. The City currently does not have staff trained to use MicroPAVER. Offsite MicroPAVER training courses are offered twice a year through Colorado State University, and customized onsite MicroPAVER training courses are offered by Dynatest.

#### 5.2.2 *Perform Regular Pavement Condition Inspections*

In an effort to capitalize on this PCI inspection effort and better track the condition of its pavements, it is strongly recommended that the City continue to perform PCI surveys on a three year cycle. Doing so will enable the City to:

1. Better track the deterioration of its pavements,
2. Develop pavement deterioration trends to better predict future pavement conditions, and
3. Assess the effectiveness of its pavement maintenance, preservation, and Major M&R activities.

While the City's pavements are currently in "Adequate" condition, many pavements have been rehabilitated over the last year or so. This suggests that future M&R needs will increase as the City's pavements deteriorate over time. It is necessary that this deterioration be proactively and systematically monitored to more accurately predict future pavement M&R funding needs.

#### 5.2.3 *Customize MicroPAVER*

Due to the fact that this was a first-time pavement management system implementation for Mandan, the MicroPAVER system tables from Bismarck were used. Moving forward, it is recommended that these systems tables be modified – as needed – to reflect the performance of the City's pavements as well as the costs incurred by the City for different M&R activities.

#### *5.2.4 Expand Existing Preventive Maintenance Program*

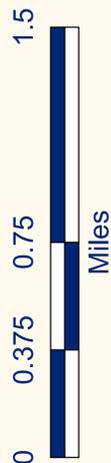
Currently, the City performs some crack sealing of asphalt-surfaced pavements, which is a proven method for extending the life of asphalt pavements. In addition, the City's existing practice of chip sealing newly-constructed pavements not only improves the pavements friction characteristics but also serves as a preventive maintenance activity by sealing the pavement and providing a wearing surface. It is recommended that the City expand its preventive maintenance program to all asphalt-surfaced pavements that are in adequate condition and that are exhibiting pavement distresses that benefit from preventive maintenance.

It is also recommended that the City adopt preventive maintenance activities for its concrete pavements, such as joint seal replacement and crack sealing. The replacement of failed or missing joint sealant helps keep incompressible debris such as stones, out of the joints. The accumulation of debris in concrete pavement joints may lead to premature pavement deterioration. Similar to crack sealing asphalt pavements, crack sealing concrete pavements helps slow pavement deterioration by preventing moisture and debris from entering the pavement structure.

## **APPENDIX A    PAVEMENT MANAGEMENT MAPS**

1. Pavement Ranks (Classifications)
2. Pavement Surface Types
3. Pavement Condition Index (PCI) Values

# CITY OF MANDAN, ND

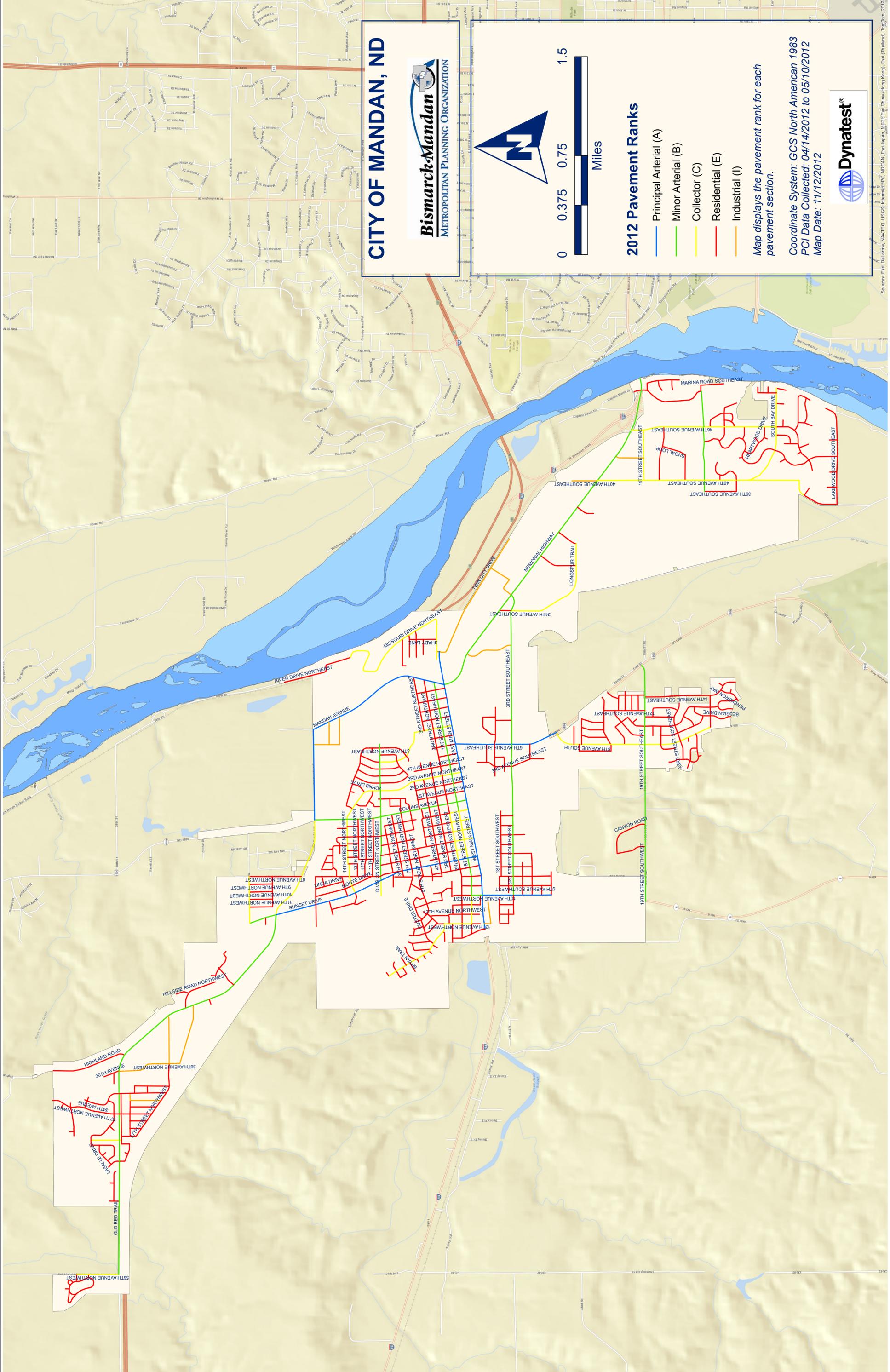


## 2012 Pavement Ranks

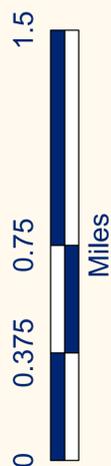
- Principal Arterial (A)
- Minor Arterial (B)
- Collector (C)
- Residential (E)
- Industrial (I)

Map displays the pavement rank for each pavement section.

Coordinate System: GCS North American 1983  
PCI Data Collected: 04/14/2012 to 05/10/2012  
Map Date: 11/12/2012



# CITY OF MANDAN, ND

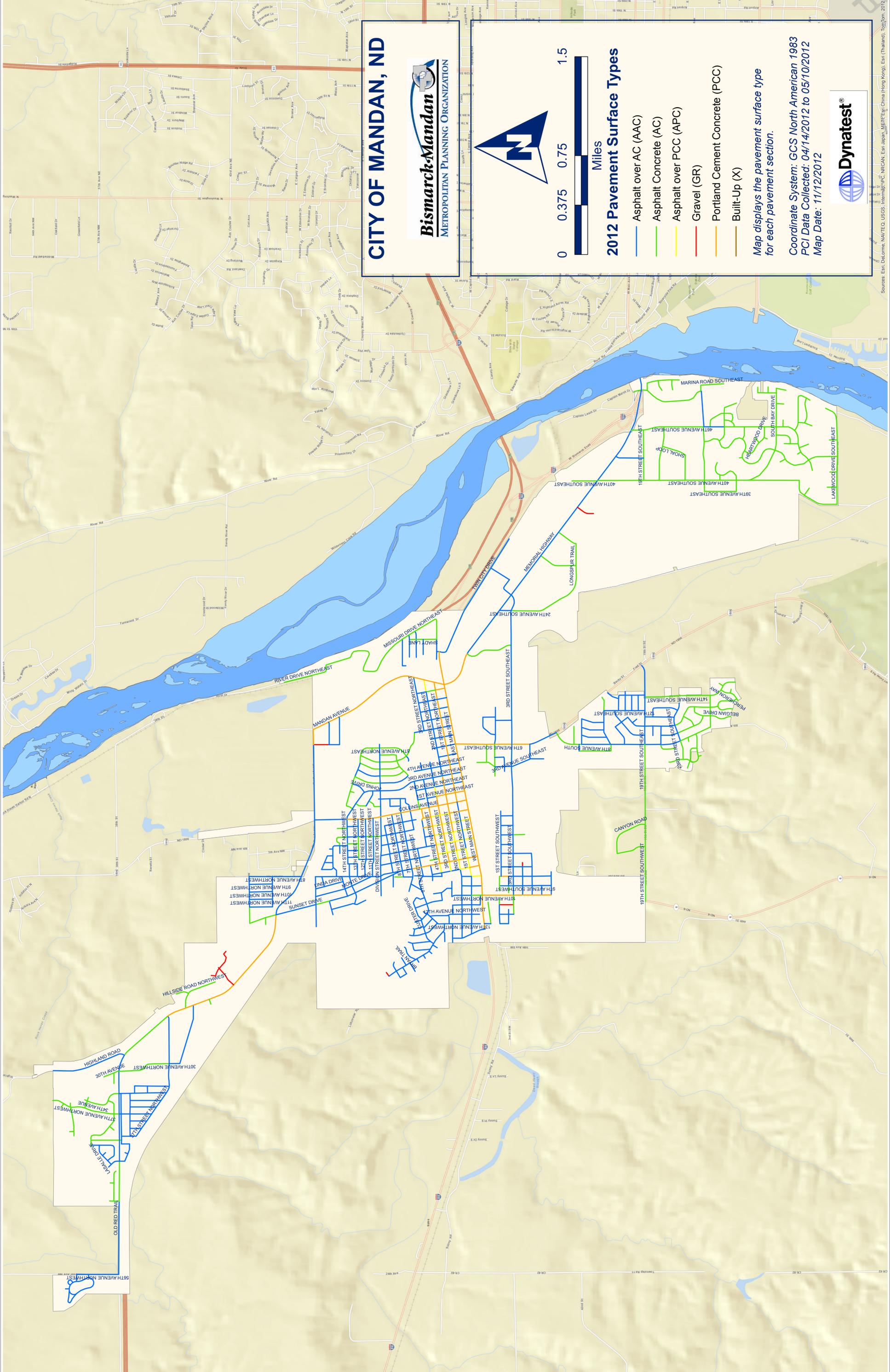


## 2012 Pavement Surface Types

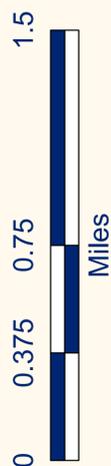
- Asphalt over AC (AAC)
- Asphalt Concrete (AC)
- Asphalt over PCC (APC)
- Gravel (GR)
- Portland Cement Concrete (PCC)
- Built-Up (X)

Map displays the pavement surface type for each pavement section.

Coordinate System: GCS North American 1983  
PCI Data Collected: 04/14/2012 to 05/10/2012  
Map Date: 11/12/2012



# CITY OF MANDAN, ND

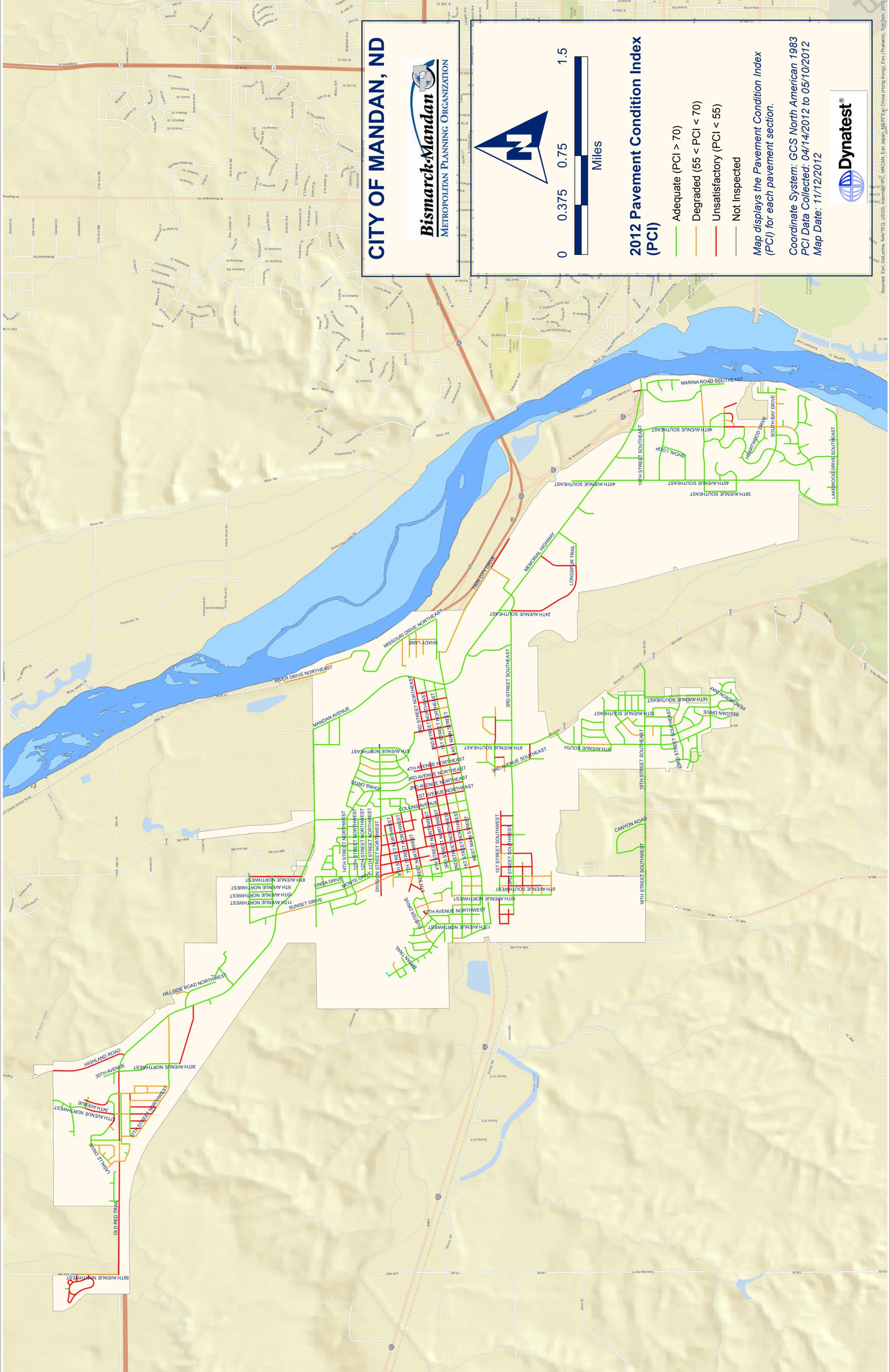


## 2012 Pavement Condition Index (PCI)

- Adequate (PCI > 70)
- Degraded (55 < PCI < 70)
- Unsatisfactory (PCI < 55)
- Not Inspected

Map displays the Pavement Condition Index (PCI) for each pavement section.

