

AGENDA
MANDAN CITY COMMISSION
DECEMBER 1, 2015
ED "BOSH" FROEHLICH MEETING ROOM,
MANDAN CITY HALL
5:30 P.M.
www.cityofmandan.com

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- A. ROLL CALL:
1. Roll call of all City Commissioners.
 2. Presentation of retirement award to Gary Schmidt.
- B. APPROVAL OF AGENDA:
- C. PUBLIC COMMUNICATIONS:
- D. MINUTES:
1. Consider approval of the following minutes:
 - i. November 14, 2015 Special Meeting
 - ii. November 17, 2015 Regular Meeting & Joint Meeting with Park Board
 - iii. November 23, 2015 Special Meeting
- E. PUBLIC HEARING:
- F. BIDS:
- G. CONSENT AGENDA:
1. Consider approval of NDDOT Maintenance Certification Agreement
 2. Consider entering into an agreement with North Dakota Youth Correction Center for snow removal.
 3. Consider approval of Out of State Travel for International Code Council training Classes.
 4. Consider authorizing the Advertisement for Bids for the Emergency Generator Project.
- H. OLD BUSINESS:
- I. NEW BUSINESS:
1. Introduction of Project Proposal by KAT Communications Sr. Consultant, Harley Engelman.
 2. Consider endorsement of road projects to submit to the MPO (Metropolitan Planning Organization) for NDDOT's TIP (Transportation Improvements Program) for the year 2020.
 3. Consider recommendations from the Visitors Committee
 - i. Appointment of Maria Walen
 - ii. Funding and proposals for visitor wayfinding signage

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iii. Additional funding for rehabilitation of Beanery building

J. RESOLUTIONS AND ORDINANCES:

1. Second Consideration and Final Passage of Ordinance No. 1226 amending Sec. 24-11-2 of the Mandan Code of Ordinances related to driving while license suspended or revoked.
2. Second Consideration and Final Passage of Ordinance No. 1227 amending and reenacting Chapters 115 and 117 and creating and enacting Chapter 119 of the Mandan Code of Ordinances related to potable water, sanitary sewer, wastewater, stormwater and solid waste.

K. OTHER BUSINESS:

L. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

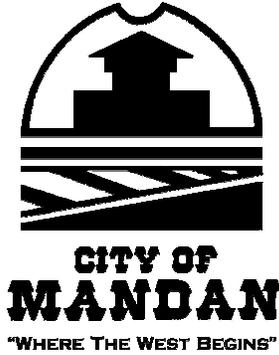
1. December 15, 2015
2. January 5, 2016
3. January 19, 2016 (5 p.m.)

M. ADJOURN

Public Communication

A scheduled time for public participation has been placed on the agenda at Mandan City Commission meetings. The Board desires to hear the viewpoints of citizens throughout the City. Individuals wishing to address the Board are encouraged to make arrangements with the Board President or the City Administrator prior to the meeting. Comments should be made to the Board and not to individuals in the audience and be related to City operations and programs. The Board will not hear personal complaints against any person connected with the City. If a citizen would like to add a topic to the agenda, arrangements must be made in advance with the City Administrator or Board President. The Board reserves the right to eliminate or restrict the time allowed for public participation. The Board requests that comments are limited to three (3) minutes or less. Groups of individuals addressing a common concern are asked to designate a spokesperson.

Departmental planning meeting will be held the Monday prior to the Commission meeting, all Commissioners are invited, noon, Veterans' 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.



Board of City Commissioners

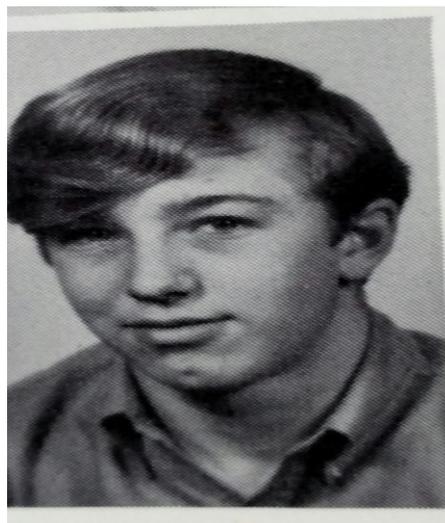
Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 23, 2015
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Mayor Van Beek
SUBJECT: Gary Schmidt Retirement

STATEMENT/PURPOSE: Presentation of retirement watch to Gary Schmidt

BACKGROUND/ALTERNATIVES:

- Gary started with City of Mandan in June of 1972 at 20 years of age
- Has 43 years of service all at the Water Treatment Plant
- Gary is married to his wonderful wife Wanda and they have two children Cody and Nevada.
- Gary enjoys hunting and fishing in his spare time and will always be welcomed to stop back for a visit especially if he has a jar of his famous pickled fish.
- Gary's last day is December 10th with a retirement gathering at City Hall from 2:30 - 4:30



The Mandan City Commission met in a Special Meeting at 1:00 p.m. on Saturday, November 14, 2015 at Mandan City Hall, 205 2nd Ave NW, Mandan, ND. City Commissioners present were Van Beek, Tibke, Rohr, and Braun. City Department Heads present were City Administrator Neubauer and Fire Chief Nardello. Absent was Commissioner Laber. Also in attendance: Kevin Wilson, City of Mandan Human Resources, citizens Stan Scott, Thomas D. Kelsch, Todd Humphrey and Jane Porter. Police Chief candidates in attendance included Scott Connor, Paul Leingang, and Jason Ziegler.

Discussion Items:

Police Chief candidates were interviewed by the Commission in the following order, Paul Leingang, Jason Ziegler and Scott Conner. Each candidate was asked a series of questions with the final candidate concluding at approximately 3:10 p.m.

ADJOURN

There being no further actions to come before the Board Commissioner Tibke moved and Commissioner Rohr seconded to adjourn at 3:10 p.m. The motion received unanimous approval of the Board members present and the meeting adjourned.

/s/ James Neubauer

James Neubauer,
City Administrator

/s/ Arlyn Van Beek

Arlyn Van Beek
President, Board of City
Commissioners

The Mandan City Commission met in regular session at 4:00 p.m. on November 17, 2015 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Braun and Laber. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, Director of Public Works Wright, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, Assessor Shaw, and Building Official Lalim. Absent: City Administrator Neubauer. Also in attendance for the Mandan Park Board were Commissioners Knoll, McPherson, and Hatzenbuhler. Also in attendance: Parks and Rec Director Higlin.

2. *Presentation of Employee Service Awards:* Mayor Van Beek extended a thank you to the following employees for their years of service to the City of Mandan:

35 YEARS OF SERVICE:

Paul Leingang	Deputy Chief of Police	06/30/80
Richard Schaaf	Police Lieutenant	12/08/80
Dave Auch	Utility Maintenance Superintendent	04/07/80

30 YEARS OF SERVICE:

Larry Dale	Firefighter/EMT	09/01/85
Duane Friesz	Water Treatment Plant Superintendent	04/08/85

25 YEARS OF SERVICE:

Francis Hopfauf	Firefighter	08/27/90
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15 YEARS OF SERVICE:

Jim Neubauer	City Administrator	02/01/00
Daryn Gullickson	Assistant Wastewater Treatment Plant Superintendent	03/13/00
Jamie Rath	Assistant Water Treatment Plant Superintendent	12/18/00
Kenneth Albrecht	Water Treatment Plant Operator III	03/27/00

10 YEARS OF SERVICE:

Kim Fettig	Engineering Project Manager	02/14/05
Brian Dirk	Assistant Street Maintenance Superintendent	03/28/05
Terry Walch	Firefighter	04/28/05
Jamie Scott	Utility Operator II	03/14/05
David Gross	Water Treatment Plant Operator I	04/18/05

5 YEARS OF SERVICE:

Dennis Rohr	City Commissioner	06/22/10
Julie Frye	Records Management Specialist	07/06/10
Chad Nichlos	Firefighter	09/07/10
Curtis Tveito	Firefighter	03/23/10
Candy Fleck	Clerk of Court	01/25/10

James Belohlavek Equipment Operator II

06/07/10

B. APPROVAL OF AGENDA: Commissioner Tibke moved to approve the Agenda. Commissioner Laber seconded the motion. The motion received unanimous approval of the members present. The motion passed.

C. PUBLIC COMMUNICATIONS: Mayor Van Beek invited anyone interested to speak for or against any items on the Agenda to come forward. A second announcement was made for anyone to come forward to speak on the Agenda. Hearing none, this portion of the Public Communications was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission of November 3, 2015 Special Meeting Working Session and the November 3, 2015 regular board meeting.* Commissioner Laber moved to approve the minutes as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

F. BIDS:

G. CONSENT AGENDA

1. *Consider approval of monthly bills.*
2. *Consider approval of games of chance at Kist Livestock for “For His Glory-Fellowship of Christian Cowboy” from Nov. 23, 2015 to April 17, 2016.*
3. *Consider the Acceptance of a BVP Grant from the US Department of Justice (DOJ), for Ballistic Vests.*

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

H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Consider allowing road closures for Slide the City event.* Kelly Churchill, Mandan Parks and Recreation District recommended bringing Slide the City event back to Mandan on August 27, 2016 from 9 am to 7 pm. She said that the event would be organized the same as the one held in 2015 and that there were over 3,000 participants with about 2,000 spectators for a total of 5,000 people at the event. She said that the event raised approximately \$9,500 that will go to the Mandan Universal Playground Fund. For the 2016 event the street would have to be closed from 4:00 a.m. until 11:00 p.m. on August 27th on Sunset Drive, South of Division Street to 6th Street Northwest with water access from a fire hydrant.

Commissioner Laber moved to approve the Slide the City event and the associated road closure as outlined. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Braun: Yes; Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Van Beek: Yes. The motion passed. The motion passed.

2. *Consider negotiating to hire Toman Engineering for design of Big Sky SID project.* Planning & Engineering Director Froseth explained this request is to start negotiations with Toman Engineering for the design and pre-bid services for a road improvement project at the Big Sky Subdivision. Only a portion of this area has been developed with houses. The developed portion was originally built with gravel roads instead of paved roads. The gravel roads have become a challenge for the City to work with and many complaints have been received because of the graveled area. In order to resolve the problem, the Engineering and Public Works departments are proposing putting together a street improvement district project to get the roads paved. City Staff plans to notice residents and hold a public input meeting to provide direction towards a supported project. In 2013 Toman Engineering was working with the developer to come up with a plan for these streets and develop the undeveloped portions of the subdivision and get the gravel roads paved at the same time. The developer decided it was not feasible to move forward with the project at that time. The request now would be independent of that request. Since Toman Engineering did the initial work in 2013, it would be appropriate to ask them to assist the City with the project going forward. Director Froseth recommended creating an agreement to hire Toman Engineering for a street improvement district of the Big Sky SID project.

Commissioner Rohr moved to approve to negotiate with Toman Engineering for engineering services of Big Sky SID project. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider monument regulations at the Mandan Union Cemetery as proposed by the Cemetery Advisory Committee.* Sharon Huettl, a representative of the Cemetery Advisory Committee presented for approval the Cemetery Rules and Regulations that will include monument regulations. Chad Boehm, Superintendent of the Cemetery, provided more detailed information about the monument and cross emblem regulations that have required more specific details due to location of these on the grave sites.

Commissioner Laber moved to approve the updated monument regulations for the Mandan Union Cemetery as proposed by the Cemetery Advisory Committee. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

Commissioner Tibke extended a thank you to the Cemetery Committee for their time and efforts put into this project.

4. *Consider Bank of ND Infrastructure Loan Fund Applications.* Finance Director Welch provided background information on this matter stating that during the 2016 Budget approval process, the City waited for a decision from the North Dakota State Water Commission for cost share grant funding towards the design and construction for three water supply infrastructure improvement projects submitted by the City to address the growth and increasing demand for quality water.

On September 16, 2015, the State Water Commission approved a cost share grant in an amount of \$2.3M to the City for the three Water System Improvement Projects totaling \$3.9M.

To pay for the City's share of \$1.6M for these Projects, the City originally planned to finance the High Service Pump Station Improvements (Phase I) Project from the State Revolving Fund Program and use the City's Capital Improvement Cash Reserve for the other two Projects, however the City became aware of a new Infrastructure Loan Program to political subdivisions through the Bank of ND (BND) that was established by House Bill 1443 during the last Legislative Assembly. The Loan Program is targeted at new construction for water or wastewater treatment plants, sewer, storm sewer and water lines, and transportation infrastructure including curb and gutter construction. The maximum loan amount is \$15M per applicant.

To leverage the City's financial resources and to maximize cash flow for meeting infrastructure needs, the BND's Infrastructure Loan Program offers certain advantages to the City in comparison with the State Revolving Fund Program such as; 1) no federal compliance requirements, 2) no annual administration fees, and 3) up to a 30 year loan term is available.

However, one of the stipulations with the BND is that the funds may only be accessed if other state and federal programs are not available to fully fund or provide any funding for the project(s). This was a question for City staff since Mandan's projects would have an alternative funding source through the State Revolving Fund Program. We did address this concern with two officials from the BND who still felt the City's projects would qualify for the Infrastructure Loan Fund program and they encouraged the City anyway to submit formal applications for all three Projects to finance the City's share. In the event the City would be denied approval from the BND due to an alternative funding source available to the City, the City would then submit a loan application to the State Revolving Fund Program for the City's share of the High Service Pump Station Improvements (Phase I) Project only.

If the Infrastructure Loan Fund Applications receive conditional approval from the BND by December 15, the City will need to provide financial and other supporting information to the BND to complete the Loan process. If the City receives final approval from the

BND, the City will need to increase the Water and Sewer Base Rate at a future date based on the timing of the debt service payments on the Loan.

Since the BND deadline for these Applications is on November 30, we are submitting these to you for your consideration at this time. Ken Weber from Advanced Engineering who assisted the City in putting these applications together was present to answer any technical questions regarding the content of the projects.

Commissioner Laber questioned why if all the projects are water related, why would that affect the sewer rates? Director Welch explained that the sewer-water base rates are a combined rate according to the Ordinance and there is no separate water nor separate sewer base rates.

Commissioner Braun moved to approve the Bank of ND Infrastructure Loan Fund Applications for Water Treatment Facility and Distribution System Projects. Commissioner Rohr seconded the motion.

Commissioner Laber commented that this is a loan, not a grant, so the water and sewer rates are going to increase as a result of these projects. However, they are necessary projects for the City of Mandan.

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

5. *Consider Hub City funds projects.* Finance Director Welch provided a background history of these projects. He said there was a Working Session held by the Board of City Commissioners on 11/3/15 to narrow down potential uses for Hub City Funds due to current need in population growth over the last several years in the communities. Mayor Van Beek, Commissioner Tibke, Administrator Neubauer and he met with Senator Cook to discuss potential uses of this funding source. It was decided that projects that would normally be assessed City wide, or have the mill levy implications, or have an increase in utility rates would be good candidates for the funds. The following projects would be considered:

Planning & Engineering Director Froseth reviewed the projects from the Engineering Department:

- (a) Water Treatment Plant for a Hydro Carbon Detector.
- (b) Bismarck Mandan Metropolitan Planning Organization Studies. The studies would include (i) Low cost improvements for local roadways; (ii) Mandan Downtown sub-area study (iii) School area safety study.
- (c) Land Purchase Future Water Reservoir. It is estimated that 5 acres of land may be needed to better serve the NW area of the City.
- (d) Expand ORT transmission water line from 6” to 12”. This was identified in 2013 to the water distribution master plan for upsizing of the existing 6” water main along the stretch of road that is scheduled to be reconstructed next year north of Old Red Trail.

(e) Engineering fees to assess and plan sanitary sewer line improvements from master lift station to Waste Water Treatment Facility. The two existing force main lines from the master lift to the WWTF are in need of assessment to evaluate if a lining project is needed. The City is questioning if a lining project is needed and what kind of lining project that may be.

(f) Storm water Masterplan: Already included the first one-half of the study \$100,000 in 2016 budget; 2/2 would be \$100,000 in 2017. This study would be conducted in 2016 or 2017.

Public Works Director Jeff Wright reviewed the projects for the Public Works Department:

(a) Clear Span Structure for Salt Sand Storage.

(b) Office and Cold Storage Expansion at the existing site for private offices, a conference area and a reception area. Also they need storage for equipment and vehicles that sit out outside rather than in buildings.

Fire Chief Nardello reviewed a project recommendation for a North Fire Station. This would be in NW Mandan because it is a growing area of Mandan and at times response time exceeds 10 minutes.

Mayor Van Beek stated that all these projects are important for the City of Mandan in moving forward in the years to come.

Commissioner Tibke moved to authorize staff to move forward on the projects outlined above. Commissioner Laber seconded the motion.

Commissioner Laber stated that there are many buildings in the City of Mandan that need attention, the Library building is one of them, thus these projects are not the only City buildings that are in need of infrastructure updates. She noted that due diligence was given for consideration of all City buildings and that these projects are the best compromise at this time.

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

6. *Consider Memorandum of Understanding between City of Mandan and Morton County as it relates to separation and dissolution of the Morton County Communications Center.* Fire Chief Nardello presented for consideration a Memorandum of Understanding (MOU) for the dissolution of the current Morton County Communications Center in preparation for the combining of the Mandan and the Burleigh Communications Center. The new name is going to be the Central Dakota Communications Center. The Morton County Commission approved this action on 11/12/15. The 9-1-1 money that is collected by Morton County, after the 15% mandatory payment to the Association of Counties, 70% of those funds will be used to pay for Mandan's share of the new Communications Center fees. A satisfactory agreement has been reached with Morton

County about use of equipment. Chief Nardello recommended accepting the MOU with Morton County as presented.

Commissioner Laber stated that MOU's are important. She inquired if City Attorney Brown agrees with the contents of the MOU. Attorney Brown replied that he has reviewed and approved of the MOU with Morton County. Commissioner Tibke stated she confirmed that City Administrator Neubauer is in agreement with the MOU.

Commissioner Laber stated that at No. 7 of the MOU it states "The County may provide the City, at the City's request and the County's acceptance, mapping services at the cost of \$50 per hour and those services include but are not limited to providing ArcGIS data sets to be utilized with the City's CAD system and mapping systems." She inquired if this is a short term agreement in order to make the conversion correct or is this something that is long term sharing of these data sets? Chief Nardello stated that in discussing this with Morton County, the majority of the work is done. This is for any developments that come up where we change the street name or as we get newer developments or new streets. This is something the City can probably take over in the future and provide the services for ourselves rather than contract with the County. He does not anticipate any issues since it is for any changes or new additions. Director Froseth confirmed that in regards to new roads, mapping would be done as they are built which would be a more efficient process.

Chief Nardello stated that the existing communications equipment will stay with Morton County to allow for operations of the Combined Communication Center and for electronic communications. It is older equipment and it will cost more to move the equipment rather than purchase new. However there is one piece of equipment that will be moved over to Bismarck.

Commissioner Braun moved to approve the Memorandum of Understanding (MOU) between the City of Mandan and Morton County as it relates to separation and dissolution of the Morton County Communications Center. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *Consider revisions to Engineering and Planning fees.* Planning & Engineering Director Froseth stated that as part of the budget process, a review of the Engineering and Planning fees is reviewed as to what it costs to administer each category of service. City staff is also requested to compare these fees with nearby entities namely Morton County and the City of Bismarck. Commissioner Laber recommended collecting fees in an amount appropriate for the cost of services similar to those of other local entities. She requested consideration be given to set the fee for Vacation of ROW from \$400 to \$500.

Commissioner Laber moved to approve the revisions to Engineering and Planning fees excepting the Vacation of ROW in which case she would recommend a \$500 fee.

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

2. *First consideration of Ordinance No. 1226 amending Sec. 24-11-2 of the Mandan Code of Ordinances related to driving while license suspended or revoked.* Planner Decker stated that the NDCC authorizes the City of Mandan to adopt an ordinance to allow the Municipal Judge to take and have destroyed license plates for residents who have been violating the Code but it requires an Ordinance amendment of which one sentence was added to allow for authorization as the Century Code requires. This revision was requested by the City Judge so the authorization is in place for enforcement purposes.

Commissioner Tibke moved to approve the First consideration of Ordinance No. 1226 amending Sec. 24-11-2 of the Mandan Code of Ordinances related to driving while license suspended or revoked. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Braun: Yes; Commissioner Laber: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *First consideration of Ordinance No. 1227 amending and reenacting Chapters 115 and 117 and creating and enacting Chapter 119 of the Mandan Code of Ordinances related to potable water, sanitary sewer, wastewater, storm water and solid waste.* Planner Decker stated he has worked with Finance Director Welch on this matter. The Bond Counsel had reviewed the changes that have occurred when we updated the Code. They requested some adjustments to the language because of outstanding bonds created under the old Code language.

Commissioner Laber moved to approve the First consideration of Ordinance No. 1227 amending and reenacting Chapters 115 and 117 and creating and enacting Chapter 119 of the Mandan Code of Ordinances related to potable water, sanitary sewer, wastewater, storm water and solid waste. Commissioner Braun seconded the motion. Roll call vote:

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

K. OTHER BUSINESS:

1. *Joint Meeting between the Mandan City Commission and the Mandan Park Board.* Mayor Van Beek provided a summary of this meeting indicating that Planning and Engineering Director Froseth will give an update of City projects and Cole Higlin the Director of the Mandan Park District will give an update on the Park District projects.

Commissioner Laber stated that since the Park Board is a separately funded and separately elected Board and the City Commission Board is also separate and these Boards do not always communicate on all projects, it is the desire of the City Commission to meet with the Park Board on a regular basis and discuss the projects either Board is working on so that all the land uses come together that makes sense for all

the citizens. This is the first time for a meeting like this between the two Boards. The Park Board members are in the audience; however, she explained that is not the intent to have the Park Board report to the City Commission. She recommended this meeting occur every 6 months.

Commissioner Tibke stated that in the future the plan will be to have a City Commission Working Session and then a presentation of what came out of the Working Session. For example, the discussion and report that was presented in regards to Hub City Funds.

Planning and Engineering Director Froseth stated that he will present the City subdivisions via a power point map indicating the new developments in order of most likely to least:

- (i) *Lakewood 8th
- (ii) *Lakewood 9th
- (iii) *Meadowlands @ Memorial Highway and Main Street to Third Street
**Projects that have approved the 3-way agreement for water and sewer through commission but not a Street Improvement District (SID).*
- (iv) West Hills 4th
- (v) 16th Street Extension through park property. Approval has been given to start the bid work on this project. On 11/24/15 the Building Committee will work on the site plan and present it to the Park District on 12/4/15. This project may not start until the end of 2017. Cole Higlin suggested getting this project on the 5-year strategic plan for rehabilitation and DOT for funding. One of the concerns with this site is the sanitary sewer costs that are a problem for all the lots in this area. Director Froseth stated that another concern is the extension of the sanitary sewer. They would propose to put in the 8” water main that would have to be upgraded to a 21-inch pipe to the corner of Old Red Trail and Collins while the construction is occurring in the area.
- (vi) Plainview Heights 15th. This is in the extreme NW area of Mandan. Director Froseth said there have already been meetings held with the developer of this property.
- (vii) Keidel’s South Heart 4th Addition. The developers have indicated they would like to move forward with this project in 2016. This is an extension of West Hills 3rd. There are two pressure valves that are a challenge in this project and the project may include the installation of a pressure valve.
- (viii) Plainview Heights 15th Addition in the Ft. Lincoln area. There were discussions in early 2015 about revitalizing this project. However, there has been little activity in this area since that time.

Director Froseth stated that these projects will be SID’s in 2016. The others are developments that are expected to be active next year. The Old Red Trail reconstruction project is expected to begin in the Spring of 2016 and completed in the Fall of 2016.

Director Froseth stated that he has only one other possible project in 2016 located in Keidel’s South Heart Terrace 3rd Addition. The developer may want to move forward with Terrace 4th following that. There are no definite plans for this project at this time.

Comments regarding the above projects outlined by Director Froseth:

> Cole Higlin referred to the construction project by Prairie West Golf course noting that the Park District Attorney has been working with the developer of the properties in order to make sure there is aesthetic consistency throughout the development of the properties. In other words, that the fences be constructed in like manner to avoid having mixtures of wood with chain links, etc.

> Cole Higlin inquired as to long range planning, in the Plainview Heights 15th Addition, how will it be possible to get the drainage, sanitary sewer, water lines in this area since it is not buildable area? It is a beautiful area for a trail to connect over the top of it to the development and the school. There is a great opportunity to develop this area but what are the resources for grants or things of that nature to develop this area for recreational use and possibly homes in that area sometime into the future.

Commissioner Laber inquired as to the location of the storm water management plan for that subdivision? Director Froseth stated he is not clear where that is at in this area, assuming it is to the north of the area. It was recommended that the Planning and Zoning Committee look at this area when the time comes to plat the area and that the City's Master Plan and the Park and Rec's Master Plan be combined to make sure the walkable areas are considered. Director Froseth stated that he has already presented a Storm Water Master Plan that will offer the opportunity to take a closer look at this area and consider the recommendations presented. Planner Decker stated that the Land Uses and Transportation Plan has a recreational component in its plan so it has already been identified in a broad brush approach for the recreational opportunity in this area.

Cole Higlin came forward and stated that November 24th is the date the Building Committee will meet and after that meeting the Park District will bring forward the plan for the Park/School Site. He said that work has started on the Family Wellness Center that will be located south of Raging Rivers. Construction for building the structure is expected to get started over the upcoming winter months.

With regard to the Slide the City event, Mr. Higlin extended a thank you to Kelly Churchill for her leadership in this community event and he also thanked everyone who was involved in making it a success. In other Parks and Recs news, he said that the Recreation Department was awarded the 2017 ASA Softball Tournament so there will be two large softball events scheduled that year in the City.

For the 2016 capital projects, Mr. Higlin noted:

~ Millennium Trail Rehabilitation Project – A \$250,000 grant has been received for this project that is expected to start in the spring of 2016.

~ SW Mandan for future green space

~ Installing iStrike (lightening warning) weather application at

@ Raging Rivers

@ Both Golf Courses

@ Ball Diamonds

@ DCP/Soccer Complex

Planning for the future:

~ April 2016 – April 2019 Strategic Planning that will include Strategic Planning Committee and Visionary Committee; Employees, Park Board and Stakeholders Input; Appropriate goals and vision.

~ Plan for employee succession, development and Mandan Park District annual updates will include employee orientation; employee retirement gearing up for employees shifting roles; appropriate succession plans for employees.

Commissioner Laber recommended re-visiting the process of when developers come in with large scale development and right now they do not have a land set-aside requirement. They just pay Park and Recs a certain amount of money. She would like to look at the land set-aside in that the developer needs to help the community to have a better experience in our community. Because they will need to help the City create those spaces such as walking trails that are important for all residents of all ages to utilize.

Mayor Van Beek extended everyone a thank you for participating in this portion of the meeting and said that this item will be back on the Agenda in six months to cover any new or pending items at that time.

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 6:15 p.m. Commissioner Laber seconded the motion. The motion received unanimous approval of the members present. The motion passed.

James Neubauer,
City Administrator

Arlyn Van Beek,
President, Board of City
Commissioners

The Mandan City Commission met in Special Session at noon on November 23, 2015 in the Ed “Bosh” Froehlich Meeting Room at City Hall, Mandan, North Dakota. Present were Mayor Van Beek, Commissioners Tibke, Rohr, Laber, and Braun. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, Business Development & Communications Director Huber, and City Administrator Neubauer.

