

**AGENDA**  
**MANDAN CITY COMMISSION**  
**OCTOBER 20, 2015**  
**ED "BOSH" FROEHLICH MEETING ROOM,**  
**MANDAN CITY HALL**  
**5:30 P.M.**  
**[www.cityofmandan.com](http://www.cityofmandan.com)**

- 
- A. ROLL CALL:  
1. Roll call of all City Commissioners.
- B. APPROVAL OF AGENDA:
- C. PUBLIC COMMUNICATIONS:
- D. MINUTES:  
1. Consider approval of the minutes from the October 6, 2015 Board of City Commission Regular Meeting.
- E. PUBLIC HEARING:
- F. BIDS:  
1. Consider concurrence with DOT's recommendation to award low bid for I-94 Business Loop and Memorial Highway Sign Improvements. (Resolution No. 6)
- G. CONSENT AGENDA:  
1. Consider approval of monthly bills.  
2. Consider confirmation of special assessments for Street Improvement District #176.  
3. Consider the Acceptance of a Traffic Safety Contract from the North Dakota Department of Transportation, Traffic Safety Office.  
4. Consider for approval Replat of Lot 7, Block 1 Sylvester's Industrial Park 2<sup>nd</sup> Addition  
5. Consider for approval replat of Fischer's 1<sup>st</sup> Addition  
6. Consider for approval the special assessments for Weed Cutting of 2015, Sidewalks of 2015 and, Health and Safety of 2015.  
7. Consider for approval the assessment of Delinquent Utility Billing Accounts for 2015.  
8. Consider approval of site authorization for Horse Race ND at Moscow Bar from November 1, 2015 through June 30, 2016.  
9. Consider for approval the advertisement for bids of a new fire engine.  
10. Consider approval of the following Special Sunday openings:  
i. Mandan Moose #425 – Nov. 1, 2015 through Feb. 21, 2016  
ii. Lukes Bar LLC dba Silver Dollar Bar – Oct. 25, 2015 through December 27, 2015.

*Agenda*  
*Mandan City Commission*  
*October 20, 2015*  
*Page 2 of 3*

---

H. OLD BUSINESS:

I. NEW BUSINESS:

1. Update Mandan Park District
2. Consider 3-way agreement for installation of water and sewer for Lakewood 9<sup>th</sup> Addition.
3. Consider 3-way agreement for installation of water and sewer for Meadowlands Addition.
4. Consider amendments to Chapters 101 and 105 of City Code
5. Consider Growth Fund Committee recommendations:
  - i. Application for Flex PACE interest buy-down for BBCS Properties, LLC (Prairie Rose Dentists)
  - ii. Application for a Storefront Improvement at 111 Fifth Avenue NE by Bearscat Bakehouse
  - iii. Application for the Retail & Restaurant Incentive Program by Bearscat Bakehouse
6. Consider City of Mandan designee for working with City of Bismarck on housing action plans.
7. Consider appointing representative(s) to work with City of Bismarck and Burleigh County on agreements related to Combined Communications Center.
8. Update on the Cemetery cleanup and the status of the Grounds Maintenance building.

J. RESOLUTIONS AND ORDINANCES:

1. First consideration of Ordinance 1222 making additions to new city code related to snow removal and use of streets.
2. First consideration of Ordinance 1223 amending Chapters 101 and 105 of the Mandan Municipal Code.
3. Second Consideration and Final Passage of Ordinance 1221 renaming street in Lakewood 8<sup>th</sup> Addition.
4. Second Consideration and Final Passage of Ordinance 1204 adding a section on graffiti to Chapter 16 Nuisances.
5. Second Consideration of Ordinance 1220 adding prohibition against incendiary balloons, sky lanterns and celebration lanterns in Chapter 10 Fire Prevention and Protection.
6. I-94 Business Loop and Memorial Highway Sign Improvements Concurrence.

K. OTHER BUSINESS:

L. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. November 3, 2015
2. November 17, 2015 – 4 p.m. Service Awards
3. December 1, 2015

M. ADJOURN

**Public Communication**

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

---

The Mandan City Commission met in regular session at 5:30 p.m. on October 6, 2015 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota.

Commissioners present were Van Beek, Tibke, Rohr, Braun and Laber. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Attorney Brown, City Administrator Neubauer, Fire Chief Nardello, Business Development & Communications Director Huber, Planning & Engineering Director Froseth, Planner Decker, Assessor Shaw, and Building Official Lalim. Absent: Director of Public Works Wright.

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

C. PUBLIC COMMUNICATIONS: Mayor Van Beek invited anyone interested to speak for or against any items on the Agenda to come forward.

Blaine Engelstad came forward and addressed the Consent Agenda Item No. 15. He said that “Patience Subdivision” no longer exists. It is now called North Prairie Five and was platted about four years ago.

A second announcement was made for anyone to come forward to speak on the Agenda. Hearing none, this portion of the Public Communications was closed.

D. MINUTES:

1. *Consider approval of the following minutes from the Board of City Commission September 15, 2015 regular meeting.* Commissioner Laber moved to approve the minutes as presented. Commissioner Rohr seconded the motion. The motion received unanimous approval of the members present. The motion passed.

E. PUBLIC HEARING:

F. BIDS:

G. CONSENT AGENDA

1. *Consider confirmation of special assessments for Street Improvement District #177, #178, #179, #181, #182, #185, #186, #189, #190, #191, #192, #193 and #195.*

2. *Consider Change Order for Street Improvement District 200 Project 2015-09.*

3. *Consider agreement with NDDOT for design of Twin City Drive and Main Street Traffic Signal.*

4. *Consider recommendations for Mandan Architectural Review Commission appointments.*

5. *Consider the following reassessments: (i) Jack & Mary Ann Paul; (ii) Craig Ostafin.*

6. *Consider approval of Special Sunday Openings for the Mandan Moose #425 on October 11, 2015 & October 25, 2015.*

- 
7. *Consider approval of an assignment and consent agreement for the Storefront Improvement Project at 112 Second Ave NW.*
  8. *Informational item, Change Order #3 for Downtown Street Improvement District #199.*
  9. *Consider agreement with NDDOT for design of Highway 6 and 19<sup>th</sup> St. turn lane and signing improvements.*
  10. *Consider CPM agreement with NDDOT for Memorial Highway traffic signals.*
  11. *Consider for approval lots splits in West Hills Estates First Addition.*
  12. *Consider for approval Change Order No. 6-Final to Thirkettle Corporation for the Water Meter Improvements Project.*
  13. *Consider budget transfer from 2016 Street Department Capital Outlay budget to 2015 budget.*
  14. *Consider a reduction in the structure value for the 2015 year for Otis R. Patton Jr. property.*
  15. *Acting as Board of Adjustment, consider request to grant a variance to allow a garage to be located in front of the primary structure on Lot 1, Block 1, Patience Subdivision.*

Commissioner Tibke said that she would like clarification on Item No. 15, as the location being referred to as North Prairie Five. Planner Decker clarified that it is the original subdivision for this parcel. They updated the alignment of some lots and renamed it indicating where the variance would sit on the original parcel within the original subdivision.

Commissioner Laber moved to approve the Consent Agenda as presented. Commissioner Tibke seconded the motion. Commissioner Laber stated she was pleased to see that the MARC Board received more applicants than they had positions open. She encouraged individuals who were not selected at this time to continue to come forward and apply for other opportunities to serve on the many Boards available throughout the City. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

#### H. OLD BUSINESS:

##### I. NEW BUSINESS:

1. *Consider Visitors Committee recommendation for updated visitor signage and issuance of a request for proposals.* Business Development & Communications Director Huber stated this request comes from the Visitors Committee who met on August 25, 2015. Among the items they considered was a request for new visitor signage that would provide a welcome and direction to visitors for various attractions and a sense of community branding and character. This request was presented to the Visitor's Committee by the Mandan Tomorrow Leadership, Pride and Image Committee which in turn had been tasked to head this project by City and Park District Administration. The Committee studied potential locations in which they came up with 15 recommendations as well as sign content suggestions. The Visitor's Committee was asked to consider supporting the project, which they did in concept, and to support the issuance for the

---

support of a proposal to identify engineering and signage companies that can assist with this project. The recommendation of the various planning efforts the committee is planning on taking was outlined. A recommended policy of how to achieve the goals that will maintain the city's signage and landscaping and other features at key city entrances was reviewed. The policy will include improved signage and beautification efforts to direct visitors to activities and landmarks in downtown Mandan.

Commissioner Rohr requested clarification as to whether this would be an addition or enhancement to the kiosk at the east end of Main Street? Director Huber stated the kiosk is used to communicate current events that are taking place in the community. This signage would be much different since these would be more permanent and wouldn't be changed on a daily basis. They would be smaller and less expensive. An RFP would be a better way to identify the exact cost for this signage.

Commissioner Laber moved to issue a request for proposal for Visitor Wayfinding signage. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

2. *Consider Bismarck-Mandan Musicians Association request changing the name of the Mandan Band Shell to the "Vern Cermak Band Shell".* Steve Harmon, President of the Bismarck Mandan Musicians Association, presented a request to approve the naming of the Mandan Band Shell at Dykshoorn Park as "Vern Cermak Band Shell".

Mayor Van Beek supported the request stating that it is only right that Vern Cermak should be honored due to his loyalty to the events held at the Band Shell over the last 21 years that it has been in existence.

Commissioner Braun moved to change the name from the Mandan Band Shell to the "Vern Cermak Band Shell" to recognize the work of keeping it in operation for the past 21 years and a place he calls home. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *Presentation of Old Red Trail project planning and consider decisions needed as part of the NDDOT required CATEX document to move forward with project.* Planning & Engineering Director Froseth stated that City staff previously recommended the hiring of KLJ earlier this year to help the City plan, design and provide pre-bid services for the stretch of Old Red Trail reconstruction between Highland Road and 47<sup>th</sup> Avenue Northwest. Much of the preliminary estimates have been completed. A public input meeting was held and decisions now have to be made about the project in order to move forward with the final design step in order to bid this project next year. A representative from KLJ presented the plans for moving forward via a power point presentation showing some of the findings of the project thus far and outlined the issues that are before the Commission for consideration tonight.

---

Gabe Schell, an engineer from Kadrmas, Lee & Jackson came forward for the presentation. A summary of the points of the project included:

- Project Description: Reconstruction Highland Road to 47<sup>th</sup> Avenue NW
- Current traffic volumes
- Project Schedule
- Purpose of the Project
- Need for the Project
- Funding
  - 2016-2019 STIP \$4,000,000 (\$3,200,000 federal funds capped; \$800,000 City Funds)
  - 2015 estimated \$6,200,000 to \$7,000,000 construction cost
- Description of Alternatives
  - 1. Alternative A (no build)
  - 2. Alternative B (build)
- Construction phases

A public input meeting was held on August 20, 2015 at Red Trail Elementary School. Mailings were sent out and there were three written comments received that are included in the packet of information. The comments from the meeting were mixed. There was support for the project but the main concern was the cost and how it would be paid for and what are we going to do? This program was funded through the NDDOT as a \$4 million construction project of which 80% will be paid for by the federal government and 20% would be through local share. They won't fund any more than \$3.2 million for their share. A life cycle cost analysis of the project was provided for both asphalt and concrete. He explained the costs of the two options and broke them down to the costs in respect to an annual basis.

In the next portion of the presentation, Planning & Engineering Director Froseth discussed some of the issues the City needs to decide on tonight. In part, these questions and suggested answers are as follows:

Q1: Do you concur with the project concepts proposed?

A1: Yes.

Q2: Which alternative should proceed with the project?

A2: Alternative B-Build alternative 3-lane roadway section.

Q3: Which pavement surfacing section should be constructed with this project?

A3: Bid both the concrete and asphalt pavement as alternatives.

Q4: Which option should be constructed for the 40<sup>th</sup> Avenue Intersection?

A4: Maintain existing access configuration.

Q5: Should a new 12-inch water main be constructed with this project?

A5: Yes: Install water main.

Planning & Engineering Director Froseth stated that it has not been determined how the assessment district boundary would be created, indicating there are approximately 900 properties within this area. If the project only goes to 40<sup>th</sup> Avenue NW, the average per lot assessment would be a little under \$1,000. If the project goes up to 47<sup>th</sup> Avenue, as

---

was originally intended, (because everything beyond that \$3.2 federal share paid for locally), that assessment goes up to about \$3,000 per lot on average. The recommendation is to note within the environmental documents that the City would want to stop at 40<sup>th</sup> Avenue Northwest and in a future project, pick up the stretch from 40<sup>th</sup> west to 47<sup>th</sup> in order to keep the special assessments reasonable. He said the preliminary plans will be submitted to NDDOT for their review by next month with final plans after they are reviewed to be completed by December. Between December and when they look to bid the project in February or March of 2016, the assessment district would be created and a notice will be sent out of the estimated assessments. Following that there would be hearings held for any protests to the special assessments. The bidding process would be scheduled in the spring of 2016 and construction would also begin in 2016.

Commissioner Rohr stated that in the past, there has been disparity in concrete paving and asphalt due to material costs. Director Froseth stated that asphalt costs have gone up due to the price of oil going up. However that gap has narrowed. Concrete generally requires less maintenance and is more durable than asphalt. Commissioner Laber questioned whether the shared use path for bicycles and pedestrians in the plans provided by KLJ would be part of the project? Director Froseth stated that it would be part of the project and the Park Board was included in the discussion in order to get their input and they are on board with the project. Commissioner Laber recommended replacing the water main as part of the project and said she agreed with the side-by-side comparison of concrete vs. asphalt.

Mayor Van Beek stated that using Hub City Funds for this project is appropriate in order to offset the specials assessments for the residents in that area.

Commissioner Tibke commented that discussion still needs to occur because an overall agreement on vision has not yet happened, in particular, the use of HUB City funds to make sure the funds are used pursuant to legislative intent. She would like to have the discussion and the Commission vote on what needs to be decided for the future.

City Attorney Brown commented that the Commission can vote to accept the staff recommendations in order to keep this project moving without deciding at this time how much Hub City Funding will be needed.

Commissioner Braun moved to approve the staff recommendation for the Old Red Trail Construction project as presented. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Laber: Yes; Commissioner Braun: Yes; Commissioner Van Beek: Yes. The motion passed.

#### J. RESOLUTIONS AND ORDINANCES:

1. *Second and Final Passage of Ordinance No. 1219 adding language to Chapters 18 and 24 of the New Mandan Code of Ordinances related to offenses and traffic violations.* Commissioner Tibke moved to approve the Second and Final Passage of Ordinance No. 1219 adding language to Chapters 18 and 24 of the New Mandan Code of Ordinances related to offenses and traffic violations. Commissioner Braun seconded the

---

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

2. *First consideration of Ordinance 1221 renaming street in Lakewood 8<sup>th</sup> Addition.* Planner Decker stated that when Lakewood 8<sup>th</sup> Addition was recently replatted it continued the naming of the street as Shoal Loop. When looking at the numbering sequence, Shoal Loop starts out as a north-south street and so it picked up that numbering scheme and then turned east-west with a different numbering scheme. When crossing 40<sup>th</sup> Street you will cross numbers that are not in unison. The recommendation is to rename that portion of the street, west of 40<sup>th</sup> in the Lakewood 8<sup>th</sup>, as 24<sup>th</sup> Street which is an east-west bound street and that will solve the problem of numbering. There's no development out there. This is a new subdivision so it will not interfere with any other street in that area.

Commissioner Laber moved to approve the First consideration of Ordinance 1221 renaming of a street in Lakewood 8th Addition. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Braun: Yes; Commissioner Laber: Yes; Commissioner Van Beek: Yes. The motion passed.

3. *First consideration of Ordinance 1204 adding a section on graffiti to Chapter 16 Nuisances.* Planner Decker said that the Beautification Committee worked with a draft revision to the ordinance prepared by City Attorney Brown and they looked at other codes from several cities for potential language. He explained there is a need for a procedure to mitigate graffiti because it not only affects the building it is on, it affects the character of the community. He said this is a proposal for consideration to add a graffiti section to our Nuisance Ordinance. The property owner would have to mitigate action and we would be concerned about areas affecting the public on a case-by-case basis. He explained that this is the process to get it started and to begin working with property owners to mitigate the conditions when necessary.

Chief Bullinger stated that there were at least two incidents in the last year wherein homes and vehicles had spray painting damages done. The number of incidents that occur is minimal but there have been multiple homes and vehicles damaged at one time. Bridges and other public places are also struck throughout the communities.

Commissioner Braun moved to approve the First consideration of Ordinance 1204 adding a section about graffiti to Chapter 16 Nuisances. Commissioner Laber seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Braun: Yes; Commissioner Laber: Yes; Commissioner Van Beek: Yes. The motion passed.

4. *First consideration of Ordinance 1220 adding prohibition against incendiary balloons, sky lanterns and celebration lanterns in Chapter 10 Fire Prevention and Protection.* Fire Chief Nardello stated that the City of Mandan was approached by the

---

Tesoro Refinery to consider banning the use of what is commonly referred to as sky lanterns within Mandan City limits due to the potential for a catastrophic event at the refinery by one of these lanterns landing on one of their petroleum tanks, particularly the ones with floating rooftops. The City of Mandan and Morton County Emergency Management Services met and discussed the issues and agreed that there is a potential for a catastrophic event. He stated that during the last 4<sup>th</sup> of July season there were 5 fireworks related calls that came in; three of which had to do with the sky lanterns. He said that the Mandan Fire Department and Morton County Emergency Management Services supports banning the sky lanterns. The Morton County Commission is going to decide on a ban at their next meeting. He also indicated that the Mandan Rural Fire Chief is very supportive of this ban on sky lanterns. He mentioned that this matter will be discussed at the next ND Fire Chief's Convention and they will probably be banned in all of North Dakota. The 2015 International Fire Code Standards banned their use.

City Attorney Brown stated that “A balloon that requires fire underneath to propel the balloon is defined as a firework under state law”. State law also permits the sale of certain kinds of fireworks, not including balloons that are heat lighted with a fire. These items are already illegal in the state. Passing an Ordinance might be fine but they are already illegal to sell, use, possess, etc.

Ron Day, Director of Public and Government Affairs for Tesoro came forward and provided the following: Tesoro has seen an increase in the use of the sky lanterns. He stated Tesoro is very concerned about them landing in their petroleum tanks and the highly flammable processing units. He said during the 4<sup>th</sup> of July season they have operators and mechanics running around the refinery trying to extinguish the sky lanterns that land in their property. He commented that sky lanterns are distinct hazards.

Chad Neff representing Memory Fireworks came forward and stated that over the years, the sky lantern has become more popular and the demand for them has increased. He explained how the lantern is designed to work. They are biodegradable and made out of bamboo. He agreed that there is a chance that when lit off they could land in the area of the refinery. They are designed to go up and by the time they hit the ground they are supposed to be cooled off or at least fully burned out. He said that over the last 7-10 years through those lanterns, Memory Fireworks has donated roughly over \$100,000 to the troops of ND, suicide prevention, cancer survivors, etc., so a large sum of money goes back into the community and the state. He said the National Fire Marshal Office has told him there haven't been any large fires that they have record of caused by these lanterns themselves. He indicated that it is his understanding they are not considered to be illegal because they are not a “firework” because they do not blow up. They are a balloon with a fuel patch on them.

City Attorney Brown clarified that a balloon that requires fire underneath to propel the balloon, (which is what is being sold), is considered a firework under North Dakota law. He said that there is a list of fireworks that can be sold in North Dakota and the sky lantern is not on the list. Under state law they are currently illegal to sell, use, possess, offer for sale, explode, bring into the state or cause to bring into the state. Attorney

---

Brown clarified that he isn't saying that you should not adopt an ordinance, but instead just reminding everyone that they are illegal. But if you are adopting an Ordinance, that is like putting frosting on the cake.

Commissioner Laber moved to approve the First consideration of Ordinance 1220 adding prohibition against incendiary balloons, sky lanterns and celebration lanterns in light of the amount of danger it represents for the community and for the Tesoro Refinery at Chapter 10 Fire Prevention and Protection.

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

K. OTHER BUSINESS:

1. Commissioner Tibke suggested that at the next meeting on October 20th or at an upcoming retreat there should be discussion on Hub City Funding. The legislature passed this bill to enable municipalities to reduce the impact of rapid growth on the citizens of Mandan. She commented that the City needs to look at the number of projects that will reduce the impact on the taxpayer. So we need to meet as a Commission and prioritize projects so the money will have maximum impact. We should have a well thought out plan in place so we can argue for more funding to help the community with rapid growth and with taxes at the next session.

2. Fire Chief Nardello provided a reminder that Tuesday, October 13<sup>th</sup> is the annual Fire Prevention Open House at Fire Station No. 1, downtown Mandan, that will start with a parade at 6:30 and from 7 pm – 9 pm there will be fire prevention materials, demonstrations, and other fun things at the Fire Station for the kids.

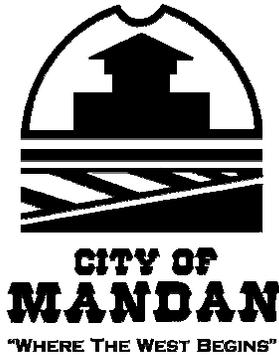
There being no further actions to come before the Board of City Commissioners, Commissioner Rohr moved to adjourn the meeting at 6:37 p.m. Commissioner Laber seconded the motion. The motion received unanimous approval of the members present. The motion passed.

---

James Neubauer,  
City Administrator

---

Arlyn Van Beek,  
President, Board of City  
Commissioners



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 16, 2015  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:** Justin Froseth  
**PRESENTER:** Justin Froseth, Planning and Engineering Director  
**SUBJECT:** I-94 Business loop and Memorial Highway Signage Improvements, Award Concurrence

---

**STATEMENT/PURPOSE:** To consider approval of the I-94 Business loop and Memorial Highway signing and retro reflectivity project award concurrence with NDDOT

**BACKGROUND/ALTERNATIVES:** The DOT continually identifies and addresses sign maintenance and reflectivity. This year the DOT has identified signs needing this type of work in both the I-94 business loop, and the Memorial Highway corridors.

In order for the NDDOT to award the project to the low bidder, Traffic Safety Services, Inc., the city is required to concur with the award.

**ATTACHMENTS:** 1) NDDOT Concurrence Letter  
2) Bid Results

**FISCAL IMPACT:** The city's cost share of this project as stated in letter is to be \$940.45, which is lower than the estimate before the bid of \$1,112.

**STAFF IMPACT:** Minimal

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

**RECOMMENDATION:** I recommend the board approve the concurrence of the I-94 Business loop and Memorial Highway Sign Improvements low bid.

**SUGGESTED MOTION:** I move to approve the concurrence of the I-94 Business loop and Memorial Highway Sign Improvements low bid.



## North Dakota Department of Transportation

Grant Levi, P.E.  
*Director*

Jack Dalrymple  
*Governor*

October 9, 2015

Mr. James Neubauer  
City Administrator  
205 2<sup>nd</sup> Avenue NW  
Mandan, ND 58554

PROJECT: SHE-1-999(025), PCN 20639 – I-94 BUSINESS LOOP AND MEMORIAL  
HIGHWAY

Bids for the construction on the above noted project were taken at our bid opening of  
October 9, 2015. A copy of the Contract Detail Estimate is enclosed.

The low bid for Sign Replacement was submitted by Traffic Safety Services, Inc. of  
Bismarck, ND in the amount of \$647,076.00. According to the agreements with the City of  
Mandan, the City's 5 percent share is estimated to be \$940.45.

Before we can award to the low bidder, we need the City of Mandan to **concur**, in writing, in  
the estimated amount by October 23, 2015, if possible.

Questions should be addressed to the Construction Services Division at (701)328-2566.

A handwritten signature in black ink, appearing to read "Cal J. Gendreau".

CAL J. GENDREAU, P.E. - CONSTRUCTION SERVICES ENGINEER

80/cjg/lp  
Enclosure

Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: October 20, 2015  
 Subject: I-94 Business loop and Memorial Highway Signage Improvements, Award  
 Concurrence  
 Page 3 of 6

---

10/9/2015 NORTH DAKOTA DEPARTMENT OF TRANSPORTATION Page 1 of 4  
 CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID Bid Opening Date: 10/9/2015  
 Project Number: SHE-1-999(025) PCN: 20639  
 Job Number: 9 English/Metric: ENGLISH

Contract with TRAFFIC SAFETY SERVICES INC BISMARCK, ND Signed Date:

County(s): BURLEIGH KIDDER MCLEAN MORTON  
 Location: I-94 AND US 83 - VARIOUS LOCATIONS

Roadway: RURAL  
 I-94 RP 97.188 TO RP 208.702, I-194 RP 0.344 TO RP 0.952  
 US 83 RP 89.825 TO RP 128.026

Type: SIGN REPLACEMENT

Participating: Y

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
103	0100	CONTRACT BOND	1.000	L SUM	\$2,500.00	\$2,500.00
251	0200	SEEDING CLASS II	0.380	ACRE	\$1,000.00	\$380.00
253	0201	HYDRAULIC MULCH	0.380	ACRE	\$6,000.00	\$2,280.00
702	0100	MOBILIZATION	1.000	L SUM	\$10,000.00	\$10,000.00
704	0100	FLAGGING	100.000	MHR	\$25.00	\$2,500.00
704	1000	TRAFFIC CONTROL SIGNS	1,832.000	UNIT	\$2.00	\$3,664.00
704	1060	DELINEATOR DRUMS	80.000	EA	\$20.00	\$1,600.00
704	1067	TUBULAR MARKERS	76.000	EA	\$10.00	\$760.00
704	1087	SEQUENCING ARROW PANEL-TYPE C	2.000	EA	\$1,000.00	\$2,000.00
754	0110	FLAT SHEET FOR SIGNS-TYPE XI REFL SHEETING	5,808.000	SF	\$23.00	\$133,584.00
754	0112	FLAT SHEET FOR SIGNS-TYPE IV REFL SHEETING	602.000	SF	\$21.00	\$12,642.00
754	0206	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	4,384.000	LF	\$15.00	\$65,760.00
754	0210	GALV STEEL POST-STANDARD PIPE	2,250.000	LF	\$75.00	\$168,750.00
754	0214	GALV STEEL POSTS-W-SHAPE POSTS(TWO OR MORE)	649.000	LF	\$85.00	\$55,165.00
754	0534	PANEL FOR SIGNS-TYPE IV REFLECTIVE SHEETING	1,641.000	SF	\$30.00	\$49,230.00
754	0541	OVERLAY PANEL-TYPE IV REFLECTIVE SHEETING	294.000	SF	\$20.00	\$5,880.00
754	0592	RESET SIGN PANEL	39.000	EA	\$100.00	\$3,900.00
754	1100	CLASS AE CONCRETE-SIGN FOUNDATIONS	38.500	CY	\$1,500.00	\$57,750.00
754	1104	REMOVE SIGN FOUNDATION	95.000	EA	\$500.00	\$47,500.00
Subtotal						\$625,845.00
Eng and Contg						\$62,584.50
Total						\$688,429.50

Length 150.7150 Miles

Estimated Cost		Construction
		\$688,429.50
SHE FEDERAL FUNDS	90.00%	\$619,586.55
STATE FUNDS	10.00%	\$68,842.95

Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: October 20, 2015  
 Subject: I-94 Business loop and Memorial Highway Signage Improvements, Award  
 Concurrence  
 Page 4 of 6

---

10/9/2015

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
 CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

Page 2 of 4

North Dakota **FEDERAL AID**

Bid Opening Date: 10/9/2015

Project Number: SHE-1-999(025)

PCN: 20639

Job Number: 9

English/Metric: ENGLISH

Roadway: URBAN

**BISMARCK**  
**US 83 RP 902.453 TO RP 902.486**

Type: SIGN REPLACEMENT

Participating: Y

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
754	0110	FLAT SHEET FOR SIGNS-TYPE XI REFL SHEETING	50.000	SF	\$23.00	\$1,150.00
754	0112	FLAT SHEET FOR SIGNS-TYPE IV REFL SHEETING	97.000	SF	\$21.00	\$2,037.00
754	0206	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	63.000	LF	\$15.00	\$945.00
Subtotal						\$4,132.00
Eng and Contg						\$413.20
Total						\$4,545.20

Length 0.0000 Miles

Estimated Cost		Construction
		\$4,545.20
SHE FEDERAL FUNDS	90.00%	\$4,090.68
STATE FUNDS	5.00%	\$227.26
BISMARCK CITY FUNDS	5.00%	\$227.26

Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: October 20, 2015  
 Subject: I-94 Business loop and Memorial Highway Signage Improvements, Award  
 Concurrence  
 Page 5 of 6

---

10/9/2015 NORTH DAKOTA DEPARTMENT OF TRANSPORTATION Page 3 of 4  
 CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID Bid Opening Date: 10/9/2015  
 Project Number: SHE-1-999(025) PCN: 20639  
 Job Number: 9 English/Metric: ENGLISH

Roadway: URBAN  
 MANDAN  
 I-94B RP 916.581 TO 920.487  
 Type: SIGN REPLACEMENT

Spec Code	Item Description	Quantity	Unit	Unit Price	Amount
754 0110	FLAT SHEET FOR SIGNS-TYPE XI REFL SHEETING	308.000	SF	\$23.00	\$7,084.00
754 0206	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	101.000	LF	\$15.00	\$1,515.00
754 0210	GALV STEEL POST-STANDARD PIPE	92.000	LF	\$75.00	\$6,900.00
754 1100	CLASS AE CONCRETE-SIGN FOUNDATIONS	0.400	CY	\$1,500.00	\$600.00
754 1104	REMOVE SIGN FOUNDATION	2.000	EA	\$500.00	\$1,000.00
Subtotal					\$17,099.00
Eng and Contg					\$1,709.90
Total					\$18,808.90

Length 0.0000 Miles

Estimated Cost		Construction
		\$18,808.90
SHE FEDERAL FUNDS	90.00%	\$16,928.00
STATE FUNDS	5.00%	\$940.45
MANDAN CITY FUNDS	5.00%	\$940.45

Type: SPECIAL ITEMS

Item Description			Amount
PRELIMINARY ENGINEERING			\$272,500.00
Funding Splits:	SHE FEDERAL FUNDS	90.00%	\$245,250.00
	STATE FUNDS	10.00%	\$27,250.00

Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: October 20, 2015  
 Subject: I-94 Business loop and Memorial Highway Signage Improvements, Award  
 Concurrence  
 Page 6 of 6

---

10/9/2015 NORTH DAKOTA DEPARTMENT OF TRANSPORTATION Page 4 of 4  
 CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota **FEDERAL AID** Bid Opening Date: **10/9/2015**  
 Project Number: **SHE-1-999(025)** PCN: **20639**  
 Job Number: **9** English/Metric: **ENGLISH**

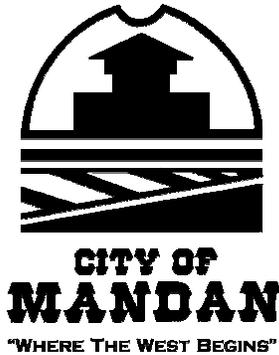
Summary for Project

Length **150.7150 Miles**

Estimated Total Construction Cost: **\$647,076.00**

Estimated Total Eng and Contg: **\$64,707.60**

	<u>Construction</u>	<u>Special Items</u>	<u>Total</u>
Estimated Cost	\$711,783.60	\$272,500.00	\$984,283.60
<b>SHE FEDERAL FUNDS</b>	<b>\$640,605.23</b>	<b>\$245,250.00</b>	<b>\$885,855.23</b>
<b>STATE FUNDS</b>	<b>\$70,010.66</b>	<b>\$27,250.00</b>	<b>\$97,260.66</b>
<b>MANDAN CITY FUNDS</b>	<b>\$940.45</b>	<b>\$0.00</b>	<b>\$940.45</b>
<b>BISMARCK CITY FUNDS</b>	<b>\$227.26</b>	<b>\$0.00</b>	<b>\$227.26</b>



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 14, 2015  
**SUBMITTING DEPARTMENT:** Special Assessments  
**DEPARTMENT DIRECTOR:** Justin Froseth, Planning & Engineering Director  
**PRESENTER:** Kim Fettig, Project Manager  
**SUBJECT:** Confirmation of special assessments for Street Improvement District #176.

**STATEMENT/PURPOSE:** To consider confirmation of special assessments for Street Improvement District #176.

**BACKGROUND/ALTERNATIVES:** The project, along with cost and description of the improvements provided within the district, are as follows:

- **Street Improvement District #176 - (\$1,520,258.22)** New asphalt street construction on 34th Avenue SE, Genoa Court SE and McKenzie Drive SE including curb & gutter, storm sewer, and street lights within the Lakewood 6<sup>th</sup> and 7<sup>th</sup> Additions.

The assessment list for this district was published in the Mandan News and the public hearing before the Special Assessment Commission was held on September 23, 2015. All members of the Special Assessment Commission voted to approve moving this on to the City Commission. There were no residents at the public hearing. Assessments certified to Morton County by November 1<sup>st</sup>, 2015 to be included on December 2015 Tax Statements.

**ATTACHMENTS:**

1. Special Assessment Commission Public Hearing September 23, 2015 minutes
2. Special Assessment Published List for Street Improvement District #176
3. District Map

**FISCAL IMPACT:** Total Amount Assessed:  
 Street Improvement District 176 - (\$1,520,258.22)  
 Years Assessed: 15  
 Estimated Interest Rate: 4.288%  
 No Interest Charged for the First Year

STAFF IMPACT: maximum

LEGAL REVIEW: n/a

RECOMMENDATION: I would recommend the proposed assessments as certified by the Special Assessment Commission be confirmed on Street Improvement District 176.

SUGGESTED MOTION: Move to approve the special assessments for certification on Street Improvement District #176.

**MANDAN SPECIAL ASSESSMENT COMMISSION  
PUBLIC HEARING MINUTES  
September 23, 2015**

The Special Assessment Commission (SAC) met in the “Bosh Froehlich Meeting Room” at Mandan City Hall on September 23, 2015 at 5:30 p.m.

- A. Roll Call:** Members present were Keith Winks, Deborah Holter and Chairman Carl Jacobsen. Also present were Engineering Project Manager Kim Fettig and Special Assessment Analyst Phyllis Hager.

Chairman Jacobsen noted the purpose of the Special Assessment Commission as stated according to North Dakota Century Code, 40-23-07.

- B. Consider approval of the September 2, 2015 Public Hearing Minutes.** *Winks made a motion to approve the September 2, 2015 Public Hearing Minutes as presented. Holter seconded the motion. The motion passed unanimously.*

**C. Public Hearing on the following district.**

1. **(Amended) Street Improvement District #176 (Lakewood 6<sup>th</sup> & Lakewood 7<sup>th</sup> Additions)** The improvements for this project included asphalt street construction, installation of curb & gutter, storm sewer, street lights and chip seal on McKenzie Drive SE, Genoa Court SE and 34<sup>th</sup> Avenue SE within the Lakewood 6<sup>th</sup> and Lakewood 7<sup>th</sup> Additions. Chairman Jacobsen acknowledged that no one was present at this public hearing in which to offer comments or objections on this project. *Winks made a motion to confirm the special assessments as published for AMENDED Street Improvement District #176 and certify to the Board of City Commissioners for their consideration. Holter seconded the motion. The motion passed unanimously.*

- D. Adjourn.** *There being no further business to come before the Commission, Holter made a motion to adjourn the meeting at 5:36 p.m. Winks seconded the motion. The motion passed unanimously.*

AMENDED

NOTICE OF HEARING OF OBJECTIONS TO SPECIAL  
 ASSESSMENTS FOR STREET IMPROVEMENT DISTRICT #176

NOTICE is Hereby Given, that the Special Assessment Commission of the City of Mandan, North Dakota will meet at Mandan City Hall, 205 2<sup>nd</sup> Avenue NW on September 23, 2015 at 5:30 p.m. to hear objections which may be made to any of the foregoing assessments in Street Improvement District #176 as shown in the foregoing list by any person interested or his agent or attorney.

Phyllis Hager, Special Assessment Analyst

NOTICE OF ASSESSMENTS FOR STREET IMPROVEMENT DISTRICT #176

We the undersigned, constituting the Special Assessment Commission of the City of Mandan do hereby certify that the following is a true and correct list of the particular lots and tracts of land which, in the opinion of the Commission, are especially benefited by the construction performed in Street Improvement District #176 of the City of Mandan, showing the amount against each lot or tract, the same is a true and correct assessment of the property therein described to the best judgment of the members of the commission. The items of expense in said improvement district and the assessments are as follows, to-wit.

Construction	\$1,358,357.30
Engineering, Legal, Admin.,	132,092.04
Bonding Costs	<u>29,808.88</u>
Amount to be Assessed	\$1,520,258.22

<u>Seq #</u>	<u>Lot</u>	<u>Block</u>	<u>Address</u>	<u>Amount Assessed</u>
<u>Lakewood 6<sup>th</sup> Addition</u>				
6399	1	1	3900 McKenzie Drive SE	\$697,823.50
6400	1	2	3800 McKenzie Drive SE	14,953.36
6401	2	2	3802 McKenzie Drive SE	14,953.36
6402	3	2	3804 McKenzie Drive SE	14,953.36
6403	4	2	3806 McKenzie Drive SE	14,953.36
6404	5	2	3808 McKenzie Drive SE	14,953.36
6405	6	2	3810 McKenzie Drive SE	14,953.36
6406	7	2	3812 McKenzie Drive SE	14,953.36
6407	8	2	3814 McKenzie Drive SE	14,953.36
6408	9	2	2801 39 <sup>th</sup> Avenue SE	199,378.14
<u>Lakewood 7<sup>th</sup> Addition</u>				
11163	1	1	2617 34 <sup>th</sup> Avenue SE	19,937.81
11164	2	1	2613 34 <sup>th</sup> Avenue SE	19,937.81
11165	3	1	2609 34 <sup>th</sup> Avenue SE	19,937.81
11166	4	1	2605 34 <sup>th</sup> Avenue SE	19,937.81
11167	5	1	2601 34 <sup>th</sup> Avenue SE	19,937.81
11168	6	1	3415 Genoa Court SE	19,937.81
11169	7	1	3413 Genoa Court SE	19,937.81
11170	8	1	3411 Genoa Court SE	19,937.81
11171	9	1	3409 Genoa Court SE	19,937.81
11172	10	1	3407 Genoa Court SE	19,937.81
11173	11	1	3405 Genoa Court SE	19,937.81
11174	12	1	3403 Genoa Court SE	19,937.81
11175	13	1	3402 Genoa Court SE	19,937.81

Board of City Commissioners  
Agenda Documentation  
Meeting Date: October 20, 2015  
Subject: Confirmation of Special Assessments  
Page 5 of 6

---

-2-

11176	14	1	3404 Genoa Court SE	19,937.81
11177	15	1	3406 Genoa Court SE	19,937.81
11178	16	1	3408 Genoa Court SE	19,937.81
11179	17	1	3412 Genoa Court SE	19,937.81
11180	18	1	2513 34 <sup>th</sup> Avenue SE	19,937.81
11181	19	1	2509 34 <sup>th</sup> Avenue SE	19,937.81
11182	20	1	2505 34 <sup>th</sup> Avenue SE	19,937.81
11183	21	1	2501 34 <sup>th</sup> Avenue SE	19,937.81
11184	22	1	2413 34 <sup>th</sup> Avenue SE	19,937.81
11185	23	1	2409 34 <sup>th</sup> Avenue SE	19,937.81
11186	24	1	2405 34 <sup>th</sup> Avenue SE	19,937.81
11187	25	1	2401 34 <sup>th</sup> Avenue SE	19,937.81
11188	1	2	2803 34 <sup>th</sup> Avenue SE	4,984.45

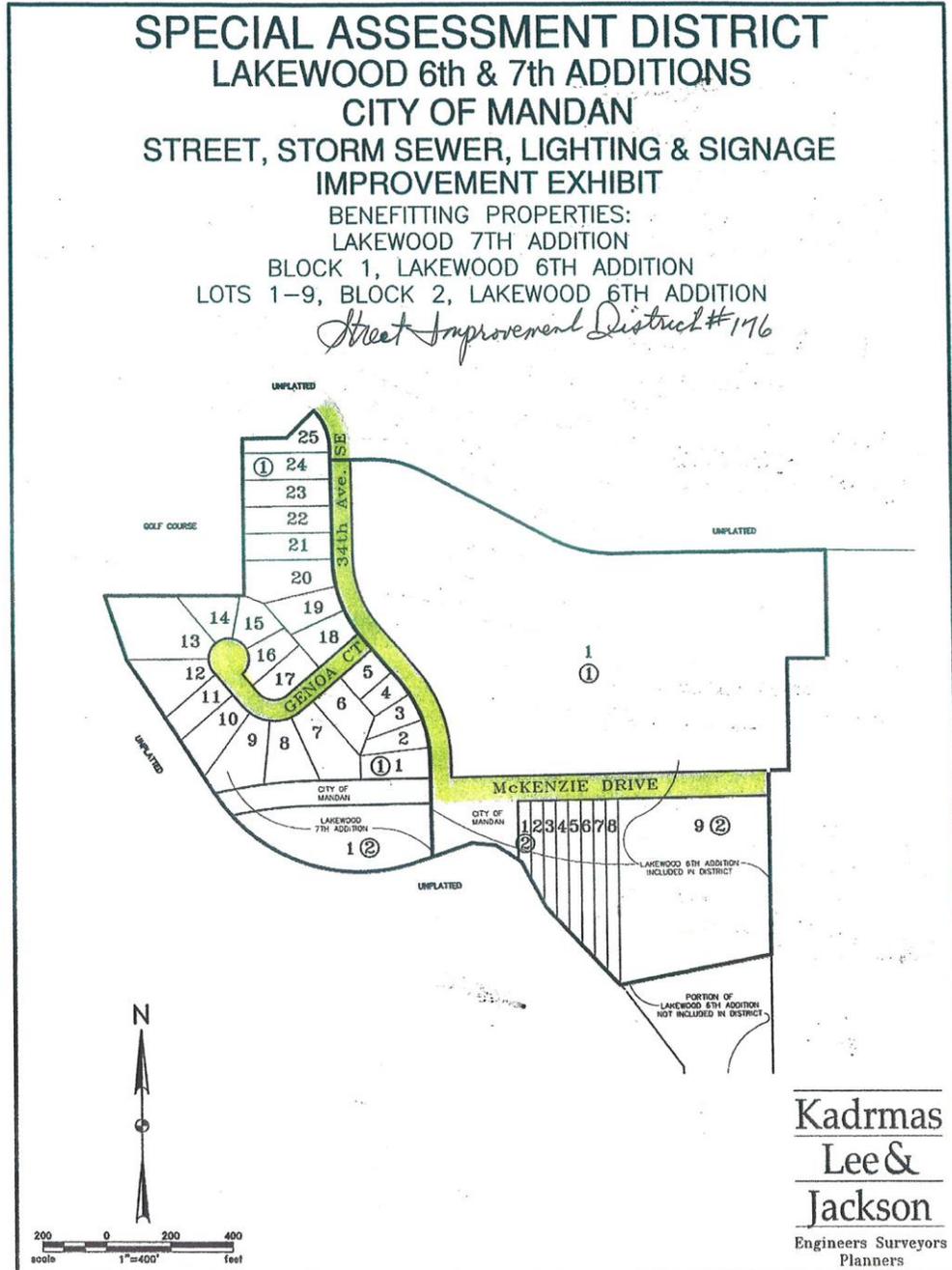
Witness our hands officially as said Commission this 25<sup>th</sup> day of August, 2015.

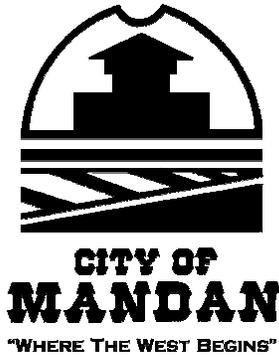
/s/ Carl Jacobsen  
Chairman

/s/ Keith Winks  
Member

/s/ Deborah Holter  
Member

Publish: September 4, 2015  
September 11, 2015





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 13, 2015  
**SUBMITTING DEPARTMENT:** Police  
**DEPARTMENT DIRECTOR:** Chief Dennis A. Bullinger  
**PRESENTER:** Chief Dennis A. Bullinger  
**SUBJECT:** Consider the Acceptance of a Traffic Safety Contract from the North Dakota Department of Transportation, Traffic Safety Office.

---

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

**BACKGROUND/ALTERNATIVES:** In agreement with the North Dakota Department of Transportation Traffic Safety Office, the Mandan Police Department would receive reimbursement of cost in conducting extra patrols during state wide campaigns efforts with reducing the number of people killed in motor vehicle crashes. The grant/contract identifies reimbursement funding of \$8,700, for overtime and mileage. The grant/contract period is October 1, 2015 through September 30, 2016.

**ATTACHMENTS:** Copy of contract.

**FISCAL IMPACT:** \$8,700 reimbursable funding to the city for cost with salaries and mileage. The cost of these additional enforcement efforts are part of the approved 2015 budget and requested in the 2016 budget.

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

**LEGAL REVIEW:** N/A

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

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

Page 2 of 12

---

**RECOMMENDATION:** Approve the acceptance of the Traffic Safety Grant/Contract #12151996, for \$8,700.

**SUGGESTED MOTION:** Move to approve the acceptance of Traffic Safety Contract #12151996 from the North Dakota Department of Transportation, for the time period of October 1, 2015 to September 30, 2016.



## North Dakota Department of Transportation Safety Division

Grant Levi, P.E.  
Director

Jack Dalrymple  
Governor

September 30, 2015

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

TRAFFIC SAFETY CONTRACT NO. 12151996, TWO PROJECTS

The contract that has been awarded to the Mandan Police Department is enclosed. Please read the **entire contract and other enclosures**, 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). Please complete or have the appropriate person complete the Sub-Recipient Information (SFN 60019) on-line at [www.dot.nd.gov/forms/sfn60019.pdf](http://www.dot.nd.gov/forms/sfn60019.pdf) and forward the completed form to me.

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](mailto:lharsche@nd.gov) or by phone at 328-2402.

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](http://www.dot.nd.gov)  
General Information: 1-855-NDROADS (1-855-637-6237)

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

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

Page 4 of 12

---

NDDOT Contract No. 12151996  
Project No. PHSP0P1605-05-12 &  
PHSPID1610-02-14

**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 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, 2015, and shall end September 30, 2016.



Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

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

Page 5 of 12

---

III.

NDDOT shall reimburse the Contractor for costs incurred under the terms of this contract, not to exceed \$8,700. 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 handicapped individual, as defined in 29 USC 794 and 49 CFR Part 27 shall, solely by reason of this handicap, 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



Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

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

Page 6 of 12

---

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



Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

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

Page 7 of 12

---

- 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.



Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

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

Page 8 of 12

---

**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.



Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

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

Page 9 of 12

**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

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.)

TITLE

DATE

WITNESS:

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION

NAME (TYPE OR PRINT)

DIRECTOR (TYPE OR PRINT)

SIGNATURE

SIGNATURE

DATE

APPROVED as to substance by:

*Karin Morgeon*  
SAFETY DIVISION DIRECTOR (TYPE OR PRINT)

*Karin Morgeon*  
SIGNATURE

9-29-15  
DATE

CLA 16870 (Div. 12)  
L.D. Approved 7-17-89; 6-15



Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

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

Page 10 of 12

---

**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.



Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

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

Page 11 of 12

---

**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.*).



APPENDIX A

**OCCUPANT PROTECTION (OP) ENFORCEMENT BUDGET**

**PROJECT NO. PHSPOP1605-05-12**

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

**IMPAIRED DRIVING (ID) ENFORCEMENT BUDGET**

**PROJECT NO. PHSPID1610-02-14**

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



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 16, 2015  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth  
**PRESENTER:** Robert Decker, P.E., Principal Planner  
**SUBJECT:** Consider for approval replat of Lot 7, Block 1, Sylvester's Industrial Park Second Addition

---

STATEMENT/PURPOSE:

Request is to replat a portion of lot 7 to create 2 lots and provide an access easement.

BACKGROUND/ALTERNATIVES:

This area was platted in 1979. Since then Lot 7 was split using Auditor's plat descriptions. Auditor's plats are not recognized as subdivision plats for purposes of issuing building permits.

There is an existing building on proposed Lot 2 that will be renovated. In order to pull a building permit, the building has to be on a subdivided lot.

ATTACHMENTS:

1. Aerial photo
2. Sylvester's Industrial Park Second Addition plat
3. Proposed replat

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

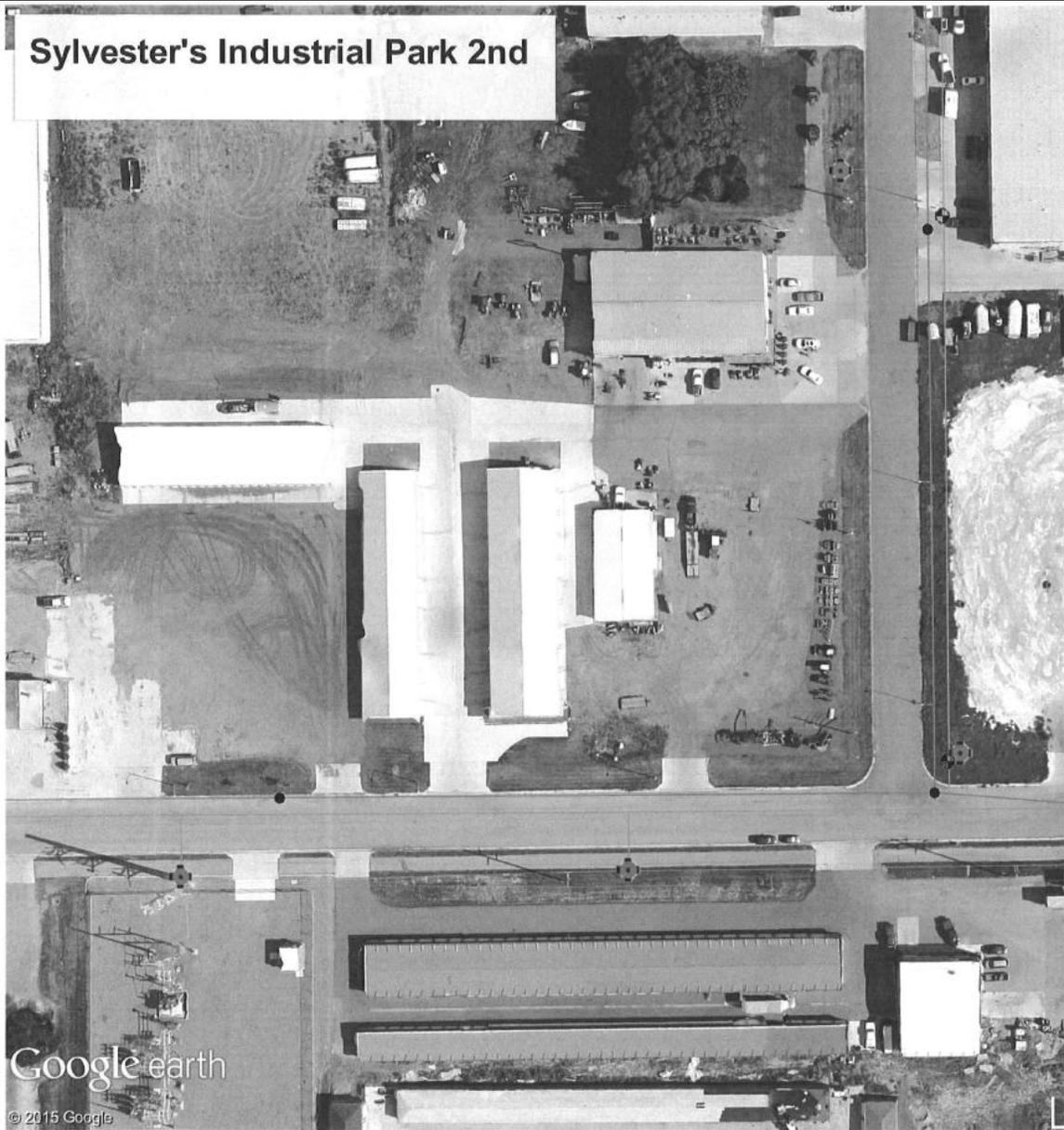
LEGAL REVIEW: All of my commission data has been forwarded to the City Attorney for his review.

RECOMMENDATION:

Recommend approval.

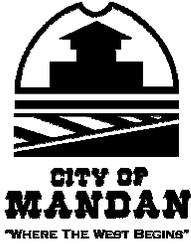
SUGGESTED ACTION:

Move to approve replat of Lot 7, Block 1, Sylvester's Industrial Park Second Addition









# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 16, 2015  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth  
**PRESENTER:** Robert Decker, P.E., Principal Planner  
**SUBJECT:** Consider for approval replat for Fisher's First Addition

---

STATEMENT/PURPOSE:

Request is to consolidate lots into one parcel.

BACKGROUND/ALTERNATIVES:

The Spirit of Life Church owns all of this land and wishes to combine all the lots into 1 lot and adjust easements. A new building is planned that straddles an existing lot line and encroaches on an existing unused easement.

ATTACHMENTS:

1. Aerial photo
2. Proposed replat

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION:

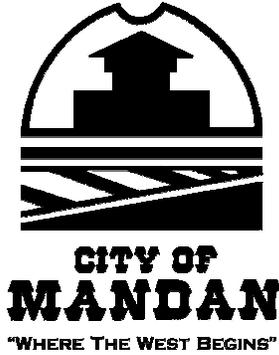
Recommend approval.

SUGGESTED ACTION:

Move to approve replat of Fisher's First Addition







CONSENT #6

# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 14, 2015  
**SUBMITTING DEPARTMENT:** Finance  
**DEPARTMENT DIRECTOR:** Greg Welch  
**PRESENTER:** Greg Welch, Finance Director  
**SUBJECT:** Special assessments for Weed Cutting of 2015, Sidewalks of 2015 and, Health and Safety of 2015.

---

### PURPOSE

Consider the special assessments for Weed Cutting of 2015, Sidewalks of 2015 and, Health and Safety of 2015.

### BACKGROUND

Weed Cutting of 2015 – For the eradication, cutting and control of weeds and tall grasses, and any other unhealthy vegetation exceeding six inches in height. Assessment for these costs are allowed under Mandan Code of Ordinances Section 16-5-5 and North Dakota Century Code 40-05-01.1.

Sidewalks of 2015 – For the construction, repair and rebuilding of sidewalks, curb and gutter. Assessment for these costs are allowed under Mandan Code of Ordinances Section 115-7-3 and North Dakota Century Code 40-29-05 and 40-31-02.

Health and Safety of 2015 – For the repairs of curb stops, water lines and sewer lines, and the removal of trees. Assessment for these costs are allowed under Mandan Code of Ordinances Section 16-4-7 and North Dakota Century Code 40-05-01.1.

The Notices for these assessments were published on October 2, 2015 and October 9, 2015.

### ATTACHMENTS

Notice of Assessments:

- Weed Cutting of 2015
- Sidewalks of 2015
- Health and Safety of 2015

### FISCAL IMPACT

Weed Cutting of 2015 = \$43,683.43 (1 year assessment)

Sidewalks of 2015 = \$11,235.85 (10 year assessment)

Health and Safety of 2015 = \$53,433.33 (5 year assessment)

### STAFF IMPACT

No additional staff impact.

### LEGAL REVIEW

The special assessments were prepared in accordance with the Mandan Code of Ordinances and the North Dakota Century Code.

### RECOMMENDATION

To approve the special assessments for Weed Cutting of 2015, Sidewalks of 2015 and, Health and Safety of 2015.

### SUGGESTED MOTION

Move to approve the special assessments for Weed Cutting of 2015, Sidewalks of 2015 and, Health and Safety of 2015.

NOTICE OF ASSESSMENTS  
WEEDS OF 2015

Notice IS HEREBY GIVEN that the following is a true and correct list of the particular lots and tracts of land on which the City of Mandan caused the cutting, spraying and removal of grass and weeds or caused the performance of such acts which contributed to the general health, safety and welfare of the community.

<u>Seq#</u>	<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>Assessment</u>
<u>Borden Harbor West</u>				
9472	2	3	3509 46 <sup>th</sup> Avenue SW	165.00
<u>Bridgeview Bay Re-Plat</u>				
10293	2	4	2313 Pirate's Loop SE	330.00
10294	2	5A	2317 Bayview Court SE	385.00
10295	2	6	2321 Bayview Court SE	397.08
10296	2	7	2325 Bayview Court SE	220.00
10297	3	1	2423 Pirate's Loop SE	399.48
<u>Bridgeview Bay 1<sup>st</sup></u>				
9990	1	26	2203 Bridgeview Court SE	550.00
9991	1	27	2207 Bridgeview Court SE	330.00
9992	1	28	2211 Bridgeview Court SE	385.00
9994	1	30	2219 Bridgeview Court SE	55.00
9995	1	31	2223 Bridgeview Court SE	55.00
10007	1	43	2333 Bayview Court SE	165.00
10010	1	46	2403 Bayview Court SE	55.00
10014	1	50	2419 Bayview Court SE	385.00
<u>Developers West Acres 1st</u>				
265 B	2	W 47' of N ½ of 9 Unit 1A	3912 34 <sup>th</sup> Avenue NW	165.00
<u>Diane's 1<sup>st</sup></u>				
495	3	17	601 6 <sup>th</sup> Street NE	55.00
<u>Eagle Ridge 1<sup>st</sup></u>				
11407	1	3	3003 12 <sup>th</sup> Avenue NW	165.00
11408	1	4	2829 12 <sup>th</sup> Avenue NW	165.00
11411	1	7	2830 8 <sup>th</sup> Avenue NW	165.00
<u>Evergreen Heights 2<sup>nd</sup> Replat</u>				
9439	2	1	1616 14 <sup>th</sup> Avenue SE	330.00

Heart Ridge

10983	1	19	1520 Ridge Drive SE	165.00
10984	1	20	601 14 <sup>th</sup> Street SE	165.00
10990	1	26	713 14 <sup>th</sup> Street SE	165.00
11010	3	13	1521 Ridge Drive SE	165.00
11011	4	1	1309 7 <sup>th</sup> Avenue SE	737.60
11012	4	2	1409 7 <sup>th</sup> Avenue SE	828.65

Heart Ridge Add Replat

10991 01	1	16	717 14 <sup>th</sup> Street SE	330.00
10991 02	1	15	719 14 <sup>th</sup> Street SE	495.00
10991 03	1	14	721 14 <sup>th</sup> Street SE	330.00
10991 04	1	13	723 14 <sup>th</sup> Street SE	330.00
10091 05	1	12	801 14 <sup>th</sup> Street SE	165.00
10992 01	1	11	803 14 <sup>th</sup> Street SE	165.00

Heart Ridge 2<sup>nd</sup>

11191	1	2	511 18 <sup>th</sup> Street SE	165.00
11193	1	4	503 18 <sup>th</sup> Street SE	165.00
11194	1	5	411 18 <sup>th</sup> Street SE	165.00
11195	1	6	407 18 <sup>th</sup> Street SE	165.00
11196	1	7	403 18 <sup>th</sup> Street SE	165.00
11198	2	2	1813 Plains Bend SE	165.00
11219	3	7	402 18 <sup>th</sup> Street SE	165.00
11221	3	8	1800 Plains Bend SE	165.00
11222	3	9	405 Fields Court SE	165.00
11235	3	22	404 Fields Court SE	165.00
11236	3	23	400 Fields Court SE	165.00
11241	3	28	1612 Plains Bend SE	165.00
11242	3	29	1608 Plains Bend SE	165.00
11243	3	30	1604 Plains Bend SE	165.00

Heart Ridge 3<sup>rd</sup>

11019	1	23	600 14 <sup>th</sup> Street SE	330.00
11244	1	1	1509 Plains Bend SE	165.00

Heartview

1076	8	15 & 16	1308 1 <sup>st</sup> Street NW	165.00
------	---	---------	--------------------------------	--------

Helmsworth & McLean 1<sup>st</sup>

1371	21	7 & 8	1310 2 <sup>nd</sup> Street NE	330.00
------	----	-------	--------------------------------	--------

Highland 2<sup>nd</sup>

4123	1	2(less S 125')	1300 Collins Avenue	55.00
------	---	----------------	---------------------	-------

Hit 1<sup>st</sup>

10913	1	2	1211 7 <sup>th</sup> Avenue SE	165.00
-------	---	---	--------------------------------	--------

Keidel's South Heart Terrace

10801	4	22	209 Keidel Trail SW	165.00
-------	---	----	---------------------	--------

Keidel's South Heart Terrace 2<sup>nd</sup>

11089	1	10	1206 Sunflower Lane SW	165.00
11115	3	1	811 Canyon Road SW	165.00
11116	3	2	807 Canyon Road SW	165.00
11117	3	3	803 Canyon Road SW	165.00
11131	3	17	612 Keidel Trail SW	165.00
11138	4	1	811 Keidel Trail SW	330.00
11149	4	12	1700 Amber Place SW	165.00
11151	4	14	1705 Spring Court SW	330.00
11152	4	15	1709 Spring Court SW	330.00
11156	4	10	1812 Spring Court SW	165.00
11157	4	20	1808 Spring Court SW	165.00
11158	4	21	1804 Spring Court SW	165.00

Lakewood 2<sup>nd</sup> Addition

9854	3	23	3327 Bay Shore Bend SE	165.00
9866	4	1 & E 20' of 2	4509 South Bay Drive SE	330.00

Lakewood Commercial Park 2<sup>nd</sup>

9885	2	2(less S 69.80')	4220 Shaun Lane SE Unit 1	165.00
------	---	------------------	---------------------------	--------

Lakewood Commercial Park 2<sup>nd</sup> Replat B2

10956	1	13	10956	165.00
-------	---	----	-------	--------

Lakewood Commercial Park 3<sup>rd</sup> 4RPLT

10313	1	1A	4103 Shoal Loop SE	206.80
-------	---	----	--------------------	--------

21<sup>st</sup> Street Shop Condo Addition

10110A	1	Aud Lot A of 6	4200 21 <sup>st</sup> Street SE	378.54
--------	---	----------------	---------------------------------	--------

Lakewood Commercial Park 3<sup>rd</sup> Replat B2

9880D	1	5	4600 21 <sup>st</sup> Street SE	198.85
-------	---	---	---------------------------------	--------

Lakewood Commercial Park 5<sup>th</sup>

6398	1	1	2401 40 <sup>th</sup> Avenue SE	849.66
------	---	---	---------------------------------	--------

Lakewood Harbor 2<sup>nd</sup> Addition

9715	1	7	4906 Lakewood Drive SE	686.67
9716	1	8	4902 Lakewood Drive SE	669.89
9726	1	18	4504 Shoreview Place SE	236.92

9729	1	21	4202 Bay Shore Bend SE	165.00
9730	1	22	4100 Bay Shore Bend SE	330.00
9742	1	34	3913 Waterfront Place SE	165.00
9749	1	41	3900 Waterfront Place SE	165.00

Lakewood Harbor 3<sup>rd</sup> Addition

10034	1	5	4307 Borden Harbor Place	165.00
10035	1	6	4311 Borden Harbor Place	330.00
10037	1	8	4319 Borden Harbor Place	165.00
10038	1	9	4320 Borden Harbor Place	330.00
10039	1	10	4316 Borden Harbor Place	330.00
10042	1	13	4300 Borden Harbor Place	55.00
10043	2	1	4101 Bay Shore Bend SE	330.00
10044	2	2	4201 Bay Shore Bend SE	165.00
10045	2	3	4304 Lakewood Drive SE	385.42
10046	2	4	4300 Lakewood Drive SE	502.51
10047	2	5	4224 Lakewood Drive SE	189.27
10048	2	6	4220 Bayfront Place SE	634.67
10049	2	7	4216 Bayfront Place SE	639.93
10050	2	8	4212 Bayfront Place SE	528.85
10063	2	21	3930 Lakewood Drive SE	492.91
10065	2	23	3922 Lakewood Drive SE	526.02
10066	2	24	3918 Lakewood Drive SE	538.44
10069	2	27	3832 Lakewood Drive SE	533.65
10070	2	28	3828 Lakewood Drive SE	681.87
10071	2	29	3824 Lakewood Drive SE	165.00
10072	2	30	4009 Beachfront Place SE	665.11
10073	2	31	4017 Beachfront Place SE	681.87
10074	2	32	4012 Beachfront Place SE	462.65
10076	2	34	4004 Beachfront Place SE	330.00

Lincoln Ridge Estates 1<sup>st</sup> Addition

9406	3	6	2304 East View Place SE	91.04
------	---	---	-------------------------	-------

Lincoln Ridge Estates 2<sup>nd</sup> Addition

10495	2	1	2404 West View Place SE	74.28
-------	---	---	-------------------------	-------

Mandan Heights 5th

2538	2	E 34.28' EXC. E 14.20' of 10	512 17 <sup>th</sup> Street NW	55.00
------	---	------------------------------	--------------------------------	-------

Meads

4019	10	W 100' Lots 22-24	110 9th Avenue NW	55.00
------	----	-------------------	-------------------	-------

Mandan Proper

3314	13	10	W 102' of 18 & W 102' of N 17.3' of 17 110 7 <sup>th</sup> Avenue NW	495.00
3318	14	3	107 7 <sup>th</sup> Avenue NW	165.00
3436	24	W 60' of 1	207 2 <sup>nd</sup> Street NE	165.00
3854	56	2	509 4 <sup>th</sup> Avenue NW	127.05
3874	57	N 33 1/3' of 9	506 6 <sup>th</sup> Avenue NW	330.00

Meadows 3<sup>rd</sup>

11336	1	3	2611 7 <sup>th</sup> Avenue NW	165.00
11337	1	5	2607 7 <sup>th</sup> Avenue NW	165.00

RPLT Meadows 3<sup>rd</sup>

11342-03	2	3	2610 7 <sup>th</sup> Avenue NW	165.00
----------	---	---	--------------------------------	--------

Meadow Ridge 3<sup>rd</sup> Add. RPLT

11343	2	2A	2606 7 <sup>th</sup> Avenue NW	165.00
11344	2	3A	2602 7 <sup>th</sup> Avenue NW	165.00

Meadows 5<sup>th</sup>

11075	4	1	5031 39 <sup>th</sup> Avenue NW	165.00
11078	5	2	5034 39 <sup>th</sup> Avenue NW	165.00

Meadows 7<sup>th</sup>

11388	1	4	3806 Wildrye Circle NW	165.00
11393	2	5	3803 Wildrye Circle NW	165.00

N. P. 1<sup>st</sup>

4285	68	S 15' of 2 & 3	505 3 <sup>rd</sup> Avenue NE	495.00
4396	79	7 & S 10' of 8 & N 10' of vacated 5 <sup>th</sup> St. NW of 7	602 5 <sup>th</sup> Avenue NW	55.00
4408	80	7, 8 & N 40' Vacated 5 <sup>th</sup> St. NW adj. of 7	602 6 <sup>th</sup> Avenue NW	165.00
4517	89	W 1/2 of 4 & 5	802 1 <sup>st</sup> Avenue NW	165.00
4720	106	15	1014 6 <sup>th</sup> Avenue NW	330.00

N. P. 2<sup>nd</sup>

4843	5	W 1/2 of 1 & 2	200 8 <sup>th</sup> Avenue SW	330.00
------	---	----------------	-------------------------------	--------

Plainview Heights 12<sup>th</sup> Addition

10576	2	7	2905 Percheron Drive SE	165.00
10583	2	14	1401 27 <sup>th</sup> Street SE	55.00
10584	2	15	1301 27 <sup>th</sup> Street SE	551.32
10591	3	6	2900 Messara Place SE	165.00

Plainview Heights 14<sup>th</sup> Addition

11365	3	1	3104 Percheron Drive SE	165.00
11366	3	2	3108 Percheron Drive SE	165.00
11367	3	3	3112 Percheron Drive SE	165.00
11368	3	4	3116 Percheron Drive SE	165.00
11369	3	5	3200 Percheron Drive SE	165.00

Pirates Cove 1<sup>st</sup> Addition

170	1	1 (less Bldg 1 & less 2,672 sq ft of vacated part of street	2200 Pirates Loop SE	330.00
-----	---	---	----------------------	--------

Ripple's 4th

8573	1	4	1400 12 <sup>th</sup> Avenue SE	330.00
------	---	---	---------------------------------	--------

Sunset Acres

8052		29 of B of SW4 16-139-81	3500 Old Red Trail NW	262.09
------	--	--------------------------	-----------------------	--------

Terra Vallee 1<sup>st</sup>

7537	3	12	2704 11 <sup>th</sup> Avenue NW	165.00
------	---	----	---------------------------------	--------

Trail West Addition

9912	2	10	4504 32 <sup>nd</sup> Avenue NW	98.23
9913	2	11	4508 32 <sup>nd</sup> Avenue NW	62.30
9914	2	12	4512 32 <sup>nd</sup> Avenue NW	57.50
9915	2	13	4516 32 <sup>nd</sup> Avenue NW	55.10
9916	2	14	4520 32 <sup>nd</sup> Avenue NW	55.10
9917	3	1	4517 32 <sup>nd</sup> Avenue NW	62.30
9918	3	2	4513 32 <sup>nd</sup> Avenue NW	64.70
9919	3	3	4509 32 <sup>nd</sup> Avenue NW	74.28
9920	3	4	4505 32 <sup>nd</sup> Avenue NW	86.26
9921	3	5	4501 32 <sup>nd</sup> Avenue NW	93.44
9922	3	6	4405 32 <sup>nd</sup> Avenue NW	112.61
9923	3	7	4401 32 <sup>nd</sup> Avenue NW	198.85

West Hills Estates 1st

10499	1	3	4401 47 <sup>th</sup> Avenue NW	437.82
10501	2	1	4720 Impala Court NW	411.46
10508	3	1	4520 Impala Court NW	165.00
10512	3	5	4504 Impala Court NW	397.08
10513	3	6	4500 Impala Court NW	562.08
10514	3	7	4503 Impala Court NW	430.63
10515	3	8	4507 Impala Court NW	557.30
10527	3	20	4721 Impala Court NW	418.65

West Hills Estates 2nd

10667	1	1	4605 47 <sup>th</sup> Avenue NW	418.65
10676	4	1	4721 Corvette Street NW	411.46
10678	4	3	4713 Corvette Street NW	330.00
10680	4	5	4705 Corvette Street NW	385.00
10682	4	7	4601 Corvette Street NW	81.46
10683	5	1	4520 Corvette Street NW	165.00
10684	6	1	4521 Corvette Street NW	232.08
TOTAL				43,683.43

TAKE FURTHER NOTICE that the Board of City Commissioners of the City of Mandan will meet in regular session at City Hall on October 20, 2015 at 5:30 p.m. at which meeting action will be taken upon such assessment list. Any person may appear to present testimony regarding the above assessments.

Publish:   October 02, 2015                   Diane I Leingang  
                  October 09, 2015

NOTICE OF ASSESSMENTS  
SIDEWALKS OF 2015

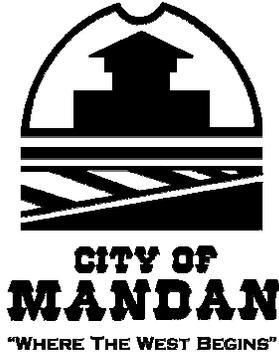
Notice IS HEREBY GIVEN that the following is a true and correct list of the particular lots and tracts of land on which the City of Mandan caused sidewalks to be constructed, replaced or repaired and the cost thereof.

<u>Seq#</u>	<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>Assessment</u>
<u>Dinsmore-Peterson</u>				
732	0	1 – 3	601 3 <sup>rd</sup> Street SW	1138.43
<u>Diane's 3rd</u>				
7840	2	13	408 Division Street	2489.96
<u>Mandan Proper</u>				
3605	36	E ½ of 6	301 Collins Avenue N	4521.96
<u>Meads</u>				
4112 A	25	E 88' 5 ½' of 6 & 7	908 3 <sup>rd</sup> Street SW	470.94
<u>N.P. 1st</u>				
4330	73	W80' of 3 & 4 & Adj. E 10' vac	200 5 <sup>th</sup> Street NE	2614.56
TOTAL				11,235.85

TAKE FURTHER NOTICE that the Board of City Commissioners of the City of Mandan will meet in regular session at City Hall on October 20, 2015 at 5:30 p.m. at which meeting action will be taken upon such assessment list. Any person may appear to present testimony regarding the above assessments.

Publish:   October 02, 2015                      Diane I Leingang  
                  October 09, 2015





CONSENT #7

# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 14, 2015  
**SUBMITTING DEPARTMENT:** Finance  
**DEPARTMENT DIRECTOR:** Greg Welch  
**PRESENTER:** Greg Welch, Finance Director  
**SUBJECT:** Assessment of Delinquent Utility Billing Accounts for 2015.

---

### PURPOSE

Consider the assessment of Delinquent Utility Billing Accounts for 2015.

### BACKGROUND

According to the Mandan Code of Ordinances, all water, sewage, garbage collection and disposal, and street lighting charges or fees for any services supplied, provided or furnished by the city shall constitute liens upon the respective lots, tracts, parcels of land and premises receiving such service. All such charges or fees which have been properly billed to the owner or occupant of the premises served and which are more than thirty days past due on September 30th of each year shall be certified by the city auditor to the county auditor between the first and tenth day of October of each year. The city auditor in so certifying such charges and fees shall specify the amount thereof, the description of the premises served and the name of the owner thereof. The amount so certified shall be extended by the county auditor upon the tax rolls against such premises and collected by the county treasurer and paid to the city treasurer in the same manner and time as other county and municipal taxes are assessed, certified, collected and returned.

Written notifications for these assessments were sent to the affected property owners.

### ATTACHMENT

Delinquent Utility Billing Accounts for 2015.

### FISCAL IMPACT

Delinquent Utility Billing Accounts for 2015 = \$12,541.42 (1 year assessment)

STAFF IMPACT

No additional staff impact.

LEGAL REVIEW

The assessment was prepared in accordance with the Mandan Code of Ordinances and the North Dakota Century Code.

RECOMMENDATION

To approve the assessment of Delinquent Utility Billing Accounts for 2015.

SUGGESTED MOTION

Move to approve the assessment of Delinquent Utility Billing Accounts for 2015.

## DELINQUENT UTILITY BILLING ACCOUNTS FOR 2015

The following is a list of delinquent utility billing accounts for 2015. These amounts consist of water, wastewater, stormwater, solid waste, and street light services furnished to customers. It is recommended that these accounts be assessed to the respective properties receiving these services according to the Mandan Code of Ordinances.

Seq #	Account	Customer	Address	Assessment
4258	01-0310000-7	Lamp Real Est Invest LLP	104 4th Street NE	\$ 258.71
4234	01-0910001-8	Tina/Chris Ness	412 1st Avenue NE	\$ 137.20
3460	01-1960000-1	Cory Herman	308 & 308 1/2 1st Street NE	\$ 215.60
3526	02-0530001-9	Crystal Black Cloud	307 5th Avenue NE	\$ 221.54
1164	02-1140002	Ervin & Cora Schantz	106 6th Avenue NE	\$ 121.72
1277	03-0680001-6	John & Tonya Schmitt	1102 1st Street NE	\$ 57.97
2133	05-2360001-5	Doug & Carol Dworshak	312 12th Street NW	\$ 189.17
5257	05-3020000-5	Amy Brossart	109 7th Street NE	\$ 154.19
5267	05-3040000-6	Sam Towner & Kirk Olson	109 6th Street NE	\$ 130.24
3747	06-0260000-6	Katelyn Douglas %Peterson Prop MGMT LLC	405 4th Street NW	\$ 63.04
3654	06-0550001-9	Preston Demaray	407 3rd Street NW	\$ 73.36
3365	06-0760001-4	Owen Electric LLP	207 4th Avenue NW	\$ 137.42
3720	06-1350000-8	Marlene Brunelle	411 5th Avenue NW	\$ 151.80
4460	07-0370101-7	John Kraft Jr.	702 5th Avenue NW	\$ 125.40
4443	07-0390000-7	Seth Huntington	705 5th Avenue NW	\$ 143.88
4720	07-1270600-1	Betty Leingang	1014 6th Avenue NW	\$ 427.17
4618	07-1400103-6	Christopher A. Vandal	904 1/2 5th Avenue NW	\$ 115.97
5739	08-0710000-1	Josh Osborn	1403 Monte Drive NW	\$ 263.36
5887	08-1010000-4	Fred & Chris Mehlhoff	1203 Sunset Drive NW	\$ 146.21
5891	08-1050000-6	Dean Buechler	1303 Sunset Drive NW	\$ 250.36
4053	09-0880000-1	Carol Kambeitz	109 11th Avenue NW	\$ 196.80
11666	10-3490000-3	Jodi Dietz	Woodlands M.H. Park LLC	\$ 62.56
2835	10-4540002-8	Lloyd & Mary Deringer	1008 1st Street SE	\$ 1,295.66
148	11-1240001-4	Crystal Binstock	707 13th Avenue NW	\$ 203.92
5014	12-0050000-5	Jared Ohlhauser	1216 7th Avenue SE	\$ 157.15
5033	12-0270000-8	Diana Gonzalez	1413 8th Avenue SE	\$ 190.23
5153	12-0606301-8	Ron & Terri L. Jochim	1505 9th Avenue SE	\$ 432.16
5156	12-0609302-5	Lloyd & Mary Deringer	1500 8th Avenue SE	\$ 88.30
5535	12-1070001-2	Dan Fuchs	1404 18th Street SE	\$ 165.22
7522	13-4370001-5	Sara Durbin	2600 10th Avenue NW	\$ 142.05
7538	13-4530000-2	Chris Ulrich	2700 11th Avenue NW	\$ 153.82
7989	13-5430001-7	Kelly & Tristen Wyckoff	1200 27th Street NW	\$ 658.72
670	14-3630001-4	Joseph & Mary Jackson	301 14th Street NE	\$ 152.66
5645	17-1030001-3	Daryl Jorgenson	4601 West Roughrider Circle	\$ 100.17
5661	17-1190001-4	Amy Haugen	5917 Horseshoe Bend	\$ 155.32
5667	17-1250001-4	James & Kathy M Walton	6012 Horseshoe Bend	\$ 388.01
5641	17-3220001-0	Chad & Suzanne Gartner	4802 E Roughrider Circle	\$ 147.40
10548	17-4530001-9	Steven Mott	5015 37th Avenue NW	\$ 150.91
9905	17-5050101-6	Darren A. Becker	4533 30th Avenue NW	\$ 125.40
8263	18-0971001-5	Zacks Shack Fish Houses	4515 Memorial Highway	\$ 395.45
3033	18-1550001-7	Doran Stoltz	2726 Memorial Highway SE	\$ 200.15
7924	18-1550101-0	Doran Stoltz	2722 Memorial Highway SE	\$ 221.20
8095	19-0170001-7	Mike Braun	3804 Old Red Trail	\$ 117.90
10920	20-2300001-8	Scott Collins	3809 Bay Shore Bend SE	\$ 213.82
10129-29	22-0206002-2	Jeffrey & Mari Schaeffer	2234 Lexi Loop SE #1	\$ 28.26
10129-15	22-0210201-2	Jeffrey & Mari Schaeffer	2318 Lexi Loop SE #3	\$ 120.56
6375	30-0950000-6	Bruce Greig	809 4th Street SW	\$ 226.58
735	30-1320002-7	Frank Kraft	607 3rd Street SW	\$ 101.20
4843	30-1790000-6	TDC Rentals LLC	200 8th Avenue SW	\$ 629.83
14	31-2360000-7	Joe Keller	903 6th Street NW	\$ 462.52
3314	31-3100001-3	John Bender	110 7th Avenue NW	\$ 352.79
3316	31-3250000-8	Bernie Heid	111 7th Avenue NW	\$ 109.34
4491	35-0580000-3	Roosevelt W. Watts	709 1st Avenue NW	\$ 234.22
5817	38-1970001-3	David Fischer	1809 Monte Drive	\$ 179.42
5818	38-1980001-6	Carl Jacobsen	1807 Monte Drive NW	\$ 122.11
1102	39-1560001-7	Lorna Strand	1400 1st Street NW	\$ 140.78
10261	40-0000601-3	Jim & Shelly Sheetz	905 27th Street SE	\$ 334.53
TOTAL				\$ 12,541.42



**GAMING SITE AUTHORIZATION**  
**OFFICE OF ATTORNEY GENERAL**  
 SFN 17996 (08/2015)

Consent No. 8

G - \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
 Site License Number  
 (Attorney General Use Only)

Horse Race North Dakota is hereby authorized to conduct games of  
 (Full, Legal Name of Gaming Organization)

chance under the license granted by the Attorney General of the State of North Dakota at the following  
 location: Moscow Bar the address of which is:

202 E. Main Street Mandan 58554 Morton  
 (Street) (City) (Zip Code) (County)

Date(s) Authorized: Beginning 11/1/15 Ending 6/30/16 6-30-2016

If raffle or poker activity, provide specific date of event or drawing(s): 0

Specific location where games of chance will be conducted and played at the site (required):

Games will be played and conducted in bar area, excluding the restrooms.

Number of twenty-one tables (required) (if zero, enter "0") : 0

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)

1. Days of week of gaming operations \_\_\_\_\_
2. Hours of gaming \_\_\_\_\_
3. List each specific game type prohibited \_\_\_\_\_
3. List each specific game type approved: \_\_\_\_\_

\_\_\_\_\_  
 Attorney General Date Signature of City/County Auditor Date

PRINT Name / Official Position of person signing above

**INSTRUCTIONS:**

1. City/County Auditors - Retain a **copy** of the Site Authorization for your files.
2. City/County Auditors - Return the **original** Site Authorization form to the Organization.
3. Organizations - Send the **original, signed**, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval.

**RETURN ALL DOCUMENTS TO:**

Office of Attorney General  
 Licensing Section  
 600 E Boulevard Ave, Dept. 125  
 Bismarck, ND 58505-0040  
 Telephone: 701-328-2329 OR 800-326-9240



**RENTAL AGREEMENT**  
 OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9413 (Rev. 08-2015)

License Number (Office Use Only)

Site Owner (Lessor) <i>Victoria Luck Run, DBA Moscow</i>		Site Name <i>Moscow Bar</i>		Site Phone Number <i>(701) 426-1322</i>	
Site Address <i>202 E Main St.</i>		City <i>Mandan</i>	State <i>ND</i>	Zip Code <i>58534</i>	County <i>Morton</i>
Organization (Lessee) <i>Horse Race North Dakota</i>		Rental Period <i>Oct 25, 2015 to June 30<sup>th</sup>, 2016</i>		Monthly Rent Amount	
1. Is Bingo going to be conducted at this site? 1a. If "Yes" to number 1 above, is Bingo the primary game conducted? If "Yes," enter the monthly rent amount to be paid. Then answer questions 2 - 7 but do not enter any rent amounts.		<i>11/1/15</i> <i>AG</i>		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	
2. Is a raffle drawing going to be conducted at this site?		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$	
3. Is Prize Boards involving a dispensing device conducted at this site?		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$	
4. Is Twenty-One conducted at this site? Number of Tables with wagers up to \$5 _____ <input checked="" type="checkbox"/> Rent per Table \$ _____ Number of Tables with wagers over \$5 _____ <input checked="" type="checkbox"/> Rent per Table \$ _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$	
5. Is Paddlewheels conducted at this site? Number of Tables _____ <input checked="" type="checkbox"/> Rent per Table \$ _____		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		\$	
6. Is Pull Tabs involving either a jar bar and/or a dispensing device conducted at this site? Please check: <input type="checkbox"/> Jar Bar Only <input checked="" type="checkbox"/> Dispensing Device Only <input type="checkbox"/> Jar Bar and Dispensing Device		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		\$ <i>175<sup>00</sup></i>	
				Total Monthly Rent \$ <i>175<sup>00</sup></i>	

**TERMS OF RENTAL AGREEMENT:**

This RENTAL AGREEMENT is between the Owner (LESSOR) and Organization (LESSEE) that will be leasing the site to conduct games of chance.

The LESSOR agrees that no game will be directly operated as part of the lessor's business.

The LESSOR agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab or prize boards involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization.

The LESSOR agrees that the lessor's on call or temporary or permanent employee will not, directly or indirectly, conduct games at the site as an employee of the lessee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.

If the LESSEE provides the Lessor with a temporary loan of funds for redeeming pull tabs or prize boards, or both, involving a dispensing device, the Lessor agrees to repay the entire loan immediately when the lessee discontinues using the device at the site.

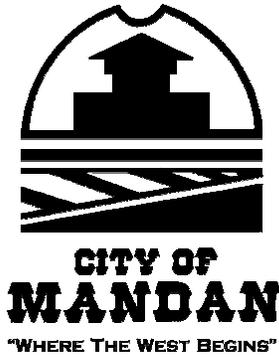
The LESSOR agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds.

The LESSOR agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee.

At the LESSOR'S option, the lessee agrees that this rental agreement may be automatically terminated if the lessee's gaming license is suspended at this site for more than fourteen days or revoked.

Signature of Lessor <i>[Signature]</i>	Title <i>OWNER</i>	Date <i>10-9-2015</i>
Signature of Lessee (Top Executive Official) <i>[Signature]</i>	Title <i>President</i>	Date <i>10-11-2015</i>

(over)



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 14, 2015  
**SUBMITTING DEPARTMENT:** Fire  
**DEPARTMENT DIRECTOR:** Steve Nardello, Fire Chief  
**PRESENTER:** Steve Nardello, Fire Chief  
**SUBJECT:** Request to Advertise for Fire Truck Bids

---

**STATEMENT/PURPOSE:** The Mandan Fire Department would like to replace a 1993 fire engine with a new engine that is fully compliant with the National Fire Protection Association standards on fire apparatus.

**BACKGROUND/ALTERNATIVES:** Our department has provided for the replacement of the 1993 Pierce fire truck within our equipment replacement plan many years. Funding for the new truck has also been financial planned within the fire equipment reserve fund using funding from the Insurance Premium Tax distributed by the State of North Dakota.

**ATTACHMENTS:** Fire Department equipment replacement plan.

**FISCAL IMPACT:** No fiscal impact, aside from advertisement costs, until award to a successful bidder at which time we would ask to amend the 2015 equipment reserve budget to purchase the chassis this year.

**STAFF IMPACT:** Fire department staff has already prepared truck specifications.

**LEGAL REVIEW:** None

**RECOMMENDATION:** I recommend that the Mandan City Commission allow the fire department to advertise for request of bids for a new fire engine.

**SUGGESTED MOTION:** Motion to approve the fire department's request to advertise for bid one new 1500gpm fire engine.

Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: October 20, 2015  
 Subject: Request to Advertise for Fire Truck Bids  
 Page 2 of 2

City of Mandan Fire Department Equipment Replacement and Staffing Schedule											
Vehicle Inventory as of 2014											
Unit	Year	Description	Replacement Plan								
Engine 12	1993	Pierce Pumper	2016 Replace with new								
Brush 1	2001	Ford Brush Truck	2021 Replace with new								
Unit 2	2004	Chevrolet Tahoe	2016 Replace with used police vehicle								
Ladder 14	2004	E-One Ladder	2029 Replace with new								
Unit 1	2006	Chevrolet Tahoe	2017 Replace with used police vehicle								
Engine 21	2007	E-One Pumper	2027 Replace with new								
Chief 1	2008	Ford Expedition	2018 Replace with used police vehicle								
Engine 11	2013	Spartan Pumper	2033 Replace with new								
Air 1	2010	Mobile Compressor	2030 Review for replacement								
	<u>Year</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Estimated Equip. Reserve Balance	\$ 111,190	\$ 90,096	\$ 264,515	\$ 205,421	\$ 180,821	\$ 156,221	\$ 131,621	\$ 17,021	\$ (97,579)	\$ (177,179)	
<b>Revenue:</b>											
WSI Grant		\$ 5,266	\$ 14,225								
Homeland Security Grant			\$ 14,250								
Fire Insurance Taxes	\$ 126,262	\$ 141,569	\$ 141,550	\$ 151,450	\$ 151,450	\$ 151,450	\$ 151,450	\$ 151,450	\$ 151,450	\$ 151,450	\$ 151,450
General Fund	\$ 50,000	\$ 50,000	\$ 50,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Expenditures:</b>											
WSI Grant		\$ (7,296)	\$ (19,169)								
MDC		\$ (15,120)									
Equipment under \$5,000			\$ (34,950)								
Brush Truck										\$ (55,000)	
Replace Engine 12	\$ (197,356)		\$ (225,000)								
Replace Engine 12-Lease Payments				\$ (90,000)	\$ (90,000)	\$ (90,000)	\$ (90,000)	\$ (90,000)			
Replace Tahoe					PD Unit						
Replace Tahoe					PD Unit						
Replace Expedition						PD Unit					
Add Reserve Engine-Lease Payments							\$ (90,000)	\$ (90,000)	\$ (90,000)	\$ (90,000)	\$ (90,000)
General Fund-Fire Department Pension				\$ (86,050)	\$ (86,050)	\$ (86,050)	\$ (86,050)	\$ (86,050)	\$ (86,050)	\$ (86,050)	\$ (86,050)
Equip Reserve Ending Balance	\$ 90,096	\$ 264,515	\$ 205,421	\$ 180,821	\$ 156,221	\$ 131,621	\$ 17,021	\$ (97,579)	\$ (177,179)	\$ (201,779)	
<b>Personnel:</b>											
Firefighter/EMT	6	4	0	0	4	2	2	2			
Captain	3										
Total	9	13	13	13	17	19	21	23	23	23	
Additional personnel requests would provide the following staffing by 2020: 2- Firefighters per station with three stations 3- firefighters per station with two stations											

CITY OF MANDAN

SUNDAY ALCOHOLIC BEVERAGE PERMIT

Date of Application: 10-19-15

Name of Licensee: Mandan Moose 425

Address of Licensee: 111 11<sup>th</sup> Ave NE

Address of public facility if used: \_\_\_\_\_

State the purpose of organization: Members invited to open

Sunday for football - Nov. 1-8-15-22-29

Dec 6-13-20-27 Jan 3-10-17-24-31

FEB. 7-14-21

Date(s) of requested Sunday(s): Nov - Dec - Jan - Feb -

(See Above)

Time of day which the applicant desires the permit to be in effect: 12-8pm

Description of the rooms on the premises, which have been specifically reserved, for the dispensing of alcoholic beverages and dancing during the term of the permit:

Social quarters

State whether the applicant requests permission to open to the general public, and if so an explanation of the reasons for the request:

members

If applicable, estimated number of police officers necessary to provide security at the dance to be open to the public:

NA

I, the applicant, will abide to the following conditions:

- a. Alcoholic beverages may be distributed for consumption on the premises and Dancing may be permitted only in those rooms specifically reserved for event activities;
- b. Dancing and the dispensing of alcoholic beverages shall be permitted only between the hours of twelve noon on the date specified in the permit and one a.m. on the following Monday;
- c. Any conditions or circumstances delineated by the Board relating to the conduct of the event or to the admission of the general public to the event.
- d. The applicant as a condition to the issuance of such permit consents and agrees that any City police officer may enter upon and inspect the licensed premises or any part thereof at any time for the purpose of determining compliance with the conditions of the permit;
- e. The permit issued under this section may not expand the scope of the class of alcohol license held by the applicant;
- f. An applicant which holds a Class A liquor license must supply copies of the most recent six month's filings of the City food and lodging taxes and allow the City to verify with the ND State Tax Department that said tax payments have been made.
- g. The permittee shall comply with all other applicable ordinances and laws relating to the use and sale of alcoholic beverages in the City.

Kanman

Received by:

Date Received: 10-18-15

Commission Approval: \_\_\_\_\_

Auditor Approval: \_\_\_\_\_

\$5.00 Fee per Sunday-Amount paid \$ 85.00

Summit Everts  
Signature of Applicant

Receipt # \_\_\_\_\_

Copy to be filed with Mandan Police Department

Eligible Applicants. Pursuant to the provisions of NDCC 05-02-05.1 only the following alcohol licensees or facilities are eligible to apply for a Sunday Event Alcoholic Beverage Permit:

- a. A "qualified alcoholic beverage licensee," which is defined to mean any licensee who has paid the city lodging and restaurant tax imposed by the city and who continues to pay such tax thereafter. Any alcoholic beverage licensee, except the Class B and Special Class B licensee, may become a "qualified alcoholic beverage licensee" by voluntarily paying the city's lodging and restaurant tax prior to the filing of the permit application but the licensee must also continuously pay the tax throughout the license year.
- b. Any publicly owned or operated facility.

CITY OF MANDAN

SUNDAY ALCOHOLIC BEVERAGE PERMIT

Date of Application: October 19th,2015

Name of Licensee: Lukes Bar LLC dba Silver Dollar Bar

Address of Licensee: 200 Eat Main

Address of public facility if used: \_\_\_\_\_

State the purpose of organization: bar

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

Date(s) of requested Sunday(s): Oct.25,Nov. 1,Nov8,Nov.15,  
Nov.22,Nov.29,Dec.6,Dec.13,Dec.20,Dec.27

\_\_\_\_\_

Time of day which the applicant desires the permit to be in effect: 12.00 pm

Description of the rooms on the premises, which have been specifically reserved, for the dispensing of alcoholic beverages and dancing during the term of the permit:

three rooms ,all have bars and bathrooms

the whole bar

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

State whether the applicant requests permission to open to the general public, and if so an explanation of the reasons for the request:

we would like to have the bar open on Sundays

to seve the public

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

If applicable, estimated number of police officers necessary to provide security at the dance to be open to the public:

---

I, the applicant, will abide to the following conditions:

- a. Alcoholic beverages may be distributed for consumption on the premises and Dancing may be permitted only in those rooms specifically reserved for event activities;
- b. Dancing and the dispensing of alcoholic beverages shall be permitted only between the hours of twelve noon on the date specified in the permit and one a.m. on the following Monday;
- c. Any conditions or circumstances delineated by the Board relating to the conduct of the event or to the admission of the general public to the event.
- d. The applicant as a condition to the issuance of such permit consents and agrees that any City police officer may enter upon and inspect the licensed premises or any part thereof at any time for the purpose of determining compliance with the conditions of the permit;
- e. The permit issued under this section may not expand the scope of the class of alcohol license held by the applicant;
- f. An applicant which holds a Class A liquor license must supply copies of the most recent six month's filings of the City food and lodging taxes and allow the City to verify with the ND State Tax Department that said tax payments have been made.
- g. The permittee shall comply with all other applicable ordinances and laws relating to the use and sale of alcoholic beverages in the City.

Kami Maki  
Received by:

Lucas Berger  
Signature of Applicant

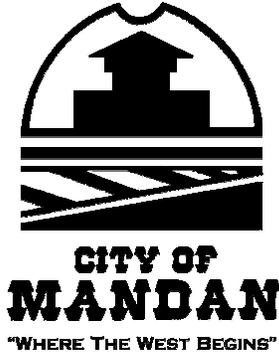
Date Received: 10-19-15

Commission Approval: \_\_\_\_\_

Auditor Approval: \_\_\_\_\_

\$5.00 Fee per Sunday-Amount paid \$ 50.00 Receipt # \_\_\_\_\_

Copy to be filed with Mandan Police Department



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 15, 2015  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth  
**PRESENTER:** Justin Froseth, Engineering & Planning Director  
**SUBJECT:** Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

---

**STATEMENT/PURPOSE:** To authorize the installation of water and sewer for the development of the subject area.

**BACKGROUND/ALTERNATIVES:** The Lakewood 9th Addition plat is located south of Memorial Highway and west of 40<sup>th</sup> Avenue SE. The proposed utilities only serve the developer of the benefiting land; therefore, this is being paid for by the developer under a 3-way agreement. A letter of certificate of deposit has been secured for the project.

**ATTACHMENTS:**

1. Project Vicinity Map, by KLJ
2. Project Overview Map, by KLJ
3. Resolution Approving Plans and Specifications and Authorizing Execution of 3-way Agreement
4. 3-way agreement
5. Certificate of Deposit Letter

**FISCAL IMPACT:** The entire cost of the project is being paid by the developer as part of the 3-way agreement.

**STAFF IMPACT:** Minimal

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

**RECOMMENDATION:** This office supports the authorization to move forward with this project.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 2 of 14

---

SUGGESTED MOTION: I move to approve the resolution approving the plans and specifications and authorizing execution of 3-way agreement for water and sewer improvement Project 2015-17 (Lakewood 9th Addition).

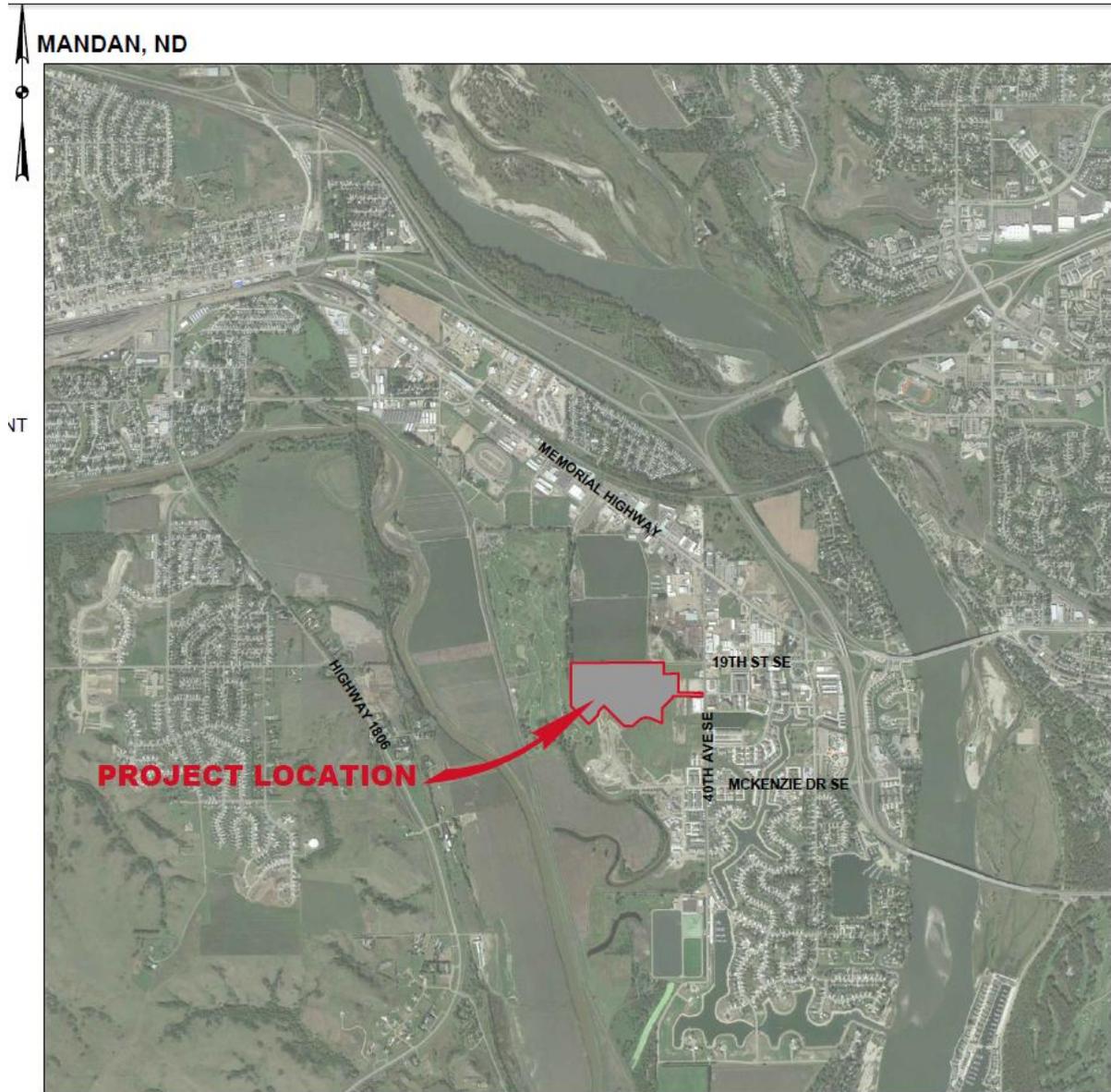
Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 3 of 14



VICINITY MAP



Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 5 of 14

---

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING  
EXECUTION OF 3-WAY AGREEMENT FOR WATER AND SEWER IMPROVEMENT  
PROJECT NO. 2015-17  
(Lakewood 9th Addition)**

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

1. That the plans and specifications for the Water and Sewer Project No. 2015-17 serving Lakewood 9th Addition in the City of Mandan, as presented by, KLJ Engineering on behalf of VE Land Company, LLC, are hereby approved, ratified and confirmed as the plans and specifications for said project, in accordance with which said improvement project will be constructed, subject to any further modifications of the plans and specifications by the Board as provided by law. The plans and specifications shall be filed in the Office of the City Administrator and City Engineer and open for public inspection. The named streets within the subdivision to receive the improvements are: 34<sup>th</sup> Avenue SE and 21<sup>st</sup> Street SE.

2. That the President of the Board is hereby authorized to enter into a 3-way agreement between the City of Mandan; the developer, VE Land Company, LLC, and the developer's contractor, contingent upon the City's receipt of contractor's proof of insurance and contractor's performance and payment bonds for project.

3. This resolution shall be in full force and effect from the date of its passage.

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

ATTEST:

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

Date of Passage:        October 20<sup>th</sup>, 2015

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 6 of 14

---

**3-WAY AGREEMENT**

**Lakewood 9<sup>th</sup> Addition**

**SANITARY SEWER & WATER IMPROVEMENT PROJECT 2015-17**

THIS AGREEMENT, made on this 15<sup>TH</sup> day of October 2015, between the City of Mandan, a municipal corporation, hereinafter called the CITY, VE Land Company, LLC, hereinafter called the DEVELOPER, and Bowers Excavating, LLC, hereinafter called the CONTRACTOR. The ENGINEER mentioned in this contract shall be KLJ.

WHEREAS, the CONTRACTOR wishes to enter upon the public streets and rights-of-way to construct, under a private contract, the following improvements:

Water Mains & Services     Sanitary Sewer Mains & Services

for property to be developed and offered for sale by the DEVELOPER; and

WHEREAS, the CITY wishes to safeguard the public interest by assuring that said construction work will be in accord with plans, specifications and requirements of the CITY and will be completed in a proper and safe manner in accord with said ENGINEER prepared plans and specifications for said type of work; and

WHEREAS, the DEVELOPER has filed a petition to the Board of City Commissioners to permit the DEVELOPER to contract directly for said improvements.

NOW, THEREFORE, it is agreed between the parties for the considerations herein named, as follows:

(1) LICENSE TO CONSTRUCT.

The CITY grants to the DEVELOPER the right, privilege, and license to enter upon and construct in the public rights-of-way of the CITY the above improvements in the following streets:

34<sup>th</sup> Avenue SE, 21<sup>st</sup> Street SE, & Amity Circle SE Mandan ND 58554

which license shall continue so long as the DEVELOPER performs the agreements by it herein.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 7 of 14

---

(2) SCOPE OF WORK.

The DEVELOPER will, through a CONTRACTOR licensed under the laws of North Dakota, do said work, including furnishing all materials, equipment and labor necessary to perform all of the work shown on the plans and specifications prepared by a licensed professional engineer, which are hereby referred to and made a part of this Agreement. Construction staking as required by the CITY shall be done by the ENGINEER at the expense of the DEVELOPER. The CONTRACTOR shall complete all stubouts to the property line on utilities to be constructed under this contract.

All work incidental to the project, such as grading, taps to the watermain, seeding, chlorine, clean up, and any other usual charges as determined by the ENGINEER shall be borne by the CONTRACTOR.

(3) TIME OF COMMENCEMENT AND COMPLETION

The anticipated date for allowing construction to start will be November 1<sup>st</sup>, 2015. The CONTRACTOR shall have until May 31<sup>st</sup>, 2016 to complete the project to the satisfaction of the ENGINEER and the CITY.

(4) CITY AUTHORITY AND RESPONSIBILITY

The City Engineer, other City staff and agents for the city shall at all times have access to the project site during construction of the public improvements. The City Engineer shall be the final arbiter when questions arise concerning interpretation and compliance with the plans, specifications, City design requirements and City ordinances. Failure of the developer, design engineer or contractor to comply with the directives of the City Engineer shall be sufficient grounds to issue a stop work order or require installed work to be removed and reconstructed.

(5) DESIGN ENGINEER AUTHORITY AND RESPONSIBILITY

The ENGINEER hired by the DEVELOPER is responsible for providing day to day monitoring and direction of the work. Daily logs shall be maintained and made available to the City. The ENGINEER is responsible to provide the CONTRACTOR in a timely manner with all needed information regarding grades and locations of work. Should a dispute arise between the CONTRACTOR and the ENGINEER over interpretation of the plans, the City Engineer shall be consulted and the City Engineer shall render a decision. Any deviation from the location of facilities shown on the plans must be approved in writing by the City Engineer before commencing with construction of the deviation. All deviations from the approved plans shall be documented with as-built drawings prepared by the ENGINEER. Approval by the CITY of the as-built drawings is a condition of project approval and acceptance by the CITY.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 8 of 14

---

(6) PAYMENT.

The DEVELOPER shall provide an irrevocable letter of credit or a certificate of deposit from a bona fide financial institution in the amount of the project cost including services provided by the CITY. The irrevocable letter of credit expiration date shall be a minimum of 60 days past the time of completion or any extensions of this agreement. The project cost is \$587,366.40. Final payment will be for actual quantities used. A copy of the accepted proposal is attached to the back of and made a part of this Agreement.

The DEVELOPER will be responsible to pay the CONTRACTOR for all of the Agreement work in accordance with the plans, specifications, and proposal prepared by the DEVELOPER'S representative and made a part of this Agreement. The ENGINEER shall measure the work completed and submit to the ENGINEER. The ENGINEER will submit approved progress payments to the DEVELOPER. The CITY shall have no obligations, liability or responsibility for any payment due to any party under this Agreement or otherwise arising from the work under this Agreement. In no event shall the CITY be responsible for any payments whatsoever, including payments for additional work or payments for costs occasioned by unforeseen or changed conditions encountered during the work.

(7) CONTENT'S OF CONTRACTOR'S CONTRACT.

All contracts made by the CONTRACTOR with any person, firm, or corporation in connection with or in carrying out the contract work shall provide: "This contract is subject to all the terms and conditions of a contract dated 10/15/2015, between the CITY, the DEVELOPER and the CONTRACTOR."

(8) OWNERSHIP OF WORK LINES.

All contract work, except utility stubouts, furnished or placed in the public streets, alleys, or rights-of-way shall become the property of the City of Mandan. The placing and furnishing of all contract work by the DEVELOPER, its CONTRACTOR, its subcontractors, if any, and by an person, firm or corporation, as labor or material or otherwise, shall be under the provisions of this contract and with the express waiver of any right to claim against the CITY, or to make claims or lien against the contract work.

(9) WARRANTY.

The CONTRACTOR shall guarantee all work against faulty materials and workmanship for a period of one year from the date of final acceptance and the performance bond of the contract shall remain in full force and effect for that period.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 9 of 14

---

(10) VERBAL AGREEMENTS.

No verbal agreements or conversation with any officer, agent, or employee of the CITY or ENGINEER before or after the execution of this contract shall affect or modify any of their terms or obligations contained in the documents comprising the contract.

(11) PROTECTION OF PUBLIC AND WORK.

The CONTRACTOR shall provide and maintain all necessary watchmen, barricades, lights, and warning signs and take all necessary precautions for protection of the public, and shall further maintain at all times adequate protection of the work from damage. The CONTRACTOR shall also obtain and furnish general liability insurance to protect itself, the CITY, DEVELOPER, and ENGINEER with an insurer licensed to do business in North Dakota, in the sum of \$1,000,000 for one accident, against and from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property on account of any negligent act or fault of the DEVELOPER, its CONTRACTOR, or officers, agents or employees in the execution of the contract, or on account of its failure to provide necessary barricades, warning lights, or signs, and as will protect the CITY, DEVELOPER, and ENGINEER from any contingent liability under this contract. In no case shall the liability insurance be less than specified in the special provisions of the project manual.

(12) UTILITIES.

It shall be the responsibility of the CONTRACTOR to familiarize itself with the location of all existing sewer, water mains and service lines, gas mains and service lines, telephone cable, power, light, and telephone poles, guys, valve boxes, stop boxes and all utilities installations that might be affected in the performance of the work. The CONTRACTOR shall notify all utility companies at least 48 hours in advance excluding Saturdays, Sundays, holidays, and in accordance with N. D. Century Code Chapter 49-23 North Dakota One Call of any construction affecting said utilities, and shall work out with said utilities any conflicts or changes.

(13) CHANGE.

The Board of City Commissioners reserves the right to make any necessary changes in the alignment, grade, or design of the proposed work deemed by them advisable.

(14) CLEAN UP.

Extra materials, tools and temporary structures shall be removed by the CONTRACTOR and all dirt, rubbish, and excess earth from excavations shall be disposed of and the construction area left clean to the satisfaction of the ENGINEER, and the CITY. The CONTRACTOR shall maintain for a period of three months after completion of the work the surface of unpaved trenches, adjacent curbs and gutter, sidewalks, driveways,

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 10 of 14

---

shrubby, fences, sod or other surfaces disturbed. The CONTRACTOR shall conduct its operations in such manner as to cause minimum inconvenience to adjoining property owners and the public.

Street surfacing in unpaved areas shall be restored to as good as or better than prior to construction by the CONTRACTOR. The CONTRACTOR shall be required to replace paving or gravel surface removed or damaged in the construction work or repair any area disturbed as a result of construction work to the satisfaction of and subject to the approval of the CITY.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 11 of 14

---

(15) ASSURANCE OF PERFORMANCE AND PAYMENT OF BILLS.

The CONTRACTOR shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the total contract amount as security for the faithful performance of the contract and also a payment bond in an amount of not less than one hundred percent (100%) of the total contract amount as security for the payment of all

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 12 of 14

Bowers Excavating, LLC

PO Box 145  
Mandan, ND 58554

## Estimate

Date	Estimate #
10/13/2015	1534

Name / Address
Red Door Homes of Bismarck, LLC 3100 N 14th St., Suite 1 Bismarck ND 58503

Description	Qty	Cost	Project
			Lakewood 9th
			Total
Water and Sanitary Sewer			
Mobilization	1	5,000.00	5,000.00
Subcut Gravel	160.22	20.00	3,204.40
8" SDR-35 PVC Sanitary Sewer	3,712	28.00	103,936.00
Television Sewer Main	3,712	3.25	12,064.00
8" PVC C-900 Water Main	4,299	33.00	141,867.00
6" PVC C-900 Water Main	121	30.00	3,630.00
6" Hydrant	8	4,300.00	34,400.00
8" Gate Valve and Box	12	2,800.00	33,600.00
6" Gate Valve and Box	8	2,400.00	19,200.00
48" Sanitary Sewer Manhole	14	4,300.00	60,200.00
4" SDR-35 PVC Sewer Service	2,464	19.00	46,816.00
8"X4" Sewer Service Connection	68	250.00	17,000.00
1" Type K Copper Water Service	2,263	23.00	52,049.00
1" Curb Stop and Box	68	450.00	30,600.00
8"X1" Water Service Connection	68	350.00	23,800.00
<b>Total</b>			<b>\$587,366.40</b>

Customer Signature \_\_\_\_\_

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 13 of 14

---

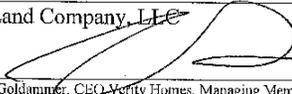
persons performing labor on the payment of all persons performing labor on the project under the contract and furnishing materials in connection with the contract.

IN WITNESS WHEREOF, the parties have executed the following agreement.

CITY OF MANDAN

DEVELOPER

\_\_\_\_\_  
Justin Froseth  
Planning and Engineering Director

\_\_\_\_\_  
VE Land Company, LLC  
  
Arthur Goldammer, CEO Verity Homes, Managing Member

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

Same as above  
Owner, Title

\_\_\_\_\_  
325 7<sup>th</sup> St South Ste 300  
Street Address

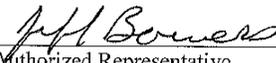
Attest:

\_\_\_\_\_  
Fargo, ND 58103-1846  
City, State, Zip

\_\_\_\_\_  
Jim Neubauer  
City Administrator

CONTRACTOR

\_\_\_\_\_  
Bowers Excavating  
Bowers Excavating, LLC

\_\_\_\_\_  
  
Authorized Representative

\_\_\_\_\_  
President  
Owner, Title

\_\_\_\_\_  
160 Riverwood Ave  
Street Address

\_\_\_\_\_  
Mandan ND 58554  
City, State, Zip

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-17(Lakewood 9th Addition).

Page 14 of 14

---



October 15, 2015

City of Mandan  
Attn: Justin Froseth  
205 2nd Ave NW  
Mandan, ND 58554

**Water & Sanitary Sewer Improvement Project VE Land Company 2015-17**

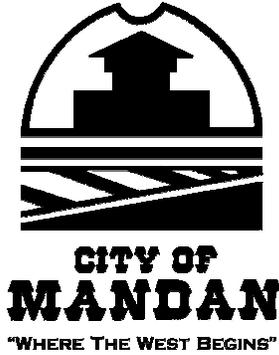
Dear Justin,

VE Land Company, LLC has funded an account in the amount of \$587,366 for the Water & Sanitary Improvement Project 2015-17. No funds maybe withdrawn, debited or disbursed without written approval from the City of Mandan.

Sincerely,

A handwritten signature in black ink, appearing to read "JK", is written over a faint, circular watermark or stamp.

Joel Kostelecky  
Vice President, BlackRidgeBANK



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 15, 2015  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth  
**PRESENTER:** Justin Froseth, Engineering & Planning Director  
**SUBJECT:** Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

---

**STATEMENT/PURPOSE:** To authorize the installation of water and sewer for the development of the subject area.

**BACKGROUND/ALTERNATIVES:** The Meadowlands Addition plat is located between Memorial Highway and 3<sup>rd</sup> Street SE. The proposed utilities only serve the developer of the benefiting land; therefore, this is being paid for by the developer under a 3-way agreement. A letter of credit has been secured for the project.

**ATTACHMENTS:**

1. Project Vicinity Map, by Swenson, Hagen and Co.
2. Subdivision Plat
3. Resolution Approving Plans and Specifications and Authorizing Execution of 3-way Agreement
4. 3-way agreement
5. Letter of credit

**FISCAL IMPACT:** The entire cost of the project is being paid by the developer as part of the 3 way agreement.

**STAFF IMPACT:** Minimal

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

**RECOMMENDATION:** This office supports the authorization to move forward with this project.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 2 of 15

---

SUGGESTED MOTION: I move to approve the resolution approving the plans and specifications and authorizing execution of 3-way agreement for water and sewer improvement Project 2015-10 (Meadowlands Addition).

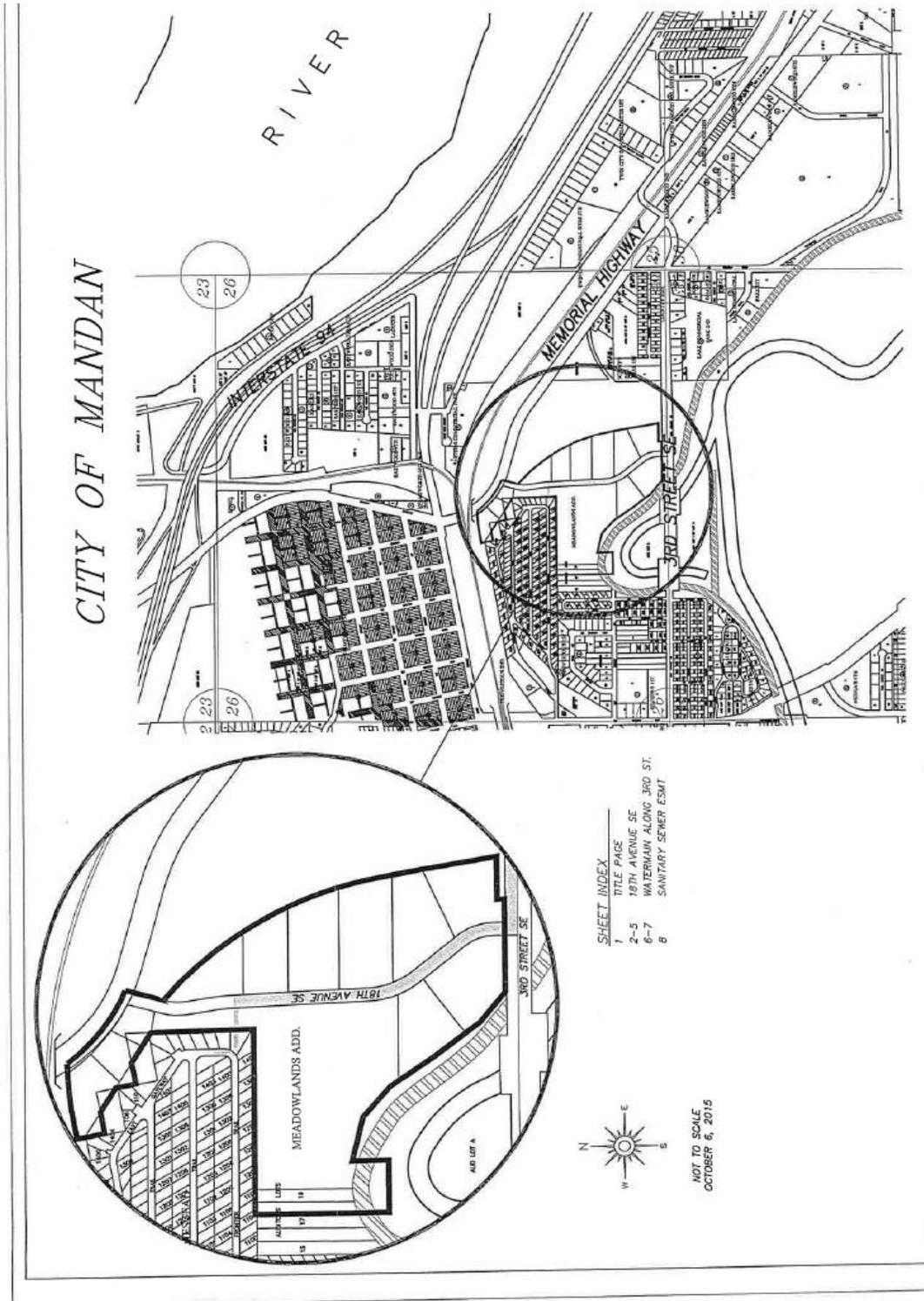
Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 3 of 15





Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 5 of 15

---

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND  
AUTHORIZING EXECUTION OF 3-WAY AGREEMENT FOR WATER AND  
SEWER IMPROVEMENT PROJECT NO. 2015-10  
(Meadowlands Addition)**

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

1. That the plans and specifications for the Water and Sewer Project No. 2015-10 serving Meadowlands Addition in the City of Mandan, as presented by Meadowlands Development LLC, on behalf of themselves, are hereby approved, ratified and confirmed as the plans and specifications for said project, in accordance with which said improvement project will be constructed, subject to any further modifications of the plans and specifications by the Board as provided by law. The plans and specifications shall be filed in the Office of the City Administrator and City Engineer and open for public inspection. The named streets within the subdivision to receive the improvements are: 18<sup>th</sup> Avenue SE.
2. That the President of the Board is hereby authorized to enter into a 3-way agreement between the City of Mandan; the developer, Meadowlands Development LLC, and the developer's contractor.
3. This resolution shall be in full force and effect from the date of its passage.

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

ATTEST:

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

Date of Passage:           October 20<sup>th</sup>, 2015

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 6 of 15

---

**3-WAY AGREEMENT**

**MEADOWLANDS ADDITION**

**WATER, SANITARY SEWER & STORM SEWER IMPROVEMENT  
PROJECT NO. 2015-10**

THIS AGREEMENT, made on this 14<sup>th</sup> day of October 2015, between the City of Mandan, a municipal corporation, hereinafter called the CITY, Meadowlands Development, LLC, hereinafter called the DEVELOPER, and Cofell's Plumbing & Heating, Inc., hereinafter called the CONTRACTOR. The ENGINEER mentioned in this contract shall be Swenson, Hagen & Co.

WHEREAS, the CONTRACTOR wishes to enter upon the public streets and rights-of-way to construct, under a private contract, the following improvements:

Water Mains                       Sanitary Sewer Mains                       Storm Sewer Mains  
 Streets                                       Other:

for property to be developed and offered for sale by the DEVELOPER; and

WHEREAS, the CITY wishes to safeguard the public interest by assuring that said construction work will be in accord with plans, specifications and requirements of the CITY and will be completed in a proper and safe manner in accord with said ENGINEER prepared plans and specifications for said type of work; and

WHEREAS, the DEVELOPER has filed a petition to the Board of City Commissioners to permit the DEVELOPER to contract directly for said improvements.

NOW, THEREFORE, it is agreed between the parties for the considerations herein named, as follows:

(1) LICENSE TO CONSTRUCT.

The CITY grants to the DEVELOPER the right, privilege, and license to enter upon and construct in the public rights-of-way of the CITY the above improvements in the following streets:

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 7 of 15

---

which license shall continue so long as the DEVELOPER performs the agreements by it herein.

(2) SCOPE OF WORK.

The DEVELOPER will, through a CONTRACTOR licensed under the laws of North Dakota, do said work, including furnishing all materials, equipment and labor necessary to perform all of the work shown on the plans and specifications prepared by a licensed professional engineer, which are hereby referred to and made a part of this Agreement. Construction staking as required by the CITY shall be done by the ENGINEER at the expense of the DEVELOPER. The CONTRACTOR shall complete all stubouts to the property line on utilities to be constructed under this contract.

All work incidental to the project, such as grading, taps to the watermain, seeding, chlorine, clean up, and any other usual charges as determined by the ENGINEER shall be borne by the CONTRACTOR.

(3) TIME OF COMMENCEMENT AND COMPLETION

The anticipated date for allowing construction to start will be October 30, 2015. The CONTRACTOR shall have until May 19, 2016 to complete the project to the satisfaction of the ENGINEER and the CITY. If the earthwork contractor completes their grading work sooner than October 30, 2015, the CONTRACTOR may be allowed an earlier start date.

(4) CITY AUTHORITY AND RESPONSIBILITY

The City Engineer, other City staff and agents for the city shall at all times have access to the project site during construction of the public improvements. The City Engineer shall be the final arbiter when questions arise concerning interpretation and compliance with the plans, specifications, City design requirements and City ordinances. Failure of the developer, design engineer or contractor to comply with the directives of the City Engineer shall be sufficient grounds to issue a stop work order or require installed work to be removed and reconstructed.

(5) DESIGN ENGINEER AUTHORITY AND RESPONSIBILITY

The ENGINEER hired by the DEVELOPER is responsible for providing day to day monitoring and direction of the work. Daily logs shall be maintained and made available to the City. The ENGINEER is responsible to provide the CONTRACTOR in a timely manner with all needed information regarding grades and locations of work. Should a dispute arise between the CONTRACTOR and the ENGINEER over interpretation of the plans, the City Engineer shall be consulted and the City Engineer shall render a decision. Any deviation from the location of facilities shown on the plans must be approved in writing by the City Engineer before commencing with construction of the deviation. All deviations from the approved plans shall be documented with as-built drawings prepared

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 8 of 15

---

by the ENGINEER. Approval by the CITY of the as-built drawings is a condition of project approval and acceptance by the CITY.

(6) PAYMENT.

The DEVELOPER shall provide an irrevocable letter of credit or a certificate of deposit from a bona fide financial institution in the amount of the project cost including services provided by the CITY. The irrevocable letter of credit expiration date shall be a minimum of 60 days past the time of completion or any extensions of this agreement. The project cost is \$469,600.00. Final payment will be for actual quantities used. A copy of the accepted proposal is attached to the back of and made a part of this Agreement.

The DEVELOPER will be responsible to pay the CONTRACTOR for all of the Agreement work in accordance with the plans, specifications, and proposal prepared by the DEVELOPER'S representative and made a part of this Agreement. The ENGINEER shall measure the work completed and submit to the ENGINEER. The ENGINEER will submit approved progress payments to the DEVELOPER. The CITY shall have no obligations, liability or responsibility for any payment due to any party under this Agreement or otherwise arising from the work under this Agreement. In no event shall the CITY be responsible for any payments whatsoever, including payments for additional work or payments for costs occasioned by unforeseen or changed conditions encountered during the work.

(7) CONTENTS OF CONTRACTOR'S CONTRACT.

All contracts made by the CONTRACTOR with any person, firm, or corporation in connection with or in carrying out the contract work shall provide: "This contract is subject to all the terms and conditions of a contract dated October 14, 2015, between the CITY, the DEVELOPER and the CONTRACTOR."

(8) OWNERSHIP OF WORK LINES.

All contract work, except utility stubouts, furnished or placed in the public streets, alleys, or rights-of-way shall become the property of the City of Mandan. The placing and furnishing of all contract work by the DEVELOPER, its CONTRACTOR, its subcontractors, if any, and by an person, firm or corporation, as labor or material or otherwise, shall be under the provisions of this contract and with the express waiver of any right to claim against the CITY, or to make claims or lien against the contract work.

(9) WARRANTY.

The CONTRACTOR shall guarantee all work against faulty materials and workmanship for a period of one year from the date of final acceptance and the performance bond of the contract shall remain in full force and effect for that period.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 9 of 15

---

(10) VERBAL AGREEMENTS.

No verbal agreements or conversation with any officer, agent, or employee of the CITY or ENGINEER before or after the execution of this contract shall affect or modify any of their terms or obligations contained in the documents comprising the contract.

(11) PROTECTION OF PUBLIC AND WORK.

The CONTRACTOR shall provide and maintain all necessary watchmen, barricades, lights, and warning signs and take all necessary precautions for protection of the public, and shall further maintain at all times adequate protection of the work from damage. The CONTRACTOR shall also obtain and furnish general liability insurance to protect itself, the CITY, DEVELOPER, and ENGINEER with an insurer licensed to do business in North Dakota, in the sum of \$1,000,000 for one accident, against and from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property on account of any negligent act or fault of the DEVELOPER, its CONTRACTOR, or officers, agents or employees in the execution of the contract, or on account of its failure to provide necessary barricades, warning lights, or signs, and as will protect the CITY, DEVELOPER, and ENGINEER from any contingent liability under this contract. In no case shall the liability insurance be less than specified in the special provisions of the project manual.

(12) UTILITIES.

It shall be the responsibility of the CONTRACTOR to familiarize itself with the location of all existing sewer, water mains and service lines, gas mains and service lines, telephone cable, power, light, and telephone poles, guys, valve boxes, stop boxes and all utilities installations that might be affected in the performance of the work. The CONTRACTOR shall notify all utility companies at least 48 hours in advance excluding Saturdays, Sundays, holidays, and in accordance with N. D. Century Code Chapter 49-23 North Dakota One Call of any construction affecting said utilities, and shall work out with said utilities any conflicts or changes.

(13) CHANGE.

The Board of City Commissioners reserves the right to make any necessary changes in the alignment, grade, or design of the proposed work deemed by them advisable.

(14) CLEAN UP.

Extra materials, tools and temporary structures shall be removed by the CONTRACTOR and all dirt, rubbish, and excess earth from excavations shall be disposed of and the construction area left clean to the satisfaction of the ENGINEER, and the CITY. The

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 10 of 15

---

CONTRACTOR shall maintain for a period of three months after completion of the work the surface of unpaved trenches, adjacent curbs and gutter, sidewalks, driveways, shrubbery, fences, sod or other surfaces disturbed. The CONTRACTOR shall conduct its operations in such manner as to cause minimum inconvenience to adjoining property owners and the public.

Street surfacing in unpaved areas shall be restored to as good as or better than prior to construction by the CONTRACTOR. The CONTRACTOR shall be required to replace paving or gravel surface removed or damaged in the construction work or repair any area disturbed as a result of construction work to the satisfaction of and subject to the approval of the CITY.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 11 of 15

**Proposal**

From: Cofell's Plumbing & Heating, Inc.  
 1000 Industrial Drive  
 P.O. Box 875  
 Bismarck, ND 58502-0875  
 Phone: 701-258-6500  
 Fax: 701-258-6502

Project: MDN 2016 - MEADOWLANDS ADDI  
 Description: MDN 2016 - Meadowlands  
 Addition W,S,SIP No 10

ITEM	DESCRIPTION	BID QTY	U/M	UNIT BID	AMOUNT
<b>Watermain Items</b>					
01	Bedding Material	600.000	TON	0.00	\$0.00
02	Rock Excavation	50.000	CY	0.00	\$0.00
03	Ductile Iron Fittings	0.000	Inc.	0.00	\$0.00
04	6" PVC Watermain	50.000	LF	35.00	\$1,750.00
05	8" PVC Watermain	1,977.000	LF	40.00	\$79,080.00
06	6" Gate Valve & Box	5.000	EA	1,000.00	\$5,000.00
07	8" Gate Valve & Box	5.000	EA	1,500.00	\$7,500.00
08	Meter Manhole	1.000	EA	30,000.00	\$30,000.00
09	6" Hydrant	5.000	EA	5,000.00	\$25,000.00
10	8" Hydrant	1.000	EA	4,250.00	\$4,250.00
11	2" Copper Water Service Pipe	224.000	LF	40.00	\$8,960.00
12	2" Water Service Connection	4.000	EA	325.00	\$1,300.00
13	2" Ball Valve Curb Stop & 1-1/2" Box	4.000	EA	435.00	\$1,740.00
14	8" Watermain Site Work	1.000	LS	70,000.00	\$70,000.00
15	Dewatering	2,420.000	LF	0.00	\$0.00
<b>Watermain Subtotal</b>				<b>Section Total:</b>	<b>\$234,580.00</b>
<b>Sanitary Sewer</b>					
16	8" Sanitary Sewer	1,403.000	LF	30.00	\$42,090.00
17	Televise Sewer Main	1,403.000	LF	2.00	\$2,806.00
18	Bedding Material	343.000	TON	0.00	\$0.00
19	Rock Excavation	50.000	CY	0.00	\$0.00
20	48" Concrete Manhole	5.000	EA	2,000.00	\$10,000.00
21	6" Sewer Service Pipe	613.000	LF	20.00	\$12,260.00
22	8"x6" Wye Branch	14.000	EA	50.00	\$700.00
23	6" 45-Deg Bend	12.000	EA	50.00	\$600.00
24	6" 22.5-Deg Bend	2.000	EA	50.00	\$100.00
25	Existing Manhole Connection	1.000	LS	25.00	\$25.00
26	Dewatering	1,403.000	LF	0.00	\$0.00
<b>Sanitary Sewer Subtotal</b>				<b>Section Total:</b>	<b>\$68,581.00</b>
<b>Storm Sewer Items</b>					
27	24" Storm Sewer Pipe	223.000	LF	55.00	\$12,265.00
28	30" Storm Sewer Pipe	669.000	LF	65.00	\$43,485.00
29	22.5" x 36.25" Arch Storm Sewer Pipe	187.000	LF	145.00	\$27,115.00
30	36" Storm Sewer Pipe	17.000	LF	190.00	\$3,230.00
31	Bedding Material	500.000	TON	0.00	\$0.00
32	Rock Excavation	50.000	CY	0.00	\$0.00
33	Type 72" Inlet	3.000	EA	4,350.00	\$13,050.00

Cofell's Plumbing & Heating, Inc.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 12 of 15

---

**Proposal**

ITEM	DESCRIPTION	BID QTY	U/M	UNIT BID	AMOUNT
34	Type 108" Inlet	3.000	EA	6,500.00	\$19,500.00
35	72" Concrete Manhole	2.000	EA	5,500.00	\$11,000.00
36	84" Concrete Manhole	2.000	EA	7,600.00	\$15,200.00
37	96" Concrete Manhole	1.000	EA	9,094.00	\$9,094.00
38	108" Concrete Manhole	1.000	EA	12,500.00	\$12,500.00
39	Dewatering	1,079.000	LF	0.00	\$0.00
<b>Storm Sewer Subtotal</b>					
				<b>Section Total:</b>	<b>\$166,439.00</b>
				<b>TOTAL BID:</b>	<b>\$469,600.00</b>

Signature: \_\_\_\_\_



Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 13 of 15

---

(15) ASSURANCE OF PERFORMANCE AND PAYMENT OF BILLS.

The CONTRACTOR shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the total contract amount as security for the faithful performance of the contract and also a payment bond in an amount of not less than one hundred percent (100%) of the total contract amount as security for the payment of all persons performing labor on the payment of all persons performing labor on the project under the contract and furnishing materials in connection with the contract.

IN WITNESS WHEREOF, the parties have executed the following agreement.

CITY OF MANDAN

\_\_\_\_\_  
Justin Froseth  
Planning and Engineering Director

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

Attest:

\_\_\_\_\_  
Jim Neubauer  
City Administrator

DEVELOPER

Meadowlands Development LLC  
Firm Name  
[Signature]  
Authorized Representative  
Barry Jennings, Managing Partner  
Owner, Title  
550 10459  
Street Address  
Santa Monica, CA 90402  
City, State, Zip

CONTRACTOR

Cofell's Plumbing & Heating, Inc.

Firm Name  
[Signature]  
Authorized Representative  
Jay Cofell, President  
Owner, Title  
1000 Industrial Drive  
Street Address  
Bismarck, ND 58501  
City, State, Zip

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 14 of 15



ORIGINAL

### IRREVOCABLE LETTER OF CREDIT

**Borrower:** Meadowlands Development, LLC  
550 10th St  
Santa Monica, CA 90402

**Lender:** Security First Bank of North Dakota  
Bismarck Office  
3000 North 14th St  
Box 4250  
Bismarck, ND 58502

**Beneficiary:** City of Mandan (Water, Sanitary Sewer & Storm Sewer Improvement Project #2015-10)  
205 2nd Avenue NW  
Mandan, ND 58554

---

**NO.: 218**

**EXPIRATION DATE.** This letter of credit shall expire upon the close of business on 05-19-2016 and all drafts and accompanying statements or documents must be presented to Lender on or before that time (the "Expiration Date").

**AMOUNT OF CREDIT.** Lender hereby establishes at the request and for the account of Borrower, an Irrevocable Letter of Credit in favor of Beneficiary for a sum of Four Hundred Ninety-three Thousand Eighty & 00/100 Dollars (\$493,080.00) (the "Letter of Credit"). These funds shall be made available to Beneficiary upon Lender's receipt from Beneficiary of sight drafts drawn on Lender at Lender's address indicated above (or other such address that Lender may provide Beneficiary in writing) during regular business hours and accompanied by the signed written statements or documents indicated below.

**WARNING TO BENEFICIARY: PLEASE EXAMINE THIS LETTER OF CREDIT AT ONCE. IF YOU FEEL UNABLE TO MEET ANY OF ITS REQUIREMENTS, EITHER SINGLY OR TOGETHER, YOU SHOULD CONTACT BORROWER IMMEDIATELY TO SEE IF THE LETTER OF CREDIT CAN BE AMENDED. OTHERWISE, YOU WILL RISK LOSING PAYMENT UNDER THIS LETTER OF CREDIT FOR FAILURE TO COMPLY STRICTLY WITH ITS TERMS AS WRITTEN.**

**DRAFT TERMS AND CONDITIONS.** Lender shall honor drafts submitted by Beneficiary under the following terms and conditions:

Upon Lender's honor of such drafts, Lender shall be fully discharged of Lender's obligations under this Letter of Credit and shall not be obligated to make any further payments under this Letter of Credit once the full amount of credit available under this Letter of Credit has been drawn.

Beneficiary shall have no recourse against Lender for any amount paid under this Letter of Credit once Lender has honored any draft or other document which complies strictly with this Letter of Credit, and which on its face appears otherwise in order but which is signed, issued, or presented by a party or under the name of a party purporting to act for Beneficiary, purporting to claim through Beneficiary, or posing as Beneficiary without Beneficiary's authorization. By paying an amount demanded in accordance with this Letter of Credit, Lender makes no representation as to the correctness of the amount demanded and Lender shall not be liable to Beneficiary, or any other person, for any amount paid or disbursed for any reason whatsoever, including, without limitation, any nonapplication or misapplication by Beneficiary of the proceeds of such payment. By presenting upon Lender or a confirming bank, Beneficiary certifies that Beneficiary has not and will not present upon the other, unless and until Beneficiary meets with dishonor. Beneficiary promises to return to Lender any funds received by Beneficiary in excess of the Letter of Credit's maximum drawing amount.

**USE RESTRICTIONS.** All drafts must be marked "DRAWN UNDER Security First Bank of North Dakota IRREVOCABLE LETTER OF CREDIT NO. 218 DATED 10-15-2015," and the amount of each draft shall be marked on the draft. Only Beneficiary may complete a draft and accompanying statements or documents required by this Letter of Credit and make a draw under this Letter of Credit. This original Letter of Credit must accompany any draft drawn hereunder.

Partial draws are permitted under this Letter of Credit. Lender's honor of a partial draw shall correspondingly reduce the amount of credit available under this Letter of Credit. Following a partial draw, Lender shall return this original Letter of Credit to Beneficiary with the partial draw noted herein; in the alternative, and in its sole discretion, Lender may issue a substitute Letter of Credit to Beneficiary in the amount shown above, less any partial draw(s).

**PERMITTED TRANSFEREES.** The right to draw under this Letter of Credit shall be nontransferable, except for:

- A. A transfer (in its entirety, but not in part) by direct operation of law to the administrator, executor, bankruptcy trustee, receiver, liquidator, successor, or other representative at law of the original Beneficiary; and
- B. The first immediate transfer (in its entirety, but not in part) by such legal representative to a third party after express approval of a governmental body (judicial, administrative, or executive).

**TRANSFEREES REQUIRED DOCUMENTS.** When the presenter is a permitted transferee (i) by operation of law or (ii) a third party receiving transfer from a legal representative, as described above, the documents required for a draw shall include a certified copy of the one or more documents which show the presenter's authority to claim through or to act with authority for the original Beneficiary.

**COMPLIANCE BURDEN.** Lender is not responsible for any impossibility or other difficulty in achieving strict compliance with the requirements of this Letter of Credit precisely as written. Beneficiary understands and acknowledges: (i) that unless and until the present wording of this Letter of Credit is amended with Lender's prior written consent, the burden of complying strictly with such wording remains solely upon Beneficiary, and (ii) that Lender is relying upon the lack of such amendment as constituting Beneficiary's initial and continued approval of such wording.

**NON-SEVERABILITY.** If any aspect of this Letter of Credit is ever declared unenforceable for any reason by any court or governmental body having jurisdiction, Lender's entire engagement under this Letter of Credit shall be deemed null and void ab initio, and both Lender and Beneficiary shall be restored to the position each would have occupied with all rights available as though this Letter of Credit had never occurred. This non-severability provision shall override all other provisions in this Letter of Credit, no matter where such provision appears within this Letter of Credit.

**GOVERNING LAW.** This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of North Dakota without regard to its conflicts of law provisions, and except to the extent such laws are inconsistent with the 2007 Revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, ICC Publication No. 600. This Agreement has been accepted by Lender in the State of North Dakota.

**EXPIRATION.** Lender hereby agrees with Beneficiary that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to Lender on or before the Expiration Date unless otherwise provided for above.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Consider resolution approving plans and specifications and authorizing the execution of a 3-way agreement for water & sewer improvement Project 2015-10(Meadowlands Addition).

Page 15 of 15

---

Loan No: 70381402

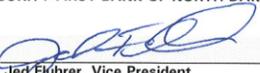
**IRREVOCABLE LETTER OF CREDIT  
(Continued)**

Page 2

Dated: October 15, 2015

LENDER:

SECURITY FIRST BANK OF NORTH DAKOTA

By:   
Jed Fluhrer, Vice President

ENDORSEMENT OF DRAFTS DRAWN:

Date	Negotiated By	Amount In Words	Amount In Figures
_____	_____	_____	_____



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 16, 2015  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth  
**PRESENTER:** Robert Decker, Principal Planner  
**SUBJECT:** Consider amendments to Chapters 101 and 105 of the city municipal code

STATEMENT/PURPOSE:

Now that the city code has been reformatted, it is time to update zoning rules and requirements.

BACKGROUND/ALTERNATIVES:

This draft ordinance addresses several sections with the following topics:

1. Definitions;
2. Planning and Zoning Commission Powers and Duties;
3. Supplementary Provisions;
4. Incidental Uses;
5. Use Groups; and
6. Special uses

Substantial editing has been done. Definitions were updated. Planning and Zoning approvals were given a 6 month time limit. The location of towers and other tall structures was linked to the height of the structure. The verbiage for extensions into yards was edited. Additional requirements for fences and walls were added. Substantial revisions were made to the requirements for accessory buildings. Restrictions on the use of tents and RV's as dwellings were added. Significant revisions were made to the accessory use standards. A decision matrix was added to the use group section in order to provide a formal process for adding a new use. Substantial revisions were made to use groups including grouping uses, moving uses and adding uses. Procedures for review and approval of special uses were revised to include the Planning and Zoning Commission. Some items listed as special uses were removed as not needed and drug or alcohol outpatient treatment or counseling facility was added.

Included with this agenda memo is a "track changes" working document that shows the proposed changes to the current language in the code.

ATTACHMENTS:

1. "Track Changes" Working Document

FISCAL IMPACT: minimal

STAFF IMPACT: minimal

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

RECOMMENDATION:  
Staff recommends adoption of this ordinance.

SUGGESTED ACTION:  
Move to Resolutions and Ordinances No. 2

Working Document Showing Proposed Changes

Ordinance No. \_\_1223\_\_

An Ordinance to Amend and Re-enact Portions of Subpart B Land Development and Public Services of the Code of Ordinances of the City of Mandan Related to Definitions, Planning and Zoning Commission Powers and Duties, Supplementary Provisions, Incidental Uses, Use Groups and Special uses.

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

**Section 1.** Chapter 101 Administration and Planning, Article 1. In General is amended to read.

Sec. 101-1-3. Definitions.

"Animal hospital or clinic" means a facility for the care and well-being of ~~household pets~~animals under the direct supervision of a licensed veterinarian; including, but not limited to, medical services, grooming, confinement or kenneling for medical purposes ~~and full medical services meeting the following requirements:~~but excluding ia.—Incinerating or cremating of animals or animal parts upon the premises, ~~is prohibited;~~b.—Includes an on-site, porous, well drained exercise area for pets to use that is no smaller in size and dimension than 15 feet by 25 feet which is to be kept neat and clean at all times;c.Animal carcasses and/or animal tissues are to be frozen, sealed in waterproof containers, and either kept in a frozen state until commercial waste pickup day or removed directly from the facility to the City's waste landfill site or a licensed crematorium; ~~and d.~~—The term "household pet" as used herein is specifically defined to include only the following taxonomically identified animals;(1) —Mammalian Genus species(a) —Canis familiaris, the domestic dog, and(b) —Fells catus, the domestic cat(2) Mammalian Families(a) Leporidae, rabbits,(b) —Cricetidae, hamsters,(c) Gerbillidae, gerbils, and(d) —Muridae, mice and rats(3) —Avian Orders(a) Psittaciformes, parrots, parakeets, lorries, budgerigars, and cockatiels,(b) —Passeriformes, canaries and finches, and(c) —Columbiformes, pigeons and doves; and(4) —Reptilian Groups(a) Squamata, lizards and snakes, and(b) —Testudine, turtles.

~~"Animal hospital" means a facility for the care and well-being of animals under the direct supervision of a licensed veterinarian; including, but not limited to, grooming, confinement or kenneling for medical purposes, and full medical services.~~

“Dog daycare” means a facility for the daytime care and feeding of dogs.

“Kennel” means a commercial facility for the indoor boarding of household pets, as defined in subsection (4) of the term “animal clinic,” that includes an on-site, porous, well-drained exercise area for pets to use that is no smaller in size and dimension than 15 feet by 25 feet, which is kept neat and clean at all times.

“Pet” means one of the following taxonomically identified animals:

(1) Mammalian Genus species;

- (a) Canis familiaris, the domestic dog, and
- (b) Fells catus, the domestic cat;

(2) Mammalian Families;

- (a) Leporidae, rabbits,
- (b) Muridae, gerbils, hamsters, mice and rats, and
- (c) Mustelidae, ferret;

(3) Avian Orders;

- (a) Psittaciformes, parrots, parakeets, lorries, budgerigars, and cockatiels,
- (b) Passeriformes, canaries and finches, and
- (c) Columbiformes, pigeons and doves;

(4) Reptilian Groups;

- (a) Squamata, lizards and snakes; and
- (b) Testudine, turtles.

“Pet grooming” means a facility for the indoor grooming cosmetic care and maintenance, with no overnight boarding, of the pets listed in subsection (4) of the definition of the term “animal clinic.”

“Pet hospital or clinic” means a facility devoted to the medical care and associated services for the limited number of animals defined as pets as opposed to an animal hospital or clinic which treats all animals.

**Section 2.** Chapter 101 Administration and Planning, Article 2. Planning and Zoning Commission is amended to read.

Sec. 101-2-5. Officers; duties; ~~vacancies~~ selection of officers.

Sec. 101-2-8. Powers and duties.

(l) *Length of approval or recommendation.* Planning and zoning commission approvals or recommendations are valid for six months. Should the applicant or the city commission fail to act on the approval or recommendation within six months, the action of the planning and zoning commission will lapse and a new application must be submitted and all applicable fees paid.

**Section 3.** Chapter 105 District Regulations (Zoning), Article 1. In General is amended to read.

Sec. 105-1-2. Supplementary provisions.

The regulations specified in this chapter shall be subject to the following supplementary provisions and interpretations.

- (1) *Structures excluded from height limits.* A building height limit set forth in this chapter shall not apply to belfries, chimneys, domes, flagpoles, flues, monuments, cupolas, ~~radio-broadcast and communication towers, television towers,~~ spires, tanks, water towers or similar structures, or to bulkheads, elevators, water tanks or similar roof structures and mechanical appurtenances. No such structure located on a roof shall have a total area greater than 25 percent of the roof area of the building; nor shall such structure be used for any residential purpose or any commercial or industrial purpose other than a use incidental to the main use of the building. No such structure shall be located closer to the lot line than a distance greater than 110% of the height of the structure above ground level.
- (2) *Projections into yards.* Steps, stairways, terraces and un-roofed open-porches or decks may extend into any minimum front or rear yard not more than six feet and into any minimum side yard not more than four feet, provided, however, that the floor thereof is no higher than that of the entrance to the building. ~~and such features may extend into any minimum side yard not more than four feet; provided, however, that such feature shall not be less than two feet distant from a lot line. Fire escapes and outside open stairways may project not more than 4.5 feet into any minimum required yard.~~ Chimneys may extend into any minimum yard not more than two feet. No such feature shall extend closer than three feet to a lot line.
- (3) *Existing front yard depth.* When the majority of lots in a block has, prior to the enactment of this chapter, been lawfully occupied with buildings having a greater front yard depth than required by these regulations, no building hereafter erected or altered shall have less front yard depth than the average depth of said existing front yards. This regulation shall apply also to the side yard, adjacent to a street, of a corner lot, but shall not be construed as to reduce the buildable width of a corner lot to less than 24 feet. No portion of any alley shall be considered a part of any yard.
- (4) *Fences and walls.* 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 3 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.
    3. For each leg of an intersection that is stop sign controlled, the clear sight triangle shall begin at a point 10 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 10 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.
  - b. Retaining wall. Retaining walls greater than 4 feet in height may not be placed closer than 3 feet to a property line unless there is a recorded joint use and maintenance agreement for the properties on each side of the retaining wall. Retaining walls greater than 4 feet in height, whether monolithic or terraced, must be designed by a registered engineer. ~~not over five feet in height; except that on a corner lot in any residential district shall be no fence, wall terrace, structure, shrubbery planting or other obstruction to vision having a height greater than three feet above the curb level for a distance of 25 feet from the intersection~~

of the front and side street lines. On a corner lot in a commercial or industrial district, no portion of a building or other obstruction to vision between two and ten feet above the curb level, except a post or column, shall occupy the space by the vertical planes on the front and side street lines and on the line joining points on such street lines at distances of five feet from the intersection thereof.

- c. Fence height. Unless specified otherwise elsewhere in this code, fences in residential districts shall not exceed 6 feet in height and fences in other than residential districts shall not exceed 8 feet in height.
- d. Fence material. Corrugated or sheet metal shall not be used for fencing in residential districts. Wooden fences shall be constructed with treated lumber or painted. The use of barbed or razor wire is limited to security fencing around commercial, industrial, governmental or utility facilities. Use of an electrified fence is not permitted within city limits.

(5) Location of a ~~Accessory buildings.~~

- a. Location.
  - 1. In multi-family, commercial, industrial and agricultural districts, location of accessory buildings shall conform to the requirements for principal buildings.
  - 2. In R7, R3.2, RH and RMH ~~any~~ residential districts, ~~all~~ accessory buildings shall be located in the rear yard and shall be not less than ~~two~~ three feet from a rear or side lot line or less than five feet from an alley line. In the case of a corner lot, accessory buildings, other than a detached garage, shall be located along the rear half of the adjoining residential lot's side lot line. A detached garage on a corner lot must be set back 25 feet from the side street property line or a distance equal to the setback of the principal building on the adjoining residential lot, whichever distance is greater ~~the rear line of which abuts a lot in a residential district having frontage on the street adjacent to the side street line of the corner lot, an accessory building shall be located at least 30 feet from the side street line and, if located less than 60 feet from the side street line, shall be at least ten feet from such rear lot line. An accessory building, or any enclosure, group, or run, or any part used for the housing, shelter, or sale of animals or fowl, shall be located at least 25 feet from any rear or side lot line and at least 50 feet from any building used for dwelling purposes on an adjoining lot.~~
  - 3. Accessory buildings containing a garage door that faces an alley must be set back at least 10 feet from the alley in order to accommodate the turning radius of a vehicle. When the property has no existing parking spaces other than the area for the proposed accessory building or has more than one dwelling unit, the minimum setback for an accessory building containing a garage door facing the alley must be 22 feet in order to allow space for parking of a vehicle in front of the garage door.
- b. Use. Other than where zoning allows more than one dwelling unit on a lot or where a dwelling unit is permitted on a commercial or industrial zoned property, no accessory building may be used for dwelling purposes ~~Where a corner lot abuts a side street having no lots fronting thereon the same side of the street as such corner lot, an accessory building may be located not less than 15 feet from the side street line.~~
- c. Structures included. Any structure, whether open or closed in, that is not part of a principal building. A ~~private~~ garage having any part of its wall in common with a dwelling or being attached to a dwelling by a breezeway or roofed passageway up to 6 feet long shall be considered a part of ~~the a~~ principal buildings and shall comply in all respects with the requirements of this chapter applicable to the principal building.

- d. Number. For residential lots up to 10,000 square feet, two accessory buildings are allowed. For residential lots greater than 10,000 square feet up to 20,000 square feet, three accessory buildings are allowed. For residential lots exceeding 20,000 square feet, four accessory buildings are allowed.
- e. Surface. Except for storage sheds not exceeding 120 square feet, no accessory building shall have an outer surface of corrugated or sheet metal.
- f. Timing. Construction of the principal structure must have commenced before construction of an accessory structure may proceed.
- g. Size. For R7, R3.2, RH and RMH districts, the total square footage of all accessory buildings may not exceed 10% of the lot area and the maximum size of any accessory building shall be no greater than 75% the size of the primary structure on the lot. For RM, CA and CB districts, the total square footage of all accessory buildings may not exceed 20% of the lot area.
- h. Structure coverage. The total area of all structures on the lot may not exceed the maximum structure coverage established for the zone in which the lot is located.
- i. Height. The maximum height of an accessory building is 16 feet to the midspan of the roof system or 25 feet to the peak of the roof, whichever is less. The maximum wall height is 10 feet.
- j. Water and sewer. Any accessory building that is connected to water and sewer must have a frost protected foundation.
- k. Pole structures. Pole structures are not permitted in R7, R3.2, RH, RM, RMH, CA and CB districts.
- l. Portable storage containers. Portable storage containers may not be used as an accessory building on a residentially zoned property. Portable storage containers are to be counted when computing allowable lot coverage.

(6) Through lots. Any building constructed on an interior lot having frontage on two streets shall be located so as to comply with the regulations governing front yards on both streets.

(7) Mixed uses. Any building containing two or more dwelling units and space designed or used for commercial or industrial purposes shall comply with all requirements for multifamily dwellings in the district in which it is located; provided, also, that no such building designed or used for mixed residential and other uses shall be permitted in any district in which multifamily dwelling is not permitted.

(8) General regulations for manufactured and modular homes. ~~The following general regulations pertain to manufactured and modular homes that are placed on individually owned lots, and all manufactured homes must meet the following standards:~~

- a. The home shall have no less than 1,000 square feet of floor area except where the zone in which it is to be located has a greater minimum square footage requirement.
- b. The home shall have no less than a 24-foot exterior width.
- c. The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run.
- d. The home shall have a non-reflective roofing material.
- e. All transporting apparatus including The home shall not have wheels, axles, transporting lights or removal towing apparatus hitch must be removed.

- f. The home shall be located and installed or built according to the same standards for foundation system, permanent utility connections and setback which would apply to a site-built, single-family dwelling on the same lot.
- g. The design, location and appearance of the home must be in harmony with existing adjacent properties, structures and locations.
- h. Any such home which, according to its title document, was manufactured prior to the year during which it is to be sited upon its permanent foundation shall be subject to the provisions of chapter ~~107~~111, article ~~XI~~10 moving of vehicles.
- i. Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(9) ~~Use of barbed or razor wire limited.~~ The use of barbed or razor wire is limited to security fencing around commercial, industrial, governmental or utility facilities.

Use of tents. Tents are not permitted, except in a developed camp ground, manufactured home or travel trailer park or in the back yard of a developed residential lot with a permanent residential structure.

(10) Use of RV as residence. Other than in a developed mobile home or RV park, an RV or similar movable dwelling unit may not be used as a permanent dwelling unit on a lot. Temporary use for a limited time by a family member or visitor who does not pay rent is permitted. Temporary use while building a permanent structure on the property is regulated elsewhere in this code.

#### Sec. 105-1-3. Incidental uses.

The uses of land and buildings permitted in the several districts established by this ~~article~~chapter are designed by listing the principal uses permitted. In addition to such principal uses, it is the intent of this chapter and this section to permit, in each district, those uses customarily incidental to any principal use permitted in the district. Such permitted incidental uses are specifically listed as follows, and any listed use is permitted on the same lot with the principal use to which it is incidental:

##### (1) Accessory uses.

###### a. Dwellings.

1. Private garage used ~~only~~ for the storage of non-commercial motor vehicles, commercial vehicles with a rated capacity less than 2.5 tons and personal property.
2. ~~when the storage space, together with the principal building and the space of any other accessory buildings, does not exceed the floor area ratio coverage permitted within such zoning districts. No private garage or off-street parking space incidental to a dwelling located in a residential district may be used to store a tractor-trailer, freight-hauling vehicle or either part, nor any other commercial vehicle having a rated capacity in excess of 2.5 tons. No more than one commercial vehicle having a rated capacity of 2.5 tons or less shall be stored in the open on any the lot on which the principal use is a dwelling.~~
23. Private greenhouse or vegetable, fruit or flower garden from which no products are sold or offered for sale.
34. Children's playhouse and playground equipment.

- ~~45. Shed or other accessory building, tool room for storage of equipment used in grounds or building maintenance or home occupation, but not including stable, chicken house or other buildings to house agricultural livestock.~~
  - ~~5. Not more than three dogs, four months of age or older.~~
  - ~~6. Private kennel.~~
  - ~~7. Customary domestic pets as defined in chapter 101 of this code, but not including horses, poultry or agricultural livestock.~~
  - ~~87. Incinerator incidental to the principal use only.~~
  - ~~9. Private swimming pool and bath house.~~
  - ~~108. Statuary, trellises, barbecue stoves, fireplaces or similar ornamental or landscaping features.~~
- b. *Church.*
1. Parish house, together with any use accessory to a dwelling as listed in subsection (1)a of this section.
  2. Religious education building.
  3. Bulletin board not to exceed 20 square feet in area.
  - ~~4. Off-street parking lot for use, without charge, of members and visitors to the church.~~
- c. *Health-medical group.*
- ~~1. Any use accessory to a dwelling as listed in subsection (1)a of this section.~~
  - ~~2. Off-street parking lot for use, without charge, of staff members or visitors.~~
  - ~~3. Private garage.~~
  - ~~4. Nun's home, nurse's quarters.~~
  - ~~5. Laundry incidental to hospital.~~ Accessory buildings containing residence accommodations for staff.
  2. Accessory buildings providing utility and maintenance services for the primary use.
- d. ~~Office bank, retail, commercial, recreation groups.~~
- ~~1. Storage of customer, client or operator owned vehicles.~~
  - ~~2. Storage of supplies, stock and merchandise within a fully enclosed building.~~
  - ~~3. Manufacturing and repair facilities incidental to the principal use, subject to the following limitations:~~
    - ~~(i) Floor space shall not exceed 25 percent of the total floor space devoted to the principal use.~~
    - ~~(ii) No motive power other than electricity shall be used.~~
    - ~~(iii) No motor used on any machine for manufacturing and repair shall exceed one horsepower.~~
    - ~~(iv) All operation shall be conducted so that no dust, odor, smoke, noise, vibration, heat or glare created by such operation is perceptible from any boundary line of the lot on which the principal use is located.~~
- e. ~~Service groups.~~
- ~~1. Garage or parking lot for the storage of customer, employee, client or operator owned vehicles.~~
- (2) *Home occupation.*
- a. Dwelling Limitations. There is permitted, in a dwelling, any occupation customarily incidental to the principal use as a dwelling, subject to the following limitations:
1. No person other than a member of the immediate family occupying a the dwelling is employed.
  2. Storage of business inventory but ~~No~~ stock in trade is displayed or sold upon the premises.

3. No alteration of the principal building that changes the character thereof as a dwelling.
  4. No illuminated sign is used, and no sign other than one giving the name and occupation, and not more than one square foot in area, is displayed.
  5. No more area than 25 percent of the area of one story of ground floor area of the primary building, whether located in the primary building or an accessory building, is devoted to the home occupation, ~~not including rooms let to lodgers.~~
- b. *Customary home occupations.* The following are declared to be customary home occupations ~~as intended by this section:~~
1. Dressmaker, seamstress or, tailor.
  2. Music teacher or dance instructor.
  3. Artist, sculptor or author.
  4. ~~Author~~Home office.
  5. ~~Emergency treatment, only of patients by physicians, dentists or licensed drugless physicians~~Dog daycare limited to a maximum of four dogs in the dwelling at any one time, including dogs owned by the residents of the dwelling.
  6. ~~Emergency interview, only of clients by lawyers, architects, engineers and similar professions~~Overnight boarding of one dog or one cat in addition to any animals owned by the residents of the dwelling.
  7. ~~Minister~~Consulting and event planning services.
  8. The letting for hire of not more than two rooms for residential purposes to not more than four persons.
  9. Pet grooming of no more than two animals at one time~~restricted.~~
  10. Daycare up to 12 children.

Sec. 105-1-4. Use groups.

(a) *Decision matrix.* In order to carry out the purposes of this chapter, certain uses having similar characteristics are classified together as use groups. In any district in which a use group is permitted, it is the intent of this chapter to permit any particular member of that use group to locate within that district. The uses listed are examples of uses that fit the category. Not every possible use is listed. Should an application for a use that, in the opinion of the city planner, is not listed within a use group, the city planner shall evaluate the proposed use applying the criteria and following the procedure listed below. ~~In any district in which a use group is not listed as a permitted use, it is the intent of this chapter to prohibit each and every member of that use group from locating within that district. These use groups shall apply to all zoning districts except the DC Downtown Core and DF Downtown Fringe Districts.~~

(1) Criteria.

- a. The actual or projected characteristics of the specific use in relationship to the stated characteristics of the various use groups.
- b. The amount of site area, floor space and equipment required for the use.
- c. The frequency and type of sales activity generated by the use.
- d. The nature of the customer interaction generated by the use, i.e. on site, remote access, daily or infrequent.
- e. The number of employees required per shift for the use.
- f. The hours of operation.
- g. The building site arrangement and access requirements for the use.
- h. The types of vehicles or equipment used in association with the use.
- i. The number of vehicle trips generated by the use per day of the week over the course of a week, month and year.

- j. The means by which the use advertises itself.
- k. Whether the use is likely to be located independent of other uses on the site or established in a shared use environment.

(2) Procedure. The city planner shall issue a written opinion as to the use's appropriate designation. The city planner's decision shall be given to the applicant and posted on the city web site. The decision may be appealed to the Commission, either by the applicant or an adjoining property owner, within 15 days of posting of the decision. If the city planner determines that the proposed use does not fit within any use group or zoning district, a request shall be forwarded to the Commission for review and recommendation as to the disposition of the request for approval of the specific use.

(1b) *Group dwelling.*

a. ~~Defined.~~ A group dwelling is a building used for residential purposes and in which:

(1) Distinguishing characteristics of a group dwelling include:

- a. 1.—The occupants are normally unrelated;
- b. 2.—Separated cooking facilities are not provided for individuals or groups of individuals;
- c. 3.—Persons residing in the building are domiciled more or less permanently, in contrast to the transient characteristic of occupants of hotels, treatment facilities or bed and breakfast facilities; and
- d. Correctional facilities are not included.

(2) ~~b. Group uses.~~ The following uses are declared to be examples of a group dwelling uses:

- a. 1.—Boardinghouse or rooming house;
- b. 2.—Private club, lodge hall, union headquarters, but not including a club in which the principal activity is one normally conducted as a business.
- c. 3.—Convent, or monastery;
- d. 4.—Fraternity, or sorority house; and
- e. 5.—Rooming house.
- f. 6.—Group homes licensed by the department of human services.

c. ~~Not group uses.~~ The follow uses are declared to not be group dwelling uses:

- 1. ~~Bed and breakfast facilities.~~
- 2. ~~Correctional facilities operated by any local political subdivision, the department of corrections, or private service provider under contract with the department of corrections.~~
- 3. ~~Day care centers licensed by the department of human services.~~
- 4. ~~Treatment facilities for adults or adolescents licensed by the department of human services.~~

(2c) *Retail group A.* a. ~~Defined.~~ A use in retail group A is one in which the principal activity is the sale or retail sale of fresh, freshly prepared or packaged food products, merchandise and associated services conducted primarily within an enclosed building ~~merchandise and which:~~

(1) Distinguishing characteristics of uses in retail group A include:

- a. Use is dependent ~~1. Depends,~~ to some extent, on the proximity of other retail and service establishments;
- b. 2.—Merchandise is not of such nature as to require transport to the customer's premises in any vehicle larger than a pickup or small delivery ~~be customarily taken away by the customer in a truck; and~~
- c. 3.—Includes n ~~No~~ incidental manufacturing or processing is carried on in such a manner as to produce offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.

(2) ~~b. Group uses.~~ The following are examples of uses are declared to be in retail group A uses:

- a. 1.—Antiques, collectibles or recycled items store;
- b. 2.—Appliances, radio, television store and electronics rental and sales;

- c. Art, hobby or craft supplies;
- d. Camera sales and service, photo supplies or photographic studio;
- e. Jewelry, clock and watch sales, cleaning and repair;
- f. Books and other printed materials, except those regulated under article 2, chapter 12 and article 5, chapter 105 of this code;
- g. Recorded video or music for rental or sale, except those regulated under article 2, chapter 12 and article 5, chapter 105 of this code;
- h. Musical instrument rental, sale and repair;
- i. Butcher shop, retail sales bakery, delicatessen, fast food, full service restaurant, coffee shop or other eat-in or take-out food preparation establishment;
- j. Ice cream, soda fountain or candy;
- k. Department store, variety store or specialty merchandise including sporting goods or exercise equipment;
- l. Drugstore;
- m. Flowers, gifts or greeting cards;
- n. Furniture and accessories including bedding, home furnishings and office equipment;
- o. Office supplies including copying or shipping services;
- p. Groceries and household items;
- q. Hardware, tools, equipment, supplies and accessories;
- r. Auto parts, supplies, accessories and outdoor activity supplies with no servicing or repair of vehicles;
- s. Package liquor; and
- t. Pets and pet supplies with associated grooming and dog daycare services.

- ~~3. Auto accessory store.~~
- ~~4. Book, magazine, newspaper store.~~
- ~~5. Butcher shop.~~
- ~~6. Camera shop, art supply store.~~
- ~~7. Candy store.~~
- ~~8. Clothing, clothing accessories store.~~
- ~~9. Delicatessen.~~
- ~~10. Department store.~~
- ~~11. Drugstore.~~
- ~~12. Five and ten cent store.~~
- ~~13. Flower shop.~~
- ~~14. Furniture, office equipment store.~~
- ~~15. Gift shop.~~
- ~~16. Grocery store.~~
- ~~17. Hardware store.~~
- ~~18. Hobby, toy store.~~
- ~~19. Ice cream parlor.~~
- ~~20. Jewelry store.~~
- ~~21. Music store.~~
- ~~22. Notion, variety store.~~
- ~~23. Office supply, stationery store.~~
- ~~24. Package liquor store.~~
- ~~25. Photographic studio.~~
- ~~26. Shoe store.~~
- ~~27. Sporting goods store.~~

~~28. Bakery in which nothing is baked except for retail sale on the premises.~~

~~(3d) Retail group B. a. Defined. A use in retail group B is one in which the principal activity is the sale or retail of merchandise and in which one or more of the following factors is present, vehicles or equipment:~~

~~(1) Retail group B is differentiated from Retail Group A as follows:~~

- ~~a. Merchandise is generally larger;~~
- ~~b. Land area required is generally larger;~~
- ~~c. 1. Merchandise is of such a nature as to be customarily taken away by the customer in a truck. 2. Merchandise is of such a nature as to require 50 percent or more of the space within the building for storage of the merchandise.~~
- ~~d. 3. Merchandise is of such a nature as to be stored or customarily displayed outside a building fully enclosed structure; and-~~
- ~~e. 4. The success of the activity is not dependent upon the proximity of uses in retail group A or other uses in retail group B.~~

~~(2) b. Group uses. The following uses are examples of declared to be in retail group B uses:~~

- ~~a. 1. Auto, truck sales, motor cycle, off-road, boat, construction equipment and farm implement sales, service, leasing and rental;:-~~
- ~~b. 2. Farm implement store Lumber yard and related merchandise, tools and equipment sales, including incidental mill work;:-~~
- ~~c. 3. Feed, grain and, farm supply sales store;:- and~~
- ~~d. 4. Trailer, RV and manufactured home sales and service.~~

~~(4e) Service group A. a. Defined. A use in service group A is one in which the principal activity is the servicing of food for consumption on the premises, personal service, household or clothing service, or the repair of small equipment and which providing a service with accompanying sale of merchandise, parts or supplies:~~

~~(1) Distinguishing characteristics of uses in Service Group A include:~~

- ~~a. 1. Dependents, to some extent, on the proximity of other retail and service establishments;:- and~~
- ~~b. 2. Operations are carried on in such a manner as to produce no offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.~~

~~(2) b. Group uses. The following uses are examples of declared to be in service group A uses:~~

- ~~a. 1. Barber or beauty shop;:-~~
- ~~b. 2. Beauty shop. 3. In shop repair of carry in items;~~
- ~~c. Refrigerated cold storage lockers. 4. Dressmaker, milliner or tailor;:-~~
- ~~d. 5. Dry cleaning, pickup agency laundry or Laundromat;:-~~
- ~~e. 6. Furniture repair, or upholstery;:-~~
- ~~f. 7. Laundry pickup agency. 8. Self-service laundry. 9. Milliner. 10. Radio, appliance repair. 11. Restaurant. 12. Shoe repair. 13. Soda fountain. 14. Watch, jewelry, camera repair. 15. Animal Pet hospital or clinic;:-~~
- ~~g. 16. Pet store. 17. Pet grooming commercial facility and dog daycare;~~
- ~~h. Shoe and other leather goods repair;~~
- ~~i. Private club, lodge hall, union headquarters; and~~
- ~~k. Undertaking establishment, mortuary or funeral home.~~

~~(5f) Service group B. a. Defined. A use in service group B is one in which the principal activity is providing a service with accompanying sale of merchandise, parts or supplies. technical or vocational instruction by private organization for profit, repair and service to motor vehicles, not including a filling station, and other service uses not necessary in or appropriate to neighborhood commercial districts and for which one or more of the following factors is present:~~

~~(1) Service Group B uses are differentiated from Service Group A uses as follows:~~

- ~~a. 1.—Its success is not dependent upon the proximity of other retail or service retail group A uses;:-~~
- ~~b. 2.—Repair or service operations are such as to produce some offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located;:- and~~
- ~~c. The use may be conducted around the clock.3.—The use is one which, if placed on a lot adjacent to a lot in an R7 or R3.2 Residential District, would create an unusual safety hazard for the lot or other lots in said residential district or would otherwise unduly depreciate the value of any lot in said residential district.~~

~~(2)b. Group uses.—The following uses are examples of declared to be in service group B uses:~~

- ~~a. Carwash, either automatic or self-service;1. Auto laundry.~~
- ~~b. 2.—Auto, truck or equipment repair garage;:-~~
- ~~c. Kennel;~~
- ~~d. Animal hospital or clinic;~~
- ~~e. Off premise advertising sign;~~
- ~~f. Taxicab or bus company office with overnight vehicle parking;~~
- ~~g. 3.—Commercial school, including business, secretarial, dancing, music, physical culture, technical or trade school.4. Commercial gGarage or, commercial parking lot;:-~~
- ~~h. Self-storage units; and~~
- ~~i. Mobile cleaning, repair and restoration services.~~

~~5.—Steam bath.~~

~~6.—Tire, battery repair.~~

~~7.—Undertaking establishment.~~

~~8.—Outdoor advertising sign.~~

~~(6g).—Office-bank group. a.—Defined. A use in the office-bank group is one in which the principal activity is the conduct of a commercial, governmental, financial, professional or management activitiesfunction.~~

~~(1) The use is generally conducted in a lobby and office type setting mostly during normal weekday business hours with customer traffic throughout the day.~~

~~(2)b. Group uses.—The following uses are examples of declared to be in the office-bank group uses:~~

- ~~a. 1.—Auto laundry.1. Bank, credit union or financial services company;:-~~
- ~~b. Commercial school including business, secretarial, dancing, music, physical culture, technical or trade;~~
- ~~c. 2.—General office.3.—Governmental servicesoffice;:-~~
- ~~d. 4.—Insurance or real estateoffice;:-~~
- ~~e. Private company;~~
- ~~f. 5.—Personal loan agency.6. Professional servicesoffice;:-~~
- ~~g. TV or radio station broadcast studio; and~~
- ~~h. 7.—Real estate office.8. Taxicab office.9.—Telephone exchange.10.—Utility companyoffice.~~

(7h) *Commercial recreation group.* ~~a.~~—*Defined.* A use in the commercial recreation group is one in which the principal activity is the furnishing of recreation for a profit, ~~and for which one or more of the following factors is present:~~

(1) Distinguishing characteristics of uses in the Commercial Recreation Group include:

- a. ~~1.~~—Alcoholic beverages ~~are may be~~ offered for sale for consumption on the premises, ~~but not including the incidental sale of alcoholic beverages at a private club classified as a group dwelling;~~ and
- b. ~~2.~~—The activity is not operated by a governmental agency.

(2) ~~b.~~ *Group uses.* The following ~~uses are examples of declared to be in the commercial recreation group uses:~~

- a. ~~1.~~—Bowling alley;
- b. ~~2.~~—Dance hall;
- c. ~~3.~~—Pool hall, video game room or billiard parlor;
- d. ~~4.~~—Roller or ice -skating rink;
- e. ~~5.~~—Sports arena;
- f. ~~6.~~—Tavern, saloon, bar; and
- g. ~~7.~~—Theater.

(8i) *Wholesale group.* ~~a.~~—*Defined.* A use in the wholesale group is one in which the principal activity is the sale of merchandise to individuals and corporations for resale to the public ~~and for which:~~

(1) Distinguishing characteristics of uses in the Wholesale Group include:

- a. ~~1.~~—The merchandise offered for sale is stored wholly within a completely enclosed building that may be fully climate controlled for the products being stored;
- b. ~~2.~~—No unusual fire or safety hazard is caused by the storage of the product or merchandise;
- c. ~~3.~~—No live animals are ~~sold~~ housed in the facility; and
- d. ~~4.~~—No junked, ~~or~~ wrecked automobiles, secondhand equipment, ~~or~~ other salvaged material or dead animals are stored ~~or sold~~ on the premises.

(2) ~~b.~~ *Group uses.* The following ~~uses are examples of declared to be in the wholesale group uses:~~

- a. ~~1.~~—Newspaper, or magazine distribution;
- b. ~~2.~~—Wholesale Food, beverage, alcohol and grocery;
- c. ~~3.~~—Wholesale Drugs; sales.
- d. Office products and supplies;
- e. Cleaning products and supplies;
- f. Electrical equipment and parts;
- g. Furniture, appliances and home furnishings;
- h. Paper or plastic products;
- i. Pumps, pipe and associated parts; and
- j. Vehicle parts and tires.

(9j) *Health-medical group.* ~~a.~~—*Defined.* A use in the health-medical group is one in which the principal activity is related to the care and medical treatment of human beings.

(1) Facilities include anything up to and including a full service hospital with all support functions including emergency medical transportation.

(2) ~~b.~~ *Group uses.* The following ~~uses are examples of declared to be in the health-medical group uses:~~

- ~~a1.~~ Hospital for human beings licensed under N.D.C.C. ch. 23-16;
- ~~b2.~~ Medical clinic or urgent care facility;

- ~~c3.~~ Nursing home licensed by the department of health under N.D.C.C. ch. 23-16;
- ~~d4.~~ Basic care facility licensed by the department of health under N.D.C.C. ch. 23-09.3.
- ~~e.~~ ~~A and~~ assisted living facility registered with the department of human services;
- ~~5.~~ ~~Orphan's home.~~ ~~f6.~~ Sanitarium, chiropractic hospital or hospital for unmarried mothers maintained and operated or similar by the department of human services.
- ~~7.~~ Treatment facility licensed by the department of human services.

~~(10k)~~ *Education group. a. —Defined.* A use in the education group is one in which the principal activity is the education of children or adults by a public or private nonprofit agency. Sports activities linked to an educational entity are included.

(1) The activity can be directed at any age group and be operated by a public, private or religious group.

~~(2)b.~~ *Group uses.* The following uses are declared to be in the examples of education group uses:

- ~~a1.~~ Pre-school;
- ~~b.~~ College or junior college;
- ~~c2.~~ Grade school;
- ~~d3.~~ High school or junior middle high school;
- ~~e4.~~ Kindergarten;
- ~~f5.~~ Private or parochial schools offering a curriculum substantially equivalent to that offered by public schools;
- ~~g6.~~ Student or faculty dormitory on college campus;
- ~~h7.~~ Stadium, gymnasium or, field house, as an accessory building on the same lot as a principal building;
- ~~8j.~~ Power or heating plant as an accessory building and used on the same lot as a principal utility or maintenance service building;
- ~~i.~~ Administrative building; and
- ~~k.~~ Athletic field.

~~(11)~~ *Public recreation group. a. —Defined.* A use in the public recreation group is one in which the principal activity is public recreation and which is carried on by a governmental agency.

(1) The activity may be similar to a use in the commercial recreation group. Alcoholic beverages may be offered for sale for consumption on the premises.

~~(2)b.~~ *Group uses.* The following uses are declared to be in the public recreation group uses:

- ~~a1.~~ Community center or sports complex;
- ~~b2.~~ Municipal golf courses;
- ~~c3.~~ Public museum;
- ~~d4.~~ Public park;
- ~~e5.~~ Public playground; and
- ~~f6.~~ Municipal swimming pool.

~~(12m)~~ *General farming group. a. —Defined.* A use in the general farming group is one which is customarily carried on in nonurban areas. It is the intent of this chapter to permit as an integral part of any particular use in the general farming group all customary accessory buildings for breeding and rearing poultry and livestock and for the storage of feed and farm crops. Provided that on any parcel of land lying within the territorial jurisdiction of the city for zoning regulations the conduct of any dairy, fur farming or farrowing operation, poultry hatchery, poultry farming or feeding or a riding stable shall not be conducted within 2,640 feet of any residential district or, CA or CB commercial district, and the

raising and feeding of any livestock and horses within 2,640 feet of any residential district or, a CA or CB Commercial District shall be limited to one animal per eight acres of land.

~~(1) b. Group uses. The following Uses are declared to be in the general farming group include:~~

- ~~a. 1.—Dairy farming;~~
- ~~b. 2.—Fur farming;~~
- ~~c. 3.—Commercial greenhouse;~~
- ~~d. 4.—Livestock raising or, feeding;~~
- ~~e. 5.—Farrowing operation;~~
- ~~f. 6.—Poultry hatchery;~~
- ~~g. 7.—Poultry farming, or feeding; and~~
- ~~h. 8.—Riding stable.~~

~~Provided that on any parcel of land lying within the territorial jurisdiction of the city for zoning regulations the conduct of any dairy, fur farming or farrowing operation, poultry hatchery, poultry farming or feeding or a riding stable shall not be conducted within 2,640 feet of any residential, CA or CB Commercial District, and the raising and feeding of any livestock and horses within 2,640 feet of any residential, CA or CB Commercial District shall be limited to one animal per eight acres of land.~~

~~(13n) Truck farming group. a. Defined.—A use in the truck farming group is an agricultural use normally found in suburban or rural areas but on which poultry and livestock rearing is prohibited except as noted in subsection (13)b of this section.~~

~~(1) b. Group uses. The following Uses are declared to be in the truck farming group include:~~

- ~~a. 1.—Field crop farming;~~
- ~~b. 2.—Commercial flower growing;~~
- ~~c. 3.—Fruit growing;~~
- ~~d. 4.—Tree, shrub or, plant nursery;~~
- ~~e. 5.—Truck gardening;~~
- ~~f. 6.—The rearing and feeding of poultry, provided that on any parcel of land lying within the territorial jurisdiction of the city for zoning regulations in the raising and feeding of poultry shall not be conducted within 660 feet of any residential district or, a CA and or CB Commercial District.~~

~~(14o) Industrial group A. a. Defined.—A use in industrial group A is one involving manufacturing or the storage and sale of heavy building materials or equipment.~~

~~(1) Uses must and which conforms to the following requirements:~~

- ~~a1. There is no unusual fire, explosion or safety hazard;~~
- ~~b2. There is no production of noise at any boundary of this district in which such use is located in excess of the average intensity of street and traffic noise at that point;~~
- ~~c3. There is no emission of smoke in excess of any density described as No. 1 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 2 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any 30-minute period;~~
- ~~d4. There is no emission of dust, dirt, or toxic or offensive odors or gas; and~~
- ~~e5. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.~~

~~(2)b. Group uses. The following Uses are declared to be in the industrial group A include; provided, however, that if any of the following uses, being established subsequent to the adoption of this chapter, is operated or changed so that said use does not comply with the standards for an industrial group A use, and said use as operated or changed would not be~~

permitted as a new use in the district in which it is located, then such use shall be declared in violation of this chapter:

- a1. Manufacture, compounding, processing, packaging, treatment, or assembly of the following materials and products, but excluding the use in any operation of a punch press over 20 tons rated capacity, a drop hammer, or an automatic screw machine:
  - ~~1.(i)~~ Bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.
  - ~~2.(iii)~~ Products from the previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, precious metals or stones, fur, glass, hair, horn, leather, paper, plastics, shell, textiles, wood, excluding planing mills, and yarns.
  - ~~3.(iii)~~ Pottery and other ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
  - ~~4.(iv)~~ Electric and neon signs, outdoor advertising signs, commercial advertising structures and light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves and similar products.
  - ~~5.(v)~~ Musical instruments, toys, novelties and rubber and metal stamps.
  - ~~6.(vi)~~ Blacksmith shop and machine shop.
  - ~~7.(vii)~~ Laundry, cleaning and dyeing works and carpet and rug cleaning.
  - ~~8.(viii)~~ Ice manufacturing plant and soft-drink bottling plant, and
  - ~~9.(ix)~~ Assembly of electric appliances, electronic instruments and devices, ~~radios, phonographs and television sets, including the manufacture of small parts only, such as coils, condensers, transformers, crystal holders and similar products.~~
- b2. ~~Storage building and warehouse.~~ Experimental laboratories.
- c4. The following uses, when conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall, compact hedge or uniformly painted board fence, not less than six feet in height:
  - ~~1.(i)~~ Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the principal use, but excluding concrete mixing.
  - ~~2.(iii)~~ Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors.
  - ~~3.(iii)~~ ~~Retail lumber yard, including only incidental mill work.~~ (iv) Feed and fuel yard.
  - ~~4.(v)~~ Public utility service yard or electrical receiving or transforming station, and
  - ~~5.(vi)~~ Pipe yard or storage, sale or rental of oil and gas well-drilling equipment.

(15p) ~~Industrial group B.a. Defined.~~ A use in industrial group B is one involving manufacturing or the storage, sale of products and material and in which the operations create a greater degree of hazard or more annoyance than the operations of uses in industrial group A.

(1) Uses in industrial group B must, but which conforms to the following requirements:

- a1. The design and the operation of the building, and design and use of the premises, fully comply with all special requirements established by this article.
- b2. There is no emission of smoke in excess of a density described as No. 2 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 3 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any 30-minute period.
- c3. There is no emission of toxic gases or fumes, and
- d4. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

(2)b. ~~Group uses.~~ The following ~~u~~Uses are declared to be in the industrial group B include; provided, however, that if any of the following uses, being established subsequent to the adoption of the ordinance from which this section is derived, is operated or changed so that said use does not comply with the standards for an industrial group B use, and said use as operated or changed would not be permitted as a new use in the district in which it is located, then such use shall be declared in violation of this article:

~~a~~1. Any use listed in industrial group A and involving the use of punch press over 20 tons rated capacity, a drop hammer, or an automatic screw machine, provided that all other requirements for industrial group B uses are complied with;<sub>z</sub>

~~b~~2. Any other use listed under industrial group A which cannot comply with the requirements of an industrial group A use, provided that all requirements for an industrial group B use are complied with;<sub>z</sub> and

~~c~~3. Manufacture, compounding, processing, refining and treatment of the following material and products;<sub>z</sub>

~~1.(i)~~ Acetylene;<sub>z</sub>

~~2.(ii)~~ Alcohol;<sub>z</sub>

~~3.(iii)~~ Asphalt;<sub>z</sub>

~~4.(iv)~~ Brick, tile or terracotta;<sub>z</sub>

~~5.(v)~~ Concrete products or mixing;<sub>z</sub>

~~6.(vi)~~ Electric steam power plant;<sub>z</sub>

~~7.(vii)~~ Lampblack;<sub>z</sub>

~~8.(viii)~~ Oilcloth or linoleum;<sub>z</sub>

~~9.(ix)~~ Paint, shellac, turpentine, lacquer or varnish;<sub>z</sub>

~~10.(x)~~ Paper or pulp;<sub>z</sub>

~~11.(xi)~~ Petroleum products;<sub>z</sub>

~~12.(xii)~~ Plastics;<sub>z</sub>

~~13.(xiii)~~ Beer, whiskey or alcoholic beverages;<sub>z</sub>

~~14.(xiv)~~ Stove or shoe polish;<sub>z</sub> and

~~15.(xv)~~ Tar or tar products;<sub>z</sub>

~~d~~4. Junkyard, provided that all operations are conducted wholly within an enclosed building or within an area enclosed on all sides with a solid wall, compact evergreen hedge or uniformly painted fence, not less than six feet in height; provided, further, that there shall be no burning of wrecked automobiles or other products except within a furnace or incinerator approved by the city engineer of the city;<sub>z</sub>

~~e~~5. Any of the following uses, provided that it shall be located not closer than 500 feet from any zone in which it is prohibited;<sub>z</sub>

~~1.(i)~~ Cement, lime, gypsum, or plaster of Paris manufacturing;<sub>z</sub>

~~2.(ii)~~ Distillation of bones;<sub>z</sub>

~~3.(iii)~~ Drop-forge industry, manufacturing of forging with power hammer;<sub>z</sub>

~~4.(iv)~~ Fat rendering, except as an incidental use;<sub>z</sub>

~~5.(v)~~ Fertilizer manufacturing;<sub>z</sub>

~~6.(vi)~~ Garbage, offal, or dead animal reduction;<sub>z</sub>

~~7.(vii)~~ Gas manufacture;<sub>z</sub>

~~8.(viii)~~ Petroleum refining;<sub>z</sub>

~~9.(ix)~~ Smelting of tin, copper, zinc or iron ores;<sub>z</sub>

~~10.(x)~~ Soap manufacture;<sub>z</sub>

~~11.(xi)~~ Stockyards or feeding pens;<sub>z</sub>

~~12.(xii)~~ Slaughter and packing of animals and meat products;<sub>z</sub> and

- ~~(13.xiii)~~ Tannery or curing or storage of raw hides;  
f6. Bulk storage of petroleum and petroleum products.

(16g) *Utility service group.* ~~a. Defined.~~ A use in the utility service group is one necessary for the safe or efficient operation of a telecommunications, gas, water or electric, refuse, storm sewer utility or sanitary sewage system for the benefit of the public and is one for which the following factors are present:

(1) The distinguishing characteristics of utility service group uses are:

- a. The structure or use is necessary for the safe or efficient operation of the utility;
- b2. The utility which the structure or use serves is one available to the general public;
- c3. The design and location of the premises and structure is in full compliance with all requirements of this section and of this chapter;
- d4. The use is located on a lot no smaller in area than the minimum area specified in the district in which it is located for any principal use.
5. The use complies with all height and yard regulations for the district in which it is located;
- e6. Except for electrical distribution installations, wWherever the lot on which the use is located adjoins a lot in a residential district, there is planted and maintained a landscaped screen planting strip no less than five feet in width adjacent to all lot boundaries so adjoining a lot in a residential district;
- f7. Proper fencing with lot entrances shall be erected at least six feet high and maintained around all installations and structures in which there is any safety hazard whatsoever for children, provided that all structures shall be so located that such safety fence shall be so placed as not to encroach on any front yard required in the district in which the use is located; and
- g8. For the proper operation of the utility, it is necessary that the proposed use be located on, or within a short distance of, the site on which it is proposed to be located.

(2) ~~b.~~ *Group uses.* ~~The following uses are declared to be in the~~ examples of utility service group uses:

- a. Telecommunication transmission tower;
- b1. Electric transformer station, but not a steam-generating plant;
- c2. Electric transmission line;
- d3. Sewage pumping station;
- e4. Water pumping station;
- f5. Water reservoir;
- g. Gas pressure regulator station;
- h. Solid waste recycling center;
- i. Stormwater detention facility; and
- j. Stormwater pumping station.

#### Sec. 105-1-5. Special uses.

(a) *Generally Purpose.* In order to carry out the purposes of this ~~article~~ chapter, the board of city commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area or other reasons, be reviewed by the planning and zoning commission ~~board of adjustment~~ prior to the granting of a building permit or certificate of occupancy therefor; and that the ~~board of adjustment is given limited discretionary powers relating to the grant of such permit or certificate~~ board voting on whether or not to approve the use at a specific site.

(b) Application submittal. An application for a special use shall be submitted to the city planner. Whenever possible, applications should be submitted electronically.

~~(1c) General provisions. a.~~—The uses listed in this section are conditional uses that require increased investigation before considering approval designated as special uses, and no building permit or certificate of occupancy shall be issued by the building inspector until the application for such permit or certificate has been reviewed and authorized by the board of adjustment.

~~(1b.)~~ The planning and zoning commission must conduct ~~board of adjustment shall not authorize~~ the issuance of a building permit or certificate of occupancy until the application therefor has appeared at a public hearing on such application, notice of the time and place of which hearing has been given in a newspaper of general circulation in the city at least ten days prior to the date of such hearing.

(2) Notices must be mailed at least ten days prior to the hearing to all property owners within 500 feet of the boundary of the proposed project.

(3) In order to give a favorable recommendation, the planning and zoning commission must consider the following: Before approving the issuance of a building permit or certificate of occupancy for a special use, the board of adjustment shall find:

a1. The proposed use is in harmony with the purpose and intent of this ~~article~~ chapter;

b. The proposed use is not in conflict with ~~and any portion of the master adopted~~ comprehensive plan of the city; for the district.

c2. The proposed use will not adversely affect the health and safety of the public and the workers and residents in the area;

d. The proposed use, ~~and~~ will not be detrimental to the use or development of adjacent properties or of the ~~general surrounding~~ neighborhood; and

e3. The proposed use ~~will comply with~~ meets all appropriate regulations for the district in which it will be located.

(4) The planning and zoning commission may require the submission of additional plans, special studies or reports during review of the application.

~~(54.)~~ The planning and zoning commission may recommend ~~proposed use will comply with all special requirements for the proposed use~~ regulations established by this section and all special conditions necessary for the safety and general welfare of the public. The reasons for the special requirements must be documented.

(6) Once the planning and zoning commission has acted, the city commission must hold a public hearing and then act to ratify the recommendation of the planning commission, modify the recommendation of the planning commission or reject the application.

~~d.~~—The board of adjustment shall be authorized to impose any condition on the grant of a building permit or certificate of occupancy for a special use as it deems necessary for the protection of the neighborhood and the general welfare of the public.

~~e.~~—The board of adjustment shall not authorize the location of a special use in any district from which it is prohibited.

~~f.~~—The board of adjustment shall refuse to authorize the issuance of a building permit or certificate of occupancy for any special use if the board finds that such special use would fail to comply with any of the requirements of this chapter.

~~g.~~—The board of adjustment shall require the applicant for authorization of a special use to furnish any engineering drawings or specifications, site plans, operating plans or any other data the board finds necessary to appraise the need for or effect of such special use.

(2d) Airports and heliports. An airport ~~or heliport~~ may be permitted as a special use in an Agricultural District in the extraterritorial zone and a heliport may be permitted as a special use associated with a medical facility within the zoning jurisdiction of the city ~~as a special use~~, provided that:

~~(1a.)~~ The area shall be sufficient to meet the federal requirements for the class of airport or heliport proposed;:-

~~(2b.)~~ There are no existing flight obstructions, such as towers, chimneys, or other tall structures, or natural obstructions outside the boundaries of the proposed airport or heliport, which would fall within the approach zone to any of the proposed runways or landing strips of the airport or heliport;:-

~~(3c.)~~ There is sufficient distance between the end of each useable landing strip and the airport boundary to satisfy the requirements of the ~~civil aeronautics~~ federal aviation administration or any other appropriate authority. In cases where air rights or easements have been acquired from the owners of abutting properties, in which approach zones may fall, satisfactory evidence thereof shall be submitted with the application;:-

~~(4d.)~~ Any buildings, hangars, or other structures shall be at least 100 feet from any street or lot lines ~~property boundary~~;:-

~~(5e.)~~ Adequate space for off-street parking of at least 50 vehicles has been provided. A traffic study must be submitted to document the need for the number of spaces proposed ~~If, in the opinion of the board of adjustment, off-street parking space for more than 50 vehicles will be required, the board shall increase this requirement;:- and~~

~~(6f.)~~ The application for authorization of an airport or heliport shall be accompanied by a ~~plans~~, drawn to scale meeting the requirements of the FAA, other regulatory agencies and the city, showing:

~~1. The proposed location of the airport.~~

~~2. Boundary lines.~~

~~3. Dimensions.~~

~~4. Names of owners of abutting properties.~~

~~5. Proposed layout of runways, landing strips or areas.~~

~~6. Taxi strips.~~

~~7. Aprons.~~

~~8. Roads.~~

~~9. Parking areas.~~

~~10. Hangars, buildings, and other structures and facilities.~~

~~11. The location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zone and less than 500 feet distant from the boundary lines of the airport;~~

~~12. Other pertinent data, such as topography and grading plan, drainage, water and sewage, etc.~~

~~g. The plans for the proposed airport have been reviewed by the city planning and zoning commission. In its approval of the proposed airport, the city planning and zoning commission shall make at least the following two findings:~~

~~1. The airport is not in conflict with any existing element of a master plan; and~~

~~2. The benefits of and need for the airport are greater than the depreciating effects and damages to the neighboring property.~~

~~(3e) Cemetery.~~ A cemetery, mausoleum, columbarium or crematory may be permitted in an industrial or A district as a special use, provided that:

~~(1a. The necessity or desirability of the establishment of such cemetery has been affirmatively determined by the board of health, and the city commission has approved the location of such proposed cemetery. b.)~~ No graves shall be located less than 100 feet distant from any property line;:-

~~(2c.)~~ In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the grounds, ~~t~~There shall be a strip at least 75 feet in width adjacent to all boundaries of the cemetery landscaped and maintained as a green area;

~~(3) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the ground, that as a portion of the landscaped-green area there shall include be a dense evergreen hedge at least six feet in height; and, and that such dense evergreen hedges shall be at least 70 feet distant from any boundary of the cemetery which is a street line.~~

~~(4d. In any cemetery in which markers or monuments rising above the surface of the ground, and private tombs or mausoleums, are prohibited, there shall be planted and maintained a landscaped strip at least 75 feet in depth adjacent to all boundaries of the cemetery, but there need not be a dense hedge planted as part of the landscaping.e.) No public mausoleum, columbarium, crematory or cemetery chapel shall be erected within 200 feet of any boundary of the lot or parcel on which it is located.~~

~~f. The owners of any cemetery parcel which lies across any proposed major or secondary thoroughfare shown on a master plan of the city shall reserve and dedicate a right-of-way for such thoroughfare having a minimum width of 100 feet, or such greater minimum width as the city engineer shall determine necessary, in fee simple to the city for highway purposes, and those portions of said cemetery lying on either side of such dedicated thoroughfare shall be considered as separate cemeteries for the purpose of determining grave setbacks, landscaped strips and building setbacks.~~

~~(4) Churches or other places of worship. But not including funeral or mortuary chapel.~~

~~(5) Drive-in theater. A drive-in theater may be permitted in an A or MB district as a special use, provided that:~~

~~a. No part of such theater shall be located closer to the boundary of any residential district than 1,000 feet, or closer to any highway or adjoining property line than 50 feet.~~

~~b. The area accessible to patrons' vehicles shall be treated with a suitable material to prevent dust.~~

~~c. Reservoir parking space, off the street, shall be provided for patrons awaiting admission in an amount not less than 30 percent of the vehicular capacity of the theater.~~

~~d. The vehicular circulation shall be so designed and constructed as to permit only one-way traffic within the boundaries of the tract on which the theater is to be located.~~

~~e. Ingress and egress from the highway shall be so designed and constructed as to provide for safe traffic movement.~~

~~f. The screen shall be so located and shielded that the picture shown shall be invisible from any highway.~~

~~g. A structure for the sale and service of food and nonalcoholic beverages may be permitted as an accessory use for a drive-in theater.~~

~~(6f) Golf driving range or miniature golf course. A golf driving range or miniature golf course may be permitted in an A or MB industrial district as a special use, provided that:~~

~~(1a.) The area within 500 feet of all boundaries of the lot is not developed in residences to a greater density than one family per acre;~~

~~(2b.) Any flood-lights used to illuminate the premises are so directed and shielded as to prevent the direct lighting area from extending beyond the property boundary not to be an annoyance to any developed residential property;~~

~~(3c.) When the area within 500 feet of the property boundary is undeveloped, any approval is limited to one year. The board of adjustment shall grant only a temporary certificate of occupancy for a period not to exceed one year and must be renewed annually, which certificate may be renewed at the expiration of each temporary certificate of occupancy for an additional year, provided residential development adjoining the golf driving range or miniature golf course has not exceeded the required density and provided any other standards established by this chapter or special conditions imposed by the board of adjustment have been fully complied~~

with. If residential development exceeding a density of one dwelling unit per acre is approved within this 500 foot area, the approval for this use may be withdrawn unless all property owners within the 500 foot area sign written consents to allow the use to continue on a year to year basis.

(7) Temporary uses. The board of adjustment is authorized to grant certificate of occupancy for temporary uses as follows:

- a. For a carnival or circus in an A, A-20, MA or MB district for a period not to exceed 21 days.
- b. For a religious meeting in a tent or other temporary structure in a CB, MA, MB or A district for a period not to exceed 60 days.
- c. For the open lot sale of Christmas trees in a CA, CB, CC, MA, MB or A district for a period not to exceed 45 days.
- d. For a real estate sales office in any district for a period not to exceed one year, provided that no cooking or sleeping accommodations are included in the structure; provided, further, that the temporary permit for such real estate sales office may be renewed for an additional period, not to exceed one year at each renewal.
- e. Contractors' office and equipment sheds in any district for a period not to exceed two years; provided, further, that such temporary certificate may be renewed for additional periods of one year.

(8) Trailer courts. A mobile home court or trailer camp may be permitted in an A district as a special use, provided that:

- a. The minimum total area of the premises shall be 90,000 square feet.
- b. The minimum unit area of premises used or occupied by each trailer shall be 2,000 square feet, clearly defined on the ground by stakes, posts, or other markers, except that where a separate parking area is provided on the trailer camp lot for motor vehicles and no motor vehicles are parked on the trailer unit area, then the minimum unit area of the premises used or occupied by each trailer shall be 1,500 feet.
- c. The minimum lane or driveway on which each individual trailer fronts shall be 20 feet in width surfaced with a dustproof all-weather surface, and giving an unobstructed access to a public street or highway.
- d. No trailer shall be placed closer than 20 feet to any other trailer, closer than 30 feet to the right-of-way line of any street, or closer than ten feet to any other boundary of the trailer camp.
- e. All entrances, exits, lanes and driveways between rows of trailers used or occupied in any trailer camp shall be lighted by electricity. At least 150 watt light shall be provided for each 50 lineal feet of lane or driveway.
- f. No business shall be conducted in any trailer in a trailer camp.
- g. Every trailer camp shall have erected, around its border, suitable woven wire or open metal fence not less than four feet nor more than five feet in height, having only necessary openings for ingress and egress to a public street, highway or alley. Barbed wire shall not be used in the construction of any fence.
- h. All provisions for water supply, laundry, sewage and fire protection to be provided in any trailer camp shall have been approved by the appropriate city, county, or state officer or agency.
- i. An adequate area for a playground is provided.

(9g) Fire stations or emergency medical response. A facility providing fire and/or emergency medical response services fire station may be permitted in any residential or commercial-zoning district as a special use, provided that:

~~(1a-)~~ Ingress and egress from the street shall be so designed and constructed as to provide safe traffic movement. A demand activated traffic control signal for emergency vehicle egress from the site may be required.

~~(2b-)~~ Sufficient parking shall be provided to accommodate the maximum number of personnel per shift plus at least 2 visitor spaces; and~~The minimum area of the premises shall be not less than 14,000 square feet, and the building shall not occupy more than 30 percent of the total lot area.~~

~~c.~~ All regulations with respect to front, side and rear yards and building height restrictions shall comply with the requirements applicable within the zoning district in which such fire station is to be constructed.

~~d.~~ The lot shall be screened by appropriate plantings and/or fences approved by the architectural advisory committee, provided that no fencing or planting shall be installed between the front of the structure and the front lot line.

~~(3)~~ If the use is approved, landscaping, signage and design of the building exterior shall be reviewed and approved by the Mandan Architectural Review Commission.~~—The architectural design of the exterior and interior of the building shall be approved by the architectural advisory committee.~~

~~f.~~ In addition to the requirements for off-street parking provided elsewhere in this chapter, an additional space shall be provided for each full-time employee stationed at such location.

~~(10h)~~ Child-Day care centers. A a. Classification.1. Any private group care facility housing more than 12 children will be classified as a child day care center.2. Any private group care facility housing 12 or less children will be classified as a home occupation use.b. Home occupation uses will comply with the requirements specified elsewhere in this chapter.c. Under this subsection, child day care center is a facility providing services to more than 12 children or any number of adults. A day care center will require a special use permit approval and must comply with the following criteria:

~~(1)~~ The facility must receive state approval before an occupancy permit can be issued;

~~(2)~~ The child day care center has been duly licensed as required by law.

~~2.~~ All owners of property within 300 feet are notified of the public hearing.

~~3.~~ Minimum lot size shall be not less than 7,000 square feet.

~~4.)~~ For a facility catering to children, eEach building shall provide not less than 35 square feet of interior play area per child;~~Interior play area shall be defined according to rules and regulations for child day care centers adopted by North Dakota Social Service Board.~~

~~(35-)~~ For a facility catering to children, Each lot shall provide an fenced outdoor play area of not less than 75 square feet per child shall be provided that is located no closer than ten feet to an adjoining residential lot;~~The play area shall be fenced and located in the rear yard of the premises and behind the building setback requirement when the building is located on a corner lot. A buffer zone of ten feet shall be provided on the play areas adjoining residential lots.~~

~~(46-)~~ For a facility catering to adults, there shall be an outdoor lawn area and covered porch offering either active recreation or passive activities for groups or individuals;

~~The facility must have access to public water and sewer systems.~~

~~(57-)~~ As a minimum, onsite Off-street parking shall be provided at the following ratio of: One space per manager and employee per shift for each two employees plus and one space for each 12 children clients or major fraction; and-

~~(68-)~~ Drop off and pickup of clients shall be in an area off the public street that is separate from parking spaces~~A traffic flow plan must be submitted indicating traffic circulation, child delivery points, child pickup points and off-street parking.~~

9. ~~The special use permit shall designate a maximum number of children considering the criteria listed in subsection (10)c.1 through (10)c.8 of this section and location of facility, type of construction, principal use of the building and effect on surrounding property.~~

10. ~~Child day care center owners must provide proof the center has been licensed according to state law and in compliance with Mandan's Life Safety Code.~~

~~d. After due notice and hearing with respect thereto, a child day care center may be permitted in all zoning districts as a special use.~~

~~(11i) Correctional facility. Notwithstanding anything in this chapter to the contrary, A correctional facility shall may be permitted only in an CC Commercial District or MA Industrial or A District as a special use, provided that:~~

~~(1) The facility fronts on an arterial street;~~

~~(2) There are no churches, schools or residentially developed property within 500 feet;<sup>a.</sup> The correctional facility is located no closer than 300 feet from any preexisting church, school or property zoned residential and/or property used for residential purposes.~~

~~(3) The primary illumination field for exterior lighting shall not extend beyond the property boundary;<sup>b.</sup> Any flood lights used to illuminate the premises are so directed and shielded as not to be an annoyance to any developed residential property.~~

~~(4c.) The setback for any No building shall be closer not less than 35 feet from to any lot property line; and-~~

~~(5d.) As a minimum, onsite Off-street parking shall be provided at the following a ratio of: oOne space for each two employees per shift plus and one space for each per four inmates. Any use of barb wire for perimeter fencing shall conform to any restrictions within this chapter.~~

(j) Drug or alcohol outpatient treatment or counseling facility. A drug or alcohol outpatient treatment or counseling facility may be permitted as a special use in a regional commercial, industrial or A district and must comply with the following criteria:

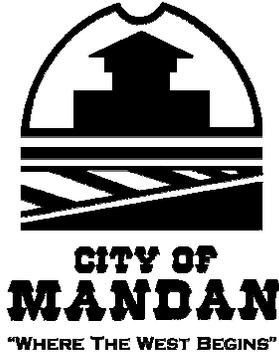
(1) The facility fronts on an arterial street;

(2) As a minimum, onsite parking shall be provided at a ratio of one space for each employee per shift plus one space per two clients per hour;

(3) Hours of operation are limited to between 6:00 AM and 8:00 PM;

(4) The facility is no closer than 1000 feet to a school, daycare facility or residentially developed property; and

(5) The facility is no closer than 500 feet to an establishment selling alcohol.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 15, 2015  
**SUBMITTING DEPARTMENT:** Business Development and Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development and Communications Director  
**PRESENTER:** Ellen Huber, Business Development and Communications Director  
**SUBJECT:** MGF Recommendation for Interest Buy-Down for BBCS Properties, LLC (Prairie Rose Dentists)

---

**STATEMENT/PURPOSE:** To consider a recommendation by the Mandan Growth Fund (MGF) Committee regarding an application for an interest buy-down for BBCS Properties, LLC, which will lease to Prairie Rose Dentists.

**BACKGROUND/ALTERNATIVES:** At an Oct. 14, 2015, meeting, the MGF reviewed an application for an interest buy-down of permanent financing for a new 9,300 square-foot building to eventually accommodate up to five dentists and ancillary staff. The buy-down is through the Bank of North Dakota (BND) Flex PACE program. The applicant is seeking the maximum buy-down amount of \$153,846. The Bank of North Dakota will provide 65 percent or \$100,000 of the amount, with the local community required to provide 35 percent or \$53,846. The buy-down is on a principal amount of \$1.375 million. The total project investment is estimated at \$3.55 million.

Prairie Rose Dentists currently has two Bismarck locations, so this will be a business expansion. The new clinic will be constructed on Overlook Lane, near the intersection of Sunset Drive and Old Red Trail. They plan to operate the clinic Mondays through Fridays and initially will have two dentists, one being a pediatric dentist, plus 12 additional staff. They expect to add a third dentist by the third year and indicate the clinic will ultimately accommodate 35 employees. Dr. Casey Carlson explained to the Growth Fund Committee that the American Dentistry Association indicates a ratio of approximately 2,000 patients per dentist. With Mandan's population at 20,820 and four dentists currently in the community, there would appear to be considerable opportunity to retain more of this business in Mandan.

**ATTACHMENTS:** Application available upon request.

FISCAL IMPACT: The Growth Fund unencumbered balance is \$340,445. If this application for \$53,846 is approved, the new balance would be \$286,599.

STAFF IMPACT: Minimal.

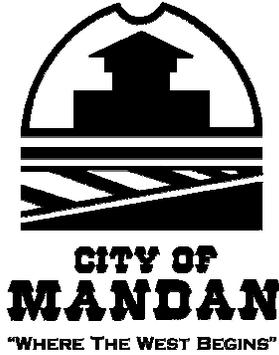
LEGAL REVIEW: City Attorney Malcolm Brown was in attendance at the MGF meeting for the review and consideration of the application. The Lewis and Clark Regional Development Council and the City of Mandan have an agreement for origination and servicing of loans for the local share of interest buy-downs.

The applicant will need to enter into a business incentive agreement with the Bank of North Dakota and City of Mandan and will need to submit an annual jobs verification report for five years after receipt of the interest buy-down. An automatic door is also required.

RECOMMENDATION: The MGF voted 7-0 to recommend approval of the interest buy-down for the applicant with a local match of \$53,846 to be structured as an unsecured loan repayable within 4 years after the 4-year buy-down period with a 3 percent interest rate to begin accruing at the start of the loan with all loan origination and filing fees paid by the borrower.

SUGGESTED MOTION: I move to approve the interest buy-down for BBSC Properties, LLC with Prairie Rose Dentists as the operating company for its new building with the local match of \$53,846 to be structured as a loan with the terms and rate as recommended.





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 16, 2015  
**SUBMITTING DEPARTMENT:** Business Development and Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development and Communications Director  
**PRESENTER:** Ellen Huber, Business Development and Communications Director  
**SUBJECT:** MGF Recommendation on Storefront Improvement Application for 111 5<sup>th</sup> Ave NE

---

**STATEMENT/PURPOSE:** To consider a recommendation by the Mandan Growth Fund (MGF) Committee regarding an application by for storefront improvement matching funds for 111 Fifth Avenue NE.

**BACKGROUND/ALTERNATIVES:** The MGF met Oct. 14, 2015, to consider the application. Kevin Cavanaugh has a five-year lease of the building at 111 Fifth Avenue NE, a property owned by Cliff Berger. Cavanaugh plans to use the building for an expansion of his existing business, Bearscat Bakehouse. He is planning to add signage to the building in the form of raised lettering on both the east and north facing sides to cover holes in the building from similar lettering for a previous business. The project application also includes replacement of glass in a door and, as required by a local ordinance, installation of an automatic door opener. The total estimated cost of the project was \$7,524.

The Mandan Architectural Review Commission considered the plan at its Oct. 13 meeting and approved of it provided a component be added for landscaping of a corner boulevard area on the east side of the building where there were previously trees and that now has one or more stumps and weeds. The applicant had not yet been able to obtain a cost estimate for the work, so the MGF Committee voted to recommend approval of the project with an added allowance of \$2,000 in matching funds for landscaping to meet the MARC requirement. This put the maximum for recommended matching funds at \$5,762.

**ATTACHMENTS:** Storefront application

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: MGF Storefront Improvement Application Recommendation

Page 2 of 8

---

FISCAL IMPACT: Up to \$5,762 in matching funds at a 50% match rate subject to actual final investment in qualified exterior improvements. The uncommitted balance in the Growth Fund for the Downtown Storefront Improvement program is \$18,567.

STAFF IMPACT: Minimal.

LEGAL REVIEW: An automatic door is included in the proposal as required. There's also a recipient agreement that calls for a notice of potential lien on the property following project completion and issuance of matching funds in the form of a forgivable loan. The notice of potential lien requires that the building and improvements remain intact for 3 years with funding forgiven on a prorated basis over those three years.

RECOMMENDATION: The MGF voted 7-0 with two members absent to recommend approval of the application by Bearscat Bakehouse for storefront funds at a 50% match rate up to \$5,762.

SUGGESTED MOTION: I move to approve the storefront improvement application by Bearscat Bakehouse at a 50% match rate to the actual investment, for up to \$5,762 in matching funds, to be provided as a forgivable loan upon project completion.



## STOREFRONT IMPROVEMENT APPLICATION

<b>PRIMARY CONTACT INFORMATION FOR THIS APPLICATION</b>	
Name:	<u>Kevin Cavanaugh</u>
Address:	<u>500 Weatherby Way Bismarck ND 58503</u>
Phone:	<u>701-202-9256</u>
Fax:	_____
E-mail:	<u>Kevin.Cavanaugh@bismarckstate.edu</u>

**Applicant Name:**  
(name of person/entity to receive grant) PHAT Brothers Bakery - Benedict Bakery

**Property Owner:** Cliff Berger

**Property Address:** 111 5th Ave NE Mandan

**Architect/Firm:**  
(if applicable) \_\_\_\_\_

<b>Description of Property</b>	
Current tenant(s):	<input checked="" type="checkbox"/> Commercial _____ <input type="checkbox"/> Residential      # occupied: _____ # vacant: _____
Building History (if available): _____ _____ _____	

<b>Total Cost of</b>	<b>Forgivable</b>
<b>façade renovation:</b> <u>\$ 7524.00</u>	<b>Loan Amount of</b>
	<b>Requested:</b> <u>\$ 3762.00</u>

Is the façade renovation part of a larger project?  
 Yes  No, the façade is the only work I am doing

If yes, please describe comprehensive project.

Renovating to turn into bakery location

\_\_\_\_\_

\_\_\_\_\_

**Summary of Existing Condition of Façade:** (please attach pictures – Attachment 1)

Blank walls with holes from previous sign  
Broken Glass Door

**Summary of Proposed Scope of Work:** (materials, color schemes, etc.) Please attach colorized drawings that include pre- and post- rehab detail, indicating specifically what will be modified and how (Attachment 2). Bids or official estimates from licensed commercial contractors or other providers of needed services and materials are required. (Attachment 3)

Add Plastic Letters that read "Bear Seat Warehouse" Blank  
Replace Broken Glass  
Add LED Light Border Below Blank Roofline to Add Accent

**Historic Character:** How will proposed project affect historic character? (if applicable)

**How will your project complement downtown redevelopment efforts?**

Cover up ugly holes left from last sign

For more information, call Business Development Director Ellen Huber at 701-667-3485.

Signature of applicant:  Date: 10-5-15

Signature of property owner: Cliff Berger Date: 10-5-15  
(if different than applicant)

**Special Notices**

- 1) Properties are eligible only once to receive Storefront Improvement funds.
- 2) Voters in the Nov. 4, 2008, election in the City of Mandan approved an initiated ordinance that states, "Installation of electric handicap accessible entrance doors are required on every building open to the public that has received public funds in any form whatsoever." Any property receiving Storefront Improvement funds since Nov. 14, 2008, is subject to the requirement. Include an estimate for an automatic door at least for the main entrance if you do not have one.





**STOREFRONT & LANDSCAPE  
 IMPROVEMENT APPLICATION**

# ATTACHMENT 3: BIDS & COST ESTIMATES

Summary of Proposed Expenditures		
Source of Estimate or Bid	Purpose	Estimated Cost
A&R Signs	Sign	4920.00
C & H Glass	Glass	409.00
C & H Glass	Automatic Opener	2200.00
<b>Total</b>		<b>\$ 7529.00</b>

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: MGF Storefront Improvement Application Recommendation

Page 7 of 8

A & R Signs LLC

8275 Irish Lane  
 Bismarck, ND  
 58504  
 701.516.7324

**Estimate**

Date	Estimate #
10/2/2015	1374

Name / Address
BEARSCAT BAKEHOUSE 1914 N 4TH ST BISMARCK ND 58501

			Project
Description	Qty	Rate	Total
formed black plastic stud mount letters - 24" BEARSCAT and 12" BAKEHOUSE.	2	1,425.00	2,850.00
125' LED border lighting and mounting hardware		620.00	620.00
labor to install letters and border lighting		1,450.00	1,450.00
*DOES NOT INCLUDE SALES TAX			0.00
50% down with balance due upon completion. Thank You!		<b>Total</b>	\$4,920.00

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: MGF Storefront Improvement Application Recommendation

Page 8 of 8

---

**From:** C&H Glass [mailto:chglass@midconetwork.com]  
**Sent:** Monday, September 28, 2015 9:23 AM  
**To:** Cavanagh, Kevin <kevin.cavanagh@bismarckstate.edu>  
**Subject:** automatic door

Kevin,

We stopped and looked at 111 5<sup>th</sup> Ave NE , Mandan

To replace the laminated glass in the aluminum door will be \$404 total we have this material in stock and can repair in 1-2 days once we are given authorization

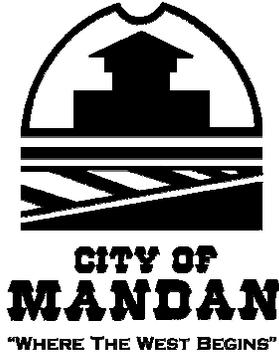
To install a automatic operator on one of the black metal doors- There we have a few things that we question The doors swing in and no glass to see if someone is on the other side and they have a step these are all items that make it non ADA compliant, we are not sure how the Mandan rules are set up but I think they only Apply to entrances that are being remodeled and getting compensation / assistance have they looked at this On site? I would think they would make the remodeling project make the door openings ADA compliant Which would be much more than adding a automatic operator.

Price for adding a automatic operator to an existing door \$2200 wired buttons / \$2350 for wireless buttons  
Let me know

Russ Heier  
"The Glass Experts"  
C & H Glass  
701-258-6800

---

This email has been checked for viruses by Avast antivirus software.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 15, 2015  
**SUBMITTING DEPARTMENT:** Business Development and Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber, Business Development and Communications Director  
**PRESENTER:** Ellen Huber, Business Development and Communications Director  
**SUBJECT:** MGF Recommendation on Retail & Restaurant Incentive Application for Bearscat Bakehouse

---

**STATEMENT/PURPOSE:** To consider a recommendation by the Mandan Growth Fund (MGF) Committee regarding an application for a Retail and Restaurant Incentive by PHAT Brothers Bakery, Inc. (dba Bearscat Bakehouse) for a location at 111 Fifth Avenue NE.

**BACKGROUND/ALTERNATIVES:** The MGF met Oct. 14, 2015, to review the application by Bearscat Bakehouse for a Mandan location at 111 Fifth Avenue NW. Owner Kevin Cavanaugh applied for a retail and restaurant incentive of \$5 per square foot for the building's 3,500 sf.

The purpose of this program is to serve as a catalyst for securing new retail, restaurant and service concepts to fill vacant properties and stimulate new construction by providing financial assistance to qualified applicants.

Bearscat Bakehouse specializes in donuts. Other products include caramel rolls, cookies, popcorn and seasonal goods including a Tom and Jerry mix and ice cream trucks in the summer. Cavanaugh plans operating hours of Tuesday through Saturday. The Mandan location will have a room for birthday parties and other events where children can decorate their own donuts. He estimates his start-up costs at \$100,000 (not including any additional ice cream trucks). Monthly rent is \$1,700 for an annualized rate of \$5.83 psf.

Use of public incentives is among criteria considered by the MGF Committee. Cavanaugh has also applied for the Storefront Improvement program for the location, with a committee recommendation for up to \$5,762 in matching funds in the form of a forgivable loan. The ratio of public to private support is estimated at 6% without any retail/restaurant incentive.

The MGF committee considered the use of the building's 3,500 sf and determined that 1,500 sf of garage/shop space should be deducted from the equation for determining the incentive because it will be used to park two ice cream trucks and for freezer space.

The rating system for the Retail and Restaurant Incentive Program has 13 different criteria. The average rating by seven of nine MGF members present at the meeting was a 3.2 on a scale of 1 to 5 with 5 being the highest. This score warrants an incentive at three-fourths of the maximum \$5-per-square-foot-rate, equal to \$3.75 psf.

**Mandan Growth Fund - Retail & Restaurant Incentive Program  
 Application Evaluation - Tabulation Form**

Criteria	GF1	GF2	GF3	GF4	GF5	GF6	GF7	Avg.
1. Fills gap	4	4	3	4	4	2	4	2.8
2. Needed by other businesses	3	3	3	2	3	3	3	2.2
3. Tax potential	3	4	2	1	3	3	1	1.9
4. Jobs	4	4	3	2	3	2	2	2.2
5. Incentive use	4	3	4	4	3	3	4	2.8
6. Customer base	4	4	4	2	3	3	3	2.6
7. Hours	4	4	3	3	4	3	2	2.6
8. Qualifications	5	5	4	4	4	2	3	3.0
9. Potential viability	5	4	4	2	4	3	3	2.8
10. Curb appeal	4	3	4	3	3	3	2	2.4
11. Investment	3	4	3	2	3	4	2	2.3
12. Business plann	5	4	2	2	3	2	2	2.2
13. Financial history	4	5	4	3	3	2	2	2.6
<b>Total</b>	<b>52</b>	<b>51</b>	<b>43</b>	<b>34</b>	<b>43</b>	<b>35</b>	<b>33</b>	<b>41.6</b>

3.2

Dollar amount of assistance psf based on average rating	\$3.75
Square footage	2,000
Total stipend	\$7,500
Monthly stipend	\$625

ATTACHMENTS: Key excerpts of application. Full application available upon request.

FISCAL IMPACT: The recommended \$7,500 would be set aside for payment in 12 equal installments following each month of operations. It comes from the Growth Fund (generated by sales tax), specifically from the \$23,812 remaining in the allocation for the Retail and Restaurant Incentive Program.

STAFF IMPACT: Some monitoring and reporting is necessary.

LEGAL REVIEW: The building will have an automatic door installed if this application and/or the storefront improvement application is approved.

RECOMMENDATION: The Mandan Growth Fund Committee unanimously voted to recommend an incentive of \$3.75 per square foot totaling \$7,500 in assistance over the first 12 months of operation.

SUGGESTED MOTION: I move to approve \$7,500 as an incentive for Bearscat Bakehouse, payable in 12 equal monthly installments following each month of operations in Mandan.



**Retail & Restaurant  
Incentive Program  
APPLICATION & CHECKLIST**

Business Name PHAT Brothers Bakery, Inc. DBA Bearcat Bake house  
Address of Proposed Downtown Business 111 5th Ave NE  
Applicant's Mailing Address 500 W. 4th St. W City Bismark State ND Zip 58505  
Applicant's Phone 701-202-9256 Email Kevin.cavanaugh@bismarckstate.edu

Use:

Retail Square Feet \_\_\_\_\_ Restaurant Square Feet 3500

AMOUNT OF ASSISTANCE REQUESTED PER SQUARE FOOT \$ 5.00

Approximate cost to open the business: \$ 100,000

Personal Investment \$ 50,000 (Equity)

Bank or other financial commitment \$ 50,000 Other: \_\_\_\_\_

Building Acquisition or Construction Cost \$ \_\_\_\_\_

Building Rehabilitation \$ 50,000 Lease Term 5 years

Monthly Rent/Lease Per Square Foot \$ .49 Landlord Match \_\_\_\_\_

Proposed Opening Date of the Business Nov 1, 2015

Description of the Business Including Products and Services Being Offered \_\_\_\_\_

Donuts, caramel rolls, cookies, popcorn, seasonal goods  
We will sell & serve Mandan just like we have in Bismarck  
for years. I will also be adding my ice cream truck business.

Number of New Jobs 4 Expected daily traffic 100 Estimated Opening Date 11.1.15

Weekly hours of operation 40 hours

**Certification and Authorization**

I / We certify that all information set forth in this application is a true representation of the facts pertaining to the proposed business for the purpose of obtaining funding under the City of Mandan Retail & Restaurant Incentive Program. I / We understand and acknowledge that any willful misrepresentation of the information contained in this application could result in disqualification from the program, requiring any funds already disbursed to be repaid in full to the City of Mandan.

The undersigned specifically authorizes the City of Mandan Business Development Office or its representatives to conduct a background check on the applicant, including the checking of references and the verification of any information on the application.

I understand that personal and/or business information may be requested pursuant to this applicant for an incentive and I hereby give my consent for such information to be provided to the City of Mandan Business Development Office, the Mandan Growth Fund Committee or its representatives. I also understand that the Mandan Growth Fund Committee and the Mandan City Commission retain the decision as to whether this incentive application is approved, disapproved, or modified. It is my right to accept or decline the incentive amount and terms approved by the program.

The applicant further certifies that he/she has read and understands the City of Mandan Retail & Restaurant Incentive Program Guidelines. If a determination is made by City of Mandan staff that program funds have not been used for eligible program activities, the Applicant agrees that the proceeds shall be returned, in full, to the City of Mandan and acknowledges that, with respect to such proceeds so returned, he/she shall have no further interest, right, or claim. It is understood that all funding commitments are contingent upon the availability of program funds.

**Release of information**

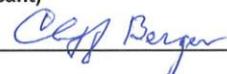
The applicant hereby authorizes any third party to release to the City of Mandan Business Development Office without limit, any and all financial information regarding the applicant that is requested by the City of Mandan Business Development Office, its representatives or employees. Further, the applicant hereby authorizes release of said records and information by the City of Mandan Business Development Office to a third party, as deemed necessary by the City of Mandan Business Development Office, its representatives or employees.

All owners, officers or partners must sign this application.

**Signatures:**

Applicant/Business Owner:  Date: 10-5-15

(if different from applicant)

Property Owner :  Date: 10-6-15

Submit application form and all supporting documents to:

City of Mandan  
Business Development Office  
205 Second Avenue NW  
Mandan, ND 58554

For more information, call City of Mandan Business Development Office; phone 701-667-3485.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: MGF Recommendation for Retail & Restaurant Incentive Application

Page 6 of 6

---

**Bearscat Bakehouse**

My wife and I (Tina and Kevin Cavanagh) originally bought into the business in November 2006. We bought out our partners in March 2009. We changed the name in June 2011 from The Donut Hole to Bearscat Bakehouse (a cowboy term for donuts). My background has been managing various business over the past 20 years. I have a bachelor's degree in business communication, an MBA as well as a DBA with an emphasis in entrepreneurship. I also teach full time at BSC.

We currently have two locations, the one on State Street in Bismarck, which has been having continued sales growth of the past four years. We also have a second location at the BSC Aquatic Center, which serves a variety of foods and drinks.

We are planning on serving the same great donuts in our Mandan location that we do in our Bismarck operation. We will be making the donut in Bismarck and trucking them to Mandan, where they will be iced and decorated. We may be doing some baking in Mandan.

We are also working on using alternative entrance to the building as a party room, which can be rented out for things like birthday parties, where kids can decorate their own donuts. We have always wanted to do this, but never had the room.

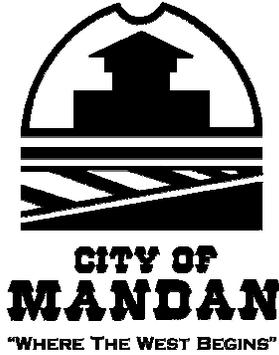
We make Tom and Jerry Batter from November through December using my great grandmother's recipe. Our sales have been growing significantly in this area. We have been asked to deliver our product to a regional chain of stores. We now own our own UPC symbols, a labeling machine and will be working to increase our production. We will be moving our production of this product from Bismarck to Mandan, since there will be more room for the increased demand.

We also ran an ice cream truck last summer. We have since added two more trucks. Our trucks are very unique. We will be using the Mandan location as our warehouse for this entity of our business. We will also be serving the Mandan community with the ice cream trucks in the summer months as well. We have worked with the health department and they are ok with this. We will be installing a walk in freezer for the Tom and Jerry Batter and then ice cream during the summer.

I am estimating our sales to be at least a third of what they are in Bismarck. I am budgeting for an average of \$800 a day in sales. It is my hope that the demand will far exceed this, but the business will be sustainable at this rate. Obviously with the incentive, the sales would not need to be at this level until the end of the first year.

I have a long time employee who is working as a manager in my Bismarck operation who will be moving over as the manager of Mandan operation. She has roots in the community and knows how to make a great donut.

Our marketing plans for the Mandan operation are to continue to do what is working for us in our Bismarck operation. We currently advertise with a fund raising coupon, which does quite well. We have been a sponsor at the Speedway, and the main sponsor for the June Derby. We also use social media to promote our product. We also sponsor various teams, and other opportunities as they arise.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 15, 2015  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Designate City of Mandan representative for working with City of Bismarck on housing action plans.

---

STATEMENT/PURPOSE: To consider appointing a City Commissioner to a Housing Initiative Working Group.

BACKGROUND/ALTERNATIVES: The Bismarck Mandan Housing Demand Analysis – 2030 (Analysis) has been completed and presentation made to the Bismarck and Mandan City Commissions. It has been suggested that Bismarck and Mandan work cooperatively on the goals and action steps as suggested by the Analysis. In order to accomplish this, the City of Bismarck has appointed Commission Guy as the point person for the Bismarck. We are looking to appoint a Mandan City Commissioner as the point person for Mandan.

ATTACHMENTS: n/a

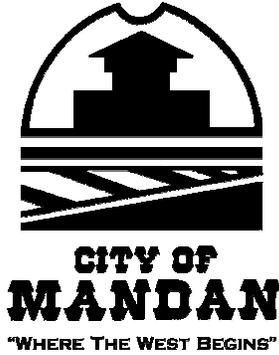
FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION:

SUGGESTED MOTION: I move to appoint Commissioner \_\_\_\_\_ as the point person the City of Mandan in working cooperatively with City of Bismarck on the Bismarck Mandan Housing Action Plans.



New Business No. 7

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 15, 2015  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Designate City of Mandan representative(s) for working with City of Bismarck and Burleigh County on agreements for Combined Communications Center

---

STATEMENT/PURPOSE: To consider appointing representatives to work with City of Bismarck and Burleigh County on agreements related to a combined communications center.

BACKGROUND/ALTERNATIVES: To officially appoint city representatives to work with Bismarck and Burleigh to move forward on agreements relative to a combined communications center.

ATTACHMENTS: n/a

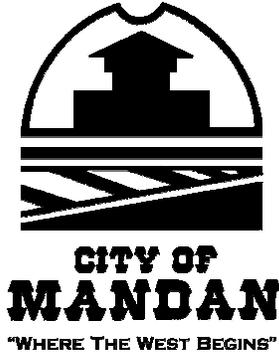
FISCAL IMPACT: n/a

STAFF IMPACT: n/a

LEGAL REVIEW: n/a

RECOMMENDATION:

SUGGESTED MOTION: I move to appoint Commissioner(s) \_\_\_\_\_ to work on agreements related to a Bismarck Burleigh Mandan Combined Communications Center.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 16, 2015  
**SUBMITTING DEPARTMENT:** Public Works  
**DEPARTMENT DIRECTOR:** Jeff Wright  
**PRESENTER:** Jeff Wright, Public Works Director  
**SUBJECT:** Update the Commission on the Cemetery cleanup and the status of the Grounds Maintenance building.

---

**STATEMENT/PURPOSE:** Update Commission on the Cemetery cleanup and removal of items that are non-complying to the new rules and regulations and the Grounds Maintenance building status.

**BACKGROUND/ALTERNATIVES:** On July 21, 2015 the City Commission approved the rules and regulation for the Cemetery as presented by the Cemetery Task Force. The new rules and regulations went into effect September 1, 2015, and patrons had until October 15<sup>th</sup> to remove non-complying items and landscaping. Many items have been removed and things are looking quite nice at the Cemetery. Patrons are encouraged to continue to remove wanted items even though the deadline has passed, if items have already been removed please contact the grounds maintenance staff to assist in locating them. Items will be saved until June 1, 2016.

On the 16<sup>th</sup> city staff began removing, labeling and storing items that have not been attended to, once this is complete, landscaping issues will be addressed as long as the weather allows with the goal to have the Cemetery in compliance with the rules and regulations by Memorial Day next year.

The Grounds Maintenance building is nearing completion, about 99% complete, only waiting on punch list items to be corrected or installed by the contractors and landscaping items to be completed by city staff. We are starting to move some things into the building. Overall, the construction of the building went well and is on or slightly under budget, we don't have the final numbers yet.

**ATTACHMENTS:** Grounds Maintenance Building picture

**FISCAL IMPACT:**

**STAFF IMPACT:**

**LEGAL REVIEW:** N/A

**RECOMMENDATION:** None needed.

**SUGGESTED MOTION:** None needed.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 20, 2015

Subject: Update on the Cemetery cleanup and the status of the Grounds Maintenance building

Page 2 of 2

---





# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** October 20, 2015  
**PREPARATION DATE:** October 16, 2015  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth  
**PRESENTER:** Robert Decker, Principal Planner  
**SUBJECT:** First consideration of Ordinance No. 1222 making additions to new city code chapters 16 and 115 related to snow removal and use of streets

---

STATEMENT/PURPOSE:

Staff has been reviewing the new city code and has identified additions that need to be made related to removal of snow and placing things in the right-of-way.

BACKGROUND/ALTERNATIVES:

Some language that was in the old city code was deleted as obsolete or out of place. These proposed additions create new language in the appropriate new chapter of the code.

Additions include:

1. Prohibition against putting snow on a sidewalk, driveway apron, near a fire hydrant or in the street.
2. Prohibition against putting things in the street unless the city has granted permission.
3. Rules regarding wires and poles in the public right-of-way.
4. Allowance for use of a boulevard area to store construction equipment and materials.
5. Requirement for property owners to keep sidewalks and street gutters clean.

ATTACHMENTS:

1. 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:

Staff recommends adoption of this ordinance.

SUGGESTED ACTION:

Move to approve first consideration of Ordinance No. 1222

## ORDINANCE NO. 1222

### An Ordinance to Adopt Amendments to Chapter 16 Nuisances and Chapter 115 Streets of the Mandan Code of Ordinances

WHEREAS, A new city code was recently adopted, and

WHEREAS, Staff has identified sections that need to be added to the new code to clarify certain 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. Amendments to adopted code.** The Mandan Code of Ordinances is hereby amended.

**a. A new Section 16-2-4 is added to read:**

**Sec. 16-2-4. Placement of snow.**

A property owner or a contractor hired by a property owner to remove snow from private property shall not place the snow on a sidewalk, driveway apron, on the paved portion of a street or alley or within five feet of a fire hydrant. Snow may be placed in the unpaved portion of the boulevard within the public right-of-way.

**b. A new Section 115-3-8 is added to read:**

**Sec. 115-3-8. Use of streets, alleys and public rights-of-way or easements.**

(a) Obstructions. No person shall re-grade or place any object in a street, alley, public right-of-way or public easement that restricts the public's use of the street, alley, public right-of-way or public easement unless authorized to do so by the city. No person shall deposit on any street, alley, public right-of-way or public easement any material, either solid or liquid, which may be harmful to the pavement or vegetation thereof or which may do injury to or render unclean any person, animal or property including oil or other chemicals, snow, dirt, rubbish or garbage and grass cuttings or tree limbs.

(b) Wires and poles. No person shall erect any pole or install any wire within the right-of-way of any street or alley, any public right-of-way or any public easement without first obtaining permission and any required permit from the city. No person shall remove any wire crossing or running along any street or alley right-of-way, public right-of-way or public easement or any pole within the right-of-way of any street or alley, any public right-of-way or any public easement without first obtaining permission from the owner of the wire or pole, notifying the city of the intended removal and obtaining any required permit from the city for working within the public right-of-way.

(c) Building materials. The unpaved boulevard area of a public right-of-way adjacent to a private lot where construction activity authorized by a valid current building permit is in progress may be used to store construction equipment and materials. The paved

portion of the public right-of-way may not be used unless written permission is granted by the city. Once seasonal weather conditions prevent continuation of construction activity, the construction equipment and materials must be removed from the boulevard.

(d) Sidewalks and street gutters. It is the responsibility of every property owner to maintain the sidewalk and street gutter areas adjacent to their private property free and clear of any obstructions.

**Section 2. Effective Date.** This ordinance shall take effect when adopted.

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

Attest:

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

First Consideration:

October 20, 2015

Second Consideration and Final Passage:

\_\_\_\_\_

## ORDINANCE NO. 1223

An Ordinance to Amend and Re-enact Portions of Subpart B Land Development and Public Services, Chapter 101 Administration and Planning and Chapter 105 District Regulations (Zoning) of the Code of Ordinances of the City of Mandan Related to Definitions, Planning and Zoning Commission Powers and Duties, Supplementary Provisions, Incidental Uses, Use Groups and Special uses.

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

### **Section 1. Sec. 101-1-3 is amended to read:**

Sec. 101-1-3. Definitions.

"Animal hospital or clinic" means a facility for the care and well-being of animals under the direct supervision of a licensed veterinarian; including, but not limited to, medical services, grooming, confinement or kenneling for medical purposes but excluding incinerating or cremating of animals or animal parts upon the premises.

"Dog daycare" means a facility for the daytime care and feeding of dogs.

"Kennel" means a commercial facility for the indoor boarding of pets.

"Pet" means one of the following taxonomically identified animals:

- (1) Mammalian Genus species;
  - (a) *Canis familiaris*, the domestic dog, and
  - (b) *Felis catus*, the domestic cat;
- (2) Mammalian Families;
  - (a) Leporidae, rabbits,
  - (b) Muridae, gerbils, hamsters, mice and rats, and
  - (c) Mustelidae, ferret;
- (3) Avian Orders;
  - (a) Psittaciformes, parrots, parakeets, lorries, budgerigars, and cockatiels,
  - (b) Passeriformes, canaries and finches, and
  - (c) Columbiformes, pigeons and doves;
- (4) Reptilian Groups;
  - (a) Squamata, lizards and snakes; and
  - (b) Testudine, turtles.

"Pet grooming" means a facility for the cosmetic care and maintenance, with no overnight boarding, of pets.

"Pet hospital or clinic" means a facility devoted to the medical care and associated services for the limited number of animals defined as pets as opposed to an animal hospital or clinic which treats all animals.

**Section 2. The heading for Sec. 101-2-5 is amended to read: Officers; duties; election of officers.**

**Section 3. Sec. 101-2-8 is amended to read:**

Sec. 101-2-8. Powers and duties.

(1) *Length of approval or recommendation.* Planning and zoning commission approvals or recommendations are valid for six months. Should the applicant or the city commission fail to act on the approval or recommendation within six months, the action of the planning and zoning commission will lapse and a new application must be submitted and all applicable fees paid.

**Section 4. Sec. 105-1-2 is amended to read:**

Sec. 105-1-2. Supplementary provisions.

The regulations specified in this chapter shall be subject to the following supplementary provisions and interpretations.

- (1) *Structures excluded from height limits.* A building height limit set forth in this chapter shall not apply to belfries, chimneys, domes, flagpoles, flues, monuments, cupolas, broadcast and communication towers, spires, tanks, water towers or similar structures, or to bulkheads, elevators, water tanks or similar roof structures and mechanical appurtenances. No such structure located on a roof shall have a total area greater than 25 percent of the roof area of the building; nor shall such structure be used for any residential purpose or any commercial or industrial purpose other than a use incidental to the main use of the building. No such structure shall be located closer to the lot line than a distance greater than 110% of the height of the structure above ground level.
- (2) *Projections into yards.* Steps, stairways, terraces and un-roofed porches or decks may extend into any minimum front or rear yard not more than six feet and into any minimum side yard not more than four feet, provided, however, that the floor thereof is no higher than that of the entrance to the building. Chimneys may extend into any minimum yard not more than two feet. No such feature shall extend closer than three feet to a lot line.
- (3) *Existing front yard depth.* When the majority of lots in a block has, prior to the enactment of this chapter, been lawfully occupied with buildings having a greater front yard depth than required by these regulations, no building hereafter erected or altered shall have less front yard depth than the average depth of said existing front yards. This regulation shall apply also to the side yard, adjacent to a street, of a corner lot, but shall not be construed as to reduce the buildable width of a corner lot to less than 24 feet. No portion of any alley shall be considered a part of any yard.

(4) *Fences and walls.* 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 3 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.
  3. For each leg of an intersection that is stop sign controlled, the clear sight triangle shall begin at a point 10 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 10 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.
- b. Retaining wall. Retaining walls greater than 4 feet in height may not be placed closer than 3 feet to a property line unless there is a recorded joint use and maintenance agreement for the properties on each side of the retaining wall. Retaining walls greater than 4 feet in height, whether monolithic or terraced, must be designed by a registered engineer.
- c. Fence height. Unless specified otherwise elsewhere in this code, fences in residential districts shall not exceed 6 feet in height and fences in other than residential districts shall not exceed 8 feet in height.
- d. Fence material. Corrugated or sheet metal shall not be used for fencing in residential districts. Wooden fences shall be constructed with treated lumber or painted. The use of barbed or razor wire is limited to security fencing around commercial, industrial, governmental or utility facilities. Use of an electrified fence is not permitted within city limits.

(5) *Accessory buildings.*

- a. Location.
  1. In multi-family, commercial, industrial and agricultural districts, location of accessory buildings shall conform to the requirements for principal buildings.
  2. In R7, R3.2, RH and RMH residential districts, accessory buildings shall be located in the rear yard and shall be not less than three feet from a rear or side lot line or less than five feet from an alley line. In the case of a corner lot, accessory buildings, other than a detached garage, shall be located along the rear half of the adjoining residential lot's side lot line. A detached garage on a corner lot must be set back 25 feet from the side street property line or a distance equal to the setback of the principal building on the adjoining residential lot, whichever distance is greater.
  3. Accessory buildings containing a garage door that faces an alley must be set back at least 10 feet from the alley in order to accommodate the turning radius of a vehicle. When the property has no existing parking spaces other than the area for the proposed accessory building or has more than one dwelling unit, the minimum setback for an accessory building containing a garage door facing the alley must

be 22 feet in order to allow space for parking of a vehicle in front of the garage door.

- b. Use. Other than where zoning allows more than one dwelling unit on a lot or where a dwelling unit is permitted on a commercial or industrial zoned property, no accessory building may be used for dwelling purposes.
  - c. Structures included. Any structure, whether open or closed in, that is not part of a principal building. A garage having any part of its wall in common with a dwelling or being attached to a dwelling by a breezeway or roofed passageway up to 6 feet long shall be considered a part of a principal buildings.
  - d. Number. For residential lots up to 10,000 square feet, two accessory buildings are allowed. For residential lots greater than 10,000 square feet up to 20,000 square feet, three accessory buildings are allowed. For residential lots exceeding 20,000 square feet, four accessory buildings are allowed.
  - e. Surface. Except for storage sheds not exceeding 120 square feet, no accessory building shall have an outer surface of corrugated or sheet metal.
  - f. Timing. Construction of the principal structure must have commenced before construction of an accessory structure may proceed.
  - g. Size. For R7, R3.2, RH and RMH districts, the total square footage of all accessory buildings may not exceed 10% of the lot area and the maximum size of any accessory building shall be no greater than 75% the size of the primary structure on the lot. For RM, CA and CB districts, the total square footage of all accessory buildings may not exceed 20% of the lot area.
  - h. Structure coverage. The total area of all structures on the lot may not exceed the maximum structure coverage established for the zone in which the lot is located.
  - i. Height. The maximum height of an accessory building is 16 feet to the midspan of the roof system or 25 feet to the peak of the roof, whichever is less. The maximum wall height is 10 feet.
  - j. Water and sewer. Any accessory building that is connected to water and sewer must have a frost protected foundation.
  - k. Pole structures. Pole structures are not permitted in R7, R3.2, RH, RM, RMH, CA and CB districts.
  - l. Portable storage containers. Portable storage containers may not be used as an accessory building on a residentially zoned property. Portable storage containers are to be counted when computing allowable lot coverage.
- (6) *Through lots.* Any building constructed on an interior lot having frontage on two streets shall be located so as to comply with the regulations governing front yards on both streets.
- (7) *Mixed uses.* Any building containing two or more dwelling units and space designed or used for commercial or industrial purposes shall comply with all requirements for multifamily dwellings in the district in which it is located; provided, also, that no such building designed or used for mixed residential and other uses shall be permitted in any district in which multifamily dwelling is not permitted.

- (8) *General regulations for manufactured and modular homes.* Manufactured and modular homes that are placed on individually owned lots must meet the following standards.
- a. The home shall have no less than 1,000 square feet of floor area except where the zone in which it is to be located has a greater minimum square footage requirement.
  - b. The home shall have no less than a 24-foot exterior width.
  - c. The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run.
  - d. The home shall have a non-reflective roofing material.
  - e. All transporting apparatus including wheels, axles, transporting lights or towing hitch must be removed.
  - f. The home shall be located and installed or built according to the same standards for foundation system, permanent utility connections and setback which would apply to a site-built, single-family dwelling on the same lot.
  - g. The design, location and appearance of the home must be in harmony with existing adjacent properties, structures and locations.
  - h. Any such home which, according to its title document, was manufactured prior to the year during which it is to be sited upon its permanent foundation shall be subject to the provisions of chapter 111, article 10 moving of vehicles.
  - i. Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.
- (9) *Use of tents.* Tents are not permitted, except in a developed camp ground, manufactured home or travel trailer park or in the back yard of a developed residential lot with a permanent residential structure.
- (10) *Use of RV as residence.* Other than in a developed mobile home or RV park, an RV or similar movable dwelling unit may not be used as a permanent dwelling unit on a lot. Temporary use for a limited time by a family member or visitor who does not pay rent is permitted. Temporary use while building a permanent structure on the property is regulated elsewhere in this code.

**Section 5. Sec. 105-1-3 is amended to read:**

Sec. 105-1-3. Incidental uses.

The uses of land and buildings permitted in the several districts established by this chapter are designed by listing the principal uses permitted. In addition to such principal uses, it is the intent of this chapter and this section to permit, in each district, those uses customarily incidental to any principal use permitted in the district. Such permitted incidental uses are specifically listed as follows, and any listed use is permitted on the same lot with the principal use to which it is incidental:

- (1) *Accessory uses.*
- a. *Dwellings.*
    1. Private garage used for the storage of non-commercial vehicles, commercial vehicles with a rated capacity less than 2.5 tons and personal property.

2. One commercial vehicle having a rated capacity of 2.5 tons or less stored in the open on the lot.
  3. Private greenhouse or vegetable, fruit or flower garden from which no products are sold or offered for sale.
  4. Children's playhouse and playground equipment.
  5. Shed or other accessory building for storage of equipment used in grounds or building maintenance or home occupation.
  6. Pets as defined in chapter 101 of this code.
  7. Private swimming pool and bath house.
  8. Statuary, trellises, barbecue stoves, fireplaces or similar features.
- b. *Church.*
1. Parish house, together with any use accessory to a dwelling as listed in subsection (1)a of this section.
  2. Religious education building.
  3. Bulletin board not to exceed 20 square feet in area.
- c. *Health group.*
1. Accessory buildings containing residence accommodations for staff.
  2. Accessory buildings providing utility and maintenance services for the primary use.

(2) *Home occupation.*

- a. *Limitations.* There is permitted, in a dwelling, an occupation incidental to the principal use as a dwelling, subject to the following limitations:
1. No person other than a member of the immediate family occupying the dwelling is employed.
  2. Storage of business inventory but no stock in trade is displayed or sold upon the premises.
  3. No alteration of the principal building that changes the character thereof as a dwelling.
  4. No illuminated sign is used, and no sign other than one giving the name and occupation, and not more than one square foot in area, is displayed.
  5. No more area than 25 percent of the ground floor area of the primary building, whether located in the primary building or an accessory building, is devoted to the home occupation.
- b. *Customary home occupations.* The following are declared to be customary home occupations.
1. Dressmaker, seamstress or tailor.
  2. Music teacher or dance instructor.
  3. Artist, sculptor or author.
  4. Home office.
  5. Dog daycare limited to a maximum of four dogs in the dwelling at any one time, including dogs owned by the residents of the dwelling.
  6. Overnight boarding of one dog or one cat in addition to any animals owned by the residents of the dwelling.
  7. Consulting and event planning services.

8. The letting for hire of not more than two rooms for residential purposes to not more than four persons.
9. Pet grooming of no more than two animals at one time.
10. Daycare up to 12 children.

**Section 6. Sec. 105-1-4 is amended to read:**

Sec. 105-1-4. Use groups.

(a) *Decision matrix.* In order to carry out the purposes of this chapter, certain uses having similar characteristics are classified together as use groups. In any district in which a use group is permitted, it is the intent of this chapter to permit any particular member of that use group to locate within that district. The uses listed are examples of uses that fit the category. Not every possible use is listed. Should an application for a use that, in the opinion of the city planner, is not listed within a use group, the city planner shall evaluate the proposed use applying the criteria and following the procedure listed below.

(1) Criteria.

- a. The actual or projected characteristics of the specific use in relationship to the stated characteristics of the various use groups.
- b. The amount of site area, floor space and equipment required for the use.
- c. The frequency and type of sales activity generated by the use.
- d. The nature of the customer interaction generated by the use, i.e. on site, remote access, daily or infrequent.
- e. The number of employees required per shift for the use.
- f. The hours of operation.
- g. The building site arrangement and access requirements for the use.
- h. The types of vehicles or equipment used in association with the use.
- i. The number of vehicle trips generated by the use per day of the week over the course of a week, month and year.
- j. The means by which the use advertises itself.
- k. Whether the use is likely to be located independent of other uses on the site or established in a shared use environment.

(2) Procedure. The city planner shall issue a written opinion as to the use's appropriate designation. The city planner's decision shall be given to the applicant and posted on the city web site. The decision may be appealed to the Commission, either by the applicant or an adjoining property owner, within 15 days of posting of the decision. If the city planner determines that the proposed use does not fit within any use group or zoning district, a request shall be forwarded to the Commission for review and recommendation as to the disposition of the request for approval of the specific use.

(b) *Group dwelling.* A group dwelling is a building used for residential purposes.

(1) Distinguishing characteristics of a group dwelling include:

- a. The occupants are normally unrelated;
- b. Separated cooking facilities are not provided for individuals or groups of individuals;

- c. Persons residing in the building are domiciled more or less permanently, in contrast to the transient characteristic of occupants of hotels, treatment facilities or bed and breakfast facilities; and
  - d. Correctional facilities are not included.
- (2) The following uses are examples of a group dwelling:
- a. Boardinghouse or rooming house;
  - b. Convent or monastery;
  - c. Fraternity or sorority house; and
  - d. Group home licensed by the department of human services.

(c) *Retail group A.* A use in retail group A is one in which the principal activity is the retail sale of fresh, freshly prepared or packaged food products, merchandise and associated services conducted primarily within an enclosed building.

- (1) Distinguishing characteristics of uses in retail group A include:
- a. Use is dependent to some extent on the proximity of other retail and service establishments;
  - b. Merchandise is not of such nature as to require transport to the customer's premises in any vehicle larger than a pickup or small delivery truck; and
  - c. No incidental manufacturing or processing is carried on in such a manner as to produce offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.
- (2) The following are examples of retail group A uses:
- a. Antiques, collectibles or recycled items;
  - b. Appliances and electronics rental and sales;
  - c. Art, hobby or craft supplies;
  - d. Camera sales and service, photo supplies or photographic studio;
  - e. Jewelry, clock and watch sales, cleaning and repair;
  - f. Books and other printed materials, except those regulated under article 2, chapter 12 and article 5, chapter 105 of this code;
  - g. Recorded video or music for rental or sale, except those regulated under article 2, chapter 12 and article 5, chapter 105 of this code;
  - h. Musical instrument rental, sale and repair;
  - i. Butcher shop, retail sales bakery, delicatessen, fast food, full service restaurant, coffee shop or other eat-in or take-out food preparation establishment;
  - j. Ice cream, soda fountain or candy;
  - k. Department store, variety store or specialty merchandise including sporting goods or exercise equipment;
  - l. Drugstore;
  - m. Flowers, gifts or greeting cards;
  - n. Furniture and accessories including bedding, home furnishings and office equipment;
  - o. Office supplies including copying or shipping services;
  - p. Groceries and household items;
  - q. Hardware, tools, equipment, supplies and accessories;
  - r. Auto parts, supplies, accessories and outdoor activity supplies with no servicing or repair of vehicles;
  - s. Package liquor; and

t. Pets and pet supplies with associated grooming and dog daycare services.

(d) *Retail group B.* A use in retail group B is one in which the principal activity is the sale of merchandise, vehicles or equipment.

(1) Retail group B is differentiated from Retail Group A as follows:

- a. Merchandise is generally larger;
- b. Land area required is generally larger;
- c. Merchandise is of such a nature as to require 50 percent or more of the space within the building for storage of the merchandise.
- d. Merchandise is of such a nature as to be stored or customarily displayed outside a fully enclosed structure; and
- e. The success of the activity is not dependent upon the proximity of uses in retail group A or other uses in retail group B.

(2) The following are examples of retail group B uses:

- a. Auto, truck, motor cycle, off-road, boat, construction equipment and farm implement sales, service, leasing and rental;
- b. Lumber yard and related merchandise, tools and equipment sales, including incidental mill work;
- c. Feed, grain and farm supply sales; and
- d. Trailer, RV and manufactured home sales and service.

(e) *Service group A.* A use in service group A is one in which the principal activity is providing a service with accompanying sale of merchandise, parts or supplies.

(1) Distinguishing characteristics of uses in Service Group A include:

- a. Dependent to some extent on the proximity of other retail and service establishments; and
- b. Operations are carried on in such a manner as to produce no offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.

(2) The following are examples of service group A uses:

- a. Barber or beauty shop;
- b. In shop repair of carry in items;
- c. Dressmaker, milliner or tailor;
- d. Dry cleaning, laundry or Laundromat;
- e. Furniture repair or upholstering;
- f. Pet hospital or clinic;
- g. Pet grooming and dog daycare;
- h. Shoe and other leather goods repair;
- i. Private club, lodge hall, union headquarters; and
- k. Undertaking establishment, mortuary or funeral home.

(f) *Service group B.* A use in service group B is one in which the principal activity is providing a service with accompanying sale of merchandise, parts or supplies.

(1) Service Group B uses are differentiated from Service Group A uses as follows:

- a. Its success is not dependent upon the proximity of other retail or serviceuses;

- b. Repair or service operations are such as to produce some offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located; and
  - c. The use may be conducted around the clock.
- (2) The following are examples of service group B uses:
- a. Carwash, either automatic or self-service;
  - b. Auto, truck or equipment repair;
  - c. Kennel;
  - d. Animal hospital or clinic;
  - e. Off premise advertising sign;
  - f. Taxicab or bus company office with overnight vehicle parking;
  - g. Commercial garage or parking lot;
  - h. Self-storage units; and
  - i. Mobile cleaning, repair and restoration services.

(g) *Office group.* A use in the office group is one in which the principal activity is the conduct of a commercial, governmental, financial, professional or management function.

(1) The use is generally conducted in a lobby and office type setting mostly during normal weekday business hours with customer traffic throughout the day.

(2) The following are examples of office group uses:

- a. Bank, credit union or financial services company;
- b. Commercial school including business, secretarial, dancing, music, physical culture, technical or trade;
- c. Governmental services;
- d. Insurance or real estate;
- e. Private company;
- f. Professional services;
- g. TV or radio station broadcast studio; and
- h. Utility company.

(h) *Commercial recreation group.* A use in the commercial recreation group is one in which the principal activity is the furnishing of recreation for a profit.

(1) Distinguishing characteristics of uses in the Commercial Recreation Group include:

- a. Alcoholic beverages may be offered for sale for consumption on the premises; and
- b. The activity is not operated by a governmental agency.

(2) The following are examples of commercial recreation group uses:

- a. Bowling alley;
- b. Dance hall;
- c. Pool hall, video game room or billiard parlor;
- d. Roller or ice skating rink;
- e. Sports arena;
- f. Tavern, saloon, bar; and
- g. Theater.

(i) *Wholesale group.* A use in the wholesale group is one in which the principal activity is the sale of merchandise to individuals and corporations for resale to the public.

(1) Distinguishing characteristics of uses in the Wholesale Group include:

- a. The merchandise offered for sale is stored wholly within a completely enclosed building that may be fully climate controlled for the products being stored;
- b. No unusual fire or safety hazard is caused by the storage of the product or merchandise;
- c. No live animals are housed in the facility; and
- d. No junked, wrecked automobiles, secondhand equipment, other salvaged material or dead animals are stored on the premises.

(2) The following are examples of wholesale group uses:

- a. Newspaper or magazine distribution;
- b. Food, beverage, alcohol and grocery;
- c. Drugs;
- d. Office products and supplies;
- e. Cleaning products and supplies;
- f. Electrical equipment and parts;
- g. Furniture, appliances and home furnishings;
- h. Paper or plastic products;
- i. Pumps, pipe and associated parts; and
- j. Vehicle parts and tires.

(j) *Health group.* A use in the health-medical group is one in which the principal activity is related to the care and medical treatment of human beings.

(1) Facilities include anything up to and including a full service hospital with all support functions including emergency medical transportation.

(2) The following are examples of health group uses:

- a. Hospital for human beings licensed under N.D.C.C. ch. 23-16;
- b. Medical clinic or urgent care facility;
- c. Nursing home licensed by the department of health under N.D.C.C. ch. 23-16;
- d. Basic care facility licensed by the department of health under N.D.C.C. ch. 23-09.3.
- e. Assisted living facility registered with the department of human services;
- f. Sanitarium or similar treatment facility licensed by the department of human services.

(k) *Education group.* A use in the education group is one in which the principal activity is the education of children or adults. Sports activities linked to an educational entity are included.

(1) The activity can be directed at any age group and be operated by a public, private or religious group.

(2) The following are examples of education group uses:

- a. Pre-school;
- b. College or junior college;
- c. Grade school;
- d. High school or middle school;
- e. Kindergarten;
- f. Private or parochial schools offering a curriculum substantially equivalent to that offered by public schools;
- g. Student or faculty dormitory;
- h. Stadium, gymnasium or field house;
- i. Utility or maintenance service building;

- j. Administrative building; and
- k. Athletic field.

(l) *Public recreation group.* A use in the public recreation group is one in which the principal activity is public recreation and which is carried on by a governmental agency.

- (1) The activity may be similar to a use in the commercial recreation group. Alcoholic beverages may be offered for sale for consumption on the premises.
- (2) The following are public recreation group uses:
  - a. Community center or sports complex;
  - b. Golf courses;
  - c. Museum;
  - d. Park;
  - e. Playground; and
  - f. Swimming pool.

(m) *General farming group.* A use in the general farming group is one which is customarily carried on in nonurban areas. It is the intent of this chapter to permit as an integral part of any particular use in the general farming group all customary accessory buildings for breeding and rearing poultry and livestock and for the storage of feed and farm crops. On any parcel of land lying within the territorial jurisdiction of the city for zoning regulations the conduct of any dairy, fur farming or farrowing operation, poultry hatchery, poultry farming or feeding or a riding stable shall not be conducted within 2,640 feet of any residential district or CA or CB commercial district, and the raising and feeding of any livestock and horses within 2,640 feet of any residential district or a CA or CB commercial district shall be limited to one animal per eight acres of land.

- (1) Uses in the general farming group include:
  - a. Dairy farming;
  - b. Fur farming;
  - c. Commercial greenhouse;
  - d. Livestock raising or feeding;
  - e. Farrowing operation;
  - f. Poultry hatchery;
  - g. Poultry farming or feeding; and
  - h. Riding stable.

(n) *Truck farming group.* A use in the truck farming group is an agricultural use normally found in suburban or rural areas.

- (1) Uses in the truck farming group include:
  - a. Field crop farming;
  - b. Commercial flower growing;
  - c. Fruit growing;
  - d. Tree, shrub or plant nursery;
  - e. Truck gardening;
  - f. The rearing and feeding of poultry, provided that on any parcel of land lying within the territorial jurisdiction of the city for zoning regulations the raising and feeding of poultry shall not be conducted within 660 feet of any residential district or a CA or CB commercial district.

(o) *Industrial group A.* A use in industrial group A is one involving manufacturing or the storage and sale of heavy building materials or equipment.

(1) Uses must conform to the following requirements:

- a. There is no unusual fire, explosion or safety hazard;
- b. There is no production of noise at any boundary of this district in which such use is located in excess of the average intensity of street and traffic noise at that point;
- c. There is no emission of smoke in excess of any density described as No. 1 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 2 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any 30-minute period;
- d. There is no emission of dust, dirt, or toxic or offensive odors or gas; and
- e. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

(2) Uses in industrial group A include :

- a. Manufacture, compounding, processing, packaging, treatment, or assembly of the following materials and products, but excluding the use in any operation of a punch press over 20 tons rated capacity, a drop hammer, or an automatic screw machine,
  1. Bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils,
  2. Products from the previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, precious metals or stones, fur, glass, hair, horn, leather, paper, plastics, shell, textiles, wood, excluding planing mills, and yarns,
  3. Pottery and other ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas,
  4. Electric and neon signs, outdoor advertising signs, commercial advertising structures and light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves and similar products,
  5. Musical instruments, toys, novelties and rubber and metal stamps,
  6. Blacksmith shop and machine shop,
  7. Laundry, cleaning and dyeing works and carpet and rug cleaning,
  8. Ice manufacturing plant and soft-drink bottling plant, and
  9. Assembly of electric appliances, electronic instruments and devices, including the manufacture of small parts;
- b. Experimental laboratories;
- c. The following uses, when conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall, compact hedge or uniformly painted board fence, not less than six feet in height,
  1. Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the principal use, but excluding concrete mixing,
  2. Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors,
  3. Feed and fuel yard,
  4. Public utility service yard or electrical receiving or transforming station, and

5. Pipe yard or storage, sale or rental of oil and gas well-drilling equipment.

(p) *Industrial group B.* A use in industrial group B is one involving manufacturing or the storage, sale of products and material and in which the operations create a greater degree of hazard or more annoyance than the operations of uses in industrial group A.

(1) Uses in industrial group B must conform to the following requirements:

- a. The design and the operation of the building, and design and use of the premises, fully comply with all special requirements established by this article;
- b. There is no emission of smoke in excess of a density described as No. 2 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 3 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any 30-minute period;
- c. There is no emission of toxic gases or fumes; and
- d. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

(2) Uses in industrial group B include:

- a. Any use listed in industrial group A and involving the use of punch press over 20 tons rated capacity, a drop hammer, or an automatic screw machine, provided that all other requirements for industrial group B uses are complied with;
- b. Any other use listed under industrial group A which cannot comply with the requirements of an industrial group A use, provided that all requirements for an industrial group B use are complied with; and
- c. Manufacture, compounding, processing, refining and treatment of the following material and products,
  1. Acetylene,
  2. Alcohol,
  3. Asphalt,
  4. Brick, tile or terracotta,
  5. Concrete products or mixing,
  6. Electric steam power plant,
  7. Lampblack,
  8. Oilcloth or linoleum,
  9. Paint, shellac, turpentine, lacquer or varnish,
  10. Paper or pulp,
  11. Petroleum products,
  12. Plastics,
  13. Beer, whiskey or alcoholic beverages,
  14. Stove or shoe polish, and
  15. Tar or tar products;
- d. Junkyard, provided that all operations are conducted wholly within an enclosed building or within an area enclosed on all sides with a solid wall, compact evergreen hedge or uniformly painted fence, not less than six feet in height; provided, further, that there shall be no burning of wrecked automobiles or other products except within a furnace or incinerator approved by the city engineer of the city;

- e. Any of the following uses, provided that it shall be located not closer than 500 feet from any zone in which it is prohibited,
  - 1. Cement, lime, gypsum, or plaster of Paris manufacturing,
  - 2. Distillation of bones,
  - 3. Drop-forge industry, manufacturing of forging with power hammer,
  - 4. Fat rendering, except as an incidental use,
  - 5. Fertilizer manufacturing,
  - 6. Garbage, offal, or dead animal reduction,
  - 7. Gas manufacture,
  - 8. Petroleum refining,
  - 9. Smelting of tin, copper, zinc or iron ores,
  - 10. Soap manufacture,
  - 11. Stockyards or feeding pens,
  - 12. Slaughter and packing of animals and meat products, and
  - 13. Tannery or curing or storage of raw hides;
- f. Bulk storage of petroleum and petroleum products.

(q) *Utility service group.* A use in the utility service group is one necessary for the safe or efficient operation of a telecommunications, gas, water or electric, refuse, storm sewer or sanitary sewage system for the benefit of the public.

(1) The distinguishing characteristics of utility service group uses are:

- a. The structure or use is necessary for the safe or efficient operation of the utility;
- b. The utility which the structure or use serves is one available to the general public;
- c. The design and location of the premises and structure is in full compliance with all requirements of this section and of this chapter;
- d. The use complies with all height and yard regulations for the district in which it is located;
- e. Except for electrical distribution installations, wherever the lot on which the use is located adjoins a lot in a residential district, there is planted and maintained a landscaped screen planting strip no less than five feet in width adjacent to all lot boundaries so adjoining a lot in a residential district;
- f. Proper fencing with lot entrances shall be erected at least six feet high and maintained around all installations and structures in which there is any safety hazard whatsoever for children, provided that all structures shall be so located that such safety fence shall be so placed as not to encroach on any front yard required in the district in which the use is located; and
- g. For the proper operation of the utility, it is necessary that the proposed use be located on, or within a short distance of, the site on which it is proposed to be located.

(2) The following are examples of utility service group uses:

- a. Telecommunication transmission tower;
- b. Electric transformer station;
- c. Electric transmission line;
- d. Sewage pumping station;
- e. Water pumping station;
- f. Water reservoir;
- g. Gas pressure regulator station;

- h. Solid waste recycling center;
- i. Stormwater detention facility; and
- j. Stormwater pumping station.

**Section 7. Sec. 105-1-5 is amended to read:**

Sec. 105-1-5. Special uses.

(a) *Purpose.* In order to carry out the purposes of this chapter, the board of city commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area or other reasons, be reviewed by the planning and zoning commission prior to the board voting on whether or not to approve the use at a specific site.

(b) *Application submittal.* An application for a special use shall be submitted to the city planner. Whenever possible, applications should be submitted electronically.

(c) *General provisions.* The uses listed in this section are conditional uses that require increased investigation before considering approval.

- (1) The planning and zoning commission must conduct a public hearing on such application, notice of the time and place of which hearing has been given in a newspaper of general circulation in the city at least ten days prior to the date of such hearing.
- (2) Notices must be mailed at least ten days prior to the hearing to all property owners within 500 feet of the boundary of the proposed project.
- (3) In order to give a favorable recommendation, the planning and zoning commission must consider the following:
  - a. The proposed use is in harmony with the purpose and intent of this chapter;
  - b. The proposed use is not in conflict with the adopted comprehensive plan of the city;
  - c. The proposed use will not adversely affect the health and safety of the public and the workers and residents in the area;
  - d. The proposed use will not be detrimental to the use or development of adjacent properties or of the surrounding neighborhood; and
  - e. The proposed use meets all appropriate regulations for the district in which it will be located.
- (4) The planning and zoning commission may require the submission of additional plans, special studies or reports during review of the application.
- (5) The planning and zoning commission may recommend special requirements for the proposed use. The reasons for the special requirements must be documented.
- (6) Once the planning and zoning commission has acted, the city commission must hold a public hearing and then act to ratify the recommendation of the planning commission, modify the recommendation of the planning commission or reject the application.

(d) *Airports and heliports.* An airport may be permitted as a special use in an A Agricultural District in the extraterritorial zone and a heliport may be permitted as a special use associated with a medical facility within the zoning jurisdiction of the city, provided that:

- (1) The area is sufficient to meet the federal requirements for the class of airport or heliport proposed;

- (2) There are no existing flight obstructions, such as towers, chimneys, or other tall structures, or natural obstructions outside the boundaries of the proposed airport or heliport which would fall within the approach zone to any of the proposed runways or landing strips of the airport or heliport;
- (3) There is sufficient distance between the end of each useable landing strip and the airport boundary to satisfy the requirements of the federal aviation administration or any other appropriate authority. In cases where air rights or easements have been acquired from the owners of abutting properties, in which approach zones may fall, satisfactory evidence thereof shall be submitted with the application;
- (4) Any building, hangar or other structure shall be at least 100 feet from any street or property boundary;
- (5) Adequate space for off-street parking has been provided. A traffic study must be submitted to document the need for the number of spaces proposed; and
- (6) The application for authorization of an airport or heliport shall be accompanied by plans meeting the requirements of the FAA, other regulatory agencies and the city.

(e) *Cemetery.* A cemetery, mausoleum, columbarium or crematory may be permitted in an industrial or A district as a special use, provided that:

- (1) No graves shall be located less than 100 feet distant from any property line;
- (2) There shall be a strip at least 75 feet in width adjacent to all boundaries of the cemetery landscaped and maintained as a green area;
- (3) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the ground, the green area shall include a dense evergreen hedge at least six feet in height; and
- (4) No public mausoleum, columbarium, crematory or cemetery chapel shall be erected within 200 feet of any boundary of the lot or parcel on which it is located.

(f) *Golf driving range or miniature golf course.* A golf driving range or miniature golf course may be permitted in an A or industrial district as a special use, provided that:

- (1) The area within 500 feet of all boundaries of the lot is not developed in residences to a greater density than one family per acre;
- (2) Any flood-lights used to illuminate the premises are so directed and shielded as to prevent the direct lighting area from extending beyond the property boundary;
- (3) When the area within 500 feet of the property boundary is undeveloped, any approval is limited to one year one year and must be renewed annually. If residential development exceeding a density of one dwelling unit per acre is approved within this 500 foot area, the approval for this use may be withdrawn unless all property owners within the 500 foot area sign written consents to allow the use to continue on a year to year basis.

(g) *Fire or emergency medical response.* A facility providing fire and/or emergency medical response services may be permitted in any zoning district as a special use, provided that:

- (1) Ingress and egress from the street shall be so designed and constructed as to provide safe traffic movement. A demand activated traffic control signal for emergency vehicle egress from the site may be required.
- (2) Sufficient parking shall be provided to accommodate the maximum number of personnel per shift plus at least 2 visitor spaces; and.

- (3) If the use is approved, landscaping, signage and design of the building exterior shall be reviewed and approved by the Mandan Architectural Review Commission.

(h) *Day care center.* A day care center is a facility providing services to more than 12 children or any number of adults. A day care center requires a special use approval and must comply with the following criteria:

- (1) The facility must receive state approval before an occupancy permit can be issued;
- (2) For a facility catering to children, each building shall provide not less than 35 square feet of interior play area per child;
- (3) For a facility catering to children, a fenced outdoor play area of not less than 75 square feet per child shall be provided that is located no closer than ten feet to an adjoining residential lot;
- (4) For a facility catering to adults, there shall be an outdoor lawn area and covered porch offering either active recreation or passive activities for groups or individuals;
- (5) As a minimum, onsite parking shall be provided at the ratio of one space per manager and employee per shift plus one space for each 12 clients; and
- (6) Drop off and pickup of clients shall be in an area off the public street that is separate from parking spaces.

(i) *Correctional facility.* A correctional facility may be permitted in an industrial or A district as a special use, provided that:

- (1) The facility fronts on an arterial street;
- (2) There are no churches, schools or residentially developed property within 500 feet;
- (3) The primary illumination field for exterior lighting shall not extend beyond the property boundary;
- (4) No building shall be closer than 35 feet to any property line; and
- (5) As a minimum, onsite parking shall be provided at a ratio of one space for each employee per shift plus one space per four inmates.

(j) *Drug or alcohol outpatient treatment or counseling facility.* A drug or alcohol outpatient treatment or counseling facility may be permitted as a special use in a regional commercial, industrial or A district and must comply with the following criteria:

- (1) The facility fronts on an arterial street;
- (2) As a minimum, onsite parking shall be provided at a ratio of one space for each employee per shift plus one space per two clients per hour;
- (3) Hours of operation are limited to between 6:00 AM and 8:00 PM;
- (4) The facility is no closer than 1000 feet to a school, daycare facility or residentially developed property; and
- (5) The facility is no closer than 500 feet to an establishment selling alcohol.

**Section 8. Effective Date.** This ordinance shall take effect when adopted.

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

Attest:

---

James Neubauer, City Administrator

First Consideration:

October 20, 2015

Second Consideration and Final Passage:

---

**ORDINANCE NO. 1221**

**AN ORDINANCE CHANGING THE NAMES OF CERTAIN STREETS OR PARTS THEREOF SITUATED WITHIN THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA.**

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

**Section 1. Name of Street.** The name of the following street is hereby changed as set forth below, namely;

1. Shoal Loop SE as platted in Lakewood 8<sup>th</sup> Addition in Section 1, Township 138 North, Range 81 West of the City of Mandan, Morton County, North Dakota is hereby changed to 24<sup>th</sup> Street SE.

**Section 2. Notice.** The proper officials of the city are hereby directed to take such action as they may deem necessary or desirable to notify city residents of this change.

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

Attest:

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

First Consideration:

October 6, 2015

Second Consideration:

October 20, 2015

Recording Date:

\_\_\_\_\_



**ORDINANCE NO. 1204**An Ordinance to Create and Enact Article 7 of Chapter 16  
of the Mandan Code of Ordinances Relating to Graffiti

Be it ordained by the Board of City Commissioners:

An Ordinance to create a new Article 7 to Chapter 16 of the Mandan Code of Ordinances relating to graffiti is hereby enacted as follows:

**ARTICLE 7. GRAFFITI****Sec. 16-7-1. Abatement of graffiti by property owner or city.**

Property or owner responsibility. It is unlawful for any person who is the owner or responsible party of property to permit property that is defaced with graffiti to remain defaced for a period of ten days from the date of written notice of the defacement. Notice under this article is sufficient if served upon the owner or responsible person personally or mailed regular mail to the last known address of the owner or responsible person or the last address of the owner shown on the tax rolls of the city. The notice shall contain the following information:

- (1) The street address and legal description of the property sufficient for identification of the property;
- (2) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding; and
- (3) A statement that the graffiti must be abated within ten days after written notice and that if the graffiti is not abated within that time the city shall cause the graffiti to be abated and the cost thereof shall be assessed against the non-complying real property. In addition, an administrative cost equal to twenty-five percent (25%) of the cost of abatement and a twenty-five dollar (\$25.00) penalty or \$100, whichever is greater, shall be assessed against the non-complying real property.

**Sec. 16-7-2. Failure to comply.**

(a) Upon failure, neglect or refusal to abate the graffiti during the prescribed period:

- (1) The city may, by its own work forces or by contract, cause the graffiti to be abated and the cost thereof shall be assessed against the non-complying real property plus an administrative cost equal to twenty-five percent (25%) of the cost of abatement and a twenty-five dollar (\$25.00) penalty or \$100, whichever is greater; and
- (2) That the assessed amount together with costs and penalties shall constitute a lien on the non-complying real property and will be taxed as a special assessment against the real property.

(b) *Appeal.* The owner or agent may appeal to the City Commission within ten days of written notice any determination that they have failed to comply with the requirements of any order.

(c) Any person who willfully fails to comply with the provisions of this article is guilty of an offense.

**Sec. 16-7-3. Abatement and cost recovery proceedings.**

(a) Annually the city shall prepare a list of all lots, tracts and parcels of real property within the city from which the graffiti was abated by the city and for which such charges and penalties have not yet been paid. The list shall include as a minimum the following:

- (1) Name as shown by the tax rolls, common address if known;
- (2) Tax code of the property;
- (3) Legal description of the lot, tract or parcel;
- (4) Cost of the graffiti abatement for that property;
- (5) Administrative costs; and
- (6) Penalty assessed.

(b) The assessment list shall be incorporated into a special assessment resolution in proper form which resolution shall be presented to the City Commission for consideration. From and after passage of the resolution, the assessments stated therein, together with administrative costs and penalty shall constitute a special assessment, as provided in NDCC §40-05-01.1, and a lien on the real property shown on the assessment list. A copy of the resolution after passage shall be certified to the official collecting the city taxes and assessments.

**Sec. 16-7-4. Prevention provisions.**

*Retro-fit existing graffiti-attracting surfaces; non-residential structures.* The following provisions may be incorporated in a graffiti eradication order:

- (1) *At owner's expense.* Any surface of a structure on a parcel of land used for non-residential purposes that has been defaced with graffiti more than five times in twelve months shall be declared a public nuisance and may be required to be retro-fitted, at the cost of the property owner, with features or qualities as may be established by the city as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient abatement of graffiti; and
- (2) *Appeal.* The owner or agent may appeal within ten days of written notice any determination that they are required to retro-fit the property with features or qualities necessary to reduce the attractiveness of the surface for graffiti or to permit more convenient or efficient abatement of graffiti to the City Commission.

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

ATTEST:

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

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

October 6, 2015  
October 20, 2015  
November 13, 2015

**ORDINANCE NO. 1220**

An Ordinance to Amend and Re-enact Chapter 10, Article 2, of the Code of Ordinances of the City of Mandan Relating to Fireworks

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

Section 10-2-10 Amendments to International Fire Code of the Code of Ordinances of the City of Mandan relating to incendiary balloons and sky lanterns is hereby amended and re-enacted to read as follows:

Section 5601.1.13. *Fireworks.* The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the city limits.

Exceptions:

c. The use of fireworks for display as permitted in section 5608 is an exception to the prohibition of use of fireworks in the city, provided that the requirements of sections 5601.2.3 and 5601.2.4 are met. The possession, use, discharge, or explosion of fireworks, as defined by N.D.C.C. §23-15-01, not including bottle rockets, or a balloon that requires fire underneath to propel the balloon, or an incendiary balloon, or an unmanned free floating device capable of producing an open flame, such as, but not limited to, sky lanterns or celebration lanterns, is permitted between the hours of 12:00 p.m., and 12:00 a.m. on July 2 and 3, from the hours of 12:00 p.m. on July 4 to 2:00 a.m. on July 5 of each year, and from the hours of 5:00 p.m. on December 31 to 1:00 a.m. on January 1.

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

Attest:

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

First Consideration: October 6, 2015  
Second Consideration and Final Passage: October 20, 2015  
Publication Date: November 13, 2015

RESOLUTION OF CONCURRENCE TO AWARD PROJECT SHE-1-999(025), PCN 20639 –  
I-94 BUSINESS LOOP AND MEMORIAL HIGHWAY SIGN IMPROVEMENTS TO THE  
LOW BIDDER

BE IT RESOLVED By the Board of City Commissioners of the City of Mandan, North Dakota, that the governing body of the City of Mandan, concurs with the North Dakota Department of Transportation in recommending the award of the above referenced project to the low bidder.

This resolution shall become effective upon the date of its adoption.

Dated and adopted this 20th day of October, 2015.

\_\_\_\_\_  
Arlyn Van Beek, President of the Board of City Commissioners

Attest:

\_\_\_\_\_  
Jim Neubauer, City Administrator