



**AGENDA**  
**MANDAN CITY COMMISSION**  
**NOVEMBER 5, 2019**  
**ED "BOSH" FROEHLICH MEETING ROOM,**  
**MANDAN CITY HALL**  
**4:00 P.M.**  
**[www.cityofmandan.com](http://www.cityofmandan.com)**

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- A. ROLL CALL:
1. Roll call of all City Commissioners.
  2. Presentation of Employee Recognition Awards
- B. APPROVAL OF AGENDA:
- C. MINUTES:
1. Consider approval of the minutes from the October 15, 2019 Board of City Commission regular meeting.
- D. PUBLIC HEARING:
1. Consider approval of the first consideration of Ordinance 1328 related to a zoning district amendment from R7 Residential to MB Industrial for a portion of property in the SW ¼ of Section 29, Township 139N, Range 81W. (5:00PM)
- E. BIDS:
- F. CONSENT AGENDA:
1. Consider approval of final plat for Meadow Ridge 4<sup>th</sup> Addition
  2. Consider approval of the following abatement requests
    - i. Consider reduction in 2019 value of the property at 718 W Main Street owned by Russel C Kruger
    - ii. Consider reduction to the 2019 value of the property at 805 Collins Avenue owned by Gordon & Lone Eckroth
    - iii. Consider reduction to the 2019 value of the property at 301 4<sup>th</sup> Avenue NW owned by Joel & Kristine Winckler
    - iv. Consider reduction to the 2019 value of the property at 1008 21<sup>st</sup> Street SE owned by Wilhelm & Leona Koch
    - v. Consider reduction to the 2019 value of the property at 310 2<sup>nd</sup> Street NE owned by Deborah Kates
    - vi. Consider reduction to the 2019 value for the property at 1372 14<sup>th</sup> Street SE owned by Tom S & Cherie L Freidt
  3. Consider proclaiming Nov. 30, 2019 as Small business Saturday in Mandan.
  4. Consider providing a Flex PACE letter of support for River Partners, Inc.

*Agenda*  
*Mandan City Commission*  
*November 5, 2019*  
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5. Consider approving amendments to the Engineering Service agreements with AE2S for Water & Sewer System Assistance.
  - ~~6. Consider approval of an Advertisement for Bid for the Raw Water Intake, Phase II project.~~
- G. OLD BUSINESS:
1. Consider counteroffer for Lot 1A, Block 1, Roughrider Estate Pioneer Replat
- H. NEW BUSINESS:
1. Update on activities Bismarck Mandan Chamber EDC – Brian Ritter
  2. Consider approval of Captain Freddy's Properties LLP exemption application at 2500 Pirates Loop SE
  3. Consider approval of the NDDOT's Cost Participation and Maintenance Agreement for the Downtown Street Improvement project.
  4. Consider approval of advertisement of a Request for Proposal (RFP) for the Downtown Street Improvement Project.
- I. RESOLUTIONS AND ORDINANCES:
1. Consider introduction and first consideration of Ordinance 1329 to amend and re-enact Section 18-1-7, Possession of Marijuana, and Section 18-1-8, Drug Paraphernalia (Marijuana)
  2. Consider approval of the second and final consideration of Ordinance 1313 related to the annexation and zone change for proposed Evergreen Heights 3<sup>rd</sup> Addition
- J. OTHER BUSINESS:
- K. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:
1. November 19, 2019
  2. December 3, 2019
  3. December 17, 2019
- L. ADJOURN

TO: City Employees—**Service Recognition**

FROM: Jonathan Mathisen

DATE: November 5, 2019

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

The Board would like to extend to you a personal invitation to be present at their Tuesday, November 5, 2019, 4:00 p.m. City Commission Meeting. They would like the opportunity to extend their appreciation to each of you for your years of service and dedication to the City by personally presenting you with your years of service certificate plus Mandan Bucks (\$2.00 for each year of service awarded in five year increments).

Listed below are the eligible employee names and years of service.

**35 YEARS OF SERVICE: \$70**

Karri Motl	Accounts Payable Technician	07/10/84
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**30 YEARS OF SERVICE: \$60**

Scott Stromsodt	Police Lieutenant	06/12/89
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**25 YEARS OF SERVICE: \$50**

Cheryl Kroh	Records Technician	09/06/94
Tim Meidinger	Utility Operator I	11/28/94
Steve Kilen	Fire Captain	06/01/94

**20 YEARS OF SERVICE: \$40**

Adam Mork	Firefighter	05/24/99
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**15 YEARS OF SERVICE: \$30**

DeNae Kautzmann	Municipal Judge	06/08/04
Jason Bier	Deputy Police Chief	11/01/04
Shane Weltikol	Fire Captain	09/01/04

**10 YEARS OF SERVICE: \$20**

Matthew Hennessy	Firefighter	<b>07/22/09</b>
Joshua Hoffer	Firefighter	<b>12/03/09</b>
Jared Gregor	Firefighter	<b>11/02/09</b>
Kayla Steinwand	Library Page	<b>09/10/09</b>
Rick Widicker	Police Lieutenant	<b>09/01/09</b>

**5 YEARS OF SERVICE: \$10**

Sam Buckley	Grounds Maintenance	<b>05/12/14</b>
Miles Ean	Firefighter	<b>10/27/14</b>
Belinda Neibel	Outreach Services Librarian	<b>04/07/14</b>
Krissy Pfeifer	Assistant Finance Director	<b>01/14/14</b>
Tricia Schmeichel	Police Officer	<b>08/11/14</b>
Scott Warzecha	Police Officer	<b>03/24/14</b>

If you have any questions or note any changes, please give me a call at 667-3212.

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

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The Mandan City Commission met in regular session at 5:30 p.m. on October 15, 2019 in the Ed “Bosh” Froehlich Room at City Hall, Mandan, North Dakota. Mayor Helbling called the meeting to order.

A. ROLL CALL:

1. *Roll Call of All City Commissioners.* Present were Mayor Helbling, Commissioners Davis, Larson and Rohr. Department Heads present were, Finance Director Welch, Fire Chief Nardello, Planning & Engineering Director Froseth, Principal Planner Van Dyke, Business Development and Communications Director Huber, Police Chief Ziegler, City Administrator Neubauer, Assessor Markley, Project Engineer Fettig and Assistant City Attorney Oster. Absent: Commissioner Braun, Human Resource Director Cullen, Building Official Ouradnik, Director of Public Works Bitz and Attorney Brown.

Mayor Helbling extended a thank you to the Fire Department, the firefighters, the Police Department, the Metro Area Ambulance, Mandan Rural Fire Department, Bismarck Fire Department, Highway Patrol, City of Mandan staff, volunteers and many others who hosted and helped with the Fire Prevention Day.

B. APPROVAL OF AGENDA:

C. MINUTES:

1. *Consider approval of the minutes from the October 1, 2019 Board of City Commission regular meeting.* Commissioner Larson moved to approve the minutes as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

1. *Consider approval of a variance to site obscuring requirements and a stand-alone office use for Lot 3, Block 1, Mandan Industrial Park.* City Planner Van Dyke presented a request for approval of a variance to the site obscuring requirements that apply to public utility service yards and to allow for stand-alone offices in the MA-Industrial zoning district. He said that Innovative Energy Alliance Cooperative (IEAC) is seeking a variance to the site obscuring requirement that applies to public utility service yards. IEAC is also seeking a variance to MA-Industrial to allow stand-alone offices. This request is a result of a reallocation of assets within the energy cooperative. Through this reallocation the applicant is seeking to divide the existing lot that currently has an office building located on the same property as the utility storage yard.. This division would create a non-conforming office building, as it is presently not allowed as a stand-alone structure. Obscuration requirements apply to all new development, a subdivision would trigger the need to meet the current code requirements.

Planner Van Dyke reviewed the requirements under the Mandan Code of Ordinances in granting a variance include:

Variance may be granted under the following circumstances (See Sec. 105-1-12):

*(1) There are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or*

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*conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this chapter, whether in violation of the provisions of the chapter, or not.*

Planner Van Dyke stated that the special circumstance that applies to this matter is that the cooperative is a unique entity attempting to reallocate assets within the entity itself. There is no change in use expected on either of the proposed lots of the utility service yard or office.

*(2) For reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant;*

For the cooperative to function as it sees necessary a division of the property and reallocation of ownership within the entity itself is required. A division would trigger a non-conforming use for stand-alone offices and trigger the requirement for site obscuration of the utility yard. The land is presently surrounded by industrial uses. Requiring site obscuration due to a reallocation of assets within the same entity is burdensome.

*(3) The grant of the variance will be in harmony with the general purposes and intent of this chapter, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Planner Van Dyke explained that the unique characteristic of this application is that the property is currently utilized and it will continue to be utilized by the same partners. The use will remain unchanged and the granting of the variance will not be injurious to the neighborhood or detrimental to the public. It is a co-owner situation.

Mayor Helbling announced that this is the time and place set for the public hearing to consider approval of a variance to site obscuring requirements and a stand-alone office use for Lot 3, Block 1, Mandan Industrial Park. He invited anyone to come forward to speak for or against the variance. A second announcement was made inviting anyone to come forward to speak for or against the variance. A third and final announcement was made inviting anyone to come forward to speak for or against the variance. Hearing none and noting that no one came forward, this portion of the Public Hearing was closed.

Commissioner Rohr moved to approve the variance for Lot 3, Block 1, Mandan Industrial Park with the provisions noted in Exhibit 3 for the rationale outlined in Exhibit 4. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

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2. *Consider approval of Ordinance 1313 related to the annexation, zone change, and preliminary plat/master plan for proposed Evergreen Heights 3<sup>rd</sup> Addition.* City Planner Van Dyke presented a request for approval of the first consideration of Ordinance 1313 related to the annexation and zone change and the corresponding preliminary plat/master plan for proposed Evergreen Heights 3<sup>rd</sup> Addition. He stated that Val Renner and Janet Dykshoorn are seeking to plat their property near 19<sup>th</sup> Street Southeast and South 1806 for the purposes of commercial development. The property requesting to be platted totals 4.04 acres with an additional five (5) acres being part of a master plan. The master planned area is not being requested to be annexed, platted, or rezoned at this time.

City Planner Van Dyke stated that Mr. Renner would like to erect shop condos for his landscaping business and to house similar contractor businesses on Lot 3, Block 1 of the proposed plat (Exhibit 2 and 3 were presented). Lot 1 is intended for similar use as Lot 3. No residential uses are desired on these lots, although Lot 1 has been noted as an ideal location for residential construction. Ms. Dykshoorn would like to maintain her single-family dwelling on Lot 2, Block 1. Lots 1 through 3, Block 1 is seeking CA – Neighborhood Commercial zoning. City staff is recommending the same restrictions that applied to these lots at the previous P&Z meeting on April 22, 2019. Staff has received confirmation that these restrictions are amenable to the applicant via e-mail. The master plan shows single-family residential being constructed along the west of a proposed north-south future road titled “Living Water Drive.” These are Lots 1-8, Block 3 on the master plan. Future zoning for Lot 1, Block 2 of the master plan is RM multifamily.

Planner Van Dyke said that the development proposed does not align with the comprehensive plan for the City. Despite this, staff is providing recommendation for approval based on the rationale found in Exhibit 4. The Planning and Zoning Commission voted unanimously to recommend approval at the September 23 meeting. He said that the Engineering and Planning Department recommend approval of the annexation and zoning amendment as outlined in Ordinance 1313 and they recommend approval of the preliminary plat as shown in Exhibit 2 and the master plan as shown in Exhibit 3. The recommendation is based on the information included in Exhibit 4. NDDOT approved the Ordinance and emergency services have all had input and approve of the proposed annexation.

Mayor Helbling announced that this is the time and place set for the public hearing to consider approval of the Ordinance 1313 related to the annexation, zone change, and preliminary plat/master plan for proposed Evergreen Heights 3<sup>rd</sup> Addition. He invited anyone to come forward to speak for or against the Ordinance 1313.

Tim Tausand, 1712 14<sup>th</sup> Avenue Southeast in Mandan came forward and stated that his backyard is located at the southern part of Val Renner’s property. He said he is not opposed to this project but he has a concern about the southern section of the master plan regarding the density of the housing project being put in there. Based on the fact that 16<sup>th</sup> and 19<sup>th</sup> are going to be the only two outlets for that are he is concerned that if there will be multi-housing or apartments buildings located there, that would be way too much traffic in that neighborhood for that area. He said that he does supports the plan presented that will be single-family housing only.

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A second announcement was made inviting anyone to come forward to speak for or against the Ordinance. A third and final announcement was made inviting anyone to come forward to speak for or against the annexation. Hearing none this portion of the Public Hearing was closed.

Planner Van Dyke clarified that no entitlements are being presented for this master plan. This is largely the functionality and overall harmony of what's being proposed for a preliminary plat. There will still be public hearings when the next section gets annexed and platted and assigned a zone so there will be an opportunity for that type of discussion.

Commissioner Davis moved to approve the first consideration of Ordinance 1313 as shown in Exhibit 7, the preliminary plat as shown in Exhibit 2, and the master plan as shown in Exhibit 3 all subject to the requirements of the final plat as outlined in Exhibit 5 and this approval is based on the rationale included in Exhibit 4. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

E. BIDS:

F. CONSENT AGENDA 1. *Consider approval of monthly bills.*

ADVANCED WEIGHING SYSTEM - 0.00; BANK OF NORTH DAKOTA LOA - 0.00; BIS-MAN AREA CHABR OF CO - 23,750.00; BIS-MDN TRANSIT BOARD - 0.00; BROOKE/PATRICK - 200.00; DTE, INC - 1,666.69; ELECTRIC PUMP INC - 12,609.65; FETZER ELECTRIC, LLC - 910.00; HERMANSON/LAURA - 0.00; HIT, INC. - 0.00; LAWSON/VIRGINIA - 59.35; MANDAN AIRPORT AUTHORITY - 0.00; MANDAN PARK BOARD - 2,500.00; MISSOURI VALLEY PETROLEU - 17,687.86; MORTON MANDAN PUBLIC LIB - 19,605.23; NORTHERN IMPROVEMENT CO - 0.00; NORTHWESTERN POWER EQUIP - 1,327.97; POST BOARD - 720.00; PRESORT PLUS - 2,346.41; RICOH USA, INC - 122.57; RINAS/MIKE - 0.00; STARION BANK MANDAN - 2,154.20; STARION BOND SERVICES - 0.00; STRATA CORPORATION - 0.00; T & R CONTRACTING, INC - 0.00; THE CREATIVE TREATMENT L - 816.75; MONTANA-DAKOTA UTILITIES - 32,876.16; ND PERS - 164,383.20; AT & T - 743.80; BALABAN LAW OFFICE - 1,500.00; BNSF RAILWAY COMPANY - 2,400.00; CENTURYLINK - 3,861.66; DAKOTA MEDIA ACCESS - 10,998.00; DEARBORN LIFE INSURANCE - 2,389.95; GLASS/THOMAS J. - 1,500.00; HOVEY/BRANDI - 19.00; INTERGOVERNMENTAL SHOP - 10,885.22; KELSCH KELSCH RUFF & KRA - 4,000.00; MOORE ENGINEERING, INC - 144,503.56; MORTON COUNTY AUDITOR - 1,280.11; OLSON/EDDY - 74.20; RAZOR TRACKING INC. - 450.00; T & R CONTRACTING, INC - 3,552.50; T-MOBILE USA, INC - 8,439.00; HERMANSON/LAURA - 60.00; ADVANCED WEIGHING SYSTEM - 1,640.00; BANK OF NORTH DAKOTA LOA - 2,931.41; GRAYMONT CAPITAL INC - 12,572.51; MARINER CONSTRUCTION - 1,066,050.25; MVTL LABORATORIES, INC - 36.00; ND ASSOC OF COUNTIES - 40.00; STANTEC CONSULTING SERVI - 12,367.20; STARION BOND SERVICES - 522,885.62; STRATA CORPORATION - 2,970.27; TWIN CITY ROOFING INC

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- 9,577.00; NORTHERN IMPROVEMENT CO - 163,595.67; PAN-O-GOLD BAKING CO - 147.00; WELLS FARGO COMMERCIAL C - 154,168.49; ADVANCED ENGINEERING SVC - 87,716.19; ARMSTRONG SANIT & ROLL O - 99,238.38; BACHMEIER/JEAN - 244.63; BANK OF NORTH DAKOTA - 145,668.42; BEAVER CREEK TREE SERVIC - 30,676.75; BIS-MAN CONVNTN & VISITOR - 3,248.94; BIS-MDN TRANSIT BOARD - 4,108.95; BITZ/MITCH - 34.00; BOB'S CUSTOM SERVICES - 180.00; BRADY, MARTZ & ASSOCIATE - 5,600.00; BRANDOZ CONCRETE INC - 3,518.84; BRIDGEVIEW BASY HOA - 1,400.00; BURLEIGH-MORTON DETENTIO - 9,129.99; CHI ST. ALEXIUS HEALTH E - 901.88; COMPANION LIFE - 10.00; CRAMER/ESTHER - 150.00; CROSS COUNTRY COURIER - 90.51; CROWLEY FLECK PLLP - 5,000.00; CUSTER DISTRICT HEALTH U - 2,238.00; DAKOTA COMMUNICATION SVC - 617.00; DIRECTMED - 20.89; DIRK/BRIAN - 34.00; FETZER ELECTRIC, LLC - 22,157.99; FITTERER/AL - 30,000.00; GOVERNMENT FINANCE OFCRS - 50.00; HIT, INC. - 279.00; INFORMATION TECHNOLOGY D - 1,857.94; INNOVATIVE ENERY ALLIANC - 300.00; IRVINE/WILEY - 20.00; KADRMAS, LEE & JACKSON, - 978.10; KRONOS SAASHR, INC - 2,126.23; MANDAN AIRPORT AUTHORITY - 3,962.78; MANDAN MUNICIPAL COURT - 10,729.31; MANDAN PARK BOARD - 1,500.00; MANN SIGNS, INC - 2,914.00; MISSOURI WEST WATER SYST - 60.88; MORTON COUNTY RECORDER - 100.00; MORTON MANDAN PUBLIC LIB - 22,409.61; MUNICIPAL CODE CORPORATI - 1,047.00; MY GOV, LLC - 960.00; ND ASSOCIATION OF REC - 25.00; ND FIREMENS ASSOCIATION - 100.00; ND STATE RADIO COMMUNICA - 600.00; NDAAO - 450.00; NISC - 16,490.37; NORTHWESTERN POWER EQUIP - 447.09; ONE CALL CONCEPT INC - 469.95; PAPKE/WAYNE & CHRISTI - 44.99; POST BOARD - 135.00; PRESORT PLUS - 2,352.56; RENNER'S LAWN SPRINKLING - 565.00; RINAS/MIKE - 60.00; S.J. LOUIS CONSTRUCTION, - 103,130.24; SCHANTZ/ERVIN - 169.55; SKEELS ELECTRIC CO - 1,950.50; STRATA CORPORATION - 5,178.33; SUKAUSKA/TRAVIS - 51.72; T & R CONTRACTING, INC - 4,903.00; TERNES OUTDOOR SERVICES - 558.40; TERRACON CONSULTANTS, IN - 16,522.25; TOMAN ENGINEERING CO - 5,410.00; TWIN CITY ROOFING INC - 324.00;

2. *Consider confirmation of special assessments for Street Improvement District #211.*
3. *Consider providing a Flex PACE letter of support for Wise Properties, LLC.*
4. *Consider approval of the following assessments: (i) Weed Cutting of 2019; (ii) Sidewalks of 2019; (iii) Health & Safety of 2019; (iv) Delinquent Alarm System Accounts for 2019; and (v) Delinquent Utility Billing Accounts for 2019.*
5. *Consider closing Administrative offices day after Thanksgiving.*
6. *Consider approval to offer a one-time \$10 credit on utility bill to customers who sign up for both SmartHub and E-bills.*
7. *Consider special event permit application for the Morton/Mandan Law Enforcement Center 2019 Trunk or Treat event.*
8. *Consider a 2019 budget amendment for the 2020 community calendar and proposal for its design, printing and mailing.*

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9. *Consider approval of Public Works Facility Expansion Change Orders.*

Commissioner Rohr moved to approve the Consent Agenda items No. 1 through 9 as presented. Commissioner Davis seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

G. OLD BUSINESS:

1. *Consider counteroffer for Lot 1A, Block 1, Roughrider Estate Pioneer Replat.*

City Planner Van Dyke presented a request to accept the counteroffer for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat. He provided a recap from a previous meeting. Geoffrey S. Pitman provided a counteroffer of \$200 for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat. The list price was \$1,000. This is the same price that was originally offered and presented at the October 1, 2019 meeting. The City countered with a \$1,000 purchase price but the buyer is firm with the original \$200 offer. The property is located in Roughriders subdivision in the far northwest of the City. He explained that Roughriders has several properties wherein the backyards have come back to the city for failure to pay taxes.

Planner Van Dyke reported that the Engineering and Planning Department is recommended accepting this offer given the limited use and value to other potential buyers and rejection of the previous counteroffer attempt by the City to obtain a higher purchase price. Engineering and Planning recommended accepting the counteroffer of \$200 for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat. City Commissioners may accept, reject, or counter the offer provided by Mr. Pitman.

Mayor Helbling commented that if the City accepts the \$200 offer, does this start a precedence wherein others may come in with a \$200 offer. He stated he would like to counter offer in the amount of \$556 and that the buyer be required to pay the special assessments. That will bring the sales price up to the \$1,000 commented that the property does have some value. Commissioner Larson agreed with Mayor Helbling and stated that she does not approve accepting the \$200 offer due to setting future precedence. Commissioner Rohr commented that it is not a sense of urgency to sell the property. Attorney Oster stated that since there is a counter offer from the buyer, the City can again counter offer whatever they deem fit. The motion could be changed to the number that the City would be willing to respond with.

Commissioner Larson moved to counteroffer with a purchase price of \$556.21 for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat. Commissioner Davis seconded the motion.

Planner Van Dyke inquired if the motion is to include that the buyer be responsible to pay the balance due of the outstanding specials. Mayor Helbling stated, yes, it will include the specials. Planner Van Dyke recommended that an Amended Motion be placed as a separate motion to include that the buyer be responsible to pay the balance due of the outstanding specials.

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Commissioner Larson amended the motion to counteroffer with a purchase price of \$556.21 for the purchase of Lot 1A, Block 1, to include the outstanding specials due on the property are to be paid by the buyer. Commissioner Davis seconded the motion.

Roll Call Vote on the original motion: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

H. NEW BUSINESS

I. RESOLUTIONS AND ORDINANCES

1. *Consider approval of the second and final consideration of Ordinance 1327 related to the annexation of Lot 2, Block 2, Bahm's 1<sup>st</sup> Addition.* City Planner Van Dyke presented a request to approve the second and final consideration of Ordinance 1327 related to the annexation of Lot 2, Block 2, Bahm's 1<sup>st</sup> Addition. The connection fee has been paid and the property is ready to be annexed. There have been no comments or opposition since the presentation of the first consideration.

Commissioner Rohr moved to approve the second and final consideration of Ordinance 1327 related to the annexation of Lot 2, Block 2, Bahm's 1<sup>st</sup> Addition. Commissioner Larson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Davis: Yes; Commissioner Larson: Yes; Commissioner Braun: Absent; Mayor Helbling: Yes. The motion passed.

J. OTHER BUSINESS:

Commissioner Larson stated that with the onset of winter, and the first big snow storm hitting the city, she extended a thank you to the Public Works Department for the snow removal efforts during that time. Mayor Helbling commented there also was a water main break on the street to be fixed during that time. Commissioner Rohr commented that Mandan had fewer accidents than Bismarck.

K. ADJOURNMENT:

Commissioner Davis motioned to adjourn the meeting at 5:55 pm. Commissioner Larson seconded the motion. The motion received unanimous approval of the members present.

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James Neubauer  
City Administrator

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Tim Helbling  
President, Board of City Commissioners



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 24, 2019  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** First consideration of Ordinance 1328 related to a zoning district amendment for a portion of property in the SW ¼ of Section 29, Township 139N, Range 81W

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**STATEMENT/PURPOSE:** Consider approval of the first consideration of Ordinance 1328 related to a zoning district amendment for a portion of property in the SW ¼ of Section 29, Township 139N, Range 81W.

**BACKGROUND/ALTERNATIVES:** At the October 1, 2019 Board of City Commission meeting, a public hearing was held and ultimately tabled to allow the applicant's time to consult with neighboring property owners on a compromise acceptable to all concerned property owners. At the time of writing, staff has not have evidence of a compromise and therefore the original recommendation and rationale remain. Exhibit 6 is a letter from Jim and Charolette Sackman provided to staff on October 28, 2019 evidencing continued opposition to the rezone request.

#### **Information Presented at October 1, 2019 Board of City Commissioner Public Hearing (below)**

The applicant's wish to rezone their property from R-7 Residential to MB-Industrial. The area is largely residentially zoned, although there are commercial/industrial uses in the vicinity. The following link provides pictures of the area: <https://arcg.is/1vOKzX> The purple colored numbers are those pictures of industrial facilities in the area. The red colored numbers are of the applicant's property.

This rezone request is premised on a zoning violation as a result of adjacent property owner complaints to the City of Mandan and Morton County for having an accumulation of vehicles stored outside stemming from a wrecking operation on Mr. Poole's property (See Exhibits 1 and 2).

Board of City Commissioners

Agenda Documentation

Meeting Date: October 1, 2019

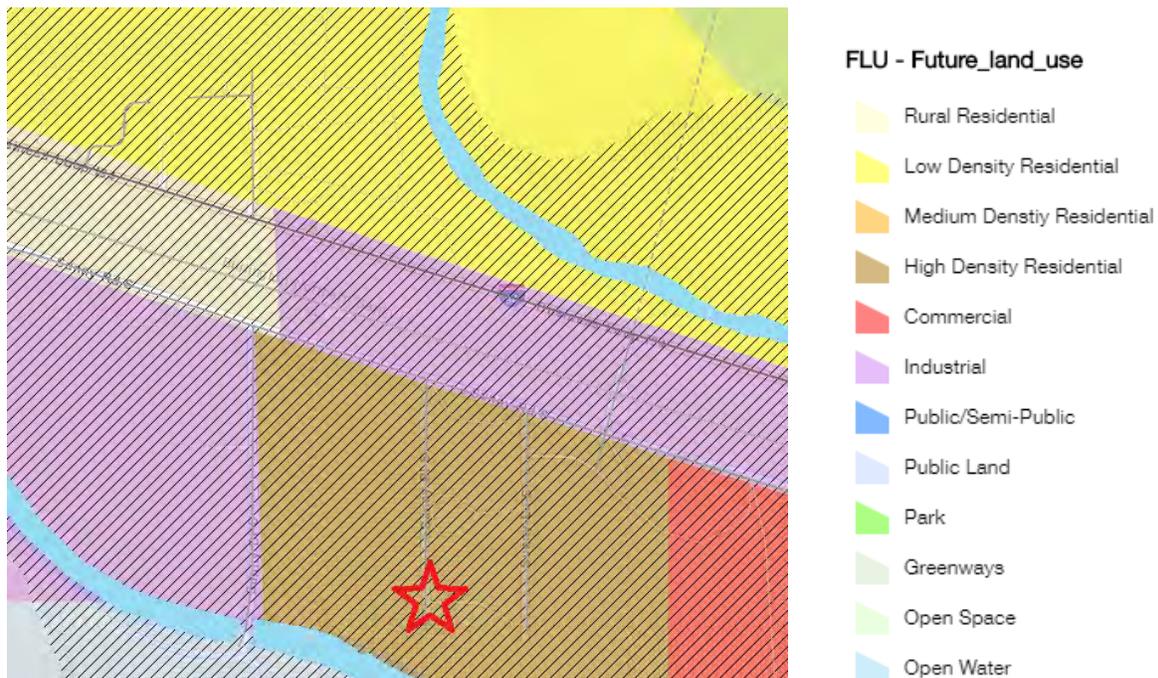
Subject: First consideration of Ordinance 1328 related to a zoning district amendment for a portion of property in the SW ¼ of Section 29, Township 139N, Range 81W.

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While Raymond Schaff's signature is on the letter, he has since joined in the application along with the other two applicants and no longer opposes the industrial rezoning of the area (See Exhibit 3).

The future land use designation for the property is high-density residential (see image below; red star marks area of rezone request).



The purple is industrial, red is commercial, and yellow is low-density residential. The hashed overlay denotes the 100-year floodplain.

Industrial zoning in the floodplain creates additional problems when floods occur. In the case of a junkyard, vehicle fluids and components from vehicles are more likely to produce environmental and public health/safety hazards than single-family dwellings.

Existing zoning in the area is largely R-7 residential and agriculture. There is a property that went through a commercial rezone in 2011 to the east of the applicant's property denoted by a star (see below red colored property).

Board of City Commissioners

Agenda Documentation

Meeting Date: October 1, 2019

Subject: First consideration of Ordinance 1328 related to a zoning district amendment for a portion of property in the SW ¼ of Section 29, Township 139N, Range 81W.

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-  Agriculture - Morton County
-  CA - Neighborhood Commercial
-  CB - Business Commercial
-  CC - Commercial/Light Industrial Transition
-  DC - Downtown Core
-  DF - Downtown Fringe
-  Industrial - Morton County
-  LSMHS - Trailer Park Subdivision
-  MA - Heavy Commercial/Light Industrial
-  MB - Heavy Commercial/Heavy Industrial
-  MC - Heavy Commercial/Light Industrial Restricted
-  MD - Heavy Commercial/Heavy Industrial Restricted
-  MHS - Trailer Park
-  PUD - Planned Unit Development
-  R3.2 - Residential Single & Two Family
-  R7 - Residential Single Family

If this zone change is approved, the industrial zoning designation will be entirely surrounded by R-7 residential. Industrial and residential uses are disharmonious and incompatible in close proximity, leading to complaints from land owners.

Finally, access to the majority of land that is part of this request is dependent on an access easement that passes through many of the property owners that have complained about the industrial activity occurring on Mr. Poole's property. A rezone to industrial would create the potential for heavier machinery and vehicles to access the property through the easement and damage the existing private gravel road.

In summary, staff is recommending denial of the proposed rezone for the reasons outlined in Exhibit 4.

Planning and Zoning Commission, at their August meeting, voted unanimously to recommend denial of the rezone.

Board of City Commissioners

Agenda Documentation

Meeting Date: October 1, 2019

Subject: First consideration of Ordinance 1328 related to a zoning district amendment for a portion of property in the SW ¼ of Section 29, Township 139N, Range 81W.

Page 4 of 4

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ATTACHMENTS:

Exhibit 1 – Neighbors’ Complaint

Exhibit 2 – Alex Poole Property Images

Exhibit 3 – Letter of Intent from Raymond Schaff

Exhibit 4 – Rationale for Recommendation of Denial

Exhibit 5 – Ordinance 1328

Exhibit 6 – Letter of Opposition from Jim and Charolette Sackman

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: This document, including Ordinance 1328, has been reviewed and approved by Attorney Brown.

RECOMMENDATION: The Engineering and Planning Department recommend denial of the first consideration of Ordinance 1328 per Exhibit 5 based on the reasons outlined in Exhibit 4.

SUGGESTED MOTION: I move to deny the first consideration of Ordinance 1328 per Exhibit 5 based on the reasons outlined in Exhibit 4.

# EXHIBIT 1

January 7, 2019

Morton County Planning and Zoning  
2916 37<sup>th</sup> St NW  
Mandan ND 58854

Dear Board Members:

We, the undersigned property owners, are writing regarding the issue with the property owned by Alexander Pool, parcel 410204000. The property in question has an accumulation of junk and junk vehicles. The property is considered to be residential. It should also be noted the property in question is also zoned flood plain. Our concern is that having a junk yard in our back yard will certainly devalue our properties.

Initially, we contacted Candy Fleck regarding this matter. Ms. Fleck did make contact with Mr. Pool and gave him a time frame to remove the junk. Mr. Pool did start to remove some of the junk but continued to bring more junk in. We have on numerous occasions been in contact with Candy Fleck and John Van Dyke regarding the cleanup of the property, however, the issue has not gotten resolved. Recently, we were told that this is not a city issue but rather a county issue. We contacted Commissioner Andy Zachmeier and on December 26<sup>th</sup>, 2018, Andy did come out to check out the property. He also contacted Candy Fleck, but was told that there is no documentation regarding this issue. Andy did agree that this needs to be addressed by the Morton County State's Attorney, Morton County Planning and Zoning Committee and the City of Mandan Planning and Zoning Committee.

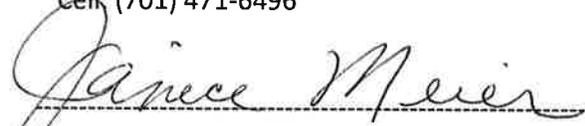
We are asking these three agencies to look into the matter and resolve the issue in a timely manner.

Thanks for your time and consideration.

  
\_\_\_\_\_  
Max Voigt  
2270 Sunny Rd S, Mandan ND 58554  
Cell: (701) 425-6924

  
\_\_\_\_\_  
Jim Sackman  
2278 Sunny Rd S, Mandan, ND  
Cell: (701) 471-6496

  
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Greg Wetch  
4072 Sunny Lane S, Mandan ND 58554  
Cell: (701) 391-3067

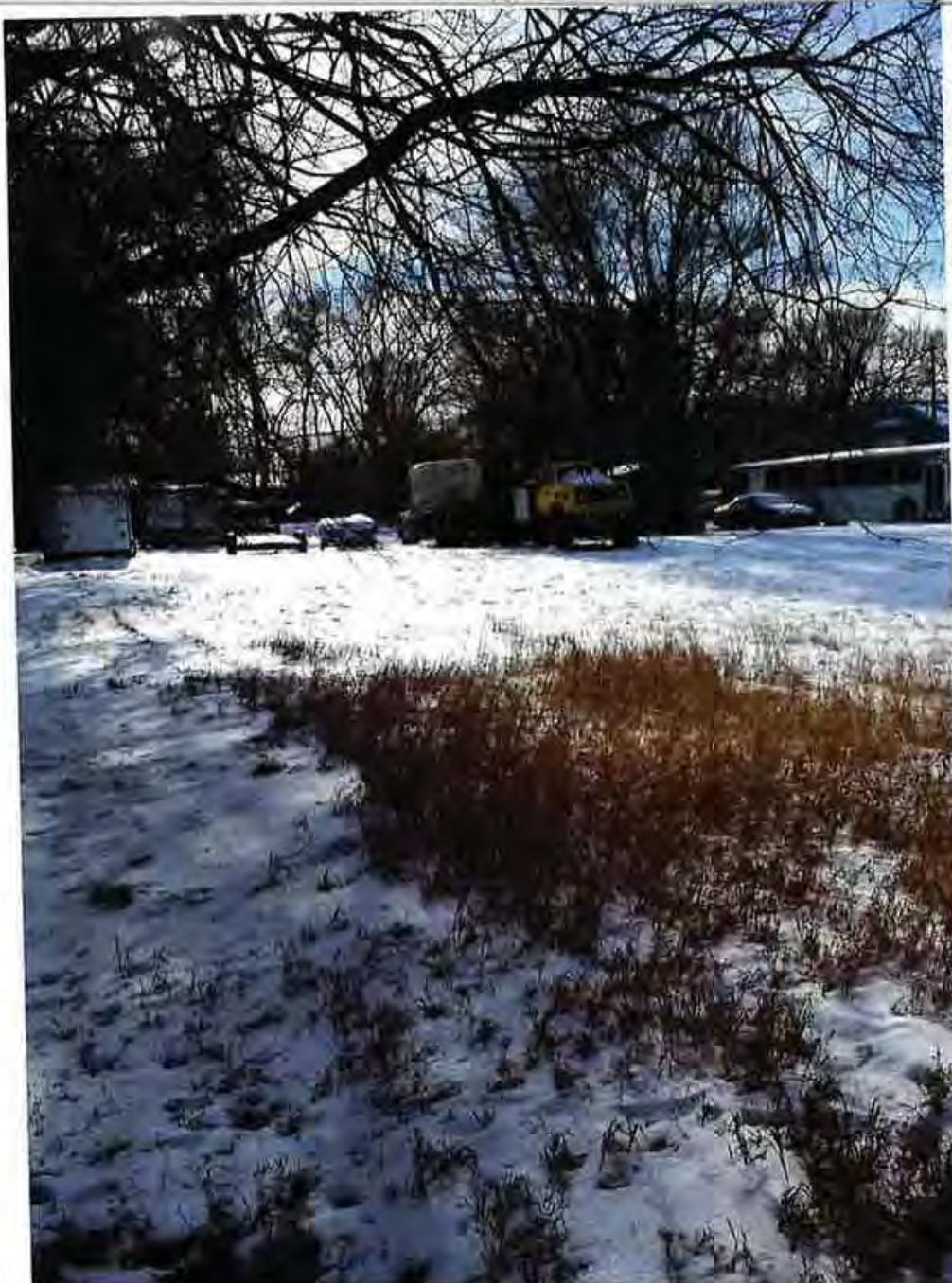
  
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Janice Meier  
4095 Sunny Ln S, Mandan ND 58554  
(701) 663-8130

cc: Morton County States Attorney  
210 2<sup>nd</sup> Ave NW, Mandan ND 58554

John Van Dyke  
Engineering and Planning Director  
205 Second Ave NW, Mandan ND 58554

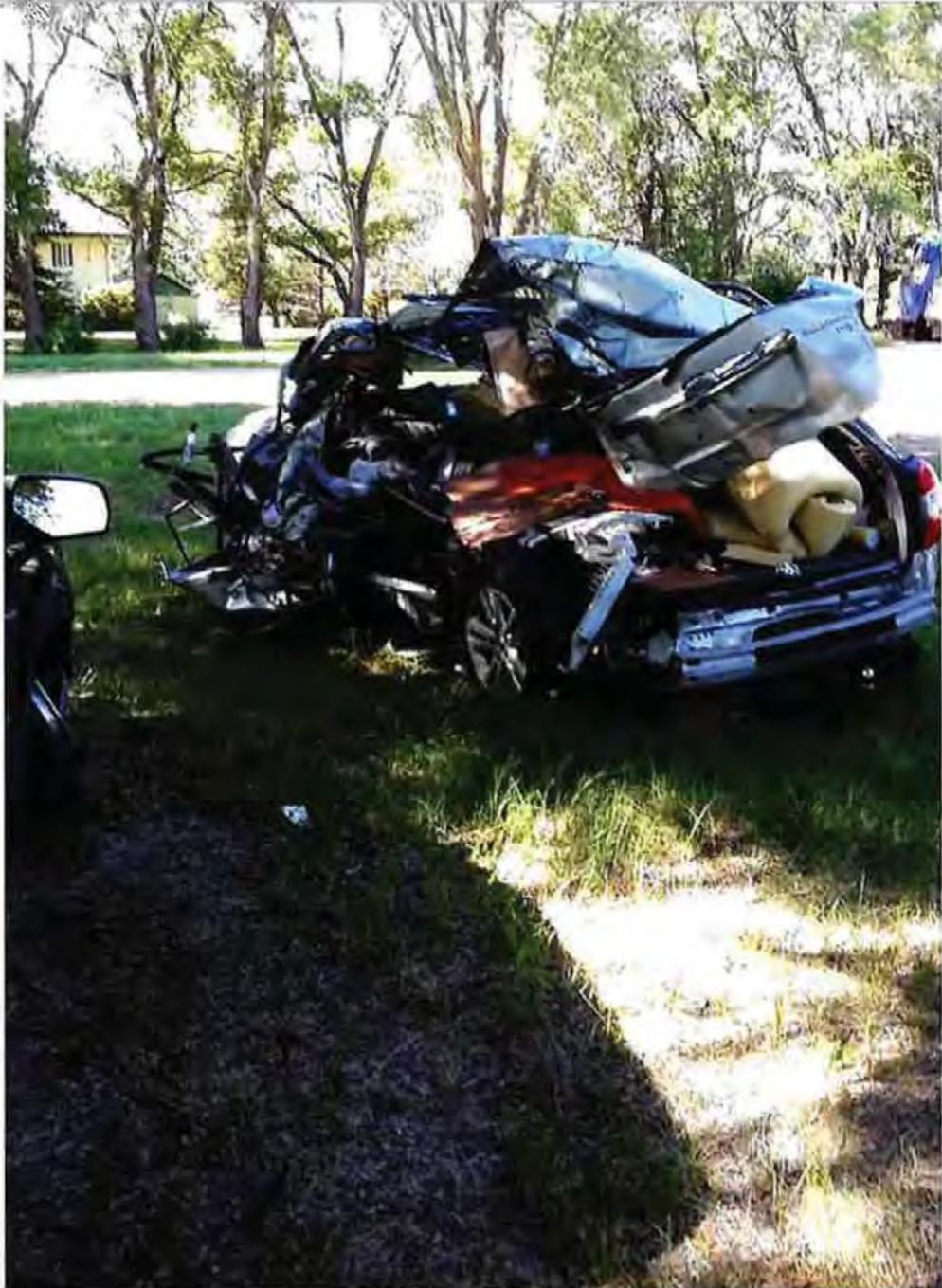












# EXHIBIT 3

Property of Raymond Schaff

The property has been used as a trucking terminal for 50 years. A large heated shop, capable of holding up to four semi-tractors is located on the property. The shop is used to store the trucks and fix them, as needed. The trucks deliver a variety of agricultural and other goods both short and long-haul distances.

## Exhibit 4 - Rationale for Denial

- The Land Use and Transportation Plan of the City of Mandan denotes a land use of high-density residential; not industrial
- Industrial uses, such as junkyards, when located in the floodplain can have additional adverse effects on the environment and public health/safety compared with residential uses due to the amount and type of outdoor storage present in the event of a flood (vehicle fluids, additional debris becoming waterborne, etc.)
- Many neighbors oppose the existing use presently exercised by Mr. Poole (wrecking service).
- The access serving the applicant's properties are gravel roads established by easement only. These roads pass through the properties of several of the property owners that oppose the uses that would be allowed if this rezone request was approved.
- While there are industrial/commercial uses in the vicinity, none of these are directly adjacent to the properties part of the rezone request. A zoning designation of MB Industrial (heavy industrial) would be surrounded by R-7 Residential (single-family) zoning. These two zones are disharmonious, incompatible zoning districts and likely to create complaints from residents of the area.

# EXHIBIT 5

## ORDINANCE NO. 1328

### **AN ORDINANCE TO AMEND AND REENACT SECTION 105-2-2 OF THE MANDAN CODE OF ORDINANCES RELATING TO DISTRICT BOUNDARIES AND ZONING MAP.**

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

**SECTION 1. AMENDMENT.** Section 105-2-2 of the Mandan Code of Ordinances is amended to read as follows:

The following described properties shall be excluded from the R7 Residential District and included in the MB Industrial District:

1. Lot "B" of Lot One (1) of Lot "E" of the Southwest Quarter (SW1/4) of Section Twenty-Nine (29), Township One Hundred Thirty-Nine (139), Range Eighty-One West (81) of the Fifth Principal Meridian, Morton County, North Dakota.
2. The North 280' of Lot "C" of Lot 1 of Auditor's Lot "E" of the SW1/4 of Section 29, Township 139 North, Range 81 West of the 5th Principal Meridian, Morton County, North Dakota. -AND- Lot "C", LESS the North 280' thereof and Lot D, LESS that portion of said Lot lying East of a line 218' West of the East line of said lot and South of a line 417' South of the North line of said Lot; both in Lot 1 of Auditor's Lot E of the SW1/4 of Section 29, Township 139 North, Range 81 West of the 5th Principal Meridian, Morton County, North Dakota.
3. Lot "A" Auditor's Subdivision of the SW1/4 of Section 29, Township 139 North, Range 81 West of the Fifth Principal Meridian, Morton County, North Dakota, more particularly described on Plat recorded in Book 4, Auditor's Plats, page 16, LESS the West 50 feet of all that part of the SW1/4, which line south of the Northern Pacific Railway and is bounded on the West by the West boundary line of said Quarter Section and on the East by a line parallel to aforesaid line and distant 796 feet therefrom and on the North by the Right of Way of said Northern Pacific Railway and on the South by the middle of the old bed of the Heart River, and LESS Lot "A" of Lot "A" of the SW1/4, of Section 29, Township 139 North, Range 81 West of the Fifth Principal Meridian, Morton County, North Dakota, as more particularly described on Plat recorded in Book 4, Auditor's Plats, Page 28; and LESS Lot "B" of Lot "A" of the SW1/4 of Section 29, Township 139 North, Range 81 West of the Fifth Principal Meridian, Morton County, North Dakota, as more particularly described on Plat recorded in Book 7, Auditor's Plats, Page 177; and LESS Lot "C" of Lot "A" of the SW1/4 of Section 29, Township 139 North, Range 81 West of the Fifth Principal Meridian, Morton County, North Dakota, as more particularly described on Plat recorded as Doc. No. 431254.

**SECTION 2. RE-ENACTMENT.** Section 105-2-2 of the Mandan Code of Ordinances is hereby re-enacted as amended. The city principal planner is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

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

Attest:

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

Planning and Zoning Commission:  
First Consideration:  
Second Consideration and Final Passage:  
Recording Date:

August 26, 2019

October 1, 2019

October 15, 2019

\_\_\_\_\_

November 5, 2019

## EXHIBIT 6

Dear Commissioners,

I really wanted to be at this meeting to read this letter, but unfortunately I'll be out of town. I already had my plane tickets.

Good evening Commissioners,

My name is Charolette Sackman and I live at 2278 Sunny Road South, I strongly opposed any zoning change that you are thinking of giving Alex Pool. We've lived at our residence for over 40 years, as most of our neighbors have, and we have all gotten along very well. We knew what was allowed when we moved there. We knew it was R7 residential and we want it to stay R7 residential.

As to the train noise they keep referring to, we knew the train was there when we moved, we also knew it was a residential area. Alex Pool knew as did his other 2 neighbors that this was an R7 residential area, he should have done his homework before he bought the place, but he thought he could just do whatever he wanted.

Two days after the Planning and Zoning meeting on August 26, 2019 where he applied for a zoning change and was 100 percent denied, two days later on August 28, 2019 Pool filed a complaint against us with the Sheriff's Department, the sheriff came to our house and told us Pool had accused us of harassing him, coming down the road to his house, parking near his house, taking pictures, and making obscene gestures, that we yelled at him and took off in a vehicle and that we are causing him to be harassed, that's a downright lie and he knows it, (whose being harassed?) on September 2, 2019 we went to the Sheriff's department and filed a letter with them about his **false accusations** and our understanding is that all of you were given the Sheriff's report and our letter so you know it's not made up. Yet this is on record at the Sheriff's department that he said we said and did things we **absolutely did not do**. I have a copy if you didn't receive one.

We have Dixon trucking to the west of us who said they would not come down the frontage road when they were loaded and would come in from the west to their shop. 24 7 they go by our houses loaded and unloaded, not at a slow speed either. We have Fleck trucking to the east of our house who said he just wanted a shop and a couple trucks. It was R7 residential when he bought it and we the neighbors agreed to a shop and a couple trucks, drive out and take a look at what he has done to the land and what's going on there, we have truckers to the west and east and now Alex Pool and two others want a zoning change to the south of us, we want it to stay R7 residential.

As to Pool saying Ray Schaff's shop will be of no use to whoever buys his place. Look at other residential housing areas that have those big shops they use them for campers, boats and their other toys.

After 40 years of working and now retired we want to enjoy what we've worked all these years for, as our neighbors do, and you want us to believe Pool will abide by what you say he can do in a zoning change. I'm hoping our voices are being heard and that there is **no zoning change**. Just because someone finds a little land and buildings in a residential area to serve their purpose, why does it give them the right to a zoning change to do whatever they choose to do with no regard to what all of us have to say?

**Jim and my answer is definitely no to any zoning change and we want it to stay R7 residential.**

Thank you!

Charolette Sackman



Consent No. 1

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 29, 2019  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** Consider Approval of Meadow Ridge 4<sup>th</sup> Addition Final Plat

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**STATEMENT/PURPOSE:** Consider approval of Meadow Ridge 4<sup>th</sup> Addition final plat.

**BACKGROUND/ALTERNATIVES:** Mike Wachter on behalf of WW Ranch, a Limited Partnership is seeking approval for a final plat of Meadow Ridge 4<sup>th</sup> Addition. The preliminary plat, rezone to RM-multifamily residential, and masterplan were discussed and approved earlier this year. The adjacent property owners desired and the developer was willing to restrict the property to single and twin-home construction.

Each lot is likely to be divided at a future date when building placement is determined for each residential structure.

Staff is recommending approval of the final plat as presented in Exhibit 1.

Planning and Zoning Commission unanimously approved the final plat as presented in Exhibit 1 at the October 28 meeting.

**ATTACHMENTS:**

Exhibit 1 – Meadow Ridge 4<sup>th</sup> Addition Final Plat

**FISCAL IMPACT:** N/a

**STAFF IMPACT:** N/a

**LEGAL REVIEW:** This document has been reviewed and approved by the City Attorney.

Board of City Commissioners

Agenda Documentation

Meeting Date: November 5, 2019

Subject: Consider Approval of Meadow Ridge 4<sup>th</sup> Addition Final Plat

Page 2 of 2

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**RECOMMENDATION:** The Planning and Zoning Commission recommend approval of the final plat for Meadow Ridge 4<sup>th</sup> Addition as presented in Exhibit 1.

**SUGGESTED MOTION:** I move to approve the final plat for Meadow Ridge 4<sup>th</sup> Addition as presented in Exhibit 1.





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 21, 2019  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from Russel C Kruger

---

**STATEMENT/PURPOSE:** To consider a reduction in the 2019 value of the property at 718 W Main Street owned by Russel C Kruger.

**BACKGROUND/ALTERNATIVES:** This parcel is also known as parcel #65-2389000 with a legal description of Lots 12-15 Block 13 Mandan Proper (OT).

Reason for abatement: to correct the 2019 full & true value. Owner requested a review of 2019 full & true value. A physical inspection was conducted by office staff. We changed the occupancy of the addition that was added in 1978 to shop with living quarters over.

**ATTACHMENTS:** Application for Abatement

**ESTIMATED FISCAL IMPACT:** All taxing entities = \$474.73, City share = \$112.02

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Reviewed by City Attorney Brown.

**RECOMMENDATION:** I recommend a motion to approve the abatement for Russel C Kruger at 718 W Main Street.

**SUGGESTED MOTION:** A motion to approve the abatement as presented for 718 W Main Street.



Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

State of North Dakota Assessment District CITY OF MANDAN
County of MORTON Property I.D. No. 65-2389000
Name RUSSEL KRUGER Telephone No.
Address 902 3RD STREET NW MANDAN ND 58554

Legal description of the property involved in this application:
LOTS 12-15 BLOCK 13 MANDAN PROPER (OT)
718 W MAIN STREET

Table with 2 columns: 'Total true and full value of the property described above for the year 2019 is:' and 'Total true and full value of the property described above for the year 2019 should be:'. Rows include Land, Improvements, and Total values.

The difference of \$ 35,800.00 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
2. Residential or commercial property's true and full value exceeds the market value
3. Error in property description, entering the description, or extending the tax
4. Nonexisting improvement assessed
5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
6. Duplicate assessment
7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
8. Error in noting payment of taxes, taxes erroneously paid
9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application
10. Other (explain)

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.
1. Purchase price of property: \$ Date of purchase:
Terms: Cash Contract Trade Other (explain)
Was there personal property involved in the purchase price? Estimated value \$
2. Has the property been offered for sale on the open market? If yes, how long?
Asking price: \$ Terms of sale:
3. The property was independently appraised: Purpose of appraisal
Market value estimate: \$
Appraisal was made by whom?
4. The applicant's estimate of market value of the property involved in this application is \$
5. The estimated agricultural productive value of this property is excessive because of the following condition(s):

Applicant asks that ADJUST VALUE TOO HIGH FOR THIS BUILDING.

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) Date Signature of Applicant Date



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 22, 2019  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from Gordon & Ione Eckroth

---

**STATEMENT/PURPOSE:** To consider reduction to the 2019 value of the property at 802 Collins Avenue.

**BACKGROUND/ALTERNATIVES:**

This parcel is also known as parcel #65-3650000 with a legal description of Block B N.P. 1<sup>st</sup>.

Reason for abatement: Owner requested a review of the 2019 assessed value. A physical inspection was conducted by office staff. The grade of the property was changed per the Vanguard manual.

**ATTACHMENTS:** Application for Abatement

**ESTIMATED FISCAL IMPACT:** All taxing entities = \$643.13, City share = \$151.76

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Reviewed by City Attorney Brown

**RECOMMENDATION:** I recommend a motion to approve the abatement for Gordon & Ione Eckroth at 802 Collins Avenue.

**SUGGESTED MOTION:** A motion to approve the abatement as presented for 802 Collins Avenue.

# Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

State of North Dakota Assessment District CITY OF MANDAN  
County of MORTON Property I.D. No. 65-3650000  
Name ECKROTH/GORDON & IONE Telephone No. \_\_\_\_\_  
Address 2118 MARIAN DR BISMARCK ND 58501

Legal description of the property involved in this application:

BLOCK B N.P. 1ST

Total true and full value of the property described above for the year 2019 is:

Land \$ 25,000  
Improvements \$ 223,100  
Total \$ 248,100  
(1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 25,000  
Improvements \$ 174,600  
Total \$ 199,600  
(2)

The difference of \$ 48,500.00 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application
- 10. Other (explain) \_\_\_\_\_

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5

1. Purchase price of property: \$ \_\_\_\_\_ Date of purchase: \_\_\_\_\_  
Terms: Cash \_\_\_\_\_ Contract \_\_\_\_\_ Trade \_\_\_\_\_ Other (explain) \_\_\_\_\_  
Was there personal property involved in the purchase price? \_\_\_\_\_ Estimated value: \$ \_\_\_\_\_  
yes/no
2. Has the property been offered for sale on the open market? \_\_\_\_\_ If yes, how long? \_\_\_\_\_  
yes/no  
Asking price: \$ \_\_\_\_\_ Terms of sale: \_\_\_\_\_
3. The property was independently appraised: \_\_\_\_\_ Purpose of appraisal: \_\_\_\_\_  
yes/no  
Market value estimate: \$ \_\_\_\_\_  
Appraisal was made by whom? \_\_\_\_\_
4. The applicant's estimate of market value of the property involved in this application is \$ \_\_\_\_\_
5. The estimated agricultural productive value of this property is excessive because of the following condition(s): \_\_\_\_\_

Applicant asks that LOWER VALUE TOO HIGH FOR THIS BUILDING.

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) \_\_\_\_\_

Date \_\_\_\_\_

Signature of Applicant Jane Eckroth

Date 10-18-2019



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 22, 2019  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from Joel & Kristine Winckler

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**STATEMENT/PURPOSE:** To consider reduction of the 2019 value of the property at 301 4<sup>th</sup> Avenue NW.

**BACKGROUND/ALTERNATIVES:**

This parcel is also known as parcel #65-2729000 with a legal description of E 85' of Lot 6 Block 40 Mandan Proper (OT).

Reason for abatement: Owner requested a review of the 2019 full & true value. Mr. Winckler purchased the property in August 2019. A physical inspection of the property was conducted. The property is currently unlivable. Owner is currently working on the many repairs that are needed before the property can be rented again. We recommend lowering the value until the repairs are completed.

**ATTACHMENTS:** Application for Abatement

**ESTIMATED FISCAL IMPACT:** All taxing entities = \$293.59, City share = \$69.28

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Reviewed and approved by City Attorney Brown.

**RECOMMENDATION:** I recommend a motion to approve the abatement for 2019 Full & True Value for Joel & Kristine Winckler at 301 4<sup>th</sup> Avenue NW.

**SUGGESTED MOTION:** A motion to approve the abatement as presented for Joel & Kristine Winckler at 301 4<sup>th</sup> Avenue NW.

# Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

State of North Dakota Assessment District CITY OF MANDAN  
County of MORTON Property I.D. No. 65-2729000  
Name WINCKLER/JOEL & KRISTINE Telephone No. \_\_\_\_\_  
Address 200 2ND ST NW MANDAN ND 58554

Legal description of the property involved in this application:

E 85' LOT 6 BLOCK 40 MANDAN PROPER (OT)

Total true and full value of the property described above for the year 2019 is:

Land \$ 12,500  
Improvements \$ 55,700  
Total \$ 68,200  
(1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 12,500  
Improvements \$ 31,100  
Total \$ 43,600  
(2)

The difference of \$ 24,600.00 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g)).
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application
- 10. Other (explain) \_\_\_\_\_

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.

1. Purchase price of property: \$ \_\_\_\_\_ Date of purchase: \_\_\_\_\_  
Terms: Cash \_\_\_\_\_ Contract \_\_\_\_\_ Trade \_\_\_\_\_ Other (explain) \_\_\_\_\_  
Was there personal property involved in the purchase price? \_\_\_\_\_ Estimated value: \$ \_\_\_\_\_  
yes/no
2. Has the property been offered for sale on the open market? \_\_\_\_\_ If yes, how long? \_\_\_\_\_  
yes/no  
Asking price: \$ \_\_\_\_\_ Terms of sale: \_\_\_\_\_
3. The property was independently appraised: \_\_\_\_\_ Purpose of appraisal: \_\_\_\_\_  
yes/no  
Market value estimate: \$ \_\_\_\_\_  
Appraisal was made by whom? \_\_\_\_\_
4. The applicant's estimate of market value of the property involved in this application is \$ \_\_\_\_\_
5. The estimated agricultural productive value of this property is excessive because of the following condition(s): \_\_\_\_\_

Applicant asks that ADJUST VALUE. SALES PRICE WAS LOWER THAN ASSESSED VALUE.

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) \_\_\_\_\_

Date \_\_\_\_\_

Signature of Applicant Joel S. Winckler

Date 10-15-19



Consent No. 2iv

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 24, 2019  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from Wilhelm & Leona Koch

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**STATEMENT/PURPOSE:** To consider reduction to the 2019 value of the property at 1008 21<sup>st</sup> Street SE

**BACKGROUND/ALTERNATIVES:** This parcel is also known as parcel #65-4215160 with a legal description of Lot 16 Block 1 Plainview Heights 3<sup>rd</sup>.

Reason for abatement: Owner requested a review of the 2019 assessed value. A physical inspection was conducted by office staff. It was discovered that information from another parcel was applied to this parcel. Corrections were made to the grade. The value of the deck, patio, bathroom and fireplace were removed.

**ATTACHMENTS:** Application for Abatement

**ESTIMATED FISCAL IMPACT:** All taxing entities = \$147.99, City share = \$34.92

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Reviewed by City Attorney Brown

**RECOMMENDATION:** I recommend a motion to approve the abatement for Wilhelm and Leona Koch at 1008 21<sup>st</sup> Street SE.

**SUGGESTED MOTION:** A motion to approve the abatement as presented for Wilhelm and Leona Koch at 1008 21<sup>st</sup> Street SE.

# Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

State of North Dakota Assessment District CITY OF MANDAN  
County of MORTON Property I.D. No. 65-4215160  
Name KOCH/WILHELM & LEONA Telephone No. \_\_\_\_\_  
Address 1008 21ST ST SE MANDAN ND 58554

Legal description of the property involved in this application:

LOT 16 BLOCK 1 PLAINVIEW HEIGHTS 3RD

Total true and full value of the property described above for the year 2019 is:

Land \$ 35,000  
Improvements \$ 202,700  
Total \$ 237,700  
(1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 35,000  
Improvements \$ 190,300  
Total \$ 225,300  
(2)

The difference of \$ 12,400.00 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- 10. Other (explain) \_\_\_\_\_

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.

1. Purchase price of property: \$ \_\_\_\_\_ Date of purchase: \_\_\_\_\_  
Terms: Cash \_\_\_\_\_ Contract \_\_\_\_\_ Trade \_\_\_\_\_ Other (explain) \_\_\_\_\_  
Was there personal property involved in the purchase price? \_\_\_\_\_ Estimated value: \$ \_\_\_\_\_  
yes/no
2. Has the property been offered for sale on the open market? \_\_\_\_\_ If yes, how long? \_\_\_\_\_  
yes/no  
Asking price: \$ \_\_\_\_\_ Terms of sale: \_\_\_\_\_
3. The property was independently appraised: \_\_\_\_\_ Purpose of appraisal: \_\_\_\_\_  
yes/no  
Market value estimate: \$ \_\_\_\_\_  
Appraisal was made by whom? \_\_\_\_\_
4. The applicant's estimate of market value of the property involved in this application is \$ \_\_\_\_\_
5. The estimated agricultural productive value of this property is excessive because of the following condition(s): \_\_\_\_\_

Applicant asks that CORRECT INFORMATION AND VALUE OF THE PROPERTY.

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant)

Date

Wilhelm Koch

Signature of Applicant

21 Oct 19

Date



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 22, 2019  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from Deborah Kates

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**STATEMENT/PURPOSE:** To consider reduction to the 2019 value of the property at 310 2<sup>nd</sup> Street NE

**BACKGROUND/ALTERNATIVES:**

This parcel is also known as parcel #65-2634000 with a legal description of E 70' Lot 6 Block 33 Mandan Proper OT

Reason for abatement: Owner requested a review of the 2019 assessed value. Ms. Kates purchased the property in October 2019. A physical inspection was conducted by office staff. The interior of the house is in poor condition. Deck was removed. The garage roof needs to be replaced.

**ATTACHMENTS:** Application for Abatement

**ESTIMATED FISCAL IMPACT:** All taxing entities = \$472.60, City share = \$111.52

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Reviewed by City Attorney Brown

**RECOMMENDATION:** I recommend a motion to approve the abatement for Deborah Kates at 310 2<sup>nd</sup> Street NE.

**SUGGESTED MOTION:** A motion to approve the abatement as presented for Deborah Kates at 310 2<sup>nd</sup> Street NE.





Consent No. 2vi

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 22, 2019  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Abatement application from Tom S & Cherie L Freidt

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**STATEMENT/PURPOSE:** To consider reduction to the 2019 value of the property at 1372 14<sup>th</sup> Street SE

**BACKGROUND/ALTERNATIVES:**

This parcel is also known as parcel #65-4283300 with a legal description of Lot 2 Block 1 Rippels 5<sup>th</sup> Addition Replat of Lot 2 Block 1

Reason for abatement: Mr. Freidt requested a review of Lots 1, 2 & 3 Block 1 Rippels 5<sup>th</sup> Addition Replat of Lot 2 Block 1. The plat was filed in 2018. The building and lot values were not assessed to the correct parcels for 2019. The twin home should have been split between lots 1 & 2. There are storage units on lot 3.

**Lot 1** was only assessed for land. I have submitted information to Morton County to add the correct building and lot value to this parcel through the omitted property process. This side of the twin homes was only partial complete for 2019.

**Lot 2** was assessed for all of the twin home. This abatement will correct the 2019 value.

**Lot 3** land value was not correct. I have submitted information to Morton County to add the correct lot value to this parcel through the omitted property process.

**ATTACHMENTS:** Application for Abatement & North Dakota Century Code 57-14

**ESTIMATED FISCAL IMPACT:** All taxing entities = \$3310.62, City share = \$781.19

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Reviewed by City Attorney Brown

Board of City Commissioners

Agenda Documentation

Meeting Date: November 5, 2019

Subject: Abatement application for Tom S & Cherie L Freidt

Page 2 of 2

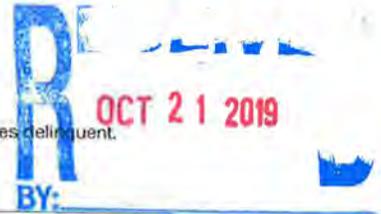
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RECOMMENDATION: I recommend a motion to approve the abatement for Tom S & Cherie L Freidt at 1372 14<sup>th</sup> Street SE.

SUGGESTED MOTION: A motion to approve the abatement as presented for Tom S & Cherie L Freidt at 1372 14<sup>th</sup> Street SE

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04



File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

State of North Dakota Assessment District City of Mandan
County of Morton Property I.D. No. 65-4283300
Name Tom S + Cherise L Frensdorf Telephone No.
Address 1372 14th St SE Mandan ND 58554

Legal description of the property involved in this application:

lot 2 block 1 Rippels 5th addn Replat Lot 2 Block 1

Total true and full value of the property described above for the year 2019 is:

Land \$ 57,000
Improvements \$ 505,800
Total \$ 562,800 (1)

Total true and full value of the property described above for the year 2019 should be:

Land \$ 32500
Improvements \$ 252900
Total \$ 285400 (2)

The difference of \$ 277,400 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
2. Residential or commercial property's true and full value exceeds the market value
3. Error in property description, entering the description, or extending the tax
4. Nonexisting improvement assessed
5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
6. Duplicate assessment
7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
8. Error in noting payment of taxes, taxes erroneously paid
9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
10. Other (explain)

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.

1. Purchase price of property: \$ Date of purchase:
Terms: Cash Contract Trade Other (explain)
Was there personal property involved in the purchase price? Estimated value: \$
2. Has the property been offered for sale on the open market? If yes, how long?
Asking price: \$ Terms of sale:
3. The property was independently appraised: Purpose of appraisal:
Market value estimate: \$
Appraisal was made by whom?
4. The applicant's estimate of market value of the property involved in this application is \$
5. The estimated agricultural productive value of this property is excessive because of the following condition(s):

Applicant asks that parcels be reviewed after plat was filed.

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) Date Signature of Applicant Date 10-21-19

**CHAPTER 57-14**  
**CORRECTION OF ASSESSMENTS OF PROPERTY**

**57-14-01. Duty of county auditor upon discovery of clerical error, omission, or false statement in assessment.**

Whenever the county auditor discovers that:

1. Taxable real property has been omitted in whole or in part in the assessment of any year or years;
2. Any building or structure has been listed and assessed against a lot or tract of land other than the true site or actual location of such building;
3. The assessor has not returned the full amount of all property required to be listed in the district or has omitted property subject to taxation; or
4. The assessor has made a clerical error in valuing real property, provided the assessor furnishes the county auditor with a written statement describing the nature of the error, which statement the county auditor shall keep on file,

the county auditor shall proceed to correct the assessment books and tax lists in accordance with the facts in the case and shall correct such error or omission in assessment, and shall add such omitted property and assess it at its true and full value, and if a building or other structure, assessed as real estate in the assessment thereof, is described as though situated upon a lot or tract of land other than that upon which it in fact is situated, the county auditor shall correct the description and add the assessment thereof to the assessment of the lot upon which it actually is located, if the rights of a purchaser for value without actual or constructive notice of such error or omission are not prejudiced by such correction, addition, or assessment.

**57-14-02. Notice to be given.**

The county auditor shall give notice by mail to the person who owns or is in possession of any omitted property, or to that person's agent, of the county auditor's action in adding property upon the assessment books and shall describe the property and notify such person to appear before the county auditor at the county auditor's office at a specified time within fifteen days after the date of mailing such notice, to show cause, if any, why such property should not be added to the assessment rolls or such other correction made.



# SMALL BUSINESS SATURDAY PROCLAMATION



**Whereas**, the government of the City of Mandan, North Dakota celebrates our local small businesses and the contributions they make to our local economy and community; and

**Whereas**, small businesses employ 47.3 percent of the employees in the private sector in the United States; and

**Whereas**, 94% of consumers in the United States value the contributions small businesses make in their community; and

**Whereas**, 96% of consumers who plan to shop on Small Business Saturday® said the day inspires them to go to small, independently-owned retailers or restaurants that they have not been to before, or would not have otherwise tried; and

**Whereas**, 92% of companies planning promotions on Small Business Saturday said the day helps their business stand out during the busy holiday shopping season; and

**Whereas**, 59% of small business owners said Small Business Saturday contributes significantly to their holiday sales each year; and

**Whereas**, Mandan, North Dakota supports our local businesses that create jobs, boost our local economy and preserve our communities; and

**Whereas**, advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

**Now, Therefore**, I, Tim Helbling, Mayor of Mandan, North Dakota do hereby proclaim, November 30, 2019, as:

## ***SMALL BUSINESS SATURDAY***

**And** urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

---

Tim Helbling  
Mayor of Mandan



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** Nov. 5, 2019  
**PREPARATION DATE:** Oct. 31, 2019  
**SUBMITTING DEPARTMENT:** Business Development & Communications  
**DEPARTMENT DIRECTOR:** Ellen Huber  
**PRESENTER:** Ellen Huber, Business Development & Communications Department  
**SUBJECT:** Request for Flex PACE letter of support by River Partners, Inc.

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**STATEMENT/PURPOSE:** To consider providing a letter of support to the N.D. Opportunity Fund (NDOF) loan committee for a loan to finance a building remodel and equipment purchases by River Partners, Inc.

**BACKGROUND/ALTERNATIVES:** Mandan is part of a consortium of 38 North Dakota municipalities that received funding from the U.S. Treasury Department for a loan participation program marketed as the N.D. Opportunity Fund (NDOF). The NDOF loan committee will consider applications for repayable loans for the required community share of an interest buydown. The interest buydowns are made available through the Bank of North Dakota (BND) PACE and Flex PACE programs. The loan committee needs to receive documentation of community support for use of an interest buydown to assist the particular business or project. A letter from a city commission confirms that a business project provides community benefit and has the support of the governing entity.

River Partners, Inc., is planning to remodel a building at 2501 Pirates Loop SE (most recently known as Rock Point) and update equipment for the purpose of operating a full-service restaurant for all ages. There are four partners in the business: Michelle Kaufman, Steve Kaufman, Elizabeth Sanda and Stephen Vetter.

The project will allow for a higher and better use of the property that is more amenable to the surrounding residential neighborhoods and that better capitalizes on its riverfront location. Total project costs are estimated at approximately a half million dollars. The partners are seeking to reduce the interest rate on a \$265,767 loan toward the project. Based on a BND buydown schedule, the required 35 percent community match is \$10,401.20. They plan to seek this amount as a repayable loan from the NDOF.

Board of City Commissioners

Agenda Documentation

Meeting Date: Nov. 5, 2019

Subject: Consider providing a Flex PACE letter of Support for River Partners, Inc.

Page 2 of 5

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ATTACHMENTS: 1) River Partners Flex PACE request 2) Conditional lender letter of approval  
3) Buydown schedule 4) Proposed letter of support.

FISCAL IMPACT: n/a

STAFF IMPACT: Minimal

LEGAL REVIEW: Attorney Brown has reviewed all information.

RECOMMENDATION: I recommend the City Commission provide a letter of support for an interest buydown to River Partners, Inc. to accommodate a building remodel and equipment purchases for operation of a full-service restaurant.

SUGGESTED MOTION: I move to approve providing a letter of support for an interest buydown to River Partners, Inc. to accommodate a building remodel and equipment purchases for operation of a full-service restaurant.

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## RIVER PARTNERS, INC.

(701) 516-3398

**October 23, 2019**

Mandan City Commission  
205 Second Avenue NW  
Mandan, ND 58554

**Dear Mandan City Commission:**

River Partners, Inc. is looking to open a family friendly restaurant located at 2501 Pirates Loop SE, Mandan, ND 58554. The incorporation is founded by four partners, whom will be involved in the renovation and day-to-day operations once open. The establishment will be a full-service restaurant and bar for all ages, with the anticipation of in-house events to help create a fun option for the Mandan community.

The intended costs for the project is \$502,950.00. This cost covers the remodel of the interior/exterior of the building. Exterior revisions include patching siding, soffit & fascia, replacement of fence, retaining wall, and patio. Interior revisions include the expansion of kitchen, layout of bar, and separation of dining and cocktail sections. In addition, this loan will be used to purchase updated equipment for the kitchen, including all serving supplies, as well as all dining & dining room necessities.

The total investment for the proposed project is capped at \$502,950.00. The establishment will create an estimated 30-35 jobs. The restaurant will currently be the only family-oriented restaurant on the river in Mandan, ND. Being structured accordingly gives the surrounding developments, housing, and community a welcoming and child friendly option in their backyard.

Sincerely,

**River Partners, Inc.**

Michelle Kaufman | Steve Kaufman | Elizabeth Sanda | Stephen Vetter





10/25/19

River Partners, INC  
Attn: Michelle Kaufman  
2500 Pirates Loop Se  
Mandan, ND 58554

**Re: Leasehold Improvements and Inventory/Equipment: 2500 Pirates Loop, Mandan, AKA "The Paddle Trap"**

To whom it may concern:

First International Bank and Trust has entered into discussions with River Partners, INC regarding the leasehold improvements and Inventory/Equipment financing for their project located at 2500 Pirates Loop SE, Mandan, ND soon to be renamed "The Paddle Trap". The current request for the permanent financing of the leasehold improvements and Inventory/Equipment purchases would fit within the typical criteria of what we would consider a desirable loan here at the bank based on the information provided. The following terms have been provided as a guideline to what we might be able to offer.

**Leasehold Improvements/Permanent Financing:**

**Loan Amount:** \$265,767  
**Interest Rate:** Fixed Rate of 6%  
**Term and payment:** 60 months, Interest only payments for 6 months during construction, P&I payments thereafter.  
**Collateral:** 2<sup>nd</sup> Mortgage on two residential properties and all business assets.  
**Fees:** Loan origination fee of 1% plus all hard costs associated with financing.

**Operating Line of Credit:**

**Loan Amount:** \$100,000  
**Interest Rate:** Variable rate based on Wall Street Prime Rate plus 1.5%  
**Term and payment:** 12 months revolving line of credit, Interest only payments  
**Collateral:** 2<sup>nd</sup> Mortgage on two residential properties and all business assets  
**Fees:** \$150 document fee plus all hard costs associated with financing.

Nothing contained herein shall be construed to include the Bank as principal, partner, shareholder, agent, joint venturer or employee of the Borrower in this project. Borrower acknowledges that no fiduciary relationship exists or has been established between Bank and Borrower. The above mentioned discussion is subject to a complete due diligence by First International Bank & Trust, execution of satisfactory loan documentation, and other loan closing requirements. The

Board of City Commissioners

Agenda Documentation

Meeting Date: Nov. 5, 2019

Subject: Consider providing a Flex PACE letter of Support for River Partners, Inc.

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conditions above would be contingent on establishing a deposit relationship to manage the operating account and maintenance reserves associated with this project, as well as obtaining approval of the Bank of ND participation program and Lewis and Clarks approval of the additional amount requested of \$137,183.

If you should have any questions or concerns, please feel free to contact me at 701-751-8528.

Sincerely,

**BANK** First International Bank and Trust

A handwritten signature in blue ink, appearing to read 'Greg Eckes', is written over a horizontal line.

Greg Eckes  
Commercial Loan Officer, AVP

**Exhibit A: River Partners Inc.**

LOAN TYPE: Flex PACE  
 LOAN NUMBER:  
 LEAD BANK:

**Buydown Account Details**

INTEREST BUYDOWN AMOUNT: \$29,717.73  
 BND BUYDOWN AMOUNT: \$19,316.53  
 COMMUNITY BUYDOWN AMOUNT: \$10,401.20  
 PRESENT VALUE BND: \$18,930.75  
 PRESENT VALUE COMMUNITY: \$10,193.47  
 CREATED DATE: 10/24/2019

**Loan without buydown**

PRINCIPAL: \$265,767.00  
 YIELD RATE: 6.00  
 AMORTIZATION (MONTHS): 60  
 PAYMENT: \$5,149.15

Period	Payment	Principal	Interest	Balance
1	\$5,149.15	\$3,820.32	\$1,328.84	\$261,946.68
2	\$5,149.15	\$3,795.76	\$1,353.39	\$258,150.93
3	\$5,149.15	\$3,815.37	\$1,333.78	\$254,335.56
4	\$5,149.15	\$3,919.86	\$1,229.29	\$250,415.70
5	\$5,149.15	\$3,855.34	\$1,293.81	\$246,560.36
6	\$5,149.15	\$3,916.35	\$1,232.80	\$242,644.01
7	\$5,149.15	\$3,895.49	\$1,253.66	\$238,748.52
8	\$5,149.15	\$3,955.41	\$1,193.74	\$234,793.11
9	\$5,149.15	\$3,936.05	\$1,213.10	\$230,857.06
10	\$5,149.15	\$3,956.39	\$1,192.76	\$226,900.67
11	\$5,149.15	\$4,014.85	\$1,134.50	\$222,886.02
12	\$5,149.15	\$3,997.57	\$1,151.58	\$218,888.45
13	\$5,149.15	\$4,054.71	\$1,094.44	\$214,833.74
14	\$5,149.15	\$4,039.18	\$1,109.97	\$210,794.56
15	\$5,149.15	\$4,060.04	\$1,089.11	\$206,734.52
16	\$5,149.15	\$4,184.39	\$964.76	\$202,550.13
17	\$5,149.15	\$4,102.64	\$1,046.51	\$198,447.49
18	\$5,149.15	\$4,156.91	\$992.24	\$194,290.58
19	\$5,149.15	\$4,145.32	\$1,003.83	\$190,145.26
20	\$5,149.15	\$4,198.42	\$950.73	\$185,946.84
21	\$5,149.15	\$4,188.42	\$960.73	\$181,758.42
22	\$5,149.15	\$4,210.06	\$939.09	\$177,548.36
23	\$5,149.15	\$4,261.41	\$887.74	\$173,286.95
24	\$5,149.15	\$4,253.83	\$895.32	\$169,033.12
25	\$5,149.15	\$4,303.98	\$845.17	\$164,729.14
26	\$5,149.15	\$4,298.05	\$851.10	\$160,431.09
27	\$5,149.15	\$4,320.26	\$828.89	\$156,110.83
28	\$5,149.15	\$4,420.63	\$778.52	\$151,690.20
29	\$5,149.15	\$4,365.42	\$783.73	\$147,324.78
30	\$5,149.15	\$4,412.53	\$736.62	\$142,912.25
31	\$5,149.15	\$4,410.77	\$738.38	\$138,501.48
32	\$5,149.15	\$4,456.04	\$692.51	\$134,044.84
33	\$5,149.15	\$4,456.58	\$692.57	\$129,588.26
34	\$5,149.15	\$4,479.61	\$669.54	\$125,108.65
35	\$5,149.15	\$4,523.61	\$625.54	\$120,585.04
36	\$5,149.15	\$4,526.12	\$623.02	\$116,058.91
	\$185,369.40	\$149,708.10	\$35,661.31	

NOTE: The borrower and originating lender should be aware that the fund will provide a set stream of subsidy payments (interest buydown) based upon the payment schedule below. The amount of the borrower's payment, the amortization and all other terms of the loan shall be governed by the promissory note.

The balances shown here, other than the specific buydown amounts, are intended for illustrative purposes only.

**Loan with buydown**

PRINCIPAL: \$265,767.00  
 BORROWING RATE: 1.00  
 AMORTIZATION (MONTHS): 60

Period	Payment	Principal	Interest	Balance
1	\$4,041.79	\$3,820.32	\$221.47	\$261,946.68
2	\$4,021.33	\$3,795.76	\$225.57	\$258,150.93
3	\$4,037.67	\$3,815.37	\$222.30	\$254,335.55
4	\$4,124.74	\$3,919.86	\$204.88	\$250,415.69
5	\$4,070.98	\$3,855.34	\$215.64	\$246,560.35
6	\$4,121.82	\$3,916.35	\$205.47	\$242,644.00
7	\$4,104.43	\$3,895.49	\$208.94	\$238,748.51
8	\$4,154.37	\$3,955.41	\$198.96	\$234,793.10
9	\$4,138.23	\$3,936.05	\$202.18	\$230,857.05
10	\$4,155.18	\$3,956.39	\$198.79	\$226,900.66
11	\$4,203.73	\$4,014.65	\$189.08	\$222,886.01
12	\$4,189.50	\$3,997.57	\$191.93	\$218,888.44
13	\$4,237.12	\$4,054.71	\$182.41	\$214,833.73
14	\$4,224.18	\$4,039.18	\$185.00	\$210,794.55
15	\$4,241.56	\$4,060.04	\$181.52	\$206,734.51
16	\$4,345.18	\$4,184.39	\$160.79	\$202,550.12
17	\$4,277.06	\$4,102.64	\$174.42	\$198,447.48
18	\$4,322.28	\$4,156.91	\$165.37	\$194,290.57
19	\$4,312.63	\$4,145.32	\$167.31	\$190,145.25
20	\$4,356.88	\$4,198.42	\$158.46	\$185,946.83
21	\$4,348.54	\$4,188.42	\$160.12	\$181,758.41
22	\$4,366.58	\$4,210.06	\$156.52	\$177,548.35
23	\$4,409.37	\$4,261.41	\$147.96	\$173,286.94
24	\$4,403.05	\$4,253.83	\$149.22	\$169,033.11
25	\$4,444.84	\$4,303.98	\$140.86	\$164,729.13
26	\$4,439.90	\$4,298.05	\$141.85	\$160,431.08
27	\$4,458.41	\$4,320.26	\$138.15	\$156,110.82
28	\$4,542.05	\$4,420.63	\$121.42	\$151,690.19
29	\$4,496.04	\$4,365.42	\$130.62	\$147,324.77
30	\$4,535.30	\$4,412.53	\$122.77	\$142,912.24
31	\$4,533.83	\$4,410.77	\$123.06	\$138,501.47
32	\$4,572.06	\$4,456.64	\$115.42	\$134,044.83
33	\$4,572.01	\$4,456.58	\$115.43	\$129,588.25
34	\$4,591.20	\$4,479.61	\$111.59	\$125,108.64
35	\$4,627.87	\$4,523.61	\$104.26	\$120,585.03
36	\$4,629.97	\$4,526.13	\$103.84	\$116,058.90
	\$155,651.68	\$149,708.10	\$5,943.58	

Period	Interest Buydown	BND (65.00%)	Community (35.00%)
1	\$1,107.37	\$719.79	\$387.58
2	\$1,127.82	\$733.08	\$394.74
3	\$1,111.48	\$722.46	\$389.02
4	\$1,024.41	\$665.87	\$358.54
5	\$1,078.17	\$700.81	\$377.36
6	\$1,027.33	\$667.76	\$359.57
7	\$1,044.72	\$679.07	\$365.65
8	\$994.78	\$646.61	\$348.17
9	\$1,010.92	\$657.10	\$353.82
10	\$993.97	\$646.08	\$347.89
11	\$945.42	\$614.52	\$330.90
12	\$959.65	\$623.77	\$335.88
13	\$912.03	\$592.82	\$319.21
14	\$924.97	\$601.23	\$323.74
15	\$907.59	\$589.93	\$317.66
16	\$803.97	\$522.58	\$281.39
17	\$872.09	\$566.86	\$305.23
18	\$826.87	\$537.47	\$289.40
19	\$836.52	\$543.74	\$292.78
20	\$792.27	\$514.98	\$277.29
21	\$800.61	\$520.40	\$280.21
22	\$782.57	\$508.67	\$273.90
23	\$739.78	\$480.86	\$258.92
24	\$746.10	\$484.96	\$261.14
25	\$704.31	\$457.80	\$246.51
26	\$709.25	\$461.01	\$248.24
27	\$690.74	\$448.98	\$241.76
28	\$607.10	\$394.62	\$212.48
29	\$653.11	\$424.52	\$228.59
30	\$613.85	\$399.00	\$214.85
31	\$615.32	\$399.96	\$215.36
32	\$577.09	\$375.11	\$201.98
33	\$577.14	\$375.14	\$202.00
34	\$557.95	\$362.67	\$195.28
35	\$521.26	\$338.83	\$182.45
36	\$519.18	\$337.47	\$181.71
	\$29,717.73	\$19,316.53	\$10,401.20



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** November 5<sup>th</sup>, 2019  
**PREPARATION DATE:** October 28, 2019  
**SUBMITTING DEPARTMENT:** Public Works – Utility  
**DEPARTMENT DIRECTOR:** Mitch Bitz  
**PRESENTER:** Mitch Bitz, Director of Public Works  
**SUBJECT:** Consider approving amendments to the Engineering Service agreements with AE2S for Water & Sewer System Assistance

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**STATEMENT/PURPOSE:** Consider the amendments to the existing agreement with AE2S for the Water & Sewer System Assistance to extend the agreement to December of 2022.

**BACKGROUND/ALTERNATIVES:** The original agreements executed in 2012 included a \$25,000 annual budget and were for three (3) years, each with options to extend for an additional three (3) years. AE2S has successfully provided planning, modeling, funding and preliminary engineering services over the past several years enabling city staff to make educated decisions concerning future growth and technical issues within the city. In April of 2015 the Water and Sewer Assistance agreement was amended to expire after 3 years or December 31, 2017 to coincide with normal year end funding and budgets. This agreement was extended in November of 2018 for a one year period. We propose to extend this agreement once again; therefore, these amendments would extend the agreement for an additional 3 years or until December 31 2022.

**ATTACHMENTS:** Contract amendments from AE2S

**FISCAL IMPACT:** Water Assistance for \$25,000 annually and Sewer Assistance for \$25,000 annually both of which are budgeted items in the 2020 approved budget

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** Attorney Brown has reviewed documentation

**RECOMMENDATION:** I recommend approval of Amendment No. 4 to the Agreement for professional services for the Water & Sewer Assistance with AE2S as proposed

Board of City Commissioners

Agenda Documentation

Meeting Date: November 5<sup>th</sup> 2019

Subject: Consider approving amendments to the Engineering Service agreements with AE2S for Water & Sewer System Assistance

Page 2 of 2

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SUGGESTED MOTION: Move to approve Amendment No. 4 to the Agreement for professional services for the Water & Sewer Assistance with AE2S as proposed.

**AMENDMENT NO. 4  
TO  
AGREEMENT BETWEEN OWNER AND  
ENGINEER FOR PROFESSIONAL SERVICES  
DATED  
January 1, 2020**

This Amendment No. 4 is effective as of January 1, 2020 ("Effective Date") between City of Mandan, 205 2<sup>nd</sup> Avenue NW, Mandan, ND 58554-3125 ("OWNER") and Advanced Engineering and Environmental Services, Inc., 1815 Schafer Street, Suite 301, Bismarck, ND 58501 ("ENGINEER").

This amendment amends the Agreement between Owner and Engineer for Professional Services Agreement dated April 17, 2012 for:

**Mandan Water Distribution System Assistance (Project).**

All provisions not amended remain in full effect.

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

**1. Exhibit SR-A: Paragraph A.3.01 Times for Rendering Services**

- A. The term of this Agreement shall be extended through December 31, 2022, with an option for the City to extend the agreement an additional three years at their discretion.

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

OWNER:

\_\_\_\_\_

By: Mayor Tim Helbling

Title: President of Board of City Commissioners

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

ATTEST: \_\_\_\_\_

Name: Jim Neubauer

Title: City Administrator

Address for giving notices:

City of Mandan

205 2<sup>nd</sup> Avenue NW

Mandan, ND 58544-3125

Designated Representative (paragraph 6.02.A):

Mitch Bitz

Title: Public Works Director

Phone Number: (701) 667-3240

E-Mail Address: [mbitz@cityofmandan.com](mailto:mbitz@cityofmandan.com)

ENGINEER:



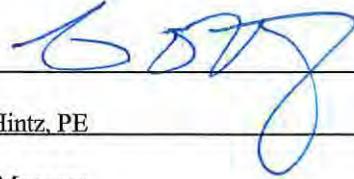
\_\_\_\_\_

By: Jasper Klein, PE

Title: Operations Manager

Date Signed: 10/25/19

ATTEST: \_\_\_\_\_



Name: Laith Hintz, PE

Title: Project Manager

Address for giving notices:

Advanced Engineering and Environmental Services, Inc.

1815 Schafer Street, Suite 301

Bismarck, ND 58501

Designated Representative (paragraph 6.02.A):

Jasper Klein, PE

Title: Operations Manager

Phone Number: (701) 221-0530

E-Mail Address: [Jasper.Klein@ae2s.com](mailto:Jasper.Klein@ae2s.com)

**AMENDMENT NO. 4  
TO  
AGREEMENT BETWEEN OWNER AND  
ENGINEER FOR PROFESSIONAL SERVICES  
DATED  
January 1, 2020**

This Amendment No. 4 is effective as of January 1, 2020 (“Effective Date”) between City of Mandan, 205 2<sup>nd</sup> Avenue NW, Mandan, ND 58554-3125 (“OWNER”) and Advanced Engineering and Environmental Services, Inc., 1815 Schafer Street, Suite 301, Bismarck, ND 58501 (“ENGINEER”).

The document amends the Agreement between Owner and Engineer for Professional Services Agreement dated June 5, 2012 for:

**Mandan Sanitary Sewer Collection System Assistance (Project).**

All provisions not amended remain in full effect.

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

- 1. Exhibit SR-A: Paragraph A.3.01 Times for Rendering Services**
  - A. The term of this agreement shall be extended through December 31, 2022, with an option for the City to extend the agreement an additional three years at their discretion.

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

OWNER:

\_\_\_\_\_

By: Mayor Tim Helbling

Title: President of Board of City Commissioners

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

ATTEST: \_\_\_\_\_

Name: Jim Neubauer

Title: City Administrator

Address for giving notices:

City of Mandan

205 2<sup>nd</sup> Avenue NW

Mandan, ND 58544-3125

Designated Representative (paragraph 6.02.A):

Mitch Bitz

Title: Public Works Director

Phone Number: (701) 667-3240

E-Mail Address: [Mbitz@cityofmandan.com](mailto:Mbitz@cityofmandan.com)

ENGINEER:

\_\_\_\_\_

By: Jasper Klein, PE

Title: Operations Manager

Date Signed: 10/25/2019

ATTEST: \_\_\_\_\_

Name: Laith Hitz, PE

Title: Project Manager

Address for giving notices:

Advanced Engineering and Environmental Services, Inc.

1815 Schafer Street, Suite 301

Bismarck, ND 58501

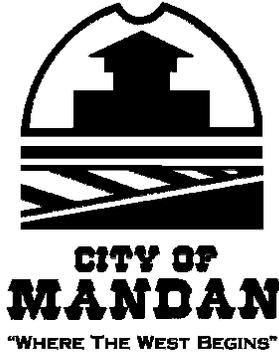
Designated Representative (paragraph 6.02.A):

Jasper Klein, PE

Title: Operations Manager

Phone Number: (701) 221-0530

E-Mail Address: [Jasper.Klein@ae2s.com](mailto:Jasper.Klein@ae2s.com)



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 31, 2019  
**SUBMITTING DEPARTMENT:** Planning and Engineering  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning and Engineering Director  
**SUBJECT:** Raw Water Intake, Phase II Ad for Bids

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STATEMENT/PURPOSE: To request to advertise for bids for Phase II of the project.

BACKGROUND/ALTERNATIVES: In coordination with City staff as well as refinery staff in the form of regular meetings over the last half of year, AE2S has completed the final design of the Raw Water Intake, Phase II. Phase II includes the transmission pipe from the new intake site to the Water Treatment Facility as well as the Marathon Refinery.

The bid opening for Phase I was held on October 28<sup>th</sup>. Phase I was for the Raw Water Intake pump house facility as well as work related to that site and the Water Treatment Facility site. That bid came in much higher than expected. Staff is discussing with our consultant, AE2S, Marathon Refinery, The State Water Commission and the contractor who submitted the low bid to understand why it came in so high and what the best next step is before bringing the results to commission with a recommendation. By going forward with this bid, we can see the real cost of the Phase II part of the project while concurrently discussing the high Phase I bid and therefore gain full understanding of the entire project to help make decisions on it.

ATTACHMENTS:

- 1) Advertisement for Bids

FISCAL IMPACT: The State Water Commission has committed about \$12.6M towards this project based on 60% of estimated costs. However, Phase I was already well over estimate. The fiscal impact to going forward with this request, the Phase II bid opening, is minimal since the plans are already complete.

STAFF IMPACT: Minimal

LEGAL REVIEW: All items have been forwarded to our Attorney for review.

RECOMMENDATION: Approve the Ad for Bid.

SUGGESTED MOTION: I move to approve the ad for bid for the Raw Water Intake, Phase II project.

**ADVERTISEMENT FOR BIDS**

00030

**MANDAN RAW WATER INTAKE – PHASE II  
RAW WATER TRANSMISSION LINE IMPROVEMENTS  
CITY OF MANDAN, NORTH DAKOTA**

NOTICE IS HEREBY GIVEN, that the City of Mandan, North Dakota, will receive sealed Bids for the construction of the Mandan Raw Water Intake Phase II – Raw Water Transmission Line Improvements and will be received at Office of the City Administrator, 205 2nd Ave NW, Mandan, North Dakota 58554 until 4:00PM local time on December 10, 2019, at which time the Bids received will be publicly opened and read aloud at 4:15 PM in the City Commission Chambers.

Bids being mailed or delivered prior to December 10, 2019 can be directed to:

City Administrator  
City of Mandan  
205 2<sup>nd</sup> Ave NW  
Mandan, ND 58554.

Bids will be received for a single prime Contract. Bids shall be on a unit price basis as indicated on the Bid Form. The Work is generally described as follows:

Contract No. 1 – GENERAL CONSTRUCTION (UNIT PRICE): Work generally consists of mobilization, bonding, insurance; for all Project Work shown on the civil drawings and as contained in the specifications including installation of approximately 5,600 lineal feet of 30-inch transmission line, 6,600 lineal feet of 20-inch transmission line, new air relief manhole structures, new gate valves and other appurtenances, multiple auger bored casings under the BNSF railroad, multiple connections to Mandan Raw Water Intake Phase I pipe, site work including 2,400 cubic yards of placed borrow soil, and restoration work including seeding, and erosion control; and miscellaneous related construction, equipment, and appurtenances.

The Issuing Office for the Bidding Documents is: Advanced Engineering and Environmental Services, Inc., 1815 Schafer Street, Ste 301, Bismarck, ND 58501. Contact person for all bidding document interpretations and clarifications is Laith Hintz, 701-221-0530, laith.hintz@ae2s.com. Prospective Bidders may examine the Bidding Documents at the Issuing Office on Mondays through Fridays between the hours of 8:30 AM and 4:30 PM, and may obtain copies of the Bidding Documents from the Issuing Office as described below. Bidding Documents also may be examined at the following locations: Builders Exchanges in Grand Forks, Bismarck, Minot, and Fargo, ND; Rapid City and Sioux Falls, SD; and in Minneapolis, MN.

Complete digital project Bidding Documents are available at [www.AE2S.com](http://www.AE2S.com) or [www.questcdn.com](http://www.questcdn.com). You may download the digital plan documents for Fifty Dollars (\$50.00) by inputting Quest project #6571640 on the website's Project Search page. Please contact QuestCDN.com at 952-233-1632 or [info@questcdn.com](mailto:info@questcdn.com) for assistance in free membership registration, downloading, and working with this digital project information. The Bidding Documents are available in digital PDF form on CD by request from the Issuing Office for a **NON-REFUNDABLE** charge of Seventy-Five Dollars and No Cents (\$75.00) and available in the form of printed plans and specifications for a **NON-REFUNDABLE** charge of One Hundred Seventy-Five Dollars and No Cents (\$175.00) for each set requested.

A pre-bid conference is tentatively scheduled for November 21, 2019 at 10:00 AM local time at the Marathon Mandan Refinery Administrative Building located at 500 Old Red Trail, NE, Mandan, ND 58554. A memorandum to all Plan Holders will be sent formally establishing the final date and time. Due to the nature of construction and its location proximate to the Mandan Refinery, attendance at the pre-bid conference is mandatory for Prime Bidders.

Each bid must be accompanied by a separate envelope containing the contractor's license and bid security. The bid security must be in a sum equal to five percent (5%) of the full amount of the bid and must be in the form of a bidder's bond. A bidder's bond must be executed by the bidder as principal and by a surety, conditioned that if the principal's bid is accepted and the contract awarded to the principal, the principal, within ten days after notice of the award, shall execute a contract in accordance with the terms of the bid and the bid bond and any condition of the governing body. A countersignature of a bid bond is not required under this section. If a successful bidder does not execute a contract within the ten days allowed, the bidder's bond must be forfeited to the governing body and the project awarded to the next lowest responsible bidder.

All Bidders must be licensed for the highest amount of their Bids, as provided by Section 43-07-12 of the North Dakota Century Code.

Bids that do not fully comply with requirements of NDCC 48-01.2-05 are considered deficient and will be resealed and returned to the bidder immediately.

The City of Mandan reserves the right to reject any and all bids and rebid the project until a satisfactory bid is received.

All Bids will be made on the basis of cash payment for such work and materials. All Bidders are invited to be present at the public opening of the Bids. The City of Mandan reserves the right to hold the three (3) low Bids for a period of sixty (60) days after the date of the Bid opening to complete financial arrangements.

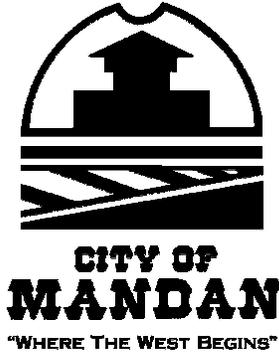
Bidders on this work will be required to comply with Title 40 CFR Part 33- Participation by Disadvantaged Business Enterprises in the United States Environmental Protection Agency Programs. The requirements for bidders and contractors under this regulation concern utilization of Minority Business Enterprises (MBE), Women's Business Enterprises (WBE), and Small Business Enterprises (SBE) and are explained in the specifications. The goal for MBE is 2% of the total dollar value of the project. The goal for WBE is 3% of the total dollar value of the project.

Bidders shall demonstrate a good faith effort to solicit for MBE and WBE subcontractors. The completed MBE/WBE Solicitation Information sheet must be provided in the outer bid security envelope. Failure to include this information will result in the bid not being opened.

Bidders on this work will be required to comply with the President's Executive Order No. 11246, as amended. The requirements for bidders and contractors under this order are explained in the specifications.

Dated this 5<sup>th</sup> day of November 2019.  
Publish: 11/08/19, 11/15/19, 11/22/19

By: /s/ Jim Neubauer, City Administrator  
Mandan, North Dakota



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 22, 2019  
**SUBMITTING DEPARTMENT:** Planning and Engineering  
**DEPARTMENT DIRECTOR:** Justin Froseth, Engineering and Planning Director  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** Consider acceptance of counteroffer for purchase  
Lot 1A, Block 1, Roughrider Estates Pioneer  
Replat

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**STATEMENT/PURPOSE:** Consider acceptance of counteroffer for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat.

**BACKGROUND/ALTERNATIVES:** Geoffrey S Pitman has provided another counter offer in the amount of \$433.17 with the City to pay off the special assessment balance of \$443.79.

Staff is recommending that City Commission reject this offer, as this offer is effectively less than the initial offer received by Mr. Pitman. In addition, at the October 15 City Commission meeting it was determined that accepting such an offer would set a precedent to accept similar offers.

The original list price is \$1,000 with the buyer to pay for all closing costs. Specials are to be prorated between the buyer and seller at time of closing.

City Commissioners may accept, reject, or counter the offer provided by Mr. Pitman.

**ATTACHMENTS:**

Exhibit 1 – Counter Offer from Geoffrey S Pitman.  
Exhibit 2 – Original Offer

**FISCAL IMPACT:** Unknown – Another, more desirable offer may be received which could be positive. Not receiving another offer would see the City paying the annual

Board of City Commissioners

Agenda Documentation

Meeting Date: November 5, 2019

Subject: Consider acceptance of counteroffer for purchase of Lot 1A, Block 1,  
Roughrider Estates Pioneer Replat.

Page 2 of 2

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specials balance, lack of revenue from the sale, albeit small, and maintenance responsibility relating to mowing performed by public works.

**STAFF IMPACT:** Minimal

**LEGAL REVIEW:** This staff report and attachments have been reviewed and approved by City Attorney Brown.

**RECOMMENDATION:** Engineering and Planning recommend rejecting the counteroffer of \$433.17 for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat.

**SUGGESTED MOTION(S):** I move to reject the counteroffer with a purchase price of \$433.17 for the purchase of Lot 1A, Block 1, Roughrider Estates Pioneer Replat.

# EXHIBIT 1



Counter to Counter Offer - Addendum to  
Purchase Agreement # 404308DS

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

This Counter Offer amends the proposed contract dated 09/09/2019 between

Buyer(s): Geoffrey S Pitman

and

Seller(s): City of Mandan

Relating to the sale and purchase of the property located at: 1A Homestead Pl NW, Mandan, ND 58554

(Address)

City: Mandan State: ND Listed as MLS# 404308

Purchase price shall be: \$Four Hundred Thirty-Three and 17/100

Dollars \$ 433.17

Earnest money shall be: \$same

Closing date shall be on or before: 11/29/2019

Other:

**Seller responsible to pay off the special assessment balance.**

**All other conditions shall remain the same.**

This Counter Offer is open for acceptance until (date) \_\_\_\_\_ at (time) \_\_\_\_\_ (check one)  a.m.  p.m., or until withdrawn by Offeror, whichever is later. All other terms and conditions of the proposed Purchase Agreement shall remain the same.

**Right to accept other offers:** The Seller reserves the right to accept any other offer prior to Buyer's written acceptance of this Counter Offer. Acceptance shall not be effective until a copy of this Counter Offer, dated and signed by the Buyer is received by the Seller or Seller's Agent.

Seller: City of Mandan Date: \_\_\_\_\_

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

Buyer: Geoffrey S Pitman Date:  10/21/2019 09:38 AM CDT  
**Geoffrey S Pitman**

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

Bismarck Mandan Board of REALTORS® (06/10)



# EXHIBIT 2

**LAND ONLY** PURCHASE AGREEMENT # 404308DS



PAGE 1

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

Date 9-9-19 MLS Listing # 404308 Page 1 of 6 Pages

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

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

Time is of the essence in this Purchase Agreement.

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

Buyer(s) Geoffrey S Pitman has/have agreed to pay two hundred dollars Dollars (\$ 200.00 )

for the Property at: Street Address 1A Homestead Pl NW

City of Mandan County of Morton State of ND Zip 58554

Legally described as: Lot 1A, Block 1, Roundhider estate Pioneer Replat

The sum of two hundred Dollars (\$ 200 ) from Buyer(s) by (Check one):  
 Check  Cash  EFT/ACH as earnest money to be deposited upon acceptance of Purchase Agreement by all parties, on or before the next business day after acceptance or EM will be delivered once agreement is accepted in the trust account of Cal-tree Realtors, (Check one):  Listing  Buyer Broker or to be returned to Buyer(s) if Purchase Agreement is not accepted by Seller(s). Buyer(s) agrees to pay in the following manner: Earnest money in the amount mentioned above, and additional earnest money of \$ \_\_\_\_\_ due on \_\_\_\_\_, Financing, if any, shall be as follows: Cash purchase

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

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

This sale includes the following property, if any, owned by Seller and used and located on said property: garden bulbs, plants, shrubs, and trees; and the following personal property: \_\_\_\_\_

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

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

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

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

Buyer(s) Initials: GS Date: 9/9/19 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 10/18)

**LAND ONLY** PURCHASE AGREEMENT # 404308 DS



PAGE 2

REAL ESTATE TAXES, based on the most current certified tax information available, shall be prorated between Seller(s) and Buyer(s) as of closing, 20    . Buyer(s) is advised to verify all tax information.

SPECIAL ASSESSMENTS shall be paid as follows: **Annual Installments:** Estimated annual installment due for the year of closing shall be paid by: (Check one):  Buyer(s) and Seller(s) shall prorate as of the date of closing or  Seller(s) shall pay on date of closing. Buyer(s) is advised to verify all special assessments information.

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

Buyer is aware that there may be new public improvement projects, the cost of which may be assessed against the property. Seller agrees to promptly notify Buyer of any such notice received between the date of this agreement and the date of closing.

CLOSING AND POSSESSION: The date of closing shall be on or before ~~10-9-19~~ 10-31-19. Seller shall deliver possession of property on ~~10-9-19~~ 10-31-19. Settlement fee to be paid by (Check one):  Buyer(s)  Seller(s) Other:     . Settlement and commitment fees as defined by VA to be paid by the Seller on VA Financing. Buyer(s) agrees to allow the purchase price to be part of the Multiple Listing Service database and grants permission to use of the information by MLS participants and related government entities for comparable sales reports and statistics.

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

(G) Others (must be specified in writing):     

MINERALS: In accordance with North Dakota Century Code 47-40-24, unless specifically excluded, Minerals and Royalties transfer with the surface estate; and, in accordance with North Dakota Century Code 47-40-25 the Gravel, Clay and Scoria transfer with the surface estate unless specifically reserved by name in deed, grant, or conveyance. Buyer(s) and Seller(s) are advised to seek independent legal counsel regarding any reservation of minerals and to address such reservations in a separate agreement or addendum.

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

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

Buyer(s) Initials: CSA Date: 9/19/19 Seller(s) Initials:      Date:      (Rev. 10/18)

**LAND ONLY** PURCHASE AGREEMENT # 404308DS

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

**INSPECTIONS:** Seller(s) shall make the Property available for all inspections and tests upon reasonable notice by Buyer(s).

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

**SELLER(S) WARRANTIES:**

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

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

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

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

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

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

**FINAL WALK THROUGH:** The Seller(s) grants Buyer(s) and any representative of Buyer(s) reasonable access to conduct a final walk through of the Property for the purpose of determining that the Property is in substantially the same condition as on the date of acceptance of the contract. If Buyer(s) does not conduct such walk through, Buyer(s) specifically releases Broker(s) of any liability.

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

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

**DEFAULT:** If Seller(s)'s title is marketable or insurable and Buyer(s), contrary to this agreement, fails, neglects or refuses to complete the Purchase within ten (10) days after title is proven marketable or insurable, or by the closing date, whichever is later, then, at Seller(s)'s option either the earnest money shall be forfeited to Seller(s) as liquidated damages, since the parties agree the calculation of damages to Seller(s) would be difficult to ascertain with certainty and since parties further agree that the amount of liquidated damages is a reasonable attempt to estimate damages which will be suffered by the Seller(s), and this Agreement thereupon shall be of no further binding effect; or Seller(s) may demand and pursue any and all other remedies including but not limited to actual damages or specific performance of this agreement. If Seller(s), contrary to this Agreement, fails, neglects or refuses to perform as agreed, Buyer(s) may demand and pursue any and all remedies including, but not limited to, specific performance of this Agreement. A claim of either party for specific performance, or the Seller(s)'s claim to the

Buyer(s) Initials:    Date:    Seller(s) Initials:    Date:    (Rev. 10/18)

**LAND ONLY** PURCHASE AGREEMENT # 40430805



PAGE 4

179 earnest money as liquidated damages, shall be waived, unless legal proceedings are commenced within three (3) months after  
 180 scheduled date of closing; further, unless the Seller, delivers copies of documents evidencing the Seller's commencement of  
 181 legal proceedings to claim the earnest money to the Broker who has possession of the earnest money within said three-month  
 182 time period, then the Broker, who has possession of the earnest money, shall be authorized to return the earnest money to the  
 183 Buyer, free of any claim by the Seller. Retention of earnest money in any Broker's trust account pending resolution of the  
 184 default shall not constitute an election of remedies by either party or prejudice their rights to pursue any and all other remedies  
 185 including, but not limited to, specific performance.

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

189  
 190 Buyer(s) and Seller(s) agree that, by 5 p.m. on (date) N/A (contingency completion date),  
 191 all contingencies agreed to in items 1 through 10 below shall be addressed to completion. The party with the option to  
 192 terminate shall in no event have less than 48 hours from receipt of required information/documentation to give notice  
 193 of termination, even if the contingency completion date is extended as a result.

194  
 195 Under the following contingencies, the Buyer, or the Seller, or in certain instances either party, has the option to terminate the  
 196 purchase agreement; said option to be exercised by giving written notice by the contingency completion date. If such written  
 197 notice is given by the contingency completion date the Buyer(s) shall receive a full refund of the earnest money. If written  
 198 notice is not given by the contingency completion date by a party which had the option to terminate the purchase agreement,  
 199 then the option to terminate the purchase agreement under the applicable contingencies are deemed to be waived. (See  
 200 "Default" section.)

BUYERS AND SELLERS MUST INITIAL ALL APPLICABLE CONTINGENCIES.			BUYER(S) INITIALS	SELLER(S) INITIALS
<del>1. PROPERTY CONDITION STATEMENT: Seller(s) to provide Buyer(s) with a Property Condition Statement. Buyer to review Property Condition Statement. If Buyer does not approve the Property Condition Statement, Buyer has the option to terminate this purchase agreement.</del>				
<del>2. INSPECTIONS: Buyer to complete inspections of Buyer(s) choice. If Buyer does not approve the results of the inspections, Buyer has the option to terminate this purchase agreement. Inspections and tests to be conducted at Buyer's Expense : (check all that apply): Septic System Well Other</del>				
<del>3. FLOOD PLAIN: Buyer(s) to obtain flood plain verification. If Buyer does not approve the results of the flood plain verification, Buyer has the option to terminate this purchase agreement.</del>				
<del>4. LEASES: Seller(s) shall provide copies of current leases to Buyer. If Buyer does not approve the leases, Buyer has the option to terminate this purchase agreement.</del>				
<del>5. REGISTERED SEX OFFENDERS: Buyer(s) investigation of the possible presence of registered sex offenders in the vicinity of the property. If Buyer does not approve the findings regarding registered sex offenders, Buyer has the option to terminate this purchase agreement.</del>				
<del>6. RESTRICTIONS AND COVENANTS: Buyer(s) review of any government and/or private use restrictions and restrictive covenants. If Buyer does not approve the use restrictions or covenants, Buyer has the option to terminate this purchase agreement.</del>				
<del>7. WATER QUALITY TESTS: Buyer(s) obtain water quality tests, at Buyer(s) expense. If Buyer does not approve the results of the water quality tests, Buyer has the option to terminate this purchase agreement.</del>				
<del>8. SURVEY: Buyer(s) shall obtain a survey of the property, conducted at (check one): ___ Buyer's expense or ___ Seller's expense. If Buyer does not approve the results of the survey, Buyer has the option to terminate this purchase agreement.</del>				
<del>9. PLANS AND PERMITS: Buyer(s) to obtain all necessary plans and permits for one or more of the following purposes: building plans and specifications, proposed subdivision development plans, rezoning or use permits, approval of building plans and/or specification in accordance with any recorded subdivision covenants, and approval of the architectural control committee. If Buyer does not obtain said plans and permits, Buyer has the option to terminate this purchase agreement.</del>				
<del>10. SOIL TESTS: Buyer(s) to obtain soil tests and percolation tests at ___ Buyer's expense or ___ Seller's expense. If Buyer does not approve the test results, Buyer has the option to terminate this purchase agreement.</del>				

201  
 202 **OTHER CONTINGENCIES:**

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

206  
 207 **B. 24/48/72 HOUR CONTINGENCY ADDENDUM:** (check one) \_\_\_ does  does not apply (see attached addendum made a part of  
 208 this contract, if applicable)

209 Buyer(s) Initials: GH Date: 9/1/14 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev. 10/18)

LAND ONLY PURCHASE AGREEMENT # 404308 DS



PAGE 5

C. CLOSING OF BUYER'S PROPERTY: (This provision to be used if Buyer's property is under contract at the time of offer): (check one) \_\_\_ does \_\_\_ X does not apply Buyer's obligation to purchase is contingent on closing of Buyer's property at (address) \_\_\_\_\_ Buyer(s) to provide written evidence within \_\_\_ days showing that Buyer(s) property has an accepted purchase agreement with qualified buyer and will close on or before closing of this Purchase Agreement. If Buyer(s) fails to provide such written evidence, the Seller(s), within \_\_\_ days following the deadline set forth in the previous sentence, may elect to terminate this Agreement, with earnest money to be returned to the Buyer(s).

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

SPECIAL CONDITIONS: Any and all abstracts or owner's policy fees shall be furnished at buyer's expense.

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

AGENCY DISCLOSURE: Darra Schmidt (\_\_\_ Agent X Broker) Brokerage Odette Realtors Stipulates that she/he is representing the (Check one): X Seller(s) \_\_\_ Buyer(s) \_\_\_ Neither Party \_\_\_ Both Parties in this transaction. The listing agent or broker stipulates that she/he is representing the Seller(s) in this transaction.

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

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

Buyer(s) Signature \_\_\_\_\_ Date \_\_\_\_\_ Seller(s) Signature \_\_\_\_\_ Date \_\_\_\_\_

Buyer(s) Initials: [Signature] Date: 4/10/19 Seller(s) Initials: \_\_\_\_\_ Date: \_\_\_\_\_ (Rev 10/18)

**LAND ONLY** PURCHASE AGREEMENT # 40430805



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

<u>[Signature]</u>	<u>9/9/19</u>	_____	_____
Buyer's Signature	Date	Buyer's Signature	Date
_____	_____	_____	_____
Address		Address	
_____	_____	_____	_____
City, State, Zip		City, State, Zip	

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**ACCEPTANCE**

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

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

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

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

The undersigned acknowledge receipt of a copy hereof and grant permission to Selling Broker to deliver a copy to Buyer(s) Agent or, if the Buyer is not represented by an agent, to the Buyer.

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

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

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



New Business No. 2

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 28, 2019  
**SUBMITTING DEPARTMENT:** Assessing Department  
**DEPARTMENT DIRECTOR:** Kimberly Markley  
**PRESENTER:** Kimberly Markley, City Assessor  
**SUBJECT:** Application for Property Tax Exemption for Improvements to Commercial & Residential Buildings North Dakota Century Code 57-02.2

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**STATEMENT/PURPOSE:** To consider a three year exemption for remodel of a structure pursuant to North Dakota Century Code 57-02.2.

**BACKGROUND/ALTERNATIVES:** Captain Freddy's Properties LLP is applying for a three year exemption for the remodel of building located at 2500 Pirate's Loop SE. Plans include expanding kitchen, new bar, new second level deck, remodel bathrooms, and general repairs and updating. This parcel is known as parcel #65-0182347 with a legal description of Auditor's Lot A of Lot 55 Block 1 Bridgeview Bay 1<sup>st</sup>.

**ATTACHMENTS:** Application, 2015 City of Mandan Guidelines for Property Tax Exemption of Improvements to Commercial & Residential Buildings

**ESTIMATED FISCAL IMPACT:** The value of the remodel is estimated to have a value of \$190,000. Based on that amount, with the 2018 mill levy of 265 mills, the estimated exemption is \$2,520 for all taxing entities and \$595 for the City of Mandan. The actual exemption will be subject to prevailing market values and actual mill rates during the three-year exemption period.

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** City of Mandan Municipal Code 111-2-9 requires: "Every building open to public use that has received the benefit of public funds from the city shall provide for the installation of an automatic door for at least one main entrance to the building." Reviewed by City Attorney Malcolm Brown.

Board of City Commissioners

Agenda Documentation

Meeting Date: November 5, 2019

Subject: Application for Property Tax Exemption for Improvements to Commercial & Residential Buildings North Dakota Century Code 57-02.2

Page 2 of 2

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RECOMMENDATION: Approval of the Application for Property Tax Exemption for Improvements to Commercial & Residential Buildings North Dakota Century Code 57-02.2 located at 2500 Pirates Loop SE.

SUGGESTED MOTION: A motion to approve the Application for Property Tax Exemption for Improvements to Commercial & Residential Buildings North Dakota Century Code 57-02.2 located at 2500 Pirates Loop SE.

**Application For Property Tax Exemption For Improvements  
To Commercial And Residential Buildings**

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

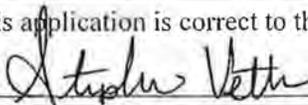
**Property Identification**

1. Legal description of the property for which exemption is claimed _____ <u>Auditor's Lot "A" of Lot 55, Block 1, Bridgeview Bay First</u>	
2. Address of Property <u>2500 Pirates Loop SE, Mandan ND 58554</u>	
3. Parcel Number <u>65-0182347</u>	
4. Name of Property Owner <u>Captain Freddy's Properties LLP</u>	Phone No. _____
5. Mailing Address of Property Owner <u>2101 Grant Dr. Bismarck, ND 58501</u>	

**Description Of Improvements For Exemption**

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). <u>(please see "Commercial Remodeling Exemption")</u>	
7. Building permit No. _____	8. Year built (residential property) <u>2010</u>
9. Date of commencement of making the improvements _____	
10. Estimated market value of property before the improvements	\$ <u>1,153,300</u>
11. Cost of making the improvement (all labor, material and overhead)	\$ <u>392,950.00</u>
12. Estimated market value of property after the improvements	\$ _____

**Applicant's Certification And Signature**

13. I certify that the information contained in this application is correct to the best of my knowledge.	
Applicant <u>Stephen Vetter</u> 	Date <u>10/23/19</u>

**Assessor's Determination And Signature**

14. The assessor/county director of tax equalization finds that the improvements described in this application do <input type="checkbox"/> do not <input type="checkbox"/> meet the qualifications for exemption for the following reason(s): _____	
Assessor/Director of Tax Equalization _____	Date _____

**Action Of Governing Body**

15. Action taken on this application by the governing board of the county or city:    Approved <input type="checkbox"/> Denied <input type="checkbox"/>	
Approval is subject to the following conditions: _____	
Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.	
Chairperson _____	Date _____

Demo	\$ 25,000.00
Plumbing	\$ 4,500.00
Electrical	\$ 8,000.00
Tape, Texture, Paint	\$ 35,000.00
Bathrooms	\$ 15,000.00
Windows/Doors	\$ 27,000.00
Deck	\$ 100,000.00
Custom Bar	\$ 4,000.00
Misc Material Allowance	\$ 15,000.00
Total Renovation Allowance	\$ 233,500.00

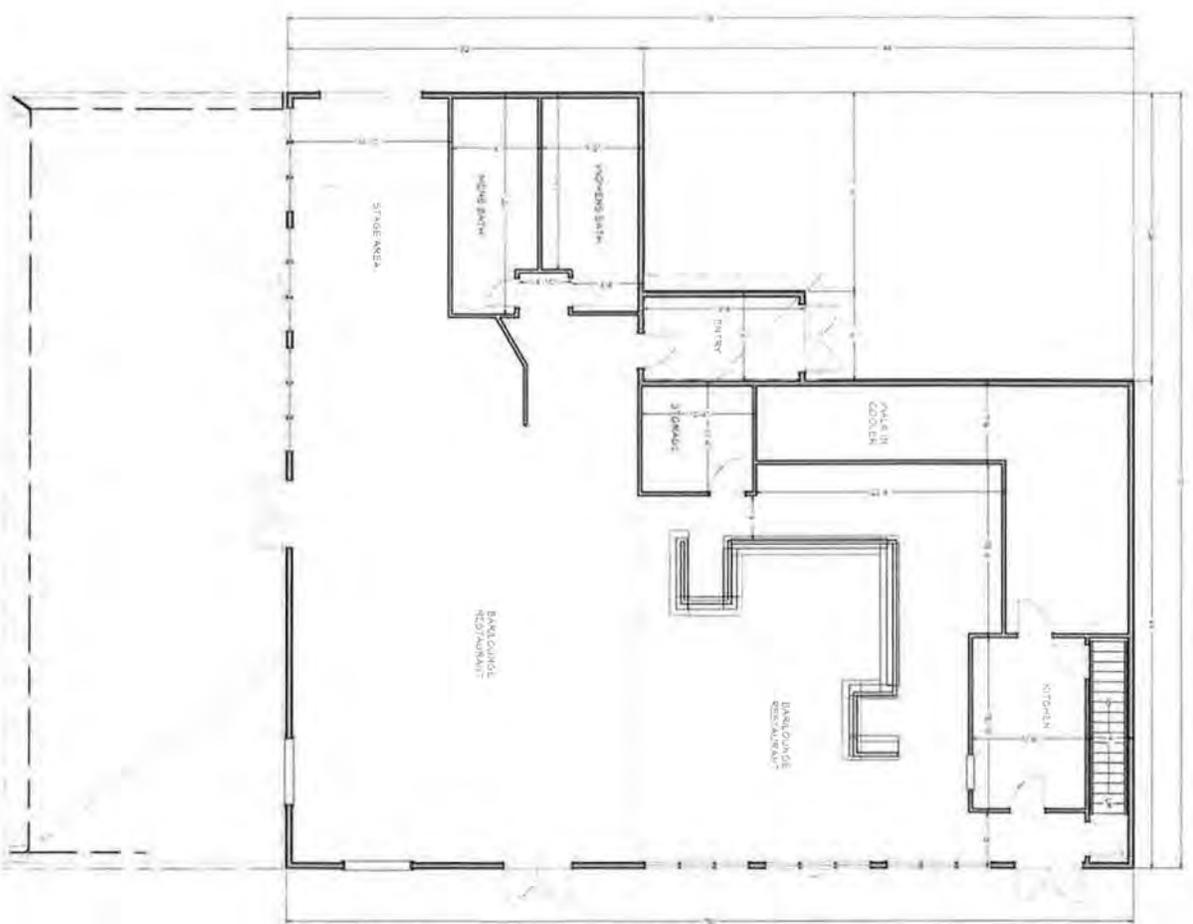
Kitchen Hoods	\$ 25,000.00
Dishwasher Hood	\$ 3,450.00
Audio/Video/Security Upgrade	\$ 6,000.00
Total Equipment Upgrade	\$ 34,450.00

Labor \$ 125,000.00

Total Building Improvement Estimate \$ 392,950.00

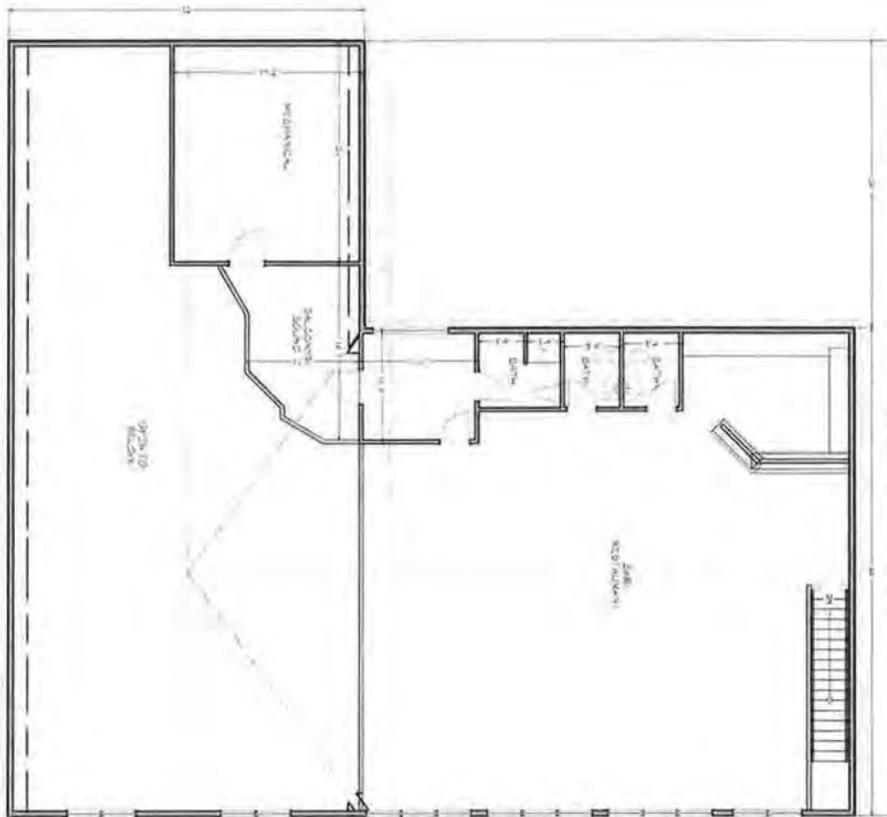
THE PADDLE TRAP  
 PRELIMINARY  
 NOT FOR CONSTRUCTION

EXISTING  
 1ST FLOOR



A1	SHEET	3/32"=1'	SCALE	10/24/2019	DATE	TOBIAS MARMAN CONSTRUCTION	REMODEL 2500 PIRATES LOOP SE, MANDAN 58554	REVISION TABLE		
								NO.	DESCRIPTION	

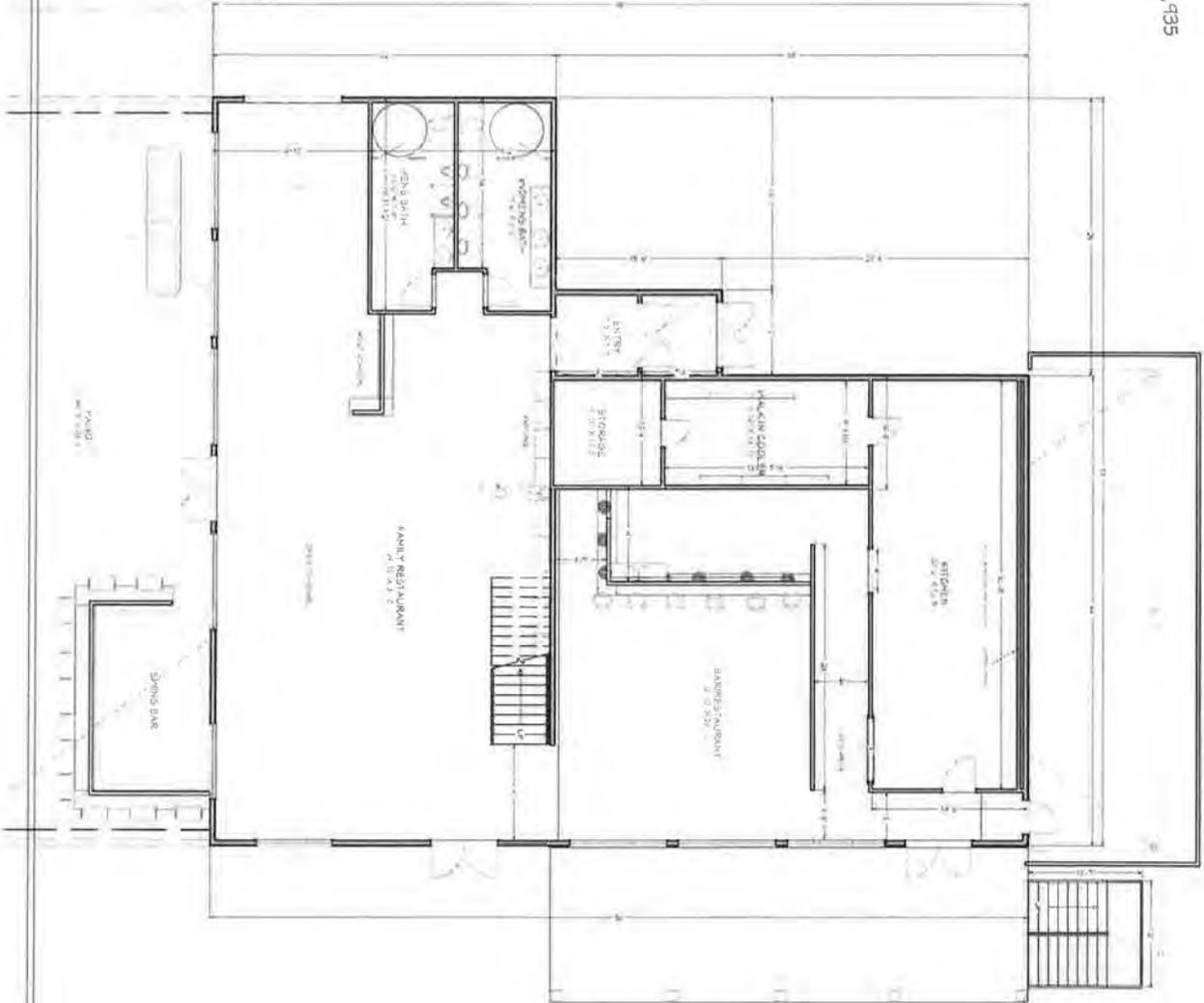
EXISTING  
2ND FLOOR



SHEET:	3/32" = 1"	SCALE:	10/24/2015	DATE:	T. MARMAN CONSTRUCTION	REMODEL 2500 PIRATES LOOP SE, MANDAN 58554	REVISIONS	
							NO. DATE	BY
A2								

MAIN LEVEL SQUARE FT. 3,435  
 CEILING HEIGHT +/- 10'

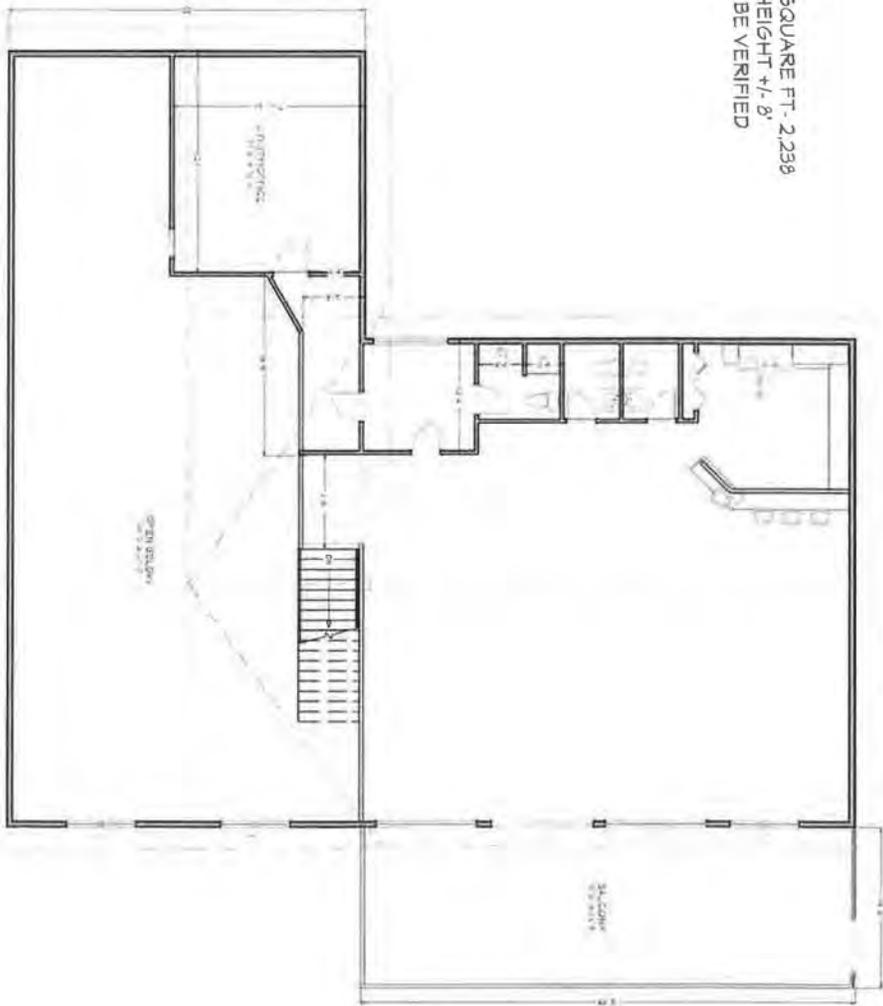
**PROPOSED  
 1ST FLOOR  
 REMODEL**



A3	SHEET	3/32"=1'	SCALE	10/24/2019	DATE	REMODEL 2500 PIRATES LOOP SE, MANDAN 58554	TOBIAS MARMAN CONSTRUCTION	REVISION TABLE		
								NUMBER	DATE	REVISION BY

**PROPOSED  
2ND FLOOR  
REMODEL**

UPPER LEVEL SQUARE FT. - 2,238  
CEILING HEIGHT +/- 8'  
VAULT TO BE VERIFIED



A4	SHEET	3/32" = 1'	SCALE:	10/24/2019	DATE:	TOBIAS MARMAN CONSTRUCTION	REMODEL 2500 PIRATES LOOP SE. MANDAN 58554	<table border="1"> <tr> <td>NO.</td> <td>DATE</td> <td>BY</td> <td>DESCRIPTION</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>				NO.	DATE	BY	DESCRIPTION												
								NO.	DATE	BY	DESCRIPTION																
<p>TOBIAS MARMAN CONSTRUCTION</p>																											



City of Mandan  
Assessing Department  
205 2<sup>nd</sup> Ave. NW  
Mandan, ND 58554  
701-667-3232

## CITY OF MANDAN GUIDELINES FOR PROPERTY TAX EXEMPTION OF IMPROVEMENTS TO COMMERCIAL & RESIDENTIAL BUILDINGS

### State Guideline Requirements: N.D.C.C. 57-02.2

1. The governing body of the county, for property outside city limits, or the governing body of the city, for property within city limits, must pass a resolution to allow the exemption.
2. The governing body may limit or impose conditions upon exemptions, including limitations on the length of time during which an exemption is allowed, not exceeding five years. The requirements must be applied equitably to all applicants.
3. The exemption is valid for the prescribed period and does not terminate upon the sale or exchange of the property. It is transferable to subsequent owners.
4. The resolution may be rescinded or amended at any time by the governing body of the county or city.

### Improvements that Qualify:

5. Improvements to commercial or residential buildings or structures by renovation, remodeling, alteration or an addition to residential may qualify for exemption:
  - a. Renovation- Restoring to a previous condition or to a good state of repair.
  - b. Remodeling- Changing the plan, form or style of a building, to correct functional deficiencies.
  - c. Alteration- Changing, modifying or varying; changing materially.
  - d. Addition- A structure attached to an existing building to increase its size.
6. A residential building must be 25 years old or older on the assessment date to qualify for the exemption. This provision does not apply to commercial buildings.
7. The renovation, remodeling or alteration of an apartment or residential building into a commercial building or structure is eligible for exemption, whether or not the apartment or residential building is 25 years old. However, if a commercial building is renovated, remodeled, or altered into an apartment or residential building, the commercial building must be 25 years old or older to qualify for the exemption.

### Improvements that Do Not Qualify:

8. Improvements begun before the governing body passed the resolution do not qualify for exemption.
9. The complete replacement of one building with another building does not qualify for exemption.

10. A separate structure that is not attached to the existing building does not qualify for exemption.

Procedures:

11. The property owner files an application with the assessor of the assessment district where the property is located.
12. The assessor determines if the improvements qualify for exemption. The governing body of the county or city must approve the exemption before it becomes effective.
13. If the renovation, remodeling, or alteration or addition qualifies, the last assessment on the building prior to the start of making the improvement remains for the prescribed period unless equalization or reevaluation of building values is necessary.
14. The exemption is effective beginning with the first assessment date following the date of commencement of making the improvements.
15. Land values may be changed on any assessment date when justified.

City of Mandan Policy:

1. The exemption will be for a maximum of 3 years.
2. Additions to commercial properties could qualify for the exemption upon approval by the city commissioners if the project qualifies or meets the criteria requirements.
3. The property owner must apply for the exemption and be approved with the Assessor's office once a complete reassessment is done and final approval made by city commissioners prior to the commencement of the improvement. Commencement of the improvement means the start of any remodeling, pouring of footings or foundations. The moving of dirt is not considered the commencement of improvement.
4. A permit must be issued prior to commencement of the improvement.
5. The exemption will not be allowed for repairs due to flood, fire, or tornado damages, or other insurable events.
6. A property may be allowed one exemption per property per assessment year. The first remodeling exemption must be complete and expired prior to the approval of the 2<sup>nd</sup> application for the remodeling exemption. This would include Renaissance, store front improvement matching funds, or new business exemptions.
7. Every building open to the public that has received the benefit of public funds from the city shall provide for the installation of an automatic door for at least one main entrance to the building. City of Mandan Municipal Code 111-2-9

*Approved by the Mandan City Commission  
January 20, 2015*



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 28, 2019  
**SUBMITTING DEPARTMENT:** Engineering  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning and Engineering Director  
**SUBJECT:** Urban Grant Program (UGP) Cost Participation and Maintenance (CPM) Agreement

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**STATEMENT/PURPOSE:** The DOT awarded the Downtown Street Improvement project to the City of Mandan under the Urban Grant Program (UGP). This item is the next step that they are now looking for in order to formalize our acceptance of the funds.

**BACKGROUND/ALTERNATIVES:** The UGP is a program that initialized in 2017 as part of the Governor's Main Street Initiative. To briefly update commission on this program, its main intent is to fund transportation projects that include items that improve the vitality of downtown districts of cities with a population of at least 5,000.

We submitted our Downtown Street Improvement project UGP application last year. It was the second of two consecutive rounds that we applied for this project under the UGP. Our application included many of those elements that came from the Downtown Subarea Study which was completed in 2018. The main intent of the project is to reconstruct 1<sup>st</sup> Street from 1<sup>st</sup> Avenue West to 5<sup>th</sup> West as well as 2<sup>nd</sup>-5<sup>th</sup> Avenues West from Main Street to 2<sup>nd</sup> Street. In March of 2019, we were notified of award by the DOT for the project to go forward in their 2021 program year. The DOT award is for \$2.4M of the requested \$3.2M. So, partial award, but still a very significant amount. The amount awarded is the second largest (about \$34K behind the largest) amount the program has awarded to date out of approximately a couple of dozen applications.

Commission moved to accept this award this April, shortly after notification of approval from the DOT. This item to execute the CPM is the next step in formalizing the acceptance and requested by the DOT before we launch into the planning and engineering of the project. The CPM is a required document for all of our DOT cooperative projects and outlines the roles and responsibilities of each entity in order for the city to receive the federal funding to construct the project.

ATTACHMENTS:

- 1) CPM Agreement

FISCAL IMPACT: An updated estimate has the project coming in at about \$5.2M not including the watermain replacement that we would plan to do in conjunction to replace old and undersized watermain. Therefore, our local share would be about \$2.8M. Under our typical local cost allocation formula for federal funding assisted projects, we would pay for that local share by 50% with a local street improvement district, 25% with city-wide property taxes and 25% by our sales tax fund. The watermain replacement is estimated to cost about \$800K and is planned to come from the utility fund.

If we draw the district similar to other past projects by including areas half-way to the next nearest collector road (Division to the north in this case), the **average** per lot assessment as currently estimated would be about \$4,000 for each parcel in the district. The Planning and Engineering Department believes that to be most fair at this time, but we also want to conduct an optional public involvement meeting next spring to gain feedback from the property owners before formally bringing the district boundary to commission approval.

STAFF IMPACT: Regular project coordination and review duties.

LEGAL REVIEW: The City Attorney responded with no issues with the CPM Agreement.

RECOMMENDATION: Approve the CPM Agreement.

SUGGESTED MOTION: Move to approve the CPM Agreement with the NDDOT for the Downtown Street Improvement project.



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

#### PART I

##### LPA Obligation:

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

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

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

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

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.
3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways and the current edition of the NDDOT's *Local Government Manual*.
4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.
5. To comply with the procedures outlined in the current edition of NDDOT's *Local Government Manual*.
6. To comply with the current edition of NDDOT's *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects*.
7. The LPA will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of streets, inconvenience to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance.
8. To comply with the requirements of Appendices A and E of the Title VI Assurances, attached and incorporated by reference herein.



## PART II

### Contracting and Construction:

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

## PART III

### Post Construction:

After the project is completed the LPA agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor.



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

#### PART IV

##### General:

1. NDDOT will make all contract payments on behalf of the LPA. Payment will be made upon receipt of the engineer's estimate. The LPA will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

If the LPA fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the LPA, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the LPA out of the highway tax distribution fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
3. No official, employee, or other person performing services for the LPA who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the LPA shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the LPA, and such officer, employee, or person has not participated in such acquisition for and in behalf of the LPA.
4. 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.
5. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are



applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

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

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

7. The LPA is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.
8. 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 LPA, by the signature below of its authorized representative, hereby acknowledges that the LPA has read this agreement, understands it, and agrees to be bound by its terms and conditions.



Board of City Commissioners  
 Agenda Documentation  
 Meeting Date: November 5, 2019  
 Urban Grant Program (UGP) Cost Participation and Maintenance (CPM) Agreement  
 Page 8 of 12

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Executed by the LPA of \_\_\_\_\_, North Dakota, the date last below signed.

APPROVED:

\_\_\_\_\_  
CITY/STATES ATTORNEY (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

LPA of \_\_\_\_\_

\* \_\_\_\_\_

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\* \_\_\_\_\_

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

ATTEST:

\_\_\_\_\_  
AUDITOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

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

APPROVED as to substance:

\_\_\_\_\_  
LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

NORTH DAKOTA  
 DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\* Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)  
 L.D. Approved 4-12-93; 8-17; C.M. 05/21/2019



Project UGP-1-988(045)

**CERTIFICATION OF LOCAL MATCH**

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

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

**Source:**

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

Executed at \_\_\_\_\_, North Dakota, the last date below signed.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
AUDITOR (TYPE OR PRINT)

LPA of \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\*

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

\*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)  
L.D. Approved 4-12-93; 8-17; C.M. 05/21/2019



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

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

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



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

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

**Pertinent Non-Discrimination Authorities:**

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



#### Risk Management Appendix

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

**Parties:** **State** – State of North Dakota, its agencies, officers and employees  
**Governmental Entity** – The Governmental Entity executing the attached document, its agencies, officers and employees  
**Governments** – State and Government Entity, as defined above

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

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

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

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

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

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

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

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

RM Consulted 2007  
Revised 5-09





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 30, 2019  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning & Engineering Director  
**SUBJECT:** Request for Proposals for the Downtown Street Improvement District, #217

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**STATEMENT/PURPOSE:** To consider approving the advertisement of a Request for Proposals (RFP) for the Downtown Street Improvement District, #217.

**BACKGROUND/ALTERNATIVES:** The Urban Grant Program has dedicated about \$2.4M toward the Downtown Street Improvement project. Planning and design of this project is going to be a huge undertaking and one for which the Engineering Department needs a consultant engineer to partner with. In order to get going with Planning and Engineering of this project, our department is recommending we advertise this RFP to start a selection process for a consulting engineer to lead the design of this district.

**ATTACHMENTS:**

1. Map of the Construction Limits
2. Request for Proposal