Coordinate System: GCS North American 1983  
PCI Data Collected: 04/14/2012 to 05/10/2012  
Map Date: 11/12/2012



## ORDINANCE NO. 1132

An Ordinance to Create and Enact  
Chapter 14-12 of the Mandan Code of Ordinances  
Relating to Prohibition Against Occupying a  
Recreational Vehicle or Camper Vehicle for the  
Purpose of a Residence Within the City Limits of Mandan

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

Chapter 14-12 of the Mandan Code of Ordinances is hereby created and enacted as follows:

### 14-12-01. DEFINITIONS

For the purpose of this article the following terms, phrases, words and their derivations shall have the meaning given herein:

(a) Camper Vehicle means a vehicle, whether factory or home built, whether on or off wheels, whether towed or carried on a motor vehicle or self-propelled, including, but not limited to, recreational vehicles, hitch mount pull behind trailers, pop-up tent trailers, campers meant to be affixed to the bed of trucks and converted vehicles such as buses, trucks, or trailers. Such vehicles may be with or without complete kitchen and toilet facilities, self-container water and sewage systems and designed to be used as a temporary dwelling for travel, recreation, or vacation use. “Camper vehicle” does not include mobile homes, manufactured homes, and “park models.”

(b) Person means natural person, partnerships, associations, and all other bodies, corporate or public.

(c) Within the City of Mandan includes, but is not limited to, city streets, commercial/industrial sites, private property, established residential neighborhoods, and construction sites.

(d) Occupy means to take residence in.

(e) Other form of non-permanent structure includes, but is not limited to, mobile homes, manufactured homes, and park models.

(f) Park models are recreational homes primarily designed as temporary living quarters for recreation, camping or seasonal use. These homes are built on a single chassis and mounted on wheels. Each park model home is certified by the Recreational Park Trailer Industry Association member manufacturer as complying with ANSI A119.5, a recreational vehicle building code.

#### 14-12-02. PURPOSE

The purpose of this Ordinance is to limit the use of camper vehicles and other non-permanent structures for permanent human habitation because it is the determination of the City Commission that their use in the city for permanent human habitation is deleterious to the health, safety and welfare, not only of the persons residing therein but, additionally, of the public at large. Portable heating devices, non-standard electrical connections, a lack of approved sanitary facilities including, but not limited to, bathrooms with toilets, sinks or showers or bathtubs and standard kitchen facilities, among other facilities associated with safe places of permanent human habitation, all lend themselves to unhealthful, unsanitary and hazardous living conditions, if utilized for extended periods of time, occasioned in part because camper vehicles and other non-permanent structures are not intended for use as places of permanent human habitation and to not adequately provide for the needs associated with human habitation.

Notwithstanding the foregoing, this Ordinance shall make allowance for safe, comfortable and sanitary use of camper vehicles and other non-permanent structures for short term, temporary use for human habitation purposes so as to facilitate enjoyment of camping, hunting, bird watching, silviculture, and other out-of-door pursuits.

#### 14-02-03. VIOLATIONS

(a) The use of any camper vehicle or other form of non-permanent structure for human habitation purposes within any zoning district of the City of Mandan, with the exception of those in construction sites described herein, in violation of this ordinance shall result in the issuance by the City of Mandan of a warning directed to the owner of the camper vehicle or other non-permanent structure used for human habitation purposes., if ascertainable, or, if the owner cannot be identified, to the owner of the parcel of real estate upon which it is situated, informing that person or persons of the need to cease and desist from make use of the camper vehicle or other non-permanent structure used for human habitation purposes.

(b) Any person who violates, disobeys, neglects, omits, tries willfully to circumvent the intent of the Ordinance, refuses to comply with the Ordinance, or resists enforcement of any of its provisions shall be guilty of a B misdemeanor, unless that person

has met the approved guidelines set below for construction sites, as set by the planning and zoning department of the City of Mandan.

1. The allowance is for recreational vehicles only.
2. There will be a maximum of 10 units allowed, unless otherwise approved by the City Building Official. The following are the number of units allowed, per site, up to 10 units.
  - a. Single family residential projects: 1 unit per 6,000 square feet of lot area. (No permit required by property owner, but must comply with section 4 below.)
  - b. Multi-family residential projects: 1 unit per 6 apartment units.
  - c. Commercial projects: 1 unit per 10,000 square feet of lot area.
  - d. Industrial projects: 1 unit per 10,000 square feet of lot area.
3. The occupants of the recreational vehicle must obtain a permit issued by the Building Department every 30 days. Each permit is valid for a calendar month and must be renewed at the end of each month. Each permit must provide the make and model of the recreational vehicle, the license plate number, and the legal description of the property the recreational vehicle is to be located on, at the time of issuance of the permit. The cost of the monthly permit shall be \$200.00 per permit. The application for the permit must be approved by the City Building Official.
4. The holder of the permit shall abide by the following rules, or the holder will be found in violation of this ordinance:
  - i. Portable restroom facilities must be provided on site.
  - ii. Sites must be kept clean of trash and litter. Wastewater, including all liquid wastes, gray water, black water and mop water must be discharged into the City wastewater sewer system; or into an approved on-site sewage disposal or holding system, or other approved disposal site. Dumping or disposal of waste at other than approved specific sites shall result in fines or removal of the facility.
  - iii. The location of the recreational vehicles on site must be approved by

the City of Mandan Building Department, with screening if required by the Building Official.

- iv. The occupants of the recreational vehicles must be construction workers or homeowners for that particular site.
- v. The units must be removed if legitimate written complaints are received by the City of Mandan Building Department. If the units are not removed when requested, the City of Mandan Building Department will have them removed and the cost to be assessed to the property.
- vi. Recreational vehicles must be removed and the site must be cleaned up before a Certificate of Occupancy for the property will be issued by the City of Mandan Building Department.

(c) The fine for violation of this ordinance is \$500.00 per day, per camper vehicle.

14-12-04 EXCEPTIONS

Residents and family or friends who come to visit may temporarily occupy a camper vehicle on developed property, but may only do so for a period of seven days without a permit. Every person residing in a camper under this exception cannot exceed a total of 28 days of occupancy in a calendar year.

WHEREUPON, the motion was passed and the Ordinance declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

By: \_\_\_\_\_  
Arlyn VanBeek, President  
Board of City Commissioners

Attest:

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

First Consideration: November 6, 2012  
Second Consideration  
and Final Passage: November 20, 2012  
Publication Date: December 14, 2012

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012

## RESOLUTION

WHEREAS, The Plat of Lakewood Sixth Addition to the City of Mandan was approved by the City Commission of the City of Mandan on the 3<sup>rd</sup> day of April, 2012; and

WHEREAS, said Plat contained an unnamed street on the west side of Block 1 of said Addition, which unnamed street is found to be inadequately described on said Plat.

NOW, THEREFORE, BE IT RESOLVED In order to correct said Plat, that said street on the westerly boundary of Block 1 of Lakewood Sixth Addition shall from and after the approval of this Resolution be known as 34<sup>th</sup> Avenue SE.

TAKE FURTHER NOTICE that the City Commission will consider objections to this Resolution at its regular meeting on November 20, 2012, at 5:30 p.m.

Dated this \_\_\_\_\_ day of November, 2012.

---

Arlyn Van Beek, Mayor of the City of  
Mandan

ATTEST:

---

James Neubauer, City Administrator

RESOLUTIONS 4

**STEVEN L. VOGELPOHL**  
ATTORNEY AT LAW

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

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

November 15, 2012

**FAX (5 PAGES, INCLUDING THIS PAGE) TO:**

**Greg Welch (at 667-3223)**

**Re: Refunding Improvement Bonds, SCG-2012**

Dear Greg:

Transmitted is the form of Resolution Awarding Sale of Warrants and Bonds relative to the above. The Resolution would be considered for adoption at the Commission's November 20 meeting.

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

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

Sincerely,



Steven L. Vogelpohl  
Attorney at Law

SLV  
12-006/111512.fax

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

CITY OF MANDAN  
COUNTY OF MORTON  
STATE OF NORTH DAKOTA

**RESOLUTION AWARDING SALE OF WARRANTS AND BONDS**

WHEREAS, the Board of City Commissioners (the "Governing Body") of the City of Mandan, North Dakota (the "City") has authorized the private sale of a \$245,926.61 Sidewalk, Curb and Gutter Warrant of 2011 and a \$234,073.39 Sidewalk, Curb and Gutter Warrant of 2012 (together, the "Warrants") to be exchanged for the City's Refunding Improvement Bonds, Series SCG-2012, in principal amount of \$480,000 (the "Bonds") for the purpose of paying the cost of sidewalk, curb and gutter construction, rebuilding and repair ordered and contracted for in 2011 and 2012, and

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

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

1. The Warrants (and the Bonds in exchange therefor) are to be purchased at a purchase price of \$ \_\_\_\_\_ plus accrued interest and the Bonds shall be initially dated as of December 15, 2012, and shall be issuable as book-entry bonds on the terms as set forth on Attachment 1 hereto.
2. Each of the Warrants shall be dated December 15, 2012, and shall be in fully registered form in above denomination and payable in principal installments due annually on May 1 in years and in amounts, with each such installment to bear interest from the date of the respective Warrant until such installment is paid at the annual rate shown opposite such installment, respectively, as follows:

Installment Amounts

<u>Year</u>	<u>Warrant of 2011</u>	<u>Warrant of 2012</u>	<u>Rate</u>
2013	\$35,864.32	\$14,135.68	____%
2014	28,179.09	26,820.91	____
2015	28,179.09	26,820.91	____
2016	28,179.09	26,820.91	____
2017	25,617.35	24,382.65	____
2018	25,617.35	24,382.65	____
2019	25,617.35	24,382.65	____
2020	25,617.35	24,382.65	____
2021	23,055.62	21,944.38	____
2022		20,000.00	____

Such interest shall be payable semiannually on May 1 and November 1, commencing May 1, 2013. The installments of principal due on each of the Warrants in 2018 and thereafter shall be subject to prepayment, at the option of the City, in inverse order of maturity, in whole or in part, on May 1, 2017, and on any date thereafter selected by the City, at par plus accrued interest.

Dated and adopted this 20th day of November, 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 November 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.

## ATTACHMENT 1

CITY OF MANDAN  
MORTON COUNTY, NORTH DAKOTA

## \$480,000 Refunding Improvement Bonds, Series SCG-2012

## THE BONDS

DATED DATE: DECEMBER 15, 2012

DUE: MAY 1, AS BELOW

Bonds will be available in fully registered form in the denominations of \$5,000 or any whole multiple thereof. Interest is payable each May 1 and November 1, commencing May 1, 2013.

<u>Year</u>	<u>Due May 1</u>	<u>Rate</u>
2013	\$50,000	____%
2014	55,000	_____
2015	55,000	_____
2016	55,000	_____
2017	50,000	_____
2018	50,000	_____
2019	50,000	_____
2020	50,000	_____
2021	45,000	_____
2022	20,000	_____

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



Date: November 13, 2012  
To: Mayor Van Beek and City Commissioners  
Meeting Date: Nov. 20, 2012  
From: Cole Higlin; Director of Parks and Recreation *CH*  
Subject: land dedication/green space ordinance

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

**Background Information:** The current ordinance has been in effect since 1983 and the city commission was required to set the dollar amount which is \$100 per unit. I presented the land dedication in 2007 which was approved by planning and zoning. The item was held off from going before city commission because of special assessment matters with Lakewood bridges and the current city commission felt the timing wasn't right.

Currently the park district purchased 46 acres for \$300,000 which required a loan to acquire. The last five years we have generated \$57,100 from the \$100 park development fee. Based on the trend, it would take us 26 years to pay off the \$300,000 land purchase. We are anticipating \$700,000 of construction cost's to develop the property.

**History of presentations and meetings:**

1. 7/18/12: received approval from park commissioners on updating and implementing a land dedication for the city of Mandan.
2. 8/3/12: met with Jim Neubauer about addressing our park development fees and informed him of city of Dickinson land dedication.
3. 8/3/12 and 8/7/12: Met with Jim Neubauer and Dave Bechtel to gather their input and presented Park District thoughts and ideas for a land dedication. We also involved Commissioner Dot Frank, Dave Bechtel; Engineering and Planning, Jim Neubauer; City Administrator, Wanda Knoll; Park Commissioner, and Jason Arenz; Park Board President.
4. 8/15/12: Met with Mitzel Builders about ordinance and they supported the \$500 per building permit. They were not supportive of a land dedication.
5. 8/20/12: met with Dave Bechtel with rough draft and discussed how city staff will handle fee structure vs. market value of land.
6. 9/5/12: presented fact finding from city staff to Park District portfolio holders of land dedication.
7. 9/10/12 Park Board of Commissioners approved fee structure \$500 sf/\$250 multi-unit/\$1,000 commercial and land dedication language from the city of Dickinson.
8. 9/20/12: met with Bill Robinson; Chair of Planning & Zoning, Mayor Van Beek, Kim Fetting, to present the ordinance and provide feedback of items that seem unreasonable. Everyone seemed comfortable with the items.
9. 9/24/12: Presented at Planning & Zoning and received unanimous approval, but was directed to work with the city staff on a fee structure but were comfortable with 7% land dedication and language.

10. 9/28/12: met with Malcolm Brown, Jim Neubauer, and Richard Barta to discuss the ordinance approved by planning & zoning and also difference's from proposed Bismarck ordinance. The ordinance is the same except from fee structure vs. market value. It was agreed upon to follow market value of cash in lieu. The benefit of market value is that we won't have to update fees in the future and mirror's Bismarck ordinance.
11. 10/8/12 Park Board of Commissioner's approved amending the land dedication to include market value for cash in lieu.
12. 11/8/12: I presented to the Bismarck Mandan Homebuilder's Association about the land dedication and received overwhelmingly positive comments. President of the Homebuilders Association; Chad Moldenhauer also gave praise and worked on the Bismarck land ordinance.

**Legal review:** Park District Legal Counsel; Arlen Ruff has reviewed. City Attorney Malcolm Brown has developed the ordinance and has communicated with Charlie Whitman; City of Bismarck Attorney on their green space ordinance.

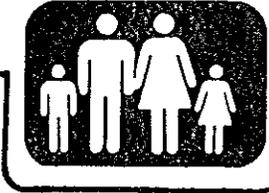
- Attachments-**
- a) Current 1983 ordinance
  - b) Summary of cities in ND that have a park dedication
  - c) Summary of Minnesota park dedication with fees
  - d) Tribune editorial supporting land dedication
  - e) Proposed new ordinance

**Fiscal Impact-** Land dedication is 7% or cash in lieu at market value.

Example: developer brings in 100 acres valued at \$10,000 an acre. If the Park District decides land, we would receive 7 acres in the proposed plat for green space. If the Park District decides on cash in lieu, the Park District would receive \$70,000 for construction or installation of new improvements. Dollars generated cannot be used for replacement of existing parks.

**Recommendation-** I recommend for approval the land dedication ordinance as presented effective January 1, 2013.

If you have concerns relating to the pending passage of Bismarck's land dedication, you can add the language to the motion....."pending approval of Bismarck passing their land dedication".



Clerk  
Pauline Thompson

Director of Park & Recreation  
Marv Miller

May 23, 1983

Mayor Hertz  
City of Mandan  
Mandan, N.D. 58554

Honorable Mayor Hertz:

In November of 1982, a City Ordinance was adopted regarding regulations in providing equitable and effective standards for parks, playgrounds, and recreational uses in residential subdivisions of the City of Mandan.

At the time of adoption, a monetary figure was not established. The Park Commissioners, at their May 9 regular meeting, passed a motion recommending a fee of \$100.00 per unit be placed as the monetary figure for this ordinance. The Board of Park Commissioner, at this time, would like the City Commission to follow through with a resolution determining a dollar amount for each of the zoning classifications mentioned in Ordinance 5.22 of Section V of the Mandan City Ordinances.

Sincerely,

MANDAN PARK DISTRICT

Pauline Thompson  
Clerk/ Park District

CC: Park Commissioners  
City Commissioners  
Marvin Miller  
Tom Little  
Lynn Lander

- (a) The purpose of this section is to provide equitable and effective standards for parks, playgrounds and recreational areas in residential subdivisions throughout the city or in areas which are rezoned residential increasing the density. To aid the Planning and Zoning Commission in this endeavor, the Mandan Park District shall generate a master plan within the City of Mandan and its one (1) mile jurisdiction identifying the specific locations and areas it deems necessary to adequately serve the needs of the citizens of Mandan. A current copy of this plan is to be provided to the Planning and Zoning Commission for its use.
- (b) The fee per dwelling unit shall be established by the City Commission set by resolution.
- (c) The amount of monetary contribution shall be determined by the zoning classification as follows:
- (1) Land zoned single-family (R-7) shall dedicate \_\_\_\_\_ dollars per dwelling unit.
  - (2) All other residential land not zoned single-family (R-7) shall dedicate \_\_\_\_\_ dollars per dwelling unit.
  - (3) All new residences not covered in items 5.22(c)(1) and 5.22(c)(2) constructed after date of adoption of this ordinance in a nonresidential zone shall dedicate \_\_\_\_\_ dollars per dwelling unit.
- (d) The dwelling unit fee shall be paid before the building permit is issued by either the subdivider or the party requesting the building permit. The fees shall be placed in a special fund to be used for park land acquisition or development.
- (e) A parcel of land or part thereof, which has been designated in the master plan as indicated in item (a) above; prior to the approval of the final plat by the Planning and Zoning Commission the property owner shall make that designated parcel of land available for sale to the Mandan Park District at its present market value within the area.
- If the subdivider or owner desires to grant to the Park District any property, including designated property, Park District may accept or reject the offer which will have no consequences or effect on this ordinance.
- (f) Any proposed plat of a Planned Unit Development residential area, or any petition for rezoning from an existing classification to a Planned Unit Development, shall be submitted to the Park Board who shall have a reasonable opportunity to review the same and submit to the Planning Commission their recommendations regarding such project. The Planning Commission shall consider the recommendations of the Park Board, whether the owners or developers of such PUD shall provide and maintain privately such parks, playgrounds, or recreational areas which are proposed, and any other reasonable recommendations which the Park Board may

- (d) The dwelling unit fee shall be paid before the building permit is issued by either the subdivider or the party requesting the building permit. The fees shall be placed in a special fund to be used for park land acquisition or development.
- (e) A parcel of land or part thereof, which has been designated in the master plan as indicated in item (a) above; prior to the approval of the final plat by the Planning and Zoning Commission the property owner shall make that designated parcel of land available for sale to the Mandan Park District at its present market value within the area.

If the subdivider or owner desires to grant to the Park District any property, including designated property, Park District may accept or reject the offer which will have no consequences or effect on this ordinance.

- (f) Any proposed plat of a Planned Unit Development residential area, or any petition for rezoning from an existing classification to a Planned Unit Development, shall be submitted to the Park Board who shall have a reasonable opportunity to review the same and submit to the Planning Commission their recommendations regarding such project. The Planning Commission shall consider the recommendations of the Park Board, whether the owners or developers of such PUD shall provide and maintain privately such parks, playgrounds, or recreational areas which are proposed, and any other reasonable recommendations which the Park Board may submit.

## SECTION VI: General Provisions

### 6.1 Authority

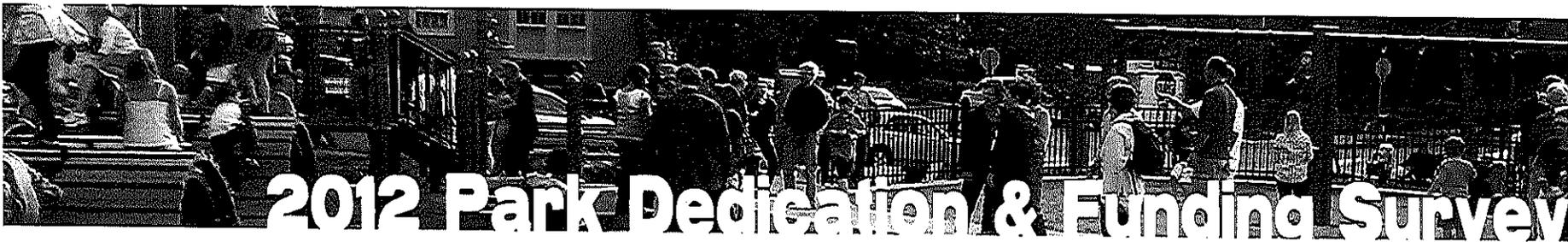
These regulations are adopted pursuant to the authority granted the city of Mandan, North Dakota, in Chapters 40-48 and 40-50 North Dakota Century Code.

### 6.2 Jurisdiction

- (a) These subdivision regulations shall apply to all subdivisions of land, located within the corporate limits of the city of Mandan, North Dakota, and within the extraterritorial jurisdiction as determined by the State Legislature and the municipal ordinances.

**NORTH DAKOTA PARK DISTRICTS  
LAND DEDICATION/ FEE COMPARISON**

<b>CITIES:</b>	<b>LAND DEDICATION</b>	<b>FEES</b>
WILLISTON	7% or cash in lieu	market value
DICKINSON	5% or cash in lieu	\$500 sf/\$250 multi/\$1000 commercial
MINOT	8% unwritten ordinance	none
BISMARCK	proposed 7%	market value being proposed
JAMESTOWN		
DEVIL'S LAKE		
WEST FARGO	10% or cash in lieu	market value
FARGO	7% unwritten ordiance	none
GRAND FORKS	8% or cash in lieu	market value



## 2012 Park Dedication & Funding Survey

In August 2012, HKGi, with the assistance of the MRPA sent Park Dedication & Funding Surveys to cities, townships, and counties throughout Minnesota.

Twenty-six communities responded with information about their park dedication requirements and other funding mechanisms they are using to fund parks, trails, and recreation programming.

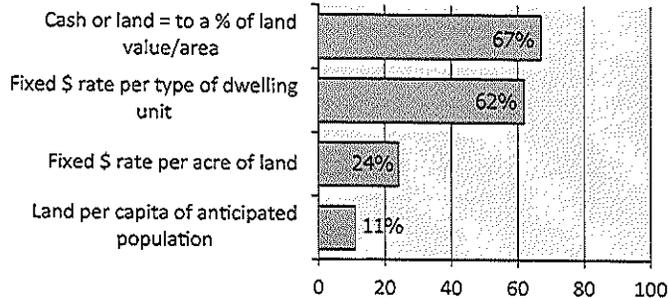
## Residential Property

92% of the communities surveyed have some sort of park dedication requirements for residential development. Of these communities, the most common dedication requirement is “cash or land equal to a percentage of land value or area” with the most common dedication being 10%. The percentages varied from 5% to 30% (in instances of denser development).

Many communities use a cash dedication fee based on acreage or dwelling units. The average fees are:

Fixed Fee Cash Dedications - Residential Development					
Per Acre	Per Dwelling Unit	Single family/ Unit	Duplex or TH/ Unit	Multi-Family/ Unit	Mobile Home/ Unit
\$4,250	\$2,722	\$2,789	\$2,727	\$2,776	\$1,744

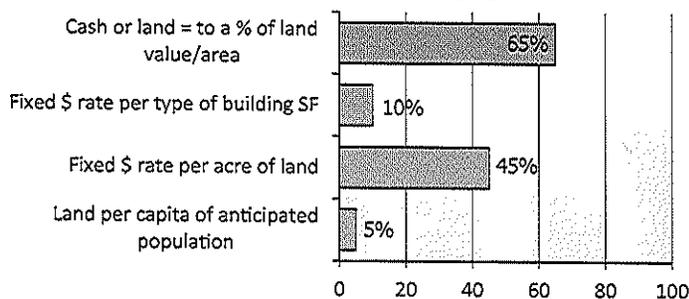
## Residential Dedications



11% of communities reported using a dedication based directly on anticipated population with an average of 1 acre of park land per 63 people.

It is also worth noting that a number of cities use a mix of land and cash dedication requirements, either in tandem or as separate options.

## Commercial / Industrial Dedications

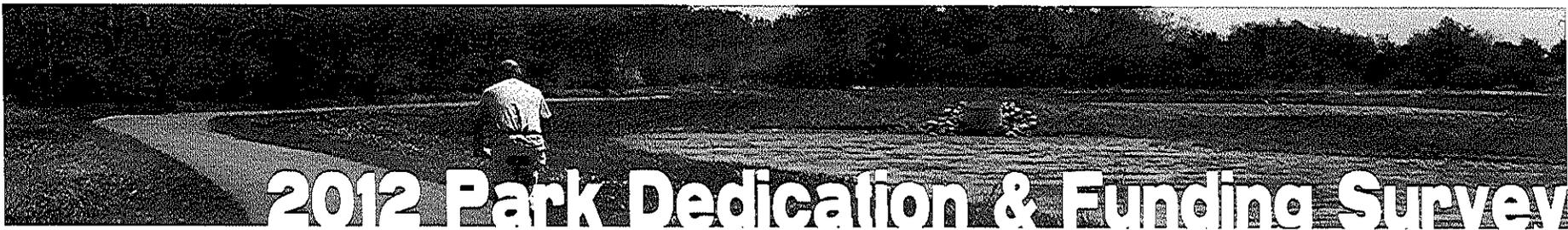


## Commercial / Industrial Property

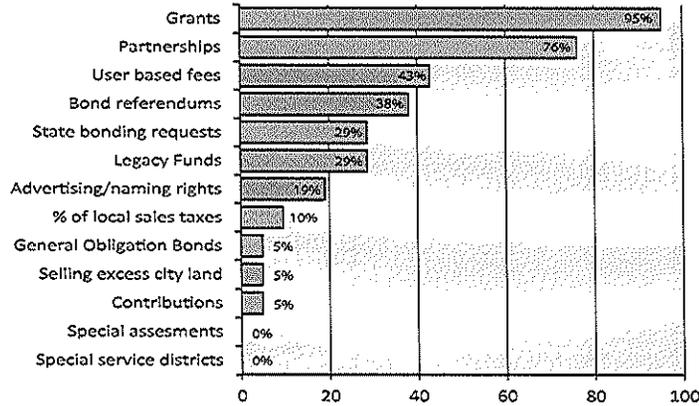
87% of communities also have a park dedication requirement for commercial and/or industrial development. 65% of communities utilize a “cash or land equal to a percentage of land value or area” requirement ranging from 1% to 10% with an average 7% dedication.

45% of communities with a commercial/industrial dedication use a fixed rate per acre of land. Among these communities, the average dedication is \$6,581/acre for commercial development and \$5,184/acre for industrial development.

Similar to the above residential developments, many cities use a mix of dedication options.



# 2012 Park Dedication & Funding Survey



HKGi would like to thank the MPRA for their assistance in distributing the survey, and the following municipalities for their participation in the 2012 survey:

- |               |                     |
|---------------|---------------------|
| Anoka Co.     | Inver Grove Heights |
| Blaine        | Maple Grove         |
| Bloomington   | New Brighton        |
| Chanhassen    | Plymouth            |
| Chisago Co.   | Rosemount           |
| Eden Prairie  | Roseville           |
| Faribault     | Shakopee            |
| Farmington    | South St. Paul      |
| Fergus Falls  | St. Louis Park      |
| Fridley       | Stearns Co.         |
| Golden Valley | White Bear Lake     |
| Grand Rapids  | White Bear Township |
| Hastings      | Woodbury            |

## Other Funding & Implementation Tools

Cities also identified a number of methods and mechanisms for funding parks, trails, and recreation programming. Outside of park dedications and general levy funds, most communities (95%) are paying for park improvements with grants. Partnerships (76%), user fees (43%) and referendums (38%) are also popular funding mechanisms.

## Facing Tight Budgets

Many departments have faced tight budgets in the past few years, and communities are working hard to stretch available dollars. Half of respondents reported having to cut part time/seasonal staff and a third have cut full time staff.

More than anything else, departments are prioritizing and delaying expenditures. This includes prioritizing park improvements (75%) and delaying capital improvements (70%). Two thirds of the communities have also prioritized the level and frequency of park maintenance. 35% of the communities also indicated (jokingly?) that they have “begged, borrowed, or stole” to generate revenue.

## New Sources of Funding

While many communities are dealing with tight budgets, they have also become more creative in finding and developing new sources of funding.

### New Sources of Funding For:

Physical Improvements	Maintenance	Operations	Programs	Trails	Sidewalks
<ul style="list-style-type: none"> <li>MPCA pilot project</li> <li>Grants</li> <li>Donations</li> <li>Legacy Funds</li> <li>Partnerships</li> <li>General obligation bonds</li> </ul>	<ul style="list-style-type: none"> <li>Participant fees</li> <li>Corporate Volunteers</li> <li>Partnerships</li> <li>Local foundations</li> </ul>	<ul style="list-style-type: none"> <li>Recreation agreements with foundations</li> <li>Partnerships</li> </ul>	<ul style="list-style-type: none"> <li>Collaboration with school districts</li> <li>Grants</li> <li>Donations</li> <li>Volunteers/volunteer coordinators</li> <li>Partnerships</li> </ul>	<ul style="list-style-type: none"> <li>Grants</li> <li>DNR Trail Connections</li> <li>Transportation Enhancement</li> <li>County/city partnerships</li> <li>General obligation bonds</li> <li>Referendum</li> </ul>	<ul style="list-style-type: none"> <li>Developer installed</li> <li>Grants</li> <li>Referendum</li> <li>General obligation bonds</li> </ul>

## Green space: Staying ahead of growth

SEPTEMBER 17, 2012 2:00 AM • TRIBUNE EDITORIAL

Faced with increased residential construction, park districts need to stay ahead of growth when it comes to securing property for parks, recreation and green space.

But buying too far out can prove to be a long-term investment that ties up much needed capital for programs and operations. If park districts wait too long to obtain land for expansion, the purchase price can skyrocket. The trick is to buy at the right time, price and location.

The Mandan Park District has put together \$300,000 from reserves and a loan to buy green space for recreation use. The preference will be for 20 to 60 acres in northwest Mandan that would tie the relatively new middle school to a proposed elementary school. That co-location gives schools and parks an opportunity to leverage joint use of resources. It makes sense.

Mandan has spread out to the north. The demand for recreational activities and space in that part of town will only grow. Hopefully, the real estate market in that part of Mandan has room for the park district's needs.

In Bismarck, as a part of the city's strategic plan, a new green space ordinance is under development. The idea is to make acquisition of green space a natural part of the city's growth — land can either be dedicated for parks or cash could be paid instead of a land donation. The ordinance does need to be flexible, because development doesn't always go where planners plan.

Bismarck is looking at ordinances from a wide variety of other cities.

In Mandan recently, the park district increased green space fees for developers.

Those fees had been \$100 for each new home, apartment unit or commercial building for 30 years because of the slow growth. In August, the park district bumped the fees up to \$500 for each new home, \$250 for each apartment unit and \$1,000 for each commercial building.

The new fees have caused protest from at least one developer.

We do not believe the fees are unreasonable.

People want parks and other green space in their neighborhoods. It's part of the quality of community's life. And park districts need sensible means to add green space as their cities grow.

Bismarck and Mandan are on the right track when it comes to having recreational resources and green space for the future.

## Bismarck Park Board backs draft green space policy

OCTOBER 11, 2012 8:33 PM • BY LEANN ECKROTH | BISMARCK TRIBUNE

The Bismarck Park Board supported a draft green space policy Thursday that gives 7 percent of land developments for parks or has a developer pay 7 percent cash value of that land instead.

The policy must still go to the Bismarck Planning and Zoning Commission and the city commission.

Bismarck City Commissioner Josh Askvig, who led the city's strategic planning process, outlined the proposal. He said the draft policy came out of a growth management plan.

"We're seeing the impact of the oil boom and are continuing to grow. ... As we're growing, we're not seeing park space keep up," Askvig said.

He said a nine-member committee studied how other cities set aside recreational space near developments. Greg Smith, operations director for the park district, and park board member Brian Beattie served on the committee.

Askvig said the policy was intended to be flexible.

"We don't want this to be any more burdensome on developers than it needs to be," he said.

Money paid out for green space would only to be used for new development, not to replace or repair existing equipment or facilities, Askvig said. It must be based on fair market value of the land.

Askvig said the city commission would settle disagreements between the park district and a developer under policy written.

The policy also states:

- n Collection of payment instead of land is due when the land is annexed.
- n A land dedication is due at the final plat with the exception of storm water.
- n Land dedicated will be 7 percent of the net that can be developed (minus streets). The committee wanted developers to benefit from tax advantages, Askvig said.
- n The ordinance is for park space only — not schools or other public property. Private park space for a development is allowed.

n Money collected will be used in area where it was collected. Bismarck is divided into four quadrants under the plan.

Park Board President Mike Schwartz asked why the ordinance gives the park district 21 days to review a development plan. Carl Hokenstad, director of the Bismarck Community Development, said that timeline is standard with other zoning practices and will not slow down a developer's platting approval.

Executive Parks and Recreation Director Randy Bina said park district attorney Pat Ward studied the policy.

ORDINANCE NO. \_\_\_\_\_

**NEIGHBORHOOD RECREATION AND  
OPEN SPACE REQUIREMENTS**

An Ordinance to create a new Section to Title 21 of the Mandan Code of Ordinances, relating to Neighborhood Recreation and Open Space Requirements.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF MANDAN, NORTH DAKOTA:

Section 1. Amendment. Section 1-02-21 of the City of Mandan Code of Ordinances relating to definitions is hereby amended and re-enacted to read as follows:

“Concept Development Plan:” A conceptual plan of development for a particular property. The plan may include, but not be limited to, proposed land uses, land use intensity, general site characteristics, major street alignments, and required dedication areas for recreation, open space and storm water facilities. Such plans may be developed in phases and may form the basis for subsequent subdivision plats.

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“Net Developable Area - Plat:” All that part of a subdivision plat that is available for residential, commercial, or other development as lots and blocks, less public rights-of-way, private roads, property owned by a private school, the Mandan Public School District or the Mandan Parks and Recreation District, and lots or easements set aside solely for storm water conveyance or storage.

Section 2. New Chapter. A new Chapter 21-12 of the City of Mandan Code of Ordinances relating to Neighborhood Recreation and Open Space requirements is hereby created and enacted to read as follows:

21-12-01. Neighborhood Recreation and Open Space.

1. Purpose. The purpose of the neighborhood recreation and open space requirements is to maintain and enhance the high quality visual aesthetic of the community and to ensure that adequate usable neighborhood open space, parks, and recreation facilities are provided for existing and future residents of the City. Because new development within the City and its extraterritorial area increases population and the demand for

public services, it shall be required that the owner or developer of every subdivision of property dedicate land and/or make a payment to provide for parks, playgrounds, open space and natural areas, trails and area for the conveyance or storage of storm water runoff. It is the intent of this ordinance that land dedication and payment-in-lieu of dedication be utilized primarily for the provision of public parks, playgrounds, open space, natural areas and trails. The provisions for such facilities in newly developed areas maintain the high quality of life enjoyed by citizens of the community by permitting the City to identify, obtain, continue, maintain, and enhance its recreation and open space system.

2. Application. The provisions of this section shall apply as a condition on the approval of all residential, commercial or other non-industrial subdivisions and shall include replats where such replats result in an increase in density and where a land dedication and/or a payment-in lieu of dedication have not been previously provided.

For purposes of this section, the City is divided into four quadrants, described as follows:

a. Northwest – \_\_\_\_\_

b. Northeast – \_\_\_\_\_

c. Southeast – \_\_\_\_\_

d. Southwest – \_\_\_\_\_

3. Procedure.

a. An applicant wishing to subdivide or re-subdivide property or to submit a concept development plan for approval shall request that a pre-application meeting be scheduled pursuant to Section 21-09-04 of this title. The meeting shall include the Parks and Recreation District and other City departments and

the proposed public or private open space, recreation and park areas and storm water areas shall be discussed. Following the pre-application meeting, the Parks and Recreation District shall have twenty-one (21) days to review the subdivision or concept development plan information and provide written comments or recommendations to the Office of Planning and Zoning.

- b. The Planning and Zoning Commission shall consider the recommendations of the Parks and Recreation District and City departments; as well as conformance to recreation, open space and storm water provisions identified within the City's Comprehensive Plan, Growth Management Plan, Mandan Parks and Recreation Comprehensive Plan, and other City and Park District plans when formulating their recommendations on the proposed subdivision, re-subdivision or concept development plan to the Board of City Commissioners. All land set aside for public or private open space, recreation and park areas, and/or storm water conveyance and storage shall be duly noted on the subdivision plat or concept development plan.
- c. At the time of final plat or concept development plan approval, the Board of City Commissioners shall have the final authority to determine the amount and nature of a land dedication, a payment-in-lieu of land dedication or a combination of land dedication and payment-in-lieu of land dedication that will be accepted.
- d. If the subdivision plat includes a land dedication the plat may not be filed and recorded until the owner delivers a properly executed warranty deed for the dedicated property to the Office of the City Administrator.
- e. If a land dedication is being provided through the concept development plan approval process, an acceptable legal description and a properly executed warranty deed shall be provided to the Office of the City Administrator following approval of the concept development plan by the Board of City Commissioners. Subsequent changes to a concept development plan that are determined to be minor in nature may be authorized by the Office of Planning and Zoning.

All other changes must follow the same procedures as those required for initial concept development plan approval.

f. If a payment-in-lieu of land dedication is being provided, such payment shall be provided at the time of annexation, in accordance with subsection 5.

4. Land Dedication. The applicant wishing to subdivide or re-subdivide property or submit a concept development plan for approval shall be required, as a condition of approval of said request, to dedicate an amount of land for neighborhood recreation and open space uses to the City of Mandan and/or the Mandan Parks and Recreation District. The amount of the dedication shall equal at least seven percent (7%) of the net developable area within the subdivision plat or concept development plan.

The land to be dedicated shall be reasonably suitable for its intended use of providing neighborhood recreation and open space areas and shall be at a location convenient to the people to be served. In evaluating the adequacy of proposed land to be dedicated, factors to be considered shall include size, shape, topography, geology, hydrology, tree cover, accessibility and location. Land will not be accepted by the Parks and Recreation District as meeting the required dedication if it is encumbered with major utility easements, storm drains or retention areas, wetlands or other features which make the property difficult to utilize for parks or other desired park facilities. Land may be considered for parks or open space that is located in the vicinity of areas for storm water retention, major drains, or wetlands or other natural features provided the dedication will further the interests of the community, and community-wide plans.

Land dedications for storm water conveyance and storage purposes may also be accepted by the City.

All land dedications shall be conveyed by warranty deed to the City of Mandan and/or the Mandan Parks and Recreation District in accordance with subsection 3.

5. Payment-In-Lieu of Dedication. When it is determined that a land dedication is not desirable due to location, size or other suitability factors, the City may require, in lieu of a land dedication, a cash payment equal to a percentage of the fair market value of the property. Such percentage is based on the land dedication requirements identified in subsection 4. Fair market value shall be determined at the time of final

plat or concept development plan approval in accordance with the following:

- a. The City and the subdivider may agree as to the fair market value, or
- b. The fair market value may be based on a current appraisal submitted to the City by the subdivider at the subdivider's expense.

The subdivider shall make payment to the City upon approval of the annexation of the property or subdivision plat or portion thereof. The annexation may be filed and recorded with the Morton County Recorder following receipt of the payment by the Office of Planning and Zoning. If a portion of a property or plat is being annexed, the amount of payment shall equal the percentage of the land that is being annexed.

Payment-in-lieu of dedication fees shall only be used for the purchase of land, or the construction or installation of new improvements, and not for the replacement or maintenance of existing parks and recreation equipment or facilities. In addition, the use of such fees shall be limited to the quadrant of the City, as identified in subsection 2, in which the new subdivision or concept development plan is located.

6. Combined Dedication and Payment-In-Lieu of. The City and/or Parks and Recreation District may elect to receive a combination of a payment-in-lieu and land as part of the neighborhood recreation and open space dedication requirements. In such cases, the percentage of land dedicated shall reduce the required fee percentage by an equal amount.

7. Private Open Space/Parks. Where private property for park, recreation or open space purposes is provided in a proposed subdivision or concept development plan, such areas may substitute for, or be used as a credit against the requirement of dedication of land for public uses. The Board of City Commissioners shall have final authority to make such determination, after considering the recommendations of the Parks and Recreation District and the Planning and Zoning Commission.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect on January 1, 2013 following final passage, adoption and publication.

By: \_\_\_\_\_

Arlyn Van Beek  
Board of City Commissioners

ATTEST:

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

First Consideration: \_\_\_\_\_

Second Consideration and Final Passage: \_\_\_\_\_

**ORDINANCE NO. 1135**

An Ordinance to Create and Enact  
Chapter 14-12 of the Mandan Code of Ordinances  
Relating to Neighborhood Recreation and  
Open Space Requirements

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

An Ordinance to create a new Section to Title 21 of the Mandan Code of Ordinances, relating to Neighborhood Recreation and Open Space Requirements.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF MANDAN, NORTH DAKOTA:

Section 1. Amendment. Section 1-02-21 of the City of Mandan Code of Ordinances relating to definitions is hereby amended and re-enacted to read as follows:

“Concept Development Plan:” A conceptual plan of development for a particular property. The plan may include, but not be limited to, proposed land uses, land use intensity, general site characteristics, major street alignments, and required dedication areas for recreation, open space and storm water facilities. Such plans may be developed in phases and may form the basis for subsequent subdivision plats.

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“Net Developable Area - Plat:” All that part of a subdivision plat that is available for residential, commercial, or other development as lots and blocks, less public rights-of-way, private roads, property owned by a private school, the Mandan Public School District or the Mandan Parks and Recreation District, and lots or easements set aside solely for storm water conveyance or storage.

Section 2. New Chapter. A new Chapter 21-12 of the City of Mandan Code of Ordinances relating to Neighborhood Recreation and Open Space requirements is hereby created and enacted to read as follows:

21-12-01. Neighborhood Recreation and Open Space.

1. Purpose. The purpose of the neighborhood recreation and open space requirements is to maintain and enhance the high quality visual aesthetic of the community and to ensure that adequate usable

neighborhood open space, parks, and recreation facilities are provided for existing and future residents of the City. Because new development within the City and its extraterritorial area increases population and the demand for public services, it shall be required that the owner or developer of every subdivision of property dedicate land and/or make a payment to provide for parks, playgrounds, open space and natural areas, trails and area for the conveyance or storage of storm water runoff. It is the intent of this ordinance that land dedication and payment-in-lieu of dedication be utilized primarily for the provision of public parks, playgrounds, open space, natural areas and trails. The provisions for such facilities in newly developed areas maintain the high quality of life enjoyed by citizens of the community by permitting the City to identify, obtain, continue, maintain, and enhance its recreation and open space system.

2. Application. The provisions of this section shall apply as a condition on the approval of all residential, commercial or other non-industrial subdivisions and shall include replats where such replats result in an increase in density and where a land dedication and/or a payment-in lieu of dedication have not been previously provided.

3. Procedure.

a. An applicant wishing to subdivide or re-subdivide property or to submit a concept development plan for approval shall request that a pre-application meeting be scheduled pursuant to Section 21-09-04 of this title. The meeting shall include the Parks and Recreation District and other City departments and the proposed public or private open space, recreation and park areas and storm water areas shall be discussed. Following the pre-application meeting, the Parks and Recreation District shall have twenty-one (21) days to review the subdivision or concept development plan information and provide written comments or recommendations to the Office of Planning and Zoning.

b. The Planning and Zoning Commission shall consider the recommendations of the Parks and Recreation District and City departments, as well as conformance to recreation, open space and storm water provisions identified within the City's Comprehensive Plan, Growth Management Plan, Mandan Parks and Recreation Comprehensive Plan, and other City and Park District plans when formulating their recommendations on the proposed subdivision, re-subdivision

or concept development plan to the Board of City Commissioners. All land set aside for public or private open space, recreation and park areas, and/or storm water conveyance and storage shall be duly noted on the subdivision plat or concept development plan.

c. At the time of final plat or concept development plan approval, the Board of City Commissioners shall have the final authority to determine the amount and nature of a land dedication, a payment-in-lieu of land dedication or a combination of land dedication and payment-in-lieu of land dedication that will be accepted.

d. If the subdivision plat includes a land dedication the plat may not be filed and recorded until the owner delivers a properly executed warranty deed for the dedicated property to the Office of the City Administrator.

e. If a land dedication is being provided through the concept development plan approval process, an acceptable legal description and a properly executed warranty deed shall be provided to the Office of the City Administrator following approval of the concept development plan by the Board of City Commissioners. Subsequent changes to a concept development plan that are determined to be minor in nature may be authorized by the Office of Planning and Zoning. All other changes must follow the same procedures as those required for initial concept development plan approval.

f. If a payment-in-lieu of land dedication is being provided, such payment shall be provided at the time of annexation, in accordance with subsection 5.

4. Land Dedication. The applicant wishing to subdivide or re-subdivide property or submit a concept development plan for approval shall be required, as a condition of approval of said request, to dedicate an amount of land for neighborhood recreation and open space uses to the City of Mandan or the Mandan Parks and Recreation District. The amount of the dedication shall equal at least seven percent (7%) of the net developable area within the subdivision plat or concept development plan.

The land to be dedicated shall be reasonably suitable for its intended use of providing neighborhood recreation and open space areas and shall be at a

location convenient to the people to be served. In evaluating the adequacy of proposed land to be dedicated, factors to be considered shall include size, shape, topography, geology, hydrology, tree cover, accessibility and location. Land will not be accepted by the Parks and Recreation District as meeting the required dedication if it is encumbered with major utility easements, storm drains or retention areas, wetlands or other features which make the property difficult to utilize for parks or other desired park facilities. Land may be considered for parks or open space that is located in the vicinity of areas for storm water retention, major drains, or wetlands or other natural features provided the dedication will further the interests of the community, and community-wide plans.

Land dedications for storm water conveyance and storage purposes may also be accepted by the City.

All land dedications shall be conveyed by warranty deed to the City of Mandan or the Mandan Parks and Recreation District in accordance with subsection 3.

5. Payment-In-Lieu of Dedication. When it is determined that a land dedication is not desirable due to location, size or other suitability factors, the City may require, in lieu of a land dedication, a cash payment equal to a percentage of the fair market value of the property. Such percentage is based on the land dedication requirements identified in subsection 4. Fair market value shall be determined at the time of final plat or concept development plan approval in accordance with the following:

- a. The City and the subdivider may agree as to the fair market value, or
- b. The fair market value may be based on a current appraisal submitted to the City by the subdivider at the subdivider's expense.

The subdivider shall make payment to the City upon approval of the annexation of the property or subdivision plat or portion thereof. The annexation may be filed and recorded with the Morton County Recorder following receipt of the payment by the Office of Planning and Zoning. If a portion of a property or plat is being annexed, the amount of payment shall equal the percentage of the land that is being annexed.

Payment-in-lieu of dedication fees shall only be used for the purchase of land, or the construction or installation of new improvements, and not for the replacement or maintenance of existing parks and recreation equipment or facilities.

6. Combined Dedication and Payment-In-Lieu of. The City and/or Parks and Recreation District may elect to receive a combination of a payment-in-lieu and land as part of the neighborhood recreation and open space dedication requirements. In such cases, the percentage of land dedicated shall reduce the required fee percentage by an equal amount.

7. Private Open Space/Parks. Where private property for park, recreation or open space purposes is provided in a proposed subdivision or concept development plan, such areas may substitute for, or be used as a credit against the requirement of dedication of land for public uses. The Board of City Commissioners shall have final authority to make such determination, after considering the recommendations of the Parks and Recreation District and the Planning and Zoning Commission.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect on January 1, 2013 following final passage, adoption and publication.

By: \_\_\_\_\_  
Arlyn Van Beek  
Board of City Commissioners

ATTEST:

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

First Consideration: November 20, 2012  
Second Consideration  
and Final Passage: December 4, 2012