B. APPROVAL OF AGENDA: Commissioner Laber moved to approve the Agenda as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

C. NEW BUSINESS:

Consider selection of Police Chief and next steps. Mayor Van Beek reviewed the process of the search for the new Police Chief:

- Monday June 15, application closing date, we received 17 applications, two from North Dakota and fifteen from various parts of the country.
- Narrowed the list from 17 applicants to 8
- Monday June 22, set of 5 questions sent to 8 applicants with due date July 10
- July 10, received responses to the set of 5 questions
- Set up 4 teams to review & rate responses
Included members from the Emergency Services Community and the community at large. Steve Nardello (Fire) & Mike Wardzinski (teaches Criminal Justice Minot State), Tracy Porter (CFO, NISC) former park board president & Terry Kraft (American Family Ins) and former park board member.
- When combing the scores of the four teams and looking at the teams ratings individually, there was a delineation between the top five candidates and the bottom three.
- Pre-Employment background report was performed on the 4 candidates (one withdrew)
- October 22 – Four candidates were interviewed via Skype.
 - Participating in the interviews were Mayor Van Beek, Commissioner Rohr, Kevin Wilson, Human Resources, Jim Neubauer,
 - Members from the community Jane Porter, Finance Director at North Dakota Association of Rural Electric Cooperatives, along with former City Commissioners that held the Police Department Portfolio Tom Kelsch and Stan Scott also assisted in this process.
 - After the Skype Interviews, one candidate withdrew his name from consideration.
- November 14 - Candidates underwent assessment testing and interviews. Candidates partook in assessment exercises beginning at 8:30 a.m. Evaluating the testing in the morning were 4 members from the Law Enforcement Community, Lonnie Grabowski, Pat Heinert, Greg Smith and Dave Dravitch.
- The Mandan City Commission began candidate interviews at 1 p.m. Along with the City Commission also sitting in on the interviews were Tom Kelsch, Stan Scott, Jane Porter and Todd Humphrey.

I want to thank Commissioner Rohr and Kevin Wilson for their work in putting together the assessment process; all in all I think things went very well.

We also want to thank those members of the community that assisted in this process; their input has been very valuable and insightful. Those members again, are Mike Wardzinski, Tracy Porter, Terry Kraft, Tom Kelsch, Stan Scott, Jane Porter, Marci Narum, Lonnie Grabowski, Pat Heinert, Greg Smith, Dave Dravitch and Todd Humphrey.

The three candidates are Scott Connor, Paul Leingang, and Jason Ziegler.

Conner, Ft. Sumner, New Mexico, is currently the De Baca County Sheriff/Chief of Police with 18 years of law enforcement experience.

Leingang is currently the Deputy Police Chief in Mandan and has 35 years of law enforcement experience.

Ziegler, from St. Cloud, Florida, is currently a Lieutenant in Community Services with the Osceola County Florida Sheriff's office the over 25 years of experience in law enforcement.

Commissioner Rohr also wished to also thank City Administrator Neubauer for his assistance in this process.

Commissioner Laber moved to ask Jason Ziegler if he would like the position of Chief of Police for our community. Commissioner Tibke seconded the motion.

Commissioner Laber apologized for not being at the interviews due to a death in the family. She indicated that she had watched the interviews and reviewed all the background information; as well as all the written information. In her opinion of hiring people and what she thinks is important to our community, Jason Ziegler stood out for her. She feels that he will stand out in our community and be a great fit.

Commissioner Rohr stated that it was a difficult decision in that Paul Leingang worked for him and he has a lot of great assets. One of the things that are important is that you have a great administrative partnership such as the Chief of Police and Deputy Chief. The Chief of Police has to be able to depend on the Deputy Chief if you are gone and they take over in your absence. Paul Leingang brings his experience and a lot of contacts and he's been active in the community.

Commissioner Braun agreed that these are three qualified candidates. He believes that Mr. Ziegler has a sense of energy to him, as well as being charismatic when he was interviewed. But that can't be the only reason that you pick someone. Following the process of listening to the candidates, and going through the information packets that we had, he narrowed it down to Paul Leingang and Jason Ziegler. He feels Paul has a little more maturity and eloquence. There was thoughtfulness to the way he answered the

questions. Besides the 35 years' experience and being part of this community, there's a strong sense of loyalty and devotion. Then with Jason he's excited with what he wants to do with the department. In looking at their backgrounds, with Paul working here, do we want to change or stay with what we have? Commissioner Braun believes that to be a great leader you have to be a great follower. He feels that Paul could take this department to new levels.

Mayor Van Beek thanked the Commissioners for their time in this selection. This was a very big decision for our city and our community.

Roll call vote: Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: No; Commissioner Rohr: Yes; Commissioner Van Beek: Yes. The motion carries 4-1.

We will extend the offer to Jason Ziegler and discuss the next steps. He stated that we had three truly very qualified candidates.

D. ADJOURN

There being no further actions to come before the City Commission, Commissioner Braun moved to adjourn the meeting at 5:43 p.m. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present. The motion passed.

/s/ James Neubauer

James Neubauer,
City Administrator

/s/ Arlyn Van Beek

Arlyn Van Beek,
President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 22, 2015
SUBMITTING DEPARTMENT: Planning and Engineering
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Justin Froseth, Planning and Engineering Director
SUBJECT: NDDOT Annual Maintenance Certification

STATEMENT/PURPOSE: To assure the NDDOT that the city is doing our part in maintaining roads in which we received federal aid for in constructing.

BACKGROUND/ALTERNATIVES: For each road project the city does using federal aid as administered through the NDDOT, the city is required to enter in to a Cost Participation, Construction, and Maintenance (CPM) Agreement. Part of the agreement is to agree to maintain the road as outlined in Part III of the sample agreement attached. The annual Maintenance Certification form, also attached, is to verify that the city is indeed doing their part in maintaining these roads.

ATTACHMENTS:

- 1) Maintenance Certification Agreement
- 2) Sample CPM

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION: Recommend approval of annual Maintenance Certification Agreement.

SUGGESTED MOTION: I move to approve of annual Maintenance Certification Agreement.



North Dakota Department of Transportation

Grant Levi, P.E.
Director

Jack Dalrymple
Governor

MEMO TO: City Auditor
FROM: Paul M. Benning, Local Government Engineer *PMB*
DATE: November 16, 2015
SUBJECT: Maintenance Certification

Enclosed is the annual Maintenance Certification for urban federal aid projects for you to sign and return to my office by **January 15, 2016**. This certification states that your city is properly maintaining the projects that had federal aid for construction.

Also enclosed is a sample "Cost Participation, Construction, and Maintenance Agreement" similar to one you have signed for each federal aid construction project (See pages 3 and 4).

If you have any questions, please call me at 701-328-2217.

38/sh/sh
c: City Engineer (letter only)
Enclosures

NDDOT Contract No. \${FIELD:CONTRACT_NUMBER}

**North Dakota Department of Transportation
 COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
 URBAN FEDERAL AID PROJECT**

Federal Award Information – to be provided by NDDOT	
CFDA No: 20.205	CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Admin
NDDOT Program Mgr: \${FIELD:CONTRACT_MGR_NAME} Telephone:	
Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.	

For NDDOT use only.	FHWA Authorization date:
----------------------------	---------------------------------

Project No. \${FIELD:PROJECT_NUMBER} **City of**
Location: \${FIELD:LOCATION}
Type of Improvement: **Length:**

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of _____, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

Include the following paragraph verbatim in any subcontracts they sign relative to this project:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the solicitation, award, and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.
3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.
4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.
5. To comply with the requirements of Appendices A and E of the Title VI Assurances, attached and incorporated by reference herein.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:
 - a. Submit the final plans to NDDOT.
 - b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects*.
 - c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.
 - d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:
 - a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.
 - b. Evaluate the bids as to the sufficiency of Disadvantaged Business Enterprise (DBE) participation and the bidder's good faith efforts in satisfying the requirements of the current edition of the DBE special provision, and 49 CFR Part 26. NDDOT shall have exclusive authority in evaluating the adequacy of DBE participation.
 - c. Tabulate the bids and send to the City.
 - d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.
 - e. Distribute copies of the plans to the parties.
3. The City will:
 - a. Review bids to determine the lowest responsible bidder.
 - b. Execute the contract.
 - c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.
4. During the construction of the project, the City will:
 - a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual* and the *Standard Specifications for Road and Bridge Construction*.
 - b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System*.
 - c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.
 - d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access

allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.
3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.
4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.
5. Provide maintenance to the completed project at its own cost and expense.
6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
2. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.
3. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.
4. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.
5. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer
ND Department of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505-0700

6. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been

indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

SAMPLE

7. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of _____, North Dakota, the date last below signed.

APPROVED:

_____	City of _____
CITY ATTORNEY (TYPE OR PRINT)	*
_____	_____
SIGNATURE	NAME (TYPE OR PRINT)
_____	_____
DATE	SIGNATURE
	*

	TITLE

	DATE

ATTEST:

CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

NORTH DAKOTA
 DEPARTMENT OF TRANSPORTATION

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

CLA 19256 (Div. 38)
 L.D. Approved 4-12-93; 02-14

Project \${FIELD:PROJECT_NUMBER}

CERTIFICATION OF LOCAL MATCH

It is hereby certified that the City of _____ will provide non-federal funds, whose source is identified below, as match for the amount the City is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

Non-Federal Match Funds provided by City. Please designate the source(s) of funds in the city budget that will be used to match the federal funds obligated for this project through the North Dakota Department of Transportation.

Source:

Executed at _____, North Dakota, the last date below signed.

ATTEST:

APPROVED:

CITY AUDITOR (TYPE OR PRINT)

City of _____

SIGNATURE

NAME (TYPE OR PRINT)

DATE

SIGNATURE

*

TITLE

DATE

*Mayor or President of City Commission

CLA 19256 (Div. 38)
L.D. Approved 4-12-93; 02-14

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

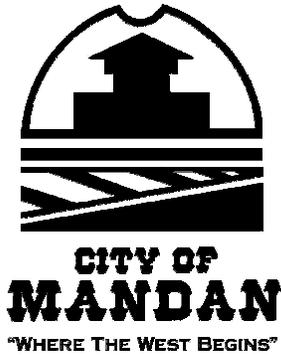
1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX E OF THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 23, 2015
SUBMITTING DEPARTMENT: Planning & Engineering
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Justin Froseth
SUBJECT: Consider entering into an agreement with ND Youth Correctional Center for winter snow removal.

STATEMENT/PURPOSE: To put into place a contract for winter snow removal from January 1, 2016 to December 31, 2018.

BACKGROUND/ALTERNATIVES: This contract is utilized by the City for snow removal of any property that receives a complaint during the winter season and also for regular snow removal for steps on the 500 block of Division Street, steps on the SE side of the high school, steps on the 10th Avenue overpass and East Main Street underpass. YCC has kept the cost the same as the previous MOU.

ATTACHMENTS: Memorandum of Understanding

FISCAL IMPACT: Depending on the amount of snow the costs can vary.

STAFF IMPACT: Minimal

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

RECOMMENDATION: I would recommend approving the MOU.

SUGGESTED MOTION: I move to approve entering into the MOU with NDYCC for snow removal from January 1, 2016 thru December 31, 2018.

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Consider entering into an agreement with ND Youth Correctional Center for winter snow removal.

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#53000-15-103

CONTRACT

The parties to this CONTRACT are the State of North Dakota, acting through its **Department of Corrections & Rehabilitation, "DOCR", through the North Dakota Youth Correctional Center, ("YCC")** (STATE) and **City of Mandan (MANDAN)**;

1. SCOPE OF SERVICE

The DOCR, through the YCC, and the City of Mandan agree to the following:

- A. That there is a very definite need for a work setting in the community that replicates private industry. This work setting will provide juveniles a realistic work experience in a businesslike environment which stresses the same types of performance standards and rewards used in private enterprise and government. This provides the most significant opportunity that YCC and MANDAN can offer for juveniles to experience real work expectations, satisfactions and failures.
- B. To communicate and cooperate to better fulfill each other's needs and requirements.
- C. YCC reserves the right to enter into CONTRACTs with private individuals on snow removal projects, not previously reviewed for by MANDAN.
- D. YCC shall respond to a work order request from MANDAN within twenty-four (24) hours upon receipt of the work order.
- E. Both parties shall comply with all state and federal laws pertaining to the employment of minors.

YCC OBLIGATIONS

1. Provide quality workmanship and services to MANDAN and its residents.
2. Remove snow from commercial and residential sidewalks at the established price list below.
3. Provide sufficient shovels and snow removal equipment.
4. Transport juveniles to and from the work site established.
5. Provide sufficient supervision of juveniles at the work sites.
6. Assume responsibility for injury to the juveniles while working on snow removal sites.
7. Deposit funds received on this project for the benefit of juveniles and to pay juveniles compensation for working at a snow removal site.

MANDAN OBLIGATIONS

1. Provide a supervisory coordinator who will issue a work order with the location, a picture of the proposed project before completion, and a picture of the project after completion.
2. Pay YCC for the benefit of juveniles for snow shoveling and removal services provided (see rates under paragraph 3, Compensation).
3. Handle all communications between parties.
4. Provide supplemental salt, free of charge, to be applied by the YCC juveniles on sidewalks that need additional ice removal.

2. TERM OF CONTRACT

The term of this CONTRACT is for a period commencing on **January 1, 2016**, and expiring on **December 31, 2018**.

3. COMPENSATION

MANDAN will pay for the services provided by YCC juveniles under this CONTRACT at a rate of:

- A. Commercial: \$20.00 mobilization fee which includes the first 50 feet, \$1.00 per foot thereafter, for a sidewalk 5½ feet and wider.
- B. Residential: \$15.00 mobilization fee which includes the first 50 feet, \$1.00 per foot thereafter, for a sidewalk 5 feet wide or less.

4. TERMINATION OF CONTRACT

- A. Termination without cause. This CONTRACT may be terminated by mutual consent of both parties, or by either party upon 30-days written notice.
 - i. Termination for lack of funding or authority. STATE may terminate this CONTRACT effective upon delivery of written notice to MANDAN, or on any later date stated in the notice, under any of the following

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Consider entering into an agreement with ND Youth Correctional Center for winter snow removal.

Page 3 of 5

conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The CONTRACT may be modified by contract of the parties in writing to accommodate a reduction in funds.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this CONTRACT or are no longer eligible for the funding proposed for payments authorized by this CONTRACT.
- 3) If any license, permit or certificate required by law or rule, or by the terms of this CONTRACT, is for any reason denied, revoked, suspended or not renewed.

Termination of this CONTRACT under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

B. Termination for cause. STATE by written notice of default to MANDAN may terminate the whole or any part of this CONTRACT:

- i. If MANDAN fails to provide services required by this CONTRACT within the time specified or any extension agreed to by STATE; or
- ii. If MANDAN fails to perform any of the other provisions of this CONTRACT, or so fail to pursue the work as to endanger performance of this CONTRACT in accordance with its terms.
- iii. The rights and remedies of STATE provided in the above clause related to defaults by MANDAN are not exclusive and are in addition to any other rights and remedies provided by law or under this CONTRACT.

5. FORCE MAJEURE

MANDAN will not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond MANDAN'S reasonable control and MANDAN gives notice to STATE immediately upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

6. RENEWAL

This CONTRACT will not automatically renew. STATE will provide written notice to MANDAN of its intent to renew this CONTRACT at least 30 days before the scheduled termination date.

7. MERGER AND MODIFICATION

This CONTRACT constitutes the entire contract between the parties. There are no understandings, CONTRACTS, or representations, oral or written, not specified within this CONTRACT. This CONTRACT may not be modified, supplemented or amended, in any manner, except by written contract signed by both parties.

8. SEVERABILITY

If any term of this CONTRACT is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms must not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the CONTRACT did not contain that term.

9. NOTICE

All notices or other communications required under this CONTRACT must be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

Chris Jangula, YCC Plant Director
701 16th Avenue SW
Mandan, ND 58554
Phone: (701) 667-1406
Email: cjangula@nd.gov

OR

Jim Neubauer, City of Mandan
205 2nd Avenue NW
Mandan, ND 58554
Phone: (701) 667-3215
Email:

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

10. SPOILIATION – NOTICE OF POTENTIAL CLAIMS

MANDAN agrees to promptly notify STATE of all potential claims that arise or result from this CONTRACT. MANDAN shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to STATE the opportunity to review and inspect the evidence, including the scene of an accident.

11. INDEMNITY

The STATE and MANDAN each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this CONTRACT.

12. INSURANCE

The STATE and MANDAN each shall secure and keep in force during the term of this CONTRACT, from an insurance company, government self-insurance pool or government self-retention fund authorized to do business in North Dakota, commercial general liability with minimum limits of liability of \$250,000 per person and \$1,000,000 per occurrence.

13. CONFIDENTIALITY

MANDAN agrees not to use or disclose any information it receives from STATE under this CONTRACT that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this CONTRACT or as authorized in advance by STATE. STATE agrees not to disclose any information it receives from MANDAN that MANDAN has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. The duty of STATE and MANDAN to maintain confidentiality of information under this section continues beyond the term of this CONTRACT, or any extensions or renewals of it.

14. COMPLIANCE WITH PUBLIC RECORDS LAW

MANDAN understands that, except for disclosures prohibited in Section 13, STATE must disclose to the public upon request any records it receives from MANDAN. MANDAN further understands that any records that are obtained or generated by MANDAN under this CONTRACT, except for records that are confidential under Section 13 may, under certain circumstances, be open to the public upon request under the North Dakota open records law. MANDAN agrees to contact STATE immediately upon receiving a request for information under the open records law and to comply with STATE'S instructions on how to respond to the request.

15. INDEPENDENT ENTITY

MANDAN is an independent entity under this CONTRACT and is not a STATE employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workers' Compensation Act. MANDAN retains sole and absolute discretion in the manner and means of carrying out MANDAN'S activities and responsibilities under this CONTRACT, except to the extent specified in this CONTRACT.

16. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

MANDAN agrees to comply with all applicable laws, rules, regulations and policies, including those relating to nondiscrimination, accessibility and civil rights. MANDAN agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums. MANDAN shall have and keep current at all times during the term of this CONTRACT all licenses and permits required by law.

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Consider entering into an agreement with ND Youth Correctional Center for winter snow removal.

Page 5 of 5

17. EFFECTIVENESS OF CONTRACT

This CONTRACT is not effective until fully executed by both parties.

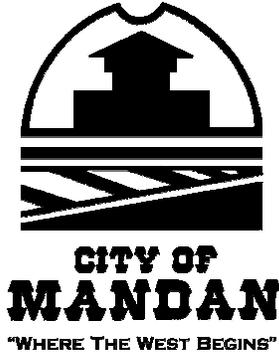
MANDAN
City of Mandan

Its: _____
By: _____
Title: _____
Date: _____

STATE OF NORTH DAKOTA
Department of Corrections & Rehabilitation

Its: Lisa Bjergaard
By: Lisa Bjergaard
Title: Director of Division of Juvenile Services
Date: _____

Its: Dave Krabbenhoft
By: Dave Krabbenhoft
Title: DOCR Director of Administration
Date: 11-24-15



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 23, 2015
SUBMITTING DEPARTMENT: Planning & Engineering
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Justin Froseth
SUBJECT: Consider entering into an agreement with ND Youth Correctional Center for winter snow removal.

STATEMENT/PURPOSE: To put into place a contract for winter snow removal from January 1, 2016 to December 31, 2018.

BACKGROUND/ALTERNATIVES: This contract is utilized by the City for snow removal of any property that receives a complaint during the winter season and also for regular snow removal for steps on the 500 block of Division Street, steps on the SE side of the high school, steps on the 10th Avenue overpass and East Main Street underpass. YCC has kept the cost the same as the previous MOU.

ATTACHMENTS: Memorandum of Understanding

FISCAL IMPACT: Depending on the amount of snow the costs can vary.

STAFF IMPACT: Minimal

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

RECOMMENDATION: I would recommend approving the MOU.

SUGGESTED MOTION: I move to approve entering into the MOU with NDYCC for snow removal from January 1, 2016 thru December 31, 2018.

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Consider entering into an agreement with ND Youth Correctional Center for winter snow removal.

Page 2 of 5

#53000-15-103

CONTRACT

The parties to this CONTRACT are the State of North Dakota, acting through its **Department of Corrections & Rehabilitation, "DOCR", through the North Dakota Youth Correctional Center, ("YCC")** (STATE) and **City of Mandan (MANDAN)**;

1. SCOPE OF SERVICE

The DOCR, through the YCC, and the City of Mandan agree to the following:

- A. That there is a very definite need for a work setting in the community that replicates private industry. This work setting will provide juveniles a realistic work experience in a businesslike environment which stresses the same types of performance standards and rewards used in private enterprise and government. This provides the most significant opportunity that YCC and MANDAN can offer for juveniles to experience real work expectations, satisfactions and failures.
- B. To communicate and cooperate to better fulfill each other's needs and requirements.
- C. YCC reserves the right to enter into CONTRACTs with private individuals on snow removal projects, not previously reviewed for by MANDAN.
- D. YCC shall respond to a work order request from MANDAN within twenty-four (24) hours upon receipt of the work order.
- E. Both parties shall comply with all state and federal laws pertaining to the employment of minors.

YCC OBLIGATIONS

1. Provide quality workmanship and services to MANDAN and its residents.
2. Remove snow from commercial and residential sidewalks at the established price list below.
3. Provide sufficient shovels and snow removal equipment.
4. Transport juveniles to and from the work site established.
5. Provide sufficient supervision of juveniles at the work sites.
6. Assume responsibility for injury to the juveniles while working on snow removal sites.
7. Deposit funds received on this project for the benefit of juveniles and to pay juveniles compensation for working at a snow removal site.

MANDAN OBLIGATIONS

1. Provide a supervisory coordinator who will issue a work order with the location, a picture of the proposed project before completion, and a picture of the project after completion.
2. Pay YCC for the benefit of juveniles for snow shoveling and removal services provided (see rates under paragraph 3, Compensation).
3. Handle all communications between parties.
4. Provide supplemental salt, free of charge, to be applied by the YCC juveniles on sidewalks that need additional ice removal.

2. TERM OF CONTRACT

The term of this CONTRACT is for a period commencing on **January 1, 2016**, and expiring on **May 31, 2018**.

3. COMPENSATION

MANDAN will pay for the services provided by YCC juveniles under this CONTRACT at a rate of:

- A. Commercial: \$20.00 mobilization fee which includes the first 50 feet, \$1.00 per foot thereafter, for a sidewalk 5½ feet and wider.
- B. Residential: \$15.00 mobilization fee which includes the first 50 feet, \$1.00 per foot thereafter, for a sidewalk 5 feet wide or less.

4. TERMINATION OF CONTRACT

- A. Termination without cause. This CONTRACT may be terminated by mutual consent of both parties, or by either party upon 30-days written notice.
 - i. Termination for lack of funding or authority. STATE may terminate this CONTRACT effective upon delivery of written notice to MANDAN, or on any later date stated in the notice, under any of the following

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Consider entering into an agreement with ND Youth Correctional Center for winter snow removal.

Page 3 of 5

conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The CONTRACT may be modified by contract of the parties in writing to accommodate a reduction in funds.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this CONTRACT or are no longer eligible for the funding proposed for payments authorized by this CONTRACT.
- 3) If any license, permit or certificate required by law or rule, or by the terms of this CONTRACT, is for any reason denied, revoked, suspended or not renewed.

Termination of this CONTRACT under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

B. Termination for cause. STATE by written notice of default to MANDAN may terminate the whole or any part of this CONTRACT:

- i. If MANDAN fails to provide services required by this CONTRACT within the time specified or any extension agreed to by STATE; or
- ii. If MANDAN fails to perform any of the other provisions of this CONTRACT, or so fail to pursue the work as to endanger performance of this CONTRACT in accordance with its terms.
- iii. The rights and remedies of STATE provided in the above clause related to defaults by MANDAN are not exclusive and are in addition to any other rights and remedies provided by law or under this CONTRACT.

5. FORCE MAJEURE

MANDAN will not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond MANDAN'S reasonable control and MANDAN gives notice to STATE immediately upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

6. RENEWAL

This CONTRACT will not automatically renew. STATE will provide written notice to MANDAN of its intent to renew this CONTRACT at least 30 days before the scheduled termination date.

7. MERGER AND MODIFICATION

This CONTRACT constitutes the entire contract between the parties. There are no understandings, CONTRACTS, or representations, oral or written, not specified within this CONTRACT. This CONTRACT may not be modified, supplemented or amended, in any manner, except by written contract signed by both parties.

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Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Consider entering into an agreement with ND Youth Correctional Center for winter snow removal.

Page 4 of 5

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Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Consider entering into an agreement with ND Youth Correctional Center for winter snow removal.

Page 5 of 5

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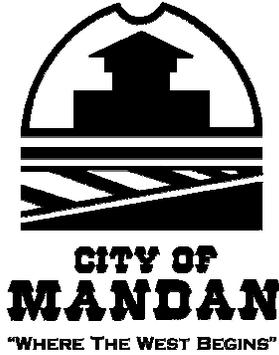
MANDAN
City of Mandan

Its: _____
By: _____
Title: _____
Date: _____

STATE OF NORTH DAKOTA
Department of Corrections & Rehabilitation

Its: *Lisa Biergaard*
By: Lisa Biergaard
Title: Director of Division of Juvenile Services
Date: _____

Its: *Dave Krabbenhoft*
By: Dave Krabbenhoft
Title: DOCR Director of Administration
Date: 11-24-15



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 23, 2015
SUBMITTING DEPARTMENT: Building Department
DEPARTMENT DIRECTOR: Doug Lalim, Building Official
PRESENTER: Doug Lalim
SUBJECT: Out of State Travel for International Code Council training Classes.

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

BACKGROUND/ALTERNATIVES: I currently have two International Code Council Certifications that require C.E.U.'s every three years to maintain the Certifications. I also need advanced training to keep on top of Building Codes for applying them to plan reviews of new projects coming to Mandan.

There are three available week long training seminars that I have attended in the past. One in Minneapolis Minnesota in February, one in Denver Colorado in March and this one that I am proposing is in Las Vegas, Nevada on March 21-25, 2016. I have found that the one in Las Vegas is the most reasonable priced because of the price of the hotel rooms and would save approximately four hundred dollars compared to the Minnesota location and approximately three hundred dollars compared to the Denver Colorado location.

ATTACHMENTS: EduCode informational sheet and cost comparison sheet.

FISCAL IMPACT: Approved in the budget for 2016 is \$1,500.00 to attend the course.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: I recommend the City of Mandan approve the out of state travel request.

SUGGESTED MOTION: I move the City of Mandan approve the out of state travel for Building Official Doug Lalim to attend the EduCode International Training in Las Vegas Nevada.

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Out of State Travel for International Code Council training Classes

Page 2 of 6

The poster features a blue-tinted background with architectural blueprints and a wireframe building. A red ribbon in the top right corner contains the text: "Register by March 4th for Best Selection". The main logo reads "Edu CODE international" with the tagline "Knowledge to build on". Below this is a blue banner that says "Nineteen Years of Building Code Education 2016". The event dates and location are listed as "March 21 - 25, 2016 THE ORLEANS HOTEL LAS VEGAS, NEVADA". Contact information includes "1-888-ICC-SAFE (422-7233), ext. 33818" and "www.iccsafe.org/training • www.educode.us". Logos for the "ICC SOUTHERN NEVADA CHAPTER" and "S.N.B.O. Southern Nevada Building Officials" are shown. A badge identifies the organization as an "ICC PREFERRED EDUCATION PROVIDER". The bottom left corner features the "ICC INTERNATIONAL CODE COUNCIL" logo, and the bottom right corner has the slogan "People Helping People Build a Safer World".

Register by
March 4th
for Best Selection

Edu
CODE international
Knowledge to build on

Nineteen Years of Building Code Education
2016

March 21 - 25, 2016
THE ORLEANS HOTEL
LAS VEGAS, NEVADA

1-888-ICC-SAFE (422-7233), ext. 33818
www.iccsafe.org/training • www.educode.us

ICC SOUTHERN NEVADA CHAPTER

S.N.B.O.
Southern Nevada Building Officials

ICC PREFERRED EDUCATION PROVIDER

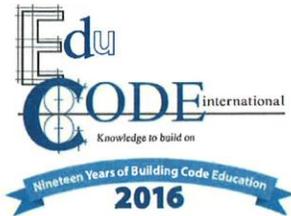
ICC INTERNATIONAL CODE COUNCIL®

People Helping People Build a Safer World™

SESSION DESCRIPTIONS					
TRACK	MONDAY MARCH 21	TUESDAY MARCH 22	WEDNESDAY MARCH 23	THURSDAY MARCH 24	FRIDAY MARCH 25
I-CODES	2012 IBC Essentials	2012 IRC Essentials	2015 IRC Update AM Session 36	2015 IBC Essentials	2015 IRC Essentials
	Session 1 FULL DAY	Session 19 FULL DAY	2015 IBC Update PM Session 37		
ELECTRICAL	NEC Requirements: From the Beginning	Electrical Inspections Basics	2014 NEC Analysis of Changes	Electrical Essentials	Photovoltaic Inspections AM Session 75
	Session 2 FULL DAY	Session 20 FULL DAY	Session 38 FULL DAY	Session 57 FULL DAY	Swimming Pool Electrical Systems PM Session 76
FIRE PROTECTION	2015 IFC Essentials	2015 IBC Fire and Life Safety Principles	2015 IFC Update AM Session 39	2015 IFC and IBC Hazardous Materials Provisions	2015 IFC Performing Commercial Fire Inspections
	Session 3 FULL DAY	Session 21 FULL DAY	2015 ICC Commercial Kitchen Hoods PM Session 40		
BUILDING PLAN REVIEW	Building Areas, Mixed Occupancies and Fire Areas	IBC Means of Egress	Fire-Resistant-Rated Construction	Overview of Accessibility Requirements	Special Inspections – Enforcement of Chapter 17
	Session 4 FULL DAY	Session 22 FULL DAY	Session 41 FULL DAY	Session 59 FULL DAY	Session 78 FULL DAY
BUILDING PLAN REVIEW AND INSPECTIONS	IRC Plan Review	Combination Inspections of Commercial Structures	IBC Commercial Plan Review	IRC Residential Inspections	Prescriptive Requirements of Chapter 34 and the IEBC AM Session 79
	Session 5 FULL DAY	Session 23 FULL DAY	Session 42 FULL DAY	Session 60 FULL DAY	Work Area Provisions and Compliance Alternatives in the IEBC PM Session 80
FIRE SYSTEMS	2015 IFC Fire Protection Systems	Storage Occupancies (NFPA 13, 2013 Edition)	NFPA 14 AM Session 43	Residential Fire Sprinklers	Hydraulic Calculations
	Session 6 FULL DAY	Session 24 FULL DAY	NFPA 20 PM Session 44		
PLUMBING AND MECHANICAL	2015 UPC/IPC Code Changes	2012 UPC/IPC Workshop	2015 UPC/UMC Combination Inspections	2015 UMC Special Topics: Access and Protection of Equipment and Installation of Specific Appliances AM Session 62	Inspecting Solar Water Heating and Radiant Systems
	AM Session 7	AM Session 25		2012 UPC Advanced Topics: Point of Use Tempering Mixing Valves and Thermal Expansion PM Session 63	AM Session 82
	2015 UMC/IMC Code Changes	2012 UMC/IMC Workshop			Session 45 FULL DAY
	PM Session 8	PM Session 26			
Registration – Opens 6:30 a.m. to 1:00 p.m. each day EXPO and Bookstores – Open 7:00 a.m. to 5:00 p.m. each day					

SESSION DESCRIPTIONS

TRACK	MONDAY MARCH 21	TUESDAY MARCH 22	WEDNESDAY MARCH 23	THURSDAY MARCH 24	FRIDAY MARCH 25
LEADERSHIP AND MANAGEMENT	Introduction to Leadership/Leadership Transition AM Session 9	Tone Setting, Morale and Motivation AM Session 27	EQ I – Self-Awareness and Self-Management AM Session 46	Courage, Risk and Thinking AM Session 64	Ethics and Decision Making AM Session 84
	Interpersonal Communication PM Session 10	Coaching I – Providing Feedback PM Session 28	Coaching II – Delegation and Team Development PM Session 47	EQ II – Personal Power and Relationships PM Session 65	Change and Innovation PM Session 85
STRUCTURAL ENGINEERING AND INSPECTION	Cold-Form Steel Design Session 11 FULL DAY	Multi-Story Wood Design Session 29 FULL DAY	Steel Design Session 48 FULL DAY	Geotech – Code and Local Reference Session 66 FULL DAY	2015 IRC Wall Bracing Session 86 FULL DAY
ADVANCED IBC TOPICS	2015 IBC Practical Occupancy Classification Session 12 FULL DAY	2015 IBC Occupancy-Based Requirements Session 30 FULL DAY	2015 IBC Types of Construction Options Session 49 FULL DAY	2015 IBC Prescriptive Means of Egress Components Session 67 FULL DAY	2015 IBC Performance-Based Means of Egress Design Session 87 FULL DAY
CODE ENFORCEMENT	Update on Foreclosures and Abandonments and Compliance Connections – Finding out Who is Responsible AM Session 13	The 4th Amendment and Sovereign Citizens Session 31 FULL DAY	Courtroom Procedures for Officers and Inspectors AM Session 50	Legal Aspects of Code Enforcement AM Session 68	Introduction to Drones: History, Technology, Future Session 88 FULL DAY
	Dealing with Foreclosures, Bankruptcies and Receiverships PM Session 14		Code Enforcement Procedures for Officers and Inspectors PM Session 51	Customer Services Principles for Front-Line Municipal Staff PM Session 69	
FIRE RESISTANT CONSTRUCTION AND ENERGY	The House as a System AM Session 15	Energy Innovations and Technologies AM Session 32	2015 IBC Dampers, Joints and Penetrations Session 52 FULL DAY	Fire Resistance, Opening Protection and the Five Wells Session 70 FULL DAY	2015 IBC Use of Fire and Smoke Separations AM Session 89
	Residential Energy 101 PM Session 16	IECC for Multi-Family Dwellings PM Session 33			2015 IBC Fire-Resistance and Hazardous Uses PM Session 90
BUILDING OFFICIAL AND PERMIT TECHNICIAN	The Complete Permit Technician Day 1 Session 17 FULL DAY	The Complete Permit Technician Day 2 Session 17 FULL DAY	Legal Aspects of Code Administration Session 53 FULL DAY	Increasing the Credibility of the Building Official AM Session 71	Building Department Financial Management AM Session 91
				Ethics in Public Life PM Session 72	Building Department Personnel Management PM Session 92
SPECIAL INSPECTION AND SPECIAL TOPICS	Inspector Skills Session 18 FULL DAY	Navigating the Certification Maze AM Session 34	2015 IBC Concrete Quality and Field Practices AM Session 64	Special Inspection Overview Session 73 FULL DAY	Clandestine Drug Labs and Marijuana Facilities Session 93 FULL DAY
		Residential Deck Construction PM Session 35	Special Inspection of Spray Applied Fireproofing PM Session 55		
CHECK OUT OUR NETWORKING EVENTS					



www.snicc.org
www.educode.us

ICC Membership Number:			EARLY REGISTRATION INFORMATION • Best Value \$\$ - Full week Registration • Early Registration Deadline March 4, 2016 • \$200—Per Day or Session • \$800—Full Five Day Week LATE REGISTRATION INFORMATION • \$250—Per Day or Session • \$1000—Full Five Day Week ON SITE REGISTRATION • \$250—Per Day or Session • \$1000—Full Five Day Week SN-ICC and the International Code Council reserve the right to photograph or videotape classes and seminars for promotional purposes. Your registration serves as permission to SN-ICC and ICC to copyright, publish and use your likeness in print, online or in other media and to exchange contact information with other participants from this event for the purpose of networking and consultation. If you do not wish to be photographed or videotaped, please tell the camera operator. Mail to: EduCODE Registrar, International Code Council Central Regional Office 4051 Flossmoor Road Country Club Hills, Illinois 60478 Fax to: 708-799-2651 Contact the International Code Council at 1-888-422-7233, extension 33818 or jfranklin@iccsafe.org
First Name:		Middle Initial:	
Last Name:			
Job Title for Badge:			
Jurisdiction/Organization:			
Address:			
City:			
State/Province:			
Zip Code:			
Country:			
E-Mail:			
Day Telephone:		Extension:	
Home Telephone:		Fax Number:	
Please indicate if you require special classroom accessibility accommodations:			

CLASS REGISTRATION					
LIST CLASS SESSION NUMBER AND BOOK FEE AMOUNTS					
	Monday	Tuesday	Wednesday	Thursday	Friday
AM or All Day					
PM					
Book Fee	\$	\$	\$	\$	\$
TOTAL REGISTRATION FEES					
I am attending all 5 days:	\$800 (early)	or	\$1000 (late, after 03/04/2016)	\$	
I am attending less than 5 days :	\$200 per day (early)	or	\$250 per day (late, after 03/04/2016)	\$	
				Total Book Fees:	\$
PAYMENT OPTIONS					TOTAL: \$
Bill Me (Code Council Members only)				Member #:	
Payment Enclosed (Checks payable to: International Code Council)					
Credit Card Payment: _____ Visa _____ Mastercard _____ American Express _____ Discover					
Card Number:	Exp. Date: /	Signature:			Date:

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Out of State Travel for International Code Council training Classes

Page 6 of 6

COST COMPARISON FOR INTERNATIONAL CODE COUNCIL TRAINING

ICC UPPER GREAT PLAINS REGION III INSTITUTE, CHASKA MN.

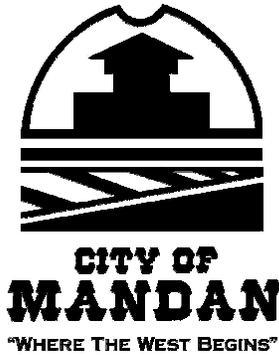
AIR \$582.00
ROOM \$660.00
CLASS \$690.00
CAB \$ 80.00
TOTAL \$2,012.00

ICC COLORADO CHAPTER INSTITUTE, DENVER CO.

AIR \$618.00
ROOM \$804.00
CLASS \$325.00
CAB \$110.00
TOTAL \$1,857.00

EDUCODE ICC INSTITUTE, LAS VEGAS NV.

AIR \$350.00
ROOM \$343.00
CLASS \$800.00
CAB \$ 80.00
TOTAL \$1,573.00



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 23, 2015
SUBMITTING DEPARTMENT: Public Works/Engineering Departments
DEPARTMENT DIRECTOR: Jeff Wright, Public Works Director
 Justin Froseth, Engineering/Planning Director
PRESENTER: Jeff Wright, Public Works Director
SUBJECT: Consider authorizing the Advertisement for Bids
 for the Emergency Generator Project

STATEMENT/PURPOSE: Consider moving forward with the Emergency Generator Project and authorize the advertisement for bids.

BACKGROUND/ALTERNATIVES: The emergency generator installation at the Plainview Heights Water Reservoir and Pump Station location was approved by the City Commission on August 18, 2015 and AE2S has been working on plans and specifications and is ready to advertise the project.

The generator will supply emergency power to the pump station and the Emergency 911 Communications tower located on site, the generator power will continue to supply potable water/fire protection to the Plainview area residents and communications between emergency responders during a power outage.

The project is part of the FEMA Mitigation program from which funding assistance was applied for and approved once the Morton County Mitigation Plan was completed.

Project Schedule:	Commission Approval to Advertise:	December 1 st
	Advertise:	December 11, 18, 25, January 1
	Bid Opening:	January 12 th
	Commission Award Project:	January 19 th
	Order Generator/Shop Drawings:	February, 2016
	Substantial Completion:	August 1, 2016
	Final Completion:	September 1, 2016

ATTACHMENTS: N/A

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Consider authorizing the Advertisement for Bids for the Emergency Generator

Project Page 2 of 2

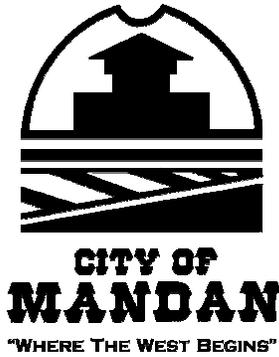
<u>FISCAL IMPACT:</u>	Project Cost Estimate:	\$266,933
	Federal Funding (75%):	\$199,933
	State Funding (10%):	\$ 26,658
	Local Funding (15%):	\$ 39,986

STAFF IMPACT: Minimal

LEGAL REVIEW: N/A

RECOMMENDATION: Recommend moving forward with the project and authorize the Advertisement for Bids for the Emergency Generator Project.

SUGGESTED MOTION: I move to approve the advertisement for bids for the Emergency Generator Project.



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 18, 2015
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Dennis A. Bullinger
PRESENTER: Chief Dennis A. Bullinger
SUBJECT: Introduction of Project Proposal by KAT
Communications Sr. Consultant, Harley Engelman

STATEMENT/PURPOSE: Presentation of a proposal from KAT Communications to create a professional marketing video for area law enforcement in building a greater awareness in targeted audiences of the diversity of local and county law enforcement careers. The proposed project can further advance recruitment and retention efforts.

BACKGROUND/ALTERNATIVES: The attachment is a proposal from KAT Communications to create a professional marketing video for local law enforcement. The proposed project was presented to area law enforcement in early September, with Mayor Van Beek and me attending.

Purpose of this project is to:

- 1) Build a greater awareness in targeted audiences of the diversity of local and county law enforcement careers.
- 2) Recruit and retain law enforcement professionals in the Bismarck, Mandan, Burleigh and Morton area.
- 3) Enhance existing relations between local/county law enforcement and respective community business and populations.

This proposed project is at “no cost” to any agency, city or county. It will be covered entirely by private community funding of which KAT Communications will be responsible to conduct.

ATTACHMENTS: Project Brief, Overview, Pertinent Issues, Campaign Strategy,

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Introduction of Project Proposal by KAT Communications Sr. Consultant,
Harley Engelman

Page 2 of 10

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approve the continuance of support by the Mandan Police Department with KAT Communications in their initiative to attract individuals into law enforcement careers and enhance relations and awareness between the community and those who serve and protect its residents.

SUGGESTED MOTION: Move to approve the proposal by KAT Communications in their creating a professional marketing video for area law enforcement.



OPERATION: SERVE AND PROTECT

Mission

Operation: Serve and Protect is a collaborative community and law enforcement initiative to assist law enforcement in its efforts to attract and retain individuals interested in or seeking law enforcement careers and enhance positive public relations between the community and local law enforcement

Objectives

1. Build a greater awareness in targeted audiences of the diversity of local and county law enforcement career pathways
2. Recruit and retain law enforcement professionals in the Bismarck/Mandan/Burleigh/Morton area.
3. Enhance existing relations between local/county law enforcement and respective community business and populations.

The Strategy

KAT Communications and PRIMUS Inc., a North Dakota-registered non-profit corporation, will:

- Consultation with Bismarck Police Department, Mandan Police Department, Burleigh County Sheriff's and Morton County Sheriff's leadership to identify existing assets and assess agency needs required to meet the career and community awareness, recruitment and retention objectives
- Identification of a campaign monetary goal, based on the results of the individual agency discussions and assessments
- Establishment of a campaign timeline with targeted start, milestone and completion dates
- Enacting accountability protocols ensuring transparency in the fund development process
- Creation of all campaign support and presentation material through an in-kind donation of services
- Pursuing a Letter of Support for the campaign from elected officials of the respective political sub-division charged with agency oversight
- Initiation of a local and county business enterprise and individual fund-raising campaign to meet the target initiative goal

Noteworthy

This proposal represents a request for support from the respective political subdivisions and law enforcement departments. It does not represent a request for procurement of services.

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Introduction of Project Proposal by KAT Communications Sr. Consultant,
Harley Engelman

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Proposal

OPERATION: SERVE AND PROTECT

Prepared for

**Bismarck Police Department
Burleigh County Sheriff Department
Mandan Police Department
Morton County Sheriff Department**

Submitted by:

KAT
Communications



OVERVIEW

KAT Communications (KAT), a Bismarck-based marketing and media solutions company, and PRIMUS Inc. (PRIMUS), a 501(c)(3) North Dakota non-profit, propose a collaborative community and law enforcement initiative to attract individuals into law enforcement careers and enhance relations and awareness between the community and those who serve and protect our residents. The initiative designated **Operation: Serve and Protect**, will target the Bismarck/Mandan communities and Burleigh and Morton County regions.

This proposal represents a request for support from the respective political subdivisions and law enforcement departments. It does not represent a request for procurement of services.

KAT and PRIMUS will conduct all activities identified to fulfill the objectives of **Operation: Serve and Protect**:

1. Build a greater awareness in targeted audiences of the diversity of local and county law enforcement careers.
2. Recruit and retain law enforcement professionals in the Bismarck/Mandan/Burleigh/Morton area.
3. Enhance existing relations between local/county law enforcement and respective community business and populations.

KAT and PRIMUS will implement strategies in a systematic and transparent approach that will include:

- Consultation with Bismarck Police Department, Mandan Police Department, Burleigh County Sheriff's and Morton County Sheriff's leadership to identify existing assets and assess agency needs required to meet the career and community awareness, recruitment and retention objectives
- Identification of a campaign monetary goal, based on the results of the individual agency discussions and assessments
- Establishment of a campaign timeline with targeted start, milestone and completion dates
- Enacting accountability protocols ensuring transparency in the fund development process
- Creation of all campaign support and presentation material through an in-kind donation of services
- Pursuing a Letter of Support for the campaign from elected officials of the respective political sub-division charged with agency oversight
- Initiation of a local and county business enterprise and individual fund-raising campaign to meet the target initiative goal

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Introduction of Project Proposal by KAT Communications Sr. Consultant,
Harley Engelman

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PERTINENT ISSUES

1. The challenge of recruiting potential law enforcement professionals to the area.
2. The challenge of retaining a qualified, experienced law enforcement professionals.
3. The challenge of maintaining a positive community awareness during a time of rapid growth.
4. The challenge of building a law enforcement team that is representative of the regions growing diversity.



CAMPAIGN STRATEGY

KAT and PRIMUS propose a collaborative community and law enforcement initiative to attract individuals into law enforcement careers and enhance relations and awareness.

The initiative designated **Operation: Serve and Protect**, targets the Bismarck/Mandan communities and Burleigh and Morton County regions and will be coordinated with local and county law enforcement. KAT and PRIMUS seek a Letter of Support from the respective political subdivisions and law enforcement departments that will allow them to execute the strategies below.

This is not a request for the procurement of services.

The objectives of **Operation: Serve and Protect** are to:

1. Build a greater awareness in targeted audiences of the diversity of local and county law enforcement career pathways
2. Recruit and retain law enforcement professionals in the Bismarck/Mandan/Burleigh/Morton area.
3. Enhance existing relations between local/county law enforcement and respective community business and population sectors.

STRATEGIES

1.0 MANAGEMENT

1.01 Consultation

- a) Consult with Bismarck Police Department, Mandan Police Department, Burleigh County Sheriff's and Morton County Sheriff's leadership to identify existing assets and assess agency needs required to meet the career and community awareness, recruitment and retention objectives of each respective department.
- b) Consult jointly with Bismarck Police Department, Mandan Police Department, and Burleigh County Sheriff and Morton County Sheriff leadership to identify areas of commonality for which a collaborative campaign may be developed.
- c) Develop a three-year campaign strategic plan.
- d) Establish a campaign timeline with targeted start, completion and milestone dates.
- e) Pursue a Letter of Support for the campaign from elected officials of the respective political subdivision charged with agency oversight.
- f) Establish regular meetings with designated department personnel to provide progress reports and to ensure an open-line of communication.



1.02 Development/ Fundraising	<ul style="list-style-type: none"> a) Identify campaign monetary goal, based on the results of the individual agency assessments and joint conversations. b) Enact accountability protocols ensuring transparency in the fund development process. c) Create all campaign support and presentation material through an in-kind donation of services (KAT) . d) Initiate a local and county business enterprise and individual fund-raising campaign to meet the target initiative goal.
2.0 MEDIA	
2.01 Video	<ul style="list-style-type: none"> a) Produce videos (.30, .60 sec. and 3-min.) for use in the overall fundraising and community awareness campaign. b) Produce videos (.30, 3-min.) reflective of each respective department's specified needs (identified through needs assessment). c) Produce career awareness video for use in educational outreach.
2.02 Audio	<ul style="list-style-type: none"> a) Produce audio (.30, .60 sec.) for use in the overall fundraising and community awareness campaign.
2.03 Print	<ul style="list-style-type: none"> a) Create print support material for use in the overall fundraising and community awareness campaign. b) Create print support material reflective of each respective department's specified needs (identified through needs assessment).
2.04 Event	<ul style="list-style-type: none"> a) Create banner/displays for use in the overall community awareness campaign, career/job fairs and recruitment activities.
2.05 eLearning	<ul style="list-style-type: none"> a) Develop an eLearning module for use in career and educational presentations.
2.06 Website	<ul style="list-style-type: none"> a) Create an "Operation: Serve and Protect" website for use in fundraising and community support.
3.0 MARKETING	
3.01 Broadcast	<ul style="list-style-type: none"> a) Develop and implement a campaign media buy utilizing regional broadcast/cable television and radio for fundraising and community awareness purposes. b) Work collaboratively with respective Public Information Officer (PIO) to ensure proper messaging.
3.02 Social	<ul style="list-style-type: none"> a) Develop and implement a social media campaign utilizing diverse social media techniques and behavioral marketing strategies for fundraising and community awareness purposes. b) Work collaboratively with respective PIO to ensure proper messaging.

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Introduction of Project Proposal by KAT Communications Sr. Consultant,
Harley Engelman

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Bismarck Police Department

Todd Muggerrud, CEO
KAT Communications

Harley Engelman, Board President
PRIMUS, Inc.

August 25, 2015

Dear Mr. Muggerrud and Mr. Engelman

I write on behalf of the Bismarck Police Department in support of the OPERATION: SERVE AND PROTECT initiative led by KAT Communications and PRIMUS, Inc. This initiative represents a community approach to assisting law enforcement in its efforts to attract and retain individuals interested in or seeking law enforcement careers and enhance positive public relations between the community and local law enforcement.

The Bismarck Police Department strongly supports the OPERATION: SERVE AND PROTECT objectives of:

1. Building a greater awareness in targeted audiences of the diversity of local and county law enforcement career pathways
2. Recruit and retain law enforcement professionals in the Bismarck/Mandan/Burleigh/Morton area.
3. Enhancing existing relations between local/county law enforcement and the citizens of the respective communities and counties

Through this letter, we acknowledge the specific role and responsibilities KAT and PRIMUS, Inc. will fulfill in this initiative. KAT and PRIMUS, Inc. will work with local law enforcement to determine specific needs and strategies to achieve the objectives.

KAT and PRIMUS, Inc. will be solely responsible for generating the funds needed to accomplish the initiatives ultimate goals. We support their efforts to work with community and county business leaders and private citizens to raise the necessary funds for this initiative.

We look forward to working with KAT and PRIMUS, Inc. in ensuring that our community remains safe and vibrant.

Sincerely,



Dan Donlin, Chief
Bismarck Police Department
708 South 8th Street
Bismarck, ND 58504

Dan Donlin, Chief of Police

Phone: 701-223-1212 ★ FAX: 701-355-1927 ★ Tdd: 701-221-6820 ★ 700 S. Ninth Street ★ Bismarck, ND 58504-5899



Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Introduction of Project Proposal by KAT Communications Sr. Consultant,
Harley Engelman

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MANDAN CITY POLICE

Dennis A. Bullinger
Chief of Police
205 1st Ave. N.W.
Mandan, ND 58554
(701) 667-3250

September 10, 2015

Todd Mugerud, CEO
Harley Engelman, Board President
KAT Communications
1025 North 3rd Street
Bismarck, ND 58501

Dear Mr. Mugerud and Mr. Engelman:

On behalf of the Mandan Police Department I write this letter in support of the OPERATION: SERVE AND PROTECT initiative led by KAT Communications and Primus, Inc. This initiative represents a community approach to assisting law enforcement in its efforts to attract and retain individuals interested in or seeking law enforcement careers and enhance positive public relations between the community and local law enforcement.

The Mandan Police Department supports the OPERATION: SERVE AND PROTECT objectives of:

1. Building a greater awareness in targeted audience of the diversity of local and county law enforcement career pathways.
2. Recruit and retain law enforcement professionals in the Bismarck/Mandan/Burleigh/Morton area.
3. Enhance existing relations between local/county law enforcement and the citizens of the respective communities and counties.

Through this letter, we acknowledge the specific role and responsibilities KAT and PRIMUS, Inc. will fulfill in this initiative. KAT and PRIMUS, Inc. will work with local law enforcement to determine specific needs and strategies to achieve the objectives.

KAT and PRIMUS, Inc. will be solely responsible for generating the funds needed to accomplish the initiatives ultimate goals. We support their efforts to work with community and county business leaders and private citizens to raise the necessary funds for this initiative.

We look forward to working with KAT and PRIMUS, Inc.

Respectfully,

Dennis A. Bullinger
Chief of Police



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
 PREPARATION DATE: November 22, 2015
 SUBMITTING DEPARTMENT: Engineering & Planning
 DEPARTMENT DIRECTOR: Justin Froseth
 PRESENTER: Justin Froseth, Planning and Engineering Director
 SUBJECT: Update and Endorsement of NDDOT TIP (Transportation Improvement Program) Eligible Projects

STATEMENT/PURPOSE.

The MPO (Metropolitan Planning Organization) coordinates funding requests for NDDOT TIP roadway projects. Below is a briefing of projects applied for in 2020 as well as an update of projects that are in the program for 2015-2018.

BACKGROUND/ALTERNATIVES

Staff has met recently with MPO and NDDOT staff to discuss and prioritize funding requests for various roadway projects. Engineering staff is seeking endorsement of the 2020 projects submitted to the MPO. Projects are largely the same that were applied for in 2019. The city was unsuccessful in having any projects approved for 2019.

2020 Urban Roads Applications. These projects are eligible for approximately 80% federal funding with about a 20% local match required.

1. McKenzie Dr. SE from westbound off-ramp to and including intersection of 46th Ave. SE

The purpose of this project is to reconstruct this degraded section of McKenzie Dr. and to improve the functioning and safety of this intersection. This is the primary route to the interstate system for the southeastern portion of the city. There is rapid ongoing development occurring in this area. In addition, the water park is just north of this intersection with a gas station across the street. A new YMCA facility is under construction adjacent to the intersection. During the summer there is heavy pedestrian and bicycle traffic nearby.

2. Reconstruction of 8th Ave. NW from Old Red Trail to 27th St. NW

The purpose of this project is to provide a viable alternate route to access new residential and commercial development as well as new middle school that allows traffic coming from the east to avoid the intersection of Sunset and Old Red Trail that is already heavily congested. The existing roadway is not a full width section and is badly deteriorated.

3. Extension of Sunset Drive NW

The purpose of the project is to link the Sunset interchange on I-94 to the proposed northern

bridge corridor at 38th St. NW with a connection to 1806. This project might be built in two phases depending on the pace of development. Developer funding of a rural section road as a first phase is likely with the requested Urban Road Program funding a second phase upgrade to an urban arterial roadway section.

4. Extension of Division Street east from 8th Ave. NE to Mandan Avenue

The purpose of this project is to provide an alternate route from the central portion of Mandan to I-94 in order to relieve congestion at Sunset. In addition, when the Sunset interchange is rebuilt, this road will be a critical part of the required detour.

5. Extension of Division Street west from Sunset to Lohstreter

The purpose of this project is to provide an alternate route from Sunset to the west into a developing area. All existing street options are narrow residential streets. Once linked to Lohstreter this will provide an alternate route to the high school and Sunset from existing neighborhoods and planned new development.

6. Extension of 8th Ave. NW from 27th St. to 38th St. NW and then east to 1806

The purpose of this project is to provide a link from 1806 to Sunset using the future bridge corridor. A primary water transmission line is in this alignment. This project may be built in two phases depending on the pace of new development. Developer funding of a rural section road as a first phase is likely with the requested Urban Road Program funding a second phase upgrade to an urban arterial roadway section.

7. Old Red Trail Reconstruction from 40th Avenue NW to 56th Avenue NW

The purpose of this project is to reconstruct the roadway from west of 40th Avenue, where the 2016 project is expected to end, to 56th Avenue NW. It is expected that the reconstructed section will be urban with curb and gutter and storm sewer incorporated to 47th Avenue NW and that the reconstructed stretch between 47th Avenue and 56th Avenue will remain as a rural section.

2020 Urban Regional Applications. These projects are eligible for approximately 80% federal funding and 10% state funding with about a 10% local match required.

8. Mandan Ave, ORT, and 1806 from Interstate to 27th St. NW

The purpose of this project is to improve traffic capacity and safety at the intersection of 1806(Collins) and Old Red Trail as well as improvements to the stretch of Mandan Ave., Old Red Trail, and 1806 from the Mandan Avenue Interstate interchange to just north of the 27th St. intersection. The main components would include; 1) Reconstruction of the roadway from the

interchange to the Old Red Trail/Collins intersection 2) Reconfigured intersection to either be signalized or incorporate a round-about 3) Shoulder widening along 1806 north of the intersection and a northbound left turn lane onto 27th Street.

9. Main Street Concrete Pavement Repair from 10th Avenue West to Twin City Drive

This project would consist of addressing problems with panels that have slumped or lifted over time due to movement in the soils under the panels and would make sure all the joints are well sealed. The repairs are spot repairs and only address those locations as needed.

10. Memorial Highway, Phase 1

This is a project that has been in the works for some time including a project study done in 2010 to guide. Because of the large size of the project, it is planned to break it into 3 phases so it would more easily fit within the funds available during each funding cycle. Each phase may be done in 3 year increments so that the entire corridor from Main St. to 46th Ave. SE would take about 9 years once initiated. The project would include a full reconstruct of the roadway with a new typical section to implement safety and pedestrian friendly elements including a multi-use path. Also it would address drainage issues, and replace other utilities as necessary.

2016-2019 TIP Update. These projects are in the TIP program meaning that the DOT has allocated funds they are expected to receive from the FHWA (Federal Highway Administration) for them.

2016 Projects

11. Regional Project - Traffic signals on Memorial Highway at 40th Ave. SE and 46th Ave. SE. The project consists of adding a new traffic signal at 40th and replacing the temporary signal with a permanent signal at 46th. This project is currently in design.
12. Regional Project – Traffic signal improvement at Main St. and Twin Cities Drive. This is an old signal that is scheduled for replacement and upgrade.
13. Urban Roads Program – Reconstruct Old Red Trail from Highland Ave. NW to 47th Ave. NW. This project will widen the roadway and add curb and gutter as well as other improvements to this section of roadway.

2017 Projects

14. Regional Project – Replace and upgrade traffic signals on Main Street. This project will improve the functioning of the traffic signals and provide pedestrian control of the walk cycle.

Board of City Commissioners

Agenda Documentation

Meeting Date: December 1, 2015

Subject: Update and Endorsement of NDDOT TIP (Transportation Improvement Program)

Eligible Projects

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15. Regional Project – Concrete pavement repair on 10th Ave. SW from Heart River Bridge to Main Street. This is a maintenance project to prevent further deterioration of the roadway.

16. Urban Roads Program – Reconstruct and widen 27th St. NW from 1806 to 8th Ave. NW. This project will widen as well as add curb and gutter along this stretch of 27th St. to provide better access to the new middle school and nearby developing areas.

Note: Full applications available from the engineering office upon request.

ATTACHMENTS:

- 1) 2020 Projects Application Submittal List
- 2) 2016-2019 TIP Projects List and Associated Map

FISCAL IMPACT:

The city will need to come up with the local match as these projects come to fruition. The local match would most likely include a combination of general fund tax dollars and special assessments to benefiting properties as has been done on previous projects.

STAFF IMPACT:

Minimal

RECOMMENDED ACTION:

Approve of TIP projects sent to the MPO for their consideration and forwarding to the NDDOT.

SUGGESTED MOTION:

I move to approve of TIP projects sent to the MPO for their consideration and forwarding to the NDDOT.

Board of City Commissioners
 Agenda Documentation
 Meeting Date: December 1, 2015
 Subject: Update and Endorsement of NDDOT TIP (Transportation Improvement Program)
 Eligible Projects
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PROJECT SUBMITTAL LIST

Priority	FISCAL YEAR	FUNDING CATEGORY ⁽¹⁾	FUNCTIONAL CLASSIFICATION ⁽²⁾	INVESTMENT STRATEGY ⁽³⁾	TYPE OF WORK ⁽⁴⁾	PROJECT LOCATION	PROJECT COST			NON-PARTICIPATING		
							TOTAL	FEDERAL	STATE		LOCAL	
1	2020	URP	Collector	N/R	Traffic Signal & Reconstruct	46th and McKenzie to Expressway	\$ 1,300,000	\$ 1,052,090	\$	\$ 247,910		
2	2020	SecR	Principal Arterial	N/R	Widen/Reconstruct Intersection Improvement	1806 (Old Red Trail & Mandan Ave. to 27th Street)	\$ 7,500,000	\$ 6,069,750	\$ 680,250	\$	\$ 750,000	
3	2020	URP	Collector	N/R	Reconstruct & Widen	8th Ave NW (ORT to 27th St)	\$ 1,500,000	\$ 1,213,950		\$	\$ 286,050	
4	2020	SecR	Principal Arterial	MIR	CPR	Main Street (10th Avenue to Twin City Dr.)	\$ 400,000	\$ 323,720	\$ 36,280	\$	\$ 40,000	
5	2020	URP	Collector	N/R	New Road	Sunset Dr (31st to 38th St)	\$ 8,000,000	\$ 6,474,400		\$	\$ 1,525,600	
6	2020	URP	Collector	N/R	New Road	Division (Mandan Ave to 8th Ave NE)	\$ 4,000,000	\$ 3,237,200		\$	\$ 762,800	
7	2020	URP	Collector	N/R	New Road	Division (Sunset to Lohstreter)	\$ 4,000,000	\$ 3,237,200		\$	\$ 762,800	
8	2020	URP	Collector	N/R	New Road	8th Ave NW (27th St to 39th St)	\$ 3,000,000	\$ 2,427,900		\$	\$ 572,100	
9	2020	SecR	Minor Arterial	N/R	Reconstruction	Memorial Highway (46th Ave. to Main Street) Phase 1 (Phase 1 of 3)	\$10,000,000.00	\$ 8,093,000.00	\$ 907,000	\$	\$ 1,000,000	
10	2020	URP	Collector	N/R	Reconstruction	Old Red Trail (40th Avenue West to 56th Avenue West)	\$ 4,000,000	\$ 3,237,200.00		\$	\$ 762,800	

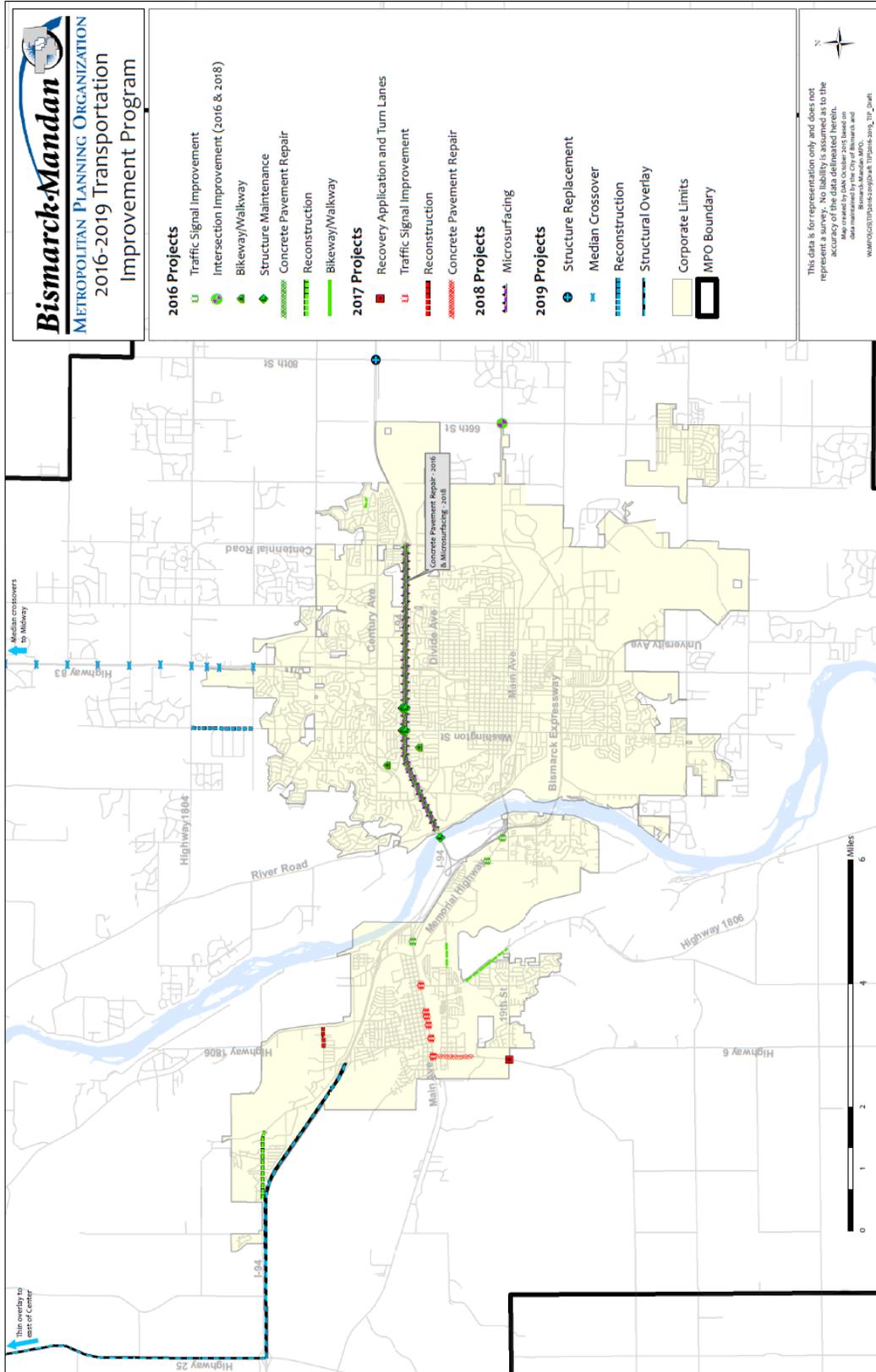
Notes Description

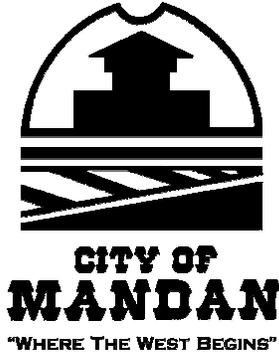
- (1) P/R = Primary Regional, SecR = Secondary Regional, URP = Urban Roads Program, TA = Transportation Alternatives, INT = Interstate, BR = Bridge
- (2) Interstate, Principal Arterial, Minor Arterial, Collector
- (3) PM = Preventive Maintenance, MIR = Minor Rehabilitation, SI = Structural Improvement, MoR = Major Rehabilitation, N/R = New/Reconstruction
- (4) Brief description of the project (Ex: Thin Lift Overlay, Mill and Overlay, Concrete Pavement Repair, etc.)

Attachment A

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
 FINAL URBAN PROGRAM
 FOR BISMARCK/MANDAN MPO – September 2015

<u>LOCATION</u>	<u>TYPE</u>	<u>TOTAL</u>	<u>FEDERAL</u>	<u>CITY COSTS</u>
*** FISCAL YEAR 2016 ***				
<u>Regional</u>				
Mandan Memorial Hwy (Intersections at 40 th & 46 th)	Traffic Signals	937,500	758,719	85,031 (State) 93,750 (Mandan)
Intersection of Main & Twin City Dr	Signals	250,000	202,325	22,675 (State) 25,000 (Mandan)
<u>Urban Roads Program –</u>				
Bismarck Traffic Signals (City Wide)	Traffic Signals	320,000	256,000	64,000 (Bismarck)
Old Red Trail (Highland Rd NW to 47 th Ave NW)	Recon	4,000,000	3,200,000	800,000 (Mandan)
*** FISCAL YEAR 2017 ***				
<u>Regional</u>				
Main St (ND 6 to ND 1806)	Signals	1,500,000	1,200,000	150,000 (State) 150,000 (Mandan)
10 th Ave SW (Heart River Bridge to Main)	CPR	250,000	202,325	47,675 (State)
<u>Urban Roads Program</u>				
27 th St (1806 to 8 th Ave NW)	Recon	1,000,000	809,300	190,700 (Mandan)
*** FISCAL YEAR 2018 ***				
<u>Regional</u> - None				
<u>Urban Roads Program</u>				
*66 th St & Hwy 10 Intersection Int. Improvement *(Payback of funds from Urban to County program)		825,000	660,000	165,000 (Burleigh)
*** FISCAL YEAR 2019 ***				
<u>Regional</u> - None				
<u>Urban Roads Program</u>				
Washington St(57 th -71 st Ave N) Reconstruction		4,350,000	3,487,000	863,000 (Burleigh)





Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 24, 2015
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Appointment to Mandan Visitors Committee

STATEMENT/PURPOSE: Consider appointment to the Mandan Visitors Committee (Committee)

BACKGROUND/ALTERNATIVES: The Mandan Visitors Committee is a five member committee that considers requests for funds pursuant to North Dakota Century Code:

40-57.3-02. City visitors' promotion fund - City visitors' promotion capital construction fund - Visitors' committee - Establishment - Purpose.

The governing body of any city which imposes a city tax pursuant to section 40-57.3-01 or 40-57.3-01.1 shall, as appropriate, establish a city visitors' promotion fund, a city visitors' promotion capital construction fund, and a visitors' committee. The visitors' committee shall serve as an advisory committee to the city governing body in administering the proceeds from the taxes available to the city under this chapter. The moneys in the visitors' promotion fund must be used generally to promote, encourage, and attract visitors to come to the city and use the travel and tourism facilities within the city. The moneys in the visitors' promotion capital construction fund must be used generally for tourism or the purchase, equipping, improving, construction, maintenance, repair, and acquisition of buildings or property consistent with visitor attraction or promotion.

The Committee met on November 23, 2015 to consider a letter of interest from Maria Walen. Ms Walen has joined the Mandan business community as the General Manager of the Comfort Inn & Suites.

ATTACHMENTS: Maria Walen Letter of Interest

FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION: The Committee recommends the appointment of Maria Walen to a two year term

SUGGESTED MOTION: I move to approve the Committees recommendation and appoint Maria Walen to a two year term.

Letter of Intent- Maria C. Walen
Applicant for Mandan Visitors Committee

Jim Neubauer, City Administrator
205 Second Avenue NW
Mandan, ND 58554

Monday, October 12, 2015

I, Maria Walen, am writing to be formally considered for the open position with the Mandan Visitors Committee. Recently new to Mandan, I am excited to give back to the community with volunteer services within the Hospitality Industry and without. I have joined the Mandan business community as the General Manager of the new Comfort Inn & Suites.

I believe I would be a great asset to the Mandan Visitors Committee because of my dedication to the industry, interest in the city's increased tourism, and my integrity and hard work. I have worked with CVBs and Chamber's in each city I have managed a hotel and look forward to the opportunity to work closely with ours as well as the committee.

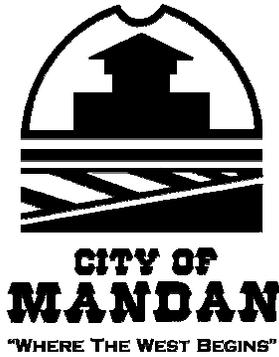
Please consider my interest for the position; I look forward to hearing from you.

With appreciation,



Maria C. Walen
General Manager
Comfort Inn & Suites
1516 27th Street NW
Mandan, ND 58554

701-751-7484 (work)
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Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 23, 2015
SUBMITTING DEPARTMENT: Business Development and Communications Department
DEPARTMENT DIRECTOR: Ellen Huber, Business Development and Communications Director
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Funding and proposals for visitor wayfinding signage

STATEMENT/PURPOSE: To consider a Visitors Committee recommendation for funding for visitor wayfinding signage and the selection of a firm for engineering and design services. The purpose of the proposed signs is to provide a welcome, direction to visitors for various attractions and destinations, and a sense of community branding and character.

The Visitors Committee provides recommendations to the City Commission in administering proceeds from the 1 percent city restaurant and lodging tax. Funds may be used for capital construction and promotion projects to attract visitors to the community to use travel and tourism facilities.

BACKGROUND/ALTERNATIVES: At the recommendation of the Visitors Committee, the City Commission at its Oct. 6, 2015, meeting approved issuing a request for proposals for new visitor wayfinding signage. Three proposals were received by the deadline of Nov. 9, 2015. The Visitors Committee met Nov. 23 to consider these proposals. The committee interviewed the two firms whose proposals best fit the requested scope of work. The third proposal did not sufficiently address engineering and sign design components of the project. The committee's recommendation is to enter into an agreement with Berberich Design and KLJ, based on their joint proposal, for the first phase of the project to include site evaluation, engineering and sign design services. This decision was based largely on Berberich Design's experience in community branding and developing similar consistent plans for signage for other communities.

The deliverables and process are as follows:

- Research and programming

- Schematic design
- Design development
- Design intent, shop drawings, engineering, preparation of bid for fabrication, installation, and landscaping

These components would take the project up to a juncture at which a request for bids would be needed for fabrication, installation and associated landscaping for up to 15 signs (quantity and sites dependent upon phase I work).

Next steps. The Visitors Committee would like to continue to be apprised of the project but would like a separate committee to assist with site and sign design selection based on the work of the selected contractor. A suggested committee formation would include the city administrator and business development and communications director along with representatives from each the Visitors Committee, the Mandan Tomorrow – Leadership, Pride and Image Committee, the Mandan Architectural Review Commission, and the Mandan Community Beautification Committee. The City Commission may also want a representative to serve on this ad hoc committee.

Once a sign design is determined, along with any variations needed for different locations or viewing with different vehicular speed limits in mine, the signs will require approval of the Mandan Architectural Review Commission. The City Commission would also have an opportunity to approve the sign design prior to going out for bid for fabrication, installation and landscaping.

ATTACHMENTS: The request for proposals and all proposals received are available upon request.

FISCAL IMPACT: \$250,000 would be allotted for the total project in the Visitors Promotion Capital Construction Fund. It had an unrestricted balance of \$911,120 at the time of the committee meeting.

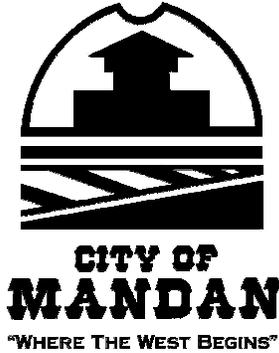
STAFF IMPACT: Staff time will be necessary for project direction and oversight.

LEGAL REVIEW: Attorney Brown has reviewed all information.

RECOMMENDATION: The Visitors Committee voted to recommend support of the project with a funding authorization of up to \$250,000 to cover all aspects of the project and to authorize staff to negotiate a contract for the engineering and design services with Berberich Design and KLJ based on their proposal submitted.

SUGGESTED MOTION: I move to approve funding of up to \$250,000 to cover all aspects of the Mandan visitor wayfinding signage project and to authorize staff to negotiate a contract for the engineering and design services with Berberich Design and KLJ based on their proposal submitted.

Potential additional motion: I move to appoint _____ as a city commissioner to the ad hoc visitor wayfinding sign committee.



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 1, 2015
PREPARATION DATE: November 23, 2015
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Change Order related to improvements Beanery

STATEMENT/PURPOSE: To consider a change order to improvements to the Mandan Beanery.

BACKGROUND/ALTERNATIVES: On July 21, 2015 the City Commission approved funding for improvements to the Mandan Beanery, as listed below:

Mandan Beanery Rehabilitation Project	Approved 7/21/2015	Change Order 11/17/2015	Revised Project Costs
Construction Bid	\$ 200,000	\$ 24,900	\$ 224,900
Architect Fee (10% plus mileage)	\$ 25,000	\$ 2,760	\$ 27,760
Total Project	\$ 225,000	\$ 27,660	\$ 252,660
Less ND DOT Grant	\$ (77,772)		\$ (77,772)
Balance Visitors Fund	\$ 147,228	\$ 27,660	\$ 174,888
Change Order due to additional Tuck Pointing, Rather than 30% of the building included in original bid, after cleaning, attempting to match mortar, recommend full building tuck pointing, work to be completed Spring 2016			

Attached is justification from Bobbi Hepper Olson, Architect.

The increase in architect fees is estimated on the worst case scenario, and if fewer trips for inspection, if fewer reports are needed to be filed with ND DOT the fees will be less than the additional \$2,760.

Due to the time of year, the entire tuck pointing project would be completed by June 1, 2016. All other work is to be completed by November 15, 2015.

The Mandan Visitors Committee met on November 23, 2015 and voted to authorize the additional funds.

ATTACHMENTS: n/a

FISCAL IMPACT: See above for project costs. This request is to increase the amount by \$27,660. Unrestricted balance in the Visitors Fund as of December 1, 2015 is \$911,120.

STAFF IMPACT: minimal

LEGAL REVIEW: n/a

RECOMMENDATION: Recommend approving the change order of \$27,660 for additional tuck pointing and architectural fees for the Mandan Beanery rehab project, and extending the project completion date to June 1, 2016.

SUGGESTED MOTION: I move to approve the change order of \$27,660 for additional tuck pointing and architectural fees for the Mandan Beanery rehab project, and extending the completion date to June 1, 2016.



November 3, 2015

To: NDDOT
Attn: Pam Wenger
608 East Boulevard Avenue
Bismarck, ND 58505-0700
pwenger@nd.gov

RE: REQUEST FOR CHANGE ORDER AND TIME EXTENSION
Northern Pacific Beanery – Preservation Improvements – Mandan, ND
NO: TEU-1-988(037)048 (PCN-20391)

Dear Ms. Wenger,

We have encountered an unforeseen condition on the above noted project that relates to the tuckpointing alternate that was awarded. At the construction meeting on October 28th and discussions later that day and on October 30th, the following is what transpired leading to a consensus for a change order and time extension request:

1. After the contractor completed the masonry cleaning it exposed more loose mortar and cracks in the masonry work than the 30% anticipated per construction drawings and specifications.
2. Steve Paulson/Paulson Contracting, Steve Melby/Hepper Olson Architect's Rep and Del Wetch/Owner's Rep reviewed what 30% area that should be completed, and determined a complete tuckpointing should be discussed by all, for two main reasons:
 - a. The very loose mortar makes it hard to find a clean spot to start and stop mortar removal and placing of new mortar, so doing only 30% we would end up with much more, therefore where do you stop.
 - b. The mortar color and texture is more difficult to match than anticipated. Paulson Contracting had two suppliers review trying to achieve a mix design.
 - c. Therefore with many locations to be removed and retucked, and difficult color/texture match – a spotty tuckpointing process seems inevitable, and unacceptable for this historic structure.
3. The review lead to a discussion about tuckpointing entire building.
4. Costs were reviewed and estimated to be about \$25,000 add for the contractor. That cost was acceptable to all. Formal cost proposals from Contractor and Architect will be prepare this week and sent to Jim Neubauer for review by City Council this month.
5. Our completion date is November 15th and with the additional tuckpointing work, we will not be able to complete all the tuckpointing until weather permits. So a time extension for June 1, 2016 was acceptable to Contractor and Owner.

This letter is to serve as a request to the NDDOT for Change Order for the additional tuckpointing, and Time Extension.

- Total amount to be submitted for owner review and approval.
- Time Extension to June 1, 2016

All other work is schedule for final punchlist on November 12, 2015.

Sincerely,

A handwritten signature in black ink that reads 'Bobbi J. Hepper Olson'.

Bobbi J. Hepper Olson, Architect

CC: Kirk Hoff/NDDOT
Jim Neubauer/City of Mandan
Del Wetch/Mandan Beanery
Steve Melby/Hepper Olson Architect Consultant
Steve Paulson/Paulson Contracting

hepperolson.com

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ORDINANCE NO. 1226

An Ordinance to Amend and Reenact Sec. 24-11-2 of the
Mandan Code of Ordinances Relating to Driving while
License Suspended or Revoked

Be it ordained by the Board of City Commissioners:

An Ordinance to amend Sec. 24-11-2 of the Mandan Code of Ordinances relating to Driving while License Suspended or Revoked is hereby enacted as follows:

Sec. 24-11-2. Penalty for driving while license suspended or revoked.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-06-42. As authorized by subsection 5 of N.D.C.C. § 39-06-42, the municipal judge for the City of Mandan may order destruction of vehicle number plates by members of the Mandan Police Department.

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

ATTEST:

James Neubauer, City Administrator

First Consideration:
Second Consideration and Final Passage:
Publication Date:

November 17, 2015
December 1, 2015
December 25, 2015

ORDINANCE NO. 1227

An Ordinance to Amend and Reenact Chapters 115 and 117 and Create and Enact Chapter 119 of the Mandan Code of Ordinances Related to Potable Water, Sanitary Sewer, Wastewater, Stormwater and Solid Waste

WHEREAS, adjustments and additions are needed to the language in Chapters 115 and 117, and

WHEREAS, certain portions of Chapters 115 and 117 should be relocated or placed in a new separate chapter.

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

Section 1. Amendments to Chapter 115. Chapter 115 of the Mandan Code of Ordinances is hereby amended.

(a) Sections 115-9-1 through 115-9-5 are deleted.

~~Sec. 115-9-1. Stormwater conveyance and treatment facilities.~~

~~The stormwater conveyance and treatment facilities, now owned by the city or hereafter acquired, were and are declared to be and to constitute a public utility of the city, to be held, operated, maintained, improved, extended and administered as an separate utility of the city. The properties of the utility shall include all plants, systems, works, instrumentalities, equipment, materials, supplies, lands, easements, rights in land, contract rights, franchises, stormwater conveyance mains, ditches, detention or retention ponds, pumping stations, treatment facilities and all parts and appurtenances of the foregoing which are useful or used in connection with the conveyance and treatment of stormwater from properties within the city.~~

~~Sec. 115-9-2. Service charges required to fund the stormwater conveyance and treatment facilities.~~

~~(a) The stormwater conveyance and treatment utility shall at all times be so operated and maintained, and rates and charges for its services, facilities, products and byproducts shall be such, as to make the utility self-supporting and self-perpetuating. Such charges, from time to time imposed and collected, shall be made and kept adequate to pay, as incurred, all costs of operation and maintenance of the utility and to establish and maintain reasonable operating reserves to produce net revenues which shall be sufficient, at all times, to pay promptly the principal and interest due on all obligations of the city incurred for the improvement, extension and enlargement of the utility to the extent that such obligations are, according to their terms, payable from said net revenue, and to establish and maintain adequate reserves for the security of said obligations, and to produce surplus net revenues, over and above current principal,~~

interest and reserve requirements, in amounts sufficient to provide reasonable allowances for depreciation and replacement of the utility plus a reasonable return on the city's capital investment therein, which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to pay or contribute to the cost of any other city functions, subject to the limitations now or hereafter prescribed by law.

(b) — The foregoing appropriations shall not, however, be deemed or construed to preclude the city from defraying any part or all of the expense of any improvement, enlargement or extension of the stormwater conveyance and treatment utility by the levy of special assessments or taxes or the issuance of general obligation bonds, whenever and to the extent that such action is authorized in the manner provided by law and is deemed fair and equitable by the governing body.

Sec. 115-9-3. — Policy in regard to cost of improvements, enlargements and extensions.

It is declared to be the policy of the city, subject to such modifications as shall be deemed by the board of city commissioners to be required by special circumstances in individual cases, and subject to such modifications as may hereafter be made by ordinance mandatory hereof or supplemental hereto, that the cost of capital improvements, enlargements and extensions of the utility shall be paid in the following manner:

(1) — Where new developments do not provide on-site stormwater management facilities, the total cost of off-site stormwater facilities installed by the city shall be assessed against the properties within the development generating the need for such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties.

(2) — Where the city deems it necessary to install facilities larger than those needed to serve the development, as determined by the board of city commissioners, the city may levy ad valorem taxes upon all property within the city over the same period as the levies of assessments for such improvements for that portion of the improvements deemed to be oversizing, or any portion or all of such cost may be paid out of current funds duly provided in the budget or from the proceeds of general obligation bonds duly

(3) — The city shall impose a monthly charge on each property in the city for the operation, maintenance and repair of the stormwater management facilities

Sec. 115-9-4. — Surcharge for stormwater conveyance and treatment utility may be established and imposed.

Notwithstanding any other provision of this article, the board of city commissioners reserves the right, at any time, to establish and impose, by resolution, a surcharge upon any rate or charge imposed and collected in respect to any service, facility, product or byproduct furnished, or to be furnished, and/or made available by the stormwater conveyance and treatment utility of the city. Such surcharge may be imposed upon any class of user thereof, upon the users within any area of the city or upon all users within the corporate limits that may, in the opinion of the board of city commissioners, receive special benefits from any of the services and/or facilities of such utility, for which benefits such user should be required to pay in order to achieve fairness and equality in paying for any capital improvements, enlargements, extensions or betterments, made or to be made to any such service or

facilities or in the operation and maintenance of such utility. Such surcharge shall be in such amount and shall be in force for such period of time as the board may determine and shall be billed and collected and payment enforced in the same manner and at the same times as other services for such utility are billed, collected and enforced. Payment received thereunder shall be paid into the stormwater conveyance and treatment utility fund.

~~Sec. 115-9-5. — Stormwater conveyance and treatment utility fund.~~

~~All moneys received by the city in respect to the services, facilities, products and byproducts furnished and made available by the stormwater conveyance and treatment utility, except collections of special assessments and taxes appropriated to improvement district funds and moneys borrowed for capital improvements, and all money, receipts and returns received from any investments of such earnings, shall be paid into the treasury of the city and kept in a special fund which shall be permanently maintained on the books of the city, separate and distinct from all other funds, designated as the stormwater conveyance and treatment utility fund, in the records of which fund all receipts and disbursements of money on account of or in connection with the utility shall be entered and reflected, but the moneys from time to time on hand therein shall always constitute public municipal funds and shall be deposited and their safekeeping secured like other city funds. Separate accounts within the stormwater conveyance and treatment utility fund shall be permanently maintained for the purpose of and obligations of the utility, as provided in this section, and such revenues shall be administered and accounted for as follows:~~

~~(1) — Operation and maintenance account. There shall be credited at least once in each calendar month to the operation and maintenance account of said fund, as a first lien and charge on the gross revenues of the utility, balance then held therein, to pay all claims which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of approximately one month, and to maintain a reasonable reserve for contingencies. Moneys in said account shall be used only to pay expenses of the foregoing type, and not for repairs or replacement or for capital improvements properly chargeable to replacement and depreciation reserves or surplus funds.~~

~~(2) — Revenue bond account. The net revenues of the utility are defined in this section as the aggregate of all sums on hand in the stormwater conveyance and treatment utility fund and the sanitary sewer utility fund from time to time in excess of the current requirements defined in subsections (1) and (2) of this section. The entirety of said net revenues shall be credited each month to the revenue bond account of the stormwater conveyance and treatment utility fund and the sanitary sewer utility fund until there shall have been created within said account, and thereafter so much of the net revenues shall be credited to said account as shall be necessary to maintain, at all times, a reserve in an amount at least equal to the sum of the principal and interest payments due within each next succeeding 12-month period upon all revenue bonds of the city heretofore or hereafter issued and made payable from said account. After said reserve has been created, there shall continue to be credited out of the net revenues to the revenue bond account each month, over and above sums required to maintain said reserve, an amount not less than 1/12 of the sum of the principal and interest to become due on all such revenue bonds within the then next succeeding 12 months. Moneys in said account shall be used for the payment of principal and interest as it~~

becomes due on said revenue bonds, and said reserve shall be used for such purpose only when other moneys in the account are insufficient. All revenue bonds heretofore and hereafter issued and made payable from said account, subject to the limitations upon such issuance contained in this section, shall constitute a first lien and charge on the net revenues of the utility, as defined in this section, without preference or priority of one bond over any other, provided that if, at any time, the moneys in the revenue bond account should be insufficient to make all payments of principal and interest due on such revenue bonds and cannot be made sufficient by transfer of moneys from the other accounts described in subsections (4) through (6) of this section, the moneys available shall be first used to pay interest then accrued on all bonds payable from said account, and any excess moneys available shall be used to pay matured principal of such bonds in order of their maturity dates, provided that moneys available for the payment of bonds maturing on the same date shall be pro-rated equally among such bonds.

(3) — Improvement warrant account. There shall also be maintained in said fund an improvement warrant account for the purpose of segregating net revenues required for the payment of any portions of the cost of improvements hereafter instituted, for which such revenues have been pledged in accordance with the provisions of N.D.C.C. §§ 40-22-15 and 40-22-16. There shall be transferred from said account as required, to the fund of each improvement district for which such pledge has been made, sums sufficient, together with tax and assessments collections held in such funds, to pay when due the principal and interest on all improvement warrants drawn upon such funds for the financing of such improvements. Moneys sufficient for the requirements of said improvement district funds shall be credited and paid into the improvement warrant account out of net revenues remaining from time to time after provision for the current requirements of the revenue bond account, and for the lien and charge on said net revenues in favor of improvement warrants for the payment of which such pledges have been made shall be subordinate only to the lien and charge on said net revenues in favor of revenue bonds payable from the revenue bond account. In the event that moneys in the improvement warrant account should be insufficient for the making of all transfers required to be made to the several improvement district funds to which such pledges have been made, and cannot be made sufficient by the transfer of funds from the remaining accounts described in subsections (5) and (6) of this section, the available moneys shall be apportioned first to the several improvement district funds in sums sufficient to pay interest then accrued on all warrants drawn on such district funds, and any remainder shall be applied in payment of matured principal of such warrants maturing on the same date, such available moneys shall be applied to the warrants of the several issues in proportion to the matured principal amount thereof for the payment of which taxes and assessments in the respective improvement funds are insufficient.

(4) — Replacement and depreciation account. Finally, there shall be maintained a replacement and depreciation account into which there shall be credited and paid as received, except as otherwise stated in subsection (6) of this section, all net revenues in excess of the current requirements of the other accounts described in this section. In said account there shall be maintained such balance as the board shall from time to time determine to constitute an adequate reserve for depreciation and replacement of the utility, which reserve may be used to redeem prior to maturity

obligations payable from the net revenues as and when the same become repayable according to their terms, or to replace worn out or obsolete properties of the utility, or to make extension, enlargements or improvements thereto. Any moneys in said account determined to be surplus to the immediate requirements thereof may be invested or may be transferred to other city funds in the discretion of the board in the manner and subject to the limitations set forth in N.D.C.C. § 40-33-12.

(5) — Moneys on hand. The moneys on hand in any of the accounts of the stormwater conveyance and treatment utility fund and the sanitary sewer utility fund shall, at all times, be available and shall be used to the extent necessary to restore any deficiency in the funds on hand in any of the preceding accounts in the order listed in this section for the fulfillment of the requirements of such preceding accounts.

(6) — Additional accounts. The city reserves the right to create additional accounts within said stormwater conveyance and treatment utility fund for the purpose of segregating any surplus net revenues which may be pledged and appropriated to the payment of obligations hereafter issued to finance improvements, enlargements or extensions of said utility, other than the obligations made payable from the revenue bond account and the improvement warrant account, provided that moneys on hand in any such accounts shall at all times be available for and used to the extent necessary to meet the current requirements of all of the foregoing accounts except the replacement and depreciation account.

(b) The title of Article 9 of chapter 115 is revised to read.

ARTICLE 9. – STORMWATER CONVEYANCE AND TREATMENT FACILITIES

(c) New sections 115-9-1 through 115-9-4 are added to read.

Sec. 115-9-1. - Approval required to install private stormwater facilities that discharge to public stormwater facilities.

No person or development shall install a private stormwater system that discharges to any public stormwater facility unless and until a stormwater management plan has been prepared, submitted to the city, reviewed by the city and approved by the city.

Sec. 115-9-2. - Cost to install private stormwater facilities.

All costs and expense incidental to the installation and operation of private stormwater facilities shall be borne by the property owner.

Sec. 115-9-3. - Indemnification.

The property owner shall indemnify the city from any loss or damage that may, directly or indirectly, be occasioned by the installation of a private stormwater facility and the property owner shall repair all such damage at the property owner's expense.

Sec. 115-9-4. – Design of private stormwater facilities.

Private stormwater facilities that discharge off-site must meet all applicable design requirements contained in Chapter 107 of this code.

Section 2. Amendments to Chapter 117. Chapter 117 of the Mandan Code of Ordinances is hereby amended.

(a) The title of Chapter 117 is changed to read.

CHAPTER 117 – WATER AND SEWER UTILITIES

(b) Sections 117-1-2 through 117-1-17 are changed to read.

Sec. 117-13-21. - Potable water, sanitary sewer and stormwater facilities.

The potable water, sanitary sewer and stormwater facilities, now owned by the city or hereafter acquired, were and are declared to be and to constitute a public utility of the city, to be held, operated, maintained, improved, extended and administered as an enterprise department and undertaking of the city funded primarily or wholly with user charges and known as the water and sewer utility. The properties of the utility shall include all plants, systems, works, instrumentalities, equipment, materials, supplies, lands, easements, rights in land, water rights, contract rights, franchises, water mains, pressure adjusting stations, booster pumps, hydrants, sanitary or combined sewer mains, pumping stations, force mains, stormwater conveyance mains, ditches, detention or retention ponds, facilities for production of potable water, facilities for treatment of wastewater and stormwater, facilities for disposal of byproducts of treatment processes and all parts and appurtenances of the foregoing which are useful or used in connection with the acquisition, treatment and delivery of potable water, the collection, conveyance, treatment and disposal of sanitary sewage, domestic wastewater and industrial wastewater and the collection, conveyance, detention, treatment and discharge of stormwater ~~for public and private uses.~~

Sec. 117-1-32. - Water service application; service connection charge.

Application for water service on any premises shall be made on a form provided by the city by the owner of such premises, and said application shall be conditioned upon the absolute guarantee by the property owner for himself and his successors in interest of the payment of all water rentals and charges imposed under this article, or any amendments thereof, whether incurred by him or by any other person occupying said premises during his ownership thereof. Said application shall be accompanied by payment of a service connection charge that shall be established from time to time by resolution of the board of city commissioners as the reasonable cost of furnishing water service. Approval of said application for water service by the city shall be deemed permission for such service.

Sec. 117-13-43. - Service charges and use of water.

- (a) The water and sewer utility shall at all times be so operated and maintained, and rates and charges for its services, facilities, products and byproducts shall be such, as to make the utility self-supporting and self-perpetuating. Such charges, from time to time imposed and collected, shall be made and kept adequate to pay, as incurred, all costs of operation and maintenance of the utility and to establish and maintain reasonable operating reserves to produce net revenues which shall be sufficient, at all times, to pay promptly the principal and interest due on all obligations of the city incurred for the improvement, extension and enlargement of the utility to the extent that such obligations are, according to their terms, payable from said net revenue, and to establish and maintain adequate reserves for the security of said obligations, and to produce surplus net revenues, over and above current principal, interest and reserve requirements, in amounts sufficient to provide reasonable allowances for depreciation and replacement of the utility plus a reasonable return on the city's capital investment therein, which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to pay or contribute to the cost of any other city functions, subject to the limitations now or hereafter prescribed by law.
- (b) The foregoing appropriations shall not, however, be deemed or construed to preclude the city from defraying any part or all of the expense of any improvement, enlargement or extension of the water and sewer utility by the levy of special assessments or taxes or the issuance of general obligation bonds, whenever and to the extent that such action is authorized in the manner provided by law and is deemed fair and equitable by the governing body.

Sec. 117-1-53. - Water meter required.

Except for water lines directly connected to fire suppression systems, no water shall be furnished unless it is measured by or through a meter. Said meter shall be equipped with a remote reading unit supplied by the city and said meter and associated equipment must be located as specified by the city.

Sec. 117-1-64. - Ownership and control of water meter and turn on and off of service.

- (a) All water meters shall be owned and controlled of the city and may, at the sole discretion of the city, be installed, inspected, maintained, repaired, removed or replaced. The city may contract for the installation, inspection, maintenance, repair, removal or replacement of water meters. The city may authorize private contractors, hired by a developer or builder, to install water meters.
- (b) Only employees of the city or authorized contractors may turn on or off water service to a property. Should an unauthorized person turn on or off water service to a property or otherwise tamper with a water system valve, that person is subject to the penalty provisions of Sec. 117-6-4.

Sec. 117-1-75. - Water rates.

The board of city commissioners, in order to provide funds to defray the cost of construction, maintenance and repair of the water production and delivery system, may from time to time, by resolution, establish, maintain and change a schedule of rates, charges, surcharges and fees for all

services, facilities, commodities and benefits furnished to city residents, and may impose and collect monthly at the time and in the manner said board may provide.

Sec. 117-1-86. - Liability for payment of water service charges.

~~All water furnished to consumers shall be charged at the rates set by resolution of the board. Both the owner and occupant of the property are jointly and severally liable for all charges, and the city may collect from either party. The owner of the property, by causing or permitting water service to be connected by service pipe with the water system of the city, shall be presumed to have entered into a contract with the city to pay for all water used on the property. No further act of the property owner, beyond the connecting of the water service or installation of a water meter, or permitting the same to remain on the property, is required for the contract to be presumed. The city shall not recognize any contract between the owner of the property and any tenant which alters, changes or amends their joint and several liability for charges for use of the water service. The city is authorized to collect charges for water use and to enforce the liability for the charges against the property owner, occupant or both.~~

Sec. 117-1-9. — Shutoff of water service for non-payment of water service charges.

Whenever an account is in arrears for a period of more than 15 days, the city shall send a delinquent notice with a deadline date for payment and a statement that water service will be shut off if payment is not received. If payment is not received by the deadline date, the city at its sole discretion may shut off water service to the property.

Sec. 117-13-104. - Policy in regard to cost of improvements, enlargements and extensions.

(a) It is declared to be the policy of the city, subject to such modifications as shall be deemed by the board of city commissioners to be required by special circumstances in individual cases, and subject to such modifications as may hereafter be made by ordinance mandatory hereof or supplemental hereto, that the cost of capital improvements, enlargements and extensions of the city's water delivery system and sewer utility shall be paid in the following manner:

(1) Potable water.

a. Where water mains not exceeding 12 inches in diameter are installed by the city adjacent to residential properties, and where water mains not exceeding 12 inches in diameter are installed by the city adjacent to commercial or industrial properties, the total cost thereof shall be assessed against the properties abutting on such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties. Water mains of the dimensions described in this subsection are referred to in this section as lateral mains, and other mains are referred to as trunk mains.

(2)b. Where a trunk main is installed by the city, the board of city commissioners, upon advice of the city engineer, shall estimate the probable cost of construction of a lateral main at the same time and place, and such estimated cost shall be assessed against the properties abutting on such main in the manner provided in subsection (1)a. of this section above.

(2) Sanitary sewer.

(1)a. Where sanitary sewer mains not exceeding ten inches in diameter are installed by the city adjacent to residential properties, and where sanitary sewer mains not exceeding 12 inches in diameter are installed by the city adjacent to commercial or industrial properties, the total cost thereof shall be assessed against the properties abutting on such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties. Sanitary sewer mains of the dimensions described in this subsection are referred to in this section as lateral mains, and other mains are referred to as trunk mains.

(2)b. Where a trunk main is installed by the city, the board of city commissioners, upon advice of the city engineer, shall estimate the probable cost of construction of a lateral main at the same time and place, and such estimated cost shall be assessed against the properties abutting on such main in the manner provided in subsection a. above(1) of this section.

(3)c. Twenty percent of the cost of any sanitary sewer main in excess of the estimated cost of a lateral sewer at the same time and place shall be assessed against all properties determined by the board to require the immediate construction of such main as a trunk sewer, including properties abutting thereon and properties served or capable of being served by lateral sewer connected thereto, in amounts proportionate to and not exceeding the benefits determined to be derived by said respective properties from such trunk sewer.

(3) Stormwater.

a. Where new developments do not provide on-site stormwater management facilities, the total cost of off-site stormwater facilities installed by the city shall be assessed against the properties within the development generating the need for such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties.

b. Where the city deems it necessary to install facilities larger than those needed to serve the development, as determined by the board of city commissioners, the city may levy ad valorem taxes upon all property within the city over the same period as the levies of assessments for such improvements for that portion of the improvements deemed to be oversizing, or any portion or all of such cost may be paid out of current funds duly provided in the budget or from the proceeds of general obligation bonds duly authorized by the electors.

c. Where public stormwater management facilities are installed as part of a street assessment district, the total cost of those facilities shall be paid by the assessments created in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties.

d. Where public stormwater management facilities are installed that serve an area of the city, the cost of those facilities shall be apportioned among all properties within the tributary drainage area of the facilities. Costs may be reimbursed to the city through property assessments or user fees. The city may allocate funds from other sources to defray some of the costs of the facilities.

(3b) Where a portion of the benefit of any of the foregoing improvements is deemed to accrue primarily to the city at large, a portion not exceeding one-fifth of the cost thereof, as determined by the board of city commissioners, may be paid by the levy of ad valorem taxes upon all property within the city over the same period as the levies of assessments for such improvements, or any portion or all of such cost may be paid out of current funds duly provided in the budget or from the proceeds of general obligation bonds duly authorized by the electors.

(4c) Such portion of the cost of any improvements, extensions or additions to the utility as is not paid by special assessments and taxes levied and actually collected in respect thereof shall be paid from the net revenues of the utility.

(5d) Where due to any error or omission, or to any special circumstances, a special assessment is not levied against any property benefited by an improvement at the time of the construction thereof in accordance with the program described in this section, the city reserves the right to levy a supplemental special assessment upon such property or to impose and collect a special charge for the connection of such property with the utility system in such amount as shall be required to pay its just shares of the assessable cost of such improvements.

Sec. 117-13-115. - Surcharge for potable water, sanitary sewer and stormwater service may be established and imposed.

Notwithstanding any other provision of this article, the board of city commissioners reserves the right, at any time, to establish and impose, by resolution, a surcharge upon any rate or charge imposed and collected in respect to any service, facility, product or byproduct furnished, or to be furnished, and/or made available by the water and sewer utility system to residents of the city. Such surcharge may be imposed upon any class of user thereof, upon the users within any area of the city or upon all users within the corporate limits that may, in the opinion of the board of city commissioners, receive special benefits from any of the services and/or facilities of such utility, for which benefits such user should be required to pay in order to achieve fairness and equality in paying for any capital improvements, enlargements, extensions or betterments, made or to be made to any such service or facilities or in the operation and maintenance of such utility. Such surcharge shall be in such amount and shall be in force for such period of time as the board may determine and shall be billed and collected and payment enforced in the same manner and at the same times as other services for such utility are billed, collected and enforced. Payment received thereunder shall be paid into the water and sewer utility fund.

Sec. 117-1-127. - Discontinuance of water service ~~Summer rates.~~

Upon discovery of any water meter which has been broken, injured, tampered with or has become defective, whether through intentional or accidental cause, the department director is empowered to shut off water service to such premises until such time as the meter is repaired and in

proper condition. The expense of repairing any meter that has been broken, defaced, injured or tampered with by persons other than those employed by the city shall be a charge against the consumer and shall be billed with the next month's water bill.

~~At any time prior to May 1 of each year, the board of city commissioners may, by resolution, authorize the imposition of summer rates for water consumption.~~

Sec. 117-1-138. - Use of hydrants restricted.

Except for city employees or contractors working for the city, no person shall operate or take water from a fire hydrant unless they have first obtained a permit to do so from the public works director or designated city official. All water so removed shall be metered and paid for at rates established by resolution of the board of city commissioners.

Sec. 117-1-149. - Authority of board of city commissioners.

~~The board of city commissioners shall have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction and maintenance of any utility service system owned and operated by the city, with or without the city, and under the management of the city commissioners. Such rules, regulations, standards and specifications shall be filed in the office of city engineer. Violation of such rules, regulations, standards and specifications shall be deemed a misdemeanor.~~

Sec. 117-1-15. — Water service.

- (a) Whenever an application to supply water to any building or lot shall hereafter be granted, the contractor performing the work shall pay to the public works department such sum as shall be fixed and determined by the board of city commissioners. Once all applicable fees have been paid, the city shall tap the main and the contractor shall install the service pipe from the main to the property line and install the corporation cock. Water service to the property will not be activated until the city is satisfied that all pipe and fittings have been installed properly in conformance with applicable city requirements.
- (b) All service pipe, stop cocks, and other fixtures from the main line to said line adjoining the property, must be laid and attached, kept in good repair, and protected from frost, at the expense of the applicant or consumer, but said service pipes will and shall remain under the control of the city, said applicant waiving and releasing all claims thereto, except keeping the same in repair and protecting as heretofore provided.
- (c) Persons taking water from any connection service pipes with city water mains must pay all expenses thereof from the water main, and shall be charged the cost of the corporation and stop cock with the iron shutoff box attached.

Sec. 117-1-1610. - Liability of city for loss of water service.

It is expressly provided that the city shall not be liable under any circumstances for a deficiency or failure in the supply of water, whether by the shutting off of water to make repairs or connections, nor for any other cause whatsoever.

Sec. 117-1-1711. - Meter failure; determination of charge and repair of meter.

(a) In the case that any meter shall fail to register properly from any cause, the amount charged for water during such period shall be estimated by the city, such estimate to be based on the average amount registered during the like preceding period.

(b) An employee or agent of the city may enter private property after contacting the occupant and property owner and receiving permission to enter the property in order to inspect, maintain, repair or replace a non-functioning water meter. Failure of the occupant or property owner to grant timely entry to the city will result in discontinuance of water service to the property.

(c) Sections 117-2-3 through 117-2-4 are changed to read.

Sec. 117-2-3. - Permit required to connect to public sanitary sewer.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the city.

(b) All costs and expense incidental to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify the city from any loss or damage that may, directly or indirectly, be occasioned by the installation of the building sewer and shall repair all such damage at ~~his~~ the property owner's expense.

(c) It is unlawful to discharge wastewater, industrial wastes or other wastes to any sanitary sewer within the jurisdiction of the city and/or to the wastewater disposal system without having first complied with the terms of article 4 of this chapter.

(d) All significant industrial users proposing to connect or to commence a new discharge to the wastewater disposal system shall obtain an industrial wastewater discharge permit before connecting to or discharging into the wastewater system. All existing significant industrial users or those industrial users subject to federal pretreatment standards under sections 307(b) and 307(c), as amended, of the Federal Water Pollution Control Act, also known as the Clean Water Act (33 USC 1251 et seq.), connected to or discharging into the wastewater system shall obtain an industrial wastewater discharge permit.

Sec. 117-2-4. -- Limitations on dDischarge into public sanitary sewers.

(a) No person shall discharge or cause to be discharged any polluted waters such as stormwater, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any building drain or sewer which, in turn, is connected, directly or indirectly, to the public sanitary sewer.

(b) Stormwater and all other drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the city and the state.

(d) Sections 117-2-5 through 117-2-8 are deleted.

~~Sec. 117-2-5. -- Sanitary sewer system public utility.~~

The sanitary sewer system facilities, now owned by the city or hereafter acquired, were and are declared to be and to constitute a public utility of the city, to be held, operated, maintained, improved, extended and administered as an enterprise department of the city funded primarily or wholly with user charges. The properties of the utility shall include all plants, systems, works, instrumentalities, equipment, materials, supplies, lands, easements, rights in land, contract rights, franchises, sanitary or combined sewer mains, pumping stations, and all parts and appurtenances of the foregoing which are useful or used in connection with the collection, conveyance and treatment of sanitary sewage from properties within the city.

Sec. 117 2 6. ~~Service charges and use of sanitary sewer system.~~

(a) — The sanitary sewer system utility shall at all times be so operated and maintained, and rates and charges for its services, facilities, products and byproducts shall be such, as to make the utility self-supporting and self-perpetuating. Such charges, from time to time imposed and collected, shall be made and kept adequate to pay, as incurred, all costs of operation and maintenance of the utility and to establish and maintain reasonable operating reserves to produce net revenues which shall be sufficient, at all times, to pay promptly the principal and interest due on all obligations of the city incurred for the improvement, extension and enlargement of the utility to the extent that such obligations are, according to their terms, payable from said net revenue, and to establish and maintain adequate reserves for the security of said obligations, and to produce surplus net revenues, over and above current principal, interest and reserve requirements, in amounts sufficient to provide reasonable allowances for depreciation and replacement of the utility plus a reasonable return on the city's capital investment therein, which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to pay or contribute to the cost of any other city functions, subject to the limitations now or hereafter prescribed by law.

(b) — The foregoing appropriations shall not, however, be deemed or construed to preclude the city from defraying any part or all of the expense of any improvement, enlargement or extension of the sanitary sewer system utility by the levy of special assessments or taxes or the issuance of general obligation bonds, whenever and to the extent that such action is authorized in the manner provided by law and is deemed fair and equitable by the governing body.

Sec. 117 2 7. ~~Policy in regard to cost of improvements, enlargements and extensions.~~

It is declared to be the policy of the city, subject to such modifications as shall be deemed by the board of city commissioners to be required by special circumstances in individual cases, and subject to such modifications as may hereafter be made by ordinance mandatory hereof or supplemental hereto, that the cost of capital improvements, enlargements and extensions of the utility shall be paid in the following manner:

~~(1) — Where sanitary sewer mains not exceeding ten inches in diameter are installed by the city adjacent to residential properties, and where sanitary sewer mains not exceeding 12 inches in diameter are installed by the city adjacent to commercial or industrial properties, the total cost thereof shall be assessed against the properties abutting on such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties. Sanitary sewer mains of the dimensions described in this subsection are referred to in this section as lateral mains, and other mains are referred to as trunk mains.~~

- (4) ~~Where a portion of the benefit of any of the foregoing improvements is deemed to accrue primarily to the city at large, a portion not exceeding one fifth of the cost thereof, as determined by the board of city commissioners, may be paid by the levy of ad valorem taxes upon all property within the city over the same period as the levies of assessments for such improvements, or any portion or all of such cost may be paid out of current funds duly provided in the budget or from the proceeds of general obligation bonds duly authorized by the electors.~~

~~Notwithstanding any other provision of this article, the board of city commissioners reserves the right, at any time, to establish and impose, by resolution, a surcharge upon any rate or charge imposed and collected in respect to any service, facility, product or byproduct furnished, or to be furnished, and/or made available by the sanitary sewer system utility of the city. Such surcharge may be imposed upon any class of user thereof, upon the users within any area of the city or upon all users within the corporate limits that may, in the opinion of the board of city commissioners, receive special benefits from any of the services and/or facilities of such utility, for which benefits such user should be required to pay in order to achieve fairness and equality in paying for any capital improvements, enlargements, extensions or betterments, made or to be made to any such service or facilities or in the operation and maintenance of such utility. Such surcharge shall be in such amount and shall be in force for such period of time as the board may determine and shall be billed and collected and payment enforced in the same manner and at the same times as other services for such utility are billed, collected and enforced. Payment received thereunder shall be paid into the sanitary sewer utility fund.~~

(e) *The heading of Article 3 of chapter 117 is changed to read.*

ARTICLE 3. ~~—~~ POTABLE WATER, AND SANITARY SEWER AND STORMWATER FINANCIAL PROVISIONS

(f) *Sections 117-3-1 through 117-3-5 are changed to read.*

Sec. 117-3-16. ~~—~~ Water and sanitary sewer utility funds.

All moneys received by the city in respect to the services, facilities, products and byproducts furnished and made available by the water and ~~sanitary sewer utilities~~, except collections of special assessments and taxes appropriated to improvement district funds and moneys borrowed for capital improvements, and all money, receipts and returns received from any investments of such earnings, shall be paid into the treasury of the city and kept in a special funds which shall be permanently maintained on the books of the city, separate and distinct from all other funds, designated as the water utility fund and the sanitary sewer utility fund, in the records of which fund all receipts and disbursements of money on account of or in connection with the utility shall be entered and reflected, but the moneys from time to time on hand therein shall always constitute public municipal funds and shall be deposited and their safekeeping secured like other city funds. Separate accounts within the water utility fund and the sanitary sewer utility fund shall be permanently maintained for the purpose of and obligations of the utility, as provided in this section, and such revenues shall be administered and accounted for as follows:

- (1) Operation and maintenance account. There shall be credited at least once in each calendar month to the operation and maintenance account of said fund, as a first lien

and charge on the gross revenues of the utility, balance then held therein, to pay all claims which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of approximately one month, and to maintain a reasonable reserve for contingencies. Moneys in said account shall be used only to pay expenses of the foregoing type, and not for repairs or replacement or for capital improvements properly chargeable to replacement and depreciation reserves or surplus funds.

- (2) Revenue bond account. The net revenues of the utility are defined in this section as the aggregate of all sums on hand in the ~~water utility fund and the sanitary-sewer utility fund~~ from time to time in excess of the current requirements defined in subsections (1) ~~and (2)~~ of this section. The entirety of said net revenues shall be credited each month to the revenue bond account of the ~~water utility fund and the sanitary-sewer utility fund~~ until there shall have been created within said account, and thereafter so much of the net revenues shall be credited to said account as shall be necessary to maintain, at all times, a reserve in an amount at least equal to the sum of the principal and interest payments due within each next succeeding 12-month period upon all revenue bonds of the city heretofore or hereafter issued and made payable from said account. After said reserve has been created, there shall continue to be credited out of the net revenues to the revenue bond account each month, over and above sums required to maintain said reserve, an amount not less than 1/12 of the sum of the principal and interest to become due on all such revenue bonds within the then next succeeding 12 months. Moneys in said account shall be used for the payment of principal and interest as it becomes due on said revenue bonds, and said reserve shall be used for such purpose only when other moneys in the account are insufficient. All revenue bonds heretofore and hereafter issued and made payable from ~~said the revenue bond~~ account, subject to the limitations upon such issuance contained in this section, shall constitute a first lien and charge on the net revenues of the utility, as defined in this section, without preference or priority of one bond over any other, provided that if, at any time, the moneys in the revenue bond account should be insufficient to make all payments of principal and interest due on such revenue bonds and cannot be made sufficient by transfer of moneys from the other accounts described in subsections (4~~3~~) through (6) of this section, the moneys available shall be first used to pay interest then accrued on all bonds payable from said account, and any excess moneys available shall be used to pay matured principal of such bonds in order of their maturity dates, provided that moneys available for the payment of bonds maturing on the same date shall be pro-rated equally among such bonds.
- (3) Improvement warrant account. There shall also be maintained in said fund an improvement warrant account for the purpose of segregating net revenues required for the payment of any portions of the cost of improvements hereafter instituted, for which such revenues have been pledged in accordance with the provisions of N.D.C.C. §§ 40-22-15 and 40-22-16. There shall be transferred from said account as required, to the fund of each improvement district for which such pledge has been made, sums sufficient, together with tax and assessments collections held in such funds, to pay when due the principal and interest on all improvement warrants drawn upon such funds for the financing of such improvements. Moneys sufficient for the requirements

of said improvement district funds shall be credited and paid into the improvement warrant account out of net revenues remaining from time to time after provision for the current requirements of the revenue bond account, and for the lien and charge on said net revenues in favor of improvement warrants for the payment of which such pledges have been made shall be subordinate only to the lien and charge on said net revenues in favor of revenue bonds payable from the revenue bond account. In the event that moneys in the improvement warrant account should be insufficient for the making of all transfers required to be made to the several improvement district funds to which such pledges have been made, and cannot be made sufficient by the transfer of funds from the remaining accounts described in subsections ~~(54)~~ and through (6) of this section, the available moneys shall be apportioned first to the several improvement district funds in sums sufficient to pay interest then accrued on all warrants drawn on such district funds, and any remainder shall be applied in payment of matured principal of such warrants maturing on the same date, such available moneys shall be applied to the warrants of the several issues in proportion to the matured principal amount thereof for the payment of which taxes and assessments in the respective improvement funds are insufficient.

- (4) Replacement and depreciation account. Finally, there shall be maintained a replacement and depreciation account into which there shall be credited and paid as received, except as otherwise stated in subsection (6) of this section, all net revenues in excess of the current requirements of the other accounts described above in this section. In said account there shall be maintained such balance as the board shall from time to time determine to constitute an adequate reserve for depreciation and replacement of the utility, which reserve may be used to redeem prior to maturity obligations payable from the net revenues as and when the same become repayable according to their terms, or to replace worn out or obsolete properties of the utility, or to make extension, enlargements or improvements thereto. Any moneys in said account determined to be surplus to the immediate requirements thereof may be invested or may be transferred to other city funds in the discretion of the board in the manner and subject to the limitations set forth in N.D.C.C. § 40-33-12.
- (5) Moneys on hand. The moneys on hand in any of the accounts of the water ~~utility fund~~ and ~~the~~ sewer utility fund shall, at all times, be available and shall be used to the extent necessary to restore any deficiency in the funds on hand in any of the preceding accounts in the order listed in this section for the fulfillment of the requirements of such preceding accounts.
- (6) Additional accounts. The city reserves the right to create additional accounts within said water and sewer utility funds for the purpose of segregating any surplus net revenues which may be pledged and appropriated to the payment of obligations hereafter issued to finance improvements, enlargements or extensions of said utility, other than the obligations made payable from the revenue bond account and the improvement warrant account pursuant to the authority for such issuance reserved in Section 117-3-7, provided that moneys on hand in any such accounts shall at all times be available for and used to the extent necessary to meet the current requirements of all of the foregoing accounts except the replacement and depreciation account.

Sec. 117-3-2. - Scope of utilityies.

The properties of the water and ~~sanitary-sewer utilityies~~ and all future improvements, extensions and enlargements thereof, together with all cash and other assets held in the ~~city's water and sanitary-sewer utility funds~~, and all moneys to be derived thereafter from the services, facilities, products and byproducts of said utilityies, shall be and are appropriated and dedicated to the purpose of insuring the public health, safety and welfare by furnishing and making available potable water, and sanitary sewerage and stormwater services to the city and its inhabitants and industries and those in the immediate vicinity thereof who may desire or be required to use such service. Said utilityies shall at all times be under the management and control of the board of city commissioners and shall be operated and maintained in such manner as to provide service with maximum efficiency and at the minimum cost which is compatible with the plan of operation herein described.

Sec. 117-3-~~37~~. - Provision for financing capital improvements.

In borrowing money for capital improvements, extensions or additions to said utilityies, the following provisions shall at all times be observed:

- (1) For the purpose of this section, whenever the net revenues of the utility hereinabove appropriated to the improvement warrant account are pledged to pay a portion of the cost of any improvement to be financed by improvement warrants, such warrants and the interest accruing thereon shall be deemed to be payable from said net revenues in the same proportion as that part of the cost payable from said net revenues bears to the principal amount of such warrants; and the portion of such cost payable from net revenues shall be deemed equal to the principal amount of the warrants less the principal amount of the taxes and assessments agreed to be levied for the payment thereof.
- (2) Except as provided in subsections (3) and (4) of this section, no obligations shall be issued and made payable from the revenue bond account or the improvement warrant account at any time unless the net revenues of the utility, as defined in subsection (2) of Sec. 117-3-6, received during the then next preceding fiscal year, shall have been in an aggregate amount at least equal to one hundred twenty-five percent of the average annual principal and interest payments due on all bonds payable from the revenue bond account which are then outstanding or then to be issued, plus percentage of the average of the annual principal and interest payments due on each issue of improvement warrants then outstanding or then to be issued as shall be payable from said net revenues, which averages shall be computed on the basis of the principal and interest payments due in the fiscal years of the then remaining term of all such revenue bonds and improvement warrants then outstanding. For the purpose of such computation, whenever rates for potable water, or sanitary sewerage or stormwater service have been changed in the course of any fiscal year, the net revenues for such year shall be deemed to be those which would have been received if such amended rates had been in effect during the entirety of such years, based upon the actual quantities of service furnished to each class of customers and the actual expenses of the utility during such year; provided that in no case shall the net revenues so computed be deemed to exceed one hundred twenty-five percent of the net revenues actually received during such year.

- (3) Refunding revenue bonds may be issued for the purpose of prepaying and refunding bonds payable from the revenue bond account when and as they become pre-payable according to their terms, in the manner and to the extent permitted by law, provided that such refunding revenue bonds shall be subject to the requirements set forth in subsection (2) of this section, as applied to the past net revenues and future principal and interest requirements as of the date of the issuance of such refunding revenue bonds. However, the city shall and does also reserve the right and privilege of issuing refunding revenue bonds, when permitted by law, for the purpose of refunding and extending the maturities of any bonds payable from the revenue bond account which have matured and for the payment of which moneys in the revenue bond account are insufficient, and cannot be made sufficient by transfer of moneys from other accounts, and such refunding revenue bonds shall be payable from the revenue bond account on a parity as to interest with all then outstanding bonds payable therefrom but the maturities of such refunding revenue bonds shall be subsequent to the maturities of all such outstanding bonds. Nothing herein shall be deemed to require the holder of any revenue bond to accept a refunding revenue bond in exchange therefore.
- (4) The city also reserves the right and privilege of issuing refunding improvement warrants in the manner and to the extent provided in N.D.C.C. ch. 40-27. The lien and charge of such refunding warrants on the net revenues appropriated to the improvement warrant account shall be the same as that in favor of the improvement warrants refunded thereby; provided that for the purpose of the computations directed to be made in this section, the maturities and the rate or rates of interest payable on such refunding warrants shall be substituted for the maturities and interest rates of the improvement warrants refunded thereby.
- (5) Nothing herein shall be deemed to affect the obligation of the city, under the laws of the State, to levy ad valorem taxes upon all taxable property within the corporate limits for the purpose of paying a deficiency, if any, in the fund of any improvement district, at the time of the maturity of the last warrant drawn thereon, or at such earlier time as may be hereafter directed by such laws; provided that it shall be the policy of the city that the amounts of any deficiency tax levies so made shall be ~~resorted~~ restored to the general funds of the city out of any surplus net revenues thereafter received, over and above the requirements of the several accounts of the water and sewer utility fund as stated in Sec. 117-3-6.
- (6) Except as hereinabove authorized, no obligations of any kind shall be issued and made payable from said net revenue unless the lien thereof is expressly made subordinate and junior to the lien and charge on said net revenues in favor of all revenue bonds and improvement warrants payable from the revenue bond account and the improvement warrant account.

Sec. 117-3-48. - Covenants with bond and warrant holders.

The city shall and does covenant and agree with the original purchaser and each holder from time to time of each bond or warrant issued and made payable from the revenue bond account or the improvement warrant account, as follows:

- (1) It will complete all improvements financed by the issuance of such obligations with due diligence and with the greatest economy consistent with good workmanship and efficient results and will do so without creating or permitting the creation of any liens or encumbrances on said utility or on the revenue thereof other than the liens and charges on said revenues expressly authorized in this ~~chapter~~ article.
- (2) As long as any obligations payable from said accounts are outstanding, it will continue to own and operate said utility as a municipal utility, free from all competition as to the services thereby provided and in good and efficient operating condition.
- (3) It will at all times maintain a schedule of rates, charges and rentals for all services, facilities, commodities and benefits furnished by said utility and will impose and collect the same in amounts at least sufficient to make the minimum payments into the respective accounts of the water and sewer utility fund as specified in Sec. 117-3-6 and will revise such schedules in such manner and whenever and as often as needed to perform this covenant.
- (4) Under each such schedule, the city shall be obligated to pay and will pay from its other funds to the water and sewer utility fund a fair and equitable amount for any and all services, facilities, commodities and benefits furnished to the city or any of its departments by the utility.
- (5) It will at all times maintain books of account adequate to show all receipts and disbursements of the city respecting the utility, and the application of such receipts to the purposes of the several accounts described in Sec. 117-3-6, which books of accounts shall be open to inspection by the holder of any obligation payable from the revenue bond account or the improvement warrant account at any reasonable time, and that it will furnish a certified transcript therefrom of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefore.
- (6) It will cause the annual financial statement of the city required by the provisions of N.D.C.C. § 40-16-05 include a statement as to the financial condition and the receipts and disbursements of the water and sewer utility fund and of its several accounts during each fiscal year, and will furnish a copy of such statement to the original purchaser of each issue of bonds or warrants upon request.
- (7) Upon written demand of the holders of twenty percent or more of the bonds or warrants of any issue payable from the revenue bond account or improvement warrant account and then outstanding, it will cause an audit of the books of account of the utility to be made by a certified public accountant satisfactory to the holders of such obligations, the cost thereof to be paid as an operating expense of the utility, and will furnish a copy of the report of any such audit to such party as shall be designated in such demand.
- (8) It will at all times keep the properties of said utility insured in reasonable amounts against loss or damage by fire, tornado and other risks for which similar properties are customarily insured by prudent owners, and will carry adequate public liability

insurance, insuring against any claim of personal injury or property damage which is or may become a charge against the revenues of the utility, and will cause all persons handling funds for the utility to be bonded in suitable amounts for the protection of the city and the holders of obligations of the utility, such insurance and bonds to be carried with the state fire and tornado fund or such reputable and responsible insurers as shall be selected by the board of city commissioners, and the expense of all such insurance and bonds accounted for as an operating cost of the utility, and the city will use the proceeds of any such insurance and bonds to restore the loss or damage compensated thereby.

- (9) The city and its governing body and each and all of its officers will punctually perform all duties with reference to said utility and the revenues thereof and the obligations, issued hereunder, which are imposed by law or other ordinances and resolutions of the city, including this ~~chapter~~ article, in force on the date upon which any such obligations are issued, and all provisions of the constitution and laws and of such ordinances and resolutions which provide security for the holders of bonds issued hereunder are acknowledged to be part of the city's contract with the holders from time to time of such obligations; provided that nothing herein shall be deemed to preclude the city from modifying the policies set forth in Sec. 117-3-4 with reference to any improvements constructed and financed after the effective date of such modification.
- (10) The holders of twenty percent or more in principal amount of each issue of bonds or warrants payable from the revenue bond account or the improvement warrant account and at the time outstanding shall be privileged, and are empowered, to institute and maintain, in behalf of the holders of all outstanding obligations of the same issue, any suit or proceedings at law or in equity for the protection and enforcement of any covenant, agreement or stipulation herein provided to be performed or observed by the city or its governing body or any of its officers, whether or not any such obligations are then in default as to principal and interest, and each and all of the rights and remedies specified and mentioned in N.D.C.C. §§ 40-35-15 to 40-35-19 are acknowledged to be available to the holders of such obligations.

Sec. 117-3-~~511~~. - **Unassessed property.**

A permit may not be issued to make a connection to potable water, or sanitary sewer or stormwater lines of the city until the costs of all potable water, and sanitary sewer and stormwater improvements have been paid or assessed to the property.

(g) Sec. 117-3-9, Sec. 117-3-10 and Sec. 117-3-12 are added to read.

Sec. 117-3-9. – Bonds and interest payable from fund – requiring endorsement on bond.

All bonds hereafter issued and the interest thereon shall be payable from the revenue bond account of the water and sewer utility fund in accordance with the provisions of this article and there shall be endorsed on each and all of said bonds a statement to the effect that such bonds are secured by the covenants and subject to all of the terms and provisions contained in this article.

Sec. 117-3-10. – Bonds – priority.

Revenue bonds hereafter issued shall be without preference or priority of one bond over any other as provided in subsection (2) of Sec. 117-3-6.

Sec. 117-3-12. – Cross reference to former code section numbers.

References in city resolutions to the former Title 9, Chapter 9-01 of the Mandan Code of Ordinances and sections thereof shall also mean and be construed to refer to this Chapter 117, Article 3 and the sections hereof as follows:

<u>Section in former Chapter 9-01 of Title 9</u>	<u>Section in Article 3 of Chapter 117</u>
<u>9-01-01</u>	<u>117-3-1</u>
<u>9-01-02</u>	<u>117-3-2</u>
<u>9-01-03</u>	<u>117-3-3</u>
<u>9-01-04</u>	<u>117-3-4</u>
<u>9-01-05</u>	<u>117-3-5</u>
<u>9-01-06</u>	<u>117-3-6</u>
<u>9-01-07</u>	<u>117-3-7</u>
<u>9-01-08</u>	<u>117-3-8</u>
<u>9-01-09</u>	<u>117-3-9</u>
<u>9-01-10</u>	<u>117-3-10</u>
<u>9-01-11</u>	<u>117-3-11</u>

(h) Article 4 of Chapter 117 is changed to read.

ARTICLE 4. - INDUSTRIAL WASTEWATER ~~TREATMENT~~

Sec. 117-4-1. - Definitions.

The city does hereby adopt the definitions contained in the latest version of 40 CFR 403.3, and any amendments thereto as may be adopted from time to time shall be automatically incorporated in this article.

Sec. 117-4-2. - Purpose and policy.

(a) This article sets forth uniform requirements for discharge and control of all significant industrial wastewater into the city's wastewater facilities. It is the intent of the city that the requirements and standards contained in this article comply with all applicable state and federal laws. The objectives of this article are to:

- (1) Prevent the introduction of pollutants into the wastewater system that will interfere with the operation of the system or the use or disposal of the sludge;
- (2) Prevent the introduction of pollutants into the wastewater facilities which will pass through the system, inadequately treated, into the receiving waters or atmosphere, or otherwise be incompatible with the system; and

- (3) Improve the opportunity to recycle and reclaim wastewater and sludge from the system.
- (b) This article provides for the regulation of the discharge of industrial wastewater into the city's wastewater facilities through the issuance of permits to users of the system and through enforcement of the general requirements for all users, authorizes monitoring and enforcement activities, requires user reporting, and provides a procedure for the setting of fees for the equitable distribution of costs resulting from the program established in this article.
- (c) This article provides for the regulation of, and establishes criteria for, the use of public sanitary or combined sewers, private sewage disposal, building sewers and connections, and general prohibitions. This article provides for the regulation of significant industrial wastewater discharges into the city's wastewater facilities. Wastewater pretreatment requirements and criteria are hereby established and defined in this article.
- (d) ~~This article establishes the wastewater system user charge system and the method for calculating charges for each user classification: industrial, commercial, and residential. Procedures for rate adjustments and annual review are also established.~~ This article provides penalties for violations of provisions of this article, and the orders, rules, regulations, and permits issued under this chapter.
- (e) ~~_____~~ -This article shall apply in the city and to persons outside the city who are, by contract or agreement with the city, users of the city wastewater facilities.
- (f) ~~_____~~ -The board of city commissioners shall designate individuals to administer, implement, and enforce the provisions of this article.

~~Sec. 117-4-3. - Permit required for wastewater discharges.~~

- (a) ~~_____~~ It is unlawful to discharge wastewater, industrial wastes or other wastes to any sewer outlet within the jurisdiction of the city and/or to the wastewater disposal system without having first complied with the terms of this article.
- (b) ~~_____~~ All significant industrial users proposing to connect or to commence a new discharge to the wastewater disposal system shall obtain an industrial wastewater discharge permit before connecting to or discharging into the wastewater system. All existing significant industrial users or those industrial users subject to federal pretreatment standards under sections 307(b) and 307(c), as amended, of the Federal Water Pollution Control Act, also known as the Clean Water Act (33 USC 1251 et seq.), connected to or discharging into the wastewater system shall obtain an industrial wastewater discharge permit within 90 days after the effective date of the ordinance from which this article is derived.

~~Sec. 117-4-4. Industrial wWastewater discharge applications.~~

- (a) All significant industrial users shall complete and file with the appropriate designated city official an application in the form prescribed by the city and accompanied by a fee set by the board. Existing significant industrial users shall apply for an industrial wastewater discharge permit within 30 days after the effective date of the ordinance from which this article is derived, and

new significant industrial users shall apply at least 90 days prior to connecting or discharging to the wastewater disposal system. All permit applications shall include the following:

- (1) Name, address, and location of the facility, including the name and address of the operator and owners.
- (2) SIC number according to the standard industrial classification manual and a list of any environmental control permits held by or for the facility and held by or for the owner's facilities.
- (3) Wastewater constituents and characteristics, including, but not limited to, those governed by this article, as determined by an analytical laboratory certified by the EPA or a designated state agency. Sampling and analysis shall be performed in accordance with procedures established by the Federal Water Pollution Control Act and contained in section 304(g) of the Federal Water Pollution Control Act, as amended.
- (4) Time and duration of discharge.
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variation, if any.
- (6) Site plans, floor plans, mechanical, and plumbing plans and details to show all sanitary sewers, sanitary sewer connections, and appurtenances by size, location, and elevation.
- (7) Description of activities, facilities, and plant process on the premises, including all material that is or could be discharged.
- (8) If known, the nature and concentration of any pollutants in the discharge that are limited by the city, state, or federal pretreatment standards, and (for existing discharges) a statement regarding whether the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
- (9) Each product produced by type, amount, and rate of production.
- (10) Type and amount of raw materials processed (average and maximum per day).
- (11) Number of full- and part-time employees, and hours of work.
- (12) A statement:
 - a. Describing which subcategories might be applicable; and
 - b. Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this article shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person who manages the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- (13) Any other information as may be deemed by the designated city official to be necessary to evaluate the permit application or as may be required by federal and state regulators.
- (b) The designated city official will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue an industrial wastewater discharge permit subject to terms and conditions provided in this article and as may be proscribed by resolution of the board.

Sec. 117-4-54. -- Industrial wastewater discharge permit conditions.

Industrial wastewater discharge permits are expressly subject to all provisions of this article, all other applicable federal and state laws or regulations and user charges and fees established by the city. Permits may contain the following:

- (1) The user charges or schedule of user charges and fees for the wastewater to be discharged to the wastewater disposal system.
- (2) Limits on the average and maximum wastewater parameters and characteristics.
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulation and flow equalization.
- (4) Requirements for installation and maintenance of inspection and sampling facilities.
- (5) Requirements for installation, operation, and maintenance of pretreatment facilities.
- (6) Specifications for monitoring programs which may include sampling locations, frequencies and method of sampling, standards for tests, and reporting schedule.
- (7) Compliance schedule.
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording the designated city official access thereto.
- (9) Requirements of submission of technical reports or discharge reports.

- (10) Requirements for notification to and acceptance by the designated city official prior to the introduction of new wastewater constituents, or of any substantial change in the volume or characteristics of the wastewater.
- (11) Requirement for disposal of sludges, floatables, skimmings, etc.
- (12) Other conditions, as deemed appropriate by the city, to ensure compliance with this article.

Sec. 117-4-65. -- Industrial wastewater discharge pPermit durations.

Permits shall be issued for a specified period, not to exceed five years. The permittee shall apply for permit reissuance a minimum of 90 days prior to the expiration of the existing permit. At that time, the city can decide whether or not the permit needs to be reissued. A decision that a permit does not need to be reissued would not affect the user's service. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements are identified, or if other just cause exists. The user shall be informed of any proposed changes in the permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

Sec. 117-4-76. -- Industrial wastewater discharge pPermit modifications.

Permits may be modified for just cause upon 30 days' notice. Just cause shall include, but not be limited to, any of the following:

- (1) Correction of typographical errors or technical errors.
- (2) Changes in ownership or name of permittee.
- (3) Changes or alterations to the permittee's facility or operations.
- (4) A requirement of more frequent monitoring.
- (5) Changes of interim dates in a compliance schedule or to modify the permit by including a compliance schedule.
- (6) New information received by the city relating to the permittee's operation.
- (7) Amendment of existing regulations by state or federal regulatory agencies, or promulgation of a new applicable national categorical pretreatment standard or other applicable rules and regulations.
- (8) Changes in the requirements of this chapter.
- (9) Changes in the process used by the permittee or changes in discharge volumes or character.
- (10) Changes in design or capability of the receiving wastewater treatment facility.

(11) Inclusion of a permit reopener.

Sec. 117-4-87. -- Industrial wastewater discharge pPermit transfers.

Permits are transferable only with prior written approval from the city. Permittees must provide a written request for approval of a permit transfer no later than 60 days prior to any intended sale or transfer of ownership.

Sec. 117-4-98. - Industrial wastewater discharge permit uUser reports.

The city may require any industrial user discharging or proposing to discharge wastewater to the wastewater system to file periodic reports. The information required to be reported and time period of the report shall be made a condition of the discharge permit. The information to be reported may include, but not be limited to, process, flow conditions, and character of the wastewater, and compliance reports and all reports required under section 403.12 of the Federal Water Pollution Control Act. All analytical testing shall be performed by methods approved under 40 CFR 136, or as otherwise approved by the state or EPA. All monthly reports shall be submitted no later than the last day of the month following the sampling event. Quarterly reports shall be submitted no later than the last day of the month following the end of the quarter.

Sec. 117-4-109. - Industrial wastewater discharge permit sSampling and monitoring ~~required; reports;~~ monitoring facilities.

- (a) All industrial users shall perform sampling and monitoring of discharges as specified in their permit. Records relating to the sampling and monitoring shall be submitted as required in the permit.
- (b) The city may require that the significant industrial discharger provide and operate, at the discharger's expense, a monitoring facility to allow inspection, sampling, and flow measurements of each sanitary sewer connection to the wastewater treatment system. Where at all possible, the monitoring facility shall be located on the premises of the discharger. There must be ample room to allow accurate flow measuring and sampling, and the facility shall be kept in a safe and proper operating condition. All data for the equipment to be installed in the monitoring facility shall be submitted to the designated city official.

Sec. 117-4-110. - Industrial wastewater discharge permit inspection and sampling.

- (a) The designated city official or his authorized agents may inspect the facilities of any user to determine compliance with the requirements of this article. The user shall allow the designated city official or his representative to enter upon the premises at all reasonable hours for the purpose of inspection, sampling or records examination and copying. The city shall be allowed to set up equipment on the user's premises as required for the purpose of collecting samples and recording of flow.
- (b) As a condition of the industrial's user's permit, the user shall consent to the city's right of entry onto the user's premises for the purpose of announced and unannounced inspections. Further,

the user shall consent, as a condition of the permit, to allow the city to set up equipment on the user's premises to conduct sampling and recording of flow on the user's premises.

- (c) As a condition of the industrial user's permit, the user shall consent to the city's inspection and copying of any and all records relating to discharges into the POTW and any sampling of discharges conducted by the user.
- (d) As a condition of the industrial user's permit, the user shall consent to payment of the city's court costs and attorney's fees if the city is required to seek a court order for entry upon the premises to conduct an inspection of the premises, sampling of discharges, or a review of user records, necessitated by the user's refusal to allow said entry, inspection, sampling or record review and copying.

Sec. 117-4-~~1211~~. - Confidential information.

- (a) Information submitted to EPA authorities. In accordance with 40 CFR 2, any information submitted to the EPA pursuant to federal regulations may be claimed as confidential by the submitter. Any such claim must be assessed at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR 2.
- (b) Effluent data. Information and data furnished to the city, pursuant to local, state or federal laws or regulations, which are effluent data, shall be available to the public without restriction.
- (c) Information submitted to city or state authorities. All other information which is submitted to the city or state authorities shall be available to the public without restriction, unless inconsistent with federal law or regulations and at least to the extent provided by 40 CFR 2.302, as amended.

Sec. 117-4-~~1312~~. - Wastewater strength.

The city reserves the right to establish, by ordinance, regulation or through the EPA approval process of the city's North Dakota Pollutant Discharge Elimination System (NDPDES) permit, more stringent limitations or requirements on discharges to the wastewater facilities, if deemed necessary to comply with the objectives presented in this article. In all events, the more stringent limitations or requirements as adopted by the city must be consistent with the procedures and requirements of 40 CFR 403, as amended. The limitations for wastewater strength shall be as established by the city in each industrial user's industrial wastewater discharge permit.

Sec. 117-4-~~1413~~. - Dilution prohibited as substitute for treatment.

Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance

with a pretreatment standard or requirement. The control authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate.

Sec. 117-4-~~15~~14. - Supplementary limitation.

- (a) Except as noted, no user may discharge wastewater containing materials in excess of the following values:

Materials	Daily Maximum Concentration mg/l
Arsenic	0.23
Benzene	0.05
BTEX	0.75
Cadmium	0.25
Chromium-Total	4.12
Chromium (III)	3.55
Chromium (VI)	0.033
Copper	4.04
Lead	0.74
Mercury	0.073
Molybdenum	1.02
Nickel	1.88
Selenium	0.28
Silver	2.46
Zinc	2.0

- (b) Concentrations apply at the point of discharge to the city collection system. The city may impose mass limitations in addition to, or in place of, the concentration-based limits in this section, if deemed appropriate to prevent interference or to protect the quality of the treatment plant effluent or sludge.

Sec. 117-4-~~16~~15. - Biocides and toxic chemicals.

The permittee shall identify to the city all biocides and toxic chemicals used at the permittee's facility, and shall provide written documentation prior to the changing biocides and/or toxic chemicals. The permittee shall provide to the city all of the manufacturer's data for all biocide and toxic chemicals to be used, as well as the quantities to be used. The city reserves the right to limit the discharge of any biocide and/or toxic chemical to prevent an adverse impact on the wastewater facilities or which may result in a violation of the city's NPDES permit, or of the Federal Water Pollution Control Act. The permittee shall provide the tanks, equipment, and control devices to limit the discharge and shall

operate the system as stipulated in the permit. No biocides or toxic chemicals shall be stored in a room which has a floor drain to preclude an accidental spill into the wastewater facilities. For purposes of this section, the term "toxic chemical or pollutant" means any chemical or pollutant that can cause acute health or significant adverse environmental impacts, and therefore, its manufacture, processing, or use, and any continuous or recurring releases from a facility, must be reported under title III of the Superfund Amendments and Reauthorization Act and shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Federal Water Pollution Control Act. A user may not discharge or cause to be discharged, directly or indirectly, any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system.

Sec. 117-4-~~1716~~. - Special agreements.

Provisions contained in this article shall not be deemed to prevent any contract authorized by the board of city commissioners in the usual manner between the city and any user whereby an industrial waste of unusual strength or characteristic may be accepted by the city for treatment which will not violate or cause the city to waive or violate federal or state discharge or pretreatment standards or requirements, and which will not be harmful to the wastewater treatment plant, the treatment process, or the sanitary sewer mains.

Sec. 117-4-~~1817~~. - Accidental discharges; slug load.

Each industrial discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this article, commonly known as a slug load. Where necessary, facilities to prevent accidental discharge of prohibited materials must be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide the protection against slug load discharges must be submitted to the city before construction of the facility. Each existing industrial user shall complete its plans and submit it to the city by a date specified in the permittee's industrial wastewater discharge permit. No new permittee shall introduce wastewater or pollutants into the wastewater facilities until after the accidental discharge protection procedures have been approved by the city. Review and approval of such plans and operating procedures by the city shall not relieve the user from the responsibility to operate and modify its facility as necessary to meet the requirements of this article. Users shall notify the designated city official immediately upon the occurrence of a slug load or accidental discharge of substances prohibited by this article.

Sec. 117-4-~~1918~~. - Discharge of wastewater into storm sewer or watercourse prohibited.

No person shall discharge wastewater or industrial wastes into any storm sewer or other watercourse within the city. Wastewater or industrial wastes may be discharged pursuant to this article only into the sanitary sewer system via an approved building sewer or at discharge points authorized by the city. Each day on which an unlawful discharge occurs is a separate offense. ~~Sec. 117-4-20. Rates established; annual audit.~~

~~The board shall establish industrial user rates from time to time by resolution. An annual audit of expense and revenue related to the industrial wastewater discharge permit system and operation and maintenance of the POTW shall be made by the finance director at the end of each fiscal year and~~

reviewed by the board. If, upon review of the annual audit, the board deems it necessary, the rates shall be adjusted accordingly to meet the needs of the annual audit with said adjustment to be made by appropriate resolution of the board.

Sec. 117-4-21. ~~Wastewater service charges.~~

The following charges for the use of the wastewater facilities and the sanitary sewer system of the city are hereby established. Such charges shall be made against each lot, parcel of land, or premises that has a sewer connection to the sanitary sewer system in the city or that may otherwise discharge wastewater, either directly or indirectly, into the sewer system or any part. Such charges shall be established by resolution of the board:

(1) ~~— Basis for wastewater service charges. The wastewater service charge for the use of and for service supplied by the wastewater facilities of the city shall consist of basic user charge for operation and maintenance plus replacement and a debt service charge.~~

(2) ~~— Industrial charge.~~

a. ~~— An industrial wastewater charge will be levied to all users whose wastewaters:~~

1. ~~— Exceed the normal concentrations for total BOD (230 mg/l) or SS (180 mg/l);~~

2. ~~— Exceed permissible pretreatment standards;~~

3. ~~— Contain toxic chemicals or other substances that adversely affect the operation, maintenance or life of the wastewater treatment plant; or~~

4. ~~— Produce a rate of flow that has a significant impact on the wastewater treatment plant.~~

b. ~~— The charge will be based on water usage as recorded by water meters and/or wastewater meters for all wastewaters which exceed the limitations stated in subsection (2)a of this section.~~

(3) ~~— Basic wastewater treatment charge. The basic user charge shall be based on water usage as recorded by water meters and/or wastewater meters having normal concentrations less than the following: Five day 20 degree Centigrade BOD (230 mg/l) or SS (180 mg/l).~~

Sec. 117-4-~~22~~19. - Purpose of fees.

It is the purpose of this article to provide for the recovery of costs from industrial users of the city's wastewater disposal system for the implementation of the NPDES program established in this article. The applicable charges or fees shall be established and amended from time to time by resolution of the board.

Sec. 117-4-~~23~~20. - Charges and fees.

The board shall establish charges and fees which may include:

- (1) Charges for monitoring, inspections and surveillance procedures;
- (2) Fees for permit applications;
- (3) Appeal fees; and
- (4) Other fees and/or charges as the board may deem necessary to carry out the requirements of this article.

Sec. 117-4-~~2421~~. - Emergency suspension of service or discharge.

- (a) The city may, for good cause shown, suspend the wastewater treatment service and the industrial wastewater discharge permit of a user when it appears to the city that an actual or threatened discharge presents or may present an imminent or substantial danger to the environment, interfere with the operation of the wastewater treatment facility, cause the city to be in violation of its NPDES permit, violate any pretreatment limits imposed by this article or state or federal law or regulation, or violate any industrial wastewater discharge permit issued pursuant to this article. Any user notified of the suspension of the wastewater treatment service shall cease discharging wastewater immediately. In the event of a failure of the user to comply voluntarily with the suspension order, the city shall commence whatever steps are necessary to obtain compliance, including, but not limited to, severance of water service and/or judicial proceedings. The city shall reinstate the service and discharge permit upon proof of elimination of the noncomplying discharge creating the threat of imminent or substantial damage. A detailed written statement submitted by the user describing the causes of the noncomplying discharge, slug or accidental discharge and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of the occurrence.
- (b) Whenever the city suspends service or the permit of a user pursuant to the emergency provisions of this section, the city shall serve notice on the user personally or by first class mail. The user has a right to an informal hearing before the board or designee upon request made in writing and filed with the designated city official. The informal hearing must be held within five days of the request. Following the hearing, the board may affirm, modify or rescind the action.
- (c) A request for an informal hearing before the board's designee or a hearing before the board filed pursuant to this section does not stay the action appealed pending the hearing.

Sec. 117-4-~~2522~~. - Notification of violation; order to show cause.

- (a) Whenever the city finds that any person has violated or is violating the provisions of this article, industrial wastewater discharge permit, or any prohibition, limitation, or requirements contained in this article, the designated city official, following consultation with the city engineer, and with the concurrence of the city attorney, may serve upon any person a written notice stating the nature of the violation, requiring corrective action and, if circumstances warrant it, an order to show cause why the user should not be penalized by either the proposed imposition of fines, the temporary suspension of the permit or the revocation of the permit

upon a date certain. Within 15 days of the date of notice, unless a shorter time frame is necessary due to the nature of the violation, a plan for the satisfactory correction thereof must be submitted to the city by the permittee.

- (b) The permittee shall file with the designated city official a request for hearing before the board within five days of receipt of the notice and order to show cause, or, in lieu thereof, may enter into an agreement relating to the violation, corrective action, and any imposition of penalty. Any negotiated agreement is subject to approval by the board. Should the board reject the agreement, a hearing before the board shall be scheduled on the matter, which hearing shall be held no later than 30 days after the agreement's rejection.

Sec. 117-4-~~2623~~. - Temporary suspension, termination or revocation of permit; fines.

- (a) A permit may be temporarily suspended, terminated or revoked, or fines imposed by the board, following notice and an opportunity for a hearing for just cause, including, but not limited to:
 - (1) Violation or a pattern of repeated violations of any terms or conditions of the industrial wastewater discharge permit;
 - (2) False statements in any required report or application;
 - (3) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;
 - (4) Failure to report the discharge of toxic chemicals or pollutants or other prohibited discharges; or
 - (5) Any other violation of this article.
- (b) Notice shall be given and a hearing provided in accordance with this article.

Sec. 117-4-~~2724~~. - Show cause hearing.

If the violation is not corrected by timely compliance, the city may order any user who causes or allows an unauthorized discharge to show cause before the board why the proposed enforcement action or revocation should not be taken. A notice must be served on the user specifying the time and place of a hearing to be held by the board regarding the enforcement action or revocation, and directing the user to show cause before the board why the proposed enforcement action or revocation should not be taken. The notice must be served personally or by first class mail at least ten days before the hearing. Notice may be made to any agent or officer of a corporation. The proceedings at the hearing shall be considered by the board, which shall then enter appropriate orders with respect to the alleged improper activities of the user. Appeal of such orders may be taken by the user in accordance with applicable law.

Sec. 117-4-~~2825~~. - Legal action.

If any person discharges wastewater, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this article, federal or state pretreatment requirements, or any order of the city, requirement or permit condition, the city attorney may, following

the authorization of such action by the board, commence action for appropriate legal and/or equitable relief. The city's legal action may seek imposition of the civil penalties for violations of this article and injunctive relief which requires or prohibits conduct on the part of the permittee. The city may request the EPA to investigate and prosecute any suspected violations, which may subject the user to either civil or criminal penalties available under state or federal law.

Sec. 117-4-~~2926~~. - Violations.

- (a) Any user who is found to have violated an order of the board, made in accordance with the provisions of this article, orders, rules, regulations, and permits issued under this chapter, is guilty of an offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.
- (b) Any user who is found to have discharged or caused the discharge of wastewater, industrial wastes, or other wastes into the city's wastewater disposal system, contrary to the provisions of this article, federal or state pretreatment requirements, or any other permit requirement, limitation, or condition set by the city, is guilty of an offense.
- (c) Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

Sec. 117-4-~~3027~~. - Responsibility for damages and costs of attorney's fees.

Any user violating any of the provisions of this article, or who has a discharge which causes a deposit, obstruction, damage, or other impairment of the city's wastewater facilities, must be liable to the city for any expense, loss, or damage caused by the violation or the discharge. The city may add to the user's charges and fees the costs assessed for any cleaning, repair or replacement work caused by the violation or discharge. In addition to the civil penalties in this section, the city may recover reasonable attorney's fees, court costs, court report's fees, and other expenses of litigation by appropriate action against the user found to have violated this article or the orders, rules, regulations, and permits issued under this chapter.

Sec. 117-4-~~3128~~. - Falsifying information.

Any person who knowingly makes any false statements, representation, or certification in any applicable record, report, plan, application, or other document filed or required to be maintained pursuant to this article or industrial wastewater discharge permit, or who knowingly falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article, shall be guilty of an ordinance violation.

Sec. 117-4-~~3229~~. - National pretreatment standards; prohibited discharges.

- (a) General prohibitions. A user may not introduce into a POTW any pollutants which cause pass through or interference. These general prohibitions and the specific prohibitions of subsection (c) of this section apply to each user introducing pollutants into a POTW, whether or not the user is subject to other national pretreatment standards or any national, state, or local pretreatment requirements.

- (b) Affirmative defenses. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in subsection (a) of this section and the specific prohibitions in subsections (c)(1) through (c)(3) of this section where the user can demonstrate that:
- (1) The user did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference; and
 - (2) A local limit designed to prevent pass through and/or interference, as the case may be, was developed in accordance with subsection (d) of this section for each pollutant in the users' discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or
 - (3) If a local limit designed to prevent pass through or interference, as the case may be, has not been developed in accordance with subsection (d) of this section for the pollutant that caused the pass through or interference, the user's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage use or disposal.
- (c) Specific prohibitions. In addition, the following pollutants shall not be introduced into a POTW:
- (1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.
 - (2) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges.
 - (3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.
 - (4) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
 - (5) Heat in amounts which will inhibit biological activity in the POTW resulting in the interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Centigrade or 104 degrees Fahrenheit unless the approval authority, upon request of the POTW, approves alternate temperature limits.
 - (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW.
- (d) When specific limits must be developed by POTW. Each POTW developing a POTW pretreatment program pursuant to section 403.8 of the Federal Water Pollution Control Act shall develop and enforce specific limits to implement the prohibitions listed in subsections (a) and (c) of this section. Each POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits. All other POTW's shall, in cases where pollutants contributed by the user result in interference or pass through, and such violation is likely to recur, develop and enforce specific effluent limits for industrial users, and all other users, as appropriate, which, together with appropriate changes in the POTW treatment plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's NPDES permit or sludge use or disposal practices. Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.
- (e) Local limits. Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with subsection (d) of this section, such limits shall be deemed pretreatment standards for the purposes of section 307(d) of the Federal Water Pollution Control Act.
- (f) Failure to commence appropriate action. If, within 30 days after notice of an interference or pass through violation has been sent by the EPA to the POTW, and to persons or groups who have requested such notice, the POTW fails to commence appropriate enforcement action to correct the violation, the EPA may take appropriate enforcement action under the authority provided in section 309(f) of the Federal Water Pollution Control Act.

Sec. 117-4-~~3330~~ - Public notification of noncompliances.

- (a) A list of all industrial users that were in significant noncompliance with applicable pretreatment requirements during the previous 12 months shall be published annually in the official newspaper of the city.
- (b) As used in this section, an industrial user is in significant noncompliance if its violation meets one or more of the following criteria:
 - (1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all the measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter.
 - (2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the project of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).

- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the city determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of city personnel or the general public.
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge.
- (5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- (6) Failure to provide, within 30 days after the due date, required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules.
- (7) Failure to accurately report noncompliance.
- (8) Any other violation or group of violations which the city determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 117-4-~~3431~~. - Enforcement response plan.

- (a) Introduction. The EPA promulgated regulations to require all POTWs to adopt an ERP as part of their approved pretreatment programs. The regulation as stated in 40 CFR 403.8(f)(5) is as follows:
 - (1) The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:
 - a. Describe how the POTW will investigate instances of noncompliance.
 - b. Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place.
 - c. Identify, by title, the officials responsible for each type of response.
 - d. Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8(f)(1) and (f)(2).
 - (2) The ERP outlines the procedures that will be used to identify, document, track and respond to noncompliance. The ERP also provides guidance for selecting the enforcement action most appropriate for a given violation.

- (b) Purpose. The purpose of the ERP is to provide consistent enforcement responses for similar violations and circumstances. The ERP describes violations, defines a range of appropriate enforcement actions based on the nature and severity of the violation and other relevant factors, and identifies personnel responsible for finalizing enforcement responses.
- (c) Administration and jurisdiction. All entities discharging nondomestic waste to the POTW are subject to the provisions of the ERP. The control authority consistently administers and implements all elements of the ERP. The ERP does not preclude the control authority from taking any, all or any combination of actions against a noncompliant industrial user.
- (d) Abbreviations.

AO	Administrative order
ATT	City attorney
BRD	Board of city commissioners
CA	Control authority
ERG	Enforcement response guide
ERP	Enforcement response plan
IPC	Industrial pretreatment coordinator
IU	Industrial user
NOV	Notice of violation
POTW	Publicly owned treatment works
SUPT	Wastewater treatment superintendent
WL	Warning letter

- (e) Definitions. The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Control authority means the entity directly administering and enforcing pretreatment standards and requirements against industrial users.

Domestic wastewater means wastewater from normal residential activities, including, but not limited to, wastewater from kitchen, bath and laundry facilities, or wastewater from the personal sanitary conveniences (e.g., toilets, showers, bathtubs, fountains, noncommercial sinks, and similar structures) of commercial, industrial or institutional buildings, provided that the wastewater exhibits characteristics which are similar to those of wastewater from normal residential activities. Specifically excluded from this definition is wastewater from commercial, industrial, or institutional laundries or food preparation facilities.

Industrial user means any source that introduces pollutants into a POTW from any nondomestic source.

Publicly owned treatment works (POTW) means devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. The term "publicly owned treatment works" also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant.

- (f) Personnel responsibilities.
- (1) Industrial pretreatment coordinator. The industrial pretreatment coordinator (IPC) is responsible for the day-to-day implementation and enforcement of the industrial pretreatment program. The enforcement carried out by the IPC is as follows:
 - a. Informal notices, verbal and written.
 - b. Notices of violation.
 - c. Informal meetings.
 - d. Referrals to the state or the EPA for criminal action.
 - (2) Superintendent. The superintendent has the responsibility to monitor the IPC's actions and to initiate the following enforcement actions at the recommendation of the IPC:
 - a. Show cause hearings.
 - b. Administrative orders.
 - c. Consent agreements.
 - d. Referrals to the city attorney for civil litigation.
 - e. Referrals to the state or the EPA for criminal action.
 - (3) POTW attorney. The POTW attorney will provide legal consultation as requested by the superintendent on consent agreements and administrative orders and will take the lead on all referrals for civil litigation and POTW-initiated criminal investigations.
- (g) Identifying and investigation instances of noncompliance. There are many activities associated with the identification and investigation of noncompliance. A brief description of these activities is provided in this ERP. Detailed discussions and procedures for the activities can be found in other relevant sections of the approved pretreatment program document. The activities that facilitate the identification and investigation of noncompliance are as follows:
- (1) Industrial user inventory. An essential step for identifying noncompliance is knowing who is discharging nondomestic waste to the POTW, where they are located, and the nature of the nondomestic waste being discharged. The industrial pretreatment

coordinator maintains a current inventory of all nondomestic sources of waste to the POTW.

- (2) Monitoring and inspection plan. The industrial pretreatment coordinator prepares an annual monitoring and inspection plan. The control authority monitors the wastewater from each significant industrial user (SIU) at least once per year. The control authority requires all sampling and analysis to be performed in accordance with 40 CFR 136. Control authority sampling procedures, including quality assurance/quality control procedures, discussed elsewhere in the approved pretreatment program document, are followed to maximize sample integrity.
 - a. A comprehensive inspection of each SIU is conducted by the control authority at least once per year. The control authority follows inspection procedures discussed elsewhere in the approved pretreatment program to ensure consistent, thorough, and well-documented inspections.
 - b. Information gathered during control authority industrial user monitoring and inspections is used to verify industrial user compliance status and to determine if enforcement response must be initiated or continued.
 - (3) Compliance screening. All reports from industrial users and reports generated by the control authority are carefully reviewed on an as-received basis for timeliness, completeness and accuracy. The screening process includes a signatory/certification requirements, monitoring frequency, etc.
- (h) Description of enforcement actions; informal notice.
- (1) Verbal notification. Verbal notification, by telephone or in person, provide an immediate notification of violations. In general, verbal notifications are used for minor isolated violations or as an initial step leading to an escalated enforcement response. All verbal notifications related to enforcement or the investigation of suspected violations are documented in writing and placed in the respective industrial user file.
 - (2) Warning letter. Warning letters (WLs) are issued under the same circumstances as verbal notifications. They may be issued as follow-up letters to verbal notifications or in lieu of verbal notifications.
 - (3) Informal meeting. An informal meeting is used to gather information concerning noncompliance, discuss steps to alleviate noncompliance, and determine the commitment level of the industrial user. All informal meetings are documented in the city's files.
 - (4) Notice of violation. A notice of violation (NOV) is a written notice to the noncompliant industrial user that a pretreatment violation has occurred. A NOV includes a statement detailing the legal authority under which the control authority issued the NOV, a description of the violation and the date the violation occurred. The NOV requires a response from the industrial user that details the causes of the violation and the corrective actions taken to correct the violation and prevent similar violations from

occurring. In general, NOVs are considered to be more stringent enforcement responses than warning letters.

- (5) Administrative order. Administrative orders (AOs) are enforcement documents that direct industrial users to undertake and/or to cease specified activities by specified deadlines. The terms of an AO may or may not be negotiated with industrial users. AOs may incorporate compliance schedules, administrative penalties, termination of service and show cause orders. An administrative order is the minimum level of enforcement used to address significant noncompliance.
- (6) Show cause hearing. A show cause hearing is a formal meeting requiring the industrial user to appear, explain its noncompliance and show cause as to why more severe enforcement actions against the user should not go forward. The meeting may also serve as a forum to discuss corrective action and compliance schedules.
- (7) Termination of service. Termination of service is the revocation of an industrial user's privilege to discharge nondomestic wastewater into the sanitary sewer system. Termination of service is used when the discharge from an industrial user presents imminent endangerment to the health or welfare of persons or the environment or threatens to interfere with the POTW's operations or as an escalating enforcement action to a significant violation when a noncompliant industrial user fails to respond adequately to previous enforcement actions. Termination of service may be accomplished by physical severance of the industrial users connection to the collection system, issuance of an AO (cease and desist order) which compels the IU to immediately terminate its discharge, revocation of the IU's discharge permit or a court ruling.
- (8) Administrative fines. An administrative fine is a punitive monetary charge assessed by the control authority rather than a court. The penalty authority must be authorized in the POTW's local legal authority. The purpose of the fine is to recover the economic benefit of noncompliance and to deter violations. When assessing an administrative fine the following factors are considered:
 - a. Type and severity of the violation.
 - b. Number of violations cited.
 - c. Duration of noncompliance.
 - d. Impact of the violation on the receiving water, sludge quality, and POTW operation.
 - e. Whether the violation threatened public health.
 - f. The economic benefit or savings the industrial user gained from the noncompliance.
 - g. Compliance history of the industrial user.

- h. Whether the industrial user is making a good faith effort to comply.
- (9) Civil litigation. Civil litigation is the formal process whereby the control authority files a lawsuit against the industrial user to secure court-ordered action to correct violations and to secure penalties for the violations, including recovery of cost to the POTW for the noncompliance. Civil litigation also includes enforcement measures which require involvement or approval of the court, such as injunctive relief.
- (10) Referral to the EPA or the state. Where a POTW does not rely on criminal prosecution for its enforcement authority, referral to the state or the EPA may be made. For violations that may warrant criminal prosecution, the control authority will refer the case to the EPA or the state for further action. Circumstances that trigger the EPA or state referrals include evidence of willfulness, evidence of negligence and bad faith shown by the industrial user.
- (i) Enforcement response guide.
- (1) Purpose. The enforcement response guide (ERG) designates several enforcement options for each type or pattern of noncompliance. The intent of the ERG is to provide direction for appropriate enforcement response and to ensure consistent enforcement for similar violations and circumstances. Factors that will be evaluated when determining the appropriate response are as follows:
- a. Good faith of the user.
 - b. Compliance history of the user.
 - c. Previous success of the enforcement actions against the user (e.g., if, historically, NOVs have not been effective in returning the user to compliance in a reasonable period of time, an administrative order would be a more appropriate response).
 - d. Violations' effect on the environment and/or public health.
 - e. Violations' effect on the POTW.
- (2) Options for noncompliance.
- a. Violations resulting in significant noncompliance. Any violation that results in significant noncompliance (SNC) will be addressed through formal enforcement action regardless of the enforcement response otherwise dictated by the enforcement response guide. The minimum level of enforcement used to address SNC is an AO.
 - b. Escalating enforcement response. Escalating enforcement response will be used for recurring violations and failure to achieve compliance subsequent to informal or formal enforcement. A recurring violation is one in which the same

type of violation occurs on consecutive reporting periods, the violation occurs seasonally, or any other pattern of noncompliance is shown.

- c. Violations falling under more than one category. Violations that fall under more than one category in the enforcement response guide will be addressed through the more severe enforcement response. All alleged violations will be included in the more severe response.
- d. Timeframes for enforcement response.
 1. All violations will be identified and documented within five days of receiving compliance information.
 2. Initial enforcement responses, informal or formal, will occur within 15 days of identifying a violation.
 3. Follow up actions for continuing or recurring violations will be taken within 60 days of the initial enforcement response.
 4. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate response, such as halting the discharge or terminating service.
 5. All violations meeting the criteria for significant noncompliance will be addressed through enforcement within 30 days of the identification of significant noncompliance.

(j) Guidelines.

Noncompliance	Severity of Violation	Enforcement Action	Personnel	Fine
Unauthorized Discharges				
Discharge without a permit	IU unaware of requirement, no harm to POTW or environment	Phone call, send application form	IPC	
		NOV with application form	IPC	
	IU unaware of requirement, harm to POTW or environment	AO	IPC, CA	
		Recover cost of damages through user charge or civil action	IPC, ATT	
	Failure to apply continues after notice by the POTW	AO, show cause, fine	IPC, CA, BRD, ATT	\$500.00 to \$1,000.00
		Civil action	IPC, CA, ATT	
		Terminate service	IPC, CA, BRD	

Noncompliance	Severity of Violation	Enforcement Action	Personnel	Fine
		Criminal action	IPC, CA, ATT	
Nonpermitted discharge (failure to renew)	IU has not submitted application within ten days of due date	Phone call, warning letter	IPC	
	IU has not submitted application after notice by POTW	NOV, AO, show cause	IPC, CA, ATT, BRD	
	Failure to submit application, discharge continues	Refer to discharge without a permit guidelines	IPC, CA, ATT, BRD	
Unauthorized discharge through manhole, septic only receiving station, car wash, etc.	No harm to POTW or environment	NOV, AO	IPC, CA, ATT	
	Harm to POTW or environment	AO with fine, civil action, criminal investigation	IPC, CA, ATT	\$500.00 to \$1,000.00
	Recurring	Criminal investigation	IPC, CA, ATT, BRD	
Permitted user discharging waste not authorized by permit	No harm to POTW or environment	NOV, AO	IPC, CA, ATT	
	Harm to POTW or environment	AO with fine, criminal action	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
	Recurring	Criminal investigation	IPC, CA, ATT, BRD	
Discharge Limit Violations				
Exceedance of discharge limitation or prohibition in permit or local legal authority (e.g., ordinance)	Isolated, no harm to POTW or environment	Phone call, WL, NOV	IPC, CA	
	Isolated, harm to POTW or environment	NOV, require corrective action plan, resample	IPC, CA	
		AO, to implement corrective action plan, resample	IPC, CA	
		Recover cost of damages through user charge, criminal action	IPC, CA, ATT, BRD	
	Recurring, no harm to POTW or environment	AO, AO with fine	IPC, CA, ATT, BRD	\$100.00 to \$500.00
	Recurring, harm to POTW or environment	AO with fine, civil action, termination of	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00

Noncompliance	Severity of Violation	Enforcement Action	Personnel	Fine
		services		
		Recover cost of damages through user charge, criminal action	IPC, CA, ATT	
Reporting Violations				
Document is improperly signed or certified	Isolated incident	Phone call, WL, NOV	IPC, CA	
	Previous notice by POTW, recurring	NOV, AO, AO with fine	IPC, CA, ATT, BRD	\$100.00 to \$500.00
Document is incomplete or inaccurate	Isolated incident	Phone call, WL, NOV	IPC, CA	
	Recurring problem	AO, AO with fine	IPC, CA, ATT, BRD	\$100.00 to \$500.00
Document is late	Five days to 29 days	Phone call, WL, NOV	IPC, CA	
	30 days or more	AO, AO with fine	IPC, CA, ATT, BRD	\$100.00 to \$500.00
	Documents are repeatedly late	AO with fine, civil action, terminate service	IPC, CA, ATT, BRD	\$100.00 to \$500.00
Failure to report violation, spill/slug or changed discharge	No actual or potential harm to POTW or environment	NOV, AO	IPC, CA	
	Actual or potential harm to POTW	AO with fine, civil action, recover cost of damages through user charge	IPC, CA, ATT, BRD	\$100.00 to \$500.00
	Recurring problem	AO with fine, civil action, terminate service	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
Failure to report additional monitoring	Isolated incident	Phone call, WL, NOV	IPC, CA	
	Recurring	AO, AO with fine	IPC, CA, ATT, BRD	\$100.00 to \$500.00
Falsification of information or data	Any instance	AO, show cause with fine, criminal investigation, terminate service	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
Sampling Violations				
Failure to monitor for all required parameters	Isolated	Phone call, WL, NOV	IPC, CA	
	Recurring	AO, AO with fine, civil action, permit	IPC, CA, ATT, BRD	\$100.00 to \$500.00

Noncompliance	Severity of Violation	Enforcement Action	Personnel	Fine
		revocation		
Improper sample handling or analytical procedures	Isolated	Phone call, WL, NOV	IPC, CA	
	Recurring	AO, AO with fine, civil action, permit revocation	IPC, CA, ATT, BRD	\$100.00 to \$500.00
Failure to resample within required timeframe	Isolated	Phone call, WL, NOV	IPC, CA	
	Prior notification from CA	AO with fine	IPC, CA, ATT, BRD	\$100.00 to \$500.00
	Recurring	AO, AO with fine	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
Failure to install monitoring equipment/sampling point	Delay less than 30 days	NOV, WL	IPC, CA	
	Delay greater than 30 days	AO with fine, civil action	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
Tampers with monitoring equipment/sample	Any incident	AO, show cause with fine, criminal investigation, termination of service	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
Sampling at incorrect location	Isolated incident	NOV	IPC, CA	
	Recurring	AO with fine, civil action, criminal investigation	IPC, CA, ATT, BRD	\$100.00 to \$500.00
Compliance Schedules				
Missed milestone	Less than 30 days late or will not affect final completion date	NOV, AO, phone call	IPC, CA	
	Greater than 30 days late or will affect final compliance date, good cause for delay	AO, AO with fine, NOV	PC, CA	\$100.00 to \$500.00
	Greater than 30 days late or will affect final compliance date, no good cause for delay	AO with fine, civil action, termination of discharge	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
Not in compliance as of final compliance date	Less than 30 days late	NOV, AO	IPC, CA	
	Greater than 30 days late, reasonable cause for delay	AO, AO with fine	IPC, CA, ATT, BRD	\$100.00 to \$500.00
	Greater than 30 days	Show cause order,	IPC, CA, ATT,	

Noncompliance	Severity of Violation	Enforcement Action	Personnel	Fine
	late, no reasonable cause for delay	civil action, termination of discharge	BRD	
Inadequate Recordkeeping				
Files incomplete or missing, no evidence of intent	Isolated	NOV	IPC, CA	
	Recurring	AO, AO with fine	IPC, CA, ATT, BRD	\$100.00 to \$500.00
Files incomplete or missing, evidence of intent	Any instance	AO with fine, civil action, termination of service, criminal investigation	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
Other Violations				
Entry denied or consent withdrawn	Any instance	Obtain warrant and return to IU, AO to suspend or terminate services	IPC, CA, ATT, BRD	
Copies of records denied	Any instance	Obtain warrant and return to IU, AO to suspend or terminate services	IPC, CA, ATT, BRD	
Wastestreams are diluted in lieu of treatment	Initial violation	NOV, AO, show cause, fine	IPC, CA, ATT, BRD	\$100.00 to \$500.00
	Recurring	AO, show cause, fine, permit revocation, terminate service	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
Failure to mitigate noncompliance or halt discharge	Does not result in harm	NOV	IPC, CA	
	Does result in harm	NOV, AO, show cause, fine, recover cost of damages through user charge or civil action, criminal action	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00
Failure to properly operate and maintain pretreatment facility	Does not result in harm	NOV	IPC, CA	
	Does result in harm	NOV, AO, show cause, fine, recover cost of damages through user charge or civil action, criminal action	IPC, CA, ATT, BRD	\$500.00 to \$1,000.00

(k) Fines. Fines will be levied in increasing increments of \$100.00 for each successive violation in the same category. For example, the first unauthorized discharge harming the environment would

have a fine of \$500.00. The second unauthorized discharge harming the environment would have a fine of \$600.00, etc. Once the fine has reached the upper limit, the fine would remain at the upper limit for each successive violation.

(l) Payment terms. All fines will be added to monthly utility bills.

(i) *Sec. 117-5-4 through Sec. 117-5-7 are changed to read.*

Sec. 117-5-4. - Determining wastewater user charges.

(a) Wastewater user charges shall be as established by resolution of the board. Wastewater user charges shall be billed and payable with the water bill.

(b) The city shall review the total cost of operation and maintenance on an annual basis and will revise the ~~costs~~ user charges as necessary to ensure equity of the user charge system established in this article and to ensure that sufficient funds are obtained to adequately operate and maintain the wastewater system.

(c) The following charges for the use of the wastewater facilities and the sanitary sewer system of the city are hereby established. Such charges shall be made against each lot, parcel of land, or premise that has a sewer connection to the sanitary sewer system in the city or that may otherwise discharge wastewater, either directly or indirectly, into the sanitary sewer system or any part:

(1) Wastewater service charge. The wastewater service charge for the use of and for service supplied by the sanitary sewer system and the wastewater facilities of the city shall consist of a user charge for operation and maintenance plus a replacement charge and a debt service charge.

(2) Wastewater treatment charge. The wastewater treatment charge shall be based on water usage as recorded by water meters and/or wastewater meters and shall be for treatment of wastewater having normal concentrations less than the following: Five-day 20-degree Centigrade BOD (230 mg/l) or SS (180 mg/l).

(3) High strength user charge. The high strength user charge shall replace the wastewater treatment charge for customers who discharge wastewater that exceeds the normal concentrations and shall be calculated at a rate commensurate with the cost of treatment. The rate shall be set as a multiple of the wastewater treatment charge computed to the nearest tenth of a unit. The rate may be established by measuring an individual user's discharge or by establishing a rate for a class of users.

(4) Industrial wastewater charge. In addition to the wastewater service charge and the wastewater treatment charge, those customers who are not being billed a high strength user charge and who discharge wastewater which exceeds the limitations stated in subsection (2) of this section, discharge wastewater that contains high concentrations of certain chemicals or discharge a high volume of wastewater to the system shall pay an additional fee. The charge will be based on water usage as recorded by water meters

and/or wastewater meters. An industrial wastewater charge will be levied to all users whose wastewaters:

- a. Exceed permissible pretreatment standards;
- c. Contain toxic chemicals or other substances that adversely affect the operation, maintenance or life of the wastewater treatment plant; or
- d. Produce a rate of flow that has a significant impact on the wastewater treatment plant.

~~Sec. 117-5-5. - Payment of the user's wastewater user charge; penalty.~~

~~The city will submit a monthly statement to the user for the wastewater user charge. The city shall add a penalty of 1.5 percent per month if the payment is not received by the city within 15 days. Should any user fail to pay the wastewater user charge and penalty within three months of the due date, the city may stop the water service to the property.~~

~~Sec. 117-5-6. - Replacement funds.~~

~~A replacement fund is established to obtain sufficient moneys to obtain or replace accessories and equipment during the useful life of the treatment works, which are necessary to maintain its design capacity and performance. All replacement funds shall be held in a separate account for that purpose. The annual replacement amount shall be \$9,000.00 for wastewater treatment and \$15,000.00 for collection, pumping and maintenance equipment.~~

~~Sec. 117-5-76. - Lawn and garden watering.~~

- (a) ~~Residential users shall not be charged wastewater fees on water used for lawn and garden watering. The city shall determine the average residential wastewater volume contributed during the preceding winter months. The average volume contribution, so determined, shall be used during the lawn and garden watering months of May through September to determine the volume of wastewater to be charged for during this period.~~
- (b) ~~Separately metered sprinkler systems shall not be charged wastewater fees.~~

(j) A new Chapter 119 is created.

Chapter 119 - SOLID WASTE SERVICES

(k) Article 6 of Chapter 117 is moved to new Chapter 119 and changed to read.

ARTICLE 16. - SOLID WASTE ADMINISTRATION

Sec. 119-16-1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Collection service means the collection and disposal of garbage and rubbish, and/or the availability or use of any dump, sanitary landfill or disposal facility of the city.

Commercial area garbage means all accumulations of animal and vegetable refuse and offal, waste paper, paper containers, tin cans, bottles, and all other refuse that accumulates as a result of operating a restaurant, tavern, office, store or other business, commercial or industrial establishment, including any apartment buildings having four or more dwelling units.

Illicit discharge means any direct or indirect non-stormwater discharge to the storm drain system except water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation and footing drain water, air conditioning condensation, irrigation water, springs, water from crawl space pumps, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, street wash water, dye testing, and flows from firefighting or other discharges specified by the city to protect public health and safety.

Mobile home, manufactured home, modular home, park model or trailer coach means a residential dwelling unit for the purposes of providing garbage and rubbish collection services and assessing charges for said services.

Refuse means all putrescible and non-putrescible solid wastes, except body wastes, including garbage, trash, rubbish, ashes, street cleanings, dead animals, abandoned vehicles, solid market and industrial wastes, inert wastes and any other discarded materials of every kind and character.

Residential area garbage means all accumulations of household waste matter, including dry sink refuse, meat, vegetable, and fruit residues, and all tin cans and bottles, but shall not include grass, shrubbery, tree branches, ashes or other similar wastes.

Rubbish means non-putrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as trash, refuse or debris, including, but not limited to, discarded furniture, appliances and other household goods, barrels, rags, cartons, boxes, paper, cardboard, tin cans, yard clippings, noxious weeds, pieces of wood or metal, glass, bedding, crockery and similar materials, and any other discarded materials of every kind and character, including junked or abandoned vehicles, equipment and machinery.

Sec. ~~1197-16-2~~ - Accumulation of refuse and rubbish prohibited.

No person shall cause, permit, keep, maintain or allow to accumulate in or about any yard, lot, place or premises; or upon the boulevard or berm abutting thereon; or upon any street, alley or sidewalk, adjacent to or abutting on any lot, block or place, or premises owned or occupied by him, or for which he may be an agent, within the city limits, any and all refuse or rubbish, nor suffer such yard, lot, place or premises to be or to remain in such condition. No person shall deposit or cause to be

deposited in or about any publicly owned property, or upon any street, alley or sidewalk adjacent to or abutting on any publicly owned property, within the city limits, any and all refuse or rubbish. It is declared a public nuisance for any yard, lot, place or premises; boulevard or berm; or street, alley or sidewalk to remain in such condition and any person or owner, occupant or agent of the yard, lot, place or premises violating the provisions of this section is guilty of an infraction.

Sec. ~~1197-16-3~~. - Refuse and rubbish in stormwater systems prohibited.

No person shall cause, permit, keep, maintain or allow to accumulate in or about any gutter, inlet, ditch, detention or retention pond, flume, Heart River, Missouri River, or any other part of a stormwater system, including those areas known as "the Dead Heart," any and all refuse or rubbish, including leaves, grass, and illicit discharge, nor suffer such systems or areas to be or to remain in such condition. No person shall deposit or cause to be deposited in or about any gutter, inlet, ditch, detention or retention pond, flume, Heart River, Missouri River, or any other part of a stormwater system, including those areas known as "the Dead Heart," any and all refuse or rubbish, including leaves, grass, and illicit discharge. It is declared a public nuisance for any of these areas to remain in such condition, and any person violating the provisions of this section is guilty of an infraction.

Sec. ~~1197-16-4~~. - Charges; collection.

- (a) The city shall charge such monthly service charges for providing such residential garbage and rubbish collection as may hereafter be adopted by resolution of the board of city commissioners.
- (b) The finance department of the city is designated as the collection agency and shall bill for and collect all charges for garbage collection provided for under the provisions of this article in the same manner as for water service.

Sec. ~~1197-16-5~~. - Recovery of nonpayment.

In the case that the service charges provided for by this article are not paid when due, such charges may be recovered by the city in an action at law against the owner or occupant of the premises served, or such charges may be assessed against the premises served and collected and returned in the same manner as other county and municipal taxes are assessed, certified, collected and returned.

Sec. ~~1197-16-6~~. - Supervision.

The collection, removal and disposal of residential garbage and rubbish under the provisions of this article shall be under the supervision, direction and control of the department director.

Sec. ~~1197-16-7~~. - Frequency.

All residential area garbage and rubbish shall be collected by the city or its authorized agents as frequently as is necessary to maintain and preserve the health of the community. Nothing in this article, however, shall require the collection of such garbage and rubbish when the streets and alleys of the city are in such condition as, in the opinion of the department director, renders such collection inadvisable or impractical. Failure to collect residential area garbage and rubbish during such times shall not relieve the owner or occupant of the premises from the payment of garbage and rubbish collection service fees.

Sec. ~~1197-16~~-8. - Refusal to accept service prohibited.

No person shall refuse to accept the residential area garbage and rubbish collection service provided for by this article, and the failure of any person to receive such service shall not exempt him from the payment of the service charges provided for, save those persons residing in an area in which no collection service is provided, and, in such cases, no service charges shall be made.

Sec. ~~1197-16~~-9. - Regulations governing residential area garbage collection.

- (a) Residential area garbage shall be deposited for pickup in durable garbage metal or plastic receptacles equipped with close-fitting covers of a capacity of not less than 15 gallons nor more than 35 gallons or in loose garbage bags secured in a cart or other receptacle that will prevent the garbage from being strewn about by animals or the wind. Each property owner or occupant shall furnish and store one or more garbage receptacles for disposal of garbage in a secure and unobtrusive location on the property. No earlier than 6:00 pm the night before pickup, the receptacle or receptacles shall be moved to a location within 15 feet of the alley abutting the premises, or, in case no alley abuts upon the premises, or in case the alley is not open, or is otherwise inaccessible, within 15 feet of the curb in front of the dwelling.
- (b) Wet residential area garbage shall be drained of excess water and shall be put in leak-proof containers before being deposited in garbage receptacles for pickup.
- (c) No rubbish shall be placed in any garbage receptacles kept for the deposit of residential area garbage.
- (d) Garbage receptacles shall be returned to their storage location no later than 10:00 pm on the day pickup was made.

Sec. ~~1197-16~~-10. - Regulations governing commercial area garbage collection.

All commercial area garbage shall be deposited in containers, provided for that purpose, by each owner or occupant of every commercial building or premises located within the city, the operation of which results in the accumulation of such garbage. Such garbage containers shall be stored in such a manner and have such a capacity and meet such construction standards as may be established by resolution of the board of city commissioners. Property owners who have lots with limited space may enter into a formal agreement with a neighboring property owner to share garbage containers.

Sec. ~~1197-16~~-11. - Hauling of garbage by private contractors.

No person shall haul or transport any garbage or rubbish for compensation or as a business without first having obtained a license to do so from the city.

Sec. ~~1197-16~~-12. - Hauling garbage from own premises.

Nothing in this article shall prevent any person from hauling the garbage or rubbish originating upon his own premises, provided that only that such garbage is transported in covered vehicles or containers. A covered vehicle or container shall be construed to mean that such vehicle or container

shall be fitted with a cover which shall eliminate positively any material falling from such vehicle or container while in transit.

Sec. ~~1197-16~~-13. - Recycling containers.

No person shall place, deposit or dump any material in a recycling or special use container other than the material that is indicated as allowable on the container. A recycling or special use container may include any publicly or privately owned container, dumpster or receptacle that is clearly signed or marked as being for the deposit of particular materials.

Sec. ~~1197-16~~-14. - Storage location.

Each commercial or industrial property owner shall provide a three sided or enclosed area to store the garbage containers. Should the lot not have sufficient space to provide such a facility, the property owner may enter into a formal agreement with a neighboring property owner for the storage of garbage containers.

Sec. ~~1197-16~~-15. - Penalty.

Failure to properly manage and secure garbage receptacles or containers is an infraction.

Sec. ~~1197-16~~-16. - Hauling of garbage by private contractors; required.

No person shall haul or transport any garbage or rubbish for compensation or as a business without first having obtained a license to do so from the city.

Sec. ~~1197-16~~-17. - Application; fee; term.

Application for said license shall be made on forms provided by the city to the city license officer and shall be accompanied by a fee for each vehicle used in the hauling or transportation of such garbage or rubbish, the amount of which shall be established from time to time by resolution of the board of city commissioners. Licenses issued under this article shall be issued on an annual basis and shall expire on December 31 of each year. No reduction in fee for such license shall be made by reason of its being issued for only a part of a year.

Sec. ~~1197-16~~-18. - Conditions of issuance.

No license shall be granted to any person unless the equipment used by such person in hauling or transporting garbage or rubbish shall meet the following requirements:

- (1) Trucks or other vehicles used for the hauling of garbage shall be equipped with bodies having watertight floors and watertight walls to a height of at least six inches above the floor level, and the joints between floor and walls of such body shall likewise be watertight.
- (2) The sides and tops of such truck bodies shall be of permanent construction, and the loading and unloading openings in such body shall be fitted with tight-fitting doors,

which doors shall remain closed except while garbage or rubbish is being loaded into or out of said trucks.

Sec. ~~1197-16~~-19. - Refuse disposal area open to residents.

The premises now or hereafter provided by the city as a city refuse disposal area shall be open and accessible for the use of the residents of the city during such hours as may be fixed by the officer of the city, authorized with the control and supervision of said refuse disposal area by the board of city commissioners, and under the terms and provisions of this article.

Sec. ~~1197-16~~-20. - Rules and regulations; authority.

- (a) Subject to the control and supervision of the officer of the city authorized by the board of city commissioners with the control and supervision of the city refuse disposal area, the city employee placed in charge of said city refuse disposal area shall have, and is vested with, full and complete authority to require persons offering to dump materials upon said grounds to comply with the provisions of this section.
- (b) The dumping of any refuse or other matter upon said ground, at any place or in any manner other than permitted in this article and in accordance with the orders of the city employee in charge of said grounds, shall constitute a violation of this article.
- (c) Persons offering to dump materials within the city refuse disposal area shall comply with the following provisions:
 - (1) Materials to be dumped shall be placed at such locations on said grounds as may be directed by the city employee placed in charge of said city refuse disposal area.
 - (2) No carcasses of dead animals, or any foul, odorous, offensive, nauseous or decomposed matter, or matter which if exposed to air would become foul, offensive, nauseous, unwholesome or decomposed shall be allowed.

Sec. ~~1197-16~~-21. - Entry after hours prohibited.

Entry by any person upon said premises during hours when entry thereon is prohibited and in violation of any notice as to hours posted at the entrance thereto shall constitute a trespass upon said refuse disposal area and a violation of this section.

Sec. ~~1197-16~~-22. - Removal of refuse from disposal area prohibited.

It is unlawful for any person to remove any refuse, garbage, material or matter of any kind from the city refuse disposal area without the written permission of the board of city commissioners.

(I) A new Article 6 is added to Chapter 117 to read.

ARTICLE 6. – STORMWATER MANAGEMENT

Sec. 117-6-1. – Creation of stormwater management assessment districts.

The city may create regional stormwater management assessment districts for the purpose of constructing regional stormwater management facilities and assessing all benefited properties.

Sec. 117-6-2. – Stormwater operation and maintenance charge.

All properties within the city shall pay a stormwater operation and maintenance charge. The charge shall pay for maintenance and operation of storm drainage facilities within public streets. Those properties within a designated stormwater management district shall also pay a regional stormwater facilities charge for operation and maintenance of regional stormwater management facilities. Stormwater operation and maintenance charges shall be set by resolution of the board of city commissioners and billed as are water use charges.

(m) A new Article 7 is added to Chapter 117 to read.

ARTICLE 7. - MISCELLANEOUS PROVISIONS

Sec. 117-7-1. – Scope of Chapter

- (a) All pertinent provisions of this chapter are made a part of the terms and conditions whereby the city shall furnish any utility service to any person; or whereby the city shall make utility connections, or perform any work of any kind in connection with the furnishing of any utility service pursuant to the rules and regulations of the board of city commissioners.
- (b) The board of city commissioners shall have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction and maintenance of any utility service system owned and operated by the city, within or without the city, and under the management of the city commissioners. Such rules, regulations, standards and specifications shall be filed in the office of city administrator or at any other location so designated by the administrator. Violation of such rules, regulations, standards and specifications shall be deemed a misdemeanor.
- (c) The board of city commissioners in order to provide funds to defray the cost of construction, maintenance and repair of any utility service of the city may, from time to time, by resolution, establish, maintain and change a schedule of rates, charges, surcharges and fees for all services, facilities, commodities and benefits furnished by any utility service, and may impose and collect monthly at the time and in the manner said board may provide.
- (d) In order to properly segregate funds and obligations of the city for purposes of accurate and proper accounting, the finance director may create sub-accounts within any fund account.

Sec. 117-7-2. – Property owner’s responsibility for public utility charges and fees

- (a) Implied contract for services. The owner or occupant of any property causing, permitting or using the connection to any of the city's utility systems or receiving utility services from the city by way of such act shall be presumed to have entered into a contract with the city for utility

service. Under the terms of the presumed contract, the owner or occupant of the premises shall pay for the utility service, properly maintain the service connections and permit entry by authorized city employees or agents of the city for the purpose of inspection, maintenance, repair or replacement of city owned utility system components.

(b) *Joint and several liability of owners and occupants.* The owner and occupant of each premises shall be jointly and severally liable for all charges and fees for utility services provided by the city during the period of their respective ownership or occupancy. In addition to any other remedy, all such charges and fees having been properly billed to the owner or occupant of any premises served and not paid, may be recovered by the city in a civil action in any court of competent jurisdiction against either the owner or the occupant, or both.

(1) All charges or fees for any utility service supplied, provided or furnished by the city shall constitute liens upon the respective lots, tracts, parcels of land and premises receiving such service. The city may take action to file a lien against the property for all such charges or fees which have been properly billed to the owner or occupant of the premises served and which are more than thirty days past due.

(2) All such charges or fees which have been properly billed to the owner or occupant of the premises served and which are more than thirty days past due on September 30th of each year shall be certified by the city to the county auditor between the first and tenth day of October of each year. The city, in so certifying such charges and fees, shall specify the amount thereof, the description of the premises served and the name of the owner thereof. The amount so certified shall be added by the county auditor to the tax rolls against such premises, collected by the county treasurer and paid to the city in the same manner and time as other county and municipal taxes are assessed, certified, collected and returned.

Sec. 117-7-3. – Provision of utility service -- Right to hearing.

(a) The city has the right to disconnect, refuse to connect or reconnect or refuse to provide any utility service for the following reasons:

(1) Failure to meet the applicable provisions of the law;

(2) Violation of the rules and regulations pertaining to utility service;

(3) Nonpayment of bills;

(4) Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise;

(5) Damaging or tampering with any city owned utility system component;

(6) Theft, diversion or use of service without payment;

(7) Vacancy of premises;

(8) Failure of occupant or owner of the property to permit entry of the premises to read, maintain, repair or replace the meter or associated equipment.

(9) Failure of the occupant or owner to pay an estimated bill when the city has been unable to gain access to the property to read, maintain, repair or replace the meter or associated equipment.

(b) The city shall provide written notice of utility service termination to the owner or customer at least five days in advance of disconnecting the service. The notice shall be sent by regular mail to the address shown on the city's billing receipts and shall include a statement that upon written demand filed with the city, the owner or customer has the right to a hearing before the board or its designate. Upon receipt of a written demand for hearing the city shall schedule a hearing as soon as is practicable. Following the hearing, the board or its designate may order that the utility service be terminated or make such other reasonable order as may be necessary or appropriate.

(c) Whenever utility service is disconnected pursuant to this section, a reasonable reconnect fee shall be paid by the owner or customer or successor in interest before reconnection.

Sec. 117-7-4. – Tampering prohibited – Penalty.

(a) No person shall tamper with, damage, injure, deface, remove, destroy or break any component of a city utility.

(b) A person violating the provisions of this section is guilty of an offense, if they cause a substantial interruption or impairment in the provision of a city utility service. The offense is a Class C felony if the actor engages in the conduct intentionally, and a Class A misdemeanor if the actor engages in the conduct knowingly or recklessly. Otherwise it is a Class B misdemeanor.

Sec. 117-7-5. – Sale of service by customer.

It is unlawful for any person to resell any utility service obtained from the city to others except by special arrangement authorized by the board of city commissioners.

Section 3. Effective Date. This ordinance shall take effect when adopted.

President, Board of City Commissioners

Attest:

City Administrator

First Consideration:

Second Consideration and Final Passage:

November 17, 2015

December 1, 2015