



**AGENDA**  
**MANDAN CITY COMMISSION**  
**SEPTEMBER 20, 2011**  
**ED "BOSH" FROEHLICH MEETING ROOM**  
**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 September 6, 2011 Board of City Commission meeting
- C. PUBLIC HEARING:
- D. BIDS:
1. Consider award of bids for Flood Improvement District #1, Project 2011-06
- E. CONSENT AGENDA:
1. Consider approval of monthly bills.
  2. Consider approval of Games of Chance for the Morton County FNRA Committee for Oct. 10, 2011.
  3. Consider Change order for Mandan South Side Pump Station and Collins Ave. Reservoir Demolition projects.
  4. Consider approval of Acteva Addition Zone Change. (*First consideration of ordinance 1105.*)
- F. OLD BUSINESS:
1. Re-visit previous offers for city-owned building at 116 E Main
- G. NEW BUSINESS:
1. Consider application for U.S. Department of Treasury Small Business Credit Initiative
  2. Consider recommendation from Renaissance Zone Committee for appointment of committee member
- H. RESOLUTIONS & ORDINANCES:
1. Consider Resolution authorizing filing of application with the Industrial Commission of North Dakota for a Disaster Loan under the Capital Financing Program through the North Dakota Public Finance Authority.
  2. *Consider first consideration of Ordinance No. 1105 Zone Change for Acteva Addition* – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.

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Mandan City Commission  
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I. OTHER BUSINESS:

J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. October 4, 2011
2. October 18, 2011
3. November 1, 2011 – (4 p.m. start time)

K. ADJOURN

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

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The Mandan City Commission met in regular session at 5:00 p.m. on September 6, 2011 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Rohr, Frank, and Jackson. 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, and Engineering Project Manager Bechtel. Absent: City Assessor Barta. Note: Mayor Helbling left the meeting at 6:30 p.m. at which time Commissioner Tibke, Vice-President, presided over the remainder of the meeting.

MINUTES: Consider approval of the minutes for August 16, 2011, regular meeting. Commissioner Tibke moved to approve the minutes of August 16, 2011, Commissioner Frank seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

1. *Public Hearing scheduled at 6:00 p.m. to review and discuss the Preliminary 2012 Budget. (See Ordinances and Resolutions #1 thru #3).* Greg Welch, Finance Director, reported that the Finance Office has not received any protest letters or calls regarding the 2012 Preliminary Budget.

At approximately 6:00 p.m. Mayor Helbling announced that this is a public hearing and invited anyone to come forward to comment. A second invitation was extended to come forward to comment. Hearing none, this portion of the public hearing was closed.

2. *A Public Hearing to consider for approval the resolution to vacate a non-access control line that follows the east property line of Lot 1, Block 1, West River 1<sup>st</sup> Addition.* Engineering Project Manager Bechtel presented a request to vacate a non-access control line. He stated that there are not very many non-access control lines in existence. To depict the concern, Bechtel provided an overhead view of the property area of concern. It is a corner lot more commonly referred to as Lot 1, Block 1 West River 1<sup>st</sup> Addition. The non-access control line is located on the east side of the property line of the lot. The line does continue on to the west on Old Red Trail and extends to the north as well. Non-access control lines control egress and ingress what are more materially considered as arterial-type streets. In this instance it was meant to keep driveways from interfering with traffic on 37<sup>th</sup> Street. Bechtel stated there is no problem with vacating the non-access control line for this lot. The reason for the request for vacating the non-access control line is that the owner of the property contacted the City of Mandan due to their re-financing and due to the violation of that non-access control line. It was caught in the documentation therefore the individuals could not get a loan. Bechtel stated that all property owners within 300 feet of the area were contacted and there were a lot of calls regarding the reasoning for doing the vacation and what the whole situation involves.

Mayor Helbling stated that this is a public hearing and opened the floor for questions or discussion regarding the resolution to vacate a non-access control line that follows the east property line of Lot 1, Block 1, West River 1<sup>st</sup> Addition. Mayor Helbling once again

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invited anyone to come forward to comment. Hearing none, this portion of the public hearing was closed.

Commissioner Tibke motioned to approve the resolution to vacate a non-access control line that follows the east property line of Lot 1, Block 1, West River 1<sup>st</sup> Addition.

Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

#### BIDS:

1. *Consider award of bids for Water & Sewer Improvement District #58, Project # 2011-07.* Engineering Project Manager Bechtel presented a request to reject the only bid submitted for this project. He stated that the bid received was for \$320,000 and was substantially higher than the engineer's bid of \$63,000. It would be prudent, not only to the landowners within the district, but to the City, to reject the bid as over depth excavation and dewatering would cost the City as part of this project. Bechtel stated that if the bid were to be rejected now there would be no major concerns at this time and it can be re-bid next spring.

Commissioner Frank motioned to reject the bid received from Basaraba Excavating for Water & Sewer Improvement District #58, Project # 2011-07. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

2. *Consider award of bids for Flood Improvement District #1, Project 2011-06.* Mayor Helbling stated that the River Bend project is not included in this project. He announced that the River Bend package bids for flood protection removal will go out tomorrow, September 7, 2011, and are to be returned by September 16, 2011.

City Administrator Neubauer indicated that the River Bend project will be bid at a later date. For this project, he stated that four bid packages were received. Brent Erickson, Project Engineer for Kadrmas, Lee & Jackson, stated that he is the project engineer for this project. He reviewed the four bid packages that were prepared. Kadrmas, Lee and Jackson will oversee the project.

**1. Flood Protection Removal Bid package #1** is for the removal, disposal and restoration of NDDOT, USACE and City earth levees and jersey barriers located on the expressway. A total of four bids were received and the low bidder is Weisz and Sons @ \$865,750. The engineer's estimate was \$1,242,746. Commissioner Frank asked whether there is any way to recuperate any of these costs from entities benefiting from this removal. Erickson stated that the City needs to remove those barriers. The NDDOT doesn't have the forces in place to do so. Eventually it is expected that FEMA will provide reimbursement for these costs. Mayor Helbling stated that given all the help to the City from the DOT details, if any, can be worked out later stating that all paperwork has been submitted to FEMA for reimbursement of costs involved.

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The four contracts will be addressed separately. Erickson stated that Weisz and Sons was the lowest bidder and recommended awarding the bid to them for Flood Improvement District #1, Project 2011-06 at the cost of \$865,750. The engineer's bid for the project was \$1,242,746. The other bids submitted were: Tom's Backhoe Service @ \$898,375; Quam Construction \$1,957,950. One bid was rejected.

Commissioner Frank moved to approve the award of bids for Flood Improvement District #1, Project 2011-06, Package #1 for the removal, disposal and restoration of NDDOT, USACE and City earth levees and jersey barriers located on the expressway to the low bidder Weisz and Sons for \$865,750. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

**2. Flood Protection Removal Bid package #2** is for the removal, disposal, and restoration of USACE and Hesco barriers and sandbag barriers constructed by the City or USACE contract. This contract will remove the interior Hesco's and sandbags around Marina Bay, Borden Harbor and Lakeview and a few to the north of this area. The plan is to leave the Hesco's and sandbags that are immediately adjacent to the river in place this fall. This is a unit price contract and can be changed as needed. Four bids were received. The engineer's estimate was \$695,631 and the low bid came from Tom's Backhoe Service @\$447,000. The other bids submitted were in the amounts of \$2,047,000 and \$2,982,000. One bid was rejected.

Erickson stated that FEMA guidelines will be followed as to what can be restored on the properties. Erickson confirmed that he spoke with Tom's Backhoe Service regarding their bid submitted for this package wherein he commented that Tom's Backhoe Service expressed interest in doing this work. Any sandbags that were part of the USACE primary flood protection are included to be removed within this project.

Commissioner Tibke moved to approve Flood Protection Removal Bid package #2 for the removal, disposal, and restoration of USACE and City Hesco sandbag barriers and sandbag barriers constructed by the City or USACE contract to low bidder Tom's Backhoe Service for \$447,000. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

**3. Flood Protection Removal Bid Package #3** is for the collection, handling and disposal of private sandbags. This will be the collection of sandbags at collection sites; removal of the sand from the sandbags, disposal of the sandbags at the landfill and disposal of the sand fill material at the designated disposal area. Two bids were received and the low bidder was Knife River @ \$1,214,000. The engineer's estimate was \$890,126. The other bid submitted was in the amount of \$2,220,000. This will be cleanup of the private sandbag collection at collection sites and the debagging of the sandbag collection site on 40<sup>th</sup> Avenue (Lakewood, Mitzel farm). The homeowners are to bring their sandbags to the right of way for pick up and they will be taken to the

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collection site for disposal. This contract includes the collection of stock pile sandbag sites also where property owners have already taken their sandbags to.

Mayor Helbling recommended that this package be awarded the contract to the low bidder but requested that we be allowed to negotiate or remove the mobilization charges. Erickson will approach Weisz and Sons with this question.

Commissioner Jackson motioned to approve the award of the low bid to Knife River for \$1,214,000 for the Flood Protection Removal Bid Package #3 with instructions to the engineer to attempt to re-negotiate the mobilization contract and also request to remove the line item of collecting the sandbags at \$35 unit price for a total of \$175,000.

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

**4. Flood Protection Removal Bid Package #4** is for Sandbag Central cleanup and restoration for the stockpiles of sand located at the Sandbag Central collection site. The bags will be collected and taken to the Public Works yard for salvage. The bags on pallets will be taken there and debagged. Attempts will be made to restore the area to its normal condition pre-flood. There were six bids received and the engineer's bid was \$132,380. The low bidder was Basaraba Excavation @ \$98,375. The other bids received were \$318,875; \$339,912; \$1,278,800. Two bids were rejected.

Commissioner Jackson moved to approve the award of the low bid to Basaraba Excavation for \$98,375 for the Flood Protection Removal Bid Package #4 for Sandbag Central cleanup and restoration. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

Mayor Helbling announced that the River Bend package bids for flood protection removal will go out tomorrow, September 7, 2011; to be returned by September 16, 2011. He stated that for anything that was adjacent to the river that was placed so far, the City plans to leave them in place and see what happens with the Heart River and the Missouri River in the spring of 2012. Under FEMA rules, a six-month extension will be requested to allow the city to keep those dikes in place. Brent Erickson, Kadrmass, Lee and Jackson said that it was recommended to bid this area separately in order to do an adequate job within this project. He stated that the project completion date is October 15<sup>th</sup> with a payment date of November 1<sup>st</sup>.

CONSENT AGENDA:

1. *Consider approval of abatement for Pride, Inc. – non-profit exemption.* The Board approved of the abatement for Pride, Inc. – non-profit exemption.
2. *Consider approval of the final plat of Acteva Living Center Addition.* The Board approved of the final plat of Acteva Living Center Addition.
3. *Consider personnel actions.* This item was removed for discussion at the request of Commissioner Frank.

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Commissioner Jackson moved to approve the Consent Agenda Items No. 1 and No. 2. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

Commissioner Frank requested removal of Consent Agenda Item #3, specifically the battalion fire chief portion for discussion. Commissioner Frank inquired of the full time position for a battalion fire chief. She stated she discussed the matter with Administrator Neubauer and Fire Chief Nardello. Commissioner Frank posed the following questions: What would the position “Battalion Fire Chief” entail? Chief Nardello replied that it would be an assistant to the Fire Chief. He explained that when he started with the department there were 30 firefighters and the staff has now grown to 52. This position would assist the chief in full time shifts and would rotate. It would be an exempt position so that employee can work flexible hours and that person could respond to emergency situations. Commissioner Frank said she was concerned that a full time position such as this being requested as an additional position when it was determined during the budget process that for the third consecutive year, no merit pay could be given, only the COLA 2.5% being allowed. Secondly, residents have voiced concern that Station No. 2 is not fully staffed at this time. Chief Nardello replied: The position will be approximately a \$2,500 increase, depending on who fills the position. There is some funding available in the part-time position because funding was put there to staff Station No. 2 with part-timers and it is not always possible to get part-timers to staff that station. A battalion chief would be desirable because there are part-timers at the other station that do not receive enough of the chief’s time and proper supervision and that would be one of the duties of the battalion chief. Another concern raised by Commissioner Frank is - if there are two many in command at one time within a smaller community of this size? Chief Nardello replied that the chain of control is five people for every supervisor. There are 52 firefighters and ten officers, including the chief. Chief Nardello outlined the chain of command when responding to a fire in action.

Mayor Helbling commented that this is a reasonable request and it allows someone to step up in the fire department and to provide cross-coverage in the event Chief Nardello would either voluntarily or involuntarily be away from the office for any length of time. Chief Nardello clarified that this is not a new position that is being requested, it is a promotion within the department.

Commissioner Tibke moved to approve Consent Agenda Item No. 3. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

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**OLD BUSINESS:**

1. *Consider an extension of the purchase and business incentive agreements for 116 E Main Street.* Business Development and Communications Director Huber reviewed with the Board a request for extension of the deadline for closing on the sale of the 116 East Main in purchase and business incentives. A previous extension was approved until August 31, 2011. The owners are now requesting an additional extension to on or before October 4, 2011, in order to finalize financing. City Attorney Brown has prepared an Addendum with terms for completion by October 4, 2011 with completion of the project Renovations by July 1, 2012.

Mayor Helbling commented that this is a reasonable request to grant the extension as requested. Commissioner Rohr expressed concern about financing to keep the business going once it is up and running giving consideration to the requests for these extensions to secure financing for the business. Huber replied that the business owners themselves have contributed cash reserves to get the operation up and running, somewhere in the neighborhood of \$50,000 to \$60,000. The overall renovation costs are expected to be approximately \$220,000 with an additional \$40,000 plus for equipment purchases. Commissioner Tibke commented that the business plan indicated that the 2012 sales were @ \$1.2 million at their East Grand Forks location, so it is apparent they are successful in operating a business. The long term opportunities for sales tax generated will benefit the community for this project. Commissioner Jackson inquired if the deadline were extended to October 4<sup>th</sup>, and the owners will not be able to get their financing, the City will not be able to come up with an alternative to get the construction done yet this season? Huber replied that if the current plan falls through the commission could at its October 4<sup>th</sup> meeting review the other three interested party's offers at that time. Huber said that the roof would be the main issue to be addressed before winter. The other issues of the building are interior projects and they could be worked on through the winter months. Commissioner Jackson stated his concern is just that. Will they or will they not get the financing? If the agreement falls apart and come October 4<sup>th</sup> and there are no interested parties and the building sets empty through the winter, there will more than likely be additional damage. Come spring there may not be any interested parties anymore. Considering the issues regarding this property, Huber recommended granting this extension to Mama Mia's thereby giving this project every opportunity to work.

Mayor Helbling commented that he believes the owners are making a good faith effort to get this business up and running and they are staying in constant contact with the City in providing everything along the way. Commissioner Frank concurred with Mayor Helbling and Huber that the process for loan financing is a long one. She stated that if this matter comes back to the next meeting, there are options available to consider and that should be done. She reminded the Board members that she previously suggested that the City do the repairs on the roof in order to avoid further deterioration.

Commissioner Frank moved to approve the request for an extension of the purchase and business incentive agreements for 116 E Main Street to on or before October 4, 2011 to DeLanis and Linda Thomas. Commissioner Tibke seconded the motion. Roll call vote:

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Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: No; Commissioner Helbling: Yes. The motion passed.

2. *Consider allowing the negotiation of and enter into an Engineering Services Agreement for Street Improvement Project 2010-03 District #161 (North Mandan).* Engineering Project Manager Bechtel reviewed with the Board the terms to negotiate a cost and enter into an agreement for engineering services with Toman/Wenck for this project. Bechtel stated that the project and district have been reviewed with the firm and they in turn have provided a scope of work and project parameters and schedules. They have provided the percentage of 12.5% of the project cost as their fee for the cost of services. Commissioner Jackson commented that under normal conditions the RFP or RFQ process would have been followed in similar projects in which a set amount would be determined at the onset of the project. In this particular instance, it seems this worked out based on what the firm's estimated costs are going to be but that may not be the case in the future.

Commissioner Jackson motioned to enter into an Engineering Services Agreement for Street Improvement Project 2010-03 District #161 (North Mandan) at the rate of 12.5%. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

3. *Consider a proclamation to extend the State of Emergency within the City of Mandan pursuant to Section 06-03-07 of Mandan Code of Ordinances.* Commissioner Rohr motioned to extend the State of Emergency within the City of Mandan pursuant to Section 06-03-07 of Mandan Code of Ordinances. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

#### NEW BUSINESS:

1. *Report on joint community marketing for 2011 & plans for 2012 by Mandan Tomorrow — Leadership, Pride & Image Committee.* Laurie Leingang, from the Leadership Pride and Image Committee, presented the following annual report on behalf of the Committee:

- The Marketing Plan for Mandan of Year 1 was provided.
- The four standard goals outlined: Opportunity, Community, Achievement and Adventure – for the purpose of retail and business attraction are the key terms utilized as far as what there is to offer as far as tourism attraction.
- The marketing materials are initiated through the Development Office who developed and drafted the marketing materials and those were distributed to the Mandan Tomorrow Committee for comment.
- The following marketing tools were reviewed: Residential Marketing; Facebook presence; website access and the Made in Mandan Theme.
- Year 2 plans and additional projects.

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Commissioner Tibke extended a thank you to the Mandan Tomorrow Committee for their time and efforts of promoting Mandan through volunteer committee work.

2. *Consider approval of annual Class E Liquor License application for Harvest LLC from Sept. 6, 2011 through June 30, 2012.* Commissioner Jackson motioned to approve the annual Class E Liquor License application for Harvest LLC from Sept. 6, 2011 through June 30, 2012. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Absent. The motion passed.

3. *Consider the creation of, approve the feasibility report, approve the plans and specifications for Water & Sewer Improvement District No. 58, Project 2011-09 (5<sup>th</sup> Street NE).* Engineering Project Manager Bechtel presented a request to create a district pursuant to this request. He stated that a request was received from Sam Towner, who owns lots on the north side of the 5<sup>th</sup> street project as well as Habitat for Humanity who also owns property and would like to build two houses on the lot. These lots do not have water and sewer services. There are some undersized mains in this area that have been identified by the City and this is an opportunity to get both of these completed at the same time.

Bechtel requested approving this request as well as an approval of getting bids out there in order to get the project completed yet this year. Bechtel stated there has been interest from contractors to do this job.

Finance Director Welch commented that the bids cannot exceed 40% of the engineer's estimate and by law there is a cap already in place.

Commissioner Jackson motioned to approve the feasibility report, approve the plans and specifications for Water & Sewer Improvement District No. 59, (not 58), Project 2011-10, (not 09), (5<sup>th</sup> Street NE) and to receive bids on the project. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Absent. The motion passed.

4. *Consider approval of liquor license transfer from Tissa Hanson-Kay to Sean Hopkins for the Mystique Lounge.* Sean Hopkins, 210 ½ N. Main Street, Mandan, North Dakota, presented a request for the approval of liquor license transfer from Tissa Hanson-Kay to Sean Hopkins for the Mystique Lounge. Hopkins stated that he had entered into an agreement with individuals in May, 2011, and found out about a month later that those individuals were not creditworthy partners. They told him that if he agreed to certain terms of business transactions, that the individuals would “turn the liquor license” over to him. However, that was not the case. Subsequently, Hopkins has found a second individual that is willing to become business partners with him to open up the restaurant and lounge under a new business name. Hopkins requested the City of Mandan reissue or transfer the liquor license back to him in order to proceed with another business plan as outlined.

City Administrator Neubauer stated that a background check has been completed and cleared for Sean Hopkins. If the City Commission deems appropriate, they can re-issue the liquor license to Sean Hopkins. A separate Class A license was available for this establishment that was given back to the City. City Attorney Brown pointed out that the City does not recommend that two licenses be issued for the same premises. Neubauer stated that there is only one license in existence for this property; however, there is no license active at this time. Mr. Hopkins's request would be treated as a "new application" for a liquor license at the premises known as the Mystique Lounge.

Commissioner Jackson motioned to approve the liquor license for Sean Hopkins for the Mystique Lounge. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Absent. The motion passed.

#### RESOLUTIONS & ORDINANCES:

1. *Consider the second and final consideration of Ordinance No. 1102 making the annual appropriations for expenditures or expenses of the City of Mandan, North Dakota, for the fiscal year commencing January 1, 2012, and ending December 31, 2012, and making the annual tax levy for the year 2011.* Commissioner Jackson moved to approve the second and final consideration of Ordinance No. 1102 making the annual appropriations for expenditures or expenses of the City of Mandan, North Dakota, for the fiscal year commencing January 1, 2012, and ending December 31, 2012, and making the annual tax levy for the year 2011. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed. *(A copy of the ordinance and resolutions are on file open for public inspection during regular working hours in the Finance Department.)*

2. *Consider Resolution establishing rates and charges for services from the Water and Sewer Utility Fund.* Commissioner Jackson moved to approve establishing rates and charges for services from the Water and Sewer Utility Fund. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed. *(A copy of the resolution is on file open for public inspection during regular working hours in the Finance Department.)*

3. *Consider Resolution establishing rates and charges for services from the Solid Waste Utility Fund.* Commissioner Jackson moved to approve the Resolution establishing rates and charges for services from the Solid Waste Utility Fund. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed. *(A copy of the resolution is on file open for public inspection during regular working hours in the Finance Department.)*

4. *Consider Resolution amending permit fees administered by the Office of the Building Inspector.* Commissioner Jackson moved to approve the Resolution amending

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permit fees administered by the Office of the Building Inspector. Commissioner Rohr commented that one of the reasons behind this is not to raise revenue but to maintain equity with Bismarck because the fee process being similar in structure and it will be advantageous at that point. Commissioner Frank seconded the motion. Commissioner Jackson commented that Mandan is still below what Bismarck charges and in some cases, a fairly significant amount. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Absent. The motion passed. *(A copy of the resolution is on file open for public inspection during regular working hours in the Building Inspection Department.)*

5. *Consider Resolution amending fees and charges administered by the Office of Planning and Zoning, and Engineering.* Commissioner Jackson moved to approve the Resolution amending fees and charges administered by the Office of Planning and Zoning, and Engineering. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Absent. The motion passed. *(A copy of the resolution is on file open for public inspection during regular working hours in the Planning and Zoning, and Engineering Department.)*

6. *Consider the second and final consideration of Ordinance No. 1103 related to employee annual leave cutoff date.* Commissioner Jackson moved to approve the second and final consideration of Ordinance No. 1103 related to employee annual leave cutoff date. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Absent. The motion passed. *(A copy of the resolution is on file open for public inspection during regular working hours in the Office of the City Administrator.)*

7. *Consider second and final consideration of Ordinance No. 1104 – An ordinance to amend Chapter 17-04 to the Mandan Code of Ordinances Relating to Noxious Weeds.* Commissioner Jackson moved to approve the second and final consideration of Ordinance No. 1104 – An ordinance to amend Chapter 17-04 to the Mandan Code of Ordinances Relating to Noxious Weeds. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Absent. The motion passed. *(A copy of the resolution is on file open for public inspection during regular working hours in the Office of the City Administrator.)*

There being no further actions to come before the Board, Commissioner Jackson moved to adjourn the meeting at 6:56 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present.

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James Neubauer,  
City Administrator

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Timothy A. Helbling,  
President, Board of City  
Commissioners

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Sandra Tibke,  
Vice President, Board of City  
Commissioners



Bids No. 1

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** September 20, 2011  
**PREPARATION DATE:** September 15, 2011  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Consider award of bids for Flood Improvement District #1, Project 2011-06

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**STATEMENT/PURPOSE:** This is an acceptance of bids and the consideration to award the contract for the project.

**BACKGROUND/ALTERNATIVES:** Bids were received on September 16<sup>th</sup> for the Riverbend Area within the District. Due to the late bid opening time, preparation of this documentation was prior to the bid opening. Background will be given as part of the presentation during the meeting.

**ATTACHMENTS:** Bid Tabulation to be handed out at the meeting

**FISCAL IMPACT:** The district was created in order to special assess costs incurred under this project. Those costs and distribution by special assessment will need to be determined at another time once all flood related costs have been quantified and any mechanisms for reimbursement and amounts have been identified.

**STAFF IMPACT:** Minimal.

**LEGAL REVIEW:** .

**RECOMMENDATION:** A recommendation will be presented at the meeting once the bids have been looked over.

**SUGGESTED MOTION:** To follow the recommendation presented at the meeting.



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

Consent No. 2

Type:  Local Permit \*  Charity Local Permit

Permit Number  
2011-36

Name of Organization Morton County Fnra Committee		Date(s) Authorized (Read instruction 2)	
Contact Person Clayton Pederson	Business Phone Number (701) 751-1026	10/10/2011 Beginning	to 10/10/2011 Ending
Mailing Address 210 East Main Street	City Mandan	State ND	Zip Code 58554-0000
Site Name Mandan Eagles Club	Site Address 1400 Collins Avenue		
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 and Office of Attorney General within 30 days of the event.			
Date 9/7/2011	Signature of: <input checked="" type="checkbox"/> City Auditor <input type="checkbox"/> County Auditor	Printed Name of City or County Auditor Jay Gruebele	Auditor Telephone Number (701) 667-3250

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

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 cut along this line

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

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





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** September 20, 2011  
**PREPARATION DATE:** September 14, 2011  
**SUBMITTING DEPARTMENT:** Water Treatment Plant  
**DEPARTMENT DIRECTOR:** Duane Friesz WTP Superintendent  
**PRESENTER:** Duane Friesz WTP Superintendent  
**SUBJECT:** Change orders for the South Side Pump Station and Collins Reservoir Demolition Projects.

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**STATEMENT/PURPOSE:**

1. To consider a contract change order related to the South Side Pump Station. Pursuant to our change order policies, the city commission must consider the request.
2. To consider a contract change order and final payment related to the Collins Reservoir Demolition project. Pursuant to our change order policies, the city commission must consider the request.

**BACKGROUND/ALTERNATIVES:**

1. The South Side Pump Station contractor has experienced 20 days of adverse weather conditions, which have adversely affected the schedule. The change order increases the contract substantial completion date to October 28, 2011 and final completion to November 18, 2011 and also adds \$3,342.00 to the price for a total contract price of \$910,042.00.
2. The Collins Reservoir Demolition was completed in the fall of 2010, due to weather conditions the final landscaping and seeding was postponed until spring of 2011. The contractor completed the project and final inspection was held on July 7, 2011. The change order extended the completion date to July 8, 2011.

**ATTACHMENTS:**

1. Mandan South Side Pump Station change order request forms No. G-1, M-1 and E-1.
2. Collins Reservoir Demolition change order #2 and final inspection and acceptance form.

**FISCAL IMPACT:** The original budget for the Mandan South Side Booster Station project was \$1,700,000. The total current projects costs including change order is

Board of City Commissioners

Agenda Documentation

Meeting Date: September 20, 2011

Subject: Change orders for the South Side Pump Station and Collins Reservoir  
Demolition

Page 2 of 2

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\$1,676,505.00 and therefore, the Mandan South Side Pump Station change order is within borrowing capacity.

STAFF IMPACT: N/A

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

RECOMMENDATION:

1. To approve the contract change order related to the South Side Pump Station changing the contract substantial completion date to October 28, 2011 and the final completion to November 18, 2011 and also add \$3,342.00 to the price for a total contract price of \$910,042.00.
2. To approve the contract change order and final payment related to the Collins Reservoir Demolition project.

SUGGESTED MOTION:

1. Move to approve the contract change order related to the South Side Pump Station changing the contract substantial completion date to October 28, 2011 and the final completion to November 18, 2011 and also add \$3,342.00 to the price for a total contract price of \$910,042.00.
2. Move to approve the contract change order and final payment related to the Collins Reservoir Demolition project.



September 12, 2011

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

Re: **Mandan South Side Pump Station – Contract No. 1  
Change Order No. G-1**

Dear Duane:

Enclosed herewith please find four (4) copies of Change Order No. G-1 for John T. Jones Construction for final execution. If this Change Order is acceptable, please sign all four (4) copies in the spaces indicated, keep one (1) copy for your files, and return the remaining three (3) copies to this office for distribution to the Contractor and ND Department of Health.

This Change Order extends the contract completion dates due to adverse weather conditions, provides a credit for an alternate window color, adds window tinting of south windows, adds one gate valve due to field conditions, and revises PRV vault restoration from seed to sod per Owner request. The Change Order increases the Contract Substantial Completion date to October 28, 2011 and Final Completion to November 18, 2011 and adds \$3,342.00 to the price for a total Contract Price of \$910,042.00. Enclosed is a summary of the project budget. Note that this change order is also being routed to the North Dakota Department of Health for their approval.

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

Respectfully Submitted,

**AE2S**

Laith Hintz, PE  
Project Engineer

Enclosures

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

P00510-2008-00  
 Summary of Change Orders  
 John T. Jones Construction

Original Contract Price \$ 906,700.00

CO #	Description	Amount	Status	Contract Price	Over/Under
G1	1 Time extension due to adverse weather impacts	N/A			
	2 PCO-03: Window credit for alternate color.	(\$500.00)			
	3 PCO-04: Tint south windows.	\$396.00			
	4 PCO-05R: Add GV near PRV vault due to field conditions	\$3,146.00			
	5 PCO-06: Revise yard seed to sod at PRV vault work per Owner request.	\$300.00			
	<b>Total Change Order G1</b>	<b>\$3,342.00</b>	Routing for signature	\$910,042.00	\$3,342.00
Pending	1 PCO-02: Remove insulation on exterior of existing vault to allow painting.	\$2,473.00	Reviewed w/ Duane and accepted 9/9/11		0.4%
	2 PCO-07: Couplings for connection to AC pipe due to field conditions.	\$3,313.00	Reviewed w/ Duane and accepted 9/9/11		
	3 PCO-9: Paint existing vault piping per Owner request	\$5,944.00	Follow-up for JTJ sent 9/9/11.		
	4 PCO-10: Valve risers and mud plugs	\$478.00	Reviewed w/ Duane and accepted 9/9/11		
	5 PCO-11: Special fitting due to pipe misalignment due to field conditions	\$2,187.00	AE2S reviewing.		
	6 PCO-12r: Remove excess dirt and haul in black.	\$6,066.00	AE2S reviewing 9/12/11.		
	7 PCO-13r2: Concrete mow strip	\$5,208.00	AE2S reviewing 9/12/11.		
	8 Stairway over pipe.	\$3,000.00	Estimate only. Need to request from JTJ.		
	<b>Total Pending Change Orders</b>	<b>\$28,669.00</b>		\$938,711.00	\$32,011.00
	<b>Total Change Orders</b>	<b>\$32,011.00</b>			

CHANGE ORDERS CONSIDERED					
CO #	Description	Amount	Status	Contract Price	Over/Under

P00510-2008-00  
 Summary of Change Orders  
 Central Mechanical

Original Contract Price \$ 44,100.00

CO #	Description	Amount	Status	Contract Price	Over/Under
				\$ 44,100.00	\$ -
				\$ 44,100.00	\$ -
Total Change Orders		\$0.00			

CHANGE ORDERS CONSIDERED BUT NOT ACCEPTED					
CO #	Description	Amount	Status	Contract Price	Over/Under

P00510-2008-00  
 Summary of Change Orders  
 Edling Electric

Original Contract Price \$ 315,400.00

CO #	Description	Amount	Status	Contract Price	Over/Under
				\$ 315,400.00	\$ -
Total Change Orders		\$0.00			

CHANGE ORDERS CONSIDERED BUT NOT ACCEPTED					
CO #	Description	Amount	Status	Contract Price	Over/Under

# Change Order No. G-1

Date of Issuance: September 7, 2011

Effective Date: September 7, 2011

Project: <u>Mandan South Side Pump Station</u>	Owner: <u>City of Mandan</u>
Contract: <u>Contract No. 1 - General Construction</u>	Date of Contract: <u>December 8, 2010</u>
Contractor: <u>John T. Jones Construction</u>	Owner's Contract No.: <u>2010-04</u>
Engineer: <u>Advanced Engineering and Environmental Services</u>	Engineer's Project No.: <u>P00510-2008-00 064</u>

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

Description:	Change in Contract Price
Provide labor, equipment, and materials for the following:	
1. Time extension per general contractor's request due to adverse weather impacts.	N/A
2. PCO-03: Window credit for alternate color.	(\$500.00)
3. PCO-04: Additional labor and materials to tint south windows.	\$396.00
4. PCO-05R: Additional labor and materials to add a gate valve near the new PRV vault due to field conditions.	\$3,146.00
5. PCO-06: Additional labor and materials to install sod in place of yard seed for PRV vault restoration due to Owner request.	\$300.00
<b>Total</b>	<b>\$3,342.00</b>

Attachments: August 30, 2011 Time Extension Request Letter and various PCO's listed above.  
(List documents supporting change):

**CHANGE IN CONTRACT PRICE:**

**CHANGE IN CONTRACT TIMES:**

<p>Original Contract Price:</p> <p style="text-align: right;"><u>\$ 906,700.00</u></p> <p>Increase (Decrease) from previously approved Change Orders:</p> <p>No. _____ to No. _____:</p> <p style="text-align: right;"><u>\$ 0.00</u></p> <p>Contract Price prior to this Change Order:</p> <p style="text-align: right;"><u>\$ 906,700.00</u></p> <p>Increase (Decrease) of this Change Order:</p> <p style="text-align: right;"><u>\$ 3,342.00</u></p> <p>Contract Price incorporating this Change Order:</p> <p style="text-align: right;"><u>\$ 910,042.00</u></p>	<p>Original Contract Times:    <input type="checkbox"/> Working days    <input checked="" type="checkbox"/> Calendar days</p> <p>Substantial completion (days or date): <u>August 19, 2011</u></p> <p>Ready for final payment (days or date): <u>September 30, 2011</u></p> <p>Increase (Decrease) from previously approved Change Orders</p> <p>No. _____ to No. _____:</p> <p>Substantial completion (days): <u>0</u></p> <p>Ready for final payment (days): <u>0</u></p> <p>Contract Times prior to this Change Order:</p> <p>Substantial completion (days or date): <u>August 19, 2011</u></p> <p>Ready for final payment (days or date): <u>September 30, 2011</u></p> <p>Increase (Decrease) Time of this Change Order:</p> <p>Substantial completion (days or date): <u>70</u></p> <p>Ready for final payment (days or date): <u>49</u></p> <p>Contract Times with all approved Change Orders:</p> <p>Substantial completion (days or date): <u>October 28, 2011</u></p> <p>Ready for final payment (days or date): <u>November 18, 2011</u></p>
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**RECOMMENDED:**

By:   
Engineer (Authorized Signature)

Date: 9/7/11

**ACCEPTED:**

By: \_\_\_\_\_  
Owner (Authorized Signature)

Date: \_\_\_\_\_

**ACCEPTED:**

By:   
Contractor (Authorized Signature)

Date: 9-8-11

Approved by Funding Agency (if applicable): \_\_\_\_\_

Date: \_\_\_\_\_



JOHN T. JONES CONSTRUCTION CO.

August 30, 2011

AE2S  
1815 Schafer Street  
Suite 301  
Bismarck, ND 58501

Via Hand delivery  
1005-04

ATTN: Laith Hintz

RE: South Side Pump Station – Mandan, ND

Subj: Time Extension Request

Laith:

We enclose for your review 7 additional days of weather impacts that adversely affected critical path activities on our schedule. We also reference earlier submissions for time extension prepared 04/04/11, 04/27/11 and 06/22/11 for a total of 13 days. Our total impacts from the weather related delays are 20 work days. We request these days adjust by change order the substantial complete date from 08/19/11 to 09/16/11 and final completion date from 09/30/11 to 10/28/11. We note that under separate contract Edling Electric has indicated their suggested completion schedule has extended to approximately the end of September 2011 which appears to complete well ahead of our requested time extension completion date. We also do not believe the mechanical contractor will have any trouble completing their work scopes within the proposed realigned schedule. Should you have any questions do not hesitate to contact me.

Sincerely,

Roger Guida  
Project Manager

Cc: File  
Field  
Russ Sorenson % AE2S

General Contractors & Construction Managers



2213 7th Avenue North  
P.O. Box 2424  
Fargo, ND 58108  
(701) 232-3358

Estimating / Construction FAX (701) 232-7040  
Administration / Accounting FAX (701) 235-8823

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



We are an Equal Opportunity Employer

Job Name  
Mandan South Side Pump Station

PROPOSED CHANGE ORDER  
REQUEST # #03  
DATE 06/27/11

JTJ PROJECT # 1005

PROPOSED CHANGE: Window credit

SUMMARY SHEET

1 MATERIAL			
2	Material Cost		0
3	Sales Tax	@ 6.00%	0
4	Material Handling Cost	@ 5%	0
5	Expendable Material Cost	@ 5%	0
6	TOTAL MATERIAL COST		\$0
7 LABOR			
	Manhours	0.0 @ \$35.00	\$0
	Supervision	0.0 @ \$45.00	\$0
8	Fringe Benefits	0.0 @ \$0.00	\$0
9	Hourly Labor Cost		\$0
10	Labor Overhead	@ 45%	\$0
11	Tool Replacement Cost	@ 5%	\$0
12	TOTAL LABOR COST		\$0
13 EQUIPMENT COSTS			
14 OTHER DIRECT COSTS			
15	SUBTOTAL		\$0
16	MARKUP	@ 15%	\$0.00
17	SUBTOTAL		\$0
18 SUBCONTRACT COST			
19	MARKUP	@ 5%	\$0
20	TOTAL SUB CONTRACT COST		\$0
21	SUBTOTAL		\$0
22 BOND COST			
23	BUILDERS RISK	@ 1%	\$0
24			
25	SUBTOTAL		\$0

-After 30 days we reserve our right to renegotiate this proposal if it is not turned into a fully executed change order.  
-This proposal may be withdrawn by John T. Jones Const. Co. if not accepted within 10 days.  
-Payment to be made within 30 days of date of invoice.

25	CHANGE REQUEST TOTAL	(\$500)
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Job Name

Mandan South Side Pump Station

PROPOSED CHANGE ORDER

REQUEST # #04

JTJ PROJECT # 1005

DATE 06/27/11

PROPOSED CHANGE:

Window Tint

SUMMARY SHEET

1 MATERIAL

2 Material Cost			0
3 Sales Tax	@	6.00%	0
4 Material Handling Cost	@	5%	0
5 Expendable Material Cost	@	5%	0
6 TOTAL MATERIAL COST			\$0

7 LABOR

Manhours	0.0 @	\$35.00	\$0
Supervision	0.0 @	\$45.00	\$0
8 Fringe Benefits	0.0 @	\$0.00	\$0
9 Hourly Labor Cost			\$0
10 Labor Overhead	@	45%	\$0
11 Tool Replacement Cost	@	5%	\$0
12 TOTAL LABOR COST			\$0

13 EQUIPMENT COSTS

14 OTHER DIRECT COSTS

15 SUBTOTAL \$73

16 MARKUP @ 15% \$11.00

17 SUBTOTAL \$84

18 SUBCONTRACT COST

19 MARKUP @ 5% \$15

20 TOTAL SUB CONTRACT COST \$305

21 SUBTOTAL \$389

22 BOND COST @ 1% \$4

23 BUILDERS RISK @ 1% \$4

24

25 SUBTOTAL \$396

-After 30 days we reserve our right to renegotiate this proposal if it is not turned into a fully executed change order.

-This proposal may be withdrawn by John T. Jones Const. Co. if not accepted within 10 days.

-Payment to be made within 30 days of date of Invoice.

25 CHANGE REQUEST TOTAL \$396

## DIRECT COSTS

DESCRIPTION	TIME USED	COST RATE	LUMP SUM	TOTAL COST
<b>ENGINEERING OR DESIGN</b>				
OFFICER	0.00	\$150.00	0.00	\$0.00
PROJECT MANAGER	0.50	\$110.00	0.00	\$55.00
ADMIN. ASSISTANT	0.50	\$35.00	0.00	\$17.50
PROJECT ENGINEER	0.00	\$85.00	0.00	\$0.00
FIELD ENGINEER	0.00	\$65.00	0.00	\$0.00
<b>OFFICE OVERHEAD EXPENSE</b>				
ESTIMATING	0.00	\$35.00	0.00	\$0.00
DRAFTING	0.00	\$35.00	0.00	\$0.00
SCHEDULER	0.00	\$55.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
<b>TELEPHONE OR MAIL</b>				
TELEPHONE	0.00	\$25.00	0.00	\$0.00
FAX TIME	0.00	\$30.00	0.00	\$0.00
COPIER TIME	0.00	\$15.00	0.00	\$0.00
REPRODUCIBLES	0.00	\$30.00	0.00	\$0.00
MAIL/OVERNIGHT	0.00	\$10.00	0.00	\$0.00
<b>COMPUTER TIME</b>				
COMPUTER	0.00	\$10.00	0.00	\$0.00
COMPUTER SCHEDULE	0.00	\$25.00	0.00	\$0.00
CAD	0.00	\$30.00	0.00	\$0.00
PLOTTING	0.00	\$40.00	0.00	\$0.00
<b>TRAVEL EXPENSE</b>				
SITE VISIT (CAR)	0.00	\$55.00	0.00	\$0.00
SITE VISIT (PLANE)	0.00	\$220.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
<b>OTHER EXPENSE</b>				
	1.00	\$0.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
<b>PLAN/TAP FEES</b>				
	0.00	\$0.00	\$0.00	\$0.00
	0.00	\$0.00	\$0.00	\$0.00

TOTAL DIRECT COST

\$72.50

SUBCONTRACTS

SUBCONTRACTOR #1  
Sunlight Sol  
\$290.00  
\$0.00  
\$0.00  
\$0.00  
\$0.00  
-----  
TOTAL \$290.00

SUBCONTRACTOR #2  
\$0.00  
\$0.00  
\$0.00  
\$0.00  
\$0.00  
-----  
TOTAL \$0.00

SUBCONTRACTOR #3  
\$0.00  
\$0.00  
\$0.00  
\$0.00  
\$0.00  
-----  
TOTAL \$0.00

SUBCONTRACTOR #4  
\$0.00  
\$0.00  
\$0.00  
\$0.00  
\$0.00  
-----  
TOTAL \$0.00

SUBCONTRACTOR TOTAL \$290.00

Sunlight Solutions Inc.

Sunlight Solutions Inc.  
 1606 43RD AVE SE #18  
 Mandan ND 58554  
 701-667-6220

Date	Invoice #
6/22/2011	2090

Bill To
CASH CUSTOMER Attn Roger

Ship To
---------

P.O. No.	Terms	Rep	Ship	Via	F.O.B.	Project
	Due on receipt	JR.	6/22/2011			
Quantity	Item Code	Description			Price Each	Amount
1	RESIDENTIAL	HOUSE,BUSINESS,OTHER			145.00	145.00
1	RESIDENTIAL	HOUSE,BUSINESS,OTHER			145.00	145.00
		SALES TAX			6.00%	0.00
<i>Attn: Roger</i>						
<b>Total</b>						\$290.00

Job Name  
Mandan South Side Pump Station

PROPOSED CHANGE ORDER

REQUEST # #05r

JTJ PROJECT # 1005

DATE 07/18/11

PROPOSED CHANGE: Add 12" valve/box

SUMMARY SHEET

1 MATERIAL				
2 Material Cost			1,999	
3 Sales Tax	@	6.50%	130	
4 Material Handling Cost	@	5%	0	
5 Expendable Material Cost	@	5%	100	
6 TOTAL MATERIAL COST				\$2,229
7 LABOR				
Manhours	5.0 @	\$35.00	\$175	
Supervision	0.8 @	\$45.00	\$34	
8 Fringe Benefits	5.0 @	\$0.00	\$0	
9 Hourly Labor Cost			\$209	
10 Labor Overhead	@	45%	\$94	
11 Tool Replacement Cost	@	5%	\$10	
12 TOTAL LABOR COST				\$313
13 EQUIPMENT COSTS:				\$140
14 OTHER DIRECT COSTS				\$0
15	SUBTOTAL			\$2,682
16 MARKUP	@	15%	\$402.00	
17	SUBTOTAL			\$3,084
18 SUBCONTRACT COST			\$0	
19 MARKUP	@	5%	\$0	
20 TOTAL SUB CONTRACT COST				\$0
21	SUBTOTAL			\$3,084
22 BOND COST	@	1%		\$31
23 BUILDERS RISK	@	1%		\$31
24				
25	SUBTOTAL			\$3,146

-After 30 days we reserve our right to renegotiate this proposal if it is not turned into a fully executed change order.

-This proposal may be withdrawn by John T. Jones Const. Co. if not accepted within 10 days.

-Payment to be made within 30 days of date of invoice.

25	CHANGE REQUEST TOTAL	\$3,146
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## EQUIPMENT SHEET

EQUIPMENT DESCRIPTION	TIME USED	COST RATE	TOTAL COST	FOG COST
<b>BACKHOES</b>				
PC 300	0.00	\$150.00	\$0.00	\$0.00
PC 400	0.00	\$195.00	\$0.00	\$0.00
Komatsu Rubber Tire backhoe	0.00	\$95.00	\$0.00	\$0.00
	1.00	\$140.00	\$140.00	
<b>LOADERS</b>				
KOMATSU WA380	0.00	\$100.00	\$0.00	\$0.00
KOMATSU D65	0.00	\$140.00	\$0.00	\$0.00
<b>COMPACTORS</b>				
DRUM	0.00	\$55.00	\$0.00	\$0.00
MAINTAINER - BLADE	0.00	\$90.00	\$0.00	\$0.00
<b>CRANES</b>				
35 TON HYDRO	0.00	\$150.00	\$0.00	\$0.00
MANITOWOC 777	0.00	\$0.00	\$0.00	\$0.00
<b>WELDERS</b>				
LINCOLN	0.00	\$70.00	\$0.00	\$0.00
	0.00	\$0.00	\$0.00	\$0.00
<b>PUMPS</b>				
SYKES 8" WATER PUMP	0.00	\$10.00	\$0.00	\$0.00
32M CONCRETE PUMP	0.00	\$105.00	\$0.00	\$0.00
<b>OTHER EQUIPMENT</b>				
BOBCAT	0.00	\$60.00	\$0.00	\$0.00
FORKLIFT	0.00	\$70.00	\$0.00	\$0.00
<b>EQUIPMENT FREIGHT</b>				
	0.00	\$0.00	\$0.00	\$0.00
	0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL EQUIPMENT</b>			<b>\$140.00</b>	
<b>TOTAL FOG</b>				<b>\$0.00</b>
<b>TOTAL EQUIPMENT COST</b>		<b>\$140.00</b>		

## DIRECT COSTS

DESCRIPTION	TIME USED	COST RATE	LUMP SUM	TOTAL COST
<b>ENGINEERING OR DESIGN</b>				
OFFICER	0.00	\$150.00	0.00	\$0.00
PROJECT MANAGER	0.50	\$110.00	0.00	\$55.00
ADMIN. ASSISTANT	0.50	\$35.00	0.00	\$17.50
PROJECT ENGINEER	0.00	\$85.00	0.00	\$0.00
FIELD ENGINEER	0.00	\$65.00	0.00	\$0.00
<b>OFFICE OVERHEAD EXPENSE</b>				
ESTIMATING	0.00	\$35.00	0.00	\$0.00
DRAFTING	0.00	\$35.00	0.00	\$0.00
SCHEDULER	0.00	\$55.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
<b>TELEPHONE OR MAIL</b>				
TELEPHONE	0.00	\$25.00	0.00	\$0.00
FAX TIME	0.00	\$30.00	0.00	\$0.00
COPIER TIME	0.00	\$15.00	0.00	\$0.00
REPRODUCIBLES	0.00	\$30.00	0.00	\$0.00
MAIL/OVERNIGHT	0.00	\$10.00	0.00	\$0.00
<b>COMPUTER TIME</b>				
COMPUTER	0.00	\$10.00	0.00	\$0.00
COMPUTER SCHEDULE	0.00	\$25.00	0.00	\$0.00
CAD	0.00	\$30.00	0.00	\$0.00
PLOTTING	0.00	\$40.00	0.00	\$0.00
<b>TRAVEL EXPENSE</b>				
SITE VISIT (CAR)	0.00	\$55.00	0.00	\$0.00
SITE VISIT (PLANE)	0.00	\$220.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
<b>OTHER EXPENSE</b>				
	1.00	\$0.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
<b>PLAN/TAP FEES</b>				
	0.00	\$0.00	\$0.00	\$0.00
	0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL DIRECT COST</b>		<b>\$72.50</b>		



Job Name  
Mandan South Side Pump Station

PROPOSED CHANGE ORDER  
REQUEST # #06  
DATE 07/29/11

JTJ PROJECT # 1005

PROPOSED CHANGE: Add sod at 8th av/23rd st

SUMMARY SHEET

1 MATERIAL				
2 Material Cost			0	
3 Sales Tax	@	6.50%	0	
4 Material Handling Cost	@	5%	0	
5 Expendable Material Cost	@	5%	0	
6 TOTAL MATERIAL COST				
7 LABOR				
Manhours	5.0 @	\$35.00	\$0	
Supervision	0.8 @	\$45.00	\$0	
8 Fringe Benefits	5.0 @	\$0.00	\$0	
9 Hourly Labor Cost			\$0	
10 Labor Overhead	@	45%	\$0	
11 Tool Replacement Cost	@	5%	\$0	
12 TOTAL LABOR COST			\$0	
13 EQUIPMENT COSTS			\$0	
14 OTHER DIRECT COSTS			\$45	
15	SUBTOTAL		\$45	
16 MARKUP	@	15%	\$7.00	
17	SUBTOTAL		\$52	
18 SUBCONTRACT COST			\$231	
19 MARKUP	@	5%	\$12	
20 TOTAL SUB CONTRACT COST			\$243	
21	SUBTOTAL		\$295	
22 BOND COST	@	1%	\$3	
23 BUILDERS RISK	@	1%	\$3	
24				
25	SUBTOTAL		\$300	

-After 30 days we reserve our right to renegotiate this proposal if it is not turned into a fully executed change order.  
 -This proposal may be withdrawn by John T. Jones Const. Co. if not accepted within 10 days.  
 -Payment to be made within 30 days of date of invoice.

25	CHANGE REQUEST TOTAL	\$300
----	----------------------	-------

## DIRECT COSTS

DESCRIPTION	TIME USED	COST RATE	LUMP SUM	TOTAL COST
<b>ENGINEERING OR DESIGN</b>				
OFFICER	0.00	\$150.00	0.00	\$0.00
PROJECT MANAGER	0.25	\$110.00	0.00	\$27.50
ADMIN. ASSISTANT	0.50	\$35.00	0.00	\$17.50
PROJECT ENGINEER	0.00	\$85.00	0.00	\$0.00
FIELD ENGINEER	0.00	\$65.00	0.00	\$0.00
<b>OFFICE OVERHEAD EXPENSE</b>				
ESTIMATING	0.00	\$35.00	0.00	\$0.00
DRAFTING	0.00	\$35.00	0.00	\$0.00
SCHEDULER	0.00	\$55.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
<b>TELEPHONE OR MAIL</b>				
TELEPHONE	0.00	\$25.00	0.00	\$0.00
FAX TIME	0.00	\$30.00	0.00	\$0.00
COPIER TIME	0.00	\$15.00	0.00	\$0.00
REPRODUCIBLES	0.00	\$30.00	0.00	\$0.00
MAIL/OVERNIGHT	0.00	\$10.00	0.00	\$0.00
<b>COMPUTER TIME</b>				
COMPUTER	0.00	\$10.00	0.00	\$0.00
COMPUTER SCHEDULE	0.00	\$25.00	0.00	\$0.00
CAD	0.00	\$30.00	0.00	\$0.00
PLOTTING	0.00	\$40.00	0.00	\$0.00
<b>TRAVEL EXPENSE</b>				
SITE VISIT (CAR)	0.00	\$55.00	0.00	\$0.00
SITE VISIT (PLANE)	0.00	\$220.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
<b>OTHER EXPENSE</b>				
	1.00	\$0.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
<b>PLAN/TAP FEES</b>				
	0.00	\$0.00	\$0.00	\$0.00
	0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL DIRECT COST</b>		<b>\$45.00</b>		

## SUBCONTRACTS

### SUBCONTRACTOR #1

Goldade Lan \$231.00  
 \$0.00  
 \$0.00  
 \$0.00  
 \$0.00  
**TOTAL \$231.00**

### SUBCONTRACTOR #2

\$0.00 \$0.00  
 \$0.00 \$0.00  
 \$0.00 \$0.00  
 \$0.00 \$0.00  
 \$0.00  
**TOTAL \$0.00**

### SUBCONTRACTOR #3

\$0.00 \$0.00  
 \$0.00 \$0.00  
 \$0.00 \$0.00  
 \$0.00 \$0.00  
 \$0.00  
**TOTAL \$0.00**

### SUBCONTRACTOR #4

\$0.00  
 \$0.00  
 \$0.00  
 \$0.00

**TOTAL**

**\$0.00**

**SUBCONTRACTOR TOTAL**

**\$231.00**



September 12, 2011

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

Re: **Mandan South Side Pump Station – Contract No. 2**  
**Change Order No. M-1**

Dear Duane:

Enclosed herewith please find four (4) copies of Change Order No. M-1 for Central Mechanical, Inc. for final execution. If this Change Order is acceptable, please sign all four (4) copies in the spaces indicated, keep one (1) copy for your files, and return the remaining three (3) copies to this office for distribution to the Contractor and ND Department of Health.

This Change Order extends the contract completion dates to match a work change request from the general contractor due to adverse weather conditions. The Change Order increases the Contract Substantial Completion date to October 28, 2011 and Final Completion to November 18, 2011. There is no change to contract price and enclosed is a summary of the project budget. Note that this change order is also being route to the North Dakota Department of Health for their approval.

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

Respectfully Submitted,

AE2S

Laith Hintz, PE  
Project Engineer

Enclosures

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

P00510-2008-00  
 Summary of Change Orders  
 John T. Jones Construction

Original Contract Price \$ 906,700.00

CO #	Description	Amount	Status	Contract Price	Over/Under
G1	1 Time extension due to adverse weather impacts	N/A			
	2 PCO-03: Window credit for alternate color.	(\$500.00)			
	3 PCO-04: Tint south windows.	\$396.00			
	4 PCO-05R: Add GV near PRV vault due to field conditions	\$3,146.00			
	5 PCO-06: Revise yard seed to sod at PRV vault work per Owner request.	\$300.00			
	<b>Total Change Order G1</b>	<b>\$3,342.00</b>	Routing for signature	\$910,042.00	\$3,342.00
Pending	1 PCO-02: Remove insulation on exterior of existing vault to allow painting.	\$2,473.00	Reviewed w/ Duane and accepted 9/9/11		0.4%
	2 PCO-07: Couplings for connection to AC pipe due to field conditions.	\$3,313.00	Reviewed w/ Duane and accepted 9/9/11		
	3 PCO-9: Paint existing vault piping per Owner request	\$5,944.00	Follow-up for JFJ sent 9/9/11.		
	4 PCO-10: Valve risers and mud plugs	\$478.00	Reviewed w/ Duane and accepted 9/9/11		
	5 PCO-11: Special fitting due to pipe misalignment due to field conditions	\$2,187.00	AE2S reviewing.		
	6 PCO-12: Remove excess dirt and haul in black.	\$6,066.00	AE2S reviewing 9/12/11.		
	7 PCO-13r2: Concrete mow strip	\$5,208.00	AE2S reviewing 9/12/11.		
	8 Stairway over pipe.	\$3,000.00	Estimate only. Need to request from JFJ.		
	<b>Total Pending Change Orders</b>	<b>\$28,669.00</b>		\$938,711.00	\$32,011.00
	<b>Total Change Orders</b>	<b>\$32,011.00</b>			3.5%

CHANGE ORDERS CONSIDERED					
CO #	Description	Amount	Status	Contract Price	Over/Under

9/12/2011

P00510-2008-00  
Summary of Change Orders  
Central Mechanical

Original Contract Price \$ 44,100.00

CO #	Description	Amount	Status	Contract Price	Over/Under
				\$ 44,100.00	\$ -
				\$ 44,100.00	\$ -
Total Change Orders		\$0.00			

CHANGE ORDERS CONSIDERED BUT NOT ACCEPTED					
CO #	Description	Amount	Status	Contract Price	Over/Under

P00510-2008-00  
 Summary of Change Orders  
 Edling Electric

Original Contract Price \$ 315,400.00

CO #	Description	Amount	Status	Contract Price	Over/Under
				\$ 315,400.00	\$ -
Total Change Orders		\$0.00			

CHANGE ORDERS CONSIDERED BUT NOT ACCEPTED					
CO #	Description	Amount	Status	Contract Price	Over/Under

# Change Order No. M-1

Date of Issuance: September 7, 2011

Effective Date: September 7, 2011

Project: <u>Mandan South Side Pump Station</u>	Owner: <u>City of Mandan</u>
Contract: <u>Contract No. 2 - Mechanical Construction</u>	Date of Contract: <u>December 8, 2010</u>
Contractor: <u>Central Mechanical, Inc.</u>	Owner's Contract No.: <u>2010-04</u>
Engineer: <u>Advanced Engineering and Environmental Services</u>	Engineer's Project No.: <u>P00510-2008-00 064</u>

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

Description: <u>Provide labor, equipment, and materials for the following:</u>	<u>Change in Contract Price</u>
<u>Time extension per general contractor's request due to adverse weather impacts.</u>	<u>N/A</u>

Total                      \$0.00

Attachments:  
(List documents supporting change):

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price:  <u>\$ 44,100.00</u>	Original Contract Times: <input type="checkbox"/> Working days <input checked="" type="checkbox"/> Calendar days Substantial completion (days or date): <u>August 19, 2011</u> Ready for final payment (days or date): <u>September 30, 2011</u>
Increase (Decrease) from previously approved Change Orders: No. <u>      </u> to No. <u>      </u> ;  <u>\$ 0.00</u>	Increase (Decrease) from previously approved Change Orders No. <u>      </u> to No. <u>      </u> ; Substantial completion (days): <u>0</u> Ready for final payment (days): <u>0</u>
Contract Price prior to this Change Order:  <u>\$ 44,100.00</u>	Contract Times prior to this Change Order: Substantial completion (days or date): <u>August 19, 2011</u> Ready for final payment (days or date): <u>September 30, 2011</u>
Increase (Decrease) of this Change Order:  <u>\$ 0.00</u>	Increase (Decrease) Time of this Change Order: Substantial completion (days or date): <u>70</u> Ready for final payment (days or date): <u>49</u>
Contract Price incorporating this Change Order:  <u>\$ 44,100.00</u>	Contract Times with all approved Change Orders: Substantial completion (days or date): <u>October 28, 2011</u> Ready for final payment (days or date): <u>November 18, 2011</u>

**RECOMMENDED:**

By:   
Engineer (Authorized Signature)  
Date: 9/7/11

**ACCEPTED:**

By: \_\_\_\_\_  
Owner (Authorized Signature)  
Date: \_\_\_\_\_

**ACCEPTED:**

By:   
Contractor (Authorized Signature)  
Date: 9-8-11

Approved by Funding Agency (if applicable): \_\_\_\_\_

Date: \_\_\_\_\_



September 13, 2011

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

Re: **Mandan South Side Pump Station – Contract No. 3  
Change Order No. E-1**

Dear Duane:

Enclosed herewith please find four (4) copies of Change Order No. E-1 for Edling Electric, Inc. for final execution. If this Change Order is acceptable, please sign all four (4) copies in the spaces indicated, keep one (1) copy for your files, and return the remaining three (3) copies to this office for distribution to the Contractor and ND Department of Health.

This Change Order extends the contract completion dates to match a work change request from the general contractor due to adverse weather conditions. The Change Order increases the Contract Substantial Completion date to October 28, 2011 and Final Completion to November 18, 2011. There is no change to contract price and enclosed is a summary of the project budget. Note that this change order is also being route to the North Dakota Department of Health for their approval.

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

Respectfully Submitted,

**AE2S**

Laith Hintz, PE  
Project Engineer

Enclosures

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

P00510-2008-00  
 Summary of Change Orders  
 John T. Jones Construction

Original Contract Price \$ 906,700.00

CO #	Description	Amount	Status	Contract Price	Over/Under
GI	1 Time extension due to adverse weather impacts	N/A			
	2 PCO-03: Window credit for alternate color.	(\$500.00)			
	3 PCO-04: Tint south windows.	\$396.00			
	4 PCO-05R: Add GV near PRV vault due to field conditions	\$3,146.00			
	5 PCO-06: Revise yard seed to sod at PRV vault work per Owner request.	\$300.00			
	<b>Total Change Order GI</b>	<b>\$3,342.00</b>	Routing for signature	\$910,042.00	\$3,342.00
Pending	1 PCO-02: Remove insulation on exterior of existing vault to allow painting.	\$2,473.00	Reviewed w/ Duane and accepted 9/9/11		
	2 PCO-07: Couplings for connection to AC pipe due to field conditions.	\$3,313.00	Reviewed w/ Duane and accepted 9/9/11		
	3 PCO-9: Paint existing vault piping per Owner request	\$5,944.00	Follow-up for JTJ sent 9/9/11.		
	4 PCO-10: Valve risers and mud plugs	\$478.00	Reviewed w/ Duane and accepted 9/9/11		
	5 PCO-11: Special fitting due to pipe misalignment due to field conditions	\$2,187.00	AE2S reviewing.		
	6 PCO-12r: Remove excess dirt and haul in black.	\$6,066.00	AE2S reviewing 9/12/11.		
	7 PCO-13r2: Concrete mow strip	\$5,208.00	AE2S reviewing 9/12/11.		
	8 Stairway over pipe.	\$3,000.00	Estimate only. Need to request from JTJ.		
	<b>Total Pending Change Orders</b>	<b>\$28,669.00</b>		\$938,711.00	\$32,011.00
<b>Total Change Orders</b>		<b>\$32,011.00</b>			

0.4%

3.5%

CHANGE ORDERS CONSIDERED					
CO #	Description	Amount	Status	Contract Price	Over/Under

P00510-2008-00  
 Summary of Change Orders  
 Central Mechanical

Original Contract Price \$ 44,100.00

CO #	Description	Amount	Status	Contract Price	Over/Under
				\$ 44,100.00	\$ -
				\$ 44,100.00	\$ -
Total Change Orders		\$0.00			

CHANGE ORDERS CONSIDERED BUT NOT ACCEPTED					
CO #	Description	Amount	Status	Contract Price	Over/Under

P00510-2008-00  
 Summary of Change Orders  
 Edling Electric

Original Contract Price \$ 315,400.00

CO #	Description	Amount	Status	Contract Price	Over/Under
				\$ 315,400.00	\$ -
Total Change Orders		\$0.00			

CHANGE ORDERS CONSIDERED BUT NOT ACCEPTED					
CO #	Description	Amount	Status	Contract Price	Over/Under

# Change Order No. E-1

Date of Issuance: September 7, 2011

Effective Date: September 7, 2011

Project: <b>Mandan South Side Pump Station</b>	Owner: <b>City of Mandan</b>
Contract: <b>Contract No. 3 - Electrical Construction</b>	Date of Contract: <b>October 8, 2010</b>
Contractor: <b>Edling Electric, Inc.</b>	Owner's Contract No.: <b>2010-04</b>
Engineer: <b>Advanced Engineering and Environmental Services</b>	Engineer's Project No.: <b>P00510-2008-00 064</b>

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

Description: **Provide labor, equipment, and materials for the following:** Change in Contract Price  
**Time extension per general contractor's request due to adverse weather impacts.** N/A

Total \$0.00

Attachments:  
(List documents supporting change):

**CHANGE IN CONTRACT PRICE:**

**CHANGE IN CONTRACT TIMES:**

Original Contract Price:  
  
\$ 315,400.00

Increase (Decrease) from previously approved Change Orders:  
No. \_\_\_\_\_ to No. \_\_\_\_\_:  
  
\$ 0.00

Contract Price prior to this Change Order:  
  
\$ 315,400.00

Increase (Decrease) of this Change Order:  
  
\$ 0.00

Contract Price incorporating this Change Order:  
  
\$ 315,400.00

Original Contract Times:  Working days  Calendar days  
 Substantial completion (days or date): August 19, 2011  
 Ready for final payment (days or date): September 30, 2011

Increase (Decrease) from previously approved Change Orders  
 No. \_\_\_\_\_ to No. \_\_\_\_\_:  
 Substantial completion (days): 0  
 Ready for final payment (days): 0

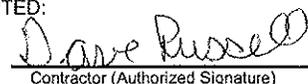
Contract Times prior to this Change Order:  
 Substantial completion (days or date): August 19, 2011  
 Ready for final payment (days or date): September 30, 2011

Increase (Decrease) Time of this Change Order:  
 Substantial completion (days or date): 70  
 Ready for final payment (days or date): 49

Contract Times with all approved Change Orders:  
 Substantial completion (days or date): October 28, 2011  
 Ready for final payment (days or date): November 18, 2011

RECOMMENDED:  
 By:   
 Engineer (Authorized Signature)  
 Date: 9/7/11

ACCEPTED:  
 By: \_\_\_\_\_  
 Owner (Authorized Signature)  
 Date: \_\_\_\_\_

ACCEPTED:  
 By:   
 Contractor (Authorized Signature)  
 Date: 9/12/11

Approved by Funding Agency (if applicable): \_\_\_\_\_

Date: \_\_\_\_\_



September 12, 2011

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

**Re: Mandan South Side Pump Station  
Contract No. 5 – Collins Ave Reservoir Demolition  
City of Mandan, North Dakota**

Dear Duane:

The above referenced project has been successfully completed and all punch list items have been finished by Weisz & Sons Inc. The final inspection of the project was held on July 7, 2011, the funding agency walk through has been completed and the contractor record drawings were turned in.

Enclosed herewith please find the request for Final Payment for the referenced project and accompanying original Application for Payment from the Contractor. We recommend Final Payment to Weisz & Sons Inc. in the amount of \$4,041.20.

We have enclosed the FINAL INSPECTION AND ACCEPTANCE form and included four (4) copies for final execution. Please sign all four (4) copies in the spaces indicated and return all copies to this office.

Enclosed herewith please find four (4) copies of Change Order No. 2 - Final for Weisz & Sons Incorporated for final execution. The Change Order extends the Project completion date to July 8, 2011 to allow completion of site restoration items. If this Change Order is acceptable, please sign all four copies in the spaces indicated and return all copies to this office. Note that we have also enclosed one (1) copy of a letter dated August 25, 2011 from the ND Department of Health approving these changes to the contract time for your records.

To the President and Commissioners  
of the Mandan Board of City Commission  
Re: **Mandan South Side Pump Station**  
**Contract No. 5 – Collins Ave Reservoir Demolition**  
**City of Mandan, North Dakota**

September 12, 2011  
Page 2 of 2

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

Respectfully Submitted,

**AE2S**

A handwritten signature in blue ink, appearing to read 'RS' followed by a stylized flourish, and a small 'for' written to the right.

Russell R. Sorenson, PE  
Operations Manager

Enclosure(s)

C: Weisz & Sons Inc.  
Dave Bechtel, Engineering Department  
Lisa Ansley, AE2S



**PERIODICAL ESTIMATE FOR PAYMENT REQUEST NO 2 - FINAL**

Project Number:	P00510-2008-00
Project Name:	Mandan South Side Pump Station - Contract 5 (Reservoir Demo)
Location:	Mandan, North Dakota
Owner's Name & Address:	City of Mandan, 205 2nd Ave NW Mandan ND 58554
For the Period:	12/29/10 to 12/31/10
Contractor:	Weisz & Sons, Inc
Engineer:	Advanced Engineering and Environmental Services, Inc.
Bid Value:	\$69,900.00

Original Contract Work Completed	\$	69,900.00
Material on hand:	\$	0.00
Change Orders	\$	10,924.00
Change Order - Subtotal	\$	<u>10,924.00</u>
Total:	\$	80,824.00
Retainage:	\$	<u>0.00</u>
Total - Less Retained Percentage:	\$	80,824.00
Amount Previously Paid:	\$	<u>76,782.80</u>
Subtotal Amount Due This Estimate:	\$	4,041.20
Unpaid From Previous Estimates:	\$	<u>0.00</u>
Total Amount Due This Estimate:	\$	4,041.20
Pay Request No. 1	<u>\$76,782.80</u>	
Total	\$76,782.80	

I hereby certify that I have prepared this Periodical Estimate and that to the best of my knowledge and belief it is a true and correct statement of work performed and materials supplied by the Contractor. All work and materials included in the estimate have been performed and supplied in full in accordance with the terms and conditions of the corresponding construction contract documents and authorized changes thereto.

Date: July 18, 2011

  
 \_\_\_\_\_  
 Advanced Engineering and Environmental Services, Inc.

Mandan South Side Pump Station  
 City of Mandan, North Dakota  
 Weisz & Sons, Inc.

ITEM NO.	DESCRIPTION OF ITEM	QUANTITIES				UNIT	BID PRICE	TOTAL AMOUNT	Percentage of Bid
		PLANNED	CURRENT	PREVIOUS	TOTAL				
1	Existing Reservoir Demolition Site Work	1		1	1	L.S.	\$69,000.00	\$69,000.00	98.71%
2	Remove and Dispose Conc. Found. (Alt C1)	1		1	1	L.S.	\$900.00	\$900.00	1.29%
TOTAL ESTIMATED COST							\$69,900.00	\$69,900.00	100.00%
<b>Change Orders</b>									
3	Change Order #1	1		1	1	L.S.	\$10,924.00	\$10,924.00	15.63%
TOTAL ESTIMATED COST							\$10,924.00	\$10,924.00	15.63%

To Owner: City of Mandan  
205 2nd Ave NW  
Mandan, ND 58554

PROJECT: Mandan South Side Pump Station  
Demolition - Contract 5  
Mandan, North Dakota

APPLICATION NO: 2  
PERIOD TO: 12/14/10-6/30/11  
PROJECT NOS:  
CONTRACT NO:  
CONTRACT DATE: 2-Dec-2010

Distribution to:  
\_\_\_\_ Owner  
\_\_\_\_ ARCHITECT  
\_\_\_\_ CONTRACTOR  
\_\_\_\_

From Contractor: Weisz & Sons Inc.  
PO Box 1756  
Bismarck, ND 58502-1756

VIA ARCHITECT: Advanced Engineering

CONTRACT FOR: Mandan South Side Pump Station - Demolition -Contract 5

**CONTRACTOR'S APPLICATION FOR PAYMENT**

Application is made for payments, as shown below, in connection with the Contract Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM	<u>\$69,900.00</u>
2. Net change by Change Orders	<u>\$10,924.00</u>
3. CONTRACT SUM TO DATE (Line 1+2)	<u>\$80,824.00</u>
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	<u>\$80,824.00</u>
5. RETAINAGE	
a. % of Completed Work           0% <u>\$0.00</u> (Columns D+E on G703)	
b. % of Stored Material           0% <u>\$0.00</u> (Columns F on G703)	
Total Retainage (Line 5a+5b or Total in Column I of G703)	<u>\$0.00</u>
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)	<u>\$80,824.00</u>
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	<u>\$76,782.80</u>
8. CURRENT PAYMENT DUE	<u>\$4,041.20</u>
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	<u>\$0.00</u>

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	10,924.00	
Total approved this Month		
TOTALS	10,924.00	
NET CHANGES by Change Order		10,924.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

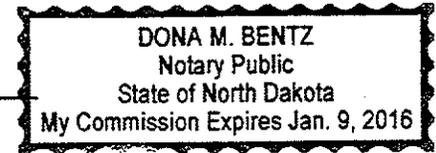
CONTRACTOR: WEISZ & SONS INC.

BY: *Ryan Holen* Ryan Holen, Secretary/Treas           Date: June 30, 2011

State of: NORTH DAKOTA  
County of: BURLEIGH

Subscribed and sworn to before me this 30<sup>th</sup> day of June, 2011

Notary Public: *Dona M Bentz* Dona M Bentz  
My Commission expires: January 9, 2016



**ARCHITECT'S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED

AMOUNT CERTIFIED \_\_\_\_\_

(Attach explanation if amount certified differs from the amount applied for: Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified)

ARCHITECT: Advanced Engineering

BY: \_\_\_\_\_ Date: \_\_\_\_\_

This Certificate if not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance payment and acceptance of payment are without prejudice to any rights of the owner or Contractor under this Contract.

APPLICATION & CERTIFICATE FOR PAYMENT  
CONTINUATION SHEET

APPLICATION NO: 2  
APPLICATION DATE: 06/30/2011  
PERIOD TO: 12/14/10-6/30/11

ARCHITECT'S PROJECT NO:  
CONTRACT NO: Mdn South Side Pump Station

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)		H BALANCE TO FINISH (C-G)	I RETAINAGE 0%
			FROM PREVIOUS APPLICATIONS	THIS PERIOD		% G/C			
01	Existing Reservoir Demolition Site Work	69,000.00	69,000.00	0.00	0.00	69,000.00	100%	0.00	
02	Remove & Dispose Conc. Foundation Alt. C1	900.00	900.00	0.00	0.00	900.00	100%	0.00	
CO #1	Remove 12" thick x 85' Slab w/27" perimeter edge	10,924.00	10,924.00	0.00	0.00	10,924.00	100%	0.00	
	TOTALS	80,824.00	80,824.00	0.00	0.00	80,824.00		0.00	0.00

**FINAL INSPECTION AND ACCEPTANCE**

**Contractor:** Weisz & Sons, Inc.

**Address:** PO Box 1756, Bismarck, ND 58502-1756

**Project:** Mandan South Side Pump Station  
City of Mandan, North Dakota  
Contract No. 5 – Demolition of Existing Reservoir (including Alternate C1).

On this date, **July 7, 2011**, a Final Inspection of the Project as constructed has been made.

The Contractor hereby certifies that the construction has been performed in accordance with the Drawings and Specifications, approved Change Orders, and terms of the Contract. The Contractor further certifies that there are no unpaid bills or labor disputes in connection with this Contract and that the amount of **\$80,824.00** shown on the Final Pay Estimate is the total amount due him for all Work completed for the Project. The Contractor hereby certifies all haul road post-construction inspections are complete and the governing entities have released the Contractor from any liabilities.

The Owner does hereby agree that all construction and engineering work on the Project is complete and does satisfy all terms of appropriate construction or engineering Agreements.

The Project Engineer has observed the construction and to the best of his knowledge the construction has been performed in accordance with the Plans, Specifications, approved Change Orders, and terms of the Contract and that the facility has been inspected and approved by all agencies having jurisdiction.

Owner and Contractor do hereby acknowledge that the one-year warranty period will begin on **July 7, 2011**.

The undersigned give approval of acceptance of the Work under the conditions and guarantee of the Contract.

**Advanced Engineering and  
Environmental Services, Inc. (AE2S)**  
Project Engineer

By:   
Date: 7/25/11

**City of Mandan, ND**  
Owner

By: \_\_\_\_\_  
Date: \_\_\_\_\_

**Weisz & Sons, Inc.**  
Contractor

By:   
Date: 7-26-11

# CHANGE ORDER

No. 2 - FINAL

DATE OF ISSUANCE July 22, 2011 EFFECTIVE DATE December 31, 2010

OWNER City of Mandan, ND  
 CONTRACTOR Weisz & Sons, Inc.  
 Contract: Contract No. 5 - Demolition of Existing Reservoir (including Alternate C1)  
 Project: Mandan South Side Pump Station  
 OWNER's Project No. 2010-04 ENGINEER's Project No. P00510-2008-00  
 ENGINEER Advanced Engineering and Environmental Services, Inc.

You are directed to make the following changes in the Contract Documents:

Description:

Adjustment to contract time to allow completion of site restoration items in spring.

Reason for Change Order:

Unable to complete restoration items during colder temperatures.

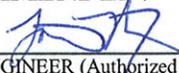
Attachments: (List documents supporting change)

None.

CHANGE IN CONTRACT PRICE:
Original Contract Price \$ <u>69,900.00</u>
Net Increase (Decrease) from previous Change Orders: \$ <u>10,924.00</u>
Contract Price prior to this Change Order: \$ <u>80,824.00</u>
Net increase (decrease) of this Change Order: \$ <u>0.00</u>
Contract Price with all approved Change Orders: \$ <u>80,824.00</u>

CHANGE IN CONTRACT TIMES:
Original Contract Times: Substantial Completion: <u>November 30, 2010</u> Ready for final payment: <u>November 30, 2010</u> (days or dates)
Net change from previous Change Orders: Substantial Completion: <u>31 days</u> Ready for final payment: <u>31 days</u> (days)
Contract Times prior to this Change Order: Substantial Completion: <u>December 31, 2010</u> Ready for final payment: <u>December 31, 2010</u> (days or dates)
Net increase (decrease) this Change Order: Substantial Completion: <u>189 days</u> Ready for final payment: <u>189 days</u> (days)
Contract Times with all approved Change Orders: Substantial Completion: <u>July 8, 2011</u> Ready for final payment: <u>July 8, 2011</u> (days or dates)

RECOMMENDED:

By:   
ENGINEER (Authorized Signature)

Date: 7/22/11

APPROVED:

By: \_\_\_\_\_  
OWNER (Authorized Signature)

Date: \_\_\_\_\_

ACCEPTED:

By:   
CONTRACTOR (Authorized Signature)

Date: 7-26-11

EJCDC 1910-8-B (1996 Edition)

Prepared by the Engineers Joint Contract Documents Committee and endorsed by The Associated General Contractors of America and the Construction Specifications Institute.



Consent No. 4 & Ord No. 2

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** September 20, 2011  
**PREPARATION DATE:** September 14, 2011  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:**  
**PRESENTER:** Dave Bechtel  
**SUBJECT:** Consider a change of zoning of Acteva Addition from R7 (Single-Family) to RM (Multi-Family).

STATEMENT/PURPOSE: Request from Dennis Meyer, Terra Vallee. The purpose of the zone change is for an assisted living facility.

BACKGROUND/ALTERNATIVES: The zone change was approved by the Planning & Zoning Commission on August 22, 2011. The plat was approved by the City Commission on September 6, 2011.

ATTACHMENTS:

1. Office Report
2. Map
3. Ordinance

FISCAL IMPACT: Minimal

STAFF IMPACT: Minimal

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

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

MANDAN PLANNING OFFICE REPORT  
September 14, 2011

Applicant(s): Dennis Meyer, Terra Vallee Inc.

Owner(s): same

Developer(s):

Requested Action: Zone Change Approval

Name of Subdivision: Acteva Addition

Legal Description: Lots 1-3, Block 1, of Acteva Addition in Section 21, Township 03, Range 02.

Located: 31<sup>st</sup> Street NW and 12<sup>th</sup> Avenue NW

Parcel Acreage: 7.8

Existing Land Use: vacant

Proposed Land Use: Assisted living development

Adjacent Land Use: Middle school, residential, agricultural

Existing Zoning: R7 (Single-Family Residential)

Proposed Zoning: RM (Multi-Family Residential)

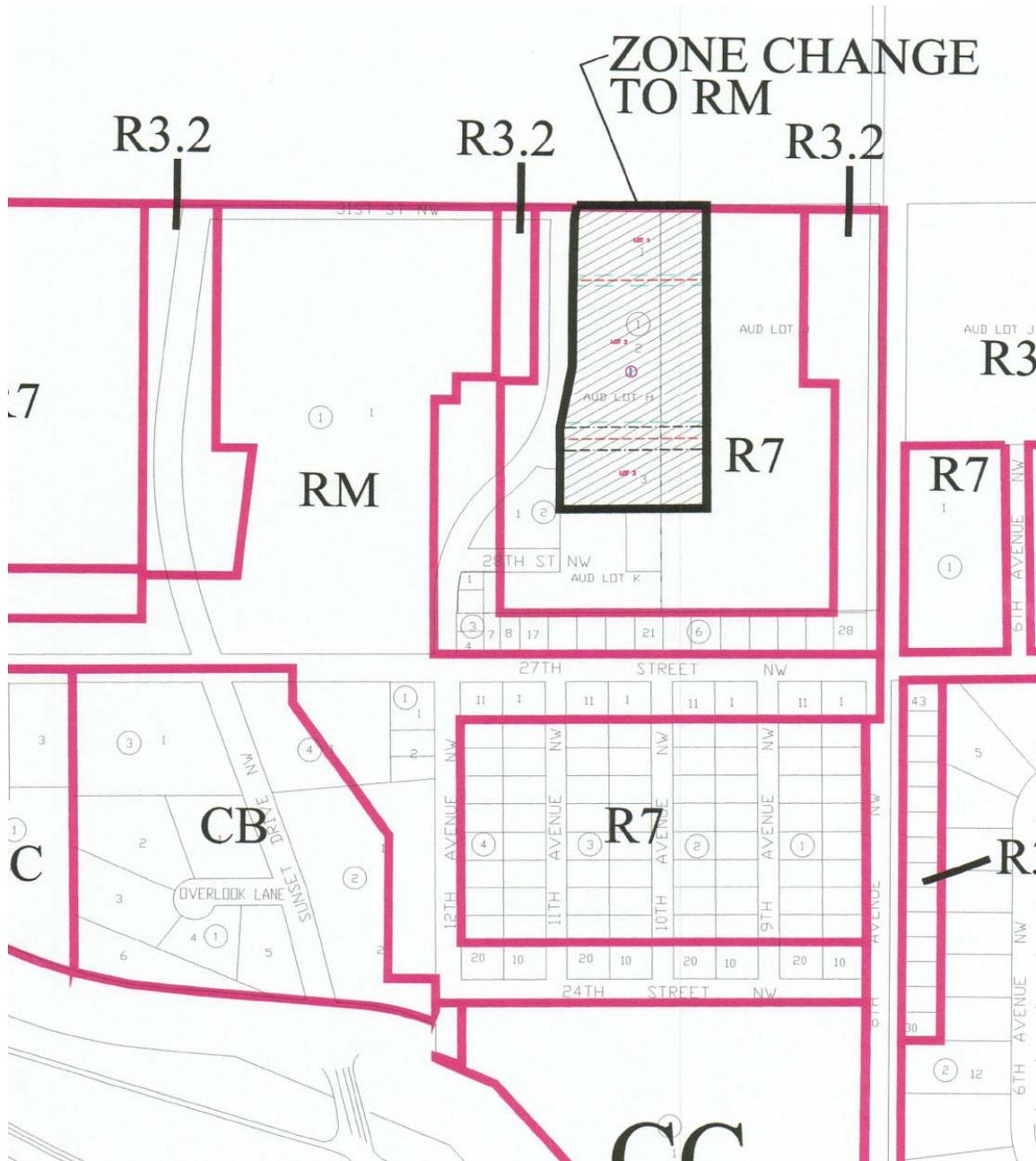
Adjacent Zoning: A (Agriculture) and R7 (Single-Family Residential)

Fee(s) Required: \$150.00      Date Received: 8-3-2011

Adjacent Property Owner Notification: 8-31-2011

Dates of Legal Notices: September 9<sup>th</sup> & 16<sup>th</sup>, 2011

Recommendations: The Planning Office recommends approval.



**ORDINANCE NO. 1105**

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

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

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

The following described property located within the City of Mandan shall be  
excluded from the R7 (Single-Family) zoning and shall be included in RM (Multi-  
Family) namely,

Lots 1-3, Block 1 of Acteva Addition in Section 16, Township 139N,  
Range 81W .

And as so amended said section is hereby reenacted. The purpose of the zone change is  
to build an assisted living facility. 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>August 22, 2011</u>
First Consideration:	<u>September 20, 2011</u>
Second Consideration and Final Reading:	<u>October 4, 2011</u>
Publication Date:	_____
Recording Date:	_____



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** September 20, 2011  
**PREPARATION DATE:** September 13, 2011  
**SUBMITTING DEPARTMENT:** Business Development & Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Ellen Huber, Business Development & Communications Director and Oaktree real estate agents  
**SUBJECT:** Revisit previous offers for 116 E Main

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**STATEMENT/PURPOSE:** To consider offers previously received for a city-owned building at 116 E Main Street.

**BACKGROUND/ALTERNATIVES:** The City Commission at a meeting held June 7, 2011, approved an offer submitted by MM Restaurant Group (Mama Maria's Italian Restaurant of East Grand Forks) and owners DeLanis and Linda Thomas. The Commission approved an addendum at its Sept. 6 meeting extending the deadline for closing in purchase and business incentive agreements to Oct. 4, 2011. Mama Maria's representatives have since indicated they are no longer pursuing the project due to a financing shortfall. A letter of formal relinquishment has been requested by not yet received as of the date of this agenda documentation.

The Commission's direction at its June 7 meeting was that if the negotiations and transfer to Mama Maria's did not work out that the Commission would go back to the other offers received by that date to re-explore options. It would not be re-advertised unless necessary. The other offers received follow. The real estate agents are in the process of confirming whether the offers still stand and if so, whether there are any changes to those offers. Reports are anticipated at the meeting.

- Scott Johnson — \$15,000 with a commitment for improvements estimated at \$104,900. A stipulation that the City bring a fire service water line to the building was withdrawn. The intended use was for a retail furniture tenant and apartment rentals.
- Fred Berger — \$25,000 with a request that the City install a waterline only if it will be required by the City. The intended was for an office in the back of the building with the front rented as retail space and the upstairs for apartments. His estimated costs for renovation were at least \$125,000 to \$150,000.

- Julie Haibeck — \$10,000 with a contingency that the City replace the awning on the building. The intended use was for massage therapy, wedding party spa services and retail clothing. The upstairs would be pursued as rental property. Her estimated renovation costs were over \$100,000.

ATTACHMENTS:

- 116 E Main information sheet
- Johnson, Berger and Haibeck offers

FISCAL IMPACT: The monetary offer plus an improved building that likely would be re-occupied and back on the tax rolls either now or in five years depending upon buyer intent to apply for Renaissance Zone benefits.

STAFF IMPACT: Minimal.

LEGAL REVIEW: All information has been submitted to Attorney Brown. Legal assistance will be needed in drafting any purchase agreement per the Commission directions.

RECOMMENDATION: I recommend approval of the offer submitted by Fred Berger in the amount of \$25,000 based upon it being the highest upfront monetary offer and the highest level of anticipated re-investment in improvements.

SUGGESTED MOTION: I recommend approval of the offer submitted by Fred Berger in the amount of \$25,000.

Subject Building



## PROPERTY INFORMATION

For parties interested in Acquisition & Renovation  
of City-Owned Building at 116 E Main, Mandan, North Dakota



**CITY OF  
MANDAN**

"WHERE THE WEST BEGINS"

**Issued Feb. 17, 2011**

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 Downtown Building**

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

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

Oaktree Realtors  
3015 Memorial Highway  
Mandan, ND 58554

Listing Agents

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

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

**REQUIREMENTS**

Asking price · \$50,000

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

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

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

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

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

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

## Site Profile



### Additional Property Information

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

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

### Special Assessments

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

### Zoning

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

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

### Parking

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

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

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

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

A parking map is available.

### Utilities

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

### Institutional Control Ordinance

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

### Liability Protection

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

*A complete copy of all property information, including supporting documentation and maps, is available on the City of Mandan website at [www.cityofmandan.com](http://www.cityofmandan.com).*

## Development Incentives

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

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

## Other Incentives

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

## Resource Contact Information

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

*For additional information such as the City of Mandan's Downtown Redevelopment Plan, site plan and building design requirements, and remediation reports, visit [www.cityofmandan.com](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).*

5/3/2011

Dear Honorable Mayor and City Commissioners;

Listed and attached are cost estimates for repairs the building at 116 E Main requires. That I will commit to complete.

1. \$19,900 New Roof
2. \$ 5000 Plywood support for Roof
3. \$30,000 Automatic fire protection system
4. \$25,000 Rehabbing two upstairs apartments and remodel main floor retail space.
5. \$ 5000 Repair broken plumbing.
6. \$20,000 Updating façade , replacing windows and installing handicapped entry.

Sincerely;

Scott A Johnson



# Rapid Fire Protection Inc.

1805 Samco Road. Rapid City, SD. Phone: 605.348.2342. Fax: 605.348.0108

---

Date: 5-2-11

Attn: Scott Johnson

**Subject: Budget Bid for Building up for sale**

Thank you for the opportunity to bid this project. We really do appreciate it.

**Scope of Work :**

1. Labor and material associated with retro-fitting the building with an automatic fire protection system per NFPA 13, local and state standards.
2. Our proposal is not based off of plans or specifications section and is subject to change after review of complete set of plans.
3. Our proposal is based off of utilizing a wet system for the entire building.
4. Our proposal includes all taxes.
5. Auto Cad files to be provided to our design team at no cost.

**Exclusions:**

1. Our proposal does not include any underground piping. We will need the underground to be flushed and tested by others. Our work starts at a flange inside the building.
2. Our proposal does not include any electrical work, fire alarm system panels, detectors or wiring of any kind. We will provide all switches that are needed to complete the fire sprinkler system.
3. Our proposal assumes that there will be adequate water available to supply the fire sprinkler system without the use of a fire pump.
4. Our proposal does not include performance or payment bond. This can be provided for an additional cost of 1%.
5. The intent of this bid is for budget purposes only, and is subject to change with the review of the site and a complete set of drawings.

We respectfully request a bid tabulation be made available.

We guarantee our pricing for 30 days. After this time period we may withdraw this bid for any reason.

Our budget price is around thirty thousand dollars (\$30,000)

Sincerely,

Gabriel Hastings  
Rapid Fire Protection, Inc.

Accepted by \_\_\_\_\_

Date \_\_\_\_\_

---

# Proposal

P.O. Box 86  
Mandan, ND 58554  
701-663-3196



P.O. Box 545  
Dickinson, ND 58602  
701-483-7663

1-800-767-3578 • FAX 701-663-0027

PROPOSAL SUBMITTED TO Scott Johnson		PHONE 223-1121	DATE May 2, 2011
STREET		JOB NAME Old Mandan Bookstore	
CITY, STATE AND ZIP CODE		JOB LOCATION Mandan, ND	
ARCHITECT	DATE OF PLANS	JOB PHONE	

We hereby submit specifications and estimates for:

- 1) Remove existing roofing down to wood deck. If there is any bad decking it will have to be replaced on time and material basis.
  - 2) Install 1 layer 2" polyisocyanurate insulation (LTR 12.1).
  - 3) Install 1 layer 1/2" recovery board.
  - 4) All insulation mechanically fastened to deck with screws and plates.
  - 5) Apply a 60-mil EPDM rubber roof system fully adhered to the recovery board.
  - 6) Flash all walls and curbs with 60-mil EPDM flashing membrane. All details as per manufacturer specifications.
  - 7) Furnish and install new prefinished wall cap, gutter and downspout.
  - 8) The existing parapet wall may require repairs to be suitable to install membrane flashing. This work to be done by others.
  - 9) Five (5) year guarantee.
- \* To obtain a 10-year manufacturer's warranty "add" \$500.00.

"Plumbing, mechanical, or electrical not included unless specified above."

**We Propose** hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

Nineteen thousand, four hundred and 00/100----- dollars (\$ 19,400.00).

Payment to be made as follows:

100% upon completion

A late charge of 1½% per month will be added to charges not paid within 30 days of billing.  
We reserve the right to file a mechanic's lien if not paid within 30 days of billing.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

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

MARVIN MILLER, PRESIDENT

Note: This proposal may be withdrawn by us if not accepted within Thirty (30) days.

**Acceptance of Proposal** — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized

Signature \_\_\_\_\_

PURCHASE AGREEMENT # 1121



PAGE 1

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

Date 4-30-11 MLS Listing # 313960 Page 1 of 6 Pages

References to "day" or "days" in this Purchase Agreement shall be construed as business days. Business days are defined as Monday through Friday, excluding Federal and State holidays.

Time is of the essence in this Purchase Agreement.

ENTIRE AGREEMENT: This Purchase Agreement, and any addenda or amendments signed by the parties, and any attached exhibits shall constitute the entire agreement between Seller(s) and Buyer(s) and supersedes any other written or oral agreements between Seller(s) and Buyer(s). This Purchase Agreement can be modified only in writing signed by Seller(s) and Buyer(s).

Buyer(s) SCOTT A. JOHNSON has/have agreed to pay FIFTEEN THOUSAND AND 00/100 Dollars (\$ 15,000.00 )

for the Property at: Street Address 116 EAST MAIN STREET

City of MANDAN County of MORTON State of ND Zip 58554

Legally described as: LOT 7, BLOCK 6, MANDAN PROPER

The sum of ONE THOUSAND AND 00/100 Dollars (\$ 1000.00 ) has been received from Buyer(s) by (Check one):  Check  Cash  Note as earnest money to be deposited upon acceptance of Purchase Agreement by all parties, on or before the next business day after acceptance, in the trust account of OAKTREE REALTORS, (Check one):  Listing  Selling Broker or to be returned to Buyer(s) if Purchase Agreement is not accepted by Seller(s). Buyer(s) agrees to pay in the following manner: Earnest money in the amount mentioned above, and additional earnest money of \$ \_\_\_\_\_ due on \_\_\_\_\_ Financing, if any, shall be as follows: (Check one):  CONVENTIONAL  FHA  VA  ASSUMPTION  CONTRACT FOR DEED  OTHER: CASH AT CLOSING

PRE-APPROVAL: Buyer(s) shall provide Seller(s) within \_\_\_\_\_ days, at 5 p.m., with written evidence acceptable to Seller(s) from a lender, showing pre-approval of a loan sufficient to allow Buyer(s) to purchase the property. If Buyer(s) fails to timely provide such written evidence, either party has the option to terminate this purchase agreement. If financing fails after the contingency completion date, earnest money shall be released:  to Buyer  to Seller  Other Agreement: \_\_\_\_\_; provided, that nothing herein shall limit the right of Seller to pursue all available remedies for breach of this purchase agreement.

Including the following Property, if any, owned by Seller(s) and used and located on said Property: garden bulbs, plants, shrubs, and trees; storm windows, storm doors, screens, and awnings; window shades, blinds, traverse, curtain and drapery rods; attached lighting fixtures and bulbs; plumbing fixtures, water heater, heating plants; built-in air conditioning equipment, electronic air filter, sump pump, attached television antenna, cable TV jacks and wiring, built-in humidifier and dehumidifier; attached basketball hoops; water softener (Check one):  Owned  Rented  None; propane tank and controls: (Check one):  Owned  Rented  None; BUILT INS: dishwashers, garbage disposals, trash compactors, ovens, cook top stoves, microwave ovens, hood fans, intercoms; ATTACHED: carpeting, mirrors, garage door openers and any controls, smoke detectors, fireplace screens, doors, and heat circulating inserts; and the following personal property (which is included at no additional value): NONE

The following personal property is excluded: NONE

Seller(s) agrees to remove all debris and all personal property not included herein from the Property by possession date.

Buyer(s) Initials: [Signature] Date: 4/30/11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 04/11)

PURCHASE AGREEMENT # 1121



PAGE 2

Includes all government payment, lease, or rental fees received between (date) \_\_\_\_\_ and (date) \_\_\_\_\_ unless specified as follows:

Homeowner association dues, rents, and all charges for city water, city sewer, electricity, and natural gas shall be prorated between parties as of \_\_\_\_\_

Heating fuel on hand at the time of possession shall be (Check one):  Included  Purchased by Buyer(s)  N/A.

GOVERNING LAW This agreement shall be governed by, construed and interpreted in accordance with the laws of, and under the jurisdiction of, the State of North Dakota and any actions shall be venued in the county in which the property is located.

REAL ESTATE TAXES, based on the most current certified tax information available, shall be prorated between Seller(s) and Buyer(s) as of CLOSING \_\_\_\_\_, 20\_\_\_\_.

SPECIAL ASSESSMENTS shall be paid as follows: Annual Installments: Estimated annual installment due for the year of closing shall be paid by: (Check one):  Buyer(s) and Seller(s) shall prorate as of the date of closing or  Seller(s) shall pay on date of closing.

Unpaid Balance: (Check one):  Buyer(s) shall assume or  Seller(s) shall pay on the date of closing the balance of special assessments as of the date of closing. Following closing, Buyer(s) shall pay all real estate taxes and any unpaid special assessments payable therewith and thereafter, for which the payment is not otherwise provided. No representations have been made concerning the amount of subsequent real estate taxes or special assessments, including but not limited to assessments for completed special improvements, which have not been certified for collection.

CLOSING AND POSSESSION: Closing shall take place on or before MAY 31, 2011. Seller(s) shall deliver possession and keys for Property at time of closing or on \_\_\_\_\_ Settlement fee to be paid by (Check one):  Buyer(s)  Seller(s)  Other: \_\_\_\_\_. Settlement and commitment fees as defined by VA to be paid by the Seller on VA Financing. Buyer(s) agrees to allow the purchase price to be part of the Multiple Listing Service database and grants permission to use of the information by MLS participants and related government entities for comparable sales reports and statistics. Seller(s) to transfer security deposits and interest, if any, on leases to Buyer(s) at closing.

DEED/MARKETABLE TITLE: Upon performance by Buyer(s), Seller(s) shall deliver a WARRANTY deed (Warranty Deed unless otherwise specified), conveying marketable title, subject to: (A) Building and zoning laws, ordinances, state and federal regulations; (B) Restrictions relating to use or improvement of the Property; (C) Installments of special assessments or assessments for completed special improvements which have not been certified to the County Auditor for collection. (D) Prior reservation of any mineral rights; (E) Utility and drainage easements; (F) The Seller herein (Check one)  Includes mineral rights, if any, owned by Seller(s) or  Reserves minerals as set forth in Mineral Reservation Addendum; (G) Rights of tenants as follows (unless specified, not subject to tenancies):

(H) Others (must be specified in writing): \_\_\_\_\_

TITLE AND EXAMINATION: Seller(s), at Seller(s)'s expense, shall furnish an updated abstract of title to the property certified to date, compiled pursuant to the NDLTA Abstracting Standards Manual (02/01/06) OR an ALTA Standard Coverage Owner's title policy, insuring the buyer's interest in the property in the amount of the sales price. If, after examination, Seller(s)'s title is not insurable or free of defects and cannot be made so by Closing, then at Buyer's option, this purchase agreement shall be terminated and the earnest money shall be refunded to Buyer(s). However, Buyer(s) may waive defects and elect to purchase. Seller to pay Abstracting Fees and Owner's Policy of Title Insurance as applicable. Buyers to pay Searching Fees, Attorney's Title Examination Fee, and Lender Policy of Title Insurance.

ENVIRONMENTAL CONCERNS: To the best of the Seller(s)'s knowledge, there are no hazardous substances or underground storage tanks unless otherwise noted in Purchase Agreement.

RISK OF LOSS: If there is any loss or damage to the Property between the date hereof and the date of closing for any reason, including fire, vandalism, flood, hail, wind, earthquake, or act of God, the risk of loss shall be on the Seller(s). If the Property is destroyed or substantially damaged before the closing date, this Purchase Agreement shall become null and void, at Buyer(s)'s option, and the earnest money shall be refunded to Buyer(s).

Buyer(s) Initials: SJS Date: 4/25/11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 04/11)



119 **INSPECTIONS AND REPAIRS:** Seller(s) shall make the Property available for all inspections and tests upon reasonable notice
120 by Buyer(s). Seller(s) shall at Seller(s)'s expense have all utilities on, including any propane, at the time of inspections. Any
121 agreed upon repairs or other actions to correct items shall be completed by Seller(s) prior to Closing unless both parties agree
122 in writing that funds for such repairs shall be escrowed.
123

124 **SQUARE FOOTAGE AND/OR ACREAGE:** Buyer(s) is aware that any reference to the square footage and/or acreage of the
125 Property, both the real Property (land) and improvements thereon, is approximate. If square footage and/or acreage is a
126 material matter to the Buyer(s), it must be verified by the Buyer(s).
127

128 **SELLER(S) WARRANTIES:**

129 Seller(s) warrants that building(s) is/are, or will be, constructed entirely within the boundary lines of the Property.

130 Seller(s) warrants that there is a right of access to the Property from a public right of way.

131 Seller(s) warrants that prior to closing, payment in full will have been made for: 1.) All condo and/or home association fees;
132 and 2.) all labor, materials, machinery, fixtures, or tools, furnished within the 90 days immediately preceding the closing,
133 used in connection with construction, alteration, or repair of any structure on, or improvement to, the Property.

134 Seller(s) warrants that Seller(s) has not received any notice from any governmental authority as to violation of law,
135 ordinance, or regulation for a condition that remains uncorrected, or any other notice from any governmental authority
136 regarding the subject Property.

137 Seller(s) warrants that, if Property is subject to restrictive covenants, Seller(s) has not received any notice from any person or
138 authority as to a breach of the covenants which remains uncorrected. Any notices received by Seller(s) will be provided to
139 Buyer(s) immediately.

140 Seller(s) warrants that all appliances, heating, air conditioning, wiring and plumbing systems used and located on the
141 Property will be in working order on the date of closing, except as noted in the Property disclosure statement.

142 Seller(s) warrants that the Property is directly connected to: City Sewer:  yes  no Well:  yes  no

143 Water system is:  City  Rural. If rural, will membership be transferred?  yes  no  N/A
144

145 **FINAL WALK THROUGH:** The Seller(s) grants Buyer(s) and any representative of Buyer(s) reasonable access to conduct a
146 final walk through of the Property for the purpose of determining that repairs have been completed and that the Property is in
147 substantially the same condition as on the date of acceptance of the contract. Seller(s) understands that the final walk through
148 requires that the utilities be on, including propane, if applicable, and the Seller(s) is responsible for providing same at his
149 expense. If Buyer(s) does not conduct such walk through, Buyer(s) specifically releases Broker(s) of any liability.
150

151 **BUYER(S) RESPONSIBILITY REGARDING INSPECTIONS AND INVESTIGATIONS:** Buyer(s) is advised by Broker to obtain
152 inspections and investigations of the Property. Buyer(s) acknowledges that Buyer(s) should make inquiries and consult
153 government agencies, lenders, insurance agents, architects, and other appropriate persons and entities concerning the use of
154 the Property and the surrounding areas under applicable building, zoning, fire, health, and safety codes, and for
155 evaluation of potential hazards. Buyer(s) shall keep the Property free and clear of liens, shall indemnify and hold Seller(s)
156 harmless from all liability, claims, demands, damages, and costs, and shall repair all damages arising from the inspections.
157 The inspection period is the Buyer(s)'s sole opportunity to discover any existing defects prior to Closing. Buyer(s) waives
158 any claim for an item warranted by the Seller(s) if Buyer(s) becomes aware of such claim during the Inspection Period and
159 does not notify the Seller(s) in writing of such. Buyer(s) specifically releases, holds harmless, and indemnifies Broker(s) from
160 any liability for any defects in the Property. If Buyer(s) requests repairs, Buyer(s) shall provide Seller(s) and Broker(s) upon
161 receipt, at no cost, copies of all reports concerning the Property obtained by Buyer(s).
162

163 **HOME PROTECTION PLAN:** The Buyer(s) and/or Seller(s), at their option, may purchase a Home Protection Plan. This is an
164 option and each plan may vary. Please contact Broker if you are interested. If no action is taken, it will be assumed that you
165 waive this option. Buyer(s) has been made aware of the availability of home warranty plans.

166 Buyer(s) (Check one):  Elects  Declines to have a home warranty plan.

167 If elects, plan to be paid by (Check one):  Buyer(s) or  Seller(s) at a cost not to exceed \$ \_\_\_\_\_. Plan to be
168 ordered by (Check one)  Listing Broker  Selling Broker. Broker and/or agent ordering the plan may receive a
169 processing fee for services related to the purchase of a home protection plan.
170

171 **MEGAN'S LAW DISCLOSURE:** If Buyer(s) desires to obtain information regarding persons required to register as sexual
172 offenders under North Dakota Law, Buyer(s) must contact the ND Attorney General's office, or access the Attorney
173 General's web site at <http://www.sexoffender.nd.gov/>.
174

175 **LEAD-BASED PAINT DISCLOSURE:** Was Property built prior to 1978?  yes  no If yes, this purchase
176 agreement is contingent on Buyer(s)'s review and acceptance of the Seller(s)'s "Disclosure of Information on Lead-
177 Based Paint and Lead-Based Paint Hazards" (see Contingencies section).

178 Buyer(s) Initials: SA Date: 4/30/11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 04/11)



179 **DEFAULT:** If Seller(s)'s title is marketable or insurable and Buyer(s), contrary to this agreement, fails, neglects or refuses to  
 180 complete the Purchase within ten (10) days after title is proven marketable or insurable, or by the closing date, whichever is  
 181 later, then, at Seller(s)'s option either the earnest money shall be forfeited to Seller(s) as liquidated damages, since the parties  
 182 agree the calculation of damages to Seller(s) would be difficult to ascertain with certainty and since parties further agree that  
 183 the amount of liquidated damages is a reasonable attempt to estimate damages which will be suffered by the Seller(s), and  
 184 this Agreement thereupon shall be of no further binding effect; or Seller(s) may demand and pursue any and all other  
 185 remedies including but not limited to actual damages or specific performance of this agreement. If Seller(s), contrary to this  
 186 Agreement, fails, neglects or refuses to perform as agreed, Buyer(s) may demand and pursue any and all remedies including,  
 187 but not limited to, specific performance of this Agreement. A claim of either party for specific performance, or the Seller(s)'s  
 188 claim to the earnest money as liquidated damages, shall be waived, unless legal proceedings are commenced within three (3)  
 189 months after scheduled date of closing; further, unless the Seller, delivers copies of documents evidencing the Seller's  
 190 commencement of legal proceedings to claim the earnest money to the Broker who has possession of the earnest money  
 191 within said three-month time period; then the Broker, who has possession of the earnest money, shall be authorized to return  
 192 the earnest money to the Buyer, free of any claim by the Seller. Retention of earnest money in any Broker's trust account  
 193 pending resolution of the default shall not constitute an election of remedies by either party or prejudice their rights to pursue  
 194 any and all other remedies including, but not limited to, specific performance.

196 **CONTINGENCIES:** All applicable contingencies must be initialed by Buyers and Sellers. This purchase agreement is subject  
 197 to the satisfaction of those contingencies which are initialed below by both parties.

199 **Buyer(s) and Seller(s) agree that, by 5 p.m. on (date) \_\_\_\_\_ (contingency completion date),**  
 200 **all contingencies agreed to in items 1 through 15 below shall be addressed to completion. The party with the option to**  
 201 **terminate shall in no event have less than 48 hours from receipt of required information/documentation to give notice**  
 202 **of termination, even if the contingency completion date is extended as a result.**

204 Under the following contingencies, the Buyer, or the Seller, or in certain instances either party, has the option to terminate the  
 205 purchase agreement; said option to be exercised by giving written notice by the contingency completion date. If such written  
 206 notice is given by the contingency completion date the Buyer(s) shall receive a full refund of the earnest money. If written  
 207 notice is not given by the contingency completion date by a party which had the option to terminate the purchase agreement,  
 208 then the option to terminate the purchase agreement under the applicable contingencies are deemed to be waived. (See  
 209 "Default" section.)

BUYERS AND SELLERS MUST INITIAL ALL APPLICABLE CONTINGENCIES.		BUYER(S) INITIALS	SELLER(S) INITIALS
1. <b>PROPERTY CONDITION STATEMENT:</b> Seller(s) to provide Buyer(s) with a Property Condition Statement. Buyer to review Property Condition Statement. If Buyer does not approve the Property Condition Statement, Buyer has the option to terminate this purchase agreement.			
2. <b>INSPECTIONS:</b> Buyer to complete inspections. If Buyer does not approve the results of the inspections, Buyer has the option to terminate this purchase agreement. Inspections and tests to be conducted at Buyer's Expense : (check all that apply): <input type="checkbox"/> Physical Property Inspection <input type="checkbox"/> Radon <input type="checkbox"/> Mold <input type="checkbox"/> Lead-Based Paint <input type="checkbox"/> Septic System <input type="checkbox"/> Asbestos <input type="checkbox"/> Well <input type="checkbox"/> Other:			
3. <b>LEAD-BASED PAINT:</b> Seller(s) to provide Lead-Based Paint Disclosure (for properties built prior to 1978 only). If Buyer does not approve Lead-Based Paint Disclosure, Buyer has the option to terminate this purchase agreement.			
4. <b>CLAIMS LOSS HISTORY:</b> Seller(s) shall provide an insurance claims loss history report to Buyer(s). (Note: there are several kinds of such reports, one example is a CLUE report). If Buyer does not approve claims loss history report, Buyer has the option to terminate this purchase agreement.			
5. <b>INSURANCE ADJUSTER'S REPORT:</b> Seller(s) shall provide copies of any insurance adjuster's reports for the previous _____ years. If Buyer does not approve insurance adjuster's reports, Buyer has the option to terminate this purchase agreement.			
6. <b>FLOOD PLAIN:</b> Buyer(s) to obtain flood plain verification. If Buyer does not approve the results of the flood plain verification, Buyer has the option to terminate this purchase agreement.			
7. <b>CONDO DOCUMENTS:</b> Seller(s) shall provide current copies of condo by-laws and amendments, regulations, most recent financial statement, and minutes of the last two meetings. If Buyer does not approve these condo documents, Buyer has the option to terminate this purchase agreement.			
8. <b>LEASES:</b> Seller(s) shall provide copies of current leases to Buyer. If Buyer does not approve the leases, Buyer has the option to terminate this purchase agreement.			
9. <b>REGISTERED SEX OFFENDERS:</b> Buyer(s) investigation of the possible presence of registered sex offenders in the vicinity of the property. If Buyer does not approve the findings regarding registered sex offenders, Buyer has the option to terminate this purchase agreement.			
Buyer(s) Initials: <u>JAY</u> Date: <u>4/30/11</u> Seller(s) Initials: _____ Date: _____ (Rev 04/11)			



	BUYER(S) INITIALS	SELLER(S) INITIALS
10. RESTRICTIONS AND COVENANTS: Buyer(s) review of any government and/or private use restrictions and restrictive covenants. If Buyer does not approve the use restrictions or covenants, Buyer has the option to terminate this purchase agreement.		
11. MANUFACTURED HOME PARK: Buyer(s) shall give notice to Seller(s) that approval has been obtained from manufactured home park for Buyer(s) to reside in the manufactured home in its existing location. If Buyer fails to timely provide notice of such approval, either party has the option to terminate this purchase agreement.		
12. WATER QUALITY TESTS: Buyer(s) obtain water quality tests, at Buyer(s) expense. If Buyer does not approve the results of the water quality tests, Buyer has the option to terminate this purchase agreement.		
13. SURVEY: Buyer(s) shall obtain a survey of the property, conducted at (check one): <input type="checkbox"/> Buyer's expense or <input type="checkbox"/> Seller's expense. If Buyer does not approve the results of the survey, Buyer has the option to terminate this purchase agreement.		
14. PLANS AND PERMITS: Buyer(s) to obtain all necessary plans and permits for one or more of the following purposes: building plans and specifications, proposed subdivision development plans, rezoning or use permits, approval of building plans and/or specification in accordance with any recorded subdivision covenants, and approval of the architectural control committee. If Buyer does not obtain said plans and permits, Buyer has the option to terminate this purchase agreement.		
15. SOIL TESTS: Buyer(s) to obtain soil tests and percolation tests at <input type="checkbox"/> Buyer's expense or <input type="checkbox"/> Seller's expense. If Buyer does not approve the test results, Buyer has the option to terminate this purchase agreement.		

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OTHER CONTINGENCIES:

A. APPRAISAL CONTINGENCY: Buyer's obligation to purchase is contingent on the property appraising at or above the agreed upon purchase price. If this contingency fails, Buyer(s) has the option to terminate this purchase agreement.

B. 24/48/72 HOUR CONTINGENCY ADDENDUM: (check one)  does  does not apply (see attached addendum made a part of this contract, if applicable).

C. CLOSING OF BUYER'S PROPERTY: (This provision to be used if Buyer's property is under contract at the time of offer): (check one)  does  does not apply Buyer's obligation to purchase is contingent on closing of Buyer's property at (address) \_\_\_\_\_ Buyer(s) to provide written evidence within \_\_\_\_\_ days showing that Buyer(s) property has an accepted purchase agreement with qualified buyer and will close on or before closing of this Purchase Agreement.

PLEASE NOTE: Buyer(s) may incur additional charges for improving the property including, but not limited to hook-up and/or access charges, costs for sewer access, stubbing access, water access, park dedication, road access, utility connection, phone lines, connecting fees, curb cuts, and tree planting.

SPECIAL CONDITIONS:  
SELLER TO BRING IN A NEW WATER LINE INTO THE BUILDING, SUFFICIENT TO SUPPLY AMPLE WATER FOR A FIRE SPRINKLER SYSTEM AND TO REPAIR THE SIDEWALK FROM SAID WORK.  
SEE ATTACHED CITY OF MANDAN REQUIREMENTS FOR THE SALE OF THE SUBJECT PROPERTY WHICH ARE HEREBY MADE A PART OF THIS AGREEMENT.

RELEASE OF BROKER(S): Seller(s) and Buyer(s) hereby expressly release, hold harmless and indemnify all Broker(s) in this transaction from any and all liability and responsibility, including but not limited to, the property condition, square footage, acreage, lot lines or boundaries, value, rent rolls, environmental problems, mold, water, sanitation systems, roof, wind damage, hail damage, wood infestation and wood infestation report, compliance with building codes or other governmental regulations, or any other material matters relating to the Property.

AGENCY DISCLOSURE: PATRICK MADDOCK ( Agent  Broker)  
Brokerage OAKTREE REALTORS  
Stipulates that she/he is representing the (Check one)  Seller(s)  Buyer(s)  Neither Party  Both Parties in this transaction. The listing agent or broker stipulates that she/he is representing the Seller(s) in this transaction.

APPOINTED AGENCY: Applies to in-house transactions only. Appointed agency (Check one)  Does  Does Not apply. If Broker has adopted appointed agency policy, dual agency may not apply. However, an appointed agent who singularly represents both Seller(s) and Buyer(s) in the same transaction is considered to be a disclosed dual agent owing fiduciary duties to both parties and must get permission from parties to act.

Buyer(s) Initials: SAJ Date: 4/20/11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev 04/11)



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**DUAL AGENCY REPRESENTATION:** Dual agency representation (Check one)  Does  Does Not apply in this transaction. If dual agency does not apply, skip this entire section. If dual agency does apply, all parties must sign at the end of this section. Broker represents both the Seller(s) and the Buyer(s) of the Property involved in this transaction, which creates dual agency. This means that Broker and its salespersons owe fiduciary duties to both Seller(s) and Buyer(s). Because the parties may have conflicting interests, Broker and its salespersons are prohibited from advocating exclusively for either party.  
Broker cannot act as a dual agent in this transaction without consent of both Seller(s) and Buyer(s). Seller(s) and Buyer(s) acknowledge that:  
(1) confidential information communicated to Broker which regards price, terms, or motivation to buy or sell will remain confidential unless Seller(s) or Buyer(s) instructs Broker in writing to disclose this information. Other information will be shared;  
(2) Broker and its salespersons will not represent the interest of either party to the detriment of the other;  
(3) within the limits of dual agency, Broker and the salespersons will work diligently to facilitate the mechanics of the sale; and with the knowledge and understanding of the explanation above, Seller(s) and Buyer(s) authorize and instruct Broker and its salespersons to act as dual agents in the transactions.

_____ Buyer(s) Signature	_____ Date	_____ Seller(s) Signature	_____ Date
_____ Buyer(s) Signature	_____ Date	_____ Seller(s) Signature	_____ Date

This is an offer to purchase the Property. Unless acceptance is signed by Seller(s) and a signed copy delivered in person, by mail, or facsimile, and received by Buyer(s)'s Agent by (date) \_\_\_\_\_ at (time) \_\_\_\_\_ (Check one):  am  pm CT, or unless this offer to purchase has been previously withdrawn by Buyer(s), this offer shall be deemed withdrawn and the Buyer(s)'s earnest money shall be returned.

<u>Sean Johnson</u> Buyer's Signature	<u>11/30/11</u> Date	_____ Buyer's Signature	_____ Date
_____ Address	_____ Address	_____ Address	_____ Address
_____ City, State, Zip	_____ City, State, Zip	_____ City, State, Zip	_____ City, State, Zip

**ACCEPTANCE**

A Counter Offer(s) (Check one)  Is  Is not attached and is incorporated herein by reference. Seller(s) and Buyer(s) must sign both the Contract and the Counter Offer(s). If there is a conflict between this Contract and the Counter Offer(s), the provisions of the Counter Offer shall be controlling.

The Listing Broker, or, if applicable, Seller's Appointed Agent is representing (check one):  the Seller(s) exclusively; or  both the Buyer(s) and Seller(s).

Listing Broker's name, or, if applicable, Seller's Appointed Agent's name: KAREN FLECK

Brokerage: OAKTREE REALTORS Telephone: 663-3535

The undersigned acknowledge receipt of a copy hereof and grant permission to Selling Broker to deliver a copy to Buyer(s) Agent.

The undersigned agree to sell the Property on the terms and conditions herein stated.

_____ Seller's Signature	_____ Date	_____ Seller's Signature	_____ Date
_____ Seller's Name Printed	_____ Seller's Name Printed	_____ Seller's Name Printed	_____ Seller's Name Printed
_____ Seller's Address	_____ Seller's Address	_____ Seller's Address	_____ Seller's Address
_____ City, State, Zip	_____ City, State, Zip	_____ City, State, Zip	_____ City, State, Zip

Marital status (REQUIRED by Title companies): \_\_\_\_\_

ADDENDUM TO PURCHASE ORDER # 313960.

Address: 116 E. Main St. Mandan, ND 58554.

The investment into this property would be to gut the whole upstairs and remodel it into two (2) separate apartments.

The main floor would also be remodeled to have a nice available space for lease with main street frontage and visibility. Fred Berger & Companies would be using the back space of the commercial area with access off the alley.

The exterior would be re-faced nicely to meet any and all city requirements.

PURCHASE AGREEMENT # 313960



PAGE 1

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

Date 5-24-11 MLS Listing # 313960 Page 1 of \_\_\_\_\_ Pages

References to "day" or "days" in this Purchase Agreement shall be construed as business days. Business days are defined as Monday through Friday, excluding Federal and State holidays.

Time is of the essence in this Purchase Agreement.

ENTIRE AGREEMENT: This Purchase Agreement, and any addenda or amendments signed by the parties, and any attached exhibits shall constitute the entire agreement between Seller(s) and Buyer(s) and supersedes any other written or oral agreements between Seller(s) and Buyer(s). This Purchase Agreement can be modified only in writing signed by Seller(s) and Buyer(s).

Buyer(s) Fred J. Berger has/have agreed to pay twenty five thousand Dollars (\$ 25,000 )

for the Property at: Street Address 116 E. main st

City of Mandan County of Morton State of ND Zip 58554

Legally described as: L 7, B 6 mandan Proper

The sum of five thousand Dollars (\$ 5,000 ) has been received from Buyer(s) by (Check one)  Check  Cash  Note as earnest money to be deposited upon acceptance of Purchase Agreement by all parties, on or before the next business day after acceptance, in the trust account of Dakota Realtors, (Check one)  Listing  Selling Broker or to be returned to Buyer(s) if Purchase Agreement is not accepted by Seller(s). Buyer(s) agrees to pay in the following manner: Earnest money in the amount mentioned above, and additional earnest money of \$ \_\_\_\_\_ due on \_\_\_\_\_ Financing, if any, shall be as follows: (Check one)  CONVENTIONAL  FHA  VA  ASSUMPTION  CONTRACT FOR DEED  OTHER: cash on closing

PRE-APPROVAL: Buyer(s) shall provide Seller(s) with written evidence acceptable to Seller(s) from a lender, showing pre-approval of a loan sufficient to allow Buyer to purchase the property with in \_\_\_\_\_ days by 5 p.m.. If Buyer fails to timely provide such written evidence, either party has the option to terminate this purchase agreement.

If financing fails after the contingency completion date, earnest money shall be released:  to Buyer  to Seller  Other Agreement: Don't deposit earnest money until seller acceptance that nothing herein shall limit the right of Seller to pursue all available remedies for breach of this purchase agreement.

Including the following Property, if any, owned by Seller(s) and used and located on said Property: garden bulbs, plants, shrubs, and trees; storm windows, storm doors, screens, and awnings; window shades, blinds, traverse, curtain and drapery rods; attached lighting fixtures and bulbs; plumbing fixtures, water heater, heating plants; built-in air conditioning equipment, electronic air filter, sump pump, attached television antenna, cable TV jacks and wiring, built-in humidifier and dehumidifier; attached basketball hoops;

water softener (Check one):  Owned  Rented  None;

propane tank and controls: (Check one):  Owned  Rented  None;

BUILT INS: dishwashers, garbage disposals, trash compactors, ovens, cook top stoves, microwave ovens, hood fans, intercoms; ATTACHED: carpeting, mirrors, garage door openers and any controls, smoke detectors, fireplace screens, doors, and heat circulating inserts; and the following personal property (which is included at no additional value): \_\_\_\_\_

The following personal property is excluded: \_\_\_\_\_

Seller(s) agrees to remove all debris and all personal property not included herein from the Property by possession date.

Buyer(s) Initials: FJB Date: 5/24/11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 10/08A)

PURCHASE AGREEMENT # 313960



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59 Includes all government payment, lease, or rental fees received between (date) \_\_\_\_\_ and (date) \_\_\_\_\_ unless  
60 specified as follows: None  
61 Homeowner association dues, rents, and all charges for city water, city sewer, electricity, and natural gas shall be prorated  
62 between parties as of closing  
63 Heating fuel on hand at the time of possession shall be (Check one): \_\_\_\_\_ Included \_\_\_\_\_ Purchased by Buyer(s) N/A.  
64  
65

66 GOVERNING LAW This agreement shall be governed by, construed and interpreted in accordance with the laws of, and under  
67 the jurisdiction of, the State of North Dakota and any actions shall be venued in the county in which the property is located.  
68  
69

70 REAL ESTATE TAXES, based on the most current certified tax information available, shall be prorated between Seller(s)  
71 and Buyer(s) as of closing, 20\_\_\_\_.  
72

73 SPECIAL ASSESSMENTS shall be paid as follows: Annual Installments: Estimated annual installment due for the year of  
74 closing shall be paid by: (Check one): Buyer(s) and Seller(s) shall prorate as of the date of closing or \_\_\_\_\_ Seller(s)  
75 shall pay on date of closing.  
76

77 Unpaid Balance: (Check one): Buyer(s) shall assume or \_\_\_\_\_ Seller(s) shall pay on the date of closing the balance of  
78 special assessments as of the date of closing. Following closing, Buyer(s) shall pay all real estate taxes and any unpaid special  
79 assessments payable therewith and thereafter, for which the payment is not otherwise provided. No representations have been  
80 made concerning the amount of subsequent real estate taxes or special assessments, including but not limited to assessments  
81 for completed special improvements, which have not been certified for collection.  
82

83 CLOSING AND POSSESSION: Closing shall take place on or before 7-1-11  
84 Seller(s) shall deliver possession and keys for Property at time of ~~closing~~ or on \_\_\_\_\_  
85 Settlement fee to be paid by (Check one): Buyer(s) \_\_\_\_\_ Seller(s)  
86 Other: \_\_\_\_\_ Settlement and commitment fees as defined by VA to be paid  
87 by the Seller on VA Financing. Buyer(s) agrees to allow the purchase price to be part of the Multiple Listing Service database  
88 and grants permission to use of the information by MLS participants and related government entities for comparable sales  
89 reports and statistics. Seller(s) to transfer security deposits and interest, if any, on leases to Buyer(s) at closing.  
90

91 DEED/MARKETABLE TITLE: Upon performance by Buyer(s), Seller(s) shall deliver a Warranty deed  
92 (Warranty Deed unless otherwise specified), conveying marketable title, subject to: (A) Building and zoning laws,  
93 ordinances, state and federal regulations; (B) Restrictions relating to use or improvement of the Property; (C) Installments of  
94 special assessments or assessments for completed special improvements which have not been certified to the County Auditor  
95 for collection; (D) Prior reservation of any mineral rights; (E) Utility and drainage easements; (F) The Seller herein (Check one)  
96 N/A Includes mineral rights, if any, owned by Seller(s) or \_\_\_\_\_ Reserves minerals as set forth in Mineral Reservation  
97 Addendum; (G) Rights of tenants as follows (unless specified, not subject to tenancies):  
98  
99

100 (H) Others (must be specified in writing): \_\_\_\_\_  
101

102 TITLE AND EXAMINATION: Seller(s), at Seller(s)'s option, shall furnish an updated abstract of title to the property certified to  
103 date, compiled pursuant to the NDLTA Abstracting Standards Manual (02/01/06) OR an ALTA Standard Coverage Owner's  
104 title policy, insuring the buyer's interest in the property in the amount of the sales price. If, after examination, Seller(s)'s title  
105 is not insurable or free of defects and cannot be made so by Closing, then at Buyer's option, this purchase agreement shall be  
106 terminated and the earnest money shall be refunded to Buyer(s). However, Buyer(s) may waive defects and elect to purchase.  
107 Seller to pay Abstracting Fees and Owner's Policy of Title Insurance as applicable. Buyers to pay Searching Fees, Attorney's  
108 Title Examination Fee, and Lender Policy of Title Insurance.  
109

110 ENVIRONMENTAL CONCERNS: To the best of the Seller(s)'s knowledge, there are no hazardous substances or underground  
111 storage tanks unless otherwise noted in Purchase Agreement.  
112

113 RISK OF LOSS: If there is any loss or damage to the Property between the date hereof and the date of closing for any reason,  
114 including fire, vandalism, flood, hail, wind, earthquake, or act of God, the risk of loss shall be on the Seller(s). If the Property  
115 is destroyed or substantially damaged before the closing date, this Purchase Agreement shall become null and void, at  
116 Buyer(s)'s option, and the earnest money shall be refunded to Buyer(s).  
117

118 Buyer(s) Initials: [Signature] Date: 5/24/11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 03/10)

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120 INSPECTIONS AND REPAIRS: Seller(s) shall make the Property available for all inspections and tests upon reasonable notice  
121 by Buyer(s). Seller(s) shall at Seller(s)'s expense have all utilities on, including any propane, at the time of inspections. Any  
122 agreed upon repairs or other actions to correct items shall be completed by Seller(s) prior to Closing unless both parties agree  
123 in writing that funds for such repairs shall be escrowed.  
124

125 SQUARE FOOTAGE AND/OR ACREAGE: Buyer(s) is aware that any reference to the square footage and/or acreage of the  
126 Property, both the real Property (land) and improvements thereon, is approximate. If square footage and/or acreage is a  
127 material matter to the Buyer(s), it must be verified by the Buyer(s).  
128

129 SELLER(S) WARRANTIES:

130 Seller(s) warrants that building(s) is/are, or will be, constructed entirely within the boundary lines of the Property.  
131 Seller(s) warrants that there is a right of access to the Property from a public right of way.  
132 Seller(s) warrants that prior to closing, payment in full will have been made for: 1.) All condo and/or home association fees;  
133 and 2.) all labor, materials, machinery, fixtures, or tools, furnished within the 90 days immediately preceding the closing,  
134 used in connection with construction, alteration, or repair of any structure on, or improvement to, the Property.  
135 Seller(s) warrants that Seller(s) has not received any notice from any governmental authority as to violation of law,  
136 ordinance, or regulation for a condition that remains uncorrected, or any other notice from any governmental authority  
137 regarding the subject Property.  
138 Seller(s) warrants that, if Property is subject to restrictive covenants, Seller(s) has not received any notice from any person or  
139 authority as to a breach of the covenants which remains uncorrected. Any notices received by Seller(s) will be provided to  
140 Buyer(s) immediately.  
141 Seller(s) warrants that all appliances, heating, air conditioning, wiring and plumbing systems used and located on the  
142 Property will be in working order on the date of closing, except as noted in the Property disclosure statement.  
143 Seller(s) warrants that the Property is directly connected to: City Sewer:  yes  no Well:  yes  no  
144 Water system is:  City  Rural. If rural, will membership be transferred?  yes  no  N/A  
145

146 FINAL WALK THROUGH: The Seller(s) grants Buyer(s) and any representative of Buyer(s) reasonable access to conduct a  
147 final walk through of the Property for the purpose of determining that repairs have been completed and that the Property is in  
148 substantially the same condition as on the date of acceptance of the contract. Seller(s) understands that the final walk through  
149 requires that the utilities be on, including propane, if applicable, and the Seller(s) is responsible for providing same at his  
150 expense. If Buyer(s) does not conduct such walk through, Buyer(s) specifically releases Broker(s) of any liability.  
151

152 BUYER(S) RESPONSIBILITY REGARDING INSPECTIONS AND INVESTIGATIONS: Buyer(s) is advised by Broker to obtain  
153 inspections and investigations of the Property. Buyer(s) acknowledges that Buyer(s) should make inquiries and consult  
154 government agencies, lenders, insurance agents, architects, and other appropriate persons and entities concerning the use of  
155 the Property and the surrounding areas under applicable building, zoning, fire, health, and safety codes, and for  
156 evaluation of potential hazards. Buyer(s) shall keep the Property free and clear of liens, shall indemnify and hold Seller(s)  
157 harmless from all liability, claims, demands, damages, and costs, and shall repair all damages arising from the inspections.  
158 The inspection period is the Buyer(s)'s sole opportunity to discover any existing defects prior to Closing. Buyer(s) waives  
159 any claim for an item warranted by the Seller(s) if Buyer(s) becomes aware of such claim during the Inspection Period and  
160 does not notify the Seller(s) in writing of such. Buyer(s) specifically releases, holds harmless, and indemnifies Broker(s) from  
161 any liability for any defects in the Property. If Buyer(s) requests repairs, Buyer(s) shall provide Seller(s) and Broker(s) upon  
162 receipt, at no cost, copies of all reports concerning the Property obtained by Buyer(s).  
163

164 HOME PROTECTION PLAN: The Buyer(s) and/or Seller(s), at their option, may purchase a Home Protection Plan. This is an  
165 option and each plan may vary. Please contact Broker if you are interested. If no action is taken, it will be assumed that you  
166 waive this option. Buyer(s) has been made aware of the availability of home warranty plans.  
167 Buyer(s) (Check one):  Elects  Declines to have a home warranty plan.  
168 If elects, plan to be paid by (Check one):  Buyer(s) or  Seller(s) at a cost not to exceed \$ \_\_\_\_\_. Plan to be  
169 ordered by (Check one):  Listing Broker  Selling Broker. Broker and/or agent ordering the plan may receive a  
170 processing fee for services related to the purchase of a home protection plan.  
171

172 MEGAN'S LAW DISCLOSURE: If Buyer(s) desires to obtain information regarding persons required to register as sexual  
173 offenders under North Dakota Law, Buyer(s) must contact the ND Attorney General's office, or access the Attorney  
174 General's web site at <http://www.sexoffender.nd.gov/>.  
175

176 LEAD-BASED PAINT DISCLOSURE: Was Property built prior to 1978?  yes  no If yes, this purchase  
177 agreement is contingent on Buyer(s)'s review and acceptance of the Seller(s)'s "Disclosure of Information on Lead-  
178 Based Paint and Lead-Based Paint Hazards" (see Contingencies section).

179 Buyer(s) Initials: [Signature] Date: 5/24/11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 10/08A)



180 **DEFAULT:** If Seller(s)'s title is marketable or insurable and Buyer(s), contrary to this agreement, fails, neglects or refuses to  
 181 complete the Purchase within ten (10) days after title is proven marketable or insurable, or by the closing date, whichever is  
 182 later, then, at Seller(s)'s option either the earnest money shall be forfeited to Seller(s) as liquidated damages, since the parties  
 183 agree the calculation of damages to Seller(s) would be difficult to ascertain with certainty and since parties further agree that  
 184 the amount of liquidated damages is a reasonable attempt to estimate damages which will be suffered by the Seller(s), and  
 185 this Agreement thereupon shall be of no further binding effect; or Seller(s) may demand and pursue any and all other  
 186 remedies including but not limited to actual damages or specific performance of this agreement. If Seller(s), contrary to this  
 187 Agreement, fails, neglects or refuses to perform as agreed, Buyer(s) may demand and pursue any and all remedies including,  
 188 but not limited to, specific performance of this Agreement. A claim of either party for specific performance, or the Seller(s)'s  
 189 claim to the earnest money as liquidated damages, shall be waived, unless legal proceedings are commenced within three (3)  
 190 months after scheduled date of closing; further, unless the Seller, delivers copies of documents evidencing the Seller's  
 191 commencement of legal proceedings to claim the earnest money to the Broker who has possession of the earnest money  
 192 within said three-month time period; then the Broker, who has possession of the earnest money, shall be authorized to return  
 193 the earnest money to the Buyer, free of any claim by the Seller. Retention of earnest money in any Broker's trust account  
 194 pending resolution of the default shall not constitute an election of remedies by either party or prejudice their rights to pursue  
 195 any and all other remedies including, but not limited to, specific performance.

197 **CONTINGENCIES:** All applicable contingencies must be initialed by Buyers and Sellers. This purchase agreement is subject  
 198 to the satisfaction of those contingencies which are initialed below by both parties.

200 Buyer(s) and Seller(s) agree that, by 5 p.m. on (date) \_\_\_\_\_ (contingency completion date),  
 201 all contingencies agreed to in items 1 through 15 below shall be addressed to completion. The party with the option to  
 202 terminate shall in no event have less than 48 hours from receipt of required information/documentation to give notice  
 203 of termination, even if the contingency completion date is extended as a result.

205 Under the following contingencies, the Buyer, or the Seller, or in certain instances either party, has the option to terminate the  
 206 purchase agreement; said option to be exercised by giving written notice by the contingency completion date. If such written  
 207 notice is given by the contingency completion date the Buyer(s) shall receive a full refund of the earnest money. If written  
 208 notice is not given by the contingency completion date by a party which had the option to terminate the purchase agreement,  
 209 then the option to terminate the purchase agreement under the applicable contingencies are deemed to be waived. (See  
 210 "Default" section.)

BUYERS AND SELLERS MUST INITIAL ALL APPLICABLE CONTINGENCIES.		BUYER(S) INITIALS	SELLER(S) INITIALS
1. <b>PROPERTY CONDITION STATEMENT:</b> Seller(s) to provide Buyer(s) with a Property Condition Statement. Buyer to review Property Condition Statement. If Buyer does not approve the Property Condition Statement, Buyer has the option to terminate this purchase agreement.			
2. <b>INSPECTIONS:</b> Buyer to complete inspections. If Buyer does not approve the results of the inspections, Buyer has the option to terminate this purchase agreement. Inspections and tests to be conducted at Buyer's Expense : (check all that apply): <input type="checkbox"/> Physical Property Inspection <input type="checkbox"/> Radon <input type="checkbox"/> Mold <input type="checkbox"/> Lead-Based Paint <input type="checkbox"/> Septic System <input type="checkbox"/> Asbestos <input type="checkbox"/> Well <input type="checkbox"/> Other:			
3. <b>LEAD-BASED PAINT:</b> Seller(s) to provide Lead-Based Paint Disclosure (for properties built prior to 1978 only). If Buyer does not approve Lead-Based Paint Disclosure, Buyer has the option to terminate this purchase agreement.			
4. <b>CLAIMS LOSS HISTORY:</b> Seller(s) shall provide an insurance claims loss history report to Buyer(s). (Note: there are several kinds of such reports, one example is a CLUE report). If Buyer does not approve claims loss history report, Buyer has the option to terminate this purchase agreement.			
5. <b>INSURANCE ADJUSTER'S REPORT:</b> Seller(s) shall provide copies of any insurance adjuster's reports for the previous _____ years. If Buyer does not approve insurance adjuster's reports, Buyer has the option to terminate this purchase agreement.			
6. <b>FLOOD PLAIN:</b> Buyer(s) to obtain flood plain verification. If Buyer does not approve the results of the flood plain verification, Buyer has the option to terminate this purchase agreement.			
7. <b>CONDO DOCUMENTS:</b> Seller(s) shall provide current copies of condo by-laws and amendments, regulations, most recent financial statement, and minutes of the last two meetings. If Buyer does not approve these condo documents, Buyer has the option to terminate this purchase agreement.			
8. <b>LEASES:</b> Seller(s) shall provide copies of current leases to Buyer. If Buyer does not approve the leases, Buyer has the option to terminate this purchase agreement.			
9. <b>REGISTERED SEX OFFENDERS:</b> Buyer(s) investigation of the possible presence of registered sex offenders in the vicinity of the property. If Buyer does not approve the findings regarding registered sex offenders, Buyer has the option to terminate this purchase agreement.			
Buyer(s) Initials: <u>AS</u> Date: <u>5/24/11</u> Seller(s) Initials: _____ Date: _____ (Rev 10/08A)			

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10. RESTRICTIONS AND COVENANTS: Buyer(s) review of any government and/or private use restrictions and restrictive covenants. If Buyer does not approve the use restrictions or covenants, Buyer has the option to terminate this purchase agreement.	BUYER(S) INITIALS	SELLER(S) INITIALS
11. MANUFACTURED HOME PARK: Buyer(s) shall give notice to Seller(s) that approval has been obtained from manufactured home park for Buyer(s) to reside in the manufactured home in its existing location. If Buyer fails to timely provide notice of such approval, either party has the option to terminate this purchase agreement.		
12. WATER QUALITY TESTS: Buyer(s) obtain water quality tests, at Buyer(s) expense. If Buyer does not approve the results of the water quality tests, Buyer has the option to terminate this purchase agreement.		
13. SURVEY: Buyer(s) shall obtain a survey of the property, conducted at (check one): <input type="checkbox"/> Buyer's expense or <input type="checkbox"/> Seller's expense. If Buyer does not approve the results of the survey, Buyer has the option to terminate this purchase agreement.		
14. PLANS AND PERMITS: Buyer(s) to obtain all necessary plans and permits for one or more of the following purposes: building plans and specifications, proposed subdivision development plans, rezoning or use permits, approval of building plans and/or specification in accordance with any recorded subdivision covenants, and approval of the architectural control committee. If Buyer does not obtain said plans and permits, Buyer has the option to terminate this purchase agreement.		
15. SOIL TESTS: Buyer(s) to obtain soil tests and percolation tests at <input type="checkbox"/> Buyer's expense or <input type="checkbox"/> Seller's expense. If Buyer does not approve the test results, Buyer has the option to terminate this purchase agreement.		

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**OTHER CONTINGENCIES:**

A. APPRAISAL CONTINGENCY: Buyer's obligation to purchase is contingent on the property appraising at or above the agreed upon purchase price. If this contingency fails, Buyer(s) has the option to terminate this purchase agreement.

B. 24/48/72 HOUR CONTINGENCY ADDENDUM: (check one)  does  does not apply (see attached addendum made a part of this contract, if applicable).

C. CLOSING OF BUYER'S PROPERTY: (check one)  does  does not apply Buyer's obligation to purchase is contingent on closing of Buyer's property at (address) \_\_\_\_\_ Buyer(s) to provide written evidence within \_\_\_\_\_ days showing that Buyer(s) property has an accepted purchase agreement with qualified buyer and will close on or before closing of this Purchase Agreement.

PLEASE NOTE: Buyer(s) may incur additional charges for improving the property including, but not limited to hook-up and/or access charges, costs for sewer access, stubbing access, water access, park dedication, road access, utility connection, phone lines, connecting fees, curb cuts, and tree planting.

SPECIAL CONDITIONS:  
contingent on city installing & paying for the water  
line for the sprinkler system if the city requires  
a sprinkler system but only if the city requires it done

RELEASE OF BROKER(S): Seller(s) and Buyer(s) hereby expressly release, hold harmless and indemnify all Broker(s) in this transaction from any and all liability and responsibility, including but not limited to, the property condition, square footage, acreage, lot lines or boundaries, value, rent rolls, environmental problems, mold, water, sanitation systems, roof, wind damage, hail damage, wood infestation and wood infestation report, compliance with building codes or other governmental regulations, or any other material matters relating to the Property.

AGENCY DISCLOSURE: Karen Fleck  Agent  Broker  
 Brokerage Water Reator  
 Stipulates that she/he is representing the (Check one):  Seller(s)  Buyer(s)  Neither Party  Both Parties in this transaction. The listing agent or broker stipulates that she/he is representing the Seller(s) in this transaction.

APPOINTED AGENCY: Applies to in-house transactions only. Appointed agency (Check one)  Does  Does Not apply. If Broker has adopted appointed agency policy, dual agency may not apply. However, an appointed agent who singularly represents both Seller(s) and Buyer(s) in the same transaction is considered to be a disclosed dual agent owing fiduciary duties to both parties and must get permission from parties to act.

Buyer(s) Initials: AF Date: 5/24/11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev 10/08A)

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**DUAL AGENCY REPRESENTATION:** Dual agency representation (Check one)  Does  Does Not apply in this transaction. If dual agency does not apply, skip this entire section. If dual agency does apply, all parties must sign at the end of this section. Broker represents both the Seller(s) and the Buyer(s) of the Property involved in this transaction, which creates dual agency. This means that Broker and its salespersons owe fiduciary duties to both Seller(s) and Buyer(s). Because the parties may have conflicting interests, Broker and its salespersons are prohibited from advocating exclusively for either party. Broker cannot act as a dual agent in this transaction without consent of both Seller(s) and Buyer(s). Seller(s) and Buyer(s) acknowledge that:  
(1) confidential information communicated to Broker which regards price, terms, or motivation to buy or sell will remain confidential unless Seller(s) or Buyer(s) instructs Broker in writing to disclose this information. Other information will be shared;  
(2) Broker and its salespersons will not represent the interest of either party to the detriment of the other;  
(3) within the limits of dual agency, Broker and the salespersons will work diligently to facilitate the mechanics of the sale; and with the knowledge and understanding of the explanation above, Seller(s) and Buyer(s) authorize and instruct Broker and its salespersons to act as dual agents in the transactions.

Buyer(s) Signature Fred Berger Date 5/24/11 Seller(s) Signature \_\_\_\_\_ Date \_\_\_\_\_  
Buyer(s) Signature \_\_\_\_\_ Date \_\_\_\_\_ Seller(s) Signature \_\_\_\_\_ Date \_\_\_\_\_

This is an offer to purchase the Property. Unless acceptance is signed by Seller(s) and a signed copy delivered in person, by mail, or facsimile, and received by Buyer(s)'s Agent by (date) 6-10-11 at (time) \_\_\_\_\_ (Check one):  am  pm CT, or unless this offer to purchase has been previously withdrawn by Buyer(s), this offer shall be deemed withdrawn and the Buyer(s)'s earnest money shall be returned.

Buyer's Signature Fred Berger Date 5/24/11 Buyer's Signature \_\_\_\_\_ Date \_\_\_\_\_  
Address \_\_\_\_\_ Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_ City, State, Zip \_\_\_\_\_

**ACCEPTANCE**

A Counter Offer(s) (Check one):  Is  Is not attached and is incorporated herein by reference. Seller(s) and Buyer(s) must sign both the Contract and the Counter Offer(s). If there is a conflict between this Contract and the Counter Offer(s), the provisions of the Counter Offer shall be controlling.

The Listing Broker, or, if applicable, Seller's Appointed Agent is representing (check one):  the Seller(s) exclusively; or  both the Buyer(s) and Seller(s).

Listing Broker's name, or, if applicable, Seller's Appointed Agent's name: Karen Fleck & Pat Maddal

Brokerage: Optree Realtors Telephone: \_\_\_\_\_

The undersigned acknowledge receipt of a copy hereof and grant permission to Selling Broker to deliver a copy to Buyer(s) Agent.  
The undersigned agree to sell the Property on the terms and conditions herein stated.

Seller's Signature \_\_\_\_\_ Date \_\_\_\_\_ Seller's Signature \_\_\_\_\_ Date \_\_\_\_\_  
Seller's Name Printed \_\_\_\_\_ Seller's Name Printed \_\_\_\_\_  
Seller's Address \_\_\_\_\_ Seller's Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_ City, State, Zip \_\_\_\_\_

Marital status (REQUIRED by Title companies): \_\_\_\_\_

**THIS IS A LEGALLY BINDING CONTRACT BETWEEN BUYER(S) AND SELLER(S). IF YOU DESIRE LEGAL, TAX, OR STRUCTURAL ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL. BISMARCK MANDAN BOARD OF REALTORS® (REV. 10/08A)**



FRED BERGER

77-1076  
913 10

No. 7787

P.O. BOX 308  
MANDAN, ND 58554

Date 5-24-11

Pay to the order of

Captree Reclater

\$ 5000.00

Five thousand & 00/100

Starion FINANCIAL

Starion  
FINANCIAL

Telephone 701-663-6434  
309 First Street NW, P.O. Box 848  
Mandan, North Dakota 58554-0848

Fred Berger

Signature of Fred Berger

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4/11/02

PURCHASE AGREEMENT # 116



PAGE 1

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

Date 6-7-11 MLS Listing # 313960 Page 1 of 6 Pages

References to "day" or "days" in this Purchase Agreement shall be construed as business days. Business days are defined as Monday through Friday, excluding Federal and State holidays.

Time is of the essence in this Purchase Agreement.

ENTIRE AGREEMENT: This Purchase Agreement, and any addenda or amendments signed by the parties, and any attached exhibits shall constitute the entire agreement between Seller(s) and Buyer(s) and supersedes any other written or oral agreements between Seller(s) and Buyer(s). This Purchase Agreement can be modified only in writing signed by Seller(s) and Buyer(s).

Buyer(s) JULIE HAIBECK has/have agreed to pay TEN THOUSAND AND 00/100----- Dollars (\$10,000.00)

for the Property at: Street Address 116 EAST MAIN ST.

City of MANDAN County of MORTON State of ND Zip 58554

Legally described as: LOT 7, BLOCK 6, MANDAN PROPER

The sum of ONE THOUSAND AND 00/100----- Dollars (\$ 1000.00 ) has been received from Buyer(s) by (Check one): [x] Check [ ] Cash [ ] Note as earnest money to be deposited upon acceptance of Purchase Agreement by all parties, on or before the next business day after acceptance, in the trust account of OAKTREE REALTORS, (Check one): [x] Listing [ ] Selling Broker or to be returned to Buyer(s) if Purchase Agreement is not accepted by Seller(s). Buyer(s) agrees to pay in the following manner: Earnest money in the amount mentioned above, and additional earnest money of \$ 0 due on [ ] Financing, if any, shall be as follows: (Check one): [x] CONVENTIONAL [ ] FHA [ ] VA [ ] ASSUMPTION [ ] CONTRACT FOR DEED [ ] OTHER: SUBJECT TO FINANCING

PRE-APPROVAL: Buyer(s) shall provide Seller(s) within 5 days, at 5 p.m., with written evidence acceptable to Seller(s) from a lender, showing pre-approval of a loan sufficient to allow Buyer(s) to purchase the property. If Buyer(s) fails to timely provide such written evidence, either party has the option to terminate this purchase agreement.

If financing fails after the contingency completion date, earnest money shall be released: [x] to Buyer [ ] to Seller [ ] Other Agreement: \_\_\_\_\_; provided, that nothing herein shall limit the right of Seller to pursue all available remedies for breach of this purchase agreement.

Including the following Property, if any, owned by Seller(s) and used and located on said Property: garden bulbs, plants, shrubs, and trees; storm windows, storm doors, screens, and awnings; window shades, blinds, traverse, curtain and drapery rods; attached lighting fixtures and bulbs; plumbing fixtures, water heater, heating plants; built-in air conditioning equipment, electronic air filter, sump pump, attached television antenna, cable TV jacks and wiring, built-in humidifier and dehumidifier; attached basketball hoops;

water softener (Check one): [ ] Owned [ ] Rented [x] None;

propane tank and controls: (Check one): [ ] Owned [ ] Rented [x] None;

BUILT INS: dishwashers, garbage disposals, trash compactors, ovens, cook top stoves, microwave ovens, hood fans, intercoms; ATTACHED: carpeting, mirrors, garage door openers and any controls, smoke detectors, fireplace screens, doors, and heat circulating inserts; and the following personal property (which is included at no additional value): NONE

The following personal property is excluded: \_\_\_\_\_

Seller(s) agrees to remove all debris and all personal property not included herein from the Property by possession date.

Buyer(s) Initials: JJA Date: 6-7-11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 04/11)



59 Includes all government payment, lease, or rental fees received between (date) \_\_\_\_\_ and (date) \_\_\_\_\_ unless  
60 specified as follows: \_\_\_\_\_.

61 Homeowner association dues, rents, and all charges for city water, city sewer, electricity, and natural gas shall be prorated  
62 between parties as of \_\_\_\_\_.

63 Heating fuel on hand at the time of possession shall be (Check one)  Included  Purchased by Buyer(s)  N/A.

66 GOVERNING LAW This agreement shall be governed by, construed and interpreted in accordance with the laws of, and under  
67 the jurisdiction of, the State of North Dakota and any actions shall be venued in the county in which the property is located.

70 REAL ESTATE TAXES, based on the most current certified tax information available, shall be prorated between Seller(s)  
71 and Buyer(s) as of CLOSING, 2011.

73 SPECIAL ASSESSMENTS shall be paid as follows: Annual Installments: Estimated annual installment due for the year of  
74 closing shall be paid by: (Check one):  Buyer(s) and Seller(s) shall prorate as of the date of closing or  Seller(s)  
75 shall pay on date of closing.

77 Unpaid Balance: (Check one):  Buyer(s) shall assume or  Seller(s) shall pay on the date of closing the balance of  
78 special assessments as of the date of closing. Following closing, Buyer(s) shall pay all real estate taxes and any unpaid special  
79 assessments payable therewith and thereafter, for which the payment is not otherwise provided. No representations have been  
80 made concerning the amount of subsequent real estate taxes or special assessments, including but not limited to assessments  
81 for completed special improvements, which have not been certified for collection.

83 CLOSING AND POSSESSION: Closing shall take place on or before JULY 30, 2011.

84 Seller(s) shall deliver possession and keys for Property at time of closing or on \_\_\_\_\_.

85 Settlement fee to be paid by (Check one):  Buyer(s)  Seller(s)  
86  Other: \_\_\_\_\_.

87 Settlement and commitment fees as defined by VA to be paid  
88 by the Seller on VA Financing. Buyer(s) agrees to allow the purchase price to be part of the Multiple Listing Service database  
89 and grants permission to use of the information by MLS participants and related government entities for comparable sales  
90 reports and statistics. Seller(s) to transfer security deposits and interest, if any, on leases to Buyer(s) at closing.

91 DEED/MARKETABLE TITLE: Upon performance by Buyer(s), Seller(s) shall deliver a WARRANTY deed  
92 (Warranty Deed unless otherwise specified), conveying marketable title, subject to: (A) Building and zoning laws,  
93 ordinances, state and federal regulations; (B) Restrictions relating to use or improvement of the Property; (C) Installments of  
94 special assessments or assessments for completed special improvements which have not been certified to the County Auditor  
95 for collection. (D) Prior reservation of any mineral rights; (E) Utility and drainage easements; (F) The Seller herein (Check one)  
96  Includes mineral rights, if any, owned by Seller(s) or  Reserves minerals as set forth in Mineral Reservation  
97 Addendum; (G) Rights of tenants as follows (unless specified, not subject to tenancies):  
98 \_\_\_\_\_

99 \_\_\_\_\_  
100 (H) Others (must be specified in writing): \_\_\_\_\_  
101 \_\_\_\_\_

102 TITLE AND EXAMINATION: Seller(s), at Seller(s)'s expense, shall furnish an updated abstract of title to the property certified  
103 to date, compiled pursuant to the NDLTA Abstracting Standards Manual (02/01/06) OR an ALTA Standard Coverage  
104 Owner's title policy, insuring the buyer's interest in the property in the amount of the sales price. If, after examination,  
105 Seller(s)'s title is not insurable or free of defects and cannot be made so by Closing, then at Buyer's option, this purchase  
106 agreement shall be terminated and the earnest money shall be refunded to Buyer(s). However, Buyer(s) may waive defects  
107 and elect to purchase. Seller to pay Abstracting Fees and Owner's Policy of Title Insurance as applicable. Buyers to pay  
108 Searching Fees, Attorney's Title Examination Fee, and Lender Policy of Title Insurance.

110 ENVIRONMENTAL CONCERNS: To the best of the Seller(s)'s knowledge, there are no hazardous substances or underground  
111 storage tanks unless otherwise noted in Purchase Agreement.

113 RISK OF LOSS: If there is any loss or damage to the Property between the date hereof and the date of closing for any reason,  
114 including fire, vandalism, flood, hail, wind, earthquake, or act of God, the risk of loss shall be on the Seller(s). If the Property  
115 is destroyed or substantially damaged before the closing date, this Purchase Agreement shall become null and void, at  
116 Buyer(s)'s option, and the earnest money shall be refunded to Buyer(s).

118 Buyer(s) Initials: [Signature] Date: 6-7-11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 04/11)



119 INSPECTIONS AND REPAIRS: Seller(s) shall make the Property available for all inspections and tests upon reasonable notice
120 by Buyer(s). Seller(s) shall at Seller(s)'s expense have all utilities on, including any propane, at the time of inspections. Any
121 agreed upon repairs or other actions to correct items shall be completed by Seller(s) prior to Closing unless both parties agree
122 in writing that funds for such repairs shall be escrowed.
123

124 SQUARE FOOTAGE AND/OR ACREAGE: Buyer(s) is aware that any reference to the square footage and/or acreage of the
125 Property, both the real Property (land) and improvements thereon, is approximate. If square footage and/or acreage is a
126 material matter to the Buyer(s), it must be verified by the Buyer(s).
127

128 SELLER(S) WARRANTIES:

129 Seller(s) warrants that building(s) is/are, or will be, constructed entirely within the boundary lines of the Property.
130 Seller(s) warrants that there is a right of access to the Property from a public right of way.

131 Seller(s) warrants that prior to closing, payment in full will have been made for: 1.) All condo and/or home association fees;
132 and 2.) all labor, materials, machinery, fixtures, or tools, furnished within the 90 days immediately preceding the closing,
133 used in connection with construction, alteration, or repair of any structure on, or improvement to, the Property.

134 Seller(s) warrants that Seller(s) has not received any notice from any governmental authority as to violation of law,
135 ordinance, or regulation for a condition that remains uncorrected, or any other notice from any governmental authority
136 regarding the subject Property.

137 Seller(s) warrants that, if Property is subject to restrictive covenants, Seller(s) has not received any notice from any person or
138 authority as to a breach of the covenants which remains uncorrected. Any notices received by Seller(s) will be provided to
139 Buyer(s) immediately.

140 Seller(s) warrants that all appliances, heating, air conditioning, wiring and plumbing systems used and located on the
141 Property will be in working order on the date of closing, except as noted in the Property disclosure statement.

142 Seller(s) warrants that the Property is directly connected to: City Sewer: [x] yes [ ] no Well: [ ] yes [x] no
143 Water system is: [x] City [ ] Rural. If rural, will membership be transferred? [ ] yes [ ] no [x] N/A
144

145 FINAL WALK THROUGH: The Seller(s) grants Buyer(s) and any representative of Buyer(s) reasonable access to conduct a
146 final walk through of the Property for the purpose of determining that repairs have been completed and that the Property is in
147 substantially the same condition as on the date of acceptance of the contract. Seller(s) understands that the final walk through
148 requires that the utilities be on, including propane, if applicable, and the Seller(s) is responsible for providing same at his
149 expense. If Buyer(s) does not conduct such walk through, Buyer(s) specifically releases Broker(s) of any liability.
150

151 BUYER(S) RESPONSIBILITY REGARDING INSPECTIONS AND INVESTIGATIONS: Buyer(s) is advised by Broker to obtain
152 inspections and investigations of the Property. Buyer(s) acknowledges that Buyer(s) should make inquiries and consult
153 government agencies, lenders, insurance agents, architects, and other appropriate persons and entities concerning the use of
154 the Property and the surrounding areas under applicable building, zoning, fire, health, and safety codes, and for
155 evaluation of potential hazards. Buyer(s) shall keep the Property free and clear of liens, shall indemnify and hold Seller(s)
156 harmless from all liability, claims, demands, damages, and costs, and shall repair all damages arising from the inspections.
157 The inspection period is the Buyer(s)'s sole opportunity to discover any existing defects prior to Closing. Buyer(s) waives
158 any claim for an item warranted by the Seller(s) if Buyer(s) becomes aware of such claim during the Inspection Period and
159 does not notify the Seller(s) in writing of such. Buyer(s) specifically releases, holds harmless, and indemnifies Broker(s) from
160 any liability for any defects in the Property. If Buyer(s) requests repairs, Buyer(s) shall provide Seller(s) and Broker(s) upon
161 receipt, at no cost, copies of all reports concerning the Property obtained by Buyer(s).
162

163 HOME PROTECTION PLAN: The Buyer(s) and/or Seller(s), at their option, may purchase a Home Protection Plan. This is an
164 option and each plan may vary. Please contact Broker if you are interested. If no action is taken, it will be assumed that you
165 waive this option. Buyer(s) has been made aware of the availability of home warranty plans.

166 Buyer(s) (Check one): [ ] Elects [x] Declines to have a home warranty plan.
167 If elects, plan to be paid by (Check one): [ ] Buyer(s) or [ ] Seller(s) at a cost not to exceed \$ \_\_\_\_\_. Plan to be
168 ordered by (Check one): [ ] Listing Broker [ ] Selling Broker. Broker and/or agent ordering the plan may receive a
169 processing fee for services related to the purchase of a home protection plan.
170

171 MEGAN'S LAW DISCLOSURE: If Buyer(s) desires to obtain information regarding persons required to register as sexual
172 offenders under North Dakota Law, Buyer(s) must contact the ND Attorney General's office, or access the Attorney
173 General's web site at http://www.sexoffender.nd.gov/.
174

175 LEAD-BASED PAINT DISCLOSURE: Was Property built prior to 1978? [x] yes [ ] no If yes, this purchase
176 agreement is contingent on Buyer(s)'s review and acceptance of the Seller(s)'s "Disclosure of Information on Lead-
177 Based Paint and Lead-Based Paint Hazards" (see Contingencies section).

178 Buyer(s) Initials: [Signature] Date: 6-7-11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 04/11)



**DEFAULT:** If Seller(s)'s title is marketable or insurable and Buyer(s), contrary to this agreement, fails, neglects or refuses to complete the Purchase within ten (10) days after title is proven marketable or insurable, or by the closing date, whichever is later, then, at Seller(s)'s option either the earnest money shall be forfeited to Seller(s) as liquidated damages, since the parties agree the calculation of damages to Seller(s) would be difficult to ascertain with certainty and since parties further agree that the amount of liquidated damages is a reasonable attempt to estimate damages which will be suffered by the Seller(s), and this Agreement thereupon shall be of no further binding effect; or Seller(s) may demand and pursue any and all other remedies including but not limited to actual damages or specific performance of this agreement. If Seller(s), contrary to this Agreement, fails, neglects or refuses to perform as agreed, Buyer(s) may demand and pursue any and all remedies including, but not limited to, specific performance of this Agreement. A claim of either party for specific performance, or the Seller(s)'s claim to the earnest money as liquidated damages, shall be waived, unless legal proceedings are commenced within three (3) months after scheduled date of closing; further, unless the Seller, delivers copies of documents evidencing the Seller's commencement of legal proceedings to claim the earnest money to the Broker who has possession of the earnest money within said three-month time period; then the Broker, who has possession of the earnest money, shall be authorized to return the earnest money to the Buyer, free of any claim by the Seller. Retention of earnest money in any Broker's trust account pending resolution of the default shall not constitute an election of remedies by either party or prejudice their rights to pursue any and all other remedies including, but not limited to, specific performance.

**CONTINGENCIES:** All applicable contingencies must be initialed by Buyers and Sellers. This purchase agreement is subject to the satisfaction of those contingencies which are initialed below by both parties.

Buyer(s) and Seller(s) agree that, by 5 p.m. on (date) JULY 8, 2011 (contingency completion date), all contingencies agreed to in items 1 through 15 below shall be addressed to completion. The party with the option to terminate shall in no event have less than 48 hours from receipt of required information/documentation to give notice of termination, even if the contingency completion date is extended as a result.

Under the following contingencies, the Buyer, or the Seller, or in certain instances either party, has the option to terminate the purchase agreement; said option to be exercised by giving written notice by the contingency completion date. If such written notice is given by the contingency completion date the Buyer(s) shall receive a full refund of the earnest money. If written notice is not given by the contingency completion date by a party which had the option to terminate the purchase agreement, then the option to terminate the purchase agreement under the applicable contingencies are deemed to be waived. (See "Default" section.)

<b>BUYERS AND SELLERS MUST INITIAL ALL APPLICABLE CONTINGENCIES.</b>	<b>BUYER(S) INITIALS</b>	<b>SELLER(S) INITIALS</b>
<b>1. PROPERTY CONDITION STATEMENT:</b> Seller(s) to provide Buyer(s) with a Property Condition Statement. Buyer to review Property Condition Statement. If Buyer does not approve the Property Condition Statement, Buyer has the option to terminate this purchase agreement.		
<b>2. INSPECTIONS:</b> Buyer to complete inspections. If Buyer does not approve the results of the inspections, Buyer has the option to terminate this purchase agreement. Inspections and tests to be conducted at Buyer's Expense : (check all that apply): <input type="checkbox"/> Physical Property Inspection <input type="checkbox"/> Radon <input type="checkbox"/> Mold <input type="checkbox"/> Lead-Based Paint <input type="checkbox"/> Septic System <input type="checkbox"/> Asbestos <input type="checkbox"/> Well <input type="checkbox"/> Other:		
<b>3. LEAD-BASED PAINT:</b> Seller(s) to provide Lead-Based Paint Disclosure (for properties built prior to 1978 only). If Buyer does not approve Lead-Based Paint Disclosure, Buyer has the option to terminate this purchase agreement.		
<b>4. CLAIMS LOSS HISTORY:</b> Seller(s) shall provide an insurance claims loss history report to Buyer(s). (Note: there are several kinds of such reports, one example is a CLUE report). If Buyer does not approve claims loss history report, Buyer has the option to terminate this purchase agreement.		
<b>5. INSURANCE ADJUSTER'S REPORT:</b> Seller(s) shall provide copies of any insurance adjuster's reports for the previous _____ years. If Buyer does not approve insurance adjuster's reports, Buyer has the option to terminate this purchase agreement.		
<b>6. FLOOD PLAIN:</b> Buyer(s) to obtain flood plain verification. If Buyer does not approve the results of the flood plain verification, Buyer has the option to terminate this purchase agreement.		
<b>7. CONDO DOCUMENTS:</b> Seller(s) shall provide current copies of condo by-laws and amendments, regulations, most recent financial statement, and minutes of the last two meetings. If Buyer does not approve these condo documents, Buyer has the option to terminate this purchase agreement.		
<b>8. LEASES:</b> Seller(s) shall provide copies of current leases to Buyer. If Buyer does not approve the leases, Buyer has the option to terminate this purchase agreement.		
<b>9. REGISTERED SEX OFFENDERS:</b> Buyer(s) investigation of the possible presence of registered sex offenders in the vicinity of the property. If Buyer does not approve the findings regarding registered sex offenders, Buyer has the option to terminate this purchase agreement.		

Buyer(s) Initials: JK Date: 6-7-11 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev 04/11)



	BUYER(S) INITIALS	SELLER(S) INITIALS
10. <b>RESTRICTIONS AND COVENANTS:</b> Buyer(s) review of any government and/or private use restrictions and restrictive covenants. If Buyer does not approve the use restrictions or covenants, Buyer has the option to terminate this purchase agreement.		
11. <b>MANUFACTURED HOME PARK:</b> Buyer(s) shall give notice to Seller(s) that approval has been obtained from manufactured home park for Buyer(s) to reside in the manufactured home in its existing location. If Buyer fails to timely provide notice of such approval, either party has the option to terminate this purchase agreement.		
12. <b>WATER QUALITY TESTS:</b> Buyer(s) obtain water quality tests, at Buyer(s) expense. If Buyer does not approve the results of the water quality tests, Buyer has the option to terminate this purchase agreement.		
13. <b>SURVEY:</b> Buyer(s) shall obtain a survey of the property, conducted at (check one): <input type="checkbox"/> Buyer's expense or <input type="checkbox"/> Seller's expense. If Buyer does not approve the results of the survey, Buyer has the option to terminate this purchase agreement.		
14. <b>PLANS AND PERMITS:</b> Buyer(s) to obtain all necessary plans and permits for one or more of the following purposes: building plans and specifications, proposed subdivision development plans, rezoning or use permits, approval of building plans and/or specification in accordance with any recorded subdivision covenants, and approval of the architectural control committee. If Buyer does not obtain said plans and permits, Buyer has the option to terminate this purchase agreement.		
15. <b>SOIL TESTS:</b> Buyer(s) to obtain soil tests and percolation tests at <input type="checkbox"/> Buyer's expense or <input type="checkbox"/> Seller's expense. If Buyer does not approve the test results, Buyer has the option to terminate this purchase agreement.		



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**OTHER CONTINGENCIES:**

A. **APPRAISAL CONTINGENCY:** Buyer's obligation to purchase is contingent on the property appraising at or above the agreed upon purchase price. If this contingency fails, Buyer(s) has the option to terminate this purchase agreement.

B. **24/48/72 HOUR CONTINGENCY ADDENDUM:** (check one)  does  does not apply (see attached addendum made a part of this contract, if applicable).

C. **CLOSING OF BUYER'S PROPERTY:** (This provision to be used if Buyer's property is under contract at the time of offer): (check one)  does  does not apply Buyer's obligation to purchase is contingent on closing of Buyer's property at (address) \_\_\_\_\_ Buyer(s) to provide written evidence within \_\_\_\_\_ days showing that Buyer(s) property has an accepted purchase agreement with qualified buyer and will close on or before closing of this Purchase Agreement.

**PLEASE NOTE:** Buyer(s) may incur additional charges for improving the property including, but not limited to hook-up and/or access charges, costs for sewer access, stubbing access, water access, park dedication, road access, utility connection, phone lines, connecting fees, curb cuts, and tree planting.

**SPECIAL CONDITIONS:**  
SEE ATTACHED CITY OF MANDAN REQUIREMENTS FOR THE SALE OF THIS PROPERTY, WHICH IS HEREBY MADE A PART OF THIS AGREEMENT. SELLER TO REPLACE THE FRONT CANOPY.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RELEASE OF BROKER(S):** Seller(s) and Buyer(s) hereby expressly release, hold harmless and indemnify all Broker(s) in this transaction from any and all liability and responsibility, including but not limited to, the property condition, square footage, acreage, lot lines or boundaries, value, rent rolls, environmental problems, mold, water, sanitation systems, roof, wind damage, hail damage, wood infestation and wood infestation report, compliance with building codes or other governmental regulations, or any other material matters relating to the Property.

**AGENCY DISCLOSURE:** PATRICK MADDOCK (  Agent  Broker )  
Brokerage OAKTREE REALTORS  
Stipulates that she/he is representing the (Check one):  Seller(s)  Buyer(s)  Neither Party  Both Parties in this transaction. The listing agent or broker stipulates that she/he is representing the Seller(s) in this transaction.

**APPOINTED AGENCY:** Applies to in-house transactions only. Appointed agency (Check one):  Does  Does Not apply. If Broker has adopted appointed agency policy, dual agency may not apply. However, an appointed agent who singularly represents both Seller(s) and Buyer(s) in the same transaction is considered to be a disclosed dual agent owing fiduciary duties to both parties and must get permission from parties to act.

Buyer(s) Initials:   *JA*   Date:   6-7-11   Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev 04/11)



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**DUAL AGENCY REPRESENTATION:** Dual agency representation (Check one)  Does  Does Not apply in this transaction. If dual agency does not apply, skip this entire section. If dual agency does apply, all parties must sign at the end of this section. Broker represents both the Seller(s) and the Buyer(s) of the Property involved in this transaction, which creates dual agency. This means that Broker and its salespersons owe fiduciary duties to both Seller(s) and Buyer(s). Because the parties may have conflicting interests, Broker and its salespersons are prohibited from advocating exclusively for either party.

Broker cannot act as a dual agent in this transaction without consent of both Seller(s) and Buyer(s). Seller(s) and Buyer(s) acknowledge that:

- (1) confidential information communicated to Broker which regards price, terms, or motivation to buy or sell will remain confidential unless Seller(s) or Buyer(s) instructs Broker in writing to disclose this information. Other information will be shared;
- (2) Broker and its salespersons will not represent the interest of either party to the detriment of the other;
- (3) within the limits of dual agency, Broker and the salespersons will work diligently to facilitate the mechanics of the sale; and with the knowledge and understanding of the explanation above, Seller(s) and Buyer(s) authorize and instruct Broker and its salespersons to act as dual agents in the transactions.

Buyer(s) Signature	Date	Seller(s) Signature	Date
Buyer(s) Signature	Date	Seller(s) Signature	Date

This is an offer to purchase the Property. Unless acceptance is signed by Seller(s) and a signed copy delivered in person, by mail, or facsimile, and received by Buyer(s)'s Agent by (date) JUNE 21, 2011 at (time) 8 (Check one):  am  pm CT, or unless this offer to purchase has been previously withdrawn by Buyer(s), this offer shall be deemed withdrawn and the Buyer(s)'s earnest money shall be returned.

Buyer's Signature	Date	Buyer's Signature	Date
Address		Address	
City, State, Zip		City, State, Zip	

**ACCEPTANCE**

A Counter Offer(s) (Check one):  Is  Is not attached and is incorporated herein by reference. Seller(s) and Buyer(s) must sign both the Contract and the Counter Offer(s). If there is a conflict between this Contract and the Counter Offer(s), the provisions of the Counter Offer shall be controlling.

The Listing Broker, or, if applicable, Seller's Appointed Agent is representing (check one):  the Seller(s) exclusively; or  both the Buyer(s) and Seller(s).

Listing Broker's name, or, if applicable, Seller's Appointed Agent's name: \_\_\_\_\_

Brokerage: \_\_\_\_\_ Telephone: \_\_\_\_\_

The undersigned acknowledge receipt of a copy hereof and grant permission to Selling Broker to deliver a copy to Buyer(s) Agent.

The undersigned agree to sell the Property on the terms and conditions herein stated.

Seller's Signature	Date	Seller's Signature	Date
Seller's Name Printed		Seller's Name Printed	
Seller's Address		Seller's Address	
City, State, Zip		City, State, Zip	

Marital status (REQUIRED by Title companies): \_\_\_\_\_

**AGENCY RELATIONSHIPS IN REAL ESTATE TRANSACTIONS**

North Dakota law requires that early in any relationship, real estate brokers or salespersons discuss with consumers what type of agency representation or relationship they desire.<sup>(1)</sup> The available options are listed below. This is not a contract. **This is an agency disclosure form only. If you desire representation, you must enter into a written contract according to state law** (a listing contract or a buyer representation contract). Until such time as you choose to enter into a written contract for representation or assistance, you will be treated as a customer of the broker or salesperson and not represented by the brokerage. **WITHOUT AN AGENCY RELATIONSHIP A BROKER OR SALESPERSON DOES NOT OWE ANY PARTY ANY OF THE FIDUCIARY DUTIES LISTED BELOW.**

I. **Seller's Broker:** A broker who lists a property, or a salesperson who is licensed to the listing broker, represents the Seller and acts on behalf of the Seller. A broker or salesperson working with a Buyer may also act as a subagent of the Seller, in which case the Buyer is the broker's customer and is not represented by that broker. A Seller's broker owes to the Seller the fiduciary duties described below.<sup>(2)</sup> The broker must also disclose to the Buyer any material facts of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property. If a broker or salesperson working with a Buyer as a customer is representing the Seller, he or she must act in the Seller(s) interests and must tell the Seller(s) any information disclosed to him/her. In that case, the Buyer will not be represented and will not receive advice and counsel from the broker or salesperson.

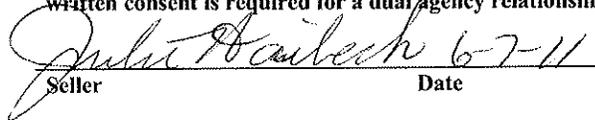
II. **Buyer's Broker:** A Buyer may enter into an agreement for the broker or salesperson to represent and act on behalf of the Buyer. The broker may represent the Buyer only, and not the Seller, even if s/he is being paid in whole or in part by the Seller. A Buyer's broker owes to the Buyer the fiduciary duties described below.<sup>(2)</sup> The broker must disclose to the Buyer any material facts of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property.

III. **Dual Agency - Broker Representing Both Seller and Buyer:** Dual agency occurs when one broker or salesperson represents both parties to a transaction, or when two salespersons licensed to the same broker each represent a party to the transaction. Dual agency requires the informed consent of all parties, and means that the broker or salesperson owe the same duties to the Seller and the Buyer. This rule limits the level of representation the broker and salespersons can provide, and prohibits them from acting exclusively for either party. In a dual agency, confidential information about price, terms, and motivation for pursuing a transaction will be kept confidential unless one party instructs the broker or salesperson in writing to disclose specific information about him or her. Other information will be shared. Dual agents may not advocate for one party to the detriment of the other.<sup>(3)</sup>

Within the limitations described above, dual agents owe to both Seller and Buyer the fiduciary duties described below.<sup>(2)</sup> Dual agents must disclose to Buyers any material facts of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property.

IV. **Appointed Agency:** A broker has the option of replacing Dual Agency as described under paragraph III above with APPOINTED AGENCY for in-house transactions. The broker may appoint one licensee affiliated with the broker to exclusively represent a Seller, and one licensee affiliated with the broker to exclusively represent a Buyer. In that case, no dual agency is created. NOTICE: Any appointed agent who singularly represents both the Seller and the Buyer in the same transaction is considered to be a disclosed dual agent owing fiduciary duties to both parties, and must get permission from both parties to so act.

**ACKNOWLEDGEMENT: I/We acknowledge that I/We have been presented with the above-described options. I/We understand that Buyers who have not signed a Buyer representation contract are not represented by the broker/salesperson and information given to the broker/salesperson will be disclosed to the Seller. I/We understand that written consent is required for a dual agency relationship. This is a disclosure only, NOT a contract for representation.**

 Seller _____ Date _____	Buyer _____ Date _____
Seller _____ Date _____	Buyer _____ Date _____

(1) This disclosure is required by law in any transaction involving property occupied or intended to be occupied by one to four families as their residence.

(2) The fiduciary duties mentioned above are listed below and have the following meanings:  
Loyalty - broker/salesperson will act only in client(s)' best interest.  
Obedience - broker/salesperson will carry out all client(s)' lawful instructions.  
Disclosure - broker/salesperson will disclose to client(s) all material facts of which broker/salesperson has knowledge which might reasonably affect the client's rights and interests.  
Confidentiality - broker/salesperson will keep client(s)' confidences unless required by law to disclose specific information (such as disclosure of material facts to Buyers).  
Reasonable Care - broker/salesperson will use reasonable care in performing duties as an agent.  
Accounting - broker/salesperson will account to client(s) for all client(s)' money and property received as agent.

(3) If Seller(s) decide not to agree to a dual agency relationship, Seller(s) may give up the opportunity to sell the property to Buyers represented by the broker/salesperson. If Buyer(s) decides not to agree to a dual agency relationship, Buyer(s) may give up the opportunity to purchase properties listed by the broker.

# AGENCY DISCLOSURE TO BUYER CUSTOMER

Before \_\_\_\_\_ ("Firm") begins to assist you in finding and purchasing a property, we must disclose to you that Broker will be representing the seller in the transaction.

Broker will disclose to you all material facts about the property of which Broker is aware, that could adversely and significantly affect your use or enjoyment of the property. Broker will also assist you with the mechanics of the transaction.

When it comes to the price and terms of an offer, Broker will ask you to make the decision as to how much to offer for any property and upon what terms and conditions. Broker can explain your options to you, but the ultimate decision is yours. Broker will attempt to show you properties in the price range and category you desire so that you will have information on which to base your decision.

Broker will present to the seller any written offer that you ask Broker to present. Broker asks you to keep to yourself any information about the price or terms of your offer, or your motivation for making an offer, that you do not want the seller to know. Broker would be required, as the seller's agent, to disclose this information to the seller. You should carefully consider sharing any information with Broker that you do not want disclosed to the seller.

  
Customer

\_\_\_\_\_  
(Broker)

\_\_\_\_\_  
Customer

BY: \_\_\_\_\_  
Salesperson

Dated: \_\_\_\_\_



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** September 20, 2011  
**PREPARATION DATE:** September 14, 2011  
**SUBMITTING DEPARTMENT:** Business Development & Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Ellen Huber, Business Development & Communications Director  
**SUBJECT:** Small Business Credit Initiative

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STATEMENT/PURPOSE: To consider approval of an application by the City of Mandan for the U.S. Department of Treasury's Small Business Credit Initiative.

BACKGROUND/ALTERNATIVES: The Small Business Credit Initiative is part of the Small Business Jobs Act of 2010, funded to provide support for lending to small businesses and small manufacturers to expand and create jobs. An allocation of \$13.1 million is available for municipalities in North Dakota. The Mandan City Commission approved filing of a "Notice of Intent to Apply" on Aug. 2, 2011, based on a plan whereby Mandan will serve as the "lead applicant" and contract for administration of SBCI-supported programs with the Lewis and Clark Regional Development Council (LCRDC).

The City of Mandan Business Development and Communications office and the LCRDC during August and September have outlined a plan, invited other cities to be a part of the strategic partnership through joint application, and are in the process of completing the federal application forms for submittal by the Sept. 27 deadline. Important aspects of the Small Business Credit Initiative and the proposed application and collaborative arrangements are as follows:

#### Advantages of the coalition

- **Potential access to more funding** than if cities were to apply separately. Funding is awarded based on population. If more than three municipalities, or a combination of municipalities, apply and meet the applicable approved criteria and eligibility considerations, funds are to be allocated to the three municipalities or combinations with the largest populations.
- **In-state, local management** through the LCRDC which will result in greater local economic benefit and effectiveness because administration fees stay in our

local economy and the LCRDC has established relationships with area economic developers and financial institutions.

- **Proven experience** in managing federal, state and local funds. The LCRDC manages seven different federally funded loan pools with a record of clean, independent audits and a demonstrated 16:1 ratio of public to private investment on current portfolios.

### **Programs**

Two programs of the five options available under the SBCI provisions are recommended to benefit small business start-ups and expansions in North Dakota. As dollars are loaned to or invested in businesses, repayments from recipients will replenish the program funds allowing them to revolve and continue to provide assistance for years to come. Funds become de-federalized after March 31, 2017.

- **Loan Participation Program (75%).** Lender originates a senior loan and the program provides for a second (usually subordinate) loan to the same borrower.
- **Venture Capital Program (25%).** Provides investment capital to create and grow start-up and early-stage businesses. Investments can be made directly in businesses, or in other venture capital funds that in turn invest in individual businesses.

### **Responsibilities**

As the lead applicant, the City of Mandan, primarily the Business Development and Communications Office, will serve as the point of contact for all matters involving the application and will be responsible for ensuring that all parties to the joint application comply with program requirements. The lead applicant will work with the LCRDC to assure timely compilation and submission of all quarterly reports, annual reports, federal finance reports, and for responding to any requests for information from Treasury staff. If funding is approved, prior to closing, municipalities in a joint application must submit for Treasury review a cooperative agreement outlining the internal allocation of funds and respective roles.

### **No Costs Involved, Minimal Risk**

Assuming the application receives approval by the U.S. Department of Treasury, the federal regulations allow for reimbursement from the fund for normal and ordinary expenses incurred by the city for acting in the capacity of grantee.

No local match is required. New and expanding businesses located in participating municipalities will be eligible to apply via the LCRDC for loan or investment assistance. Treasury will make the allocation of federal funds available in thirds. If a participating municipality is found in default of its allocation agreement, Treasury may recoup misused funds. Treasury may also withhold any future disbursements.

Approved municipalities must demonstrate that programs funded through the initiative result in a minimum \$10 of new small business lending for each \$1 of federal funds. The

allocation is made available to a municipality in thirds. If sufficient progress is not made in year 1, second and third payments would not be provided. The same is true in year 2 regarding the third payment. Progress reports are required though March 31, 2017. Thereafter, the applicant may retain the funds for a continuation of its credit support programs.

### **Governance**

The LCRDC Board will establish a SBCI steering committee consisting of one representative of each participating city for purposes of reviewing the cooperating agreement and presenting it to each participating municipality for consideration of approval.

The LCRDC Board will then establish a SBCI loan and venture capital fund review subcommittee based on nominations/appointments made by participating municipalities and the steering committee. The suggested arrangement is approximately 13 people with lending or venture capital experience for service of two-year terms based on the following provisions:

- 3 seats for any participating city with a population of 100,000 or more
- 2 seats for any participating city with a population of 50,000 or more
- 1 seat for any participating city with a population of 10,000 or more, and
- at least 3 seats for smaller cities to be elected by the participating small cities.

### **De-federalization of funds in 2017**

The SBCI Steering Committee as proposed would meet in the last six months to make a recommendation. Possible scenarios include:

- Disbursement of excess revenues over expenses after administration to participating cities based on population at the time of application
  - Retain cumulative funds for continued programs (could open to cities statewide with caveat that only original participating cities are eligible for any funds disbursement)
- A split of the two options such as retaining 50% of funds and disbursing 50% of funds

### **Co-applicants**

To date, the City of Mandan Business Development Office and the LDRDC have received signed documents from the following cities and federally recognized Indian tribes: Almont, Beach, Beulah, Bowman, Garrison, Glen Ullin, Hazen, Hebron, Lincoln, Linton, McClusky, Mott, Standing Rock Sioux Tribe, Turtle Lake, Watford City and Wilton. Indications of an intent to co-apply have been received from: Bismarck, Coleharbor, Dickinson, Fargo, Hazelton, Minot, New Salem, and Williston.

ATTACHMENTS:

- An FAQ document, program guidelines and more information is available at <http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx>
- A draft application will be available by the Sept. 20 meeting.

FISCAL IMPACT: The amount of funding received will depend on the population represented by the City of Mandan and co-applicants in relation to the population represented by any other applicants from North Dakota. The total available is \$13,168,350. An allocation of approximately \$10 million may be attainable.

STAFF IMPACT: If an allocation is approved, staff time will be required to develop a contract with the LCRDC for administration and management of the programs and to craft a cooperative agreement with the other participating North Dakota cities and tribes for program oversight and promotion. Actual costs will be reimbursed from the program allowance for administrative expenses.

LEGAL REVIEW: Attorney Brown has reviewed program requirements and outlined the City of Mandan's legal authority to accept the federal funds per application requirements. If an allocation is received, additional legal assistance in developing the contract and cooperative agreements will be needed.

RECOMMENDATION: I recommend approval of the application for U.S. Department of Treasury's Small Business Credit Initiative with the City of Mandan serving as the lead for other North Dakota municipalities.

SUGGESTED MOTION: I move to approve the City of Mandan's application for the U.S. Department of Treasury's Small Business Credit Initiative.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** September 20, 2011  
**PREPARATION DATE:** September 15, 2011  
**SUBMITTING DEPARTMENT:** Business Development & Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development & Communications Director  
**PRESENTER:** Ellen Huber, Business Development & Communications Director  
**SUBJECT:** Recommendation for a Renaissance Zone Committee appointment

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**STATEMENT/PURPOSE:** To consider a recommendation from the Mandan Renaissance Zone Committee regarding the appointment of a member to fill an unexpired term for a position to be vacated by Jay Feil with his resignation effective Sept. 30, 2011.

**BACKGROUND/ALTERNATIVES:** Feil notified the committee of his intended resignation date at a June meeting. A news release was issued July 14 with letters of interest due Aug. 1, 2011. The release called for interest from representatives of local financial institutions. It was e-mailed to the local financial institutions and also appeared in the Mandan News and Bismarck Tribune. A letter of interest was received from Darren Haugen, senior vice president of financial services for Starion Financial.

**ATTACHMENTS:** Haugen letter of interest.

**FISCAL IMPACT:** None

**STAFF IMPACT:** None

**LEGAL REVIEW:** n/a

**RECOMMENDATION:** The Mandan Renaissance Committee voted to unanimously recommend the appointment of Darren Haugen to fill the remainder of a three-year term that expires at the end of 2013.

**SUGGESTED MOTION:** I move to appoint Darren Haugen to the Mandan Renaissance Zone Committee.



July 21, 2011

Ellen Huber  
Business Development Department  
205 2<sup>nd</sup> Ave. NW  
Mandan, ND 58554

**RE: Mandan Renaissance Zone Committee Opening**

Dear Ms. Huber,

I am pleased to submit my name as a candidate for the open seat on the Mandan Renaissance Zone Committee. This is a great opportunity to serve the people and interests of the community I have called home for some 36 plus years.

My background consists of not only gaining an upbringing and education in Mandan, but also a career. Upon graduating from Mandan High School in 1988 I sought out higher education and graduated with a Bachelors of Science degree in Business Administration from Moorhead State University in Moorhead, MN. After a four year period of serving banks across North Dakota as the Insurance and Services Manager for the ND Bankers Association, I was recruited by Starion Financial, formerly First Southwest Bank, and have proudly served here in the Mandan office for over a decade as the SVP of Financial Services.

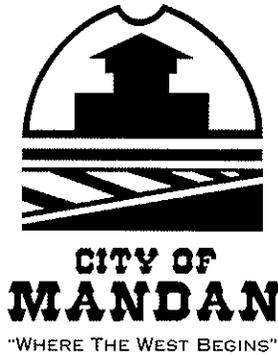
During my tenure in Mandan with Starion Financial, I have met many business leaders and have been involved in several community activities to include the Kiwanis Club, Mandan Hockey Club, Messiah Lutheran Church as Treasurer, Martin Luther School Development Committee, and numerous educational activities.

My wife Deb and I have both been raised in Mandan and now proudly raise our children here. My daughter is entering the sixth grade and will soon attend class at the new Junior High while my son will be a junior at Mandan High School. We have much invested in our community and I would like nothing more than to give back by providing service to the Mandan Renaissance Zone Committee. Please accept this letter as my submission for the open seat to be filled on October 1, 2011.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren J. Haugen", written over a light blue decorative wave graphic.

Darren J. Haugen  
SVP, Financial Services  
Starion Financial



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** September 20, 2011  
**PREPARATION DATE:** September 14, 2011  
**SUBMITTING DEPARTMENT:** Finance  
**DEPARTMENT DIRECTOR:** Greg Welch  
**PRESENTER:** Greg Welch  
**SUBJECT:** Resolution authorizing filing of application with the Industrial Commission of North Dakota for a Disaster Loan under the Capital Financing Program through the North Dakota Public Finance Authority.

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#### PURPOSE

To consider a Resolution authorizing filing of application with the Industrial Commission of North Dakota for a Disaster Loan under the Capital Financing Program through the North Dakota Public Finance Authority.

#### BACKGROUND

The North Dakota Public Finance Authority (PFA) has partnered with the Bank of North Dakota (BND) to offer low-interest, disaster loans to political subdivisions impacted by 2011 weather and flooding. Through its Capital Financing Program, the PFA will consider applications from any political subdivision in counties that received a presidential disaster declaration or a gubernatorial executive order or proclamation of a state disaster or emergency. The PFA financing can provide short-term funding for a political subdivision while the entity is waiting for reimbursement from the federal or state government or provide cash flow financing until sufficient tax revenues have been received to meet the local match requirements.

As a result of the City of Mandan's 2011 flood event and the cash flow needs to pay for the City's flood related costs, the City needs to file an application with the Industrial Commission of North Dakota for a Disaster Loan under the Capital Financing Program through the North Dakota Public Finance Authority.

Board of City Commissioners

Agenda Documentation

Meeting Date: September 20, 2011

Subject: Resolution authorizing filing of application with the Industrial Commission of North Dakota for a Disaster Loan under the Capital Financing Program through the North Dakota Public Finance Authority.

Page 2 of 2

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The Loan proceeds will be used to provide short-term funding for the City while the City is waiting for reimbursement from FEMA and the State of North Dakota.

As a part of the Disaster Loan Application, a Resolution of the governing body is required with respect to the borrowing.

#### ATTACHMENTS

- Press Release from the Industrial Commission of North Dakota dated June 16, 2011.
- Capital Financing Program Loan Application Package cover page and Fact Sheet.
- Resolution

#### FISCAL IMPACT

The total CFP Loan request = \$8,000,000

The Loan will be repaid upon receipt of reimbursements from FEMA and the State of North Dakota.

#### STAFF IMPACT

None

#### LEGAL REVIEW

The Resolution was reviewed by Malcolm Brown, City Attorney.

#### RECOMMENDATION

To approve the Resolution authorizing filing of application with the Industrial Commission of North Dakota for a Disaster Loan under the Capital Financing Program through the North Dakota Public Finance Authority.

#### SUGGESTED MOTION

Move to approve the Resolution authorizing filing of application with the Industrial Commission of North Dakota for a Disaster Loan under the Capital Financing Program through the North Dakota Public Finance Authority.



# INDUSTRIAL COMMISSION OF NORTH DAKOTA

Jack Dalrymple  
Governor

Wayne Stenehjem  
Attorney General

Doug Goehring  
Agriculture Commissioner

For Immediate Release

June 16, 2011

## State to offer loans to political subdivisions impacted by weather

Bismarck – The North Dakota Public Finance Authority (PFA) has partnered with Bank of North Dakota (BND) to offer low-interest, disaster loans to political subdivisions impacted by 2011 weather and flooding.

“Local political subdivisions have contacted my office requesting low-interest loans to help them cash flow the unanticipated costs they are incurring in 2011,” said Gov. Jack Dalrymple. “I requested and we have received presidential disaster declarations but often the funding resulting from those declarations can take some time in being received. This loan program can provide a cash flow bridge until federal funds are finally available.”

Through its Capital Financing Program, the PFA will consider applications from any political subdivision in counties that received a presidential disaster declaration or a gubernatorial executive order or proclamation of a state disaster or emergency.

“This is a tool we hope will be helpful to our political subdivisions as they deal with the many challenges brought on by the weather-related events of 2011,” said Attorney General Wayne Stenehjem.

The PFA financing can provide short-term funding for a political subdivision while the entity is waiting for reimbursement from the federal or state government or provide cash flow financing until sufficient tax revenues have been received to meet the local match requirements.

“By working with the state bank, the authority can offer a low-interest floating rate to political subdivisions which in turn reduces costs to North Dakotans,” said Agriculture Commissioner Doug Goehring.

This special disaster assistance financing is being offered until Dec. 31, 2011. More information about the program can be obtained by contacting the PFA at 701-328-7100.

The PFA was established to make loans to political subdivisions of the state through the purchase of municipal securities. Subject to credit and program requirements, the PFA can lend money to a political subdivision for any purpose for which the political subdivision has the legal authority to borrow money through the issuance of municipal securities. State law allows the PFA to purchase qualified small issue bonds and to issue industrial development bonds covered under the Municipal Industrial Development Act.

The Industrial Commission of North Dakota, consisting of Gov. Jack Dalrymple, as chairman, Attorney General Wayne Stenehjem and Agriculture Commissioner Doug Goehring, oversees the PFA.

###

FURTHER INFORMATION: DeAnn Ament (701) 426-5723

Karlene Fine, Executive Director & Secretary  
State Capitol, 14th Floor - 600 E Boulevard Ave Dept 405 - Bismarck, ND 58505-0840  
E-Mail: [kfine@nd.gov](mailto:kfine@nd.gov)  
PHONE: 701-328-3722 FAX: 701-328-2820  
“Your Gateway to North Dakota”: [www.nd.gov](http://www.nd.gov)

**CAPITAL FINANCING PROGRAM  
DISASTER LOANS**

**Loan Application Package**

**North Dakota Public Finance Authority  
PO Box 5509  
Bismarck, ND 58506-5509**

**1.800.526.3509 or 701.328.7100  
Fax 701.328.7130  
[www.nd.gov/pfa](http://www.nd.gov/pfa)  
[ndpfa@nd.gov](mailto:ndpfa@nd.gov)**

**Public Finance Authority (PFA)**  
**Capital Financing Program**  
**Disaster Financing Availability**

**Purpose:** This program will be used to provide disaster assistance to political subdivisions affected by weather related events until federal and state money is available or to assist in cash flowing local match requirements.

**Applicant:** Any North Dakota political subdivision that is within a county that has received a Presidential Public Disaster Declaration or a gubernatorial executive order or proclamation of a state disaster or emergency.

**Lender:** Public Finance Authority. The process would require the political subdivision to submit a Capital Financing Program (CFP) application to the PFA. If the PFA approves the application, funding would be provided in cooperation with the Bank of North Dakota.

**Use of Proceeds:** To provide short term funding for a political subdivision while the entity is waiting for reimbursement from either the federal or state government or to provide cash flow financing until sufficient tax revenues have been received to meet the local match requirements.

**Terms:** The terms of the bonds will be flexible maturities with a low interest floating rate structure priced off of LIBOR.

**Fees:** Bond counsel fees ranging from \$250 to \$1,000 dependent upon size of issuance.

**Collateral:** The political subdivision must show ability to repay the financing either from Federal or State government disaster payments or from tax receipts.

This special disaster assistance financing available under the Capital Financing Program is being offered until December 31, 2011.

**RESOLUTION AUTHORIZING FILING OF APPLICATION WITH THE  
INDUSTRIAL COMMISSION OF NORTH DAKOTA FOR A DISASTER LOAN UNDER  
THE CAPITAL FINANCING PROGRAM THROUGH THE  
NORTH DAKOTA PUBLIC FINANCE AUTHORITY**

WHEREAS the North Dakota Public Finance Authority (PFA) has partnered with the Bank of North Dakota (BND) to offer low-interest, disaster loans to political subdivisions impacted by 2011 weather and flooding.

WHEREAS through its Capital Financing Program, the PFA will consider applications from any political subdivision in counties that received a presidential disaster declaration or a gubernatorial executive order or proclamation of a state disaster or emergency.

WHEREAS the PFA financing can provide short-term funding for a political subdivision while the entity is waiting for reimbursement from the federal or state government or provide cash flow financing until sufficient tax revenues have been received to meet the local match requirements.

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

1. Authorize the filing of an application with the Industrial Commission of North Dakota for a Disaster Loan under the Capital Financing Program through the North Dakota Public Finance Authority.
2. The Loan proceeds will be used to provide short-term funding for the City of Mandan while the City is waiting for reimbursement from the federal and state government as a result of the 2011 flood event.
3. The Loan will be repaid upon receipt of reimbursements from FEMA and the State of North Dakota.

BE IT FURTHER RESOLVED this Resolution shall be effective upon its passage.

Dated this 20th day of September, 2011.

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President, Board of City Commissioners

Attest:

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City Administrator

**ORDINANCE NO. 1105**

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

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

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

The following described property located within the City of Mandan shall be excluded from the R7 (Single-Family) zoning and shall be included in RM (Multi-Family) namely,

Lots 1-3, Block 1 of Acteva Addition in Section 16, Township 139N, Range 81W .

And as so amended said section is hereby reenacted. The purpose of the zone change is to build an assisted living facility. 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>August 22, 2011</u>
First Consideration:	<u>September 20, 2011</u>
Second Consideration and Final Reading:	<u>October 4, 2011</u>
Publication Date:	_____
Recording Date:	_____

**ZONE CHANGE  
TO RM**

