

AGENDA
MANDAN CITY COMMISSION
NOVEMBER 15, 2016
ED "BOSH" FROEHLICH MEETING ROOM,
MANDAN CITY HALL
***4:00 P.M. SPECIAL TIME**
www.cityofmandan.com

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- A. ROLL CALL:
1. Roll call of all City Commissioners.
 2. Employee service awards.
 3. Presentation of retirement watches to Officer Greg Moos for 38 years of service, and Lt. Richard Schaaf for 36 years of service.
- B. APPROVAL OF AGENDA:
- C. MINUTES:
1. Consider approval of the minutes from the November 1, 2016 Board of City Commission Regular Meeting.
- D. PUBLIC HEARING:
1. Conduct a public hearing to obtain public input relative to the proposal to adopt Ordinance No. 1241 amending and reenacting Sec. 105-1-2 and adding and enacting Sec. 105-1-15 of the Mandan Municipal Code related to fences, sight triangles and signs
- E. BIDS:
- F. CONSENT AGENDA:
1. Consider approval of monthly bills.
 2. Consider State Water Commission and AE2S amendments for Sunset Booster and Instrumentation & Controls project.
 3. Consider the Acceptance of a Traffic Safety Contract from the North Dakota Department of Transportation, Safety Division.
 4. Consider approval of Lakewood 9th stormwater pipe easement.
 5. Consider approval of Benefit for Nancy Miller games of chance at Mandan Eagles on November 18, 2016.
 6. Consider approval of Triple H Miniature Horse Rescue games of chance at Station West Bar and Grill November 21, 2016.
- G. OLD BUSINESS:
- H. NEW BUSINESS:
1. Business Development & Communications Department update
 2. Bismarck Mandan Development Association update

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3. Consider approval to proceed with plans to have building repairs done to the West end of the library building.
 4. Update on Recycling
 5. Consider selection of Ulteig Engineers for engineering services for McKenzie Drive reconstruction project.
 6. Consider Urban Roads and Urban Regional Transportation Improvement Program (TIP) applications.
- I. RESOLUTIONS AND ORDINANCES:
1. First consideration of Ordinance No. 1241 amending and reenacting Sec. 105-1-2 and adding and enacting Sec. 105-1-15 of the Mandan Municipal Code related to fences, sight triangles and signs
- J. OTHER BUSINESS:
- K. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:
1. November 15, 2016 Working Session, Following Regular Meeting
 2. December 6, 2016
 3. December 20, 2016
 4. January 3, 2017
- L. ADJOURN

TO: City Employees—**Service Recognition**

FROM: Diane I Leingang

DATE: November 15, 2016

SUBJ: **SERVICE CERTIFICATE AND APPRECIATION GIFT FROM THE BOARD OF COMMISSIONERS**

The Board would like to extend to you a personal invitation to be present at their Tuesday, November 15, 2016, 4:00 p.m. City Commission Meeting. They would like the opportunity to extend their appreciation to each of you for your years of service and dedication to the City by personally presenting you with your years of service certificate plus Mandan Bucks (\$2.00 for each year of service awarded in five year increments).

YEARS OF SERVICE MANDAN BUCKS FOR 2016:

25 YEARS OF SERVICE: \$50

Mary Himmelspach	Administrative Assistant/Data Collector	04/29/91
Robert Smith	Firefighter	07/01/91
Mike Hanson	Captain	07/23/91
Brent Wilmeth	Police Sergeant	11/12/91
Jeff Wright	Director of Public Works	06/17/91

20 YEARS OF SERVICE: \$40

Kim Hust	Meter Reader II	06/17/96
Terry Aasand	Firefighter	01/24/96

15 YEARS OF SERVICE: \$30

Mitchell Bitz	Battalion Fire Chief	12/16/01
Brendan Jochim	Firefighter	02/24/01
Michael Anfinson	Equipment Operator II	07/09/01

10 YEARS OF SERVICE: \$20

Ellen Huber	Business Development and Communications Director	02/01/06
Andrew Beck	Firefighter	06/20/06

Patrick Martin	Captain	12/28/06
Mary Henderson	Outreach Services Coordinator	07/10/06
David Raugust	Police Sergeant	10/02/06
Heidi Schuchard	Police Youth Services Specialist	10/02/06
Joseph Schaner	Equipment Operator I	10/16/06
James Steinman	Equipment Operator I	05/15/06

5 YEARS OF SERVICE: \$10

Derek Berger	Firefighter	11/09/11
Matthew Bauer	Firefighter	04/14/11
Susan Harmon	Technical Services/Circulation Assistant	06/04/11
April Jose	Investigator	12/05/11
Pete Finck	Equipment Operator II	12/26/11
Clayton Maloney	Equipment Operator II	12/19/11

If you have any questions or note any changes, please give me a call at 667-3271.

Cc: Jim Neubauer, City Administrator
City Commission (5)
Employees Listed and Their Department Heads

Officer Greg Moos began his career with the Mandan Police Department on July 1, 1978. He had previously worked as a police officer in Casselton, ND and as a correctional officer for Ward County.

Beginning in the 80's, before the Fire Department had full-time paramedic firefighters, a small group of Police officers became certified as Emergency Medical Technicians. These officers would respond to medical calls just as the fire paramedics do today. Officer Moos volunteered for this job. He became a certified EMT and held that position for a number of years.

Officer Moos has spent his career working in the Patrol Division. With his many years of service, he has been the most senior patrol officer in the department for much of his career. Several times over the years, he has been an acting supervisor. The department will lose a wealth of knowledge and experience with his retirement

Lt. Richard Schaaf began his career with the Mandan Police Department on December 8, 1980. He was promoted to sergeant in 1985 and to lieutenant in 1990.

Lt. Schaaf has been an instructor throughout his career. He has taught courses within the department. He has taught at the various Police Academies for many years. Students have often commented that he was a favorite instructor. While teaching at the Academies he did a lot of successful recruiting for our department! He also served as a negotiator for the West Dakota SWAT Team.

Lt. Schaaf was known for the number of DUI arrests he made. Few officers ever matched him in this endeavor.

Lt. Schaaf has been a great resource and teacher for officers in our department. The next lieutenant will have some big boots to fill.

The Mandan City Commission met in regular session at 5:30 p.m. on November 1, 2016 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. The meeting was called to order by Vice President Rohr. Commissioners present were Rohr, Braun, Davis, and Laber. Department Heads present were Finance Director Welch, Deputy Chief Bier, City Attorney Brown, City Administrator Neubauer, Director of Public Works Wright, Fire Chief Nardello, Business Development and Communications Director Huber, Planning & Engineering Director Froseth, Principal Planner Decker, Assessor Shaw, and Building Official Lalim. Absent: Mayor Helbling, Police Chief Ziegler.

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

C. MINUTES:

1. *Consider for approval of the minutes from the October 18, 2016 regular City Commission meeting and the October 19, 2016, Public Works Expansion Presentation.* Commissioner Laber moved to approve the minutes as presented. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

D. PUBLIC HEARING:

E. BIDS:

F. CONSENT AGENDA

1. *Consider for approval Amendment No. 1 to the Engineering Service agreements with AE2S for the Emergency Generator Project.*

2. *Consider approval of University of Mary Softball Team games of chance at Midway Lanes on November 19, 2016.*

Commissioner Braun moved to approve the Consent Agenda as presented. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

G. OLD BUSINESS:

H. NEW BUSINESS:

1. *Acting as Board of Adjustment, consider variance request to allow construction of an accessory building in front of the principal building at 4008 Old Red Trail.* City Planner Decker explained that this is a request to place an accessory building closer to the road than the primary structure on the lot. The code specifies that accessory buildings be located to the rear of the primary structure. The rear of this lot drops off quite dramatically. He explained there are a total of 12 houses located along the east side of Old Red Trail between 37th Street Northwest and Highland Road Northwest with this situation. Only one other house sits farther off the road than 4008 Old Red Trail. The garage for this house is approximately 156 feet from the curb and the

house is located behind the garage. The neighboring house is approximately 100 feet from the curb and the land drops behind the houses. There is a small shed already on the property that is closer to the road than the neighboring house and about 10 feet from the property line. The location of the proposed shed is approximately 55 feet from the side property line and approximately 120 feet from the curb line. The location of the proposed shed was selected to avoid the trees in the side yard and to place the shed close to the driveway. Commissioner Laber visited the site and spoke with the applicant and she attended the Planning & Zoning Commission meeting on this matter. It was recommended to change the code so this type of action would be allowed without requiring a variance because this meets the variance request. Commissioner Braun commented that he agrees with the variance request for this property. He recommended that in the future, the City Commission should review variance requests as issues arise on a case by case basis. The Planning and Zoning Commission voted 7 to 2 to recommend approval of the variance and to recommend that the \$400 application fee be waived.

Commissioner Laber moved to approve a variance request for 4008 Old Red Trail to allow construction of an accessory building in front of the primary structure. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

2. *Consider Change Order #3 for Lakewood 8th, Street Improvement District #202.*

Justin Froseth, Planning & Engineering Director presented a request to consider a change order for Street Improvement District No. 202, Project 2015-13 at the Lakewood 8th Addition, west of 40th Avenue along the 24th Street corridor. It would add the installation of approximately 130 feet of sewer pipe on the east side of the project connecting the Lakewood 8th Addition pipe that was installed last year, with the segment of pipe that was recently completed from the 40th Avenue sewer main. The Lakewood 8th Addition Water and Sewer 3-way agreement was approved last year and included this segment of pipe in order to make a complete connection to the sewer main already existing underneath the 24th Street, (formerly Shoal Loop), corridor. During the construction of the sewer main for Lakewood 8th Addition it was realized that the connection point available was lower than it needed to be in order to positively flow from that point to the sewer main at 40th Avenue.

The City initiated an emergency fix to get the sewer slope back in the positive direction. That emergency fix item was brought before the commission a couple of months ago and was recently completed. This change order would initiate the construction of 130 feet of sewer so there is a complete connection of the sanitary sewer from Lakewood 8th Addition to 40th Avenue. With this change order, the total Street Improvement District (SID) project is still 10% below the original estimate. If approved, the plan is to break out the three properties that don't receive direct benefit from this change order. This change order No. 3 is in the amount of \$56,500. As previously discussed, three properties in the district would not participate and the remaining properties would be assessed an equal portion for this work. The change order will bring the total project amount to \$1,123,150 which is 10% less than the original project estimate.

Commissioner Rohr stated that this project is needed to be completed due to the development in that area. Director Froseth stated that this sewer pipe was not included in the initial Lakewood

8th Addition project. Commissioner Davis asked when the start of this change order portion of the project would begin. Director Froseth indicated that if approved tonight, the contractor will start on the work tomorrow because they have performed the correctional work to the other two segments. The equipment was left in place to complete the project. The paving contractor requested an extension and that would carry over to next year which is part of this change order.

Commissioner Braun moved to approve Change Order No. 3 for Street Improvement District #202, Lakewood 8th Subdivision. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

3. *Consider proposal for additional Engineering services for the Mandan Public Works Facility.* Jeff Wright, Public Works Director, presented a proposal for additional engineering services for design changes for the Mandan Public Works Facility project. The proposed design changes were discussed at the October 19th meeting with the engineering firm, EPIC Engineering, and the city which included a quorum of City Commissioners. (The minutes of which were approved earlier in this meeting.) Discussion was held regarding relocating the proposed mechanic area from the existing storage shop and combine it with the proposed wash bay in the existing utility department building. The mechanic would have been isolated from other staff which would have been a safety concern. This would move the mechanic next to a new administration building in closer proximity to other staff. The proposed design scope change would be approximately \$36,848. Director Wright recommended approval of the proposal as presented.

Commissioner Laber questioned whether this request would increase the cost of the overall project. Director Wright stated he is unsure if there will be any increase because EPIC Engineering is unable to estimate that amount at this time. Their contract is 5.5% of the construction cost of the building. Commissioner Laber stated she brought this forward because she had concerns with the mechanic being located away from other staff for safety and oversight concerns.

Commissioner Laber moved to approve proposal for additional Engineering services for the Mandan Public Works Facility. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

I. RESOLUTIONS AND ORDINANCES:

1. *First consideration of Ordinance 1253 amending and reenacting Sec. 105-1-2 (5) of the Mandan Code of Ordinances related to accessory buildings.* City Planner Decker explained this is a follow-up to the earlier variance request. He explained that this is one of many situations where locating accessory buildings in the rear yard is not possible. There have been requests to allow accessory buildings to be located closer to the front property line than the principal building. Other specific standards have been added to the code. These cases occur when the principal building is located far back on the lot or where topography or other lot conditions prevent locating a structure in the rear yard. The Planning and Zoning Commission will be made aware of the request to modify the restrictions on locating accessory buildings, and if they have

any questions Planner Decker will report back to the City Commission. Commissioner Laber requested that Building Official Lalim review it prior to the final consideration of this ordinance to be sure that we aren't missing anything as far as building inspections.

Commissioner Laber moved to approve the First consideration of Ordinance 1253 amending and reenacting Sec. 105-1-2 (5) of the Mandan Code of Ordinances related to accessory buildings. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

2. *Consider resolution reducing fee for variance request at 4008 Old Red Trail.*

City Planner Decker stated that a variance request was made to allow location of a shed to be placed in front of the primary structure. This is the final step in that process. The current fee for this type of request is \$400. During discussion at their October 24, 2016 Planning and Zoning Commission meeting it was recommended that the limits on the location of accessory buildings be modified. This matter is related to the request for changes made by Ordinance 1253 to remove the restriction for which the variance at 4008 Old Red Trail was requested. Commissioner Laber stated that in this circumstance she would recommend waiving the fee because that was the indication given at the Planning and Zoning meeting. But she stated she is open for discussion on this situation. Commissioner Braun stated that waiving the fee for this situation is appropriate because the residents involved with this action were led to believe by the Planning and Zoning Commission that the fee would be waived. He suggested that the subcommittees be cautioned as to what to offer in these types of circumstances because the City Commission has the authority to make that determination.

Commissioner Laber moved to approve the resolution waiving the fee for variance request at 4008 Old Red Trail. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

3. *Consider Second Consideration and Final Passage of Ordinance 1252 amending and reenacting Section 20-7-15 of the Code of Ordinances of the City of Mandan relating to group health insurance.* City Administration Neubauer stated that at the last meeting the Commission requested further information as to why the City pays the health insurance the month after the employee would be separated, terminated, or retired. That's because North Dakota Administrative Code pertaining to the political subdivisions clarifies that an employee's coverage must end the month following the month after termination of employment. That comes as a result of the City paying the insurance premium one month in advance, thus the coverage is available. This is a policy within the PERS program.

Commissioner Braun moved to approve the Second Consideration and Final Passage of Ordinance 1252 amending and reenacting Section 20-7-15 of the Code of Ordinances of the City of Mandan relating to group health insurance. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Helbling: Absent. The motion passed.

J. OTHER BUSINESS:

L. ADJOURNMENT:

There being no further actions to come before the Board of City Commissioners, Commissioner Laber moved to adjourn the meeting at 6:03 p.m. Commissioner Braun seconded the motion. The motion received unanimous approval of the members present. The motion passed.

James Neubauer
City Administrator

Dennis Rohr
Vice-President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE:	November 15, 2016
PREPARATION DATE:	November 10, 2016
SUBMITTING DEPARTMENT:	Engineering and Planning
DEPARTMENT DIRECTOR:	Justin Froseth, P.E.
PRESENTER:	Robert Decker, P.E., Principal Planner Douglas Lalim, Building Official
SUBJECT:	Conduct a public hearing to obtain public input relative to the proposal to adopt Ordinance No. 1241 amending and reenacting Sec. 105-1-2 and adding and enacting Sec. 105-1-15 of the Mandan Municipal Code related to fences, sight triangles and signs

STATEMENT/PURPOSE: Current sign requirements are administered through a policy document governing the actions of the Mandan Architectural Review Commission. This proposed ordinance formalizes those procedures as part of the zoning requirements of the city municipal code in order to provide the city code enforcement officer and other city staff with authorization to enforce the sign requirements.

BACKGROUND/ALTERNATIVES: With the growing use of electronic message signs and the proliferation of portable signs and flags, it is time to upgrade the regulation of signs.

The draft ordinance reorganizes the current policy document so administrative items are first and the types of signs in alphabetical order follow. Language was updated and formatting edits were made. Major changes between the current policy document and this proposed ordinance are:

- Each type of sign has a set of standards.
- A section has been added regulating bench signs.
- The allowable wall sign size in relation to the wall that it is attached to was reduced from 40% to 20%.
- Portable sign companies must now register with the city and provide the city with a monthly report showing the location of each sign and the duration of the sign agreement.
- Banners, flags and streamers are grouped under temporary signs.
- The number of days per calendar year that portable signs can be used has been set at 240 days.
- The length of streamers allowed on a lot was limited to three (3) times the width of the lot.
- Approval by NDDOT of signs in the right-of-way of streets regulated by NDDOT has been added in conformance with federal law.
- Numerous edits in phrasing were made to convert the document from a policy to an ordinance.

Other edits were made to the code so they matched the sign requirements.

- The standards for a sight triangle for fences were modified to be equal to that for signs.
- Wording was added addressing vegetation in a sight triangle.
- A specific allowance was added to recognize that business signs can be located in the front yard setback.

The proposed Sec. 105-1-15 includes the following topics.

- (a) *Purpose.*
- (b) *Definitions.*
- (c) *Application for permit.*
- (d) *Permit exemptions.*
- (e) *Processing of application.*
- (f) *Mandan Architectural Review Commission (MARC).*
- (g) *Unsafe or unlawful signs.*
- (h) *Non-conforming signs.*
- (i) *Maintenance and inspection.*
- (j) *General requirements and provisions.*
- (k) *Zoning district requirements.*
- (l) *Awnings and awning signs.*
- (m) *Basement business signs.*
- (n) *Benches or structures with signage.*
- (o) *Billboard signs.*
- (p) *Canopy and canopy signs.*
- (q) *Electronic signs.*
- (r) *Marquee and marquee signs.*
- (s) *Monument signs.*
- (t) *Post and panel signs.*
- (u) *Projecting signs.*
- (v) *Pylon and pole signs.*
- (w) *Roof signs.*
- (x) *Sidewalk signs.*
- (y) *Temporary signs.*
- (z) *Wall signs.*
- (aa) *Window signs.*

ATTACHMENTS: Ordinance

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION: The Mandan Architectural Review Commission worked with staff over many months to prepare a draft ordinance. Drafts developed for review by MARC were submitted for review and comment to sign companies and to private property owners who have their own portable signs.

The draft ordinance developed by MARC was circulated to department directors and other senior staff for review. The draft was also sent to NDDOT for review.

The draft was then presented to the Planning and Zoning Commission. The president of Planning and Zoning asked for members of the Planning and Zoning commission to volunteer to work with other volunteers to look closely at the wording. Commissioners Frank and Laber volunteered. Wayne Munson of Indigo Signworks, Inc. was at the meeting and volunteered. At the next MARC meeting, Amber Larson volunteered. Together with city staff Decker, Fettig, Huber and Lalim, the group met 5 times and suggested numerous edits to improve clarity and more closely conform to industry practice.

The revised draft was then submitted to MARC. MARC acted at their August 23, 2016 meeting to recommend that the ordinance be forwarded to the city commission for adoption.

The Planning and Zoning Commission, at their August 29, 2016 meeting, reviewed the draft ordinance. After hearing testimony, they voted to table the consideration of the ordinance until the next meeting to allow the subcommittee to meet at least one more time to review the wording with primary focus on the wording regulating temporary signs. The sight triangle wording also needed clarification.

The subcommittee met on September 16, 2016 to discuss the needed wording adjustments.

The subcommittee recommended that businesses be supplied with a copy of the draft and asked to comment. The draft was posted on the Planning and Zoning page of the city web site and notices posted at other places on the city web site. MARC members were supplied with a copy of the draft.

The subcommittee met again on October 14, 2016 to review the wording one last time before submitting the draft ordinance to Planning and Zoning.

An article appeared in The Morton County & Mandan News on October 14, 2016 asking for citizen input.

Planning and Zoning at their October 24, 2016 meeting voted unanimously to recommend that the ordinance be adopted with some minor word editing to real estate signs.

Staff thanks everyone who participated in this effort. Although there were differences of opinion, people worked together to find a solution.

Staff recommends adoption of this ordinance.

SUGGESTED ACTIONS:

1. Open the public hearing.
2. Close the public hearing.
3. Move to item Resolutions and Ordinances No. 1.

ORDINANCE NO. 1241

An Ordinance to Amend and Reenact Sec. 105-1-2 and Add and Enact Sec. 105-1-15 of the Mandan Municipal Code related to fences, sight triangles and signs

WHEREAS, the Mandan Architectural Review Commission (MARC) reviews and approves the number, design and location of signs, and

WHEREAS, the sign guidelines that have been followed by the MARC are contained in a policy document, and

WHEREAS, changes in sign technology and the proliferation of various types of signs require an upgrade to how the city regulates signs, and

WHEREAS, it is difficult for the city to enforce a policy document used by a committee, and

WHEREAS, many of the issues related to signs are not design issues but operation and maintenance issues, and

WHEREAS, the requirements for a sight triangle apply to fences and vegetation as well as signs, and

WHEREAS, the requirements for a sight triangle that apply to fences need to be simplified and need to match the requirements that apply to signs, and

WHEREAS, wording needs to be added addressing vegetation in a sight triangle, and

WHEREAS, codifying sign requirements will allow the city to enforce the requirements.

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

Section 1. Sec. 105-1-2 is amended to read.

Sec. 105-1-2. - Supplementary provisions.

(2) *Projections into yards.*

a. _____-Steps, stairways, terraces and un-roofed porches or decks may extend into any minimum front or rear yard ~~not more than~~ up to six (6) feet and into any minimum side yard ~~not more than~~ up to four (4) feet, provided, however, that the floor thereof is no higher than that of the entrance to the building.

b. _____-Chimneys may extend into any minimum yard ~~not more than~~ up to two (2) feet.

c. _____ Business signs may be located in the front yard setback. If located within a sight triangle they must meet the dimensional requirements specified in Sec. 105-1-15 (j) (3).

d. _____-No such feature shall ~~extend~~ be located closer than three (3) feet to a lot line.

- (4) Fences and walls. Fences and walls may be placed in any yard setback area provided that the height of fences and walls adjacent to a street, alley or driveway shall be lowered to three (3) feet within a sight triangle as specified in Sec. 105-1-15 (j) (3). The building line and yard requirements of these regulations shall not apply to retaining walls or other walls or fences. Walls and fences must meet the following criteria:
- a. ~~Fence on corner lot. No wall or fence shall extend more than three feet above the top of curb within the areas identified herein in order to provide a clear sight triangle for drivers entering an intersection.~~
 - 1. ~~For each leg of an intersection that is uncontrolled, the clear sight triangle shall begin 25 feet back from the property corner measured along the property line.~~
 - 2. ~~Reserved.~~
 - 3. ~~For each leg of an intersection that is stop sign controlled, the clear sight triangle shall begin at a point ten feet behind the stop sign or 20 feet from the adjoining street curb line, whichever is less, as measured from each edge of the travel lane.~~
 - 4. ~~For each leg of a traffic light controlled intersection, the clear sight triangle shall begin at a point ten feet behind the stop bar or 15 feet from the intersecting street curb line, whichever is less, as measured from each edge of the travel lane.~~

(11) *Vegetation within sight triangle.*

- a. No new vegetation may be planted within a sight triangle for a street or alley unless it can be maintained such that it meets the requirements contained in Sec. 105-1-15 (j) (3).
- b. If possible, existing vegetation located within a sight triangle for a street or alley shall be maintained such that it meets the requirements contained in Sec. 105-1-15 (j) (3).
- c. Existing vegetation that cannot be maintained such that it meets the requirements of Sec. 105-1-15 (j) (3) need not be removed unless it creates an obvious danger to the ability of drivers and pedestrians to see past it on arterial or collector streets.

Section 2. Sec. 105-1-15 is created to read.

Sec. 105-1-15. – Signs

- (a) *Purpose.* The purpose of these sign requirements is to establish regulations that allow businesses to effectively convey information through signage while also maintaining a neat and orderly appearance. These regulations apply to new signs installed after adoption of these regulations and existing signs that are rebuilt or relocated. Permanent types of signs require a building permit and payment of the established fee. Permanent signs must meet building and utility code requirements.

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

Awning means a roof-like structure that is supported by a metal or wood frame.

Banner means a sign printed on lightweight, flexible material such as cloth, canvas or plastic that contains decorations and/or graphics or provides information to the public that is temporarily attached to a building or suspended between permanent poles or columns.

Bench sign means a place for people to sit that also contains wording and/or graphics advertising a business or activity.

Billboard means an off-premise sign constructed to industry standards that either advertises one business or contains an easily changeable face that can be rented by a business or multiple businesses for a period of time.

Canopy means a structure or architectural element, other than an awning, that is made of metal or other noncombustible materials and is either freestanding or attached to a building.

Canopy Sign means a message or identification which is affixed to or supported by a canopy.

Directional means an on-premise sign using arrows and/or words to assist with internal circulation that may contain the name or logo of an establishment but no advertising copy.

Display means a structure of any kind that is arranged, intended, designed or used as an advertisement, announcement or direction.

Electronic or Changeable Copy means a portion of a sign that includes a screen or letters, characters, or graphics that are not permanently affixed to the structure, that can be modified from time to time either electronically or manually.

Erect means to build, construct, attach, hang, place, suspend or affix.

Facing or surface means the part of a sign upon, against, or through which the message is displayed or illustrated.

Figurative wall mural means an illustration, diagram or design, not intended to sell a product or to advertise an establishment, that is used for aesthetic purposes or to enhance architectural features of a building.

Flag sign means a loose section of fabric or other flexible material designed to move with the wind that is attached to a lightweight pole which is either pushed into the ground or into some form of support.

Flashing means a pattern of changing light, pictures or wording for the purpose of drawing attention to the sign.

Frame effect means a defining element on an electronic message center sign applied to a single frame or to transition from one frame to the next.

Frame hold means the duration or interval of time during which each individual advertisement or message is displayed on any sign which is capable of sequentially displaying more than one advertisement or message on its display surface.

Freestanding means a sign supported by uprights or braces placed in or upon the ground surface with no attachment to any building.

Illuminated means a sign that has either internal or external lights or luminous tubes.

Marquee means a hood or awning of permanent construction projecting from the wall of a building above an entrance and extending over a sidewalk.

Marquee sign means a message attached to the face of a marquee.

Monument means a freestanding sign where the entire bottom of the sign is affixed to a base on the ground that fully supports the sign.

NIT means a unit of illuminative brightness equal to one candela (12.5 lumens) per square meter measured perpendicular to the rays of the source.

Non-conforming means a sign that was lawfully erected prior to the effective date of the ordinance that adopted this article and that fails to conform to any of the provisions of this article.

Obstructive means a sign erected with the purpose of hiding or covering from the view of the public an adjacent or nearby sign.

Off-premise means a sign advertising a business, person, service or product which is located or conducted elsewhere than on the premises where the sign is located.

On-premise means a sign advertising a business, service or major product located on that property.

Permanent means a sign not falling under the definitions of temporary or portable.

Pole means a free standing sign supported from the ground by one or two supports that are normally bare.

Portable means a sign designed to be transported, including inflatable devices and signs carried or attached to a trailer or vehicle unless such trailer or vehicle is used in normal day-to-day operations of the business.

Post and panel means a freestanding sign that does not have a base other than the support posts.

Privilege panel means a permanent sign provided by the distributor or manufacturer of a product which utilizes a portion of the sign to advertise a specific product with the rest of the sign allocated to identifying business located at the property upon which the sign is placed.

Projecting means a sign which is attached directly to a building wall and which extends more than twelve (12) inches from the face of the wall.

Pylon means a free standing sign supported from the ground by one or two supports that are normally shrouded.

Roof means a sign erected or constructed wholly upon or over the roof of a building.

Sign means any written announcement, demonstration, display, illustration, or insignia used to advertise or promote the interests of any person when the same is displayed or placed out of doors in view of the general public and shall include every detached sign or billboard and every sign attached to or forming a component part of any building marquee, canopy, awning, street clock, pole, parked vehicle or other object whether stationary or moveable.

Sign size means the message area of the sign without considering the structure of the sign.

Signable wall surface area means the portion of a building wall that is free of windows, doors or major architectural details.

Sight triangle means the area on each side of a driveway, the area at the intersection of two streets or the area at the intersection of an alley and a street that provides visibility along the street for drivers of vehicles, pedestrians and cyclists wishing to turn onto or cross the adjoining street or exit the property onto or across the street.

Streamer means one or more small, typically triangular, flags attached to a line or cable that can be tied or otherwise attached to a portion of a permanent structure or sign post.

Temporary means a sign that is designed to be used only for a limited period of time to advertise a special event or activity and includes banners, construction signs, finance signs, real estate signs, flag signs, political signs, portable signs and streamers.

Wall mount means a sign which is affixed parallel to the exterior wall of a building and which does not project more than twelve (12) inches from the surface to which it is attached nor does it extend beyond the top of any parapet wall.

Window means a sign which faces the exterior of the building and is applied in any manner to the window from either side.

(c) *Application for permit.* An application for issuance of a sign permit shall be submitted to the City of Mandan Building Department. An application shall include all necessary drawings and specifications showing dimensions and materials to be used on the sign. Required fees must be paid before an application will be processed. Fees for processing and issuance of a sign permit shall be set by action of the board of city commissioners. Actions requiring a permit include the following.

- (1) Alterations to an existing sign. No sign shall be altered except in conformity with the provisions of this policy. The changing of moveable parts of an approved sign that is designed for such changes, repainting the sign or reposting of display matter shall not be deemed an alteration provided the conditions of the original approval and the requirements of this section are not violated.
- (2) New signs.

- (3) Relocated signs. A sign that is moved to another location on the same premise or to another premise.
- (d) *Permit exemptions.* No permit shall be required for signs or outdoor display structures listed here. However, not having to get a permit does not relieve the owner of the sign from responsibility for its erection and maintenance in a safe and conforming manner to the requirements contained in this section.
- (1) Directional or instructional signs. Signs not exceeding four (4) square feet in area which provide direction, instruction or identify public facilities; are located entirely on the property to which they pertain; and do not in any way advertise a business.
 - (2) Political signs. Signs that meet the standards contained in this section.
 - (3) Professional name plates. Professional name plates not exceeding two (2) square feet in area.
 - (4) Real estate, construction and finance signs. These signs do not require a permit but signs larger than sixteen (16) square feet must be registered with the Building Department.
 - (5) Rental signs. Rental companies that provide portable signs to businesses must register with the Building Department and provide an inventory of where the signs are located by the 5th business day of each month in which they have a sign rented within the city. The inventory shall include the dates that the sign was or will be in place.
 - (6) Special displays. Decorative displays used for holidays, public demonstrations or promotion of civic welfare or charitable purposes and on which there is no commercial advertising.
 - (7) Store signs. Signs erected on a show window or on the door of a store or business establishment which announces the name of the proprietor and the nature of the business conducted therein as well as temporary signs placed in windows used to advertise a special product or sale.
 - (8) Street signs. Signs erected by the city for street direction.
 - (9) Transit directions. Signs designating the location of a transit line, a railroad station or other public carrier not more than three (3) square feet in area.
- (e) *Processing of application.* Upon receipt of a sign permit application, the Building Department shall schedule the application for review and approval by the Mandan Architectural Review Commission (MARC). The MARC meeting shall occur within thirty (30) days of receipt of the application. Once the MARC has reviewed the application and rendered a decision, the Building Department will process the application and issue any permit recommended by the MARC.
- (f) *Mandan Architectural Review Commission (MARC).* The MARC is responsible to apply the standards contained in this section when reviewing any sign application submitted to it. The MARC shall review the application and notify the Building Department of its determination. If the MARC approves the application, the Building Department will issue the appropriate permit. The MARC may attach any conditions it deems appropriate to any approval granted.

- (g) *Unsafe or unlawful signs.* The Building Department shall take whatever action is necessary to correct an unsafe condition with a sign or have an unlawful sign removed. If necessary, the Building Department may file a complaint with any court of competent jurisdiction.
- (1) Whenever any sign becomes insecure, in danger of falling or otherwise unsafe, the owner of the sign shall be notified by the Building Department and given a specified time to correct the problem.
 - (2) The Building Department shall order the removal of any sign that has been unlawfully installed, erected or maintained in violation of any of the provisions of this code.
 - (3) The Building Department shall notify the owner and lessee of a building or structure whenever a sign is so erected as to obstruct free ingress to or egress from a required door, window, fire escape or other required exit way and shall require appropriate corrective action within a specified time frame.
 - (4) Signs damaged by storm or accident shall be repaired to a safe condition by the owner of the sign at the direction of the Building Department within a specified period of time. Signs that present a clear and present danger to the public shall be removed or repaired within forty-eight (48) hours. Signs that are impeding traffic may be removed immediately by the city and the owner of the sign billed for the costs incurred by the city.
 - (5) Signs that are destroyed or removed shall not be re-erected, reconstructed, rebuilt or relocated unless the sign is made to comply with all applicable requirements of this section.
 - (6) A sign that no longer advertises a bona fide business or product is considered an unlawful sign and must be removed or covered.
- (h) *Non-conforming signs.*
- (1) A previously approved or permitted and properly maintained non-conforming permanent sign will be allowed until the building is remodeled to an extent greater than fifty percent (50%) of its value, a new business occupies the building or structural or dimensional changes are proposed for the sign.
- (i) *Maintenance and inspection.*
- (1) It shall be the duty and responsibility of the owner or lessee of every sign to maintain the sign in a clean, sanitary and healthful condition.
 - a. The sign, together with all supports, braces, guy wires and anchors, and individual letters and symbols shall be kept in good repair
 - b. Parts that are not galvanized or constructed of approved corrosion-restrictive materials shall be painted as necessary to prevent corrosion.
 - (2) Every sign for which a permit has been issued shall be inspected by the Building Department upon completion of erection or installation.
- (j) *General requirements and provisions.*

- (1) All signs shall be designed and constructed in conformity to the provisions for materials, loads and stresses of the adopted version of International Building Code Appendix H.
- (2) No sign shall be illuminated by other than electrical means and electrical devices. Wiring shall be installed in accordance with the requirements of the ND State Electrical Board. No open spark or flame shall be used for display purposes unless specifically approved in writing by the Building Department and the Fire Chief.
- (3) No sign shall be erected at the intersection of any street, alley or driveway in such a manner as to obstruct the sight triangle.
 - a. A sign shall not be located within a sight triangle if the portion of the sign or support posts between three (3) feet and ten (10) feet above the edge of the roadway will be greater than ten (10) inches wide.
 - b. The sight triangle for intersections that are not traffic light controlled is the area measured along the curb or edge of pavement of the street to a point with a straight line distance of twenty-five (25) feet from the curb or edge of pavement of the intersecting street.
 - c. No sight triangle is required for intersections that are traffic light controlled.
 - d. For intersections that are only partially controlled with stop signs, the sight triangle is only applied to the side streets that have stop signs.
 - e. For an alley or driveway, the other side of the triangle is measured perpendicular to the street along the curb or edge of pavement of the alley or driveway to a point that is a distance of fifteen (15) feet from the curb or edge of pavement of the street. Sight triangles for alleys or driveways in commercial or industrial districts are not required but are recommended. Sight triangles for alleys and driveways in residential districts are not required.
 - f. In zoning districts with a zero front yard setback, the depth of the sight triangle is limited to the boulevard area of the public right-of-way.
 - g. Where existing conditions on a lot limit the options for location of a sign, the applicant may request that the MARC approve location of a designated type of sign within the limits of the sight triangle for a specific site. The reasons for the approval of the location must be documented in the minutes of the MARC meeting.
- (4) No sign shall be erected that closely resembles or approximates the size, shape or form of an official traffic regulation sign or marker.
- (5) No private sign shall be attached to a public building or structure, a utility pole or any existing public signage.
- (6) The light for a sign shall not be directed into any residential dwelling or towards any oncoming vehicle.

- (7) Signs, other than window signs, containing or utilizing flashing, rotating, or moving lights shall be prohibited unless they are used solely for public safety, e.g. construction markers.
- (8) The use of laser lights, strobe lights, searchlights, beacons and similar upward or outward oriented lighting as part of any sign is prohibited.
- (9) No sign or wall mural shall be painted on any building without prior approval from the MARC.
- (10) No sign shall be attached to, affixed to, painted or drawn on trees, shrubs, rocks, other natural features or organic material unless approved by the MARC or the city commission for a specific site or application. Certain species of wood products may be used for construction of a sign with approval of the MARC or city commission.
- (11) No Permanent sign shall use fluorescent type coloring such as that known as “day-glow”.
- (12) No sign shall be attached to the stairwell railing of a basement business unless a site specific waiver of this requirement is approved by the MARC or the city commission.
- (13) Obstructive signs are prohibited.
- (14) No advertising sign within three hundred (300) feet of a residentially zoned area shall have any bulb that is greater than eleven (11) watts of incandescent lighting or generate more than one hundred sixty-five (165) lumens in light brightness. Public service information signs and other electronic message signs permitted within an area zoned for commercial or industrial use shall have a bulb no greater than seventy-five (75) watts of incandescent lighting or generate more than one thousand one hundred twenty-five (1125) lumens of light brightness.
- (15) Illuminated signs are permitted for buildings housing three (3) or more dwelling units.
- (16) No sign shall hide from a driver’s view or interfere in any material degree with the effectiveness within five hundred (500) feet of any traffic control device, sign or signal.
- (17) No advertising sign, by reason of location, position, shape, or color may be designed to be confused with any public sign. The use of cautionary words such as: “stop”, “danger”, “caution”, “beware” or similar words is prohibited.
- (18) No sign shall contain statements, words, or pictures of an obscene, indecent, pornographic, or immoral character.
- (19) Except for sidewalk signs in the downtown commercial area and signs above sidewalks, no sign shall be allowed in the public right-of-way unless otherwise provided for in this section.
- (20) Signs that can only be accessed from a state controlled roadway must have written approval from NDDOT.
- (21) No motorized vehicle or trailer on which is attached thereto or located thereon any sign or advertising device that provides the advertisement of products, services, or directs

people to a business may be parked in a public right-of-way or on public property. This subsection shall not apply to vehicles that have been decorated with signs or messages advertising a business or product or to vehicular signs that are attached to or affixed on a motor vehicle used in the normal day-day-day operations of a business.

- (22) No sign shall be permitted to obstruct any window, door, fire escape, stairway, or opening intended to provide air, ingress or egress for any building or structure.
- (23) Audio speakers or any form of pyrotechnics are prohibited on or in association with a sign.

(k) *Zoning district requirements.*

- (1) On single family and two family residentially zoned lots or subdivisions the following sign standards shall apply.
 - a. Each lot may have one (1) sign not exceeding two (2) square feet in area. The sign may be of a wall, foundation or projecting type. Signs may not project past the property boundary. House numbers are not counted as a sign.
 - b. For existing subdivisions, one (1) sign not exceeding twelve (12) square feet in area identifying the subdivision is allowed at each principal entrance.
 - c. For existing subdivisions that were platted more than two (2) years ago, one (1) sign not exceeding six (6) square feet in area may be erected at each principal entrance to the subdivision advertising property for sale or rent within the subdivision.
 - d. For new subdivisions that were platted less than two (2) years ago, one (1) sign not exceeding thirty-two (32) square feet in area may be erected at each principal entrance to the subdivision advertising lots or dwellings for sale within the subdivision.
 - e. No sign shall be illuminated.
- (2) In business and industrial zoning districts and residential lots containing three (3) or more dwelling units the following sign standards shall apply.
 - a. Each business on a lot containing one or two businesses may have an individual freestanding sign. Lots with more than two businesses must share any freestanding signage. The MARC shall determine the number of signs allowed on any lot with multiple businesses.
 - b. Each business may have one (1) projecting, roof or marquee sign per building side.
 - c. Each business may have one (1) wall sign per building side, unless the MARC approves a site specific waiver to allow more than one (1) sign per building side.
 - d. Each multi-family residential lot may have up to two (2) signs.

(1) *Awnings and awning signs.*

- (1) Awnings may extend from a building over the public right-of-way two (2) feet less than the distance from building to curb. Such structures shall be at least eight (8) feet above the sidewalk or ground grade line. Suspended signage or valances shall be at least eight (8) feet above the sidewalk or ground grade line.
- (2) Awnings should complement the building architecture. Awning shape, color, material, and location on the building shall be compatible with the building architecture and relate well to the dominant architectural features.
- (3) Signs will be allowed on the band or the valance. Signs on a sloped surface shall be at the discretion of the MARC. The sign band shall be no greater than twelve (12) inches in the downtown commercial area. Signs shall not be the dominant feature of an awning.
- (4) Awnings in historic areas and on historic buildings should respect the history of the area and buildings. Historic colors, styles, and mounting locations based on research, old photographs, and historic records are encouraged.
- (5) Awnings should generally be located to fit within window and/or door recesses.
- (6) A uniform shape, color, and placement should be used when multiple awnings are proposed for a single building. New awnings should generally match any existing awnings on the building. Existing inconsistent awning styles of a building do not justify approval of additional or new awning styles. Inconsistent awning styles are to be reduced, not increased with new awning approvals.
- (7) Individual awning proposals for multi-tenant buildings will be evaluated as to their acceptability as a model for use by all other similarly located tenants in the buildings.
- (8) Awnings shall be approved by the MARC if installed under significant eave overhangs, cantilevers, or other prominent architectural projections.
- (9) In the downtown commercial area, day-glow colors, reflective materials and illuminated back lighting of transparent materials are not allowed unless a site specific waiver of this restriction is granted by the MARC.
- (10) Solid colors or low contrast, non-jarring patterns are generally acceptable awning color treatments.
- (11) Fabric awnings shall not be painted.
- (12) Awnings shall be maintained in good repair with a clean and attractive appearance as long as they are installed on the building. Torn, bent and/or faded awnings shall be repaired, replaced or removed.
- (13) An application for an awning that is submitted to the MARC shall include a sample of the proposed awning material to show color, texture and finish.

- (14) If any upper story window is treated with an awning, then all upper story windows on that side of the building shall be treated with awnings, unless another design is approved by the MARC.
- (m) *Basement business signs.*
- (1) When only one business is utilizing a basement area, an appropriate wall sign may be provided.
 - (2) When two businesses exit from the basement of a building, appropriate signs or directories to such businesses may be provided on the wall over the entrance to the basement and coordinated with other building signs.
 - (3) Signs or directories shall not exceed nine (9) square feet in area.
- (n) *Benches or structures with signage.*
- (1) The total number of bench signs located in any district shall be limited and approved by the MARC.
 - (2) Bench signs shall not be located closer than seventy-five (75) feet to one another (measured from base to base).
 - (3) Maximum height of four (4) feet.
 - (4) Maximum sign area of twenty (20) square feet.
 - (5) Only one advertising panel advertising one business is permitted per bench.
 - (6) Bench rental companies shall be licensed with the City.
 - (7) All signs and structures shall be properly maintained, well-kept and in good condition.
 - (8) If signage is out of date, the signage or the structure shall be removed or replaced.
 - (9) Signs must advertise Mandan businesses or events if they are located within public right-of-way.
 - (10) MARC must review and recommend the design and content of any bench sign that will be located in public right-of-way. The city commission must grant approval for any bench sign that is to be located in public right-of-way. City commission may include conditions or design requirements with its approval.
- (o) *Billboard signs.*
- (1) No billboard sign shall exceed a height of forty (40) feet above the lot grade of the adjacent roadway.
 - (2) The exposed upright or super structure of billboard signs shall be of non-corrosive metal materials or be painted a color so as to blend with the surrounding environment.

- (3) Billboard signs shall be of all steel or similar material, constructed and designed in accordance with the Mandan Building Code.
 - (4) There shall be a minimum of three hundred (300) feet between billboards.
 - (5) All billboards shall meet City, State and Federal requirements and must be located totally on private property.
- (p) *Canopy and canopy signs.*
- (1) Canopies and canopy signs attached to a building may extend from the building into the public right-of-way to a point within two (2) feet of the back of curb or edge of pavement where there is no curb. No portion of such a structure or anything attached to the structure shall be lower than eight (8) feet above the sidewalk or ground grade line.
 - (2) Canopy signs shall not extend more than twelve (12) inches above or below a canopy.
 - (3) Canopy signs shall not extend closer than three (3) inches to any edge of a canopy.
 - (4) Canopy signs may be located beneath or above an overhead canopy but shall not project lower than eight (8) feet above the sidewalk.
 - (5) There shall be only one (1) canopy sign per business on each street exposure unless otherwise approved by the MARC.
 - (6) Canopies should complement the building architecture. Canopy shape, color, material, and location on the building shall be compatible with the building architecture, relate well to the dominant architectural features, and not cover up or hide handsome materials or important details.
 - (7) Canopies in historic areas and on historic buildings should respect the history of the area and buildings. Historic colors, styles, and mounting locations based on research, old photographs, and historic records are encouraged.
 - (8) Individual canopy proposals for multi-tenant buildings will be evaluated as to their acceptability as a model for use by all other similarly located tenants in the buildings.
 - (9) Solid colors and/or low contrast, non-jarring patterns are generally acceptable canopy color treatments.
 - (10) All applications for canopies shall include a sample of the proposed awning material to show color, texture, and finish.
 - (11) If any upper story window is treated with a canopy, then all upper story windows shall be treated with canopies or as otherwise approved by the MARC.
- (q) *Electronic signs.*
- (1) Flashing is prohibited.

- (2) The City reserves the right to require any sign to be modified based on display message including timing or frame changes or effects of movements displayed.
- (3) Ground signs, as defined by the IBC Appendix H102 and commonly referred to as billboards or off-premise signs, are permitted in commercial and industrial districts. When adjacent to federal or state aid highways, all NDDOT standards for design and approval must be followed. In those districts where permitted, ground signs must be spaced at least three hundred (300) feet apart along the roadway. Ground signs may not exceed sixteen (16) feet by fifty (50) feet per face of sign in size (multiple faces must be treated as one face), and the support structure and sign may not exceed fifty (50) feet in height, measured from the top of the nearest curb line to the top of the sign or structure. Additional requirements for digital billboards are included elsewhere in this section.
- (4) No electronic message center sign installed after January 1, 2010 shall be permitted to operate unless it is equipped with:
 - a. A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and
 - b. A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell.
- (5) An electronic message center sign installed prior to January 1, 2010 shall be allowed to continue operation provided the brightness of the sign does not exceed a maximum illumination of five thousand (5,000) NITS during daylight hours or a maximum illumination of seven hundred fifty (750) NITS between one-half hour before sunset to one-half hour after sunrise as measured at the sign's face at maximum brightness. These illumination levels may be set manually or by an alternative method approved by the Building Official.
- (6) Only one (1) electronic message center sign shall be allowed per property.
- (7) The electronic message center sign portion of any sign shall not exceed the area specified in the table below. The maximum size is based on the type of zoning district in which the sign is located and the functional classification of the roadway adjacent to the sign or fifty (50) percent of the total sign area, whichever is less.

Zoning District	Functional Classification of Adjacent Roadway				
	Interstate	Principal Arterial	Minor Arterial	Collector	Local
Industrial	100 sf	100 sf	72 sf	48 sf	32 sf
Commercial	100 sf	100 sf	72 sf	48 sf	32 sf
Neighborhood Commercial	72 sf	72 sf	48 sf	32 sf	32 sf

- (8) Electronic message center signs shall be subject to the following operational requirements:
 - a. The sign shall have a frame hold time of no less than one (1) second. The use of animation and background animation is allowed and is not subject to the one (1) second frame hold time requirement.

- b. Entrance and exit effects may be used to transition from one frame to another, provided said entrance effects result in all of the text within the frame appearing at once or in the order that the text is normally read (including, but not limited to, scrolling from right to left or scrolling from bottom to top entrance effects). Entrance effects where all of the text within the frame does not appear at once or in the order that the text is normally read are prohibited (including, but not limited to, scrolling from left to right, scrolling from top to bottom, and entrance effects referred to as slot machine, slots, splice, mesh, radar, kaleidoscope and spin). There are no limitations on the types of exit effects used. Except for such transitions, each frame shall remain static with no additional frame or hold effects applied to text within the frame (including, but not limited to, the fading or flashing on any part of the message and hold effects referred to as flash, spin, twinkle, wavy and rumble). The use of bijou lights as a frame effect is allowed.
 - c. The use of streaming video or full-motion video on any electronic message center sign is prohibited.
- (9) Electronic message center signs located within three hundred (300) feet of any residentially zoned district, as measured from any part of the sign to the nearest property line within any residential zoning district, are subject to the following additional requirements:
- a. The sign shall not exceed thirty-two (32) square feet in area, or fifty (50) percent of the total sign area, whichever is less.
 - b. Between 7:00 a.m. and 10:00 p.m., the sign shall be allowed to operate. Between 10:00 p.m. and 7:00 a.m., the sign shall only display static images with a frame hold time of no less than three (3) seconds and shall be limited to instantaneous transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.
- (10) An electronic message center sign cannot be installed on an existing sign that is nonconforming unless the entire sign is brought into compliance with all applicable provisions of this chapter.
- (11) No portion of any existing sign shall be replaced with an electronic message center sign unless a sign permit is obtained for the new electronic message center sign.
- (12) Digital billboards must be located at least three hundred (300) feet from any other non-digital ground sign (billboard), at least twelve hundred (1,200) feet from any other digital billboard, and at least five hundred (500) feet from an interstate interchange, as measured from any part of the sign to the nearest portion of any part of any other billboard sign on the same side of the roadway or to the nearest right-of-way line of the interchange. Digital billboards that face state or federal highways are subject to NDDOT regulation.
- (13) Digital billboard signs shall have a frame hold time of no less than seven (7) seconds and must transition instantaneously from one static image to another static image without any special effects. The use of streaming video, full-motion video, and animation or frame effects is prohibited.

(r) *Marquee and marquee signs.*

- (1) Marquees and marquee signs attached to a building may extend from the building into the public right-of-way to a point within two (2) feet of the back of curb or edge of pavement where there is no curb. No portion of such a structure or anything attached to the structure shall be lower than eight (8) feet above the sidewalk or ground grade line.
- (2) A sign attached to the face of a marquee may not exceed three (3) feet above the top edge of the marquee and not to extend below the marquee's lower edge.
- (3) Marquee signs shall be constructed entirely of approved materials and size.
- (4) Marquee signs may extend the full length but in no case shall they project beyond the ends of the marquee.

(s) *Monument signs.*

- (1) A monument sign shall be solid from the grade to the top of the structure using non-flammable architectural materials.
- (2) The minimum setback is ten (10) feet from the property line or sight triangle, whichever is greater.
- (3) The maximum allowable height of a monument sign is twelve (12) feet unless the sign is set back farther from the property line or sight triangle. For each additional two (2) feet of setback, the height of the sign can be increased by one (1) foot up to a maximum sign height of sixteen (16) feet.
- (4) Monument signs may be incorporated into a retaining wall or masonry wall.
- (5) The bottom edge of the sign portion of a monument sign must be in continuous contact with the base and be a minimum of twelve (12) inches above grade.
- (6) Monument signs must be placed within a landscaped area.

(t) *Post and panel signs.*

- (1) A post and panel sign shall be no taller than twelve (12) feet off the ground.
- (2) No part of the sign may encroach on the sight triangle.
- (3) The bottom edge of a post and panel sign must be a minimum of twelve (12) inches above grade and must be placed within a landscaped area.
- (4) The support posts must be made of a non-flammable material or as otherwise approved by the MARC.

(u) *Projecting signs.*

- (1) The bottom edge of the sign board, or of any affixed devices, must be at least eight (8) feet above grade.

- (2) A projecting sign or any part thereof may not project more than thirty-six (36) inches from the face of the supporting building, not be within less than two (2) feet of the back of the curb, not be more than ten (10) feet in height and not be greater than thirty (30) inches in width.
 - (3) No projecting sign shall extend more than four (4) feet above a building roof eave or parapet.
 - (4) No projecting sign shall originate from other than a front wall of the building. The maximum square footage for sign face is fifty (50) square feet unless otherwise approved by the MARC.
 - (5) No projecting sign shall be permitted in any alleyway.
- (v) *Pylon and pole signs.*
- (1) No pylon or pole sign shall extend into a public utility easement or right-of-way.
 - (2) Unless a greater height is approved by the MARC for a specific property, the maximum pylon or pole sign height is twenty-five (25) feet in the downtown commercial area; forty (40) feet in the other commercial and industrial districts; and sixty (60) feet in the Gateway Overlay Zone.
 - (3) The sign portion of a pylon or pole sign shall be a minimum of ten (10) feet above the top of curb or surrounding grade, whichever is higher. The clearance shall be a minimum of thirteen (13) feet within a vehicle parking or travel area.
 - (4) For single business properties with sufficient frontage, multiple pylon or pole signs will be allowed provided they can be set back from the adjacent or adjoining lot line a minimum of twenty-five (25) feet and are no closer to each other, as measured parallel to the property frontage, than one hundred fifty-five (155) feet or otherwise as approved by the MARC.
 - (5) A pylon or pole sign's support shall originate from the surface of the ground only and be made of non-flammable material.
 - (6) Pylon or pole signs may be used as a directory for more than one business.
- (w) *Roof signs.* Roof signs shall not project above the roof peak (this includes mounting brackets).
- (x) *Sidewalk signs.*
- (1) All signs must be self-supporting and not be attached to any other structure or object.
 - (2) One (1) sign of this type will be allowed per place of ground level business.
 - (3) The maximum width of a sign shall be two and one half (2.5) feet, a minimum height of three (3) feet and a maximum height of four (4) feet.
 - (4) The sign support and base shall not extend beyond the edge of the sign.

- (5) A sign shall be placed only where a minimum width of three (3) feet for pedestrian movements can be maintained.
- (6) This type of sign is allowed only within a business district.
- (7) Signs may be placed on the sidewalk only during hours of operation and must be stored inside the building during non-business hours.
- (8) Signs may be used for on-premise advertising only.
- (9) Signs shall not be illuminated.
- (10) Streamers, flags or banners shall not be attached to the sign or use the sign as an anchor.

(y) *Temporary signs.*

- (1) Temporary signs are not to be used as a substitute for erecting a permanent sign. Temporary signs are to be used for short duration events that do not occur on a regular basis. Activities that repeatedly occur throughout the year are to be publicized using permanent signage.
- (2) Use of off-premise temporary signs is limited to a maximum of 30 days per event, activity or function. Off-premise temporary or portable signs may be used only in places where they meet all city, state and federal regulations. Temporary or portable off-premise signs are treated the same as permanent billboards under federal law administered by NDDOT. Signs proposed to be located along federal aid routes that are impacted by the federal rules regulating off-premise signs must receive written permission from NDDOT. A copy of the written permission from NDDOT must be presented to the city building department prior to sign installation. Off-premise temporary or portable signs can be no closer together than 100 feet along a state highway.
- (3) The owner of a property where a temporary or portable off-premise sign is to be placed must provide the city with written permission for the placement of the sign prior to installation of the sign.
- (4) Except for the requirements for construction, finance and real estate signs and political signs; each type of temporary sign is limited to two hundred forty (240) days per calendar year per property.
- (5) Banner signs are limited to three (3) per property. The total area of all banner signs on a wall may not be larger than twenty percent (20%) of the wall surface area of the wall to which they are attached or which they are in front of.
- (6) Construction, finance and real estate signs.
 - a. Construction and finance signs may be displayed during the duration of the construction phase of a project and must be removed within thirty (30) days after receiving a certificate of occupancy.

- b. Signs indicating that an individual lot is for sale, sold, for rent or for lease are limited to sixteen (16) square feet in size.
- c. Signs indicating that a large, undeveloped property is for sale are limited to forty-eight (48) square feet in size unless a larger size is approved by the city engineer for a specific parcel.
- d. Open house signs advertising a one or two day event that are no greater than thirty-six (36) inches in height and in place for less than forty-eight (48) hours may be placed in the public right-of-way provided that they are located at least one (1) foot behind the back of curb or three feet off the pavement where no curb exists. Other types of real estate signs or signs that will be in place for more than forty-eight (48) hours may be authorized by city commission to be placed in the public right-of-way.
- e. Once a property has been sold, the sale sign must be removed within thirty (30) days after closing.
- f. Parade of Homes signs shall conform to the following requirements.
 - 1. The signs shall be placed at least one (1) foot behind the back of curb or three (3) feet off the edge of pavement where no curb exists.
 - 2. The signs may be in place for no more than twelve (12) days twice each year.
 - 3. The signs shall be located no closer than one hundred (100) feet to an intersection as measured from the pedestrian crossing or stop bar.
 - 4. The signs shall not be attached to trees, traffic control signs, traffic signal poles or street light poles.
 - 5. No ribbons, balloons, streamers, lighting or ancillary devices may be attached to the signs.
 - 6. The Bismarck-Mandan Home Builders Association shall be responsible for any costs incurred during installation or removal of the signs.
 - 7. The signs shall not be higher than three (3) feet above the road surface.
- (7) Flag signs are limited to one (1) per twenty (20) feet of lot frontage with a limit of five (5) per lot.
- (8) Political signs. Political signs shall follow North Dakota Century Code (NDCC) regulations.
- (9) Portable signs.
 - a. All companies that rent portable signs to customers within the City must be licensed with the City and carry liability insurance in a form and amount

specified by the city. Each rental sign shall have the rental companies name and phone number clearly visible on the sign.

- b. All portable signs and sign lettering shall be properly maintained, well-kept and in good condition. The city may order removal of a sign that is not advertising a current event or is not being maintained in good condition.
 - c. No ribbons, balloons, streamers, lighting or ancillary devices may be attached to any portable sign.
 - d. Each property is allowed one (1) portable sign. Larger properties may have more than one (1) portable sign as long as they are placed a minimum of one hundred fifty-five (155) feet apart.
 - e. Maximum square footage for a portable sign shall be sixty-four (64) square feet and maximum height shall be eight (8) feet. The portable sign shall not be illuminated or electronic.
 - f. The Owner of each rented portable sign shall submit a monthly report to the Building Department showing days in use and the location of the sign.
 - g. “Floppy guy” signs are a type of portable sign.
- (10) Streamers may be strung on a line or cord no longer than three (3) times the width of the lot.

(z) *Wall signs.*

- (1) Wall signs shall be securely fastened to the wall of a building by its supporting structure.
- (2) Wall signs placed against exterior walls of buildings and structures shall not extend more than twelve (12) inches from a wall’s surface. The lowest edge of such sign shall be a minimum of eight (8) feet above grade unless a lower height is approved by MARC.
- (3) No combination of wall signs and supports shall exceed twenty (20) percent of the signable wall surface area up to a maximum of two hundred (200) square feet unless other limits are approved by the MARC.
- (4) Signs printed directly on exterior walls or surface of a building shall be prohibited.
- (5) No wall sign shall extend beyond the width of a building or project above the roof eave.
- (6) Wall signs advertising products or services not related to the primary business shall be approved by the MARC.
- (7) Second floor businesses can utilize wall signs to advertise their establishments but must do so between floors and not below their floor.
- (8) A wall sign shall not obstruct the required door or exit window of any building nor shall it be attached to or placed on fire escapes.

(aa) *Window signs.*

- (1) No paper or solid surface signs shall be permitted on a second floor window or above.
- (2) No window signs shall advertise or identify a business other than the one contained therein.

Section 3. Sec. 105-1-2 is reenacted and Sec. 105-1-15 is enacted as presented.

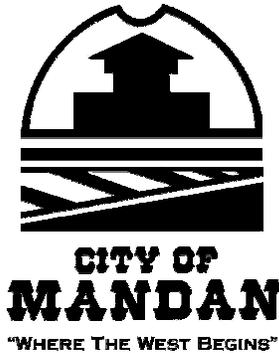
Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer
City Administrator

First Consideration:

Second Consideration and Final Passage:



Board of City Commissioners

Agenda Documentation

MEETING DATE:	November 15, 2016
PREPARATION DATE:	November 10, 2016
SUBMITTING DEPARTMENT:	Water Treatment Facility
DEPARTMENT DIRECTOR:	Justin Froseth, Planning and Engineering Director; Duane Friesz, Facility Superintendent
PRESENTER:	Justin Froseth, Planning and Engineering Director
SUBJECT:	Consider accepting more SWC funding and amending agreement with AE2S

STATEMENT/PURPOSE: Consider approval of increased State Water Commission funds and amend agreement with AE2S to provide engineering services for Sunset Booster Station and Instrumentation and Controls (I&C) Improvements project.

BACKGROUND/ALTERNATIVES: AE2S was selected to be the project's engineer in July of this year. As a result of their early project investigation, it was realized at that time that to meet the demands in the growing northwest area of Mandan, the project scope would need to increase from what was originally thought last year when the State Water Commission (SWC) funding application was submitted. Because of the increase in scope, the city at that time decided to enter into agreement for preliminary design only with the intent to apply for that additional funding and perhaps amend the contract for complete design and bidding services if successful in receiving the additional SWC funds.

Recently, the SWC sent the city a letter indicating that our request to increase the SWC funding share for this project has been granted. In order to accept the increase in funds, city commission must approve that as well. In step with receiving the additional SWC funds, agreeing to the amended amount and services with AE2S would be appropriate to move forward to final design and bid planned for early in 2017.

This project has two main components. These components have enough relatability to warrant one project and take advantage of economies in bidding one larger project;

- 1) The Sunset Booster Pump Station is located just off of Old Red Trail near 37th St. NW and serves the northwest area of the City. This area is experiencing rapid growth increasing demands on the water system. There are periods of time when the pumps see high demands and it was determined an upgrade will ensure system demands are met. Phase I will allow the pump station to meet all current peak flow demands from new growth areas.

- 2) Growth in the Mandan system has resulted in new demands being placed on the distribution system. To provide better operational data and meet the growing service needs, the I&C system needs to be upgraded to match I&C upgrade include with the water treatment facility improvements. The water system demand increases have created the need for the pump stations, meters, and check points to operate in a more complex manner in order to accurately monitor and adjust system variables. Five remote pump stations/reservoir sites currently are not properly equipped to handle the new system challenges spurred by growth. This project will upgrade their current I&C equipment and integrate it into the overall system.

ATTACHMENTS:

1. Amendment #1 to SWC cost share amount.
2. Cost share amount adjustment request
3. Amendment #1 to engineering services agreement with AE2S

FISCAL IMPACT: The agreement for the design and bidding services for this project estimates the cost to be \$112,000. The city will pay AE2S hourly up to that amount and will have to bring back to commission for approval if the amount is expected to exceed that. The SWC grant assumes the funding responsibility for 35% for design and 60% for construction and construction engineering. Therefore, the city's share based on this estimate would be $\$112,000 \times 65\% = \$72,800$. This amount is budgeted out of the utility fund.

STAFF IMPACT: Planning and Design Coordination

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

RECOMMENDATION: Accept additional SWC funding and the amendment with the AE2S agreement.

SUGGESTED MOTION:

- 1) I move to approve of Amendment #1 with the State Water Commission to accept the increased funding match.
- 2) I move to approve of Amendment #1 with AE2S for final design and bidding tasks for the Sunset Booster Station and Distribution Control Improvements project.



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
(701) 328-2750 • TTY 1-800-366-6888 • FAX (701) 328-3696 • <http://swc.nd.gov>

October 27, 2016

Mr. Arlyn Van Beek, Mayor
City of Mandan
205 2nd Ave. NW
Mandan, ND 58554

RE: City of Mandan Water System Improvements Project 2015

Dear Mayor Van Beek:

The enclosed Amendment I to the Agreement for Cost-Share Reimbursement Mandan Water System Improvements Project 2015 is to provide an additional cost-share of up to \$292,360 to reimburse 35 percent of pre-construction engineering and 60 percent of construction engineering and construction of the actual eligible costs incurred. Please sign, date, and make a copy of the amendment for your records before returning the original to this office. The signed amendment is necessary to proceed with reimbursements to Mandan based on claim vouchers documenting the actual eligible costs.

If you have any questions, please call me at 328-4952.

Sincerely,



Jeffrey Mattern, P.E.
Engineer Manager

JNM:JPT:pdh/2050-MAN

SWC Project No. 2050-MAN
Project Manager: JMatern
October 2016

**AMENDMENT I to the
Agreement for Cost-Share Reimbursement
Mandan Water System Improvements Project 2015**

1. **Background.** In January 2016, the State of North Dakota (State), by and through the State Water Commission (Commission), and the city of Mandan (Sponsor) entered into the Agreement for Cost-Share Reimbursement for Mandan Water System Improvements Project 2015 (Agreement).

2. **Intent.** The intent of the parties here is to amend the Agreement to provide an additional cost-share of up to \$292,360 to reimburse 35 percent of pre-construction engineering and 60 percent of construction engineering and construction of the actual eligible costs incurred in Sponsor's Water System Improvements Project 2015 (Project).

3. **Agreement.** Commission and Sponsor agree to amend the Agreement as follows:

a. **Replace all of the language in paragraph 2 ("COMMISSION'S RESPONSIBILITY AND INTENT") with the following language:**

Commission will provide Sponsor with cost-share, not to exceed \$2,582,535, as approved by Commission on October 6, 2015, and October 12, 2016, to reimburse actual eligible costs for 35 percent of pre-construction engineering and 60 percent of construction engineering and construction costs incurred in Sponsor's Water System Improvements Project 2015 (Project), contingent on availability of funds and conditions of this agreement. Commission's intent in providing this funding to Sponsor is merely to help Sponsor financially afford Project. Sponsor retains sole and absolute discretion in the manner and means of carrying out Project, except to the extent specified in this agreement.

b. **Replace all of the language in paragraph 4 ("PROJECT DESCRIPTION AND LOCATION") with the following language:**

Project includes constructing three water supply infrastructure improvements to address the continued population growth. The estimated cost is \$4,484,847 for the following improvements:

- a. High Service Optimization Phase 1.
- b. Instrumentation and Controls Upgrades.
- c. Sunset Booster Station Pumps.

**NORTH DAKOTA STATE WATER
COMMISSION**

By: 
GARLAND ERBELE, P.E.
Chief Engineer - Secretary

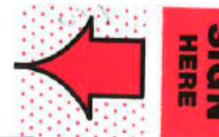
Date: Oct. 24, 2016

CITY OF MANDAN

By:


~~ARLYN VAN BIECK~~
Mayor Tim Heubling

Date: _____





CITY OF MANDAN

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

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

CITY DEPARTMENTS	
ADMINISTRATION	667-3215
ASSESSING/BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3223
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
WASTEWATER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

September 14, 2016

Mr. Jeffrey Mattern
North Dakota State Water Commission
900 East Boulevard Avenue
Bismarck, ND 58505-0850

**RE: Request for Additional Funding – Mandan Sunset Booster Improvements
Mandan, North Dakota**

Dear Mr. Mattern:

Please accept this request letter for consideration to provide additional funding to further assist the City of Mandan with project cost share under the existing cost share agreement (SWC Project No.2050). An explanation as to why the cost have increased, a schedule of major project events and cost comparison of original to existing cost are provided below. Also attached is an updated cost share request form for consideration.

Explanation of Project Changes

The original project scope was based on the 2007 Master Plan study which identified the new need to upgrade the facility in anticipation of residential and commercial growth in the service area. The project included upgrading domestic pump capacity and revising electrical systems to increase the firm capacity to from 750 gpm to 1250 to accommodate projected growth in zone 2100. This would require replacing existing pumps, motors, and electrical equipment to three 625 gpm pumps. It was anticipated the existing electrical equipment could be placed within the existing electrical cabinetry.

The city developed a Land Use Plan which projected population growth within the service. Using the population growth it was concluded the service area will need a firm capacity of 1,850 gpm to service the area.

To verify the projections, actual pumping conditions were assessed for the most recent high flow period during the 2014, 2015 and 2106 summer seasons. From this data it was determined the pumps the pumping needs were 1,137gpm, which coincided closely with the Land Use Plan projections. With this background the decision was made to increase firm capacity to 1350 gpm in 2016 with provisions to upsize the pumps in the future. Meeting the 1350 gpm capacity will require the installation of a new transformer, main breaker and larger motor controls. This new equipment cannot be housed in the existing building as the footprint for the building is much too small and the logistics to maintain operation during are not possible. To accommodate this new equipment and maintain flow during construction a new 24' x 16' electrical room will be added.

The addition of the electrical room, site modifications, and new transformer account for the majority of project cost increases.

Board of City Commissioners
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 Meeting Date: November 15, 2016
 Subject: Consider accepting more SWC funding and amending agreement with
 AE2S
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Mr. Jeffrey Mattern
 North Dakota State Water Commission
RE: Request for Additional Funding – Mandan Sunset Booster Improvements
 September 14, 2016
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The addition of the electrical room, site modifications, and new transformer account for the majority of project cost increases.

Cost Comparison (2015 Master Plan Costs vs 30% Design costs)-

The original costs were developed in the 2007 Masterplan and were adjusted to 2015 dollars in the 2015 request for cost share. The 30% design costs were developed as the project details were developed and reflect 2016 project costs. The following cost comparison is provided to identify the changes from 2015 to 2016:

Division	Original 2015 Costs	Current 2016 Costs	Change Amt.
1.0 General Conditions	\$13,136	\$59,000	\$45,864
2.0 Sitework	\$6,200	\$67,500	\$61,300
3.0 Concrete		\$92,000	\$92,000
4.0 Masonry		\$1,000	\$1,000
5.0 Metals		\$1,000	\$1,000
6.0 Wood		\$5,000	\$5,000
7.0 Insulation		\$11,900	\$11,900
8.0 Doors/ Windows		\$7,300	\$7,300
9.0 Finishes		\$2,400	\$2,400
10.0 Specialities		\$900	\$900
11.0 Process Equipment	\$186,250	\$165,500	(\$20,750)
15.0 Mechanical Construction		\$28,000	\$28,000
16.0 Electrical Construction	\$135,750	\$261,535	\$125,785
Total Probable Construction Costs	\$341,336	\$703,035	\$361,699
Contingencies	\$34,134	\$70,304	\$36,170
Construction Estimate	\$375,470	\$773,339	\$397,869
Design Engineering	\$30,150	\$90,385	\$60,235
Construction Engineering (10%)	\$33,010	\$87,270	\$54,260
TOTAL OPC	\$438,630	\$950,994	\$512,364
SWC Cost Share	\$255,640	\$548,000	\$292,360
City Cost Share	\$182,989	\$402,994	\$220,004

Board of City Commissioners

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AE2S

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Mr. Jeffrey Mattern
North Dakota State Water Commission
RE: Request for Additional Funding – Mandan Sunset Booster Improvements
September 14, 2016
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Project Mileposts Schedule

The project is ready to go final design pending decision of the additional cost request. The major mileposts are as follows:

Final Design Completed:	December 2016
Project Bid:	January 2017
Construction Completed:	December 2017

We respectfully request the State Water Commission's consideration for the additional funding as outlined above. Thank you and if you have any questions regarding the projects, please feel free to contact me at (701) 667-3227.

Sincerely,



Justin Froseth PE
Director of Planning and Engineering, City of Mandan

**AMENDMENT NO. 1
TO
AGREEMENT BETWEEN OWNER AND
ENGINEER FOR PROFESSIONAL SERVICES
DATED
November 1, 2016**

This Amendment No. 1 is effective as of November 1, 2016 ("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").

The document amends the Agreement between Owner and Engineer for Professional Services (the Agreement) dated July 5, 2016 for:

Mandan Sunset Booster Station and Distribution Control Improvements (Project).

All provisions not amended remain in full effect.

OWNER and ENGINEER, in consideration of their mutual covenants as set forth herein, agree to amend the following portions of the Agreement:

1. Exhibit C:

- a. Replace Paragraph C4.01-A-3 with the following:

"3. The total compensation for services under Paragraph C4.01 is \$112,000.00 based on the following assumed distribution of compensation."

a. Preliminary Design Ph. 030	\$ 24,100.00
b. Preliminary Design Ph. 031	\$ 8,500.00
c. Final Design Phase 040*	\$ 49,900.00
d. Final Design Phase 041*	\$ 15,500.00
e. Bidding Phase 050*	\$ 10,000.00
f. Bidding Phase 051*	\$ 4,000.00
g. Construction Ph. 060	\$ TBD
h. Post Construction Ph. 070	\$ TBD
i. I&C Services Ph. 080	\$ TBD

* Phases Added this Amendment

Additional Provisions:

- Services for Design Phases 040 and 041 will be conducted concurrently and will result in one set of bid documents.
- Services for Bidding Phase 050 and 051 will be conducted concurrently and will result in one bid process.
- City does not intend to use SRF Funding on this project.

2. Exhibit E:

Add the following major elements to the Project Description:

Board of City Commissioners

Agenda Documentation

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Subject: Consider accepting more SWC funding and amending agreement with AE2S

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I. FINAL DESIGN PHASE 040 – Sunset Booster Station

The Final Design Phase is comprised of the primary tasks identified below:

A. Sunset Booster Station –Design Elements

1. Power and Control improvements as identified in the preliminary report
2. Domestic pump improvements as identified in preliminary report
3. Modify process piping to accommodate new pumping
4. Building Expansion for Electrical Equipment
5. Mechanical Systems

B. Design Disciplines

1. Civil
2. Process
3. Electrical/I&C
4. Mechanical
5. Architectural
6. Structural

C. Plans, Specifications, and Bid Documents – ENGINEER will prepare plans, specifications, and bid documents for the Sunset Booster Station Improvements. Final design will include:

1. Using the information obtained during the Preliminary Design phase, the project shall generally consist of the items identified as design elements above.
2. Prepare plans and specifications to outline work necessary to receive bids for the project as described above.

D. Plan Submittal - ENGINEER will submit plans and specifications to the North Dakota Department of Health for review, comment and approval.

E. Opinion of Probable Construction Cost: ENGINEER will prepare Opinions of Probable Construction Cost and revise as required for 60%, 90%, and 100% plan and specification reviews.

F. Summary of Deliverables

- a. 60% Plans and Specifications and cost opinions.
- b. 90% Plans and Specifications and cost opinions.
- c. 100% Plans and Specifications and cost opinions.

G. Summary of Design Phase Meetings

1. 60% Plan and Specifications Review
2. 90% Plan and Specifications Review
3. 100% Plans and Specifications Review

H. Schedule

1. Final Plans and Specifications for remainder of design elements ready for late February 2017 Bid.

II. FINAL DESIGN PHASE 041 – Distribution System I&C Improvements

The Final Design Phase is comprised of the primary tasks identified below:

A. Design Control and Communication Improvements for the following sites

1. Collins Avenue Reservoir
2. Sharon Heights Reservoir
3. 8th Avenue Booster Station

B. Design Disciplines

1. Process
2. Electrical/I&C

- C. Plans, Specifications, and Bid Documents – ENGINEER will prepare plans, specifications, and bid documents for the Sunset Booster Station Improvements. Final design will include:
 - 1. Using the information obtained during the Preliminary Design phase, the project shall generally consist of the items identified as design elements above.
 - 2. Prepare plans and specifications to outline work necessary to receive bids for the project as described above.
- D. Plan Submittal - ENGINEER will submit plans and specifications to the North Dakota Department of Health for review, comment and approval.
- E. Opinion of Probable Construction Cost: ENGINEER will prepare Opinions of Probable Construction Cost and revise as required for 60%, 90%, and 100% plan and specification reviews.
- F. Summary of Deliverables
 - 1. 60% Plans and Specifications and cost opinions.
 - 2. 90% Plans and Specifications and cost opinions.
 - 3. 100% Plans and Specifications and cost opinions.
- G. Summary of Design Phase Meetings
 - 1. 60% Plan and Specifications Review
 - 2. 90% Plan and Specifications Review
 - 3. 100% Plans and Specifications Review
- H. Schedule
 - 1. Final Plans and Specifications for remainder of design elements ready for late February 2017 Bid.

III. BIDDING PHASE 050

The Bidding Phase will be conducted for the project and related improvements. Bidding Phase is comprised of the primary tasks identified below:

- A. Bidding: ENGINEER will prepare bid documents for and conduct the following bid packages:
 - 1. General, mechanical, and electrical bid package
- B. Advertisement: ENGINEER to coordinate with the OWNER for the advertisement of Bids in the official newspaper and regional construction plan exchanges for each bid.
- C. Interpretation and Clarifications: ENGINEER to communicate with prospective bidders and issue addenda as required.
- D. Meetings: ENGINEER to arrange and conduct one Pre-bid meeting and attend bid opening for the project.
- E. Bid Evaluation and Recommendations: ENGINEER to prepare Bid Tabulations and Recommendations for City.
- F. Notice of Award: ENGINEER will coordinate the execution of Notice of Awards.
- G. Improvement Bid Schedule: Bid scheduled for February 2017.

IV. BIDDING PHASE 051 – Distribution System Control and Instrumentation Improvements

The Bidding Phase will be conducted for the project and related improvements. Bidding Phase is comprised of the primary tasks identified below:

- A. Bidding: ENGINEER will prepare bid documents for and conduct the following bid packages:
 - 1. Electrical bid package

Board of City Commissioners

Agenda Documentation

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Subject: Consider accepting more SWC funding and amending agreement with AE2S

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- B. Advertisement: ENGINEER to coordinate with the OWNER for the advertisement of Bids in the official newspaper and regional construction plan exchanges for each bid.
- C. Interpretation and Clarifications: ENGINEER to communicate with prospective bidders and issue addenda as required.
- D. Meetings: ENGINEER to arrange and conduct one Pre-bid meeting and attend bid opening for the project.
- E. Bid Evaluation and Recommendations: ENGINEER to prepare Bid Tabulations and Recommendations for City.
- F. Notice of Award: ENGINEER will coordinate the execution of Notice of Awards
- G. Improvement Bid Schedule: Bid scheduled for February 2017.

Board of City Commissioners
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AE2S
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IN WITNESS WHEREOF, the parties hereto have executed this Amendment, the Effective Date of which is indicated on page 1.

OWNER:

By: Tim Helbling

Title: President of Board of City Commissioners

Date Signed: _____

ENGINEER:

By: Lisa Ansley PE

Title: Operations Director

Date Signed: _____

ATTEST: _____

Name: Jim Neubauer

Title: City Administrator

ATTEST: _____

Name: Kenneth Weber, PE

Title: Senior Project Manager

Address for giving notices:

City of Mandan

205 2nd Avenue NW

Mandan, ND 58544-3125

Address for giving notices:

Advanced Engineering and Environmental Services, Inc.

1815 Schafer Street, Suite 301

Bismarck, ND 58501

Designated Representative (paragraph 6.02.A):

Justin Froseth

Title: Director of Engineering

Phone Number: (701) 667-32227

Facsimile Number: (701) 667-3623

E-Mail Address: jfroseth@cityofmandan.com

Designated Representative (paragraph 6.02.A):

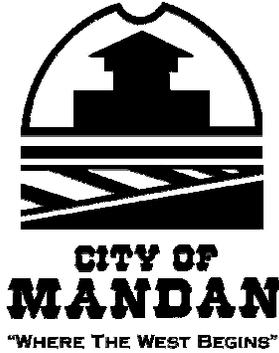
Kenneth Weber, PE

Title: Senior Project Manager

Phone Number: (701) 221-0530

Facsimile Number: (701) 221-0531

E-Mail Address: Ken.Weber@ae2s.com



Board of City Commissioners

Agenda Documentation

MEETING DATE: November 15, 2016
PREPARATION DATE: November 1, 2016
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Jason Ziegler
PRESENTER: Chief Jason Ziegler
SUBJECT: Consider the Acceptance of a Traffic Safety Contract from the North Dakota Department of Transportation, Safety Division

STATEMENT/PURPOSE: The Mandan Police Department is requesting Board approval with accepting a traffic safety grant/contract from the North Dakota Department of Transportation, Safety Division. The grant/contract provides reimbursement for overtime and mileage when working, Occupant Protection Enforcement, Impaired Driving Enforcement, Underage Drinking Enforcement, and Distracted Driving Enforcement.

BACKGROUND/ALTERNATIVES: In agreement with the North Dakota Department of Transportation Safety Division, the Mandan Police Department would receive reimbursement of cost in conducting extra patrols during state wide campaigns efforts to reducing the number vehicle crashes and also the number of people killed in motor vehicle crashes. The grant/contract identifies reimbursement funding of \$13,200, for overtime and mileage. The grant/contract period is October 1, 2016 through September 30, 2017.

ATTACHMENTS: Copy of contract.

FISCAL IMPACT: \$13,200 reimbursable funding to the city for cost with salaries and mileage.

STAFF IMPACT: Off -duty officers will be working overtime hours on a voluntary basis.

LEGAL REVIEW: N/A

RECOMMENDATION: Approve the acceptance of the Traffic Safety Grant/Contract #12161861, for \$13,200.

Board of City Commissioners

Agenda Documentation

Meeting Date: November 15, 2016

Subject: Consider the Acceptance of a Traffic Safety Contract from the North Dakota Department of Transportation, Safety Division

Page 2 of 33

SUGGESTED MOTION: Move to approve the acceptance of Traffic Safety Contract #12161861 from the North Dakota Department of Transportation, for the time period of October 1, 2016 to September 30, 2017.



North Dakota Department of Transportation Safety Division

Grant Levi, P.E.
Director

Jack Dalrymple
Governor

September 30, 2016

Mandan Police Department
Attention: Sgt. Brent Wilmeth
205 First Avenue, Northwest
Mandan, ND 58554

TRAFFIC SAFETY CONTRACT NO. 12161861, FOUR PROJECTS

The contract that has been awarded to the Mandan Police Department is enclosed. Please read the **entire contract, with attachments**, as key information is provided and/or requested. Not fulfilling these requirements may delay processing or lead to a cancellation of the contract.

1. The contract **must** be signed by a person with **contracting authority**.
2. A witness **must** sign to the **left** of the contractor's signature.
3. **Return the ENTIRE ORIGINAL CONTRACT, INCLUDING ALL APPENDICES.**
4. A **complete** copy of the fully signed contract will be emailed to you.
5. You must review the requirements listed on the enclosed **Risk Management Appendix**.
6. A copy of your current **Certificate of Liability Insurance** information may be required.
 - If your agency is insured through the **North Dakota Insurance Reserve Fund** (state agencies) or is a political subdivision (county/city agencies), do not submit insurance information now; however, you may be asked for confirmation of coverage at a later date.
 - If your agency is not insured through North Dakota Insurance Reserve Fund, your **insurance certificates must name the state as an additional insured and a waiver of subrogation must be provided**.
7. As a contractor, your agency is a sub-recipient of federal funds and therefore subject to the reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA).

Key Notes:

- Periodic desk and onsite monitoring by program managers are required.
- Progress reports, if necessary, are required to be submitted prior to reimbursement.
- Per 2 CFR 200, Subpart F, non-federal entities that expend \$750,000 or more in a year in federal awards shall have a single or program-specific audit conducted for that year.

We look forward to the many safety benefits your program will provide to the state of North Dakota. If you have any questions, feel free to contact me by email at lharsche@nd.gov or by phone at 328-2402.

Handwritten signature of Lory Harsche in blue ink.

LORY HARSCHÉ – CONTRACT MANAGER

12/lah
Enclosure

608 East Boulevard Avenue • Bismarck, North Dakota 58505-0700
Information: (701) 328-2500 • FAX: (701) 328-0310 • TTY: 711 • www.dot.nd.gov
General Information: 1-855-NDROADS (1-855-637-6237)

Board of City Commissioners

Agenda Documentation

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Subject: Consider the Acceptance of a Traffic Safety Contract from the North Dakota Department of Transportation, Safety Division

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NDDOT Contract No. 12161861
Project No. PHSPPOP1705-05-14,
PHSPID1710-02-13, PHSPID1710-12-08, &
PHSPDD1711-02-07

**North Dakota Department of Transportation
TRAFFIC SAFETY CONTRACT**

Federal Award Information – to be provided by NDDOT

CFDA No.: 20.616

CFDA Title: National Priority Safety Programs

Award Name: Click It or Ticket, and Alcohol,
Underage, and Distracted Driving Enforcement

Awarding Fed. Agency: National Highway Traffic Safety Administration

NDDOT Program Mgr.: Sandy Wilson

Telephone: 701-328-2899

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

This contract is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and Mandan Police Department, hereinafter referred to as the Contractor, whose address is 205 First Avenue, Northwest, Mandan, North Dakota 58554.

WHEREAS, NDDOT has been delegated the responsibility to administer the state's Annual Highway Safety Plan as authorized in Section 54-07-05 of the North Dakota Century Code; and

WHEREAS, the Contractor requests participation in the state's Annual Highway Safety Plan;

THEREFORE, in consideration of the mutual promises herein set forth, NDDOT and the Contractor agree:

I.

The Contractor shall perform the project(s) set forth in Appendix A, a copy of which is attached hereto and made a part hereof.

The Contractor shall comply with the provisions of Appendix B, a copy of which is attached hereto and made a part hereof.

II.

The term of this contract shall begin October 1, 2016, and shall end September 30, 2017.



III.

NDDOT shall reimburse the Contractor for costs incurred under the terms of this contract, not to exceed \$13,200. Reimbursement of all costs under this contract is contingent on federal participation. Expenses incurred by the Contractor for travel, meals, and lodging, shall be reimbursed according to applicable state rates. Allowable costs are covered under 2 CFR Part 200. All requests for reimbursement must be submitted to NDDOT within 45 days of the termination date of this contract.

IV.

Equipment acquired under this agreement for use in highway safety program areas shall be used and kept in operation for highway safety purposes by the Contractor; or the Contractor, by formal agreement with appropriate officials of a political subdivision or State agency, shall cause such equipment to be used and kept in operation for highway safety purposes. (Reference: 23 CFR 1200.31 and 2 CFR Part 200)

V.

Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.

VI.

The Contractor agrees to cooperate with NDDOT in meeting its commitments and goals with regard to the maximum utilization of disadvantaged business enterprises and will use its best efforts to ensure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for subcontract work under this agreement. The Contractor shall comply with requirements of 49 CFR Part 26.

VII

The Contractor shall ensure that no qualified individual with a disability, as defined in 29 USC 794 and 49 CFR Part 27 shall, solely by reason of this disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives benefits from the assistance under this agreement.

VIII.

Grants or services that generate revenues as a result of funding through the National Highway Traffic Safety Administration (NHTSA) must be reported. Written notification of the source and amount of such income must be made to the NDDOT at the earliest opportunity. A separate account must be maintained for the collection, expenditure, and disposition of program income. Program income generated shall be used to further the objectives of the grant or service or reduce current grant or service costs. Records shall be maintained in accordance with state and federal guidelines.

IX.

The Contractor certifies that it will comply with the retention and access requirements for records established by 2 CFR Part 200. The required records and documentation relating to the grant and/or subcontract shall be retained for a minimum of three years after the starting date of the retention period as defined in 2 CFR Part 200. The NDDOT or their authorized representative shall have the right of access to any books, documents, papers, or other records of grantees, contractors, or subcontractors which are pertinent to the grant and/or contract, in order to make audits, examinations, excerpts and



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transcripts. The right of access is not limited by the required retention period and shall last as long as the records are retained.

The Contractor will comply with all applicable state, local, and federal procurement procedures and will maintain a financial management system that complies with the minimum requirements of 2 CFR Part 200.

X.

The Contractor must have a seat belt use policy, a drug and alcohol driving policy, and a distracted driving policy in place before requesting reimbursement for any work completed under this agreement. The NDDOT's Safety Division's program managers will locate and review the policies during scheduled on-site monitoring visits, if applicable. Absence of any policy may result in the NDDOT withholding payment until said policy is in place.

All contracted personnel are required to wear seat belts and obey traffic laws while on official business of this project.

XI.

Termination:

- a. This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' notice in writing or delivered by certified mail or in person.
- b. In addition, NDDOT may terminate this contract effective upon delivery of written notice to the contractor, or at such later date as may be established by NDDOT, under any of the following conditions:
 - i. NDDOT funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
 - ii. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
 - iii. If any license or certificate required by law or regulation to be held by the contractor to provide the services required by the contract is for any reason denied, revoked, or not renewed.Any such termination of this contract under (i), (ii), or (iii) above shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
- c. NDDOT, by written notice to the contractor, may terminate the whole or any part of this agreement:
 - i. If the Contractor fails to provide services called for by this contract within the time specified herein or any extension thereof; or



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- ii. If the Contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from NDDOT, fails to correct such failures within ten days or such longer period as NDDOT may authorize.

XII.

The Contractor shall not assign any portion of the work under this agreement, execute any contract, or obligate itself in any manner with a third party with respect to its rights and responsibilities to this agreement without written consent of NDDOT. Any agreement with a subcontractor does not create a contractual relationship between the NDDOT and the subcontractor.

XIII.

The Contractor agrees that NDDOT and NHTSA, or their designated representative(s), shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this agreement. The Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated. The Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interview of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the state to audit records and interview staff in any subcontract related to the performance of this agreement.

Audits must be in accordance with 2 CFR Part 200, Subpart F. The Contractor shall submit copies of audits covering the term of this agreement to NDDOT. This requirement is applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and nonprofit businesses.

XIV.

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

XV.

The Risk Management Appendix, attached, is hereby incorporated into and made a part of this agreement.

XVI.

The Contractor is advised that his or her signature on this contract certifies that the company or any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.



XVII.

The Contractor shall not assign nor transfer the Contractor's interest in this agreement without the express written consent of the state.

XVIII.

The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

XIX.

The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

XX.

All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at their respective places of business as previously set forth.

XXI.

No official or employee of a state or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector, or other person performing services for a state or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a state or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a state or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of NDDOT and of such other governmental instrumentality, and such officer, employee, or person has not participated in such acquisition for and in behalf of the state.

XXII.

All work products and copyrights of the contract which result from this contract are the exclusive property of NDDOT, with an unlimited license for use by the federal government and its assignees without charge.



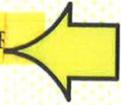
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MUST BE SIGNED BY CITY MAYOR 

SIGN & DATE

EXECUTED the date last below signed.

WITNESS:

CONTRACTOR:

NAME (TYPE OR PRINT)

NAME (TYPE OR PRINT)

SIGNATURE

SIGNATURE

TITLE

DATE

To be signed by Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer. (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

WITNESS:

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

NAME (TYPE OR PRINT)

DIRECTOR (TYPE OR PRINT)

SIGNATURE

SIGNATURE

DATE

APPROVED as to substance by:


SAFETY DIVISION DIRECTOR (TYPE OR PRINT)


SIGNATURE

9-30-16
DATE

CLA 16870 (Div. 12)
L.D. Approved 7-17-89; 2-16



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

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

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



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

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

Pertinent Non-Discrimination Authorities:

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



Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: State – State of North Dakota, its agencies, officers and employees

Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees

Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$250,000 per person and \$500,000 per occurrence**. The minimum limits of liability required of the State are **\$250,000 per person and \$1,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09



APPENDIX A

**AGREEMENT FOR PARTICIPATION
IN THE NORTH DAKOTA
HIGHWAY SAFETY PLAN**

APPENDIX A CONTENTS

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Page 2 – Scope of Work for Occupant Protection Project
Page 3 – Scope of Work for Impaired Driving Project
Page 4 – Scope of Work for Underage Drinking Laws Project
Page 6 – Scope of Work for Distracted Driving Project
Page 7 – Reporting and Audit Reporting / All Projects
Page 7 – NDDOT Responsibilities, Reimbursement, and Other Requirements / All Projects
Pages 8 – Budgets
Attachment 1 – Enforcement Overtime Calendar for FFY 2017

BACKGROUND

The North Dakota Department of Transportation's (NDDOT) Safety Division receives federal funds through the National Highway Traffic Safety Administration (NHTSA). Funding is provided to local entities to assist the NDDOT to achieve the traffic safety goals identified in the annual Highway Safety Plan.

- Decrease the number of people killed in motor vehicle crashes.
- Decrease the number of alcohol- and drug-related motor vehicle fatalities.
- Decrease the number of speed-related fatalities.
- Decrease the number of crashes and fatalities as a result of distracted driving.
- Increase seat belt use and decrease the severity of injuries sustained in motor vehicle crashes.

Note: Refer to the Fiscal Year 2017 North Dakota Highway Safety Plan for actual performance goals based on five-year average trend data.

The purpose of this contract is to provide funding to the **Mandan Police Department** (hereinafter referred to as Contractor) to:

- Participate in statewide occupant protection (OP) enforcement programs (see page 2 for program requirements)
- Participate in statewide impaired driving (ID) enforcement programs, including sobriety checkpoints and saturation patrols (see page 3 for program requirements).
- Participate in statewide underage drinking (UA) enforcement programs (see page 4 for program requirements)
- Participate in statewide distracted driving (DD) enforcement program (see page 6 for program requirements)

OCCUPANT PROTECTION (OP) ENFORCEMENT

PROJECT NO. PHSP0P1705-05-14

SCOPE OF WORK

The *Click It or Ticket (CIOT)* enforcement campaign exists to increase OP use for both adults and children through heightened enforcement of OP laws in the state. The campaign's success is built upon the strategy that education, along with highly visible and consistent enforcement, is an effective means to change driver behavior and increase OP use.

Participating law enforcement agencies are required to work overtime during scheduled CIOT campaigns to achieve high visibility within their jurisdictions to deter motorists from driving or riding in a motor vehicle without the appropriate use of an OP device (i.e., seat belt or child passenger safety seat).

The Contractor is encouraged to use speed as a trigger violation to stop vehicles for seat belt and child passenger safety seat compliance.

The Contractor may **only** work during the scheduled CIOT enforcement periods as identified in Attachment 1. Contractor may not work outside the scheduled efforts.

During each enforcement period, the Contractor must:

- Conduct high visibility enforcement within corridors and at times (including nighttime) where the occurrence of unbelted serious injury and fatal crashes is greatest. When possible, the Safety Division will coordinate with the Contractor to determine these locations based on ND crash data.
- Issue Citations – **not warnings** – for failure or improper use of an OP device. This is to assure the integrity of the *CIOT* message to the public. Each stop is an opportunity to educate the public on taking personal responsibility on driving behaviors and safety measures.
- Ensure that all officers working the overtime grant funding for OP have completed the Traffic Occupant Protection Strategies (TOPS) training. The Contractor must be able to provide verification of completed training upon request for each officer who is conducting overtime enforcement through the grant.
- Coordinate with the Safety Division to complete earned media requirements (pre- and post-news releases).
- Submit an electronic enforcement log sheet by the date indicated in the schedule, "Enforcement Log Due."
- Submit a reimbursement voucher by the date indicated in the schedule, "Reimbursement Voucher Due." *Contractors must report the: (1) number of enforcement hours, (2) dates and times of enforcement, (3) number and type of citations issued, and (4) number of enforcement contacts made.*

APPENDIX A

- Work with other area law enforcement within the region to conduct multi-agency enforcement efforts to maximize the visibility of law enforcement during the *CLOT* enforcement period.

IMPAIRED DRIVING (ID) ENFORCEMENT

PROJECT NO. PHSPID1710-02-13

SCOPE OF WORK

The *Drive Sober or Get Pulled Over (DSOGPO)* enforcement campaign exists to deter ID through heightened enforcement of ID laws in the state. The campaign's success is built upon the strategy that education, along with highly visible and consistent enforcement, is an effective means to change driver behavior.

The Contractor is required to work during the scheduled ID enforcement periods as outlined in Attachment 1. The Contractor may conduct additional enforcement activity beyond the required regional calendar events within their jurisdiction, if the budget allows, and if the Contractor can justify the purpose of additional enforcement. Contractor must notify the Safety Division of the additional enforcement activity prior to conducting the additional enforcement activity.

During each enforcement period of the contract period, the Contractor must:

- Conduct a minimum of 2 shifts per enforcement period, with the exception of the National Labor Day *Drive Sober or Get Pulled Over* campaign.
- Conduct a minimum of 4 four-hour shifts during the National Labor Day *Drive Sober or Get Pulled Over* campaign, August 18 – September 4, 2017.
- Ensure that officers working the ID grant have been SFST (Standardized Field Sobriety Testing) certified and have attended a SFST refresher course at least once every five years. The Contractor must be able to provide verification of completed training upon request for each officer who is conducting overtime enforcement through the grant.
- Determine the best enforcement strategy (e.g., sobriety checkpoints vs. saturation patrols, time of day, locations, etc.) that will most effectively deter ID within the Contractor's jurisdiction.
- Conduct high visibility enforcement within corridors and times where the occurrence of injury and death from ID is greatest. When possible, the Safety Division will coordinate with the Contractor to determine these locations based on ND crash data.
- Coordinate with the Safety Division to complete earned media requirements (pre- and post-news releases).
- Submit an electronic enforcement log sheet by the date indicated in the schedule, "Enforcement Log Due."
- Submit a reimbursement voucher by the date indicated in the schedule, "Reimbursement Voucher Due." Contractors must report the: (1) number of enforcement hours, (2) dates and times of

APPENDIX A

enforcement, (3) number and type of citations issued, and (4) number of enforcement contacts made.

- Work with other area law enforcement within the region to conduct multi-agency enforcement efforts to maximize the visibility of law enforcement during the ID enforcement period.

UNDERAGE DRINKING (UA) LAWS ENFORCEMENT

PROJECT NO. PHSPID1710-12-08

SCOPE OF WORK

The UA Laws enforcement program supports and enhances efforts by law enforcement to reduce the availability of alcohol to minors. Tragic social consequences can result when youth use alcohol, including youth traffic injuries and fatalities. The objective of the program is to prohibit the sale and consumption of alcoholic beverages to minors. (For the purpose of this solicitation, "minors" are defined as individuals under the age of 21.)

Please note that funds for operations may be utilized to cover the costs of overtime for officers, stipends for underage buyers, and direct expenses for server training (printing, postage, and other approved direct expenses). These funds may not be used for food or refreshment.

The contractor is required to work the scheduled UA enforcement periods as identified in Attachment 1. The Contractor may conduct additional enforcement activity beyond the required regional calendar events within their jurisdiction, if the budget allows, and if the Contractor can justify the purpose of additional enforcement. Contractor must notify the Safety Division of the additional enforcement activity prior to conducting the additional enforcement activity.

Activities under this program may include Saturation and Non-Saturation events.

Qualifying Non-Saturation Events include:

The following types of enforcement activities will be reported as a non-saturation event in the Law Enforcement Web Reporting (LEWR) online report system.

- **Compliance Checks** — Compliance Checks must utilize an underage buyer working under the direction of a law enforcement agency. The underage buyer enters a licensed liquor establishment and attempts to purchase alcoholic beverages. This operation may be conducted at on-premise sites (bars, restaurants, clubs, etc.) and off-premise businesses (convenience stores, grocery stores, gas stations, etc.).
- **Shoulder Tap** — Shoulder tap activities must involve an underage buyer working under the direction of a law enforcement agency. The underage buyer will approach an individual who is about to enter an off-sale establishment and ask them to purchase alcohol for them from an off-sale establishment.
- **Server Training** — Training provided to servers, sellers, and consumers of alcohol to prevent intoxication, drunk driving, and UA.

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- **Controlled Party Dispersal** —Controlled Party Dispersal goes hand in hand with Party Prevention Patrols. If the patrol encounters an UA party, the officers call for backup and then use proper party dispersal protocol as set out by EUDL (Enforcement of Underage Drinking Laws). An example of the procedure can be found at: <http://www.udetc.org/documents/OR-SOPOfficerResponse.pdf>

Qualifying Saturation Events Include:

The following types of enforcement activities will be reported as a saturation event in the Law Enforcement Web Reporting (LEWR) online report system.

- **Party Patrol** – Party Prevention Patrols consist of officers patrolling communities and rural locations at times when youth activities may be a catalyst for UA parties to occur. This may be youth activities such as prom, homecoming, graduation, school activities, etc.
- **Bar Patrols** — Bar Patrols consist of utilizing officers to patrol on-site liquor establishments (bars, restaurants, clubs, etc.) to ensure that underage youth are not being served by the establishment. This operation may consist of officers checking identifications of patrons to verify legal age has been attained. In order for law enforcement officers to maintain a good working relationship with the businesses, certain protocol for such operations must be followed.
- **Special Events Management/Task Force Operations** — This purpose area consists of the implementation of procedures to address UA at large scale events. These events may be concerts, sporting events, holiday activities such as Mardi Gras or Fourth of July festivities, or other events that bring an influx of people into a local jurisdiction. The operations focus on limiting the time of the function, designating areas for consumption of alcohol, and training vendors on the laws concerning alcohol consumption. Enforcement techniques to spot underage drinkers and transactions are also utilized. Emphasis may be placed on developing multi-jurisdictional task forces to deal with these events since they generally draw attendees from several regions and the local law enforcement agencies are often not equipped to handle the increased population.

During each enforcement period of the contract, the Contractor must:

- Determine the best enforcement strategy (e.g., saturation patrols, bar patrols, or compliance checks, etc.) that will most effectively deter underage access and consumption of alcohol within the Contractor's jurisdiction.
- Coordinate with the Safety Division to complete earned media requirements (pre- and post-news releases).
- Submit an electronic enforcement log sheet by the date indicated in the schedule, "Enforcement Log Due."
- Submit a reimbursement voucher by the date indicated in the schedule, "Reimbursement Voucher Due." *Contractors must report the: (1) number of enforcement hours, (2) dates and times of enforcement, (3) number and type of citations issued, and (4) number of enforcement contacts made.*

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- Work with other area law enforcement within the region to conduct multi-agency enforcement efforts to maximize the visibility of law enforcement during the enforcement period.

DISTRACTED DRIVING (DD) ENFORCEMENT

PROJECT NO. PHSPDD1711-02-07

SCOPE OF WORK

The DD enforcement campaign exists to decrease the use of handheld electronic devices by drivers through heightened enforcement of DD laws in the state. The campaign's success is built upon the strategy that education, along with highly visible and consistent enforcement, is an effective means to change driver behavior and decrease the use of handheld electronic devices and DD incidents.

Participating law enforcement agencies are required to work overtime during scheduled DD campaigns to achieve high visibility within their jurisdictions by enforcing the ban on all cell phone use by minors (under the age of 18) and texting and driving for all drivers.

The Contractor is required to work during the scheduled DD enforcement periods as identified in Attachment 1. The Contractor may conduct additional enforcement activity beyond the required events within their jurisdiction, if the budget allows, and if the Contractor can justify the purpose of additional enforcement. Contractor must notify the Safety Division of the additional enforcement activity prior to conducting the additional enforcement activity.

During each enforcement period, the Contractor must:

- Determine the best enforcement strategy that will efficiently use available resources and conduct high visibility enforcement within corridors and at times where the occurrence of DD and cell phone use is most prevalent.
- Issue Citations – *not warnings* – when observing a driver violating North Dakota's DD law. This is to assure the integrity of the DD message to the public. Each stop is an opportunity to educate the public on taking personal responsibility for their driving behaviors.
- Coordinate with the Safety Division to complete earned media requirements (pre- and post-news releases).
- Submit an electronic enforcement log sheet by the date indicated in the schedule, "Enforcement Log Due."
- Submit a reimbursement voucher by the date indicated in the schedule, "Reimbursement Voucher Due." *Contractors must report the: (1) number of enforcement hours, (2) dates and times of enforcement, (3) number and type of citations issued, and (4) number of enforcement contacts made.*
- Work with other area law enforcement within the region to conduct multi-agency enforcement efforts to maximize the visibility of law enforcement during the enforcement period.

REPORTING AND AUDIT REPORTING / ALL PROJECTS

Reporting

The Contractor must submit the enforcement logs and reimbursement voucher(s) to the Safety Division per the schedule referenced in the previous OP, ID, UA, and DD enforcement sections. Late reports may result in a delay in processing or a reduction in payment.

The Contractor must retain for a minimum of three years, copies of timesheets and agency work schedules and any other supporting documentation.

An enforcement contact is defined as any contact or interaction with a driver of a motor vehicle while conducting overtime enforcement under contract with NDDOT.

Because the OP, ID, UA, and DD enforcement programs are statewide efforts, participation by each contracted entity is critical to the success of the campaigns. If the Contractor is unable to fulfill any portion of the contractual scope of work, they must contact the Safety Division immediately.

Audit Reporting

A non-federal entity that expends \$750,000 or more during the non-federal entity's fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR 200, Subpart F. A financial audit is sufficient if the non-federal entity expends less than \$750,000.

NDDOT RESPONSIBILITIES, REIMBURSEMENT, AND OTHER REQUIREMENTS / ALL PROJECTS

NDDOT Responsibilities

This Scope of Work will be monitored by the NDDOT's Program Manager. Oversight will include, but not be limited to, desktop and on-site monitoring of program finances and operations. This will include identification and written notification of issues and/or concerns that could significantly affect the program's performance and outcomes to agents of the contracting agency in the community.

Based on federal grant requirements NDDOT may revise the enforcement dates shown in Attachment 1. The Contractor will be notified by email and will receive a revised Attachment 1 that will identify the revised enforcement dates and due dates of enforcement logs and reimbursement vouchers.

Reimbursement

This contract will reimburse allowable expenses up to each project's total budget for costs incurred through completion of the scope of work and/or at the direction of the program manager. The Safety Division reserves the right to deny payment for unallowable expenses identified in the applicable cost principles.

Overtime wages will be reimbursed at the agency-approved overtime rate and mileage, if applicable, will be reimbursed at the state-approved rate (54 cents per mile).

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At the close of the state fiscal year, which is June 30, enforcement logs and reimbursement vouchers must be submitted no later than July 15 for any services or purchases that took place on or before June 30. Vouchers received after July 15 may not be reimbursed. Please note: only equipment that has been received by June 30 is affected by this due date.

The final reports/vouchers for all projects are due no later than November 14, 2017. *Vouchers received after November 14, 2017, will not be reimbursed.*

Other Requirements

The Contractor is encouraged to follow the guidelines for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect.

The Contractor shall not use the funds for supplanting. *Funds for programs and services provided through this grant are intended to supplement, not supplant, other state or local funding sources.* Supplanting is defined as replacing routine and/or existing state or local expenditures with the use of federal grant funds and/or using federal grant funds for costs of activities that constitute general expenses required to carry out the overall responsibilities of state, local, or federally-recognized Indian tribal governments.

Written and verbal warnings are not encouraged under any of the grant programs.

The Contractor is encouraged to use the E-Citation module within TraCS Web while conducting overtime enforcement activities through NDDOT grant funded programs.

OCCUPANT PROTECTION (OP) ENFORCEMENT BUDGET

PROJECT NO. PHSP0P1705-05-14

DIRECT COSTS

Overtime wages	\$3,100
Mileage	<u>\$ 300</u>

PROJECT TOTAL	<u>\$3,400</u>
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Participation

Federal	100%	\$3,400
State	-	
Local	-	

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IMPAIRED DRIVING (ID) ENFORCEMENT BUDGET

PROJECT NO. PHSPID1710-02-13

DIRECT COSTS		
	Overtime wages	\$6,000
	Mileage	\$ 500
	PROJECT TOTAL	<u>\$6,500</u>
Participation		
Federal	100%	\$6,500
State	-	
Local	-	

UNDERAGE DRINKING (UA) LAWS ENFORCEMENT BUDGET

PROJECT NO. PHSPID1710-12-08

DIRECT COSTS		
	Overtime wages	\$1,000
	Mileage	\$ 100
	PROJECT TOTAL	<u>\$1,100</u>
Participation		
Federal	100%	\$1,100
State	-	
Local	-	

DISTRACTED DRIVING (DD) ENFORCEMENT BUDGET

PROJECT NO. PHSPDD1711-02-07

DIRECT COSTS		
	Overtime wages	\$2,000
	Mileage	\$ 200
	PROJECT TOTAL	<u>\$2,200</u>
Participation		
Federal	100%	\$2,200
State	-	
Local	-	

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OCCUPANT PROTECTION STATEWIDE ENFORCEMENT DATES

<u>Enforcement Dates</u>	<u>Enforcement Log Due</u>	<u>Reimbursement Voucher Due</u>
November 1, - December 15, 2016	12/20/2016	1/17/2017
May 22 - June 4, 2017*	6/9/2017	6/30/2017
July 1 - August 15, 2017	8/20/2017	9/15/2017

* May 22 - June 4, 2017, is the National Click or Ticket It Campaign.

All agencies who receive occupant protection overtime grant funding are required to conduct occupant protection enforcement overtime during the above dates.

No minimum shifts per campaign. No minimum hours per shift.

Contractor may not work any other dates for the occupant protection campaign.

Please refer to Contract for full Scope of Work.

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IMPAIRED DRIVING STATEWIDE ENFORCEMENT DATES

<u>Enforcement Dates</u>	<u>Enforcement Log Due</u>	<u>Reimbursement Voucher Due</u>
December 16, 2016 - January 31, 2017	2/6/2017	2/28/2017
March 1 - 31, 2017	4/6/2017	4/30/2017
Aug 18 - Sept 4, 2017*	9/8/2017	9/30/2017

* August 18 - September 4, 2017 is the National Drive Sober or Get Pulled Over Campaign.

All agencies who receive impaired driving overtime grant funding are required to conduct impaired driving enforcement overtime shifts during the above dates.

The impaired driving requires each shift be a minimum of 4 hours each and each campaign requires a minimum of 2 shifts per agency.

Please refer to Contract for full Scope of Work.

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UNDERAGE DRINKING (UA) LAWS ENFORCEMENT DATES

<u>Enforcement Dates</u>	<u>Enforcement Log Due</u>	<u>Reimbursement Voucher Due</u>
October 15-31, 2016	11/5/2016	11/30/2016
April 1 - 30, 2017	5/4/2017	5/31/2017
May 1-19, 2017	5/26/2017	6/30/2017

All agencies who receive underage drinking overtime grant funding are required to conduct underage drinking overtime activities during the above dates. Underage drinking activities include: saturation patrols, compliance checks, server training, and other non-saturation enforcement activities.

No minimum shifts per campaign. No minimum hours per shift.

Please refer to Contract for full Scope of Work.

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DISTRACTED DRIVING ENFORCEMENT DATES

<u>Enforcement Dates</u>	<u>Enforcement Log Due</u>	<u>Reimbursement Voucher Due</u>
April 1 - 30, 2017	5/4/2017	5/31/2017
September 1 - 30, 2017	10/4/2017	10/31/2017

All agencies who receive distracted driving overtime grant funding are required to conduct distracted driving enforcement overtime during the above dates.

No minimum shifts per campaign. No minimum hours per shift.

Please refer to Contract for full Scope of Work.

GENERAL TERMS, CONDITIONS, CERTIFICATIONS AND ASSURANCES

Federal Funding Accountability and Transparency Act (FFATA)

The Contractor will report for each **sub-grant** awarded:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if:
 - (i) the entity in the preceding fiscal year received:
 - (I) 80 percent or more of its annual gross revenues in Federal awards;
 - (II) \$25,000,000 or more in annual gross revenues from Federal awards; and
 - (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by Office of Management and Budget guidance.

Non-Discrimination

The Contractor will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. 324 *et seq.*), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);

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- The Civil Rights Restoration Act of 1987 (Pub.L. 100-209), (broadens scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients, or contractors, whether such programs or activities are Federally-funded or not);
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR Parts 37 and 38;
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR at 74087 to 74100).

The Contractor:

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted.
- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Nondiscrimination Authorities identified in this Assurance;
- Agrees to comply (and require any of its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulations governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Nondiscrimination Authorities and this Assurance;

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- Insert in all contracts and funding agreements with other State or private entities the following clause:

"During the performance of this contract/funding agreement, the contractor/funding recipient agrees:

- a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- b. Not to participate directly or indirectly in the discrimination prohibited by any Federal nondiscrimination law or regulation, as set forth in Appendix B of 49 CFR Part 21 and herein;
- c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT, or NHTSA;
- d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determines are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or canceling, terminating, or suspending a contract or funding agreement, in whole or in part; and

To insert this clause, including paragraphs a through e, in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

Drug-Free Workplace Act of 1988 (41 U.S.C. 8103)

The Contractor will comply with the requirements of the Drug-Free Workplace Act of 1988 by:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- B. Establishing a drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace.
 2. The grantee's policy of maintaining a drug-free workplace.
 3. Any available drug counseling, rehabilitation, and employee assistance programs.
 4. The penalties that may be imposed upon employees for drug violations occurring in the workplace.
 5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (A).
- C. Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the grant, the employee will:
 1. Abide by the terms of the statement.

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2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- D. Notifying the agency within ten days after receiving notice under subparagraph (C)(2) from an employee or otherwise receiving actual notice of such conviction.
- E. Taking one of the following actions, within 30 days of receiving notice under subparagraph (C)(2), with respect to any employee who is so convicted:
 1. Taking appropriate personnel action against such an employee, up to and including termination.
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- F. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

Political Activity (Hatch Act)

The Contractor will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Lobbying Restrictions

Federal Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The Contractor certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

State Lobbying

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

Debarment and Suspension

Instructions for Primary Certification

1. By signing the traffic safety contract, the Contractor is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1300.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this contract is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverage sections of 2 CFR Part 180. You may contact the department or agency to which this contract is being submitted for assistance in obtaining a copy of those regulations.

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6. The prospective primary participant agrees by signing the traffic safety contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
7. The prospective primary participant further agrees by signing the traffic safety contract that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1300.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul, or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - b. Have not within a three-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;

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- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three-year period preceding this contract had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to the traffic safety contract.

Instructions for Lower Tier Certification

1. By signing the traffic safety contract, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1300.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 2 CFR Part 180. You may contact the person to whom this contract is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by signing the traffic safety contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
6. The prospective lower tier participant further agrees by signing the traffic safety contract that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion— Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1300.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant

APPENDIX B

may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by signing the traffic safety contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to the traffic safety contract.

Buy America Act

The Contractor will comply with the provisions of the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase only steel, iron, and manufactured products produced in the United States with Federal funds, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification to and approved by the Secretary of Transportation.

Prohibition on Using Grant Funds to Check for Helmet Usage

The Contractor will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcycles.

APPENDIX B

Policy on Seat Belt Use

Pursuant to Paragraph X of the traffic safety contract, Contractors must have a seat belt use policy in place. By Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, Contractors are encouraged to include the following language in their policy:

Adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles.

Policy on Banning Text Messaging While Driving

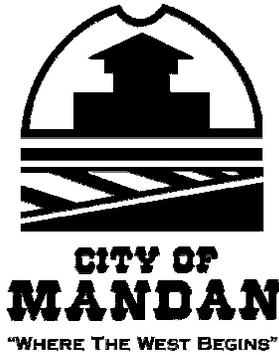
Pursuant to Paragraph X of the traffic safety contract, Contractors must have a distracted driving policy in place. By Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, Contractors are encouraged to include the following language in their policy:

Adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving:

1. Company-owned or rented vehicles, or
2. Government-owned, leased or rented vehicles; or
3. Privately-owned vehicles when on official Government business or when performing any work on behalf of the Government.

Contractors are also encouraged to:

1. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.



Board of City Commissioners

Agenda Documentation

MEETING DATE: November 15, 2016
PREPARATION DATE: November 10, 2016
SUBMITTING DEPARTMENT: Water Treatment Facility
DEPARTMENT DIRECTOR: Justin Froseth, Planning and Engineering Director
PRESENTER: Justin Froseth, Planning and Engineering Director
SUBJECT: Lakewood 9th utility and stormwater easement adjustment

STATEMENT/PURPOSE: Consider approval of widened utility and stormwater easement in Lakewood 9th

BACKGROUND/ALTERNATIVES: The city was approached by the developer's engineer to accept a wider easement that facilitates both private utility and storm sewer that was put in as part of the project and that the city will maintain at project completion. At the time of the original plat, it was thought that the original 20 feet would be sufficient, but with the added 10 feet, that would only serve to improve our ability to access should we need to for maintenance.

ATTACHMENTS:
1. Easement Exhibit

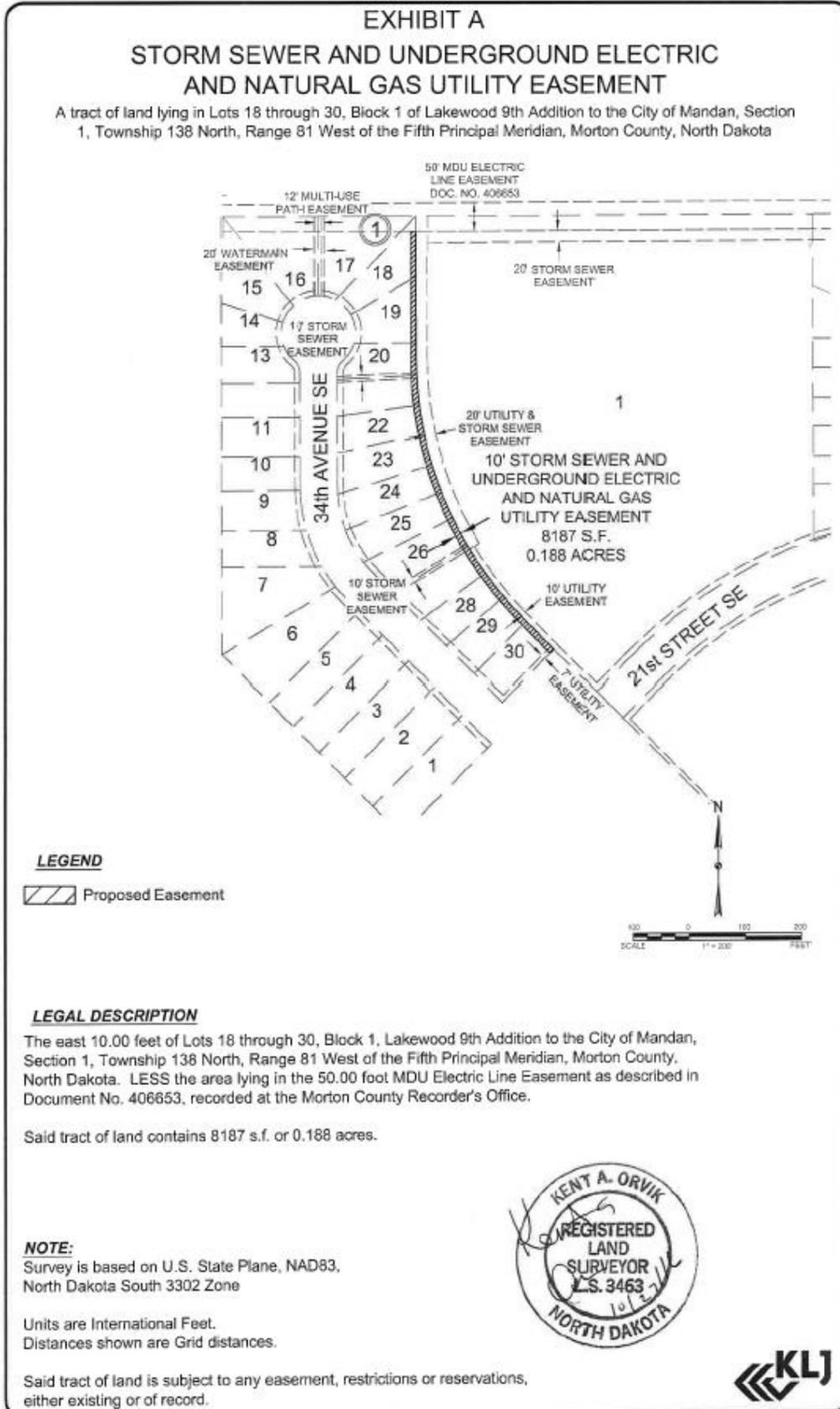
FISCAL IMPACT: None

STAFF IMPACT: Improved access for Public Works

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

RECOMMENDATION: Accept the additional 10 foot easement width.

SUGGESTED MOTION: I move to approve of the 10 foot wider easement.



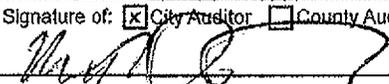


LOCAL PERMIT OR CHARITY LOCAL PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 LICENSING SECTION
 SFN 17926 (08/2016)

Consent No. 5

Type: Local Permit * Charity Local Permit

Permit Number
2016-59

Name of Organization Benefit For Nancy Miller		Date(s) Authorized (Read instruction 2)	
Contact Person Mackenzie Miller	Business Phone Number	11/18/2016 Beginning	to 11/18/2016 Ending
Mailing Address	City Mandan	State ND	Zip Code 58554-0000
Site Name Mandan Eagles	Site Address 100 14th St Ne		
City Mandan	State ND	ZIP Code 58554	County Morton
Check the Game(s) Authorized: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.			
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Raffle Board <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker* <input type="checkbox"/> Twenty-one* <input type="checkbox"/> Paddlewheels*			
Restriction:	If conducting a raffle, provide the date of the drawing(s):		
Requirement: For a "Charity Local Permit," the organization must file a "Report on a Charity Local Permit" with the city or county auditor <u>and</u> Office of Attorney General within 30 days of the event.			
Date 11/4/2016	Signature of: <input checked="" type="checkbox"/> City Auditor <input type="checkbox"/> County Auditor 	Printed Name of City or County Auditor Matthew Graves (mpd)	Auditor Telephone Number (701) 667-3250

Local governing bodies please review information to consider before approving a local permit below.

Local governing bodies please see the Instructions on the backside of this form on how to complete the permit.

Organizations conducting a raffle or calendar raffle please read "Information Required to be Preprinted on a Standard Raffle Ticket" on the backside of this form.

cut along this line

Before approving a local permit or charity local permit the local governing body should review North Dakota Century Code 53-06.1-03(3)(a) which states:

3. A licensed organization or organization that has a permit shall conduct games as follows:

a. Only one licensed organization or organization that has a permit may conduct games at an authorized site on a day, except that a raffle may be conducted for a special occasion by another licensed organization or organization that has a permit when one of these conditions is met:

(1) When the area for the raffle is physically separated from the area where games are conducted by the regular organization.

(2) Upon request of the regular organization and with the approval of the alcoholic beverage establishment, the regular organization's license or permit is suspended for that specific time of day by the attorney general.

Also, please review North Dakota Administrative Code 99-01.3-01-05 (Permits) for the administrative rules governing permits. These rules may be viewed on the North Dakota Attorney General's website at www.ag.nd.gov - Gaming/Rules and Regulations/Gaming Administrative Rules.



LOCAL PERMIT OR CHARITY LOCAL PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 LICENSING SECTION
 SFN 17926 (08/2016)

Consent No 6 - Added
11/15/16

pd \$10 11-14-16

Type: Local Permit * Charity Local Permit

Permit Number
2016-61

Name of Organization Triple H Miniature Horse Rescue		Date(s) Authorized (Read instruction 2)		
Contact Person Alison Smith	Business Phone Number	11/15/2016 Beginning	to 11/21/2016 Ending	
Mailing Address	City Bismarck	State ND	Zip Code 58502-4125	
Site Name Station West Bar And Grill	Site Address 412 West Main Street			
City Mandan	State ND	ZIP Code 58554	County Morton	
Check the Game(s) Authorized: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.				
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Raffle Board <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker* <input type="checkbox"/> Twenty-one* <input type="checkbox"/> Paddlewheels*				
Restriction:		If conducting a raffle, provide the date of the drawing(s):		
Requirement: For a "Charity Local Permit," the organization must file a "Report on a Charity Local Permit" with the city or county auditor <u>and</u> Office of Attorney General within 30 days of the event.				
Date 11/14/2016	Signature of: <input checked="" type="checkbox"/> City Auditor <input type="checkbox"/> County Auditor	Printed Name of City or County Auditor Matthew J. Graves		Auditor Telephone Number (701) 667-3250

Local governing bodies please review information to consider before approving a local permit below.

Local governing bodies please see the instructions on the backside of this form on how to complete the permit.

Organizations conducting a raffle or calendar raffle please read "Information Required to be Preprinted on a Standard Raffle Ticket" on the backside of this form.

 cut along this line

Before approving a local permit or charity local permit the local governing body should review North Dakota Century Code 53-06.1-03(3)(a) which states:

3. A licensed organization or organization that has a permit shall conduct games as follows:

a. Only one licensed organization or organization that has a permit may conduct games at an authorized site on a day, except that a raffle may be conducted for a special occasion by another licensed organization or organization that has a permit when one of these conditions is met:

- (1) When the area for the raffle is physically separated from the area where games are conducted by the regular organization.
- (2) Upon request of the regular organization and with the approval of the alcoholic beverage establishment, the regular organization's license or permit is suspended for that specific time of day by the attorney general.

Also, please review North Dakota Administrative Code 99-01.3-01-05 (Permits) for the administrative rules governing permits. These rules may be viewed on the North Dakota Attorney General's website at www.ag.nd.gov - Gaming/Rules and Regulations/Gaming Administrative Rules.



APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT
 OFFICE OF ATTORNEY GENERAL
 SFN 9338 (08/2016)

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

Name of Non-profit Organization Triple H Miniature Horse Rescue	Date(s) of Activity to	For a raffle, provide drawing date(s): 11-21-16	
Person Responsible for the Gaming Operation and Disbursement of Net Income Alison Smith	Title Ex. Director	Business Phone Number	
Business Address	City Mandan	State ND	Zip Code 58554
Mailing Address (if different)	City Bismarck	State ND	Zip Code 58502
Name of Site Where Game(s) will be Conducted Station West Bar and Grill	Site Address 412 West Main. St		
City Mandan	State ND	Zip Code 58554	County Morton
Check the Game(s) to be Conducted: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.			
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Raffle Board <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker * <input type="checkbox"/> Twenty-one * <input type="checkbox"/> Paddlewheels *			

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Chinese Raffle	Prize baskets	25-100			
Total:					(Limit \$12,000 per year) \$

Intended uses of gaming proceeds: Care for Kitty City cats at the cat shelter at Triple H Miniature Horse Rescue

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

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

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? No Yes - If "Yes," indicate the total value of all prizes previously awarded: \$ 2064.00 . This amount is part of the total prize limit of \$12,000 per year.

Signature of Organization's Top Executive Official 	Date 10-14-16	Title Ex. Director	Business Phone Number
--	------------------	-----------------------	-----------------------

A single cash prize cannot exceed \$6,000.

The retail value of a merchandise prize cannot exceed \$6,000.

The total of all cash prizes and retail value of all merchandise prizes for all games cannot exceed \$12,000 per year.

If the value of the planned cash and merchandise prizes exceeds \$12,000, the organization must reduce the prizes to this limit or apply for a state license with the Office of Attorney General.

LOCAL PERMIT AND CHARITY LOCAL PERMIT:

The major differences between a local permit and charity local permit are:

	<u>Local Permit</u>	<u>Charity Local Permit</u>
Number of events per year	Limited by prizes	One
Must file an information report	No	Yes
May pay employees compensation	Yes	No
Must use chips as wagers	No	Yes
Use of net income	Unrestricted	Restricted
Games allowed	Bingo Raffles Sports pools	Bingo Raffles Sports pools Poker Twenty-one Paddlewheels

Compared to a "Local Permit," an organization with a "Charity Local permit" may conduct 3 more game types, but is restricted to 1 event per year, must file an information report with the city or county and Office of Attorney General, and disburse net income to eligible uses. These uses are described by North Dakota Century Code § 53-06.1-11.1(2) and North Dakota Administrative Code § 99-01.3-14-02. Refer to the backside of the "Report on a Charity Local Permit" form for a general list of eligible uses.

For a Charity Local Permit, one method to ensure that the total of all cash prizes and retail value of all merchandise prizes do not exceed \$12,000 is to charge each player a standard amount at the start of the event for a certain number or value of chips. If a player loses all of the player's chips, the player may re-buy chips. The player would play games and, at the end of the event, the organization would auction merchandise prizes to the players. The player who bid the highest number or value of chips for a prize would win that prize. For those players who have chips but did not successfully bid on a prize, the organization may redeem the chips for a predetermined cash value per chip. For this method, the value of the players' chips redeemed for cash is not a prize.

INFORMATION REQUIRED TO BE PREPRINTED ON A STANDARD RAFFLE TICKET:

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

NB #3
Attachments added
11/15/16

Estimate

SCOTT D. BERGER CONSTRUCTION

Scott D. Berger
P.O. Box 9
Mandan ND 58554

Mandan Library

609 West Main Str.
Mandan ND 58554

September 25, 2016

Work to Be Performed:

Remove & replace two west window units and steel door. These will be replaced with two Pella Pro Line Window units and an insulated Pella outswing steel door. We will re-use the emergency crash bar hardware.

Exterior surfaces shall be wrapped with a metal cladding. The flat surfaces shall be covered with steel vertical siding to provide maintenance free exterior. We will do our best to match the green colors.

The interior shall be sheetrocked where required, taped/textured and painted.

Cost:

\$10,810.90

Respectfully Submitted:



Scott D. Berger

228-4027



Hopfauf
Custom Builders

P.O. Box 425 • Mandan, ND 58554
(701) 663-7691 • FAX (701) 663-3094
www.hopfaufcustombuilders.com

PROPOSAL

DATE NUMBER

10/10/2016 3618

To:

City of Mandan - Library Building
Attention: Doug Lalim
609 West Main Street
Mandan ND 58554

DESCRIPTION

Library Building Window/Door Project - 609 W Main Street, Mandan ND 58554
To include: Removal & disposal of existing windows & door. Reframe window opening to raise window to 18" off floor & to resize opening for new windows. Provide & install new door & windows as per Pella proposal. Wrap existing wood buck on opening with metal to match windows & door. Install flashing around windows & door. Provide & install tyvek wrap on exterior. Provide & install Hardie Artisan v-groove siding on exterior. Hardie to be painted to match door & window. Tape, texture & paint interior walls as necessary due to frame changes. Provide & install new 2 1/4" paint grade Colonial casing to inside of door & windows. Paint trim to match interior of window & door. Provide & install panic hardware to interior of door. Final cleanup & trash removal are included.

Framing Group - Permit, Framing Materials, Framing Labor	3,144.00
Finish Group - Finish Materials, Tape & Texture, Paint, Finish Labor, Clean-up, Trash Removal	2,747.00
Pella Windows & Door	4,279.00
Hardie Fiber Cement Siding	1,557.00

TOTAL \$11,727.00

2601 Twin City Drive
 Mandan, ND 58554
 701-663-7966 • 1-800-732-7120
 Fax: 701-667-0865
 www.leingang.com



**WINDOWS
 RETAIL SALES CONTRACT**

Mandan • Bismarck
 Dickinson • Minot • Pierre

(Name and Business Address of SELLER - Hereinafter referred to as SELLER)
 sells and, City of Mandan Morton Mandan Public Library, hereby

(Names and Mailing Address of BUYERS - Hereinafter referred to as BUYER)

purchases from the SELLER the following described GOODS and SERVICES: (All products will have the following specifications unless otherwise noted.)

Furnish and Install WINDOWS & DOORS: Composite or PVC vinyl windows, with insulated glass, standard lock system and screens on venting units. Window(s) will be insulated with high-performance expanding foam and sealed into opening with silicone caulk.

Gut-out: Yes No Existing frame will be removed completely and new window or patio door installed into rough opening.

New Interior Trim: Yes No Unfinished (w/ paper) Finished Color: TBD
 2 1/4" Ranch 2 1/4" Colonial 3 1/4" Colonial Oak Other _____

New Brickmold: Yes No Vinyl Wood wrapped with metal NailFin Color TBD

Retrofit: Yes No Existing frame will remain in opening, sashes removed and new window set into existing frame.

Cover Existing Brickmold with Metal: Yes No No Mar Smooth PVC Color _____

Window Color: Outside: Custom Green Inside: White Vent Stops: Yes No

Glass Options: Double Pane LowE Argon Gas Triple Pane 2-LowE Argon Krypton Gas

Spacer Options: Heat Seal[®] Screen: ThruVison PLUS 1/2 Full Hardware Color: Standard _____

Grids: Yes No Colonial Craftsman Perimeter Flat Contoured Color In _____ Out _____

900 Series Insulated Composite Series

(3) Fixed Picture Units, 1 with Tempered Safety Glass next to Entry Door. West Wall of Library

(1) Therma Tru Outswing Entry Door system. Inside colored in white and exterior in TBD green.

Re-Use existing panic door hardware.

Bid Date <u>3-20-16</u>	Prices subject to change _____ days from bid date.	Cash Price. Credit Card will incur a 3% convenience charge.
Street <u>Main St</u>	Home Phone _____ Cell Phone _____ Work Phone <u>867-3230 Doug Lalim</u>	Total \$ <u>9,775.00</u>
City <u>Mandan, ND 58554</u>	State _____ Zip _____	Down Payment \$ _____
Email _____		Due on Completion \$ _____

N/A Initial Here Buyer acknowledges structure being renovated was built in Commercial Property.
 _____ Initial Here Buyer acknowledges receipt of the **Notice to Buyer** and important information on the back side of this contract.
 _____ Initial Here Buyer acknowledges receipt of two copies of the **Notice of Cancellation** and further acknowledges that Seller orally informed Buyer(s) of Buyer's **RIGHT TO CANCEL** the contract.

KEEP A COPY OF THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS Executed by both Buyer and Seller this _____ day of _____, 20____
 1 1/2% per month late payment fee will be charged to all PAST DUE ACCOUNTS. Each buyer hereby acknowledges receipt of a fully completed copy of this RETAIL SALES CONTRACT.

ACCEPTED BY SELLER _____ (BUYER)
Brandon Leingang _____ (BUYER)
 (AUTHORIZED REPRESENTATIVE)

2601 Twin City Drive
 Mandan, ND 58554
 701-663-7966 • 1-800-732-7120
 Fax: 701-667-0865
 www.leingang.com



**SIDING
 RETAIL SALES CONTRACT**

Mandan • Bismarck
 Dickinson • Minot • Pierre

(Name and Business Address of SELLER - Hereinafter referred to as SELLER)
 sells and. City of Mandan Morton Mandan Public Library, hereby
 (Names and Mailing Address of BUYERS - Hereinafter referred to as BUYER)

purchases from the SELLER the following described GOODS and SERVICES:

Siding: Yes No Cover wood wall of: House Attached Garage Detached Garage Shed Other Indicated areas
 Vinyl Steel Seamless Steel Other _____ **COLOR:** TBD
 Brand TBD Style _____ Exposure _____ Board n Batten _____ Direction Vertical B&B
 Tear Off Existing Siding Cover Existing Siding **NOTES:** West wall indicated below.

Includes color matched accessories, J-channel (mitered), Finish trim, One-piece corner posts, Steel starter strip, Silicone caulk around all openings

Insulation: Yes No 1/4" Foam 3/8" Foam 1/2" Foam Tyvek **ALL SEAMS WILL BE TAPED**

Master Mounts/Vents: Yes No **COLOR:** White as needed.

Gable Vent: Yes No _____ QTY Style _____ Size _____ **COLOR:** _____

Aluminum Soffit: Yes No Center Vent Non-vent Brand/Style _____ **COLOR:** _____

Fascia: Yes No Aluminum Steel Preformed Custom Formed
 Brand/Style _____ **COLOR:** _____

Fascia to be screwed on, not nailed. Check old vents for insulation falling in. Replace rotted fascia as needed.

Coverall: Yes No Wrap with custom formed aluminum. Brand/Style _____ **COLOR:** _____

_____ Doors _____ Windows _____ Overhead Garage Doors _____ Patio Doors _____ Door Sidelite _____ Other _____

Weatherstripping: (Overhead garage door only) Yes No Reuse Existing **COLOR:** _____

Roof Edge: Yes No Install new or cap existing. **Gutter Apron:** Yes No Install new or cap existing. **COLOR:** _____

Additional Work:
Flashing as needed above and below window.
Covering wood surface on west wall of library with window installation.

Bid Date 8-22-16 **Prices subject to change** 30 **days from bid date.**

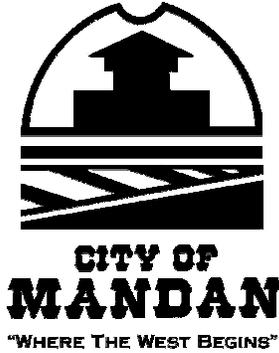
Street <u>Main St</u>	Home Phone _____ Cell Phone _____ Work Phone <u>667-3230 Doug Lalim</u>	Cash Price. Credit Card will incur a 3% convenience charge.
City <u>Mandan, ND 58554</u>	State _____ Zip _____	Total \$ <u>1,730.00</u>
Email _____		Down Payment \$ _____
		Due on Completion \$ _____

N/A Buyer acknowledges structure being renovated was built in Commercial Property.
 _____ Initial Here Buyer acknowledges receipt of the Notice to Buyer and important information on the back side of this contract.
 _____ Initial Here Buyer acknowledges receipt of two copies of the Notice of Cancellation and further acknowledges that Seller orally informed Buyer(s) of Buyer's RIGHT TO CANCEL the contract.

KEEP A COPY OF THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS Executed by both Buyer and Seller this _____ day of _____ 20____
 1½% per month late payment fee will be charged to all PAST DUE ACCOUNTS. Each buyer hereby acknowledges receipt of a fully completed copy of this RETAIL SALES CONTRACT.

ACCEPTED BY SELLER _____ (BUYER)
Brandon Leingang _____ (BUYER)
 (AUTHORIZED REPRESENTATIVE)

Yes No Permission to use home for advertising purposes.



Board of City Commissioners

Agenda Documentation

MEETING DATE: 11/15/16
PREPARATION DATE: 11/08/16
SUBMITTING DEPARTMENT: Library
DEPARTMENT DIRECTOR: Sarah Warneke
PRESENTER: Sarah Warneke
SUBJECT: Building Repairs

STATEMENT/PURPOSE: Request approval from the City Commission to proceed with plans to have building repairs done to the West end of the library building.

BACKGROUND/ALTERNATIVES: At the October 24 Library Board of Trustees meeting, a motion was made to accept a bid from Scott Berger Construction for replacement of the two windows on the West end of the building. The motion included an expansion of the bid to include repairing the deck on the West end.

ATTACHMENTS: Estimate from Scott Berger Construction for replacement of windows and emergency door on West end of library building. Estimate from Scott Berger Construction for repairs to deck on West end of library building.

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: The library should proceed with plans for repairs to the West end of the building.

SUGGESTED MOTION:

1. I move to approve the library plans for repairs to the West end of the building.
2. I move to approve the library seeking bids for windows on the North and South sides of the building.

Board of City Commissioners

Agenda Documentation

Meeting Date: November 15, 2016

Subject: Consider approval to proceed with plans to have building repairs done to the West end of the library building.

Page 2 of 5

Estimate

SCOTT D. BERGER CONSTRUCTION

Scott D. Berger
P.O. Box 9
Mandan ND 58554

Mandan Library

609 West Main Str.
Mandan ND 58554

September 25, 2016

Work to Be Performed:

Remove & replace two west window units and steel door. These will be replaced with two Pella Pro Line Window units and an insulated Pella outswing steel door. We will re-use the emergency crash bar hardware.

Exterior surfaces shall be wrapped with a metal cladding. The flat surfaces shall be covered with steel vertical siding to provide maintenance free exterior. We will do our best to match the green colors.

The interior shall be sheetrocked where required, taped/textoned and painted.

Cost:

\$10,810.90

Respectfully Submitted:



Scott D. Berger

220-4027

Board of City Commissioners

Agenda Documentation

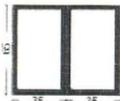
Meeting Date: November 15, 2016

Subject: Consider approval to proceed with plans to have building repairs done to the West end of the library building.

Page 3 of 5

Customer: Scott D Berger Construction Project Name: Scott Berger Construction West Main Mandan Order Number: 234 Quote Number: 8288754

Line #	Location:	Attributes	Item Price	Qty	Ext'd Price
10	South E	ProLine, 2-Wide Sash Set, 70 X 65, Hartford Green	\$906.49	1	\$906.49



Viewed From Exterior

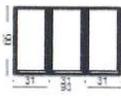
1: 3565 Fixed Sash Set
 Frame Size: 35 X 65
 General Information: Clad, 5", 3 11/16"
 Exterior Color / Finish: Standard Enduraclad, Hartford Green
 Interior Color / Finish: Bright White Interior
 Glass: Insulated Tempered Low-E Advanced Low-E Insulating Glass Argon Non High Altitude
 Performance Information: U-Factor 0.28, SHGC 0.31, VLT 0.58, CPD PEL-N-22-00526-00001, Performance Class R, PG 50, Calculated Positive DP Rating 50, Calculated Negative DP Rating 50
 Grille: No Grille
 Vertical Mull 1: FactoryMull, Standard Joining Mullion, Mull Design Pressure- 20

2: 3565 Fixed Sash Set
 Frame Size: 35 X 65
 General Information: Clad, 5", 3 11/16"
 Exterior Color / Finish: Standard Enduraclad, Hartford Green
 Interior Color / Finish: Bright White Interior
 Glass: Insulated Tempered Low-E Advanced Low-E Insulating Glass Argon Non High Altitude
 Performance Information: U-Factor 0.28, SHGC 0.31, VLT 0.58, CPD PEL-N-22-00526-00001, Performance Class R, PG 50, Calculated Positive DP Rating 50, Calculated Negative DP Rating 50
 Grille: No Grille
 Vertical Mull 1: FactoryMull, Standard Joining Mullion, Mull Design Pressure- 20
 Wrapping Information: Foldout Fins, Factory Applied, No Exterior Trim, No Interior Trim, 6 9/16", 7 7/8", Standard Four Sided Jamb Extension, Factory Applied, Pella Recommended Clearance, Perimeter Length = 270".

Rough Opening: 70 - 3/4" X 65 - 3/4"

Customer: Scott D Berger Construction Project Name: Scott Berger Construction West Main Mandan Order Number: 234 Quote Number: 8288754

Line #	Location:	Attributes	Item Price	Qty	Ext'd Price
15	North E	ProLine, 3-Wide Sash Set, 93 X 65, Hartford Green	\$1,515.20	1	\$1,515.20



Viewed From Exterior

1: Non-Standard Size Fixed Sash Set
 Frame Size: 31 X 65
 General Information: Clad, 5", 3 11/16"
 Exterior Color / Finish: Standard Enduraclad, Hartford Green
 Interior Color / Finish: Bright White Interior
 Glass: Insulated Tempered Low-E Advanced Low-E Insulating Glass Argon Non High Altitude
 Performance Information: U-Factor 0.28, SHGC 0.31, VLT 0.58, CPD PEL-N-22-00526-00001, Performance Class R, PG 50, Calculated Positive DP Rating 50, Calculated Negative DP Rating 50
 Grille: No Grille
 Vertical Mull 1: FactoryMull, Standard Joining Mullion, Mull Design Pressure- 20

2: Non-Standard Size Fixed Sash Set
 Frame Size: 31 X 65
 General Information: Clad, 5", 3 11/16"
 Exterior Color / Finish: Standard Enduraclad, Hartford Green
 Interior Color / Finish: Bright White Interior
 Glass: Insulated Tempered Low-E Advanced Low-E Insulating Glass Argon Non High Altitude
 Performance Information: U-Factor 0.28, SHGC 0.31, VLT 0.58, CPD PEL-N-22-00526-00001, Performance Class R, PG 50, Calculated Positive DP Rating 50, Calculated Negative DP Rating 50
 Grille: No Grille
 Vertical Mull 2: FactoryMull, Standard Joining Mullion, Mull Design Pressure- 20

3: Non-Standard Size Fixed Sash Set
 Frame Size: 31 X 65
 General Information: Clad, 5", 3 11/16"
 Exterior Color / Finish: Standard Enduraclad, Hartford Green
 Interior Color / Finish: Bright White Interior
 Glass: Insulated Tempered Low-E Advanced Low-E Insulating Glass Argon Non High Altitude
 Performance Information: U-Factor 0.28, SHGC 0.31, VLT 0.58, CPD PEL-N-22-00526-00001, Performance Class R, PG 50, Calculated Positive DP Rating 50, Calculated Negative DP Rating 50
 Grille: No Grille
 Vertical Mull 1: FactoryMull, Standard Joining Mullion, Mull Design Pressure- 20
 Wrapping Information: Foldout Fins, Factory Applied, No Exterior Trim, No Interior Trim, 6 9/16", 7 7/8", Standard Four Sided Jamb Extension, Factory Applied, Pella Recommended Clearance, Perimeter Length = 316".

Rough Opening: 93 - 3/4" X 65 - 3/4"

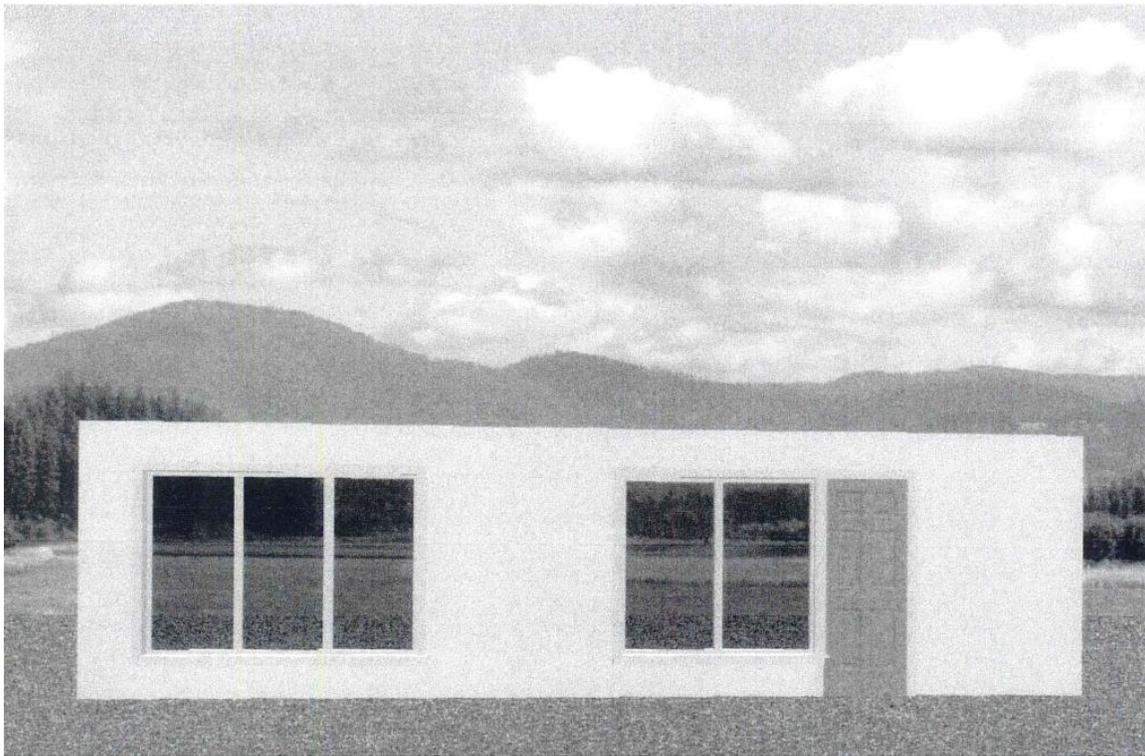
Board of City Commissioners

Agenda Documentation

Meeting Date: November 15, 2016

Subject: Consider approval to proceed with plans to have building repairs done to the West end of the library building.

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Estimate

SCOTT D. BERGER CONSTRUCTION

% Scott D. Berger

P.O. Box 9

Mandan ND 58554

(701) 220-4027

Mandan Library

609 West Main

Mandan ND 58554

10/28/2016

Work on West Loading Dock Area:

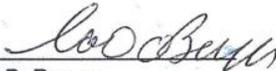
Work to Include: Loosen Handrail & elevate, remove top 2 * 12 cap material, stabilize existing tongue & groove face material, cover with board & batten style vertical steel siding, Install Trex brand cover to replace 2 * 12, adhering to existing concrete and re-attaching handrail.

Material & Labor:

\$5,835.00

Option:

**Azek tongue & groove Porch Material
would add an additional \$ 2,465.00.**


Scott D. Berger



Board of City Commissioners

Agenda Documentation

MEETING DATE: November 15, 2016
PREPARATION DATE: November 9, 2016
SUBMITTING DEPARTMENT: Public Works
DEPARTMENT DIRECTOR: Jeff Wright, Public Works Director
PRESENTER: Jeff Wright, Public Works Director
SUBJECT: Update on Recycling

STATEMENT/PURPOSE: Update the commission on recycling numbers and present new posters on what to recycle and what not to recycle.

BACKGROUND/ALTERNATIVES: As of October 31, Dakota Sanitation has collected over 856 tons of recyclables. We are seeing about 50% weekly participation through the first 10 months, but only 695 residents have never participated in the program and our average monthly participation has been 89.74%.

In November residents will receive two new recycling posters in their utility bill showing the top 10 items to recycle and the top 6 items not to recycle. All the items on the not to recycle list are important, a couple of the biggest items we are seeing in our program are shredded paper and used fireworks. Shredded paper is quite the nuisance at the recycling center as it contaminates most of the other separated recyclables and has to be removed by hand and thrown in the garbage and taken to the landfill. Shredded paper is recyclable, but not in the single stream system. Shredded paper can go to the Trans Trash site at 1800 40th Ave SE and put in the regular paper bin. Used fireworks are not recyclable items and need to be disposed of in the regular garbage receptacle.

ATTACHMENTS: Top 10 items to recycle, Top 6 items not to recycle

FISCAL IMPACT: N/A

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: No motion needed. Information item only.

SUGGESTED MOTION: None.

I ♻️
America Recycles

WHAT CAN I RECYCLE?

TOP 10 IN THE BIN

1. CARDBOARD
2. PAPER
3. FOOD BOXES
4. MAIL
5. BEVERAGE CANS
6. FOOD CANS
7. GLASS BOTTLES
8. JARS (GLASS & PLASTIC)
9. JUGS
10. PLASTIC BOTTLES AND CAPS

ALSO RECYCLABLE BUT NOT IN CURBSIDE BIN

- PLASTIC BAGS AND WRAPS
- ELECTRONICS
- TEXTILES

Find out about your local recycling options here:
www.iwantoberecycled.org



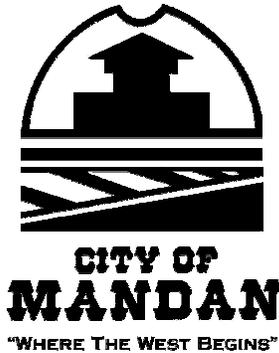
KEEP AMERICA BEAUTIFUL





Top Six Things **NOT** to Put in Cart

- **Plastic Bags, Plastic Film, Tarps**
 - Wrap around equipment – stops system;
 - End up in the trash.
- **Shredded Paper**
 - Falls through system – contaminates glass;
 - Ends up in the trash.
- **Hoses, Extension Cords, Wire**
 - Wraps around the equipment – stops system;
 - Ends up in the trash.
- **Loose Bottle Caps**
 - Falls through system – contaminates glass;
 - Ends up in the trash
 - Leave on bottles to be recycled.
- **Drinking Glasses, Mirrors, Ceramics**
 - Contaminate the glass;
 - Ends up in the trash.
- **Fireworks**
 - Contains non-recyclable items, such as gun powder.
 - Dispose of used fireworks in regular garbage.



Board of City Commissioners

Agenda Documentation

MEETING DATE: November 15, 2016
PREPARATION DATE: November 10, 2016
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR: Justin Froseth
PRESENTER: Justin Froseth, Planning and Engineering Director
SUBJECT: McKenzie Drive Project Consultant Selection

STATEMENT/PURPOSE: Consider approval of selection of Ulteig Engineers for engineering services for the McKenzie Drive Reconstruction project.

BACKGROUND/ALTERNATIVES: The pavement at McKenzie Drive between the west side on and off ramps of Expressway and 46th Avenue SE is in poor condition and degrading rapidly. Additionally, the growth in that area of town has continued to be more accelerated than any other parts of town. Considering the growth and including the opening of the YMCA scheduled for 2017 adjacent to that intersection and we believe that traffic control elements will be needed sooner rather than later.

The city has been approved by the NDDOT within their Transportation Improvement Program (TIP) to reconstruct McKenzie Drive between the west side ramps and 46th Avenue as well as install traffic control at the 46th Avenue intersection. This project is eligible for approximately 80% federal funding, capped at \$800,000 as administered through the NDDOT. As such, the project must go through the NDDOT bidding process, requiring the plans and specifications to adhere to their guidelines. In order to ensure that proper procedures are followed, the engineering department requested hiring a consulting firm to design these projects. On September 20th, the City Commission approved the engineering department advertising for RFP for engineering services for this project.

By October 21st we received eight proposals. Out of those eight proposals, we selected four engineering firms to be interviewed on November 3rd by a panel of five interviewers, four from city staff, and one from the local roads program at the DOT. Ulteig was the selection chosen by the interviewers.

As of November 10th, city staff is reviewing the agreement documents sent to us by Ulteig. We hope to have the final documents to city commission by the November 15th

meeting with a recommendation to approve. The documents received are available upon request.

ATTACHMENTS:

1. Final Rankings Sheet
2. Project Vicinity Map

FISCAL IMPACT: The project would likely be paid for by using our typical allocation for Urban Roads Program projects. Local share would be 5% sales tax, 5% city-wide property tax, and 10% regional special assessments. For this project, the estimate is \$1.3M and was based on traffic signals at the intersection. That would leave the local share at about \$500,000. A round-about in lieu of traffic signals has been asked to be considered during planning. A round-about for this intersection is likely to increase construction costs.

STAFF IMPACT: Coordination with selected firm.

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

RECOMMENDATION: Select Ulteig Engineers to provide engineering services for the McKenzie Drive reconstruction project.

SUGGESTED MOTION: I move to;

Option A: Agree to negotiate with Ulteig Engineers for engineering services for McKenzie Drive reconstruction.

Or, if final agreement ready

Option B: Enter into agreement with Ulteig Engineers for engineering services for McKenzie Drive reconstruction.

McKenzie Interview Rankings

Place	Evaluator #1	Evaluator #2	Evaluator #3	Evaluator #4	Evaluator #5
1	KLJ	Apex	Ulteig	Ulteig	Ulteig
2	Apex	KLJ	Sambatek	KLJ	Apex
3	Ulteig	Ulteig	KLJ	Apex	KLJ
4	Sambatek	Sambatek	Apex	Sambatek	Sambatek

Summation of Evaluators' Rankings

Place	Rating	Points
1	Ulteig	9
2	KLJ	11
3	Apex	12
4	Sambatek	18



Board of City Commissioners

Agenda Documentation

MEETING DATE:	November 15, 2016
PREPARATION DATE:	November 10, 2016
SUBMITTING DEPARTMENT:	Engineering
DEPARTMENT DIRECTOR:	Justin Froseth
PRESENTER:	Justin Froseth, Planning and Engineering Director
SUBJECT:	Discussion of possible projects to submit to the DOT's Transportation Improvements Program (TIP) for the year 2021

STATEMENT/PURPOSE: The Metropolitan Planning Organization (MPO) coordinates funding requests for NDDOT TIP roadway projects. These are the projects that would be eligible for federal funding assistance because of their existing functional classification or future expected classification.

BACKGROUND/ALTERNATIVES: Later this month, staff will be meeting with MPO staff as well as other jurisdiction staff from within the MPO. Those being Morton County, the City of Bismarck, Burleigh County, and the City of Lincoln in addition to us. Ahead of those meetings, we are to submit our TIP project applications which will be discussed when we get together. The selection committee will then be tasked with ranking all jurisdiction projects and forwarding those rankings on to the DOT who needs them by the end of the year.

The MPO needs to be assured that city leadership endorses the projects that our staff applies for. In response to contentious MPO meetings last year as well as a feeling within the committee of project oversaturation, the new guidance is that each jurisdiction is allowed a maximum of three submittals to the Urban Roads Program (URP).

Below is a briefing of projects applied for in 2020 that could be forwarded to 2021. Also, attached is the project submittal list that was sent in for 2020 with a couple modifications. The strikethrough line denotes those projects that were successfully put in the TIP for 2020 meaning that federal funds have been programmed for those projects in the year 2020 and there will be no need to apply for them in 2021.

The selection criteria tends to elevate projects that address existing system needs such as reconstruction projects such as our nearly completed Old Red Trail project. Secondly, the selection criteria tends to elevate a project that would relieve existing corridors' congestion by building a new corridor that has the potential to do that. Ranking on the lower end as dictated by the selection criteria would be a new road on the fringe areas of

the city. For the URP, the city stands to receive approximately \$1M annually for our needs. Based on this limited amount, having more than one project selected a year is unlikely. Some years, we are not successful in getting any as is true with other jurisdictions. For the Urban Regional part of the TIP, those projects are on the state highway system and we compete statewide for them to be included into the program.

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

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

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

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

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

3. Extension of Sunset Drive NW

The purpose of the project is to link the Sunset interchange on I-94 to the proposed northern bridge corridor at 38th St. NW with a connection to 1806. This project might be built in two phases depending on the pace of development. Developer funding of a rural section road as a first phase is likely with the requested Urban Road Program funding a second phase upgrade to an urban arterial roadway section.

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

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

5. Extension of Division Street west from Sunset to Lohstreter

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

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

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

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

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

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

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

~~The purpose of this project is to improve traffic capacity and safety at the intersection of 1806(Collins) and Old Red Trail as well as improvements to the stretch of Mandan Ave., Old Red Trail, and 1806 from the Mandan Avenue Interstate interchange to just north of the 27th St. intersection. The main components would include; 1) Reconstruction of the roadway from the interchange to the Old Red Trail/Collins intersection 2) Reconfigured intersection to either be signalized or incorporate a round about 3) Shoulder widening along 1806 north of the intersection and a northbound left turn lane onto 27th Street.~~

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

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

10. Memorial Highway, Phase 1

Board of City Commissioners

Agenda Documentation

Meeting Date: November 15, 2016

Subject: Discussion of possible projects to submit to the DOT's Transportation Improvements Program (TIP) for the year 2021

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

ATTACHMENTS:

1. 2020 Project Submittal List

FISCAL IMPACT: Local funds need to be identified as projects are selected and programmed in.

STAFF IMPACT:

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

RECOMMENDATION: Submit the URP with the top two priorities being:

- 1) Reconstruct 8th Avenue NW from Old Red Trail to 27th Street NW (East of Walmart)
- 2) Build Division Street from 8th Avenue NE to Mandan Avenue

If the first two are agreed to, the third application allowed could be one of the developer driven projects at a fringe area of town or perhaps the reconstruction project picking up where the city left off on Old Red Trail west of 40th Avenue.

Submit the Urban Regional projects with the priorities being;

- 1) Concrete Pavement Repair (Spot corrections) of Main Street from 10th Avenue west to Twin City Drive.
- 2) Reconstruct Memorial Highway, Phase I of a likely three phase approach.

SUGGESTED MOTION: No motion needed. Intended for discussion at this time. Motion could be entertained to set priorities at this meeting or will plan to bring back to next.

PROJECT SUBMITTAL LIST

Entity: City of Mandan Contact Person: Justin Froseth Revision:
 Date: February 2, 2016 Phone Number: 701-667-3225 If you have questions with filling out the list, please contact Stacey Hanson at 701-328-4469

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

RECOMMENDED MOTION:

Move to approve the first consideration of Ordinance No. 1241 amending and reenacting Sec. 105-1-2 and adding and enacting Sec. 105-1-15 of the Mandan Municipal Code related to fences, sight triangles and signs

ORDINANCE NO. 1241

An Ordinance to Amend and Reenact Sec. 105-1-2 and Add and Enact Sec. 105-1-15 of the Mandan Municipal Code related to fences, sight triangles and signs

WHEREAS, the Mandan Architectural Review Commission (MARC) reviews and approves the number, design and location of signs, and

WHEREAS, the sign guidelines that have been followed by the MARC are contained in a policy document, and

WHEREAS, changes in sign technology and the proliferation of various types of signs require an upgrade to how the city regulates signs, and

WHEREAS, it is difficult for the city to enforce a policy document used by a committee, and

WHEREAS, many of the issues related to signs are not design issues but operation and maintenance issues, and

WHEREAS, the requirements for a sight triangle apply to fences and vegetation as well as signs, and

WHEREAS, the requirements for a sight triangle that apply to fences need to be simplified and need to match the requirements that apply to signs, and

WHEREAS, wording needs to be added addressing vegetation in a sight triangle, and

WHEREAS, codifying sign requirements will allow the city to enforce the requirements.

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

Section 1. Sec. 105-1-2 is amended to read.

Sec. 105-1-2. - Supplementary provisions.

(2) *Projections into yards.*

a. _____-Steps, stairways, terraces and un-roofed porches or decks may extend into any minimum front or rear yard ~~not more than~~up to six (6) feet and into any minimum side yard ~~not more than~~up to four (4) feet, provided, however, that the floor thereof is no higher than that of the entrance to the building.

b. _____-Chimneys may extend into any minimum yard ~~not more than~~up to two (2) feet.

c. Business signs may be located in the front yard setback. If located within a sight triangle they must meet the dimensional requirements specified in Sec. 105-1-15 (j) (3).

d. -No such feature shall ~~extend~~ be located closer than three (3) feet to a lot line.

(4) *Fences and walls.* Fences and walls may be placed in any yard setback area provided that the height of fences and walls adjacent to a street, alley or driveway shall be lowered to three (3) feet within a sight triangle as specified in Sec. 105-1-15 (j) (3). The building line and yard requirements of these regulations shall not apply to retaining walls or other walls or fences. Walls and fences must meet the following criteria:

a. Fence on corner lot. No wall or fence shall extend more than three feet above the top of curb within the areas identified herein in order to provide a clear sight triangle for drivers entering an intersection.

1. For each leg of an intersection that is uncontrolled, the clear sight triangle shall begin 25 feet back from the property corner measured along the property line.

2. Reserved.

3. For each leg of an intersection that is stop sign controlled, the clear sight triangle shall begin at a point ten feet behind the stop sign or 20 feet from the adjoining street curb line, whichever is less, as measured from each edge of the travel lane.

4. For each leg of a traffic light controlled intersection, the clear sight triangle shall begin at a point ten feet behind the stop bar or 15 feet from the intersecting street curb line, whichever is less, as measured from each edge of the travel lane.

(11) *Vegetation within sight triangle.*

a. No new vegetation may be planted within a sight triangle for a street or alley unless it can be maintained such that it meets the requirements contained in Sec. 105-1-15 (j) (3).

b. If possible, existing vegetation located within a sight triangle for a street or alley shall be maintained such that it meets the requirements contained in Sec. 105-1-15 (j) (3).

c. Existing vegetation that cannot be maintained such that it meets the requirements of Sec. 105-1-15 (j) (3) need not be removed unless it creates an obvious danger to the ability of drivers and pedestrians to see past it on arterial or collector streets.

Section 2. Sec. 105-1-15 is created to read.

Sec. 105-1-15. – Signs

- (a) *Purpose.* The purpose of these sign requirements is to establish regulations that allow businesses to effectively convey information through signage while also maintaining a neat and orderly appearance. These regulations apply to new signs installed after adoption of these regulations and existing signs that are rebuilt or relocated. Permanent types of signs require a building permit and payment of the established fee. Permanent signs must meet building and utility code requirements.
- (b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Awning means a roof-like structure that is supported by a metal or wood frame.

Banner means a sign printed on lightweight, flexible material such as cloth, canvas or plastic that contains decorations and/or graphics or provides information to the public that is temporarily attached to a building or suspended between permanent poles or columns.

Bench sign means a place for people to sit that also contains wording and/or graphics advertising a business or activity.

Billboard means an off-premise sign constructed to industry standards that either advertises one business or contains an easily changeable face that can be rented by a business or multiple businesses for a period of time.

Canopy means a structure or architectural element, other than an awning, that is made of metal or other noncombustible materials and is either freestanding or attached to a building.

Canopy Sign means a message or identification which is affixed to or supported by a canopy.

Directional means an on-premise sign using arrows and/or words to assist with internal circulation that may contain the name or logo of an establishment but no advertising copy.

Display means a structure of any kind that is arranged, intended, designed or used as an advertisement, announcement or direction.

Electronic or Changeable Copy means a portion of a sign that includes a screen or letters, characters, or graphics that are not permanently affixed to the structure, that can be modified from time to time either electronically or manually.

Erect means to build, construct, attach, hang, place, suspend or affix.

Facing or surface means the part of a sign upon, against, or through which the message is displayed or illustrated.

Figurative wall mural means an illustration, diagram or design, not intended to sell a product or to advertise an establishment, that is used for aesthetic purposes or to enhance architectural features of a building.

Flag sign means a loose section of fabric or other flexible material designed to move with the wind that is attached to a lightweight pole which is either pushed into the ground or into some form of support.

Flashing means a pattern of changing light, pictures or wording for the purpose of drawing attention to the sign.

Frame effect means a defining element on an electronic message center sign applied to a single frame or to transition from one frame to the next.

Frame hold means the duration or interval of time during which each individual advertisement or message is displayed on any sign which is capable of sequentially displaying more than one advertisement or message on its display surface.

Freestanding means a sign supported by uprights or braces placed in or upon the ground surface with no attachment to any building.

Illuminated means a sign that has either internal or external lights or luminous tubes.

Marquee means a hood or awning of permanent construction projecting from the wall of a building above an entrance and extending over a sidewalk.

Marquee sign means a message attached to the face of a marquee.

Monument means a freestanding sign where the entire bottom of the sign is affixed to a base on the ground that fully supports the sign.

NIT means a unit of illuminative brightness equal to one candela (12.5 lumens) per square meter measured perpendicular to the rays of the source.

Non-conforming means a sign that was lawfully erected prior to the effective date of the ordinance that adopted this article and that fails to conform to any of the provisions of this article.

Obstructive means a sign erected with the purpose of hiding or covering from the view of the public an adjacent or nearby sign.

Off-premise means a sign advertising a business, person, service or product which is located or conducted elsewhere than on the premises where the sign is located.

On-premise means a sign advertising a business, service or major product located on that property.

Permanent means a sign not falling under the definitions of temporary or portable.

Pole means a free standing sign supported from the ground by one or two supports that are normally bare.

Portable means a sign designed to be transported, including inflatable devices and signs carried or attached to a trailer or vehicle unless such trailer or vehicle is used in normal day-to-day operations of the business.

Post and panel means a freestanding sign that does not have a base other than the support posts.

Privilege panel means a permanent sign provided by the distributor or manufacturer of a product which utilizes a portion of the sign to advertise a specific product with the rest of the sign allocated to identifying business located at the property upon which the sign is placed.

Projecting means a sign which is attached directly to a building wall and which extends more than twelve (12) inches from the face of the wall.

Pylon means a free standing sign supported from the ground by one or two supports that are normally shrouded.

Roof means a sign erected or constructed wholly upon or over the roof of a building.

Sign means any written announcement, demonstration, display, illustration, or insignia used to advertise or promote the interests of any person when the same is displayed or placed out of doors in view of the general public and shall include every detached sign or billboard and every sign attached to or forming a component part of any building marquee, canopy, awning, street clock, pole, parked vehicle or other object whether stationary or moveable.

Sign size means the message area of the sign without considering the structure of the sign.

Signable wall surface area means the portion of a building wall that is free of windows, doors or major architectural details.

Sight triangle means the area on each side of a driveway, the area at the intersection of two streets or the area at the intersection of an alley and a street that provides visibility along the street for drivers of vehicles, pedestrians and cyclists wishing to turn onto or cross the adjoining street or exit the property onto or across the street.

Streamer means one or more small, typically triangular, flags attached to a line or cable that can be tied or otherwise attached to a portion of a permanent structure or sign post.

Temporary means a sign that is designed to be used only for a limited period of time to advertise a special event or activity and includes banners, construction signs, finance signs, real estate signs, flag signs, political signs, portable signs and streamers.

Wall mount means a sign which is affixed parallel to the exterior wall of a building and which does not project more than twelve (12) inches from the surface to which it is attached nor does it extend beyond the top of any parapet wall.

Window means a sign which faces the exterior of the building and is applied in any manner to the window from either side.

- (c) *Application for permit.* An application for issuance of a sign permit shall be submitted to the City of Mandan Building Department. An application shall include all necessary drawings and specifications showing dimensions and materials to be used on the sign. Required fees must be paid before an application will be processed. Fees for processing and issuance of a sign permit shall be set by action of the board of city commissioners. Actions requiring a permit include the following.

- (1) Alterations to an existing sign. No sign shall be altered except in conformity with the provisions of this policy. The changing of moveable parts of an approved sign that is

designed for such changes, repainting the sign or reposting of display matter shall not be deemed an alteration provided the conditions of the original approval and the requirements of this section are not violated.

- (2) New signs.
 - (3) Relocated signs. A sign that is moved to another location on the same premise or to another premise.
- (d) *Permit exemptions.* No permit shall be required for signs or outdoor display structures listed here. However, not having to get a permit does not relieve the owner of the sign from responsibility for its erection and maintenance in a safe and conforming manner to the requirements contained in this section.
- (1) Directional or instructional signs. Signs not exceeding four (4) square feet in area which provide direction, instruction or identify public facilities; are located entirely on the property to which they pertain; and do not in any way advertise a business.
 - (2) Political signs. Signs that meet the standards contained in this section.
 - (3) Professional name plates. Professional name plates not exceeding two (2) square feet in area.
 - (4) Real estate, construction and finance signs. These signs do not require a permit but signs larger than sixteen (16) square feet must be registered with the Building Department.
 - (5) Rental signs. Rental companies that provide portable signs to businesses must register with the Building Department and provide an inventory of where the signs are located by the 5th business day of each month in which they have a sign rented within the city. The inventory shall include the dates that the sign was or will be in place.
 - (6) Special displays. Decorative displays used for holidays, public demonstrations or promotion of civic welfare or charitable purposes and on which there is no commercial advertising.
 - (7) Store signs. Signs erected on a show window or on the door of a store or business establishment which announces the name of the proprietor and the nature of the business conducted therein as well as temporary signs placed in windows used to advertise a special product or sale.
 - (8) Street signs. Signs erected by the city for street direction.
 - (9) Transit directions. Signs designating the location of a transit line, a railroad station or other public carrier not more than three (3) square feet in area.
- (e) *Processing of application.* Upon receipt of a sign permit application, the Building Department shall schedule the application for review and approval by the Mandan Architectural Review Commission (MARC). The MARC meeting shall occur within thirty (30) days of receipt of the application. Once the MARC has reviewed the application and rendered a decision, the Building Department will process the application and issue any permit recommended by the MARC.

- (f) *Mandan Architectural Review Commission (MARC)*. The MARC is responsible to apply the standards contained in this section when reviewing any sign application submitted to it. The MARC shall review the application and notify the Building Department of its determination. If the MARC approves the application, the Building Department will issue the appropriate permit. The MARC may attach any conditions it deems appropriate to any approval granted.
- (g) *Unsafe or unlawful signs*. The Building Department shall take whatever action is necessary to correct an unsafe condition with a sign or have an unlawful sign removed. If necessary, the Building Department may file a complaint with any court of competent jurisdiction.
- (1) Whenever any sign becomes insecure, in danger of falling or otherwise unsafe, the owner of the sign shall be notified by the Building Department and given a specified time to correct the problem.
 - (2) The Building Department shall order the removal of any sign that has been unlawfully installed, erected or maintained in violation of any of the provisions of this code.
 - (3) The Building Department shall notify the owner and lessee of a building or structure whenever a sign is so erected as to obstruct free ingress to or egress from a required door, window, fire escape or other required exit way and shall require appropriate corrective action within a specified time frame.
 - (4) Signs damaged by storm or accident shall be repaired to a safe condition by the owner of the sign at the direction of the Building Department within a specified period of time. Signs that present a clear and present danger to the public shall be removed or repaired within forty-eight (48) hours. Signs that are impeding traffic may be removed immediately by the city and the owner of the sign billed for the costs incurred by the city.
 - (5) Signs that are destroyed or removed shall not be re-erected, reconstructed, rebuilt or relocated unless the sign is made to comply with all applicable requirements of this section.
 - (6) A sign that no longer advertises a bona fide business or product is considered an unlawful sign and must be removed or covered.
- (h) *Non-conforming signs*.
- (1) A previously approved or permitted and properly maintained non-conforming permanent sign will be allowed until the building is remodeled to an extent greater than fifty percent (50%) of its value, a new business occupies the building or structural or dimensional changes are proposed for the sign.
- (i) *Maintenance and inspection*.
- (1) It shall be the duty and responsibility of the owner or lessee of every sign to maintain the sign in a clean, sanitary and healthful condition.
 - a. The sign, together with all supports, braces, guy wires and anchors, and individual letters and symbols shall be kept in good repair

- b. Parts that are not galvanized or constructed of approved corrosion-restrictive materials shall be painted as necessary to prevent corrosion.
- (2) Every sign for which a permit has been issued shall be inspected by the Building Department upon completion of erection or installation.
- (j) *General requirements and provisions.*
- (1) All signs shall be designed and constructed in conformity to the provisions for materials, loads and stresses of the adopted version of International Building Code Appendix H.
 - (2) No sign shall be illuminated by other than electrical means and electrical devices. Wiring shall be installed in accordance with the requirements of the ND State Electrical Board. No open spark or flame shall be used for display purposes unless specifically approved in writing by the Building Department and the Fire Chief.
 - (3) No sign shall be erected at the intersection of any street, alley or driveway in such a manner as to obstruct the sight triangle.
 - a. A sign shall not be located within a sight triangle if the portion of the sign or support posts between three (3) feet and ten (10) feet above the edge of the roadway will be greater than ten (10) inches wide.
 - b. The sight triangle for intersections that are not traffic light controlled is the area measured along the curb or edge of pavement of the street to a point with a straight line distance of twenty-five (25) feet from the curb or edge of pavement of the intersecting street.
 - c. No sight triangle is required for intersections that are traffic light controlled.
 - d. For intersections that are only partially controlled with stop signs, the sight triangle is only applied to the side streets that have stop signs.
 - e. For an alley or driveway, the other side of the triangle is measured perpendicular to the street along the curb or edge of pavement of the alley or driveway to a point that is a distance of fifteen (15) feet from the curb or edge of pavement of the street. Sight triangles for alleys or driveways in commercial or industrial districts are not required but are recommended. Sight triangles for alleys and driveways in residential districts are not required.
 - f. In zoning districts with a zero front yard setback, the depth of the sight triangle is limited to the boulevard area of the public right-of-way.
 - g. Where existing conditions on a lot limit the options for location of a sign, the applicant may request that the MARC approve location of a designated type of sign within the limits of the sight triangle for a specific site. The reasons for the approval of the location must be documented in the minutes of the MARC meeting.
 - (4) No sign shall be erected that closely resembles or approximates the size, shape or form of an official traffic regulation sign or marker.

- (5) No private sign shall be attached to a public building or structure, a utility pole or any existing public signage.
- (6) The light for a sign shall not be directed into any residential dwelling or towards any oncoming vehicle.
- (7) Signs, other than window signs, containing or utilizing flashing, rotating, or moving lights shall be prohibited unless they are used solely for public safety, e.g. construction markers.
- (8) The use of laser lights, strobe lights, searchlights, beacons and similar upward or outward oriented lighting as part of any sign is prohibited.
- (9) No sign or wall mural shall be painted on any building without prior approval from the MARC.
- (10) No sign shall be attached to, affixed to, painted or drawn on trees, shrubs, rocks, other natural features or organic material unless approved by the MARC or the city commission for a specific site or application. Certain species of wood products may be used for construction of a sign with approval of the MARC or city commission.
- (11) No Permanent sign shall use fluorescent type coloring such as that known as “day-glow”.
- (12) No sign shall be attached to the stairwell railing of a basement business unless a site specific waiver of this requirement is approved by the MARC or the city commission.
- (13) Obstructive signs are prohibited.
- (14) No advertising sign within three hundred (300) feet of a residentially zoned area shall have any bulb that is greater than eleven (11) watts of incandescent lighting or generate more than one hundred sixty-five (165) lumens in light brightness. Public service information signs and other electronic message signs permitted within an area zoned for commercial or industrial use shall have a bulb no greater than seventy-five (75) watts of incandescent lighting or generate more than one thousand one hundred twenty-five (1125) lumens of light brightness.
- (15) Illuminated signs are permitted for buildings housing three (3) or more dwelling units.
- (16) No sign shall hide from a driver’s view or interfere in any material degree with the effectiveness within five hundred (500) feet of any traffic control device, sign or signal.
- (17) No advertising sign, by reason of location, position, shape, or color may be designed to be confused with any public sign. The use of cautionary words such as: “stop”, “danger”, “caution”, “beware” or similar words is prohibited.
- (18) No sign shall contain statements, words, or pictures of an obscene, indecent, pornographic, or immoral character.

- (19) Except for sidewalk signs in the downtown commercial area and signs above sidewalks, no sign shall be allowed in the public right-of-way unless otherwise provided for in this section.
 - (20) Signs that can only be accessed from a state controlled roadway must have written approval from NDDOT.
 - (21) No motorized vehicle or trailer on which is attached thereto or located thereon any sign or advertising device that provides the advertisement of products, services, or directs people to a business may be parked in a public right-of-way or on public property. This subsection shall not apply to vehicles that have been decorated with signs or messages advertising a business or product or to vehicular signs that are attached to or affixed on a motor vehicle used in the normal day-day-day operations of a business.
 - (22) No sign shall be permitted to obstruct any window, door, fire escape, stairway, or opening intended to provide air, ingress or egress for any building or structure.
 - (23) Audio speakers or any form of pyrotechnics are prohibited on or in association with a sign.
- (k) *Zoning district requirements.*
- (1) On single family and two family residentially zoned lots or subdivisions the following sign standards shall apply.
 - a. Each lot may have one (1) sign not exceeding two (2) square feet in area. The sign may be of a wall, foundation or projecting type. Signs may not project past the property boundary. House numbers are not counted as a sign.
 - b. For existing subdivisions, one (1) sign not exceeding twelve (12) square feet in area identifying the subdivision is allowed at each principal entrance.
 - c. For existing subdivisions that were platted more than two (2) years ago, one (1) sign not exceeding six (6) square feet in area may be erected at each principal entrance to the subdivision advertising property for sale or rent within the subdivision.
 - d. For new subdivisions that were platted less than two (2) years ago, one (1) sign not exceeding thirty-two (32) square feet in area may be erected at each principal entrance to the subdivision advertising lots or dwellings for sale within the subdivision.
 - e. No sign shall be illuminated.
 - (2) In business and industrial zoning districts and residential lots containing three (3) or more dwelling units the following sign standards shall apply.
 - a. Each business on a lot containing one or two businesses may have an individual freestanding sign. Lots with more than two businesses must share any freestanding signage. The MARC shall determine the number of signs allowed on any lot with multiple businesses.

- b. Each business may have one (1) projecting, roof or marquee sign per building side.
- c. Each business may have one (1) wall sign per building side, unless the MARC approves a site specific waiver to allow more than one (1) sign per building side.
- d. Each multi-family residential lot may have up to two (2) signs.

(1) *Awnings and awning signs.*

- (1) Awnings may extend from a building over the public right-of-way two (2) feet less than the distance from building to curb. Such structures shall be at least eight (8) feet above the sidewalk or ground grade line. Suspended signage or valances shall be at least eight (8) feet above the sidewalk or ground grade line.
- (2) Awnings should complement the building architecture. Awning shape, color, material, and location on the building shall be compatible with the building architecture and relate well to the dominant architectural features.
- (3) Signs will be allowed on the band or the valance. Signs on a sloped surface shall be at the discretion of the MARC. The sign band shall be no greater than twelve (12) inches in the downtown commercial area. Signs shall not be the dominant feature of an awning.
- (4) Awnings in historic areas and on historic buildings should respect the history of the area and buildings. Historic colors, styles, and mounting locations based on research, old photographs, and historic records are encouraged.
- (5) Awnings should generally be located to fit within window and/or door recesses.
- (6) A uniform shape, color, and placement should be used when multiple awnings are proposed for a single building. New awnings should generally match any existing awnings on the building. Existing inconsistent awning styles of a building do not justify approval of additional or new awning styles. Inconsistent awning styles are to be reduced, not increased with new awning approvals.
- (7) Individual awning proposals for multi-tenant buildings will be evaluated as to their acceptability as a model for use by all other similarly located tenants in the buildings.
- (8) Awnings shall be approved by the MARC if installed under significant eave overhangs, cantilevers, or other prominent architectural projections.
- (9) In the downtown commercial area, day-glow colors, reflective materials and illuminated back lighting of transparent materials are not allowed unless a site specific waiver of this restriction is granted by the MARC.
- (10) Solid colors or low contrast, non-jarring patterns are generally acceptable awning color treatments.
- (11) Fabric awnings shall not be painted.

- (12) Awnings shall be maintained in good repair with a clean and attractive appearance as long as they are installed on the building. Torn, bent and/or faded awnings shall be repaired, replaced or removed.
 - (13) An application for an awning that is submitted to the MARC shall include a sample of the proposed awning material to show color, texture and finish.
 - (14) If any upper story window is treated with an awning, then all upper story windows on that side of the building shall be treated with awnings, unless another design is approved by the MARC.
- (m) *Basement business signs.*
- (1) When only one business is utilizing a basement area, an appropriate wall sign may be provided.
 - (2) When two businesses exit from the basement of a building, appropriate signs or directories to such businesses may be provided on the wall over the entrance to the basement and coordinated with other building signs.
 - (3) Signs or directories shall not exceed nine (9) square feet in area.
- (n) *Benches or structures with signage.*
- (1) The total number of bench signs located in any district shall be limited and approved by the MARC.
 - (2) Bench signs shall not be located closer than seventy-five (75) feet to one another (measured from base to base).
 - (3) Maximum height of four (4) feet.
 - (4) Maximum sign area of twenty (20) square feet.
 - (5) Only one advertising panel advertising one business is permitted per bench.
 - (6) Bench rental companies shall be licensed with the City.
 - (7) All signs and structures shall be properly maintained, well-kept and in good condition.
 - (8) If signage is out of date, the signage or the structure shall be removed or replaced.
 - (9) Signs must advertise Mandan businesses or events if they are located within public right-of-way.
 - (10) MARC must review and recommend the design and content of any bench sign that will be located in public right-of-way. The city commission must grant approval for any bench sign that is to be located in public right-of-way. City commission may include conditions or design requirements with its approval.
- (o) *Billboard signs.*

- (1) No billboard sign shall exceed a height of forty (40) feet above the lot grade of the adjacent roadway.
 - (2) The exposed upright or super structure of billboard signs shall be of non-corrosive metal materials or be painted a color so as to blend with the surrounding environment.
 - (3) Billboard signs shall be of all steel or similar material, constructed and designed in accordance with the Mandan Building Code.
 - (4) There shall be a minimum of three hundred (300) feet between billboards.
 - (5) All billboards shall meet City, State and Federal requirements and must be located totally on private property.
- (p) *Canopy and canopy signs.*
- (1) Canopies and canopy signs attached to a building may extend from the building into the public right-of-way to a point within two (2) feet of the back of curb or edge of pavement where there is no curb. No portion of such a structure or anything attached to the structure shall be lower than eight (8) feet above the sidewalk or ground grade line.
 - (2) Canopy signs shall not extend more than twelve (12) inches above or below a canopy.
 - (3) Canopy signs shall not extend closer than three (3) inches to any edge of a canopy.
 - (4) Canopy signs may be located beneath or above an overhead canopy but shall not project lower than eight (8) feet above the sidewalk.
 - (5) There shall be only one (1) canopy sign per business on each street exposure unless otherwise approved by the MARC.
 - (6) Canopies should complement the building architecture. Canopy shape, color, material, and location on the building shall be compatible with the building architecture, relate well to the dominant architectural features, and not cover up or hide handsome materials or important details.
 - (7) Canopies in historic areas and on historic buildings should respect the history of the area and buildings. Historic colors, styles, and mounting locations based on research, old photographs, and historic records are encouraged.
 - (8) Individual canopy proposals for multi-tenant buildings will be evaluated as to their acceptability as a model for use by all other similarly located tenants in the buildings.
 - (9) Solid colors and/or low contrast, non-jarring patterns are generally acceptable canopy color treatments.
 - (10) All applications for canopies shall include a sample of the proposed awning material to show color, texture, and finish.

(11) If any upper story window is treated with a canopy, then all upper story windows shall be treated with canopies or as otherwise approved by the MARC.

(q) *Electronic signs.*

- (1) Flashing is prohibited.
- (2) The City reserves the right to require any sign to be modified based on display message including timing or frame changes or effects of movements displayed.
- (3) Ground signs, as defined by the IBC Appendix H102 and commonly referred to as billboards or off-premise signs, are permitted in commercial and industrial districts. When adjacent to federal or state aid highways, all NDDOT standards for design and approval must be followed. In those districts where permitted, ground signs must be spaced at least three hundred (300) feet apart along the roadway. Ground signs may not exceed sixteen (16) feet by fifty (50) feet per face of sign in size (multiple faces must be treated as one face), and the support structure and sign may not exceed fifty (50) feet in height, measured from the top of the nearest curb line to the top of the sign or structure. Additional requirements for digital billboards are included elsewhere in this section.
- (4) No electronic message center sign installed after January 1, 2010 shall be permitted to operate unless it is equipped with:
 - a. A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and
 - b. A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell.
- (5) An electronic message center sign installed prior to January 1, 2010 shall be allowed to continue operation provided the brightness of the sign does not exceed a maximum illumination of five thousand (5,000) NITS during daylight hours or a maximum illumination of seven hundred fifty (750) NITS between one-half hour before sunset to one-half hour after sunrise as measured at the sign's face at maximum brightness. These illumination levels may be set manually or by an alternative method approved by the Building Official.
- (6) Only one (1) electronic message center sign shall be allowed per property.
- (7) The electronic message center sign portion of any sign shall not exceed the area specified in the table below. The maximum size is based on the type of zoning district in which the sign is located and the functional classification of the roadway adjacent to the sign or fifty (50) percent of the total sign area, whichever is less.

Zoning District	Functional Classification of Adjacent Roadway				
	Interstate	Principal Arterial	Minor Arterial	Collector	Local
Industrial	100 sf	100 sf	72 sf	48 sf	32 sf
Commercial	100 sf	100 sf	72 sf	48 sf	32 sf
Neighborhood Commercial	72 sf	72 sf	48 sf	32 sf	32 sf

- (8) Electronic message center signs shall be subject to the following operational requirements:
- a. The sign shall have a frame hold time of no less than one (1) second. The use of animation and background animation is allowed and is not subject to the one (1) second frame hold time requirement.
 - b. Entrance and exit effects may be used to transition from one frame to another, provided said entrance effects result in all of the text within the frame appearing at once or in the order that the text is normally read (including, but not limited to, scrolling from right to left or scrolling from bottom to top entrance effects). Entrance effects where all of the text within the frame does not appear at once or in the order that the text is normally read are prohibited (including, but not limited to, scrolling from left to right, scrolling from top to bottom, and entrance effects referred to as slot machine, slots, splice, mesh, radar, kaleidoscope and spin). There are no limitations on the types of exit effects used. Except for such transitions, each frame shall remain static with no additional frame or hold effects applied to text within the frame (including, but not limited to, the fading or flashing on any part of the message and hold effects referred to as flash, spin, twinkle, wavy and rumble). The use of bijou lights as a frame effect is allowed.
 - c. The use of streaming video or full-motion video on any electronic message center sign is prohibited.
- (9) Electronic message center signs located within three hundred (300) feet of any residentially zoned district, as measured from any part of the sign to the nearest property line within any residential zoning district, are subject to the following additional requirements:
- a. The sign shall not exceed thirty-two (32) square feet in area, or fifty (50) percent of the total sign area, whichever is less.
 - b. Between 7:00 a.m. and 10:00 p.m., the sign shall be allowed to operate. Between 10:00 p.m. and 7:00 a.m., the sign shall only display static images with a frame hold time of no less than three (3) seconds and shall be limited to instantaneous transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.
- (10) An electronic message center sign cannot be installed on an existing sign that is nonconforming unless the entire sign is brought into compliance with all applicable provisions of this chapter.
- (11) No portion of any existing sign shall be replaced with an electronic message center sign unless a sign permit is obtained for the new electronic message center sign.
- (12) Digital billboards must be located at least three hundred (300) feet from any other non-digital ground sign (billboard), at least twelve hundred (1,200) feet from any other digital billboard, and at least five hundred (500) feet from an interstate interchange, as measured from any part of the sign to the nearest portion of any part of any other billboard sign on

the same side of the roadway or to the nearest right-of-way line of the interchange. Digital billboards that face state or federal highways are subject to NDDOT regulation.

- (13) Digital billboard signs shall have a frame hold time of no less than seven (7) seconds and must transition instantaneously from one static image to another static image without any special effects. The use of streaming video, full-motion video, and animation or frame effects is prohibited.

(r) *Marquee and marquee signs.*

- (1) Marquees and marquee signs attached to a building may extend from the building into the public right-of-way to a point within two (2) feet of the back of curb or edge of pavement where there is no curb. No portion of such a structure or anything attached to the structure shall be lower than eight (8) feet above the sidewalk or ground grade line.
- (2) A sign attached to the face of a marquee may not exceed three (3) feet above the top edge of the marquee and not to extend below the marquee's lower edge.
- (3) Marquee signs shall be constructed entirely of approved materials and size.
- (4) Marquee signs may extend the full length but in no case shall they project beyond the ends of the marquee.

(s) *Monument signs.*

- (1) A monument sign shall be solid from the grade to the top of the structure using non-flammable architectural materials.
- (2) The minimum setback is ten (10) feet from the property line or sight triangle, whichever is greater.
- (3) The maximum allowable height of a monument sign is twelve (12) feet unless the sign is set back farther from the property line or sight triangle. For each additional two (2) feet of setback, the height of the sign can be increased by one (1) foot up to a maximum sign height of sixteen (16) feet.
- (4) Monument signs may be incorporated into a retaining wall or masonry wall.
- (5) The bottom edge of the sign portion of a monument sign must be in continuous contact with the base and be a minimum of twelve (12) inches above grade.
- (6) Monument signs must be placed within a landscaped area.

(t) *Post and panel signs.*

- (1) A post and panel sign shall be no taller than twelve (12) feet off the ground.
- (2) No part of the sign may encroach on the sight triangle.
- (3) The bottom edge of a post and panel sign must be a minimum of twelve (12) inches above grade and must be placed within a landscaped area.

- (4) The support posts must be made of a non-flammable material or as otherwise approved by the MARC.
- (u) *Projecting signs.*
- (1) The bottom edge of the sign board, or of any affixed devices, must be at least eight (8) feet above grade.
 - (2) A projecting sign or any part thereof may not project more than thirty-six (36) inches from the face of the supporting building, not be within less than two (2) feet of the back of the curb, not be more than ten (10) feet in height and not be greater than thirty (30) inches in width.
 - (3) No projecting sign shall extend more than four (4) feet above a building roof eave or parapet.
 - (4) No projecting sign shall originate from other than a front wall of the building. The maximum square footage for sign face is fifty (50) square feet unless otherwise approved by the MARC.
 - (5) No projecting sign shall be permitted in any alleyway.
- (v) *Pylon and pole signs.*
- (1) No pylon or pole sign shall extend into a public utility easement or right-of-way.
 - (2) Unless a greater height is approved by the MARC for a specific property, the maximum pylon or pole sign height is twenty-five (25) feet in the downtown commercial area; forty (40) feet in the other commercial and industrial districts; and sixty (60) feet in the Gateway Overlay Zone.
 - (3) The sign portion of a pylon or pole sign shall be a minimum of ten (10) feet above the top of curb or surrounding grade, whichever is higher. The clearance shall be a minimum of thirteen (13) feet within a vehicle parking or travel area.
 - (4) For single business properties with sufficient frontage, multiple pylon or pole signs will be allowed provided they can be set back from the adjacent or adjoining lot line a minimum of twenty-five (25) feet and are no closer to each other, as measured parallel to the property frontage, than one hundred fifty-five (155) feet or otherwise as approved by the MARC.
 - (5) A pylon or pole sign's support shall originate from the surface of the ground only and be made of non-flammable material.
 - (6) Pylon or pole signs may be used as a directory for more than one business.
- (w) *Roof signs.* Roof signs shall not project above the roof peak (this includes mounting brackets).
- (x) *Sidewalk signs.*
- (1) All signs must be self-supporting and not be attached to any other structure or object.

- (2) One (1) sign of this type will be allowed per place of ground level business.
- (3) The maximum width of a sign shall be two and one half (2.5) feet, a minimum height of three (3) feet and a maximum height of four (4) feet.
- (4) The sign support and base shall not extend beyond the edge of the sign.
- (5) A sign shall be placed only where a minimum width of three (3) feet for pedestrian movements can be maintained.
- (6) This type of sign is allowed only within a business district.
- (7) Signs may be placed on the sidewalk only during hours of operation and must be stored inside the building during non-business hours.
- (8) Signs may be used for on-premise advertising only.
- (9) Signs shall not be illuminated.
- (10) Streamers, flags or banners shall not be attached to the sign or use the sign as an anchor.

(y) *Temporary signs.*

- (1) Temporary signs are not to be used as a substitute for erecting a permanent sign. Temporary signs are to be used for short duration events that do not occur on a regular basis. Activities that repeatedly occur throughout the year are to be publicized using permanent signage.
- (2) Use of off-premise temporary signs is limited to a maximum of 30 days per event, activity or function. Off-premise temporary or portable signs may be used only in places where they meet all city, state and federal regulations. Temporary or portable off-premise signs are treated the same as permanent billboards under federal law administered by NDDOT. Signs proposed to be located along federal aid routes that are impacted by the federal rules regulating off-premise signs must receive written permission from NDDOT. A copy of the written permission from NDDOT must be presented to the city building department prior to sign installation. Off-premise temporary or portable signs can be no closer together than 100 feet along a state highway.
- (3) The owner of a property where a temporary or portable off-premise sign is to be placed must provide the city with written permission for the placement of the sign prior to installation of the sign.
- (4) Except for the requirements for construction, finance and real estate signs and political signs; each type of temporary sign is limited to two hundred forty (240) days per calendar year per property.
- (5) Banner signs are limited to three (3) per property. The total area of all banner signs on a wall may not be larger than twenty percent (20%) of the wall surface area of the wall to which they are attached or which they are in front of.

- (6) Construction, finance and real estate signs.
- a. Construction and finance signs may be displayed during the duration of the construction phase of a project and must be removed within thirty (30) days after receiving a certificate of occupancy.
 - b. Signs indicating that an individual lot is for sale, sold, for rent or for lease are limited to sixteen (16) square feet in size.
 - c. Signs indicating that a large, undeveloped property is for sale are limited to forty-eight (48) square feet in size unless a larger size is approved by the city engineer for a specific parcel.
 - d. Open house signs advertising a one or two day event that are no greater than thirty-six (36) inches in height and in place for less than forty-eight (48) hours may be placed in the public right-of-way provided that they are located at least one (1) foot behind the back of curb or three feet off the pavement where no curb exists. Other types of real estate signs or signs that will be in place for more than forty-eight (48) hours may be authorized by city commission to be placed in the public right-of-way.
 - e. Once a property has been sold, the sale sign must be removed within thirty (30) days after closing.
 - f. Parade of Homes signs shall conform to the following requirements.
 1. The signs shall be placed at least one (1) foot behind the back of curb or three (3) feet off the edge of pavement where no curb exists.
 2. The signs may be in place for no more than twelve (12) days twice each year.
 3. The signs shall be located no closer than one hundred (100) feet to an intersection as measured from the pedestrian crossing or stop bar.
 4. The signs shall not be attached to trees, traffic control signs, traffic signal poles or street light poles.
 5. No ribbons, balloons, streamers, lighting or ancillary devices may be attached to the signs.
 6. The Bismarck-Mandan Home Builders Association shall be responsible for any costs incurred during installation or removal of the signs.
 7. The signs shall not be higher than three (3) feet above the road surface.
- (7) Flag signs are limited to one (1) per twenty (20) feet of lot frontage with a limit of five (5) per lot.
- (8) Political signs. Political signs shall follow North Dakota Century Code (NDCC) regulations.

- (9) Portable signs.
- a. All companies that rent portable signs to customers within the City must be licensed with the City and carry liability insurance in a form and amount specified by the city. Each rental sign shall have the rental companies name and phone number clearly visible on the sign.
 - b. All portable signs and sign lettering shall be properly maintained, well-kept and in good condition. The city may order removal of a sign that is not advertising a current event or is not being maintained in good condition.
 - c. No ribbons, balloons, streamers, lighting or ancillary devices may be attached to any portable sign.
 - d. Each property is allowed one (1) portable sign. Larger properties may have more than one (1) portable sign as long as they are placed a minimum of one hundred fifty-five (155) feet apart.
 - e. Maximum square footage for a portable sign shall be sixty-four (64) square feet and maximum height shall be eight (8) feet. The portable sign shall not be illuminated or electronic.
 - f. The Owner of each rented portable sign shall submit a monthly report to the Building Department showing days in use and the location of the sign.
 - g. “Floppy guy” signs are a type of portable sign.
- (10) Streamers may be strung on a line or cord no longer than three (3) times the width of the lot.

(z) *Wall signs.*

- (1) Wall signs shall be securely fastened to the wall of a building by its supporting structure.
- (2) Wall signs placed against exterior walls of buildings and structures shall not extend more than twelve (12) inches from a wall’s surface. The lowest edge of such sign shall be a minimum of eight (8) feet above grade unless a lower height is approved by MARC.
- (3) No combination of wall signs and supports shall exceed twenty (20) percent of the signable wall surface area up to a maximum of two hundred (200) square feet unless other limits are approved by the MARC.
- (4) Signs printed directly on exterior walls or surface of a building shall be prohibited.
- (5) No wall sign shall extend beyond the width of a building or project above the roof eave.
- (6) Wall signs advertising products or services not related to the primary business shall be approved by the MARC.

(7) Second floor businesses can utilize wall signs to advertise their establishments but must do so between floors and not below their floor.

(8) A wall sign shall not obstruct the required door or exit window of any building nor shall it be attached to or placed on fire escapes.

(aa) *Window signs.*

(1) No paper or solid surface signs shall be permitted on a second floor window or above.

(2) No window signs shall advertise or identify a business other than the one contained therein.

Section 3. Sec. 105-1-2 is reenacted and Sec. 105-1-15 is enacted as presented.

Timothy A. Helbling, President
Board of City Commissioners

Attest:

James Neubauer
City Administrator

First Consideration:

Second Consideration and Final Passage:

