

AGENDA
MANDAN CITY COMMISSION
JULY 2, 2013
ED "BOSH" FROEHLICH MEETING ROOM,
MANDAN CITY HALL
4:30 P.M.
www.cityofmandan.com

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- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. APPROVAL OF AGENDA:
- C. PUBLIC COMMUNICATIONS:
- D. MINUTES:
1. Consider approval of the minutes from the June 18, 2013 Board of City Commission meeting.
- E. PUBLIC HEARING:
1. Public Hearing to consider a 2-Year Property Tax exemption for HM4, LLC.
- F. BIDS:
1. Consider award of bids for Street Improvement District No. 185, Project 2013-19(Heart Ridge 2nd Addition)(See Resolution No. 5).
- G. CONSENT AGENDA:
1. Consider approval of Beer Garden and Street Dance for Church of St. Joseph on July 6, 2013.
2. Consider approval of Joint Powers Agreement with Mandan Park District pursuant to the provisions of Chapter 54-40.3, N.D.C.C., for the cooperation of acquisition of the real property to be utilized for a recreation/wellness center or such other use as may be agreed to by the City in writing.
3. Consider approval of Legal Retainer Agreement with Malcolm H. Brown, of Counsel to Crowley Fleck PLLP.
4. Consider for approval the final Replat of Lots 27-29, Block 1, Heart Ridge Addition.
5. Consider for approval the final plat of South Bay Townhomes Addition.
6. Consider for approval the final plat of Addie's Acres Addition.
7. Consider the execution of Engineering agreement with AE2S for Mandan Waste Water Odor Control System Project.
- H. OLD BUSINESS:

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I. NEW BUSINESS:

1. Consider the creation of, approval of the feasibility report for, approve the plans and specifications, approve engineer's report, direct advertisement for bids and approve sufficiency of petition for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV). (See Resolution No. 6).

J. RESOLUTIONS AND ORDINANCES:

1. *Second consideration and final passage of Ordinance No. 1153 Zone Change for Lot 2, Block 1 of the Replat of Lot 1, Block 1, Hoovestol's 2nd Addition – An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.*
2. ~~*Second consideration and final passage of Ordinance No. 1154 Zone Change for Lot 2, Block 1 of West Bay Estates 2nd Addition – An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.*~~
3. *Second consideration and final passage of Ordinance No. 1155, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of Section 7, Township 139N, Range 81W).*
4. *Second consideration and final passage of Ordinance No. 1156 Zone Change for the west 280 feet of the south 300 feet of Government Lot 4 in Section 7, T139N, R81W - An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.*
5. Consider Resolution Approving Contract and Contractor's Bond for Street Improvement District No. 185, Project 2013-19(Heart Ridge 2nd Addition).
6. Consider the Resolutions creating district, approving engineer's report, determining sufficiency of protest, approving the plans and specifications and directing advertisement for bids for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

K. OTHER BUSINESS:

L. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. July 16, 2013
2. August 6, 2013
3. August 20, 2013

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, former Morton County Library Room. Please notify the city administrator by 8:30 a.m. that Monday if you plan on attending. If more than two commissioners plan on attending, proper public notice must be given.

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The Mandan City Commission met in regular session at 5:30 p.m. on June 18, 2013 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Commissioners present were Van Beek, Tibke, Rohr, Frank, and Braun. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, and Engineering Project Manager Fettig. Absent: Business Development and Communications Director Huber, and Building Official Lalim.

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

C. PUBLIC COMMUNICATIONS:

Terry Fleck, a Mandan resident came forward and commented on the golf course improvement plan that is on the Agenda for discussion stating that he owns a lot on the north end of that area. He stated he works overseas and will be leaving and not returning home until September. He stated that if black top is put down in August and dug up in the spring - that would make no sense. He reviewed a property discrepancy of what he purchased from the realtor and what the City has recorded is his property and the taxes he has paid on the property. He requested that the laying of the black top be delayed in August until September so he could put sewer and water in because he plans to build there in the spring. Director of Public Works Wright came forward and explained that this project was discussed yesterday with the contractor and it will not start until later in the fall. He stated the City will give Mr. Fleck the time needed to put in his sewer and water service prior to paving that portion of the street. Wright stated that the right of way property discrepancy issue will not be an issue and will be cleared up.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission meetings held on (i) June 4, 2013 – Special Board Meeting and (ii) June 4, 2013 – Regular Board Meeting.* Commissioner Tibke moved to approve the minutes from the Board of City Commission meetings of (i) June 4, 2013 – Special Board Meeting and (ii) June 4, 2013 – Regular Board Meeting. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

1. *Consider approval of a zone change for Lot 2, Block 1 of the Replat of Lot 1, Block 1, Hoovestol’s 2nd Addition.(First consideration of Ordinance #1153)(See Ordinances No. 1).* Engineering Project Manager Fettig reviewed a request from Heart River partners for a zone change for Lot 2, Block 1 Hoovestol’s 2nd Addition from CC (Heavy Commercial) to MB (Heavy Industrial/Heavy Commercial). The zone change is necessary in order to construct storage units on the property. The Planning and Zoning Committee voted to approve the zone change on May 28, 2013.

Mayor Van Beek announced this is a public hearing to approve a zone change for Lot 2, Block 1 of the Replat of Lot 1, Block 1, Hoovestol’s 2nd Addition. He invited anyone for

or against the request to come forward. A second announcement was made to come forward to speak for or against the zone change. Hearing none, this portion of the public hearing was closed.

2. *Consider approval of a zone change for Lot 2, Block 1, of West Bay Estates 2nd Addition. (First consideration of Ordinance #1154)(See Ordinances No. 2).* Engineering Project Manager Fettig reviewed a request from JL Partnership for a change of zoning from MA (Light Non-Nuisance Industrial/Heavy Commercial) to CB (Heavy Commercial). The restriction on the property now is for an RV Park or a seasonal cabin rental and they would like to use the property for things other than those items. The Planning and Zoning Committee voted to approve the zone change on May 28, 2013.

Commissioner Frank commented that the zoning areas surrounding this property is MA (Light Non-Nuisance Industrial/Heavy Commercial) – is there a reason why they chose CB (Heavy Commercial)? Fettig replied that JL Partnership indicated the CB would allow for more flexibility when selling the property. CB would allow for apartment buildings in the CB zoning.

Mayor Van Beek announced this is a public hearing to approve a zone change for Lot 2, Block 1, of West Bay Estates 2nd Addition. He invited anyone for or against the request to come forward. A second announcement was made to come forward to speak for or against the zone change. Hearing none, this portion of the public hearing was closed.

Commissioner Tibke stated she has some concerns about this request having an option for dwellings (apartments) when it is suited for commercial. Commissioner Rohr stated that there are apartment buildings to the north of that area. He stated he agrees with Commissioner Tibke's concern and stated that area would be better suited for business rather than housing units due to the high traffic in that area. Mayor Van Beek indicated MA or CB restricted may be more appropriate. Commissioner Tibke agreed as long as there is a restriction with the CB. Commissioner Frank suggested that prior to the second reading that a representative from JL Partnership is present to outline what they are seeking. Commissioner Tibke concurred with the suggestion to request the developer to provide further clarification as to the plans for that parcel of land.

3. *Consider the annexation of the west 280 feet of the south 300 feet of Government Lot 4 in Section 7, Township 139N, Range 81W. (First consideration of ordinance #1155)(See Ordinances No. 3).* Engineering Project Manager Fettig reviewed a request from Adeline Boehm Klapprodt to annex the west 280 ft. of the south 300 ft. of Government Lot 4 in Section 7, Township 139N, Range 81W. The property is located at the end of Old Red Trail and 56th Avenue.

Mayor Van Beek announced this is a public hearing to consider the annexation of the west 280 ft. of the south 300 ft. of Government Lot 4 in Section 7, Township 139N, Range 81W. He invited anyone for or against the request to come forward.

Lee Klapprodt came forward to speak and stated that his wife Adeline Boehm Klapprodt is the person who made the request for the annexation and zoning change. He stated that they have been trying to sell this property. She acquired the land in 2011 and since then they have been exploring options of how to utilize that land. There is a party interested in purchasing the property but the holdup has been related to the decision as to where the lift station at Roughrider Estates will be located. There was no indication from the City of Mandan over the past two years if there were any particular issues regarding (our) plans to do with that property. The Planning and Zoning Committee brought up a possible issue with the Beltway Plan in which there are areas set aside for the beltway right of ways for that highway.

Mr. Klapprodt provided a map of the interchange that is proposed to be put into place (someday) on Interstate 94. He stated that an estimated 4.7 acres (of the 19.3 acre parcel) will be affected with the beltways that are being planned. The right of way off 56th Avenue would equate to about one-half of the parcel to be sold. He indicated that the beltway and designated area for the interchange to I-94 will be an impact to their plans to develop and/or sell portions their property and it will also affect the value of the property. He stated the reason for discussing this matter is because they feel they are being unfairly impacted by the planning the City is doing in this area and also how it will impact the value and or sale of the property. They would like to have compensation for the inconvenience of the easement and for the lift station commenting that the \$10 the City has offered for the lift station is not a reasonable compensation. He also reviewed the New Master Plan Roadways map as an example of how plans were made and eventually they can be changed such as the changes in the example that he provided.

Director of Public Works Wright came forward and explained that typically an easement is a monetary value. But in addition the City also provided a lift station that would serve their whole property. There is more benefit than just the monetary compensation in that the lift station located on the property will add land value.

Commissioner Braun commented that there is careful consideration involved in this plan by the City and suggested this matter be taken under advisement.

Commissioner Frank questioned City staff, (in regards to the potential interchange), when those impacts happen throughout the community, is there traditionally compensation when it comes to obtaining that right of way for that property owner from the either the Federal or State Government? City Attorney Brown replied that the 5th Amendment to the Constitution and one of the Amendments to the North Dakota Constitution provides that the public can take private property for public use provided they pay “just compensation”. So if a highway was built in this area and if the City needed an easement for the lift station and the Klapprodts did not want to give it, the City could proceed to acquire it and a jury would determine what it’s worth would be. However, the agenda is their petition to annex and their petition to zone. The value of the eminent domain is determined as of the day of taking.

Klapprodt commented there are two issues regarding Attorney Brown's statement:

- (1) Building cannot take place on those right of way areas because the City wants to preserve those areas;
- (2) According to DOT and the City of Mandan, the development of this property may be decades into the future.

A second announcement was made to come forward to speak for or against the zone change. Hearing none, this portion of the public hearing was closed.

4. *Consider approval of a zone change for the west 280 feet of the south 300 feet of Government Lot 4 in Section 7, T139N, R81W. (First consideration of Ordinance #1156)(See Ordinances No. 4).* Engineering Project Manager Fettig reviewed a request for a zone change with regard to the matter just discussed (the annexation of the west 280 feet of the south 300 feet of Government Lot 4 in Section 7, Township 139N, Range 81W) for a zone change from A (Agricultural) to CC (Heavy Commercial). The Planning and Zoning Committee voted to approve the zone change on May 28, 2013.

Mayor Van Beek announced this is a public hearing to approve a zone change for the west 280 feet of the south 300 feet of Government Lot 4 in Section 7, T139N, R81W. He invited anyone for or against the request to come forward.

Lee Klapprodt, a Mandan resident, came forward and stated that he supports the request as he and his wife are the owners of the subject property.

A second announcement was made to come forward to speak for or against the zone change. Hearing none, this portion of the public hearing was closed.

F. BIDS:

1. *Consider award of bid for Street Improvement District 182 Project 2013-16 (Meadow Ridge 1st Addition). (See Resolution No. 5).* Engineering Project Manager Fettig stated that bids were received on June 14, 2013, and Tand Construction was the low bidder in the amount of \$255,318.60. The Engineer's estimate was \$255,718.60. The project will be paid for by special assessments from the benefiting properties within the district. The property is at the corner of 27th Street Northwest and 8th Avenue Northwest. The construction costs plus the administrative costs total \$319,148.25.

Commissioner Frank moved to approve the bid award to Tand Construction for Street Improvement District 182 Project 2013-16 (Meadow Ridge 1st Addition) in the amount of \$255,318.60. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

G. CONSENT AGENDA

1. *Consider approval of monthly bills.*

2. *Consider approval of Sales & Use Tax Collection Agreement with the ND Office of State Tax Commissioner for 2013-2015.*
3. *Consider approval of Special Sunday openings for O.N.E. for June 30, 2013.*
4. *Consider approval of Water Transmission Line Agreement, Release of Easement & Easement.*
5. *Consider closing administrative office July 5, 2013.*
6. *Consider approval of annual Liquor Licenses for July 1, 2013 to June 30, 2014.*
7. *Consider approval of Special Sunday Openings for all annual Liquor Licenses.*

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

H. OLD BUSINESS:

I. NEW BUSINESS:

1. *Introduction of new employee, Justin Froseth, Planning & Engineering Director.* City Administrator Neubauer introduced Justin Froseth, as the new Planning and Engineering Director. Justin holds a Construction Management Degree and a Civil Engineering Degree from the North Dakota State University.

Chief Bullinger introduced new police officer Chris Roach, a recent graduate of the Devils Lake Law Enforcement Training Academy and is currently in field training with the department. Mayor Van Beek welcomed Officer Roach to the City of Mandan Police Force.

2. *Consider approving the plans and specifications and authorizing the execution of a 3-way agreement for the installation of water & sewer in Plainview Heights 14th Addition, Project 2013-11. (See Resolutions No. 6).* Engineering Project Manager Fettig reviewed with the Board a request for a 3-way agreement for the development of Plainview Heights 14th Addition for the installation of water and sewer. The entire cost of the project is being paid for by the developer of the 3-way agreement. Fettig stated that if this is approved that it be contingent upon the receipt of the letter of credit being filed with the City Engineer's office.

Commissioner Tibke moved to authorize the execution of a 3-way agreement for the installation of water & sewer in Plainview Heights 14th Addition, Project 2013-11 contingent upon the receipt of the letter of credit being filed with the City Engineer's office. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications, approve engineer's report, direct advertisement for bids and approve sufficiency of petition for Street Improvement District No. 180, Project No. 2013-12*

(Plainview Heights 14th Addition). (See Resolution No. 7). Engineering Project Manager Fettig stated that the developer is requesting that the City allow the special assessment of street costs to the benefiting properties for the development of Shires Drive Southeast, Nordland Way Southeast and the continuation of Percheron Drive Southeast. The estimated costs of the project would be \$322,148.63. The Engineering and Administrative costs will add \$112,752.01 for a total cost of \$434,900.64. There are 27 lots benefiting, \$16,107 would be the estimated special assessments to the lot owners.

Commissioner Frank moved to approve the creation of, approval of the feasibility report for, approve the plans and specifications, approve engineer's report, direct advertisement for bids and approve sufficiency of petition for Street Improvement District No. 180, Project No. 2013-12 (Plainview Heights 14th Addition). Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

4. *Consider approving the plans and specifications and authorizing the execution of a 3-way agreement for the installation of water & sewer in Meadows 7th Addition, Project 2013-14. (See Resolutions No. 8).* Engineering Project Manager Fettig stated that this project is located to the north of 48th Street Northwest. The request is for authorization for the installation of water and sewer for the development of Meadows 7th Addition. The entire cost of the project is being paid for by the developer of the 3-way agreement. Fettig stated that if this approved that it be contingent upon the receipt of the letter of credit being filed with the City Engineer's office.

Commissioner Frank stated about a year ago there were street compaction problems in this area. She inquired if modifications have been made for compaction? Fettig stated there were no problems that will affect this area.

Commissioner Frank moved to approve the authorization and the execution of a 3-way agreement for the installation of water & sewer in Meadows 7th Addition, Project 2013-14 contingent upon the receipt of the letter of credit being filed with the City Engineer's office. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications, approve engineer's report, direct advertisement for bids and approve sufficiency of petition for Street Improvement District No. 181, Project No. 2013-15 (Meadows 7th Addition). (See Resolution No. 9).* Engineering Project Manager Fettig stated that the developer is requesting that the City allow for special assessment of street costs to the benefiting properties for the development of Trident Court Northwest and Wildrye Circle Northwest. The engineers estimated cost is \$243,640.52 with administrative and engineering costs of \$185,274.18 for a total cost of \$328,914.70. These items would be special assessed to the 20 lots @ \$16,445 per lot.

Commissioner Frank moved to approve the creation of, approval of the feasibility report for, approve the plans and specifications, approve engineer's report, direct advertisement for bids and approve sufficiency of petition for Street Improvement District No. 181, Project No. 2013-15 (Meadows 7th Addition). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

6. *Consider approving the plans and specifications and authorizing the execution of a 3-way agreement for the installation of water & sewer in Keidels South Heart Terrace Phase IV, Project 2013-08. (See Resolutions No. 10).* Engineering Project Manager Fettig stated that this request is for authorization of the installation of water and sewer for the development in (southwest corner) Keidels South Heart Terrace. The entire cost of the project is being paid for by the developer of the 3-way agreement. Fettig stated that if this is approved that it be contingent upon the receipt of the letter of credit being filed with the City Engineer's office.

Commissioner Braun moved to approve the plans and specifications and authorizing the execution of a 3-way agreement for the installation of water & sewer in Keidels South Heart Terrace Phase IV, Project 2013-08 contingent upon the receipt of the letter of credit being filed with the City Engineer's office. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

7. *Consider the creation of, approval of the feasibility report for, approve the plans and specifications, approve engineer's report and approve sufficiency of petition for Street Improvement District No. 187, Project No. 2013-23 (Mandan Municipal Golf Course and Alleys). (See Resolution No. 11).* Engineering Project Manager Fettig stated that this is the property that Terry Fleck referenced earlier in this meeting. The work is being done in the parking lot and the alley of the properties and has been requested by the Park District and it affects residents in the district. In order to fast-track the project a change order on the Diane's Street project that is currently in progress in the north part of Mandan would be required. NDCC Section 40-22-36 outlines provisions allowing for this revision to take place. The Engineer's estimate for the project is \$108,569.30 with engineering and administrative costs at \$32,570.79 for a total estimate of \$141,140.09. A petition including the signatures of those affected properties including the park District, including Terry Fleck, who testified earlier that his concern evolved around the timing of the project so he could get his sewer and water installed before the street is put in. Fettig commented that she has not had an opportunity to check to see if there was an Resolution that may have been filed in the County Recorder's Office previously (2000) pursuant to Mr. Fleck's reference to a street being vacated in that area.

Cole Higlin from the Mandan Park District came forward to comment on Mr. Fleck's request. Higlin stated that in 2010 this same proposal was made to have this area approved for asphalt and now that we are in 2013, holding off on this project at the

request of Mr. Fleck will cause a brief delay. Higlin inquired if it would be possible to include a condition written into the contract that Fleck's sewer and water be completed prior to the end of October and that it not affect the cost of the parking lot completed.

Director of Public Works Wright stated that discussion will have to be held with the contractor, (who has to be in agreement with the plan); and if in agreement, that provision can be included in the change order.

Commissioner Frank moved to approve the creation of, approval of the feasibility report for, approve the plans and specifications, approve engineer's report and approve sufficiency of petition for Street Improvement District No. 187, Project No. 2013-23 (Mandan Municipal Golf Course and Alleys) and that the change-order request allowing for completion by the end of the year (2013). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

8. *Consider a recommendation from the Mandan Visitors Committee related to Mandan Park District Land Acquisition.* City Administrator Neubauer reviewed with the Board wherein ND Century Code allows for cities to levy taxes for restaurants and lodging provided those funds are used for the promotion for construction and generally used for tourism consistent with tourism attraction and promotion. The funds are limited by state law and what they can be used for. The Visitor's Committee had a request from the Mandan Park District for funding assistance in the acquisition of property south of Raging Rivers. They had been working with the YMCA to bring a YMCA location to the City of Mandan. The Visitor's Fund currently has a balance of \$1.2 million. Neubauer stated that the recommendation from the Visitor's Committee is to grant the Park District \$750,000 to assist with that acquisition of property and another \$150,000 per year for the following 5 years up to \$1.5 million to assist the Park District.

Cole Higlin from the Park District extended a thank you to the Board for all the past contributions and support provided by the City Commission to the Park Board. He reviewed some additional projects that might be coming in the future and plans to accommodate those requests but no projects are locked in at this time. The priority now is the YMCA project which has been in planning stages for about 3 years. He stated that 5.2 acres is needed for this plan. He reviewed a map of the project. The total cost is estimated at \$1.7 for the 5.2 acres with an estimated value of the property at \$2 million. Legal counsel has reviewed the plans and there have also been discussions about a Joint Powers Agreement and how those funds will be used. The summer of 2015 is the anticipated ground-breaking date for the YMCA rec building. The next step pending is approval tonight from this Board. There is a June 27th meeting with the Board of Directors and Trustees of the YMCA.) The Park District has secured a Memorandum of Understanding spelling out the details that has not yet been approved. On June 27th the YMCA should approve that and then on July 8th they will approve the Joint Powers Agreement along with the Purchase Agreement with the current land owners on July 8th pending approvals from the Park Board Commission. Then we have until July 29th to

make the \$1.7 million payment to the current owners. The goal is to have a \$10 - \$12 million dollar rec center established for the Bismarck and Mandan Community.

Higlin stated that there was a feasibility report and a 600 phone survey completed along with over 1,000 people who responded to the survey and the #1 request that came back was for a recreation center. Commissioner Frank inquired if the rate fees will be comparable to other YMCA membership facilities.

Bill Bauman, Executive Director, YMCA in Bismarck, came forward and provided additional information as to how facilities now “partner” in order to accomplish what they need to do to get the job done. He concurred with what Cole Higlin presented and said the YMCA fully supports the plan, location, and is looking forward to partnering with the City of Mandan in this endeavor. He stated there will be reciprocity between the Mandan facility and the Bismarck facility.

Commissioner Frank moved to approve the recommendation from the Mandan Visitors Committee related to Mandan Park District Land Acquisition that \$1.5 be committed from the Visitor’s Fund to assist the Mandan Park District in acquiring the property necessary to bring this project to the City of Mandan. The commitment of \$1.5 million will be \$750,000 as negotiations are completed and the remaining \$750,000 to be granted to the Park District in increments of \$150,000 per year for the following 5 years.

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

9. *Consider adoption of Compensation Plan.* City Administrator Neubauer stated that when coming up with an updated Compensation Plan, comparisons have been made with the City of Bismarck. He indicated that consideration will be given to looking at all the minimum and maximums, of all the salary pay grades and that they be within 95% of what the comparable job in Bismarck is. The recommendation is that all salaries be adjusted to comparable positions with Bismarck and that the City of Mandan be within 95% of the minimum salary and 95% of the maximum salary. Consideration is also being given to increasing the retirement contribution. Currently if the employee contributes 2% the City of Mandan will contribute 7% to their pension plan for a total of 9%. The City is proposing raising it from 7% to 8%. This plan would become effective with the first pay period in July 2013 with a cost of \$112,500 for the period of July - December 2013.

Commissioner Rohr requested Deputy Chief Leingang come forward and provide insight as to how this Compensation Plan will affect the Police Department. Leingang came forward and stated that Pay, Benefits and Retirement are the three important components to hire and retain police officers and that this pay plan is a step in the right direction. He believes it to be a fair and comparable upgraded plan. Commissioner Tibke reported that the Finance Committee looked at this proposed plan to assure it would be sustainable within the budget and she stated that it is within the perimeters. Commissioner Tibke stressed the importance of employee retention and how important it is to keep employees

rather than have consistent turnover which in the long run is a costly expense to an organization. Administrator Neubauer commented that a look at the health insurance plan will also take place and what potential there may be to do something different with health plans to use as a retention tool. He stated that pay plan and adjustments will be reviewed on an annual basis, rather than on a 5 year basis such as the last time this was reviewed in 2007. Mayor VanBeek stated that reviewing the Compensation Pay Plan on an annual basis is a step in the right direction. Some of the employees are at the 95% but some are not and those will be corrected as appropriate.

Commissioner Frank moved to adopt the Compensation Plan as presented commencing July 1, 2013, consistent with the following: (1) Adjust minimum and maximum salary ranges to 95% of comparable positions in Bismarck. Individual salary adjustments would be in accordance with this practice. (2) Increase the City of Mandan's retirement plan contribution from 7% to 8%. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

J. RESOLUTIONS AND ORDINANCES:

1. *First consideration of Ordinance No.1153 Zone Change for Lot 2, Block 1 of the Replat of Lot 1, Block 1, Hoovestol's 2nd Addition – An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Tibke moved to approve the First consideration of Ordinance No.1153 Zone Change for Lot 2, Block 1 of the Replat of Lot 1, Block 1, Hoovestol's 2nd Addition – An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *First consideration of Ordinance No.1154 Zone Change for Lot 2, Block 1 of West Bay Estates 2nd Addition – An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Tibke moved to approve the First consideration of Ordinance No.1154 Zone Change for Lot 2, Block 1 of West Bay Estates 2nd Addition – An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *First consideration of Ordinance No. 1155, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of Section 7, Township 139N, Range 81W).* Commissioner Frank moved to approve the First consideration of Ordinance No. 1155, An ordinance annexing certain adjoining lands to the City of Mandan, North Dakota, and extending the corporate boundaries thereof (tract of land being a part of Section 7, Township 139N, Range 81W). Commissioner Braun seconded the motion. Roll call

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

4. *First consideration of Ordinance No. 1156 Zone Change for the west 280 feet of the south 300 feet of Government Lot 4 in Section 7, T139N, R81W - An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map.* Commissioner Rohr moved to approve the First consideration of Ordinance No. 1156 Zone Change for the west 280 feet of the south 300 feet of Government Lot 4 in Section 7, T139N, R81W - An ordinance to amend and reenact section 21-13-02 of the Mandan Code of Ordinances relating to District Boundaries and Zoning Map. Commissioner Frank seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

5. *Consider Resolution Approving Contract and Contractor's Bond for Street Improvement District No. 182, Project 2013-16(Meadow Ridge 1st Addition).* Commissioner Frank moved to approve the Resolution Approving Contract and Contractor's Bond for Street Improvement District No. 182, Project 2013-16(Meadow Ridge 1st Addition). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

6. *Consider Resolution approving plans and specifications and authorizing execution of 3-way agreement for water and sewer Improvement Project 2013-11. (Plainview Heights 14th Addition).* Commissioner Frank moved to approve the Resolution approving plans and specifications and authorizing execution of 3-way agreement for water and sewer Improvement Project 2013-11. (Plainview Heights 14th Addition). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

7. *Consider the Resolutions creating district, approving engineer's report, determining sufficiency of protest, approving the plans and specifications and directing advertisement for bids for Street Improvement District No. 180, Project No. 2013-12 (Plainview Heights 14th Addition).* Commissioner Rohr moved to approve the Resolutions creating district, approving engineer's report, determining sufficiency of protest, approving the plans and specifications and directing advertisement for bids for Street Improvement District No. 180, Project No. 2013-12 (Plainview Heights 14th Addition). Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

8. *Consider Resolution approving plans and specifications and authorizing execution of 3-way agreement for water and sewer Improvement Project 2013-14. (Meadows 7th Addition).* Commissioner Tibke moved to approve the Resolution

approving plans and specifications and authorizing execution of 3-way agreement for water and sewer Improvement Project 2013-14. (Meadows 7th Addition).

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

9. *Consider the Resolutions creating district, approving engineer's report, determining sufficiency of protest, approving the plans and specifications and directing advertisement for bids for Street Improvement District No. 181, Project No. 2013-15 (Meadows 7th Addition).* Commissioner Tibke moved to approve the Resolutions creating district, approving engineer's report, determining sufficiency of protest, approving the plans and specifications and directing advertisement for bids for Street Improvement District No. 181, Project No. 2013-15 (Meadows 7th Addition). Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

10. *Consider Resolution approving plans and specifications and authorizing execution of 3-way agreement for water and sewer Improvement Project 2013-08.(Keidels South Heart Terrace Phase IV).* Commissioner Braun moved to approve the resolution approving plans and specifications and authorizing execution of 3-way agreement for water and sewer Improvement Project 2013-08 (Keidels South Heart Terrace Phase IV). Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

11. *Consider the Resolutions creating district, approving engineer's report, determining sufficiency of protest, approving the plans and specifications and directing advertisement for bids for Street Improvement District No. 187, Project No. 2013-23 (Mandan Municipal Golf Course and Alleys).* Commissioner Tibke moved to approve the Resolutions creating the district approve the engineer's report, determining sufficiency of protest, approving the plans and specifications and for Street Improvement District No. 187, Project No. 2013-23 (Mandan Municipal Golf Course and Alleys). Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

K. OTHER BUSINESS:

Mayor Van Beek announced the following:

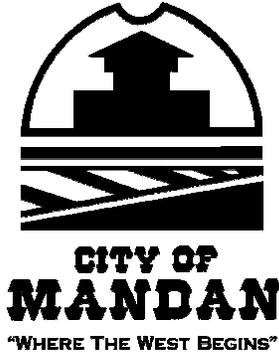
1. Public Meeting, North Mandan Sub Area Study, Thursday, June 20, 2013; Mandan Middle School, 5:30 – 7:00 p.m.

2. North Annexation area residents have been invited to attend and are welcome to stay after the public meeting is complete to ask questions.

There being no further actions to come before the Board of City Commissioners, Commissioner Tibke moved to adjourn the meeting at 7:35 p.m. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

James Neubauer,
City Administrator

Arlyn Van Beek,
President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 2, 2013
PREPARATION DATE: June 7, 2013
SUBMITTING DEPARTMENT: Assessing Dept.
DEPARTMENT DIRECTOR: Doug Lalim, Building Official/Assessor
PRESENTER: Doug Lalim, Building Official/Assessor
SUBJECT: Property Tax Incentives for New or Expanding Businesses for HM4, LLC

STATEMENT/PURPOSE: To consider a 100% two year tax exemption for a new apartment building pursuant to North Dakota Century Code 40-57.1.

BACKGROUND/ALTERNATIVES: HM4, LLC is asking for an exemption for the construction of a new apartment building. The Notice to Competitors was published in the June 7th and June 14th of the Mandan News and no competitors have submitted a written protest. Notices were also sent via email to Morton County, Mandan School District and Mandan Park District on June 14, 2013.

SHORT DESCRIPTION OF PROJECT: HM4, LLC is proposing a 42-unit multi-family apartment building with garages.

OF JOBS TO BE CREATED: N/A

This parcel is also known as Parcel #4241 A at 2823 Sunset Dr. NW on Lot 2A of Lot 2 of Block 1, Missouri Valley Addition.

ATTACHMENTS: Application

FISCAL IMPACT: \$84,828.20 per year for a two-year total of \$169,656.40.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Property Tax Incentives for New or Expanding Businesses for HM4, LLC

Page 2 of 10

RECOMMENDATION: Approval of a Property Tax Incentive for New or Expanding Businesses for HM4, LLC with a 100% exemption for two years which would be consistent with Commission action done on previous multi-family projects.

SUGGESTED MOTION: A motion to approve a Property Tax Incentive for New or Expanding Businesses for HM4, LLC for a 100% exemption for the two years, to be determined by the Mandan City Commission.

**Application For Property Tax Incentives For
New or Expanding Businesses**

Pursuant to N.D.C.C. Chapter 40-57.1

Project Operator's Application To Mandan
City or County

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

This application is a public record

Identification Of Project Operator

1. Name of project operator	<u>HM4, LLC</u>	
2. Address of project	<u>Sunset Drive and 27th St NW</u>	
	City <u>Mandan</u> County <u>Morton</u>	
3. Mailing address of project operator	<u>2220 21st Ave SW</u>	
	City <u>Minot</u> State <u>ND</u> Zip <u>58701</u>	
4. Type of ownership of project		
<input type="checkbox"/> Partnership	<input type="checkbox"/> Subchapter S corporation	<input type="checkbox"/> Individual proprietorship
<input type="checkbox"/> Corporation	<input type="checkbox"/> Cooperative	<input checked="" type="checkbox"/> Limited liability company
5. Federal Identification No. or Social Security No.	_____	
6. North Dakota Sales and Use Tax Permit No.	<u>N/A</u>	
7. If a corporation, specify the state and date of incorporation	_____	
8. Name and title of individual to contact	<u>James Moen, Treasurer</u>	
Mailing address	<u>2220 21st Ave SW</u>	
City, State, Zip	<u>Minot, ND 58701</u>	Phone No. _____

Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific.	
<input checked="" type="checkbox"/> Property Tax Exemption	<input type="checkbox"/> Payments In Lieu of Taxes
<u>2</u> Number of years	_____ Beginning year _____ Ending year
<u>100%</u> Percent of exemption	_____ Amount of annual payments (attach schedule if payments will vary)
10. Which of the following would better describe the project for which this application is being made:	
<input checked="" type="checkbox"/> New business project	<input type="checkbox"/> Expansion of a existing business project

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Property Tax Incentives for New or Expanding Businesses for HM4, LLC

Page 4 of 10

Description of Project Property

11. Legal description of project real property <u>Lot 2A of lots 2, Block 1, Missouri Valley Addition to the city of Mandan, Morton County, North Dakota</u>	
12. Will the project property be owned or leased by the project operator? <input checked="" type="checkbox"/> Owned <input type="checkbox"/> Leased If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator? <input type="checkbox"/> Yes <input type="checkbox"/> No If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.	
13. Will the project be located in a new structure or an existing facility? <input checked="" type="checkbox"/> New construction <input type="checkbox"/> Existing facility If existing facility, when was it constructed? _____ If new construction, complete the following: a. Estimated date of commencement of construction of the project covered by this application <u>7-5-2013</u> b. Description of project to be constructed including size, type and quality of construction <u>42 unit Apartment building with detached garages. Frame Construction with mid to upper level level finishing</u> c. Projected number of construction employees during the project construction <u>Unknown</u>	
14. Approximate date of commencement of operations for this project <u>3-15-2014</u>	
15. Estimated market value of the property used for <u>this project</u> : a. Land \$ <u>368,940</u> b. Existing buildings and structures for which an exemption is claimed \$ <u>- 0 -</u> c. Newly constructed buildings and structures when completed \$ <u>4,306,000</u> d. Total \$ <u>4,674,940</u> e. Machinery and equipment \$ <u>- 0 -</u>	16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent: a. Land (not eligible)  b. Eligible existing buildings and structures \$ <u>- 0 -</u> c. Newly constructed buildings and structures when completed \$ <u>215,300.⁰⁰</u> d. Total taxable valuation of property eligible for exemption (Add lines b and c) \$ <u>215,300.⁰⁰</u> e. Enter the consolidated mill rate for the appropriate taxing district <u>0.39</u> f. Annual amount of the tax exemption (Line d multiplied by line e) \$ <u>84,828.20</u>

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Property Tax Incentives for New or Expanding Businesses for HM4, LLC

Page 5 of 10

Description of Project Business

Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.

17. Type of business to be engaged in: Ag processing Manufacturing Retailing
 Wholesaling Warehousing Services

18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

Rental of multi family units in a 42 unit apartment building

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

N/A

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

Year	2014	2015	2016	2017	2018
Annual revenue	422,085	422,085	430,526	430,526	443,442
Annual expense	107,104	107,104	110,852	110,852	116,395
Net income	314,981	314,981	319,674	319,674	327,047

21. Projected annual average number of persons to be employed by the project at the project location for each year for the first five years and the estimated annual payroll.

Year					
No. of Employees ⁽¹⁾			NA		
⁽²⁾					
Estimated payroll ⁽¹⁾					
⁽²⁾					

*
 (1) - full time HM4, LLC will not have any employees, but will have a contract relationship with RTB Maint. & Maint. RTB has 15 employees. They also have a contract relationship with the general contractor building this project - Moen Construction who has 4 employees. Moen Construction will be hiring various sub-contractors who will have hundreds of employees.
 (2) - part time

Previous Business Activity

22. Is the project operator succeeding someone else in this or a similar business? Yes No
23. Has the project operator conducted this business at this or any other location either in or outside of the state?
 Yes No
24. Has the project operator or any officers of the project received any prior property tax incentives? Yes No
- If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary). The prior exemption that was granted was to JDS Holdings, LLP of which Jim Moen has 25% partnership. For HM4, LLC - his partnership, JAMS Properties, LLP is a 46.4% owner of & has a 50% interest in JAMS Properties. Jim Moen is the only one with an interest in JDS Holdings that has an interest in HM4, LLC.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Property Tax Incentives for New or Expanding Businesses for HM4, LLC

Page 6 of 10

Business Competition

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

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

Various multi family apartment buildings in the city of Mandan

Property Tax Liability Disclosure Statement

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it? Yes No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property? Yes No

If the answer to 26 or 27 is Yes, list and explain

Use Only When Reapplying

28. The project operator is reapplying for property tax incentives for the following reason(s):

To present additional facts or circumstances which were not presented at the time of the original application

To request continuation of the present property tax incentives because the project has:

- moved to a new location
- had a change in project operation or additional capital investment of more than twenty percent
- had a change in project operators

To request an additional annual exemption for the year of _____ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

Notice to Competitors of Hearing

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, James Moen, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

James Moen Signature Treasurer Title 5-31-2013 Date

In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of the individual's social security number on this form is mandatory pursuant to North Dakota Century Code §§ 40-57.1-03 and 40-57.1-07. An individual's social security number is used as an identification number by the Office of State Tax Commissioner for file control purposes and record keeping.

Certification of Governing Body (To be completed by the Auditor of the City or County)

The municipality shall, after granting any property tax incentives, certify the findings to the State Tax Commissioner and Director of Tax Equalization by submitting a copy of the project operator's application with the attachments. The governing body, on the _____ day of _____, 20____, granted the following:

- Property Tax Exemption** **Payments in lieu of taxes**
- _____ Number of years _____ Beginning year _____ Ending year
- _____ Percent of exemption _____ Amount of annual payments (Attach schedule if payments will vary)

Auditor

APPLICATION FOR PROPERTY TAX INCENTIVES
FOR NEW OR EXPANDING BUSINESSES

City of Mandan Supplemental Application — Adopted Dec. 18, 2012

Name of project operator HM4, LLC

Address of project Sunset Drive & 27th St NW

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

Level of Exemption

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

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

Public Benefits

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

APPLICATION FOR PROPERTY TAX INCENTIVES FOR NEW OR EXPANDING BUSINESSES

City of Mandan Supplemental Application

Page 2 of 4

Project Development

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

Provide housing for a growing area of Mandan.

Current assessed land value per square foot: \$1 / sq. ft.

Cost of land (if purchased as part of this project) per square foot: \$2 / sq. ft.

Estimated added land value (per square foot): \$1.33 / sq. ft.

Estimated annual end-of-the year inventory: N/A

Sites being considered: Lot 2A at Missouri Valley Addition

Is this business relocating from another North Dakota site? No

If yes ...

Where is the business relocating from? _____

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

Employment

Total number of permanent employees in full-time equivalents: N/A

Total number of permanent employees estimated to live within 50 miles of proposed site: N/A

Hourly wage range by key positions or categories of positions N/A

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

N/A

APPLICATION FOR PROPERTY TAX INCENTIVES FOR NEW OR EXPANDING BUSINESSES
City of Mandan Supplemental Application
Page 3 of 4

Impact on Local Use Taxes

Estimated value of annual purchases for project location N/A
Percentage of purchases for project location subject to local sales or use tax N/A
Estimated value of annual sales to be generated from project location N/A
Percentage of sales subject to local sales or use tax N/A

Market Context (for retail-oriented businesses only)

General retail category (check category that best applies)

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

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

Estimated consumer expenditures in city or county _____

Estimated retail sales in city of county _____

Estimated surplus or gap _____

Importance of Incentive (use a separate sheet as needed)

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

Incentives are necessary to allow the project to be financially feasible during the rent stabilization period. To allow adequate time to get the units leased out. Project will add to the available housing in a rapidly growing area of Mandan.

APPLICATION FOR PROPERTY TAX INCENTIVES FOR NEW OR EXPANDING BUSINESSES
City of Mandan Supplemental Application
Page 4 of 4

Future Expansion Plans (use a separate sheet as needed)

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

No future expansion plans.

I James Moen do hereby certify that the answers to the questions above and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

I further agree that I have read the requirement for installation of an automatic door per Mandan Municipal Code 14-02-15 if the building project that is subject of this application is approved for a property tax exemption and if the building is used for a purpose described in the following sections of 21-03-07 of the Mandan Municipal Code: Retail Group A; Retail Group B; Service Group A; Office Bank Group; Commercial Recreation Group; Health Medical Group and Education Group.

James Moen Treasurer 5/31/13
Signature Title Date

MORTON COUNTY

STATE OF NORTH DAKOTA



Linda Morris
Tax Director

210 2nd Ave NW
Mandan, North Dakota 58554

Phone: 701-667-3325
linda.morris@mortonnd.org

Date: July 2, 2013

To: Douglas I Lalim, Mandan City Assessor

From: Linda Morris, Morton County Tax Director

RE: Property Tax Incentives for New or Expanding Businesses Application

Project Operator: HM4, LLC, 2220 21st Ave SW, Minot, ND 58701
Projects Legal: Lot 2A of Lot 2, Block 1 Missouri Valley Addition
Sunset Drive and 27th Street

This letter is in regards to a property tax exemption application for HM4, LLC. I received a copy on June 14, 2013 with a public hearing date of July 2, 2013. The project as defined on number 13-b of the application, a 42 unit apartment building with detached garages, may *not* qualify for a new or expanding business exemption according to North Dakota Century Code §40-57.1.

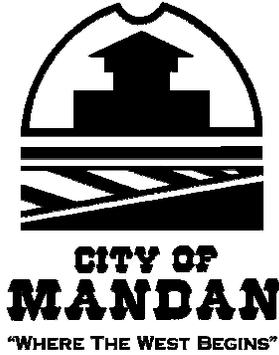
The project may not qualify because:

1. An apartment building is a non revenue-producing business
2. As listed on question number 21, no new jobs will be created for this project

North Dakota Century Code §40-57.1-02.4 defines the word project as: "Project" means any revenue-producing enterprise...." and it is also written on the ND Property Tax Guidelines as: "Project" means any new revenue-producing business.

Also, North Dakota Century Code §40-57.1-02.3 defines a primary sector business as "...means an individual, corporation, limited liability company, partnership, or association which through the employment of knowledge or labor adds value to a product, process, or service that results in the creation of new wealth".

As the Morton County Tax Director, I would ask the City to review the application because the project will not be generating revenue (income from the sale of goods and/or service) or creating new jobs.



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 2, 2013
PREPARATION DATE: June 25, 2013
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Kim Fettig, Project Manager
PRESENTER: Kim Fettig, Project Manager
SUBJECT: Consider award of bids for Street Improvement District No. 185, Project 2013-19(Heart Ridge 2nd Addition).

STATEMENT/PURPOSE: This is a review and possible award of bids for Street Improvement District No. 185, Project 2013-19 (Heart Ridge 2nd Addition).

BACKGROUND/ALTERNATIVES: Bids were received on June 14 for the project and Northern Improvement Company was the low bidder. The bid amount was \$1,273,299.75. The Engineer's estimate was \$1,026,135.25.

ATTACHMENTS:

1. Bid Tabulation
2. Engineer's Estimate
3. District Map
4. Resolution to Award Bid

FISCAL IMPACT: The Project will be paid for by special assessments from the benefiting properties within the District. The construction cost of the project is \$1,273,299.75 plus the engineering and administrative cost of \$318,324.94 totaling \$1,591,624.69. The special assessments will be assessed to the 78 benefitting lots and will receive approximately \$20,405.44.

STAFF IMPACT: Minimal

LEGAL REVIEW: These documents have been forwarded to the City Attorney for his review.

RECOMMENDATION: I would recommend awarding the project.

Board of City Commissioners

Agenda Documentation

Meeting Date: June 4, 2013

Subject: Award of Bids for Street Improvement District 185, Project 2013-19 (Heart Ridge 2nd Addition).

Page 2 of 6

SUGGESTED MOTION: I move to award the bid to Northern Improvement Company as the low bidder of Street Improvement District 185 Project 2013-19 in the amount of \$1,273,299.75.

Board of City Commissioners

Agenda Documentation

Meeting Date: June 4, 2013

Subject: Award of Bids for Street Improvement District 185, Project 2013-19 (Heart Ridge 2nd Addition).

Page 3 of 6

STREET IMPROVEMENT DISTRICT 185, PROJECT 2013-19
HEART RIDGE 2ND ADDITION

June 28, 2013

GRADING ITEMS	QUANTITY	ENGINEER'S ESTIMATE		NORTHERN IMPROVEMENT	
		UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
Grading	1 LS	\$ 15,000.00	\$ 15,000.00	\$ 70,582.41	\$ 70,582.41
Watering	60 MGAL	\$ 15.00	\$ 900.00	\$ 16.80	\$ 1,008.00
Subgrade Preparation (1.5' Deep)	9,444 SY	\$ 2.28	\$ 21,530.32	\$ 2.77	\$ 26,159.88
Subgrade Preparation (3.5' Deep)	9,444 SY	\$ 2.60	\$ 24,554.40	\$ 2.82	\$ 26,632.08
4" Topsoiling	10,460 SY	\$ 3.50	\$ 36,610.00	\$ 2.26	\$ 23,639.60
Seeding (Class IV)	10,460 SY	\$ 1.30	\$ 13,598.00	\$ 0.84	\$ 8,786.40
Mulching (Straw)	10,460 SY	\$ 1.30	\$ 13,598.00	\$ 0.84	\$ 8,786.40
			Subtotal \$ 134,092.80		Subtotal \$ 166,538.07

ASPHALT ITEMS	QUANTITY	ENGINEER'S ESTIMATE		NORTHERN IMPROVEMENT	
		UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
3" AC Base Course (Class B)	2,780 TON	\$ 88.00	\$ 244,640.00	\$ 103.10	\$ 286,278.00
2" AC Surface Course (Class D)	1,850 TON	\$ 88.00	\$ 162,800.00	\$ 103.10	\$ 190,765.00
Bituminous Tack Coat	1,668 GAL	\$ 2.00	\$ 3,336.00	\$ 2.14	\$ 3,569.52
Aggregate Seal Coat	16,672 SY	\$ 2.30	\$ 38,345.60	\$ 2.42	\$ 40,346.24
Blower Sand	25 TON	\$ 13.20	\$ 330.00	\$ 11.43	\$ 285.75
Adjust Manhole Casting in Asphalt	16 EA	\$ 375.00	\$ 6,000.00	\$ 481.00	\$ 7,696.00
Adjust Valve Box in Asphalt	1 EA	\$ 375.00	\$ 375.00	\$ 368.50	\$ 368.50
5" Asphalt Patch	232 SF	\$ 4.00	\$ 928.00	\$ 6.73	\$ 1,561.36
			Subtotal \$ 457,080.20		Subtotal \$ 517,291.45

CONCRETE ITEMS	QUANTITY	ENGINEER'S ESTIMATE		NORTHERN IMPROVEMENT	
		UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
Standard Curb & Gutter	7,578 LF	\$ 15.00	\$ 113,670.00	\$ 17.72	\$ 134,286.72
8" Concrete Valley Gutter	800 SF	\$ 8.00	\$ 6,400.00	\$ 9.42	\$ 7,536.00
Adjust Type 30" Inlet Casting	8 EA	\$ 375.00	\$ 3,000.00	\$ 84.73	\$ 677.84
			Subtotal \$ 123,070.00		Subtotal \$ 142,499.72

MISCELLANEOUS ITEMS	QUANTITY	ENGINEER'S ESTIMATE		NORTHERN IMPROVEMENT	
		UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
Adjust Valve Box in Unpaved Area	25 EA	\$ 175.00	\$ 4,375.00	\$ 233.33	\$ 5,833.25
Traffic Control	1 LS	\$ 2,500.00	\$ 2,500.00	\$ 6,535.00	\$ 6,535.00
Signage	1 LS	\$ 3,500.00	\$ 3,500.00	\$ 1,940.00	\$ 1,940.00
Guardrail	1 LS	\$ -	\$ -	\$ 12,733.00	\$ 12,733.00
			Subtotal \$ 10,375.00		Subtotal \$ 27,041.25

REMOVAL ITEMS	QUANTITY	ENGINEER'S ESTIMATE		NORTHERN IMPROVEMENT	
		UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
Asphalt Removal	130 SF	\$ 2.50	\$ 325.00	\$ 3.25	\$ 422.50
			Subtotal \$ 325.00		Subtotal \$ 422.50

STORM SEWER ITEMS	QUANTITY	ENGINEER'S ESTIMATE		NORTHERN IMPROVEMENT	
		UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
Unclassified Excavation	1 LS	\$ 15,000.00	\$ 15,000.00	\$ 17,591.00	\$ 17,591.00
Bedding Material	381 TON	\$ 12.00	\$ 4,572.00	\$ 22.68	\$ 8,610.68
Back Excavation	50 CY	\$ 15.00	\$ 750.00	\$ 87.35	\$ 4,367.50
18" Storm Sewer Pipe	691 LF	\$ 40.00	\$ 27,640.00	\$ 99.44	\$ 68,733.44
24" Storm Sewer Pipe	443 LF	\$ 95.00	\$ 42,085.00	\$ 124.38	\$ 55,044.54
18" Flared End Section	1 EA	\$ 1,200.00	\$ 1,200.00	\$ 734.50	\$ 734.50
24" Flared End Section	2 EA	\$ 2,800.00	\$ 5,600.00	\$ 881.40	\$ 1,762.80
48" Flared End Section w/ Trash Rack	1 EA	\$ 3,800.00	\$ 3,800.00	\$ 1,362.80	\$ 1,362.80
48" Concrete Manhole	6 EA	\$ 4,800.00	\$ 28,800.00	\$ 4,367.45	\$ 26,204.70
60" Concrete Manhole	2 EA	\$ 4,700.00	\$ 9,400.00	\$ 5,862.40	\$ 11,724.80
Type 30" Inlet	6 EA	\$ 2,800.00	\$ 16,800.00	\$ 3,712.65	\$ 22,272.30
Rip-Rap	1,489 SF	\$ 6.00	\$ 8,934.00	\$ 7.25	\$ 10,744.25
Seeding	2,300 SY	\$ 1.20	\$ 2,760.00	\$ 0.84	\$ 1,932.00
Mulching	1,400 SY	\$ 1.30	\$ 1,820.00	\$ 0.84	\$ 1,176.00
Straw Wattle	225 LF	\$ 6.00	\$ 1,350.00	\$ 5.85	\$ 1,311.25
Turf Reinforcement Mat	743 SY	\$ 7.00	\$ 5,201.00	\$ 9.84	\$ 7,311.72
			Subtotal \$ 147,397.00		Subtotal \$ 231,209.46

ELECTRICAL ITEMS	QUANTITY	ENGINEER'S ESTIMATE		NORTHERN IMPROVEMENT	
		UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
Type B Street Light Unit	29 EA	\$ 4,328.80	\$ 125,535.20	\$ 4,709.25	\$ 137,068.25
Three #2 Conductors	4,125 LF	\$ 8.20	\$ 33,810.00	\$ 8.42	\$ 34,732.50
Two #2 Conductors	979 LF	\$ 2.80	\$ 2,741.20	\$ 5.99	\$ 5,835.21
2" Conduit	825 LF	\$ 2.80	\$ 2,310.00	\$ 2.37	\$ 1,955.25
Junction Box	4 EA	\$ 978.80	\$ 3,915.20	\$ 983.10	\$ 3,932.40
Pool Panel Revision	1 EA	\$ 1,300.00	\$ 1,300.00	\$ 2,399.00	\$ 2,399.00
Tracing	3,445 LF	\$ 1.70	\$ 5,856.50	\$ 4.86	\$ 16,742.70
			Subtotal \$ 160,078.25		Subtotal \$ 187,840.48
			TOTAL \$ 1,806,185.25		TOTAL \$ 2,275,299.79

Board of City Commissioners

Agenda Documentation

Meeting Date: June 4, 2013

Subject: Award of Bids for Street Improvement District 185, Project 2013-19 (Heart Ridge 2nd Addition).

Page 4 of 6

Engineer's Estimate
 HEARTRIDGE 2nd ADDITION
 STREET IMPROVEMENT DISTRICT 185, PROJECT 2013-19
 June 21, 2013

ITEM	QUANT/UNIT	UNIT/TOTAL PRICE
GRADING ITEMS		
Grading	1 LS	\$ 15,000.00 \$ 15,000.00
Watering	60 MGAL	\$ 15.00 \$ 900.00
Subgrade Preparation (1.0' Deep)	9444 SY	\$ 2.20 \$ 20,776.80
Subgrade Preparation (1.5' Deep)	9444 SY	\$ 2.50 \$ 23,610.00
4" Topsoiling	10460 SY	\$ 3.50 \$ 36,610.00
Seeding (Class IV)	10460 SY	\$ 1.30 \$ 13,598.00
Mulching (Straw)	10460 SY	\$ 1.30 \$ 13,598.00
		TOTAL \$ 124,092.80
ASPHALT ITEMS		
3" AC Base Course (Class B)	2780 TON	\$ 88.00 \$ 244,640.00
2" AC Surface Course (Class B)	1850 TON	\$ 88.00 \$ 162,800.00
Bituminous Tack Coat	1668 GAL	\$ 2.20 \$ 3,669.60
Aggregate Seal Coat	16672 SY	\$ 2.30 \$ 38,345.60
Blotter Sand	25 TON	\$ 13.20 \$ 330.00
Adjust Manhole Casting in Asph Pvmnt	16 EA	\$ 375.00 \$ 6,000.00
Adjust Valve Box in Asphalt Pavement	1 EA	\$ 375.00 \$ 375.00
5" Asphalt Patch	232 SF	\$ 4.00 \$ 928.00
		TOTAL \$ 456,160.20
CONCRETE ITEMS		
Standard Curb & Gutter	7576 LF	\$ 15.50 \$ 117,428.00
8" Concrete Valley Gutter	800 SF	\$ 8.00 \$ 6,400.00
Adjust 36" Type Inlet Casting	8 EA	\$ 375.00 \$ 3,000.00
		TOTAL \$ 123,828.00
MISCELLANEOUS ITEMS		
Adjust Valve Box in Unpaved Area	25 EA	\$ 175.00 \$ 4,375.00
Traffic Control	1 LS	\$ 2,500.00 \$ 2,500.00
Signage	1 LS	\$ 3,500.00 \$ 3,500.00
		TOTAL \$ 10,375.00
REMOVAL ITEMS		
Asphalt Removal	110 SF	\$ 2.50 \$ 275.00
		TOTAL \$ 275.00
STORM SEWER ITEMS		
Unclassified Excavation	1 LS	\$ 15,000.00 \$ 15,000.00
Bedding Material	381 TON	\$ 12.00 \$ 4,572.00
Rock Excavation	50 CY	\$ 15.00 \$ 750.00
18" Storm Sewer Pipe	601 LF	\$ 40.00 \$ 24,040.00
24" Storm Sewer Pipe	443 LF	\$ 55.00 \$ 24,365.00
18" Flared End Section	1 EA	\$ 1,700.00 \$ 1,700.00
24" Flared End Section	2 EA	\$ 2,500.00 \$ 5,000.00
24" Flared End Section w/Trash Rack	1 EA	\$ 3,500.00 \$ 3,500.00
48" Concrete Manhole	6 EA	\$ 4,000.00 \$ 24,000.00
60" Concrete Manhole	2 EA	\$ 4,700.00 \$ 9,400.00
Type 36" Inlet	6 EA	\$ 2,500.00 \$ 15,000.00
Rip-Rap	1489 SF	\$ 6.00 \$ 8,934.00
Seeding	2300 SY	\$ 1.30 \$ 2,990.00
Mulching	1400 SY	\$ 1.30 \$ 1,820.00
Straw Wattles	225 LF	\$ 5.00 \$ 1,125.00
Turf Reinforcement Mat	743 SY	\$ 7.00 \$ 5,201.00
		TOTAL \$ 147,397.00
ELECTRICAL ITEMS		
Type B Street Light Unit	29 EA	\$ 4,225.00 \$ 122,525.00
Three #2 Conductors	4125 LF	\$ 5.20 \$ 21,450.00
Two #2 Conductors	970 LF	\$ 2.90 \$ 2,813.00
2" Conduit	825 LF	\$ 2.50 \$ 2,062.50
Trenching	3445 LF	\$ 1.75 \$ 6,028.75
Junction Box	4 EA	\$ 975.00 \$ 3,900.00
Feed Point	1 EA	\$ 1,300.00 \$ 1,300.00
		Total \$ 160,079.25
		BID TOTAL \$ 1,022,207.25

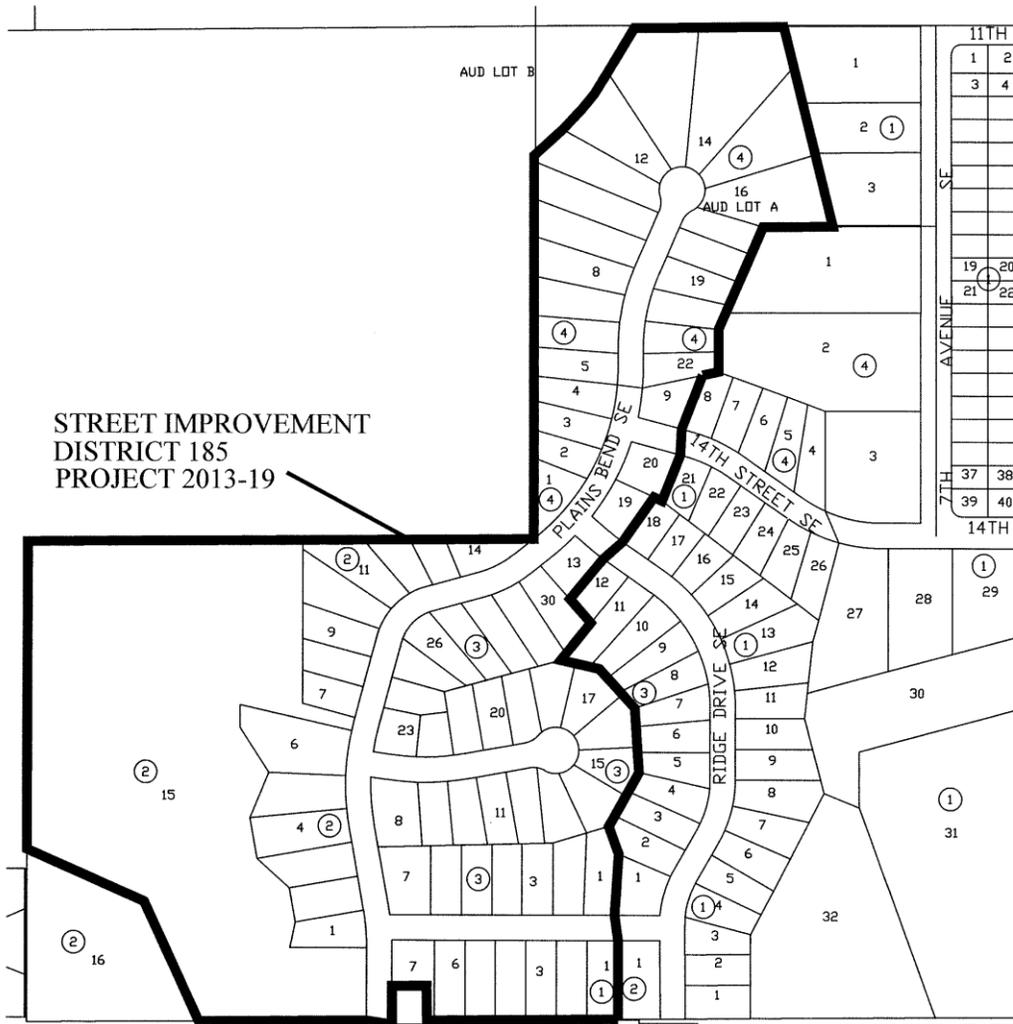
Board of City Commissioners

Agenda Documentation

Meeting Date: June 4, 2013

Subject: Award of Bids for Street Improvement District 185, Project 2013-19 (Heart Ridge 2nd Addition).

Page 5 of 6



Board of City Commissioners

Agenda Documentation

Meeting Date: June 4, 2013

Subject: Award of Bids for Street Improvement District 185, Project 2013-19 (Heart Ridge 2nd Addition).

Page 6 of 6

RESOLUTION
APPROVING CONTRACT AND CONTRACTOR'S BOND FOR
STREET IMPROVEMENT DISTRICT NO. 185

(Project No. 2013-19)

BE IT RESOLVED by the governing body of the City of Mandan, North Dakota (the "City"), as follows:

1. It is hereby found and determined that this Board has heretofore caused Notice for Advertisement for Bids to be made for an improvement Street Improvement District No. 182 of said City, and has duly and publicly opened and considered said bids received pursuant to said Notice.
2. Said improvement is hereby ordered to be constructed in accordance with the plans and specifications therefore as heretofore adopted by this Board pursuant to a resolution duly adopted by this Board.
3. It is hereby found and determined that the lowest responsible bidder for various categories of the work, material and skill required for said improvement is Northern Improvement Company whose bid provides for the construction of said improvement at a total estimated base price of \$1,273,299.75.
4. The President of the Board of City Commissioners of the City of Mandan and City Auditor are hereby authorized and directed to make and enter into a contract with said bidder on the part of the City, in the form prescribed by Sections 40-22-35 and 40-22-35, N.D.C.C. as amended, provided that said bidder shall within ten (10) days from this date execute said contract and a construction bond conditioned in accordance with the provisions of Sections 40-22-30 and 40-22-32 of said Code.

Dated this 2nd day of July, 2013

Arlyn Van Beek, President of the
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

CITY OF MANDAN

1. Type of license being applied for:

Street Dance: _____
Beer Gardens: _____
Both: _____

(\$10.00 per day per event)

2. Applicant:

Name: Church of St. Joseph
Address: 108 3rd Street NE
Mandan, ND 58554
Date of Birth: _____
Social Security or Drivers License: _____

3. Name of individual or individuals who will manage or conduct the event:

Name: <u>Susan Kuntz</u>	Name: <u>Shauna Hedding</u>
Address: _____	Address: _____
Date of Birth: _____	Date of Birth: _____
S.S. or D.L.: _____	S.S. or D.L.: _____

4. Have any of the individuals listed in answer to questions #2 & #3 ever had a license of any kind revoked or cancelled by any municipal, state or federal authority: _____ Yes No. If yes, explain in detail on a separate sheet giving the date, place and type of business.

5. Have any of the individuals listed in answer to questions #2 & #3 ever been convicted of any crime relating to the sale of alcoholic beverages or controlled substances: _____ Yes No. If yes, explain in detail on a separate sheet giving the date, place and type of business.

6. If you should be applying for a public dance or concert permit has any of the individuals in answer to questions #2 & #3 been convicted within the past five years of any crime against persons, including assault, disorderly conduct, sexual assault, rape and murder. _____ Yes No. If yes, explain on a separate sheet.

7. List the place, date and hours of the proposed event (special note, all applications must be received 30 days in advance of the proposed event). Event will be held July 20, 2013 at St. Joseph Catholic School & parish. Event will be to celebrate the 100th Anniversary of our school. We are inviting all alumni & their families to join us for a social, PBA, Polka music, beer garden, & Memory sharing.

8. Site Plan: See attached sheets.

- A. Beer Gardens
- B. Street Dance

9. Please provide an estimate of the number of persons that the person conducting the event has determined can be safely accommodated at the site and also estimate of the number of persons expected to attend:

Maximum Capacity 500
Expected Attendance 250

10. Is there going to be advance ticket sales? Yes _____ No X

If yes, please list the maximum amount to be sold: _____

11. What plans are there to limit attendance if there are no advance ticket sales, _____

There will be enough room in the school - even with weather possibilities - to hold that many people. We don't expect them all at once since this is an open house atmosphere.

12. Please list the number and provide on the site plan the placement of sanitary toilet facilities:

Number of toilet facilities 3 Mens = 3 Womens bathrooms (total for each 20 toilets)

13. Has the City Health Officer reviewed your plan to determine if your proposed toilet facilities are adequate to meet the attendance?

Yes _____ No X

14. Fencing & Barricades should be supplied on site plan.

15. List below a description of the signing which is proposed to control pedestrian and vehicular traffic, parking and notices to the persons in attendance. All regular Church & School parking lots will be open for people to park - similar to a weekend Mass here at the Church of St. Joseph

16. Security: Do intend to use private security or city police officers.

Private X City Police _____

17. List the number of security people you plan on using. Street dances provide for the use of police officers:

Private 1 City Police _____

18. Street Dances & Concerts: Have you enclosed fees for the charges for city police officers? List the amount \$20

Suzanne P. Kirby, Admin Assistant

Signature of applicant

6/11/13

Date

1063-9562

Telephone number

A. SITE PLAN FOR BEER GARDEN APPLICATION:

Please provide a site plan which details the exact placement of the beer garden, lighting and other electrical equipment, public seating, toilet facilities, fencing or other barricades, parking, marked fire lanes, and the proximity of public roadway.

See Attached Sheet for the Beer garden area -
It will be within a fence, the a garage.

Parking will be in parking lots - other than next to the School - that is where the celebration will be taking place - on 3rd Street, 4th Street, & Collins Ave. People will have access to bathrooms on the 1st, 2nd, & 3rd floors of the School building. Weather pending, there will be tables & chairs set up in the parking lot (south) between the Church & School & in the School cafeteria.



JOINT POWERS AGREEMENT

THE PARTIES to this Agreement are:

1. CITY OF MANDAN (Hereinafter "City")
205 - 2nd Avenue Northwest
Mandan ND 58554
2. MANDAN PARK DISTRICT (Hereinafter "Park District")
2600 - 46th Avenue Southeast
Mandan ND 58554

Recitals

The following recitals shall be deemed a part of this Agreement, and the parties agree that they accurately set forth the circumstances and basis upon which this Agreement has been executed:

1. The Park District desires to purchase 5.25 acres adjacent to its property in Mandan, North Dakota.
2. The City will assist with the purchase of the real property through the allocation of money from the Visitor's Fund.
3. The City and Park District desire to enter into a Joint Powers Agreement pursuant to the provisions of Chapter 54-40.3, N.D.C.C., for the cooperation of acquisition of the described real property and joint administration thereof.

Agreement

NOW, THEREFORE, In consideration of the premises, the parties agree as follows:

1. The City will provide One Million Five Hundred Thousand Dollars (\$1,500,000.00) from the Visitor's Fund to be used by the Park District for acquisition of the described real property. The money will be paid by payment of an initial payment of Seven Hundred Fifty Thousand Dollars (\$750,000.00) on July 9, 2013, with subsequent payments of One Hundred Fifty Thousand Dollars (\$150,000.00) for five (5) years commencing on January 15, 2014 and each January 15th thereafter until paid in full.
2. The Park District shall restrict its use of the real property to a recreation/wellness center or such other use as may be agreed to by the City in writing.
3. The Park District shall be solely responsible for the development of the real property and all costs associated therewith.
4. If the real property or any portion thereof is subsequently sold, the Park District shall receive 11.76% of the net sale proceeds and the City shall receive 88.24% of the net sale proceeds.

Miscellaneous

1. This Agreement supersedes and merges all previous written and oral negotiations and commitments of the parties with respect to the matters addressed.

2. This Agreement may be waived or amended only in writing.
3. This Agreement may be executed in counterparts, each of which shall be deemed an original.
4. Time is of the essence of this Agreement.
5. All notices required or contemplated hereunder shall be effective upon deposit thereof in the United States mail, postage prepaid, addressed to the parties as shown above, or such other address as may be designated in writing.
6. This Agreement shall be construed in accordance with the laws of the State of North Dakota, and all parties consent to the jurisdiction of the Courts of this State, and venue shall be in the County of Morton.

THIS AGREEMENT Shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and assigns, and is executed this ____ day of _____, 2013.

CITY OF MANDAN

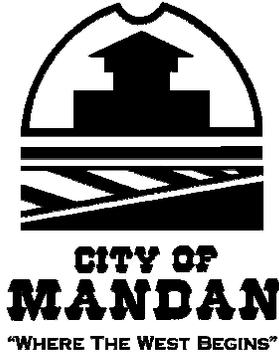
By _____
Its President, Board of City Commissioners

Attest _____
JIM NEUBAUER, City Administrator

MANDAN PARK DISTRICT

By _____
Its President, JASON ARENZ

Attest _____
COLE HIGLIN, Director
Mandan Park District



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 2, 2013
PREPARATION DATE: June 28, 2013
SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Jim Neubauer, City Administrator
PRESENTER: Jim Neubauer, City Administrator
SUBJECT: Legal Retainer Agreement

STATEMENT/PURPOSE: To consider entering into a legal retainer agreement.

BACKGROUND/ALTERNATIVES: City Attorney Malcolm Brown will become an Attorney of Counsel to Crowley Fleck PLLP. Therefore, our contract needs to be redone. The Legal Retainer Agreement is attached.

Malcolm and his assistant Laura will both be relocating offices. There will be no change to the level of service to the City of Mandan.

ATTACHMENTS: Legal Retainer Agreement

FISCAL IMPACT: \$0, rate remains the same

STAFF IMPACT: none

LEGAL REVIEW: n/a

RECOMMENDATION: I recommend approval of the Legal Retainer Agreement.

SUGGESTED MOTION: I move to approve the Legal Retainer Agreement between the City of Mandan and Malcolm H. Brown, of Counsel to Crowley Fleck PLLP.

LEGAL RETAINER AGREEMENT
City of Mandan, North Dakota

The Parties to this Agreement are:

CITY OF MANDAN, North Dakota (hereafter "Mandan"); and

Malcolm H. Brown, of Counsel to Crowley Fleck PLLP, (hereafter "Attorney").

RECITALS

The following recitals shall be deemed a part of this Agreement, and the Parties agree that they accurately set forth the circumstances and basis upon which this Agreement has been executed:

Mandan has determined that it is in its best interests to require that legal services be readily accessible to its commissioners, department heads, employees and the citizens of Mandan and to that end determine that Attorney provide a specified number of hours reserved for city matters.

Mandan agrees to pay a monthly retainer for legal services in the amount of \$4,500.00 which retainer shall cover the duties and responsibilities listed in this Agreement and in return for which the Attorney intends to provide an average of 30 hours of legal services per month.

Attorney advises that he has made reasonable inquiry and is unaware of the existence of any conflict of interest under Rule 1.7 (Conflict of Interest: general rule) of the North Dakota Rules of Professional Conduct. Attorney agrees that it will take no position directly adverse to the City of Mandan and will avoid any conflicts of interest with Mandan consistent with Rule 1.7. Notwithstanding that a prospective representation could potentially involve a technical conflict of interest under Rule 1.7, however, if attorney reasonably believes that it would not adversely affect its representation of Mandan under this agreement, Attorney may seek Mandan's consent to undertake that representation, and after consultation, Mandan agrees not to unreasonably withhold its consent.

Duties and Responsibilities of City Attorney Under the Retainer.

Malcolm H. Brown, in his capacity as City Attorney for Mandan, shall exercise and perform the following duties and responsibilities, all of which shall be compensated under the monthly retainer:

Advise Officers. Advise the Board of City Commissioners, its committees, and the heads of all departments, agencies, boards, and commissions on all matters relating to their official powers, duties and functions.

Prepare Ordinances, Resolutions and Public Notices. Be responsible for the preparation of all ordinances, resolutions and public notices as requested by the Board or department heads. The City Attorney shall advise the Board as to the form and sufficiency of all ordinances prior to their adoption, and no ordinance shall be introduced until it shall either have been drafted by the City Attorney; approved as to form by the City Attorney, or until the City Attorney has filed with the City Auditor a statement of reasons why the ordinance is defective. No public notice relating to ordinances, zoning changes, vacation of streets or public right of ways, bond issues, advertisements for bids for public improvements shall be published until approved by the City Attorney. The City Attorney shall draft or approve all resolutions creating and relating to the establishment of special improvement districts.

Give Opinions. Render legal opinions upon any question of law submitted by the Board, or the heads of all departments, agencies, boards, or commissions of the City.

Attend Board Meetings. Attend in person or by designee all meetings of the Board of City Commissioners in their entirety for the purpose of giving the Board any legal advice requested by its members, and, at the request of the Board or the President of the Board, attend such other meetings of the City's agencies, boards, committees, or commissions.

Prepare Legal Instruments. Prepare, review and approve all agreements, contracts, deeds, documents and instruments prior to the execution thereof by and on behalf of the City, its departments, agencies, board and commissions.

Make Reports. Promptly report the outcome of any litigation in which the City has an interest to the Board and upon request, transmit such report to the city's insurer or other authorized entity. Prepare an annual report of pending litigation in which the City has an interest and the status thereof, to be filed on or before the 31st day of December of each year with the Office of the City Administrator and the city's insurer.

Keep Records. The City Attorney shall keep records of all suits, opinions and titles. A complete record of all suits in which the City had or has an interest, giving the names of the parties, the court where brought, the nature of the action, the disposition of the case, or its condition if pending, and the briefs of counsel shall be prepared and maintained. A complete record of all written opinions furnished by the City Attorney shall be indexed and maintained. The City Attorney shall deliver all records, documents and property of every description in his possession belonging to the City, to the successor in office, who shall give him duplicate receipts therefor, one of which shall be filed with the Office of the City Auditor.

Duties and Responsibilities of City Attorney Outside of Monthly Retainer.

The parties agree that the following duties and responsibilities are necessary to the provision of complete legal services to Mandan, but that these items will be compensated outside of the monthly retainer at an hourly rate of One hundred fifty Dollars (\$150.00), which shall be billed at least bi-monthly.

Initiate Civil Actions on Behalf of the City and Defend Civil Actions Against the City. Prepare, when authorized by the Board, and prosecute all civil actions on behalf of the City and appear in the appropriate court or before the appropriate regulatory body to represent the interests of the City. Civil actions may include annexation proceedings; bankruptcies, collection actions; construction contract disputes, nuisance actions; utility rate, franchise, and valuation disputes; worker's compensation matters; and other actions to enforce the city's ordinances or contract rights. The City Attorney shall be responsible for notification to the North Dakota Insurance Reserve Fund of all civil actions filed against the City, its department heads, agencies and employees and shall defend such actions where defense is refused by NDIRF.

Appeals. Conduct and prosecute appeals from orders, decisions or judgments affecting any interest of the City as the City Attorney may, in the exercise of discretion, determine to be necessary or desirable.

Initial Consultation and Reports. Prior to the initiation of any civil action on the part of or in defense of Mandan, Attorney will meet with the Board of City Commissioners to review its recommendations for pursuit of the action, and to provide a total cost estimate for its legal services. During the course of any litigation, the Attorney shall provide regular reports to the board on the progress and activity in the matter, as well as a report on any adjustments that may need to be made to the initial cost estimate.

Special Circumstances. The parties agree that in cases of special or unusual circumstances duties and responsibilities compensated under the monthly retainer may require services which exceed that contemplated by this Agreement. In that event, the Attorney shall notify the Board of City Commissioners, and upon passage of a resolution of the Board the legal services may be compensated at the hourly rate to be agreed upon by the Board.

This written agreement supercedes and merges all previous written and oral negotiations and commitments of the parties with respect to the matters addressed. This agreement may be waived or amended only in writing. This Agreement shall continue until modified in writing by the parties. Either party may terminate this Agreement on sixty days written notice.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

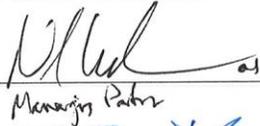
CITY OF MANDAN

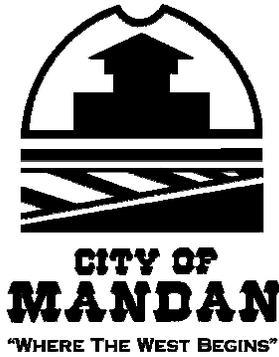
Date: _____

By: _____
Arlen Van Beek, President of the
Board of City Commissioners,
Mandan, North Dakota

CROWLEY FLECK PLLP

Date: 6/19/2013

By:  _____
Managing Partner
By:  _____
Malcolm H. Brown



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 2, 2013
PREPARATION DATE: June 26, 2013
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Justin Froseth, Engineer
PRESENTER: Kim Fettig, Project Manager
SUBJECT: Consider for approval the final Replat of Lots 27-29, Block 1, Heart Ridge Addition

STATEMENT/PURPOSE: To consider for approval the final Replat of Lots 27-29, Block 1, Heart Ridge Addition.

BACKGROUND/ALTERNATIVES: Request from Dennis Kemmesat for final plat approval. The Planning & Zoning Commission voted unanimously to approve the plat on June 24, 2013.

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

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION: This office supports the approval of the subject plat.

SUGGESTED MOTION: I move to approve the final Replat of Lots 27-29, Block 1, Heart Ridge Addition.

MANDAN PLANNING OFFICE REPORT
June 26, 2013

Applicant: Dennis Kemmesat and Singletrack LLC

Owner: same

Requested Action: final plat approval

Name of Subdivision: Replat Lots 27-29, Block 1, Heart Ridge Addition

Legal Description: Replat Lots 27-29, Block 1, Heart Ridge Addition in Section 34, Township 139N, Range 81W

Location: 14th Street SE

Parcel Acreage: 3.6

Number of Blocks: 1 Number of Lots: 17

Existing Land Use: vacant

Proposed Land Use: two-family or multi-family residential

Adjacent Land Use: mobile home court, single-family, two-family and multi-family residential

Existing Zoning: RM Restricted (restricted to 10 units per acre, buildings are height controlled with 2 story max, no parking underneath, max of four units per building, minimum 20' setback from adjacent single family.

Proposed Zoning: same

Adjacent Zoning: R7 (Single-Family Residential), RM Restricted (Multi-Family Residential) and LSMHS (Large Scale Mobile Home)

Fee Required: \$250.00 Date Received: June 3, 2013

Adjacent Property Owner Notification: June 10, 2013

Dates of Legal Notices: June 14 & 21, 2013

Recommendation: The Planning Office recommends approval.

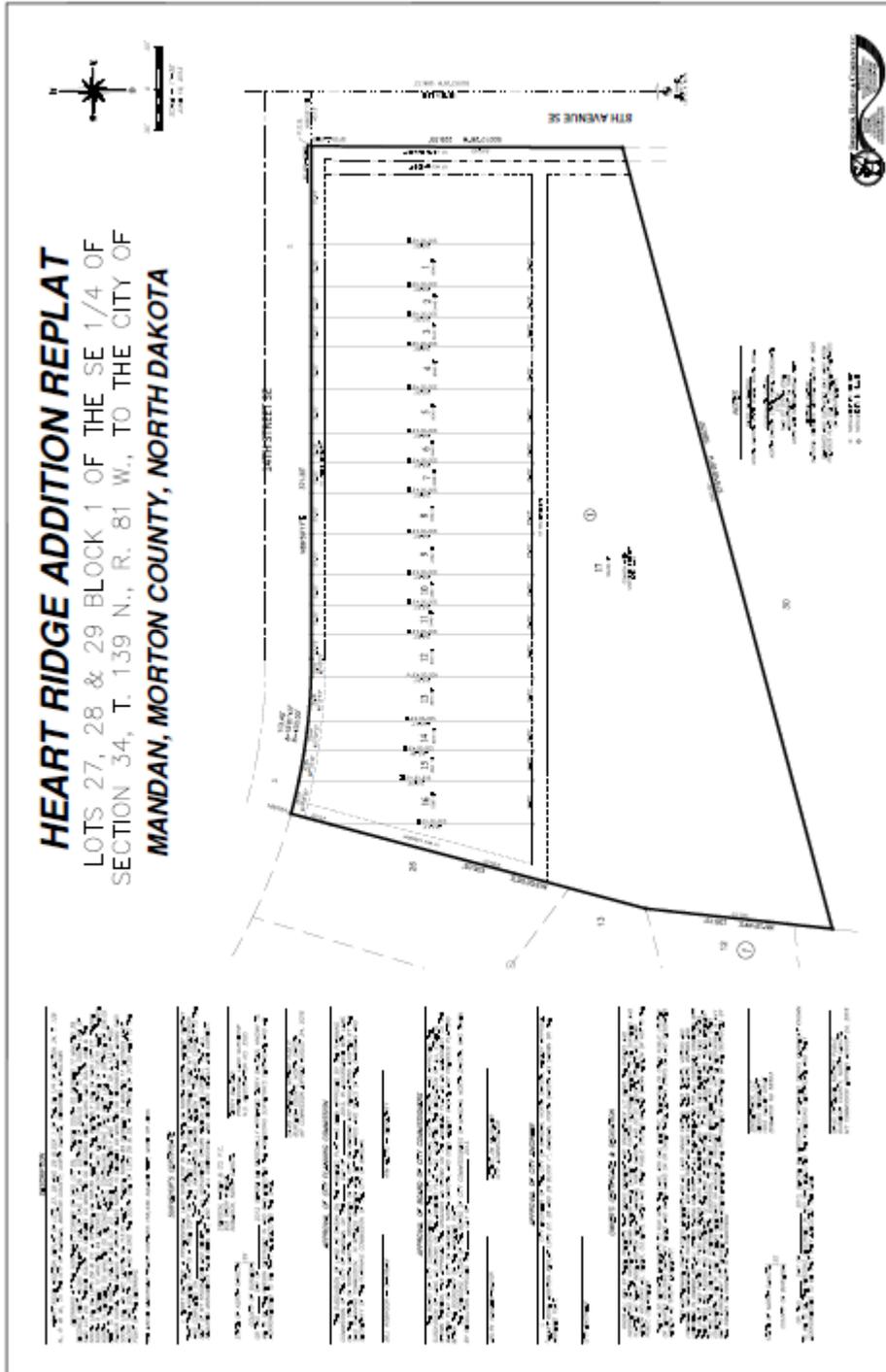
Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider for approval the final Replat of Lots 27-29, Block 1, Heart Ridge Addition.

Page 3 of 4



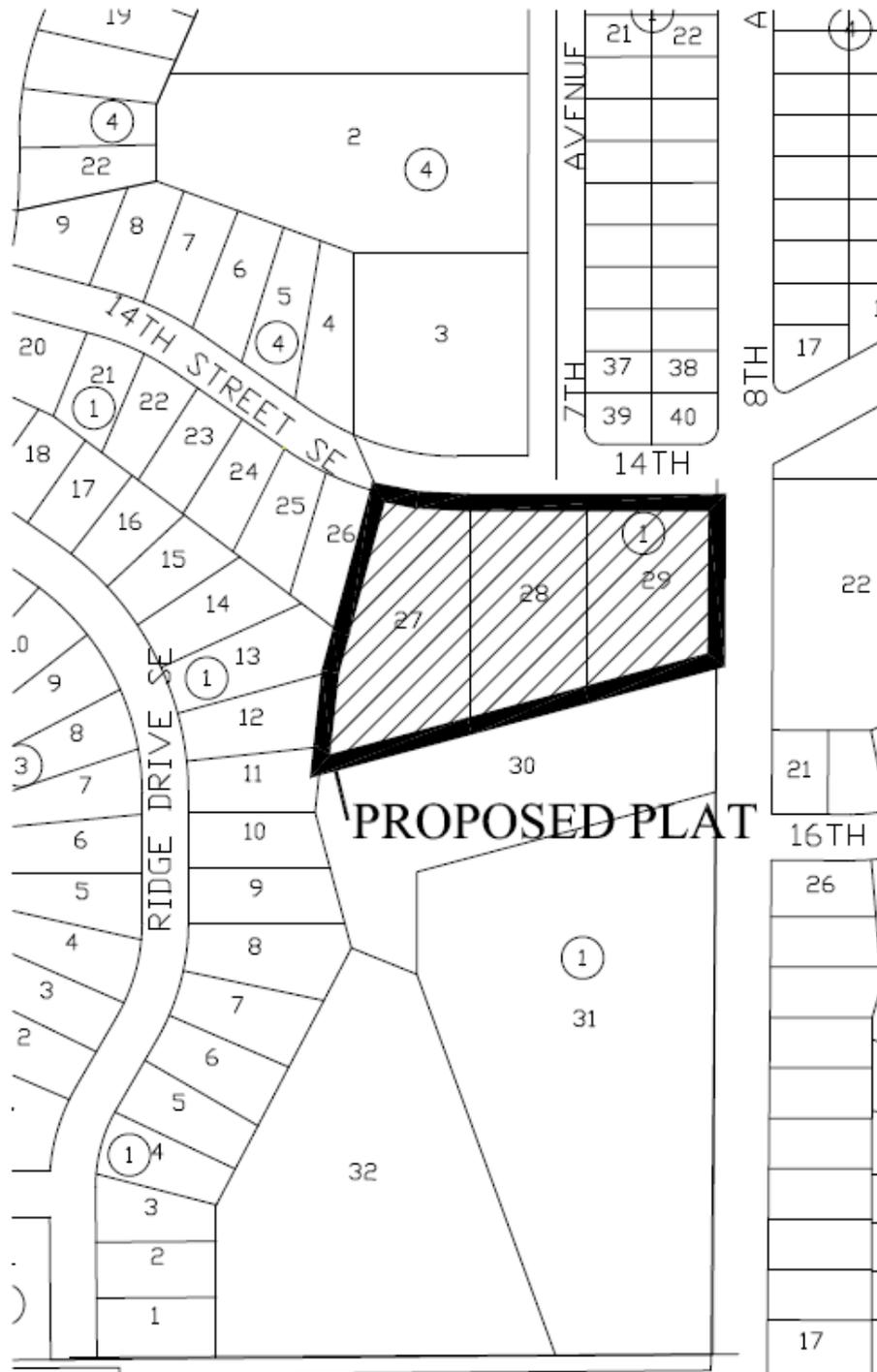
Board of City Commissioners

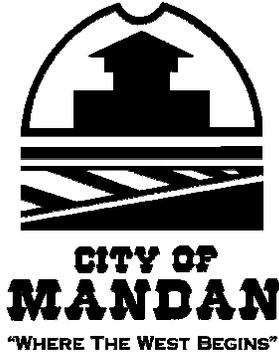
Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider for approval the final Replat of Lots 27-29, Block 1, Heart Ridge Addition.

Page 4 of 4





Consent No. 5

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 2, 2013
PREPARATION DATE: June 26, 2013
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Justin Froseth, Engineer
PRESENTER: Kim Fettig, Project Manager
SUBJECT: Consider for approval the final plat of South Bay Townhomes Addition

STATEMENT/PURPOSE: To consider for approval the final plat of South Bay Townhomes Addition.

BACKGROUND/ALTERNATIVES: Request from Jeremy Kukowski for final plat approval. The Planning & Zoning Commission voted unanimously to approve the plat on June 24, 2013.

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

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION: This office supports the approval of the subject plat.

SUGGESTED MOTION: I move to approve the final plat of South Bay Townhomes Addition.

MANDAN PLANNING OFFICE REPORT
June 26, 2013

Applicant: Jeremy Kukowski

Owner: same

Requested Action: final plat approval

Name of Subdivision: South Bay Townhomes Addition

Legal Description: A replat of Lot 1, Block 3, Lakewood 6th Addition in the SE ¼ of Section 1, Township 138N, Range 81W

Location: 29th Street SE

Parcel Acreage: 1.365

Number of Blocks: 1 Number of Lots: 13

Existing Land Use: vacant

Proposed Land Use: two-family or multi-family residential

Adjacent Land Use: vacant, single-family, two-family and multi-family residential

Existing Zoning: RM (Multi-Family Residential)

Proposed Zoning: same

Adjacent Zoning: RM (Multi-Family Residential)

Fee Required: \$250.00 Date Received: June 5, 2013

Adjacent Property Owner Notification: June 7, 2013

Dates of Legal Notices: June 14 & 21, 2013

Recommendation: The Planning Office recommends approval.

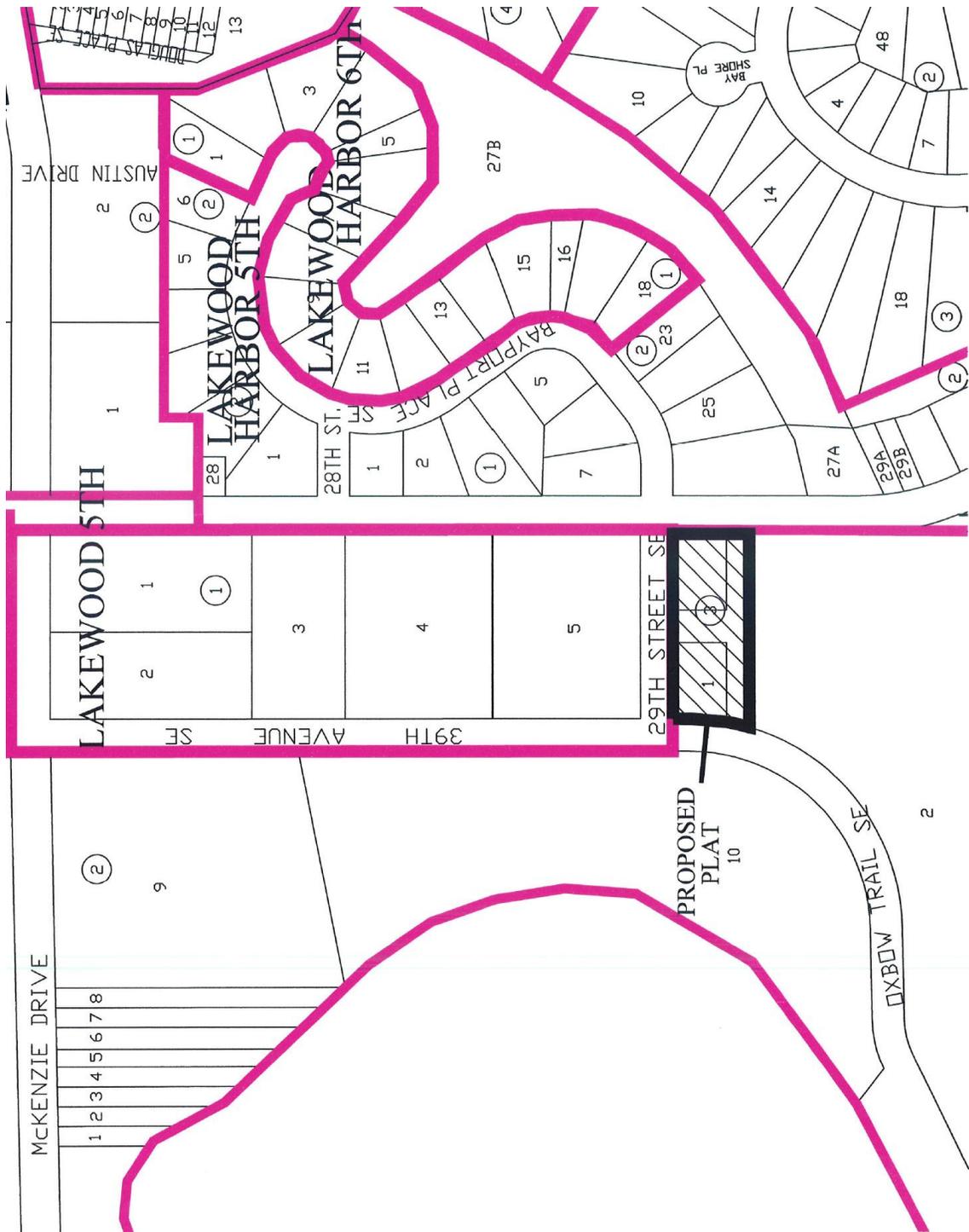
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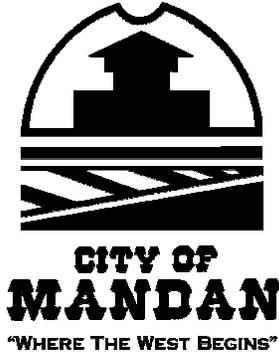
Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider for approval the final plat of South Bay Townhomes Addition.

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Board of City Commissioners

Agenda Documentation

MEETING DATE: July 2, 2013
PREPARATION DATE: June 26, 2013
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Justin Froseth, Engineer
PRESENTER: Kim Fettig, Project Manager
SUBJECT: Consider for approval the final plat of Addie's Acres Addition.

STATEMENT/PURPOSE: To consider for approval the final plat of Addie's Acres Addition.

BACKGROUND/ALTERNATIVES: Request from Adeline Boehm Klapprodt for final plat approval. The Planning & Zoning Commission voted on May 28 to approve the plat contingent on approval from the DOT. The motion passed with the following vote: Zachmeier-nay, Fleischer-aye, Hilfer-nay, Robinson-aye, Klein-aye, Knoll-nay, Van Beek-aye, Leingang-aye, Kelly-aye, Mehlhoff-aye. There was discussion last meeting when the zone change and annexation of this parcel was before the City Commission. Tina Goodroad with Stantec (consulting firm doing the Mandan Comprehensive Study) and Bill Troe who is doing the North Mandan Subarea Study was brought in to look at this area. The attached proposed area map is showing what they have thought this area will look like. According to Jeff Wright, Director of Public Works, discussions have been had with all the parties involved and this is what was agreed upon.

ATTACHMENTS:

1. Office Report
2. Final Plat
3. Vicinity Map
4. Proposed area map

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider for approval the final plat of Addie's Acres Addition.

Page 2 of 6

RECOMMENDATION: This office supports the approval of the subject plat.

SUGGESTED MOTION: I move to approve the final plat of Addie's Acres Addition.

MANDAN PLANNING OFFICE REPORT
June 26, 2013

Applicant: Adeline Boehm Klapprodt

Owner: same

Requested Action: Final Plat Approval

Name of Subdivision: Addie's Acres Addition

Legal Description: the west 280 feet of the south 300 feet of Gov't Lot 4 of Section 7, Township 139N, Range 81W

Location: Old Red Trail and 56th Avenue NW

Parcel Acreage: 1.27

Number of Blocks: 1 Number of Lots: 2

Existing Land Use: vacant

Proposed Land Use: shop and lift station

Adjacent Land Use: vacant, agricultural

Existing Zoning: A (Agricultural)

Proposed Zoning: CC (Heavy Commercial)

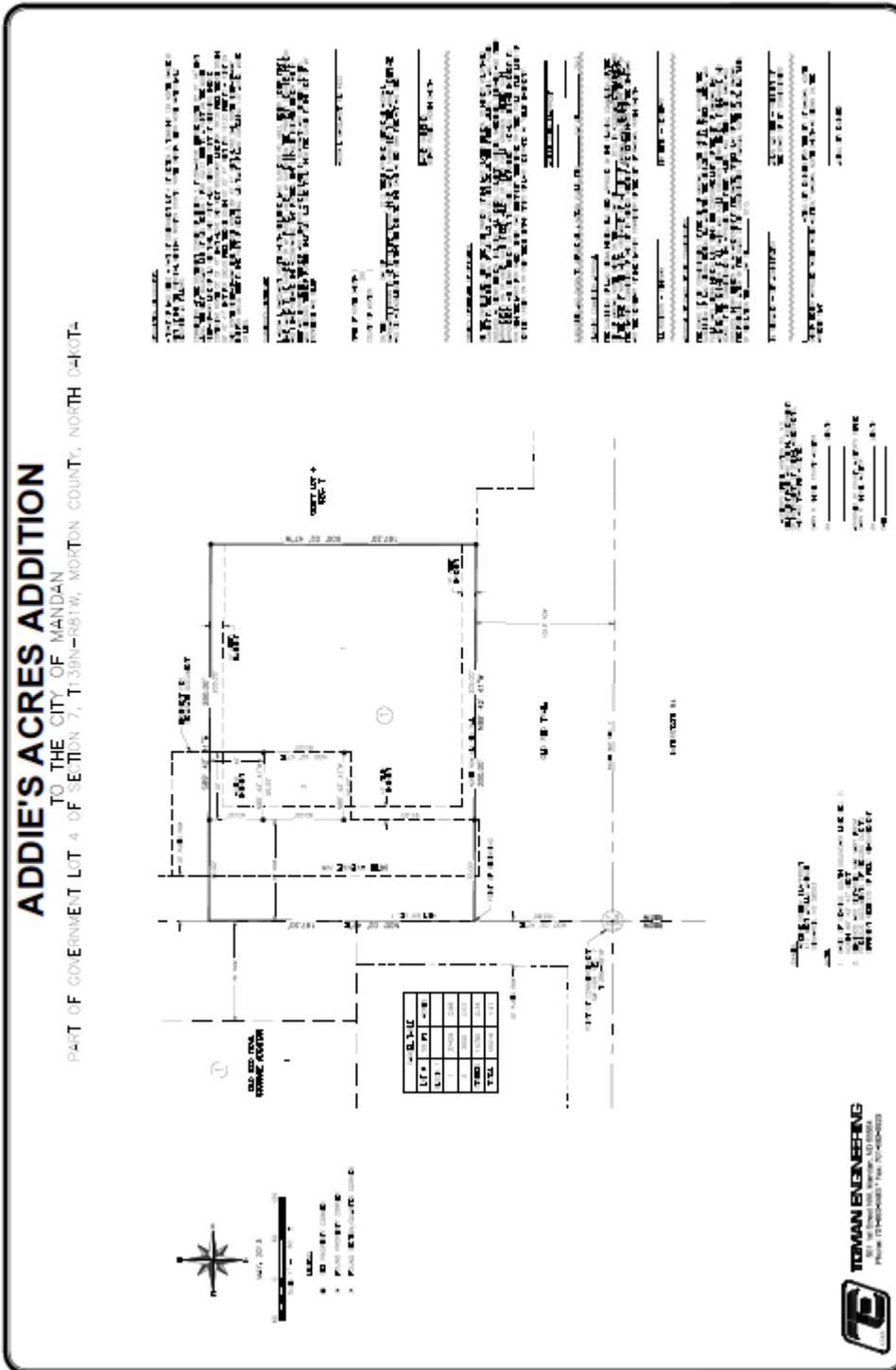
Adjacent Zoning: A (Agricultural) and CC (Heavy Commercial)

Fee Required: \$250.00 Date Received: May 9, 2013

Adjacent Property Owner Notification: May 14, 2013

Dates of Legal Notices: May 17 and 24, 2013

Recommendation: The Planning Office recommends approval.



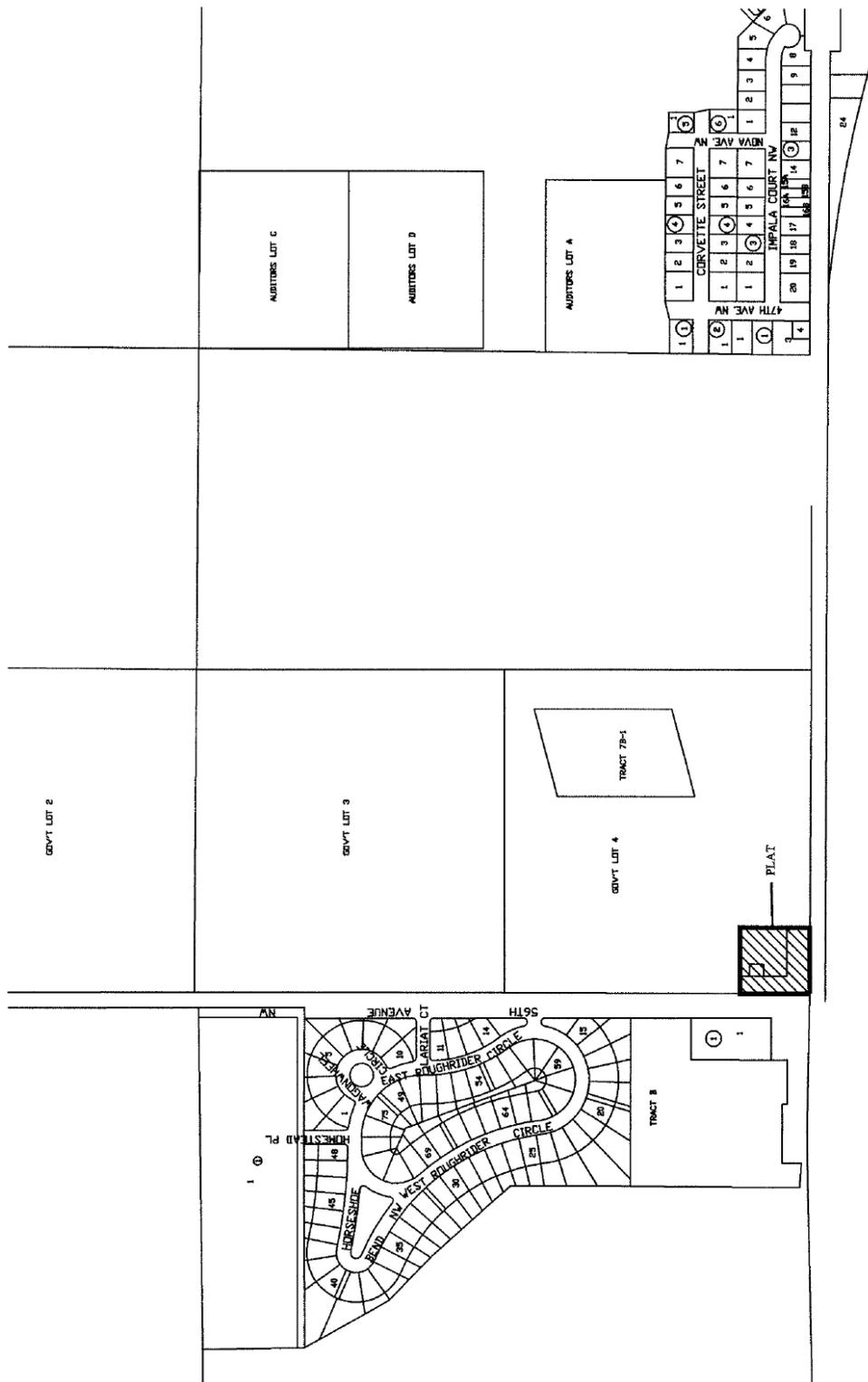
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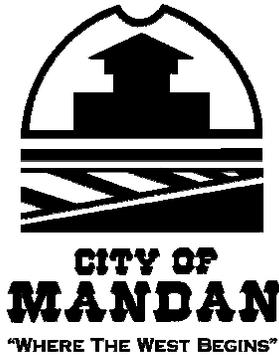
Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider for approval the final plat of Addie's Acres Addition.

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Board of City Commissioners

Agenda Documentation

MEETING DATE: July 2, 2013
PREPARATION DATE: June 28, 2013
SUBMITTING DEPARTMENT: Public Works
DEPARTMENT DIRECTOR: Jeff Wright, Public Works Director
PRESENTER: Jeff Wright
SUBJECT: Consider the execution of Engineering agreement with AE2S for Mandan Waste Water Odor Control System Project.

STATEMENT/PURPOSE: To hire the subject firm to provide engineering services for studying and recommending the most efficient and effective odor control system for the Mandan Waste Water Collection and Treatment System.

BACKGROUND/ALTERNATIVES: This project is part of our 2013 Capital Improvement Budget and is recommended in the Capital Improvement Plan as part of the Waste Water Collection and Treatment Master Plan. The timing of this project is key to the success of the future Master Lift Station and Wastewater Plant improvements planned in the next couple years. The cost was estimated to be no more than \$25,000 and consist of the following key elements:

- Review 2009 Odor Control Report for 40th Ave and the Master Lift Stations
- Field investigate Porsborg Dam Lift Station and collect H₂S data
- Sample testing at WWTP
- Analyze all field data collected
- Coordinate and conduct odor control pilot testing with vendors and suppliers
- Assess odor control equipment used in pilot study
- Prepare technical memorandum with Engineer's recommendation, opinions of probable costs, proposed implementation date and prepare 2014 Capital Improvement costs.
- Deliver a Technical Memorandum summarizing testing, conclusions and recommendations by September 30, 2013.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the execution of Engineering agreement with AE2S for Mandan
Waste Water Odor Control System Project.

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ATTACHMENTS: Copies of the proposed contract showing cost and related services associated with the project.

FISCAL IMPACT: The cost is part of the 2013 Budget, not to exceed \$25,000.

STAFF IMPACT: Minimal.

LEGAL REVIEW: Sent to Attorney Brown

RECOMMENDATION: We recommend hiring AE2S to perform the Engineering services for the above referenced project.

SUGGESTED MOTION: Move to hire AE2S to perform the Engineering services for the above referenced project.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the execution of Engineering agreement with AE2S for Mandan
Waste Water Odor Control System Project.

Page 3 of 13

**STANDARD FORM OF AGREEMENT
BETWEEN
OWNER AND ENGINEER
FOR
STUDY AND REPORT PHASE
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of July 2, 2013 ("Effective Date") between City of Mandan, 205 2nd Avenue NW, Mandan, ND 58554-3125 ("OWNER") and Advanced Engineering and Environmental Services, Inc., 1815 Schafer Street, Suite 301, Bismarck, ND 58501 ("ENGINEER").

OWNER retains ENGINEER to perform professional services, in connection with Mandan Waste Water Odor Control System Project ("Project") for the City of Mandan, as further described in ("Assignment").

OWNER and ENGINEER, in consideration of their mutual covenants as set forth herein, agree as follows:

ARTICLE 1--ENGINEER'S SERVICES

1.01 Scope

A. ENGINEER shall provide the services set forth in Exhibit SR-A.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin services as set forth in Exhibit SR-A.

C. If authorized in writing by OWNER, and agreed to by ENGINEER, services beyond the scope of this Agreement will be performed by ENGINEER for additional compensation.

ARTICLE 2--OWNER'S RESPONSIBILITIES

2.01 General

A. OWNER shall have the responsibilities set forth herein and in Exhibit SR-A.

ARTICLE 3--TIMES FOR RENDERING SERVICES

3.01 ENGINEER's services will be performed within the time period or by the date stated in Exhibit SR-A.

3.02 If ENGINEER's services are delayed or suspended in whole or in part by OWNER, ENGINEER shall be entitled to equitable adjustment of the time for performance and rates and amounts of compensation provided for elsewhere in this Agreement to reflect reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

ARTICLE 4--PAYMENTS TO ENGINEER

4.01 Methods of Payment for Services of ENGINEER.

A. OWNER shall pay ENGINEER for services rendered under this Agreement as follows:

1. An amount equal to the cumulative hours charged to the Assignment by each class of ENGINEER's employees times Standard Hourly Rates for each applicable billing class for all services performed on the Assignment, plus Reimbursable Expenses, estimated to be \$500 and ENGINEER's Consultants' charges, if any, estimated to be \$0.00. The total compensation under paragraph 4.01.A.1 is not to exceed \$25,000.

2. ENGINEER's Reimbursable Expenses Schedule and Standard Hourly Rate Schedule are attached to this Agreement as Exhibits SR-C and SR-D, respectively.

3. The amounts billed for ENGINEER's services will be based on the cumulative hours charged to the Assignment during the billing period by each class of ENGINEER's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and ENGINEER's Consultants' charges, if any, incurred during the billing period.

4.02 Other Provisions Concerning Payment

A. Adjustments

1. ENGINEER's compensation is conditioned on time to complete the Assignment not exceeding the time identified in Exhibit SR-A. Should the time to complete the Assignment be extended beyond this period due to reasons not the fault of and beyond the control of ENGINEER, the total compensation to ENGINEER shall be appropriately adjusted.

B. Reimbursable Expenses. Reimbursable Expenses means the actual expenses incurred by ENGINEER or ENGINEER's Consultants directly in connection with the Assignment, including the categories and items listed in Exhibit SR-C, and if authorized in advance by OWNER, overtime work requiring higher than regular rates.

C. For Additional Services. OWNER shall pay ENGINEER for all services not included in the scope of this Agreement on the basis agreed to in writing by

the parties at the time such services are authorized by OWNER.

**ARTICLE 5--DESIGNATED
REPRESENTATIVES**

5.01 Contemporaneous with the execution

of this Agreement, ENGINEER and OWNER shall each designate specific individuals as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Assignment on behalf of their respective party.

ARTICLE 6--CONTENT OF AGREEMENT

6.01 The following Exhibits are incorporated herein by reference:

A. Exhibit SR-A, "Further Description of Services, Responsibilities, Time, and Related Matters," consisting of two pages.

B. Exhibit SR-B, "Standard Terms and Conditions," consisting of four pages.

C. Exhibit SR-C, "Reimbursable Expenses Schedule," consisting of one page.

D. Exhibit SR-D, "Standard Hourly Rates," consisting of one page.

6.02 Total Agreement

A. This Agreement (consisting of pages one to four, inclusive, together with the Exhibits identified in paragraph 6.01) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the execution of Engineering agreement with AE2S for Mandan Waste Water Odor Control System Project.

Page 6 of 13

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:
Jim Neubauer (City of Mandan)

By: _____

Title: City Administrator

Date Signed: _____

ATTEST: _____

Name: _____

Title: _____

Address for giving notices:

City of Mandan

205 2nd Avenue NW

Mandan, ND 58554-3125

Designated Representative (paragraph 6.02.A):

Jeff Wright

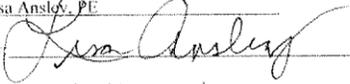
Title: Public Works Director

Phone Number: (701) 667-3278

Facsimile Number: _____

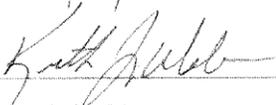
E-Mail Address: jwright@cityofmandan.com

ENGINEER:
Lisa Ansley, PE

By: 

Title: Operations Manager

Date Signed: 6/25/2013

ATTEST: 

Name: Kenneth J. Weber, PE

Title: Project Manager

Address for giving notices:

Advanced Engineering and Environmental Services, Inc.

1815 Schafer Street, Suite 301

Bismarck, ND 58501

Designated Representative (paragraph 6.02.A):

Kenneth J. Weber, PE

Title: Project Manager

Phone Number: (701) 221-0530

Facsimile Number: (701) 221-0531

E-Mail Address: ken.weber@ae2s.com

This is EXHIBIT SR-A, consisting of 2 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Study and Report Phase Professional Services dated July 2, 2013.

Further Description of Services, Responsibilities, Time, and Related Matters

Specific articles of the Agreement are amended and supplemented to include the following agreement of the parties:

A.1.01 ENGINEER's Services

A. ENGINEER shall:

1. Consult with OWNER to define and clarify OWNER's requirements for the Assignment and available data.
2. Advise OWNER as to the necessity of OWNER providing data or services which are not part of ENGINEER's services, and assist OWNER in obtaining such data and services.
3. Data Collection and Site Evaluation:
 - Review 2009 Odor Control Report for 40th Avenue Lift Station and the Master Lift Station.
 - Field investigate the Porsborg Dam Lift Station and determine level of odor concerns
 - Collect the required field data for H₂S at the Porsborg Dam Lift Station by installing a data collector for a one week period.
 - Coordinate grab sample process and sample testing with WWTF personnel
 - Analyze field H₂S indicator data and grab sample data. Draw a correlation between the H₂S level indicator and
 - Coordinate and conduct odor control pilot testing with vendors/suppliers.
4. Equipment Assessment and Report Development:
 - Assess odor control equipment and equipment applicability to pilot test results.
 - Prepare related mapping with service areas identified
 - Prepare Technical memorandum to include:
 - Engineers recommendations
 - Opinions of probable construction and operation costs.
 - A proposed implementation schedule.
 - Prepare 2014 CIP costs.
5. Engineer will conduct a meeting to review draft report with the Owner.
6. Engineer will deliver a report in the form of a Technical Memorandum summarizing testing, conclusions and recommendations.

A.2.01 OWNER's Responsibilities

A. OWNER shall do the following in a timely manner, so as not to delay the services of ENGINEER:

1. Provide all criteria and full information as to OWNER's requirements for the Assignment.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the execution of Engineering agreement with AE2S for Mandan
Waste Water Odor Control System Project.

Page 8 of 13

2. Furnish to ENGINEER all existing studies, reports and other available data pertinent to the Assignment, obtain or authorize ENGINEER to obtain or provide additional reports and data as required, and furnish to ENGINEER services of others as required for the performance of ENGINEER's services.

B. ENGINEER shall be entitled to use and rely upon all such information and services provided by OWNER or others in performing ENGINEER's services under this Agreement.

C. OWNER shall bear all costs incident to compliance with its responsibilities pursuant to this paragraph A.2.01.

A.3.01 Times for Rendering Services

A. The time period for the performance of ENGINEER's services shall be three months with milestones established as follows:

Technical Memorandum September 30, 2013.

B. ENGINEER's services under this Agreement will be considered complete when all deliverables set forth in Exhibit SR-A are submitted to OWNER.

This is EXHIBIT SR-B, consisting of 4 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Study and Report Phase Professional Services dated July 2, 2013

Standard Terms and Conditions

Article 6 of the Agreement is amended and supplemented to include the following agreement of the parties:

B.6.01.B Standard Terms and Conditions

1. Standard of Care
The standard of care for all professional services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.
2. Independent Contractor -Not Used
3. Payments to ENGINEER
Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER monthly, unless otherwise agreed. Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related charges.
4. Insurance
ENGINEER will maintain insurance coverage for Workers' Compensation, General Liability, and Automobile Liability and will provide certificates of insurance to OWNER upon request.
5. Indemnification and Allocation of Risk
 - a. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and consultants in the performance of ENGINEER's services under this Agreement.
 - b. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and consultants from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and consultants with respect to this Agreement.
 - c. To the fullest extent permitted by law, ENGINEER's total liability to OWNER and anyone claiming by, through, or under OWNER for any injuries, losses, damages and expenses caused in part by the negligence of ENGINEER and in part by the negligence of OWNER or any other negligent entity or individual, shall not exceed the percentage share that ENGINEER's negligence bears to the total negligence of OWNER, ENGINEER, and all other negligent entities and individuals.
 - d. In addition to the indemnity provided under paragraph B.6.01.B.5.b. of this Exhibit, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's officers, directors, partners, employees, and consultants from and against injuries, losses, damages and expenses

(including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other disputes resolution costs) caused by, arising out of, or resulting from Hazardous Environmental Condition, provided that (i) any such injuries, losses, damages and expenses are attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting there from, and (ii) nothing in this paragraph B.6.01.B.5.d shall obligate OWNER to indemnify any individual or entity to the extent of that individual or entity's own negligence or willful misconduct.

6. Dispute Resolution – Not Used

7. Termination of Contract

Either party may at any time, upon seven days prior written notice to the other party, terminate this Agreement. Upon such termination, OWNER shall pay to ENGINEER all amounts owing to ENGINEER under this Agreement, for all work performed up to the effective date of termination, plus reasonable termination costs.

8. Access

OWNER shall arrange for safe access to and make all provisions for ENGINEER and ENGINEER's Consultants to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

9. Hazardous Environmental Conditions

It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a "Hazardous Environmental Condition," i.e. the presence at the site of asbestos, PCBs, petroleum, hazardous waste, or radioactive materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Assignment. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Assignment affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the site is in full compliance with applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the site in connection with ENGINEER's activities under this Agreement.

10. Patents –Not Used

11. Ownership and Reuse of Documents

All documents prepared or furnished by ENGINEER pursuant to this Agreement are instruments of service, and ENGINEER shall retain an ownership and property interest therein. Reuse of any such documents by OWNER shall be at OWNER's sole risk; and OWNER agrees to indemnify, and hold ENGINEER harmless from all claims, damages, and expenses including attorney's fees arising out of such reuse of documents by OWNER or by others acting through OWNER.

12. Use of Electronic Media

a. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

b. When transferring documents in electronic media format, ENGINEER makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Assignment.

c. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

d. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted

the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

13. **Opinions of Probable Construction Cost**
ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. IF OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator.
14. **Opinions of Total Project Costs**
ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.
15. **Force Majeure**
ENGINEER shall not be liable for any loss or damage due to failure or delay in rendering any service called for under this Agreement resulting from any cause beyond ENGINEER's reasonable control.
16. **Assignment**
Neither party shall assign its rights, interests or obligations under this Agreement without the express written consent of the other party.
17. **Binding Effect**
This Agreement shall bind, and the benefits thereof shall inure to the respective parties hereto, their legal representatives, executors, administrators, successors, and assigns.
18. **Severability and Waiver of Provisions**
Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
19. **Survival - Not Used**
20. **Headings**
The headings used in this Agreement are for general reference only and do not have special significance.
21. **Controlling Law**
This Agreement is to be governed by the laws of the state of North Dakota.
22. **Notices**
Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the execution of Engineering agreement with AE2S for Mandan Waste Water Odor Control System Project.

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This is EXHIBIT SR-C, consisting of 1 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Study and Report Phase Professional Services dated July 2, 2013.

Reimbursable Expenses Schedule

Reimbursable Expense Rates

Transportation	\$0.65/mile
Survey Vehicle	\$0.70/mile
Service Vehicle - 1 Ton	\$1.00/mile
Air Transportation	\$1,600/hour
Photocopies 8 1/2" x 11"	\$0.10/copy
Plots - Color Bond	\$1.25/s.f.
Plots - Monochrome Bond/Vellum	\$0.75/s.f.
Plots - Film-Photo High Gloss	\$2.00/s.f.
Digital Imaging	\$10.00/day
Laser Printouts 8 1/2" x 11"	\$0.20/page
Color Laser Printouts Copies 8 1/2" x 11"	\$0.68/page
Fax	\$0.40/page
Projector	\$25.00/hour
Total Station - Robotic	\$35.00/hour
Pro-XR GPS	\$15.00/hour
Fast Static-RTK GPS	\$50.00/hour
3D Laser Scanner	\$100.00/hour
Sonar Mite	\$50.00/day
Survey Monument	\$5.00/each
Fence Posts	\$8.00/each
Survey Lath	\$22.00/bundle
Survey Stakes/Hubs	\$13.00/bundle
All Terrain Vehicle/Boat	\$100.00/day
Hydrant Pressure Recorders	\$10.00/day
Telemetry Radio	\$10.00/day
Pressure Recorder	\$5.00/day
Pump Station Monitor	\$24.00/day
Area Velocity Module	\$30.00/day
Rain Gauge	\$12.00/day
I&C Supplies	\$10.00/unit
Lab Testing Equipment	\$500.00/day
Thermal Imaging Camera	\$300.00/day
Power Quality Analyzer	\$500.00/week
Process Calibration Instrument	\$200.00/day
Portable Oscilloscope	\$125.00/day
Antenna Watt-Meier	\$50.00/day
In-house Lodging	\$150.00/day
Outside Services**	cost *1.15
Out of Pocket Expenses***	cost*1.15
Rental Car	cost*1.20

* Position titles are for labor rate grade purposes only.

** Includes laboratory testing, architectural and engineering consultants, surveying, etc.

*** Includes toll telephone, shipping, postage, subsistence, technical literature, equipment rental, etc.

These rates are subject to adjustment each year on January 1.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the execution of Engineering agreement with AE2S for Mandan Waste Water Odor Control System Project.

Page 13 of 13

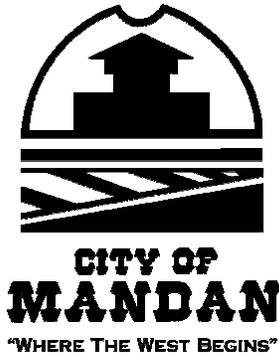
This is EXHIBIT SR-D, consisting of 1 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Study and Report Phase Professional Services dated July 2, 2013

2013 Hourly Rate and Reimbursable Expense Schedule

Labor Rates*			
Engineer I	\$94.00	Marketing Consultant III	\$108.00
Engineer II	\$108.00	Marketing Consultant IV	\$124.00
Engineer III	\$132.00	Marketing Consultant V	\$140.00
Engineer IV	\$150.00		
Engineer V	\$165.00	Senior Consultant	\$180.00
Engineer VI	\$188.00	Corporate Legal Counsel	\$186.00
Engineer VII	\$198.00		
Engineer VIII	\$206.00	Communications Specialist I	\$76.00
		Communications Specialist II	\$88.00
Program Coordinator	\$150.00	Communications Specialist III	\$100.00
Project Manager I	\$156.00	Communications Specialist IV	\$120.00
Project Manager II	\$180.00	Communications Specialist V	\$132.00
Technical Expert I	\$215.00		
Technical Expert II	\$236.00	IT I	\$86.00
Technical Expert III	Negotiable	IT II	\$105.00
		IT III	\$120.00
I&C Technician I	\$86.00	IT IV	\$136.00
I&C Technician II	\$96.00	IT Manager	\$154.00
I&C Technician III	\$110.00		
I&C Technician IV	\$120.00	Financial Analyst I	\$74.00
I&C Technician V	\$132.00	Financial Analyst II	\$88.00
I&C Technician VI	\$140.00	Financial Analyst III	\$104.00
I&C Technician VII	\$148.00	Financial Analyst IV	\$116.00
Land Surveyor I	\$87.00		
Land Surveyor II	\$102.00		
Land Surveyor III	\$112.00	Financial Analyst V	\$132.00
Land Surveyor IV	\$126.00	Financial Analyst VI	\$150.00
Land Surveyor V	\$138.00	Financial Analyst VII	\$164.00
Land Surveyor VI	\$160.00	Financial Analyst VIII	\$180.00
Engineering Technician I	\$56.00	Administrative I	\$50.00
Engineering Technician II	\$72.00	Administrative II	\$62.00
Engineering Technician III	\$86.00	Administrative III	\$72.00
Engineering Technician IV	\$100.00	Administrative IV	\$84.00
Engineering Technician V	\$114.00	Administrative V	\$92.00
Engineering Technician VI	\$128.00		
Engineering Technician VII	\$140.00	Intern I	\$42.00
		Intern II	\$48.00
GIS Specialist I	\$72.00	Intern III	\$52.00
GIS Specialist II	\$90.00	Intern IV	\$58.00
GIS Specialist III	\$106.00	Intern V	\$68.00
GIS Specialist IV	\$120.00		
GIS Specialist V	\$138.00		
GIS Specialist VI	\$156.00		
Project Coordinator I	\$90.00		
Project Coordinator II	\$105.00		
Project Coordinator III	\$118.00		
Project Coordinator IV	\$130.00		
Marketing Consultant I	\$72.00		
Marketing Consultant II	\$90.00		

* Position titles are for labor rate grade purposes only.
 ** Includes laboratory testing, architectural and engineering consultants, surveying, etc.
 *** Includes toll telephone, shipping, postage, subsistence, technical literature, equipment rental, etc.

These rates are subject to adjustment each year on January 1.



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 2, 2013
PREPARATION DATE: June 27, 2013
SUBMITTING DEPARTMENT: Engineering & Planning
DEPARTMENT DIRECTOR: Justin Froseth, Engineer
PRESENTER: Kim Fettig, Project Manager
SUBJECT: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidel's South Heart Terrace 2nd Addition).

STATEMENT/PURPOSE: To consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidel's South Heart Terrace 2nd Addition).

BACKGROUND/ALTERNATIVES: The developer is requesting that the City allow the special assessment of street costs to the benefitting properties in Keidel's South Heart Terrace 2nd Addition.

ATTACHMENTS:

1. Resolution creating district
2. Engineer's Report
3. Resolution Approving Engineer's Report
4. Resolution of plans and specs
5. Petition
6. Resolution determining sufficiency of petition
7. Feasibility Report
8. District Map
9. Resolution Directing Advertisement for Bids

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

Page 2 of 14

FISCAL IMPACT: Based on the estimate of cost included with your documentation, the cost of the project would be \$399,079.40, engineering and administration will add \$99,769.85, bringing the total to \$498,849.25. These costs would be entirely special assessed to the 38 single family residential lots. 36 of the lots would be receiving approximately \$13,482.41 in special assessments while two corner lots that are receiving specials from adjacent streets would be assessed ½ of the cost at \$6,741.21 each.

STAFF IMPACT: Minimal

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

RECOMMENDATION: This office supports moving forward with the project.

SUGGESTED MOTION: I move to approve the creation of, approve the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, and feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

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**RESOLUTION CREATING
STREET IMPROVEMENT DISTRICT NO. 178**

Project No. 2013-04

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

1. There is hereby created Street Improvement District No. 178 (the "District")(Project# 2013-04) of the City of Mandan for the purpose of making an improvement project of the type specified in Section 40-22-01(2), N.D.C.C., to improve those parts of the municipal street system listed below. The improvement to said streets within this improvement district shall include, but not be limited to, Keidel Trail SW, Amber Place SW and Spring Court SE, and includes street construction, installation of curb and gutter, asphalt street, storm sewer, street lights, chip seal and related work.

2. Consultation with respect thereto having been had with the City Engineer, as to the property to be benefitted by said improvement project and the most practical size, form and location of said District, said District shall include all the lots, tracts and parcels of land lying within the City of Mandan and its additions within the following boundary lines: namely:

The following lots and blocks are included in said District:

Lot 30, Block 3, Keidel's South Heart Terrace 1st Addition
Lots 12-23, Block 3 Keidel's South Heart Terrace 2nd Addition
All of Block 4, Keidel's South Heart Terrace 2nd Addition

3. Pursuant to section 40-22-10 of the North Dakota Century Code, the City Engineer is hereby authorized and directed to prepare a report as to the general nature, purpose and feasibility of the proposed improvement and an estimate of the probable cost of the improvement.

4. This resolution shall be in full force and effect from and after its passage.

President, Board of City Commissioners

ATTEST:

City Administrator

Date of Passage: July 2nd, 2013

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

Page 4 of 14

**KEIDELS SOUTH HEART TERRACE 2ND ADDITION PHASE 4
STREET IMPROVEMENT DISTRICT NO. 178
CITY PROJECT NO. 2013-04**

SPEC NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PR. OR L.S.	TOTAL
202-4.1	Unclassified excavation & embankment	CY	735	\$ 6.00	\$ 4,410.00
203-3.1	Watering	M.Gal.	32	\$ 22.50	\$ 720.00
204-3.1	Subgrade preparation (6")	SY	8,475	\$ 1.80	\$ 15,255.00
205-3.1	Silt fence	LF	200	\$ 7.00	\$ 1,400.00
302-4.1	Stabilized Gravel Base (Class 5)	Ton	50	\$ 35.00	\$ 1,750.00
304-6.1B	AC Base course (2-1/2")	Ton	1,073	\$ 91.90	\$ 98,608.70
401-6.2B	AC Surface course (2")	Ton	858	\$ 91.90	\$ 78,850.20
402-4.2	Bituminous tack coat	Gal.	386	\$ 2.20	\$ 849.20
403-4.1	Bituminous seal coat	SY	2,318	\$ 2.30	\$ 5,331.40
602-4.1	6" Concrete	SY	53	\$ 82.50	\$ 4,372.50
603-5.5	Install mountable curb & gutter	LF	3,477	\$ 18.30	\$ 63,629.10
603-5.6	Bedding Material	Ton	136	\$ 15.00	\$ 2,040.00
802-4.3	18" Storm Sewer Pipe	LF	482	\$ 50.00	\$ 24,100.00
802-4.53	18" Flared End Section	Each	2	\$ 2,500.00	\$ 5,000.00
1001-4.11	2"PVC Electric conduit	LF	95	\$ 2.00	\$ 190.00
1001-4.12	Trenching for conduit & circuitry	LF	1,484	\$ 4.90	\$ 7,271.60
1001-4.24	Copper Circuit Conductors (3#2s)	LF	1,484	\$ 3.50	\$ 5,194.00
1001-4.25	No. 6 Copper Ground - Type T or Bare	LF	1,484	\$ 3.50	\$ 5,194.00
1001-4.3	Type C Standard with Cooper Navion NVNT3A	Each	10	\$ 3,348.00	\$ 33,480.00
1206-4.1	LED Luminaire	Each	6	\$ 413.00	\$ 2,478.00
1206-4.5	Adjust manhole casting-asphalt paving	Each	2	\$ 500.00	\$ 1,000.00
1206-4.11	Furnish & Adjust Type 36" Inlet	Each	2	\$ 350.00	\$ 700.00
1206-4.19	Adjust Valve Box- Asphalt Pavement	Each	12	\$ 413.00	\$ 4,956.00
1212-4A	Adjust valve box-unpaved area	Each	12	\$ 413.00	\$ 4,956.00
1212-4A	Flat Sheets for Signs Type 3A	SF	6	\$ 50.00	\$ 312.50
1212-4B	Galv Steel Posts - Tel, Perf Tube	LF	9.50	\$ 10.00	\$ 95.00
1212-4.M	Relocate Road Closed	Each	1	\$ 118.80	\$ 118.80
SP#9	Respread 4" topsoil from onsite stockpile with seeding & hydromulch	Acre	1.0	\$ 9,000.00	\$ 8,730.00
SP#9	Respread 4" topsoil from onsite stockpile with seeding (no hydromulch)	Acre	1.8	\$ 6,270.00	\$ 11,286.00
SP#17	Apply soil sterilizer	Lot	1	\$ 4,356.00	\$ 4,356.00
SP#19	Street name post with 3 signs	Each	2	\$ 313.20	\$ 626.40
SP#19	Remove & stockpile 6" topsoil	Acre	2.8	\$ 2,300.00	\$ 6,325.00
Sp#20	Stop Sign with Street Name Signs	Each	1.0	\$ 450.00	\$ 450.00
CONSTRUCTION TOTAL					\$ 399,079.40

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

**RESOLUTION APPROVING ENGINEER'S REPORT AND
AUTHORIZING PREPARATION OF THE DETAILED PLANS
AND SPECIFICATIONS FOR THE CONSTRUCTION OF THE
IMPROVEMENT IN STREET IMPROVEMENT DISTRICT NO. 178**

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

1. That the report of the City Engineer with respect to the general nature, purpose, and feasibility of the proposed improvement and the estimate of the probable cost of the work to be done in Street Improvement District No. 178 (Project # 2013-04), as required by section 40-22-10 of the North Dakota Century Code, and hereto filed in the office of the City Administrator, is hereby accepted and approved and the proposed improvement project within said District is hereby determined and declared to be feasible.

2. The probable costs of the of the improvement project are estimated to be as follows:

a. Construction costs:	\$399,079.40
b. Other costs including necessary and reasonable change orders; engineering, fiscal agents' and attorneys' fees; cost of publication of legal notices; printing of warrant bonds; and all expenses incurred in the making of the improvement and levy of assessments therefor:	99,769.85
c. Total estimated costs of the improvement:	\$498,849.25

3. The Engineer is hereby authorized and directed to prepare detailed plans and specifications for the project to be constructed.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

Page 6 of 14

4. This resolution shall be in full force and effect from and after its passage.

Dated this 2nd day of July, 2013.

President, Board of City Commissioners

ATTEST:

City Administrator

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

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**RESOLUTION APPROVING PLANS AND SPECIFICATIONS
FOR STREET IMPROVEMENT DISTRICT NO. 178
PROJECT # 2013-04**

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

Pursuant to the requirement of section 40-22-11 of the North Dakota Century Code, the Plans and Specifications for the improvement project in Street Improvement District No. 178 (Project # 2013-04) of said City be and the same are hereby approved, ratified and confirmed as the plans and specifications in accordance with which said improvement project will be constructed, except as modified by this Board in accordance with law, and the City Administrator shall file the same in his office, open for public inspection.

Dated this 2nd day of July, 2013.

President, Board of City Commissioners

ATTEST:

City Administrator

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

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MANDAN DEVELOPMENT COMPANY LLC

4265 45TH STREET SOUTH #200

FARGO, ND 58014

February 8, 2013

City of Mandan
Board of Commissioners
City Administrator Jim Neubauer
205 2nd Ave. NW
Mandan, ND 58554

RE: Keidel's South Heart Terrace Second
Pavement, Storm Sewer & Street Light Petition
TECo #TBD

Mayor Van Beek and Honorable Commissioners;

Mandan Development Company LLC, fka Morty's LLC, owner of the property within Keidel's South Heart Terrace 2nd Addition, respectfully petition the Board to have pavement, storm sewer and street light improvements constructed by Special Assessment within said subdivision for Lots 12-23 Block 3; and Lots 1-25 Block 4. The named streets within said subdivision receiving these improvements are Keidel Trail, Amber Place, and Spring Court.

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

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

Sincerely,



Kevin Christianson
President

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

Page 9 of 14

**RESOLUTION DETERMINING SUFFICIENCY OF FORMS OF PETITION, WAIVER
AND CONSENT TO ASSESSMENT FOR STREET IMPROVEMENT DISTRICT NO.
178**

BE IT RESOLVED, By the Board of City Commissioners of Mandan, North Dakota:

1. The City having received and filed executed written forms of Petition, Waiver and Consent to Assessment executed by Mandan Development Company LLC, the owners of a majority of property area, for the improvement in and for Street Improvement District No. 178, Project No. 2013-04 ("the District"), and true and correct copies of said executed forms being attached hereto, it is hereby determined that said forms are signed by the owners of a majority of the area of property included within the District.

2. This Board is authorized to cause the improvement in and for the District to be made, and to levy and collect assessments therefore.

Dated this 2nd day of July, 2013

President, Board of City Commissioners

ATTEST:

City Administrator

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

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**FEASIBILITY AND EVALUATION OF IMPROVEMENTS
FOR STREET IMPROVEMENT DISTRICT #178, PROJECT #2013-04**

1.) General Nature of Project

The District has been created to allow for new street Amber Court SW, Spring Court SW and extension of Keidel Trail SW. Installation of new curb & gutter, asphalt street, storm sewer, street lights & chip seal will take place with this project.

2.) Location of Proposed Construction

The proposed construction will take place on Amber Court SW, Spring Court SW and on Keidel Trail SW west of its current terminus.

3.) Environmental Impact

It is anticipated that there will be some dirt, noise and pollutants during the construction period as a result of the use of the necessary equipment. There will also be some surplus or waste construction materials that will need to be disposed of by the contractor at his or her expense. The contractors will be responsible for leaving the area in an attractive and neat condition. Sensitivity to contaminants from construction will be addressed with the contractor of the job as part of the storm water management permitting procedures.

4.) Feasibility of Project

In the opinion of the undersigned this project is feasible and needed throughout the indicated area as new development spreads in this area.

5.) Estimates of Costs

Attached is a map showing the area and district boundary. The construction costs are estimated at \$399,079.40. Other costs of making the improvement including necessary and reasonable change orders; engineering, fiscal agents' and attorneys' fees; publication of legal notices printing of warrants; and all expenses incurred in the making of the improvement and levy of assessments therefore are estimated at \$99,769.85. The total cost for the improvement is estimated at \$498,849.25.

Dated this 2nd day of July, 2013.


DAVID THOMPSON
REGISTERED PROFESSIONAL ENGINEER
6-28-13
DAVE THOMPSON
Acting City Engineer

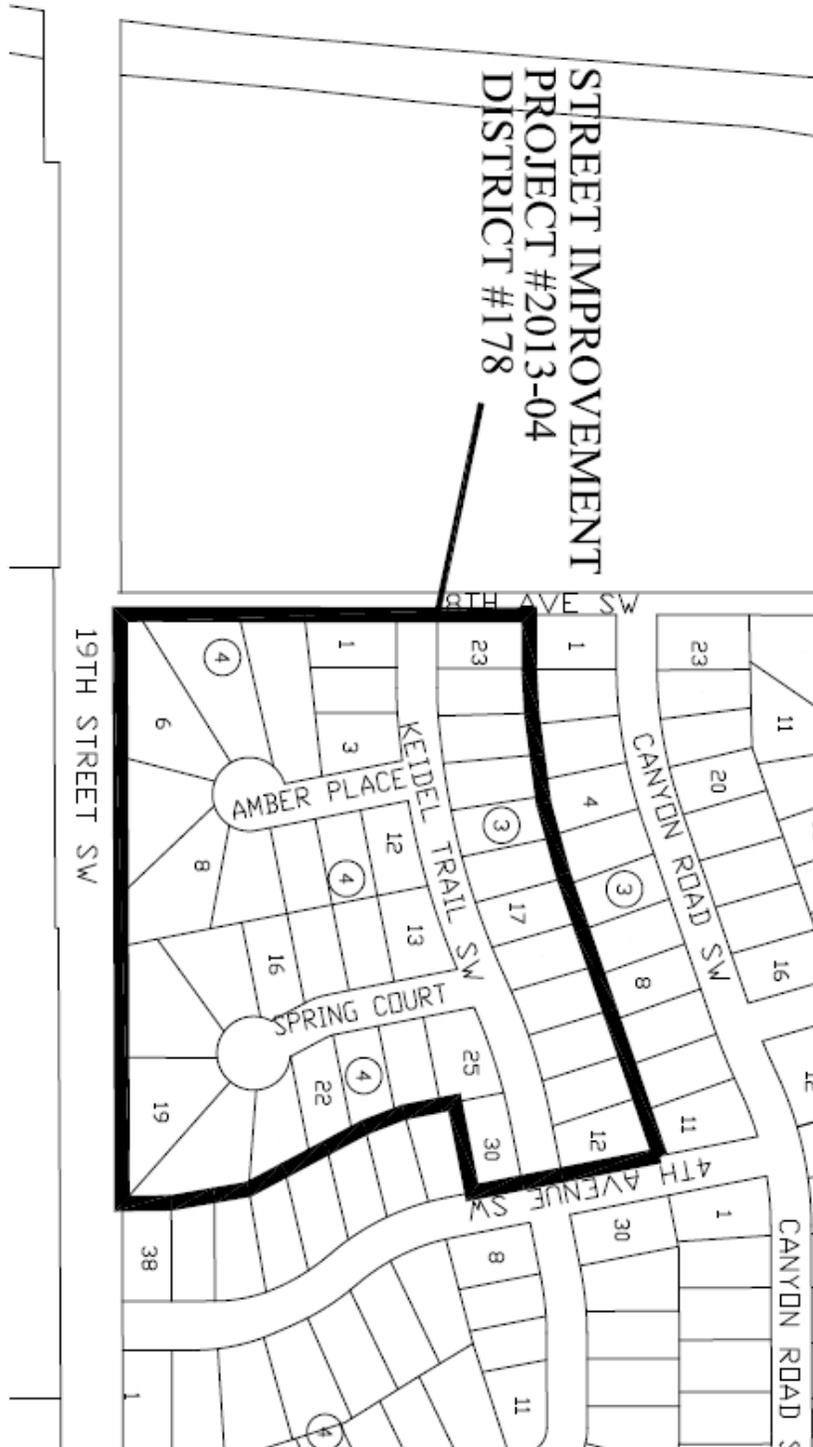
Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

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**RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS
FOR STREET IMPROVEMENT DISTRICT NO. 178**

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

1. The City Administrator, Deputy Auditor and City Engineer shall meet at the time and place specified in the notice authorized in paragraph 2 hereof, for the purpose of opening sealed bids for the work and material needed for the improvement project to be made in Street Improvement District No. 178 (Project # 2013-04) of the City of Mandan, as more fully described and referred to in the resolution creating said improvement district passed and approved by the Board on July 2, 2013, and in the plans and specifications for said improvement now on file in the office of the City Engineer.

2. The City Administrator is authorized and directed to cause notice of advertisement for bids to be published once each week for two consecutive weeks in the Mandan News, the official newspaper, the first of such publications to be at least fourteen days before the date specified for receipt of bids, which notice shall be in the following form:

**“ ADVERTISEMENT FOR BIDS FOR
STREET IMPROVEMENT DISTRICT NO. 178
MANDAN, NORTH DAKOTA**

Notice is hereby given, that the City of Mandan, North Dakota will receive sealed bids at the office of the City Administrator until July 29, 2013, at 10:00 a.m., local time for the purpose of furnishing of materials, labor and skill needed for the new construction of storm sewer mains, asphalt streets, concrete curb and gutter and street lights and related work in accordance with the plans and specifications for Street Improvement District No. 178 (Project # 2013-04), for the City of Mandan. The Work consists of all labor, skill, and materials required to properly construct the improvement.

Plans and Specifications are on file in the office of the City Administrator and the City Engineer. Plans may be obtained at this office of the City Engineer, 205 2nd Avenue Northwest, Mandan, North Dakota 58554, upon a non-refundable deposit of

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

Page 13 of 14

\$25.00. If Plans are mailed out an additional fee of \$15.00 will be added for postage and handling.

The bid proposals must be submitted to the City Administrator by 10:00 a.m., local time, July 29, 2013 and shall be sealed and endorsed "Proposal for Street Improvement District No 178. Bids shall be delivered or mailed to: City Administrator, City of Mandan, 205 2nd Avenue NW, Mandan, ND 58554. Bids will be opened and read aloud in the City Commission Meeting Room at 10:00 a.m., local time, on July 29th, 2013. All bidders are invited to be present at the public opening of the Bids.

All Bidders must be licensed for the highest amount of their Bids, as provided by Section 43-07-05 of the North Dakota Century Code. The Bidder shall include a copy of his license or certificate of renewal thereof enclosed in the required bid bond envelope as required pursuant to Section 43-07-04 of the North Dakota Century Code, as amended.

Each bid shall be accompanied by a separate envelope containing a bidder's bond in the amount of five (5) percent of the highest amount of the bids as required by Section 48-01.1-05 (3), North Dakota Century Code, as amended, and executed by the Bidder as principal and by a surety, conditioned that if the principal's bid is accepted and the contract awarded to the principal, the principal, within ten days after Notice of Award, shall execute and effect a contract in accordance with the terms of the bid, and a Contractor's Bond as required by law. No bid may be read or considered if it does not fully comply with the requirements of Section 48-01.1-05 of the North Dakota Century Code and any deficient bid must be resealed and returned to the bidder immediately.

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

Work shall be completed on or before the following dates with liquidated damages assessed as follows:

All construction work on Project #2013-04 is to be completed no later than October 30, 2013 other than the seal coat which is to be done no later than June 30, 2014.

Liquidated damages of \$100.00 per day will be assessed if any completion dates are exceeded.

Should the contractor fail to complete all of the work in a District according to the above date, or within such additional time as may have been granted by formal

Board of City Commissioners

Agenda Documentation

Meeting Date: July 2, 2013

Subject: Consider the creation of, approval of the engineer's report, approve the plans and specifications for, approve the sufficiency of petition, feasibility report for Street Improvement District No. 178, Project No. 2013-04 (Keidels South Heart Terrace Phase IV).

Page 14 of 14

extensions of time approved by the City Engineer, there shall be deducted from any money due the contractor, the above mentioned sum for each calendar day the completion of the Work is delayed, for each District. Liquidated damages will continue to accumulate until the City Engineer determines winter weather prevents further construction. Liquidated damages will restart on the first day of construction in the Spring of 2014 and continue to accumulate until final project acceptance. The Contractor and his surety shall be liable for any excess. Such payments shall be deducted from the final payment and shall be charged as liquidated damages and not as a penalty.

The Board of City Commissioners will meet on Tuesday, August 6, 2013, at 5:30 PM, local time, to determine the sufficiency of protests, to review the Bids submitted, consider the engineer's recommendation, and to award the contract to the successful Bidder, if protests have been deemed insufficient. The contract will be awarded on the basis of the low Bid submitted, on eligible areas, by a responsible and responsive Bidder deemed most favorable to the City's interest.

The City of Mandan reserves the right reject any or all bids, to waive any informality or irregularity, to hold all bids for a period of thirty (30) days after the date fixed for the opening thereof, and to accept the Bid deemed most favorable to the best interest of the City of Mandan.

Dated this 2 day of July, 2013

City of Mandan, North Dakota
BY: James Neubauer

City Administrator"

3. Each and all of the terms and provisions of the foregoing notice are hereby adopted as the terms and conditions for the award of said contract.

4. The Board of City Commissioners shall meet on Tuesday, August 6, 2013 at 5:30 pm, local time, to review the bids submitted, consider the engineer's recommendation, and to award the contract to the successful bidder, subject to the Board finding that filed protests are insufficient to bar the work.

President, Board of City Commissioners

ATTEST:

City Administrator

Passed: July 2nd, 2013

ORDINANCE NO. 1153

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

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

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

The following described property located within the City of Mandan, Morton County, North Dakota shall be excluded from CC (Heavy Commercial) and shall be included in the **MB (Heavy Industrial/Heavy Commercial)** zoning namely,

Lot 2, Block 1 of the Replat of Lot 1, Block 1, Hoovestol's 2nd Addition in Section 26, Township 139N, Range 81W

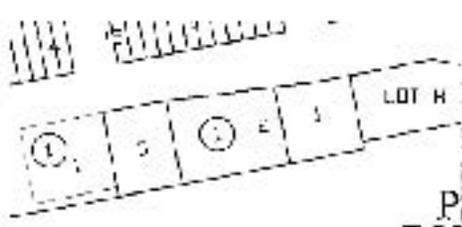
and as so amended said section is hereby reenacted. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

President, Board of City Commissioners

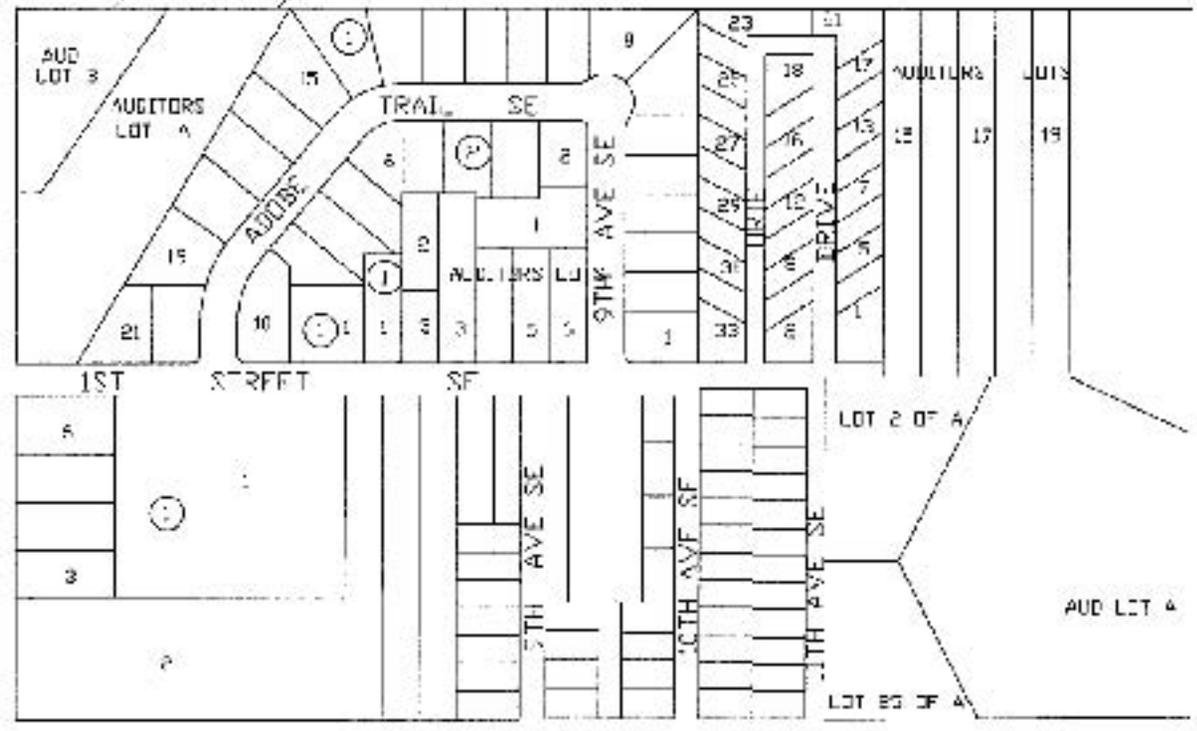
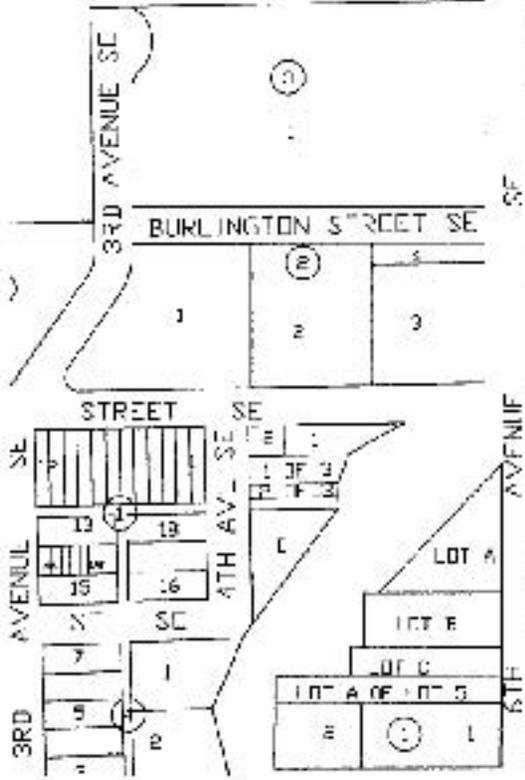
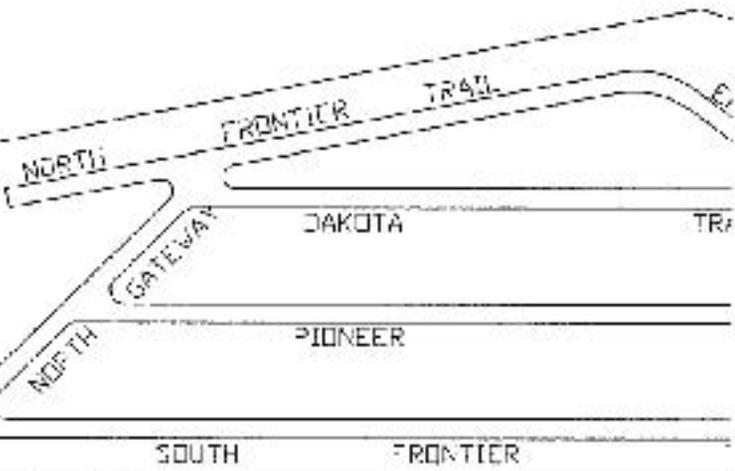
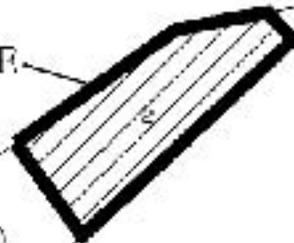
Attest:

City Administrator

Public Hearing:	<u>May 28, 2013</u>
First Consideration:	<u>June 18, 2013</u>
Second Consideration and Final Passage:	<u>July 2, 2013</u>
Publication Date:	<u>July 26, 2013</u>
Recording Date:	_____



PROPOSED
ZONE CHANGE



AUD LOT A

ORDINANCE NO. 1155

AN ORDINANCE ANNEXING CERTAIN ADJOINING LANDS TO THE CITY OF MANDAN,
MORTON COUNTY, NORTH DAKOTA, AND EXTENDING THE CORPORATE
BOUNDARIES THEREOF.

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

WHEREAS, the City of Mandan, Morton County, North Dakota has determined it to be its interests to annex the hereinafter described property, which is contiguous to the City of Mandan, Morton County, North Dakota, but not embraced within the limits thereof, and has met all requirements as directed by Section 40-51.2-03 of the North Dakota Century Code.

SECTION 1. Property Annexed. The following described land is situated in the County of Morton, State of North Dakota, and contiguous to the corporate limits of the City of Mandan, North Dakota, is hereby added to, taken into, annexed and made part of the City of Mandan, namely:

A tract of land being the west 280 feet of the south 300 feet of Government Lot 4 in Section 7, Township 139N, Range 81W of the Fifth Principal Meridian, Morton County, North Dakota that lies within the following described traverse:

Commencing at the southwest corner of Section 7, T139N, R81W; thence north 00° 01' 44" east along the west boundary line of said section 7 for 102.77 feet to a point on the north right-of-way line of Old Red Trail, said point also being the point of beginning; thence continuing north 00° 02' 47" east along said west boundary line for 197.20 feet; thence south 89° 42' 41" east for 280.00 feet; thence south 00°02' 47" west 197.20 feet to a point on said north right-of-way line; thence north 89° 42' 41" west along said north right-of-way line for 280.00 feet to the point of beginning. Said tract of land containing 1.27 acres, more or less.

SECTION 2. Corporate Boundary Extended. Upon the taking effect of this Ordinance, the corporate limits and boundary lines of the City of Mandan shall thereafter include said lands.

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

Attest

James Neubauer, City Administrator

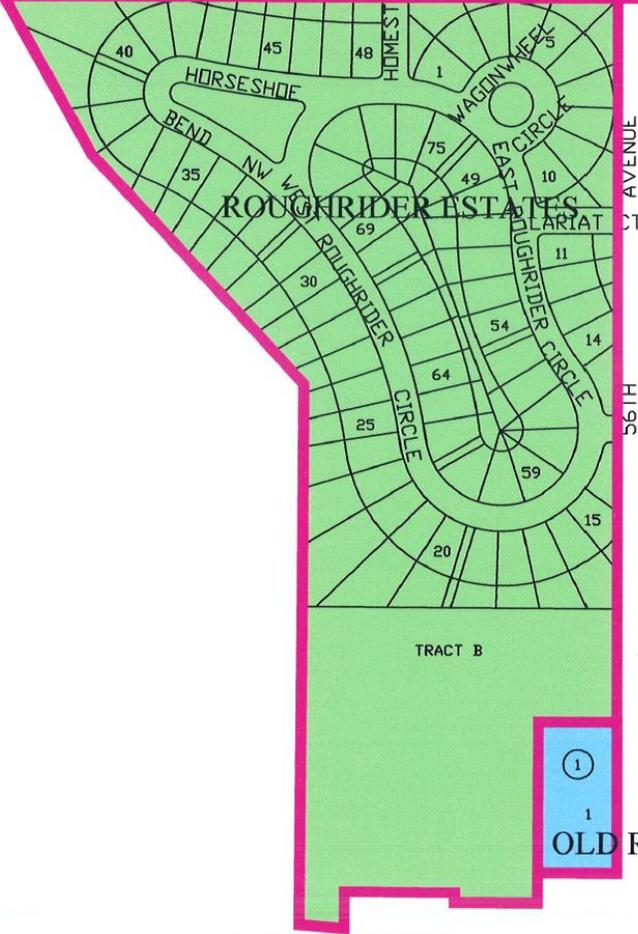
First Consideration: June 18, 2013
Second Consideration
and Final Passage: July 2, 2013
Date of Recording: _____

ROUGH RIDER HOMESTEAD ADDITION

1 ①

HOMESTEAD PL

NW



ROUGH RIDER ESTATES

TRACT B

①

1

OLD RED TRAIL STORAGE ADDITION ANNEX AREA



GOV'T LOT 3

GOV'T LOT 4

TRACT 7B-1

ST AVENUE

56TH

ORDINANCE NO. 1156

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

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

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

The following described property located within the City of Mandan, Morton County, North Dakota shall be excluded from A (Agricultural) and shall be included in the CC (**Heavy Commercial**) zoning namely,

The west 280 feet of the south 300 feet of Government Lot 4 in Section 7, Township 139 North, Range 81 West

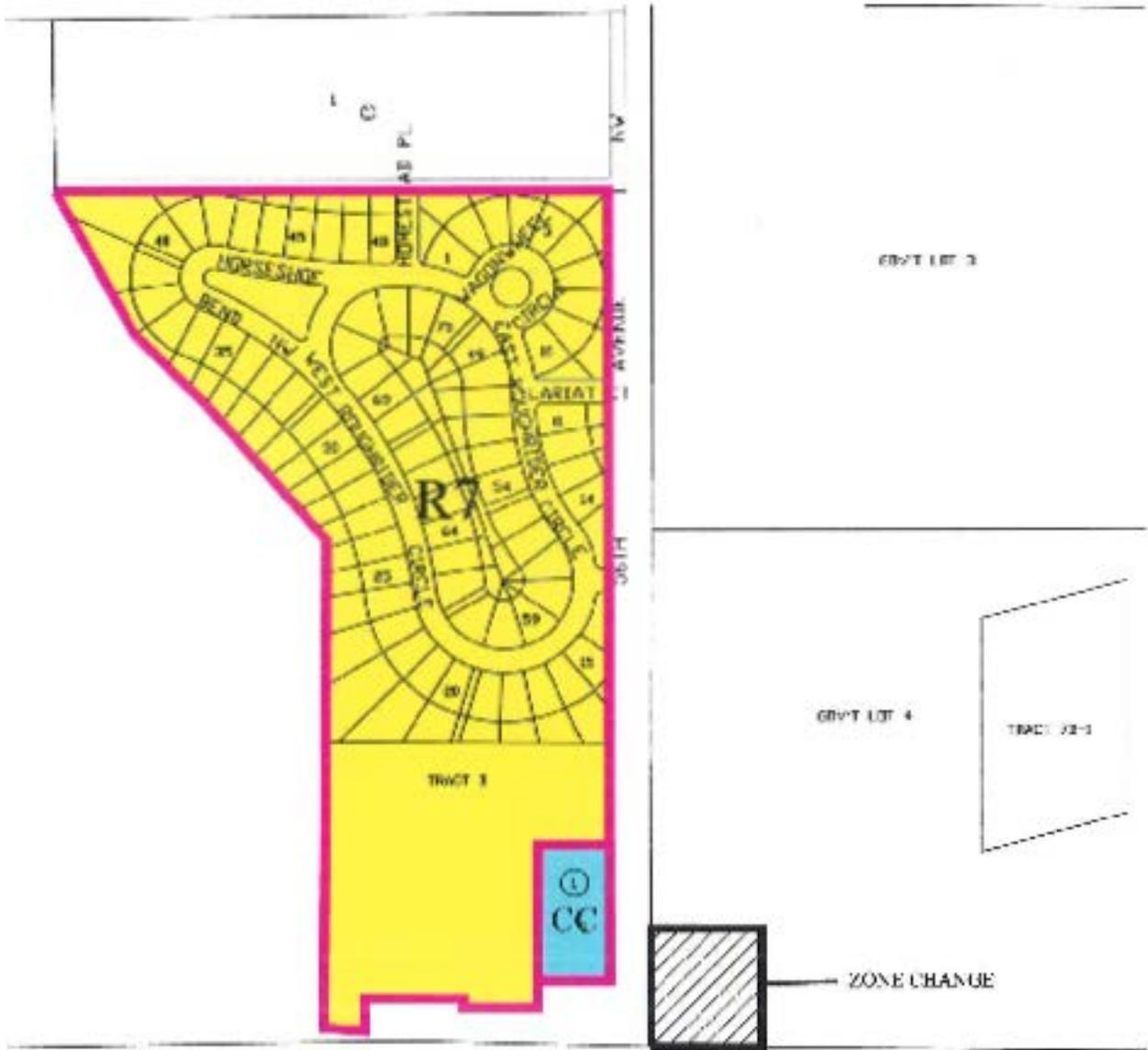
and as so amended said section is hereby reenacted. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

President, Board of City Commissioners

Attest:

City Administrator

Public Hearing:	<u>May 28, 2013</u>
First Consideration:	<u>June 18, 2013</u>
Second Consideration and Final Reading:	<u>July 2, 2013</u>
Publication Date:	<u>July 26, 2013</u>
Recording Date:	_____



RESOLUTION
APPROVING CONTRACT AND CONTRACTOR'S BOND FOR
STREET IMPROVEMENT DISTRICT NO. 185
(Project No. 2013-19)

BE IT RESOLVED by the governing body of the City of Mandan, North Dakota (the "City"), as follows:

1. It is hereby found and determined that this Board has heretofore caused Notice for Advertisement for Bids to be made for an improvement Street Improvement District No. 182 of said City, and has duly and publicly opened and considered said bids received pursuant to said Notice.
2. Said improvement is hereby ordered to be constructed in accordance with the plans and specifications therefore as heretofore adopted by this Board pursuant to a resolution duly adopted by this Board.
3. It is hereby found and determined that the lowest responsible bidder for various categories of the work, material and skill required for said improvement is Northern Improvement Company whose bid provides for the construction of said improvement at a total estimated base price of \$1,273,299.75.
4. The President of the Board of City Commissioners of the City of Mandan and City Auditor are hereby authorized and directed to make and enter into a contract with said bidder on the part of the City, in the form prescribed by Sections 40-22-35 and 40-22-35, N.D.C.C. as amended, provided that said bidder shall within ten (10) days from this date execute said contract and a construction bond conditioned in accordance with the provisions of Sections 40-22-30 and 40-22-32 of said Code.

Dated this 2nd day of July, 2013

Arlyn Van Beek, President of the
Board of City Commissioners

Attest:

James Neubauer,
City Administrator

**RESOLUTION CREATING
STREET IMPROVEMENT DISTRICT NO. 178**
Project No. 2013-04

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

1. There is hereby created Street Improvement District No. 178 (the "District")(Project# 2013-04) of the City of Mandan for the purpose of making an improvement project of the type specified in Section 40-22-01(2), N.D.C.C., to improve those parts of the municipal street system listed below. The improvement to said streets within this improvement district shall include, but not be limited to, Keidel Trail SW, Amber Place SW and Spring Court SE, and includes street construction, installation of curb and gutter, asphalt street, storm sewer, street lights, chip seal and related work.

2. Consultation with respect thereto having been had with the City Engineer, as to the property to be benefitted by said improvement project and the most practical size, form and location of said District, said District shall include all the lots, tracts and parcels of land lying within the City of Mandan and its additions within the following boundary lines: namely:

The following lots and blocks are included in said District:

Lot 30, Block 3, Keidel's South Heart Terrace 1st Addition
Lots 12-23, Block 3 Keidel's South Heart Terrace 2nd Addition
All of Block 4, Keidel's South Heart Terrace 2nd Addition

3. Pursuant to section 40-22-10 of the North Dakota Century Code, the City Engineer is hereby authorized and directed to prepare a report as to the general nature, purpose and feasibility of the proposed improvement and an estimate of the probable cost of the improvement.

4. This resolution shall be in full force and effect from and after its passage.

President, Board of City Commissioners

ATTEST:

City Administrator

Date of Passage: July 2nd, 2013

**RESOLUTION APPROVING ENGINEER'S REPORT AND
AUTHORIZING PREPARATION OF THE DETAILED PLANS
AND SPECIFICATIONS FOR THE CONSTRUCTION OF THE
IMPROVEMENT IN STREET IMPROVEMENT DISTRICT NO. 178**

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

1. That the report of the City Engineer with respect to the general nature, purpose, and feasibility of the proposed improvement and the estimate of the probable cost of the work to be done in Street Improvement District No. 178 (Project # 2013-04), as required by section 40-22-10 of the North Dakota Century Code, and hereto filed in the office of the City Administrator, is hereby accepted and approved and the proposed improvement project within said District is hereby determined and declared to be feasible.

2. The probable costs of the of the improvement project are estimated to be as follows:

a. Construction costs:	\$399,079.40
b. Other costs including necessary and reasonable change orders; engineering, fiscal agents' and attorneys' fees; cost of publication of legal notices; printing of warrant bonds; and all expenses incurred in the making of the improvement and levy of assessments therefor:	99,769.85
c. Total estimated costs of the improvement:	\$498,849.25

3. The Engineer is hereby authorized and directed to prepare detailed plans and specifications for the project to be constructed.

4. This resolution shall be in full force and effect from and after its passage.

Dated this 2nd day of July, 2013.

President, Board of City Commissioners

ATTEST:

City Administrator

**RESOLUTION DETERMINING SUFFICIENCY OF FORMS OF PETITION,
WAIVER AND CONSENT TO ASSESSMENT FOR STREET IMPROVEMENT
DISTRICT NO. 178**

BE IT RESOLVED, By the Board of City Commissioners of Mandan, North Dakota:

1. The City having received and filed executed written forms of Petition, Waiver and Consent to Assessment executed by Mandan Development Company LLC, the owners of a majority of property area, for the improvement in and for Street Improvement District No. 178, Project No. 2013-04 ("the District"), and true and correct copies of said executed forms being attached hereto, it is hereby determined that said forms are signed by the owners of a majority of the area of property included within the District.

2. This Board is authorized to cause the improvement in and for the District to be made, and to levy and collect assessments therefore.

Dated this 2nd day of July, 2013

President, Board of City Commissioners

ATTEST:

City Administrator

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS
FOR STREET IMPROVEMENT DISTRICT NO. 178
PROJECT # 2013-04**

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

Pursuant to the requirement of section 40-22-11 of the North Dakota Century Code, the Plans and Specifications for the improvement project in Street Improvement District No. 178 (Project # 2013-04) of said City be and the same are hereby approved, ratified and confirmed as the plans and specifications in accordance with which said improvement project will be constructed, except as modified by this Board in accordance with law, and the City Administrator shall file the same in his office, open for public inspection.

Dated this 2nd day of July, 2013.

President, Board of City Commissioners

ATTEST:

City Administrator

**RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS
FOR STREET IMPROVEMENT DISTRICT NO. 178**

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

1. The City Administrator, Deputy Auditor and City Engineer shall meet at the time and place specified in the notice authorized in paragraph 2 hereof, for the purpose of opening sealed bids for the work and material needed for the improvement project to be made in Street Improvement District No. 178 (Project # 2013-04) of the City of Mandan, as more fully described and referred to in the resolution creating said improvement district passed and approved by the Board on July 2, 2013, and in the plans and specifications for said improvement now on file in the office of the City Engineer.

2. The City Administrator is authorized and directed to cause notice of advertisement for bids to be published once each week for two consecutive weeks in the Mandan News, the official newspaper, the first of such publications to be at least fourteen days before the date specified for receipt of bids, which notice shall be in the following form:

**“ ADVERTISEMENT FOR BIDS FOR
STREET IMPROVEMENT DISTRICT NO. 178
MANDAN, NORTH DAKOTA**

Notice is hereby given, that the City of Mandan, North Dakota will receive sealed bids at the office of the City Administrator until July 29, 2013, at 10:00 a.m., local time for the purpose of furnishing of materials, labor and skill needed for the new construction of storm sewer mains, asphalt streets, concrete curb and gutter and street lights and related work in accordance with the plans and specifications for Street Improvement District No. 178 (Project # 2013-04), for the City of Mandan. The Work consists of all labor, skill, and materials required to properly construct the improvement.

Plans and Specifications are on file in the office of the City Administrator and the City Engineer. Plans may be obtained at this office of the City Engineer, 205 2nd Avenue Northwest, Mandan, North Dakota 58554, upon a non-refundable deposit of \$25.00. If Plans are mailed out an additional fee of \$15.00 will be added for postage and handling.

The bid proposals must be submitted to the City Administrator by 10:00 a.m., local time, July 29, 2013 and shall be sealed and endorsed “Proposal for Street Improvement District No 178. Bids shall be delivered or mailed to: City Administrator, City of Mandan, 205 2nd Avenue NW, Mandan, ND 58554. Bids will be opened and read aloud in the City Commission Meeting Room at 10:00 a.m., local time, on July 29th, 2013. All bidders are invited to be present at the public opening of the Bids.

All Bidders must be licensed for the highest amount of their Bids, as provided by Section 43-07-05 of the North Dakota Century Code. The Bidder shall include a copy of his license or certificate of renewal thereof enclosed in the required bid bond envelope as required pursuant to Section 43-07-04 of the North Dakota Century Code, as amended.

Each bid shall be accompanied by a separate envelope containing a bidder's bond in the amount of five (5) percent of the highest amount of the bids as required by Section 48-01.1-05 (3), North Dakota Century Code, as amended, and executed by the Bidder as principal and by a surety, conditioned that if the principal's bid is accepted and the contract awarded to the principal, the principal, within ten days after Notice of Award, shall execute and effect a contract in accordance with the terms of the bid, and a Contractor's Bond as required by law. No bid may be read or considered if it does not fully comply with the requirements of Section 48-01.1-05 of the North Dakota Century Code and any deficient bid must be resealed and returned to the bidder immediately.

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

Work shall be completed on or before the following dates with liquidated damages assessed as follows:

All construction work on Project #2013-04 is to be completed no later than October 30, 2013 other than the seal coat which is to be done no later than June 30, 2014.

Liquidated damages of \$100.00 per day will be assessed if any completion dates are exceeded.

Should the contractor fail to complete all of the work in a District according to the above date, or within such additional time as may have been granted by formal extensions of time approved by the City Engineer, there shall be deducted from any money due the contractor, the above mentioned sum for each calendar day the completion of the Work is delayed, for each District. Liquidated damages will continue to accumulate until the City Engineer determines winter weather prevents further construction. Liquidated damages will restart on the first day of construction in the Spring of 2014 and continue to accumulate until final project acceptance. The Contractor and his surety shall be liable for any excess. Such payments shall be deducted from the final payment and shall be charged as liquidated damages and not as a penalty.

The Board of City Commissioners will meet on Tuesday, August 6, 2013, at 5:30 PM, local time, to determine the sufficiency of protests, to review the Bids submitted, consider the engineer's recommendation, and to award the contract to the successful Bidder, if protests have been deemed insufficient. The contract will be awarded on the basis of the low Bid submitted, on eligible areas, by a responsible and responsive Bidder deemed most favorable to the City's interest.

The City of Mandan reserves the right reject any or all bids, to waive any informality or irregularity, to hold all bids for a period of thirty (30) days after the date fixed for the opening thereof, and to accept the Bid deemed most favorable to the best interest of the City of Mandan.

Dated this 2 day of July, 2013

City of Mandan, North Dakota
BY: James Neubauer

City Administrator”

3. Each and all of the terms and provisions of the foregoing notice are hereby adopted as the terms and conditions for the award of said contract.

4. The Board of City Commissioners shall meet on Tuesday, August 6, 2013 at 5:30 pm, local time, to review the bids submitted, consider the engineer’s recommendation, and to award the contract to the successful bidder, subject to the Board finding that filed protests are insufficient to bar the work.

President, Board of City Commissioners

ATTEST:

City Administrator

Passed: July 2nd, 2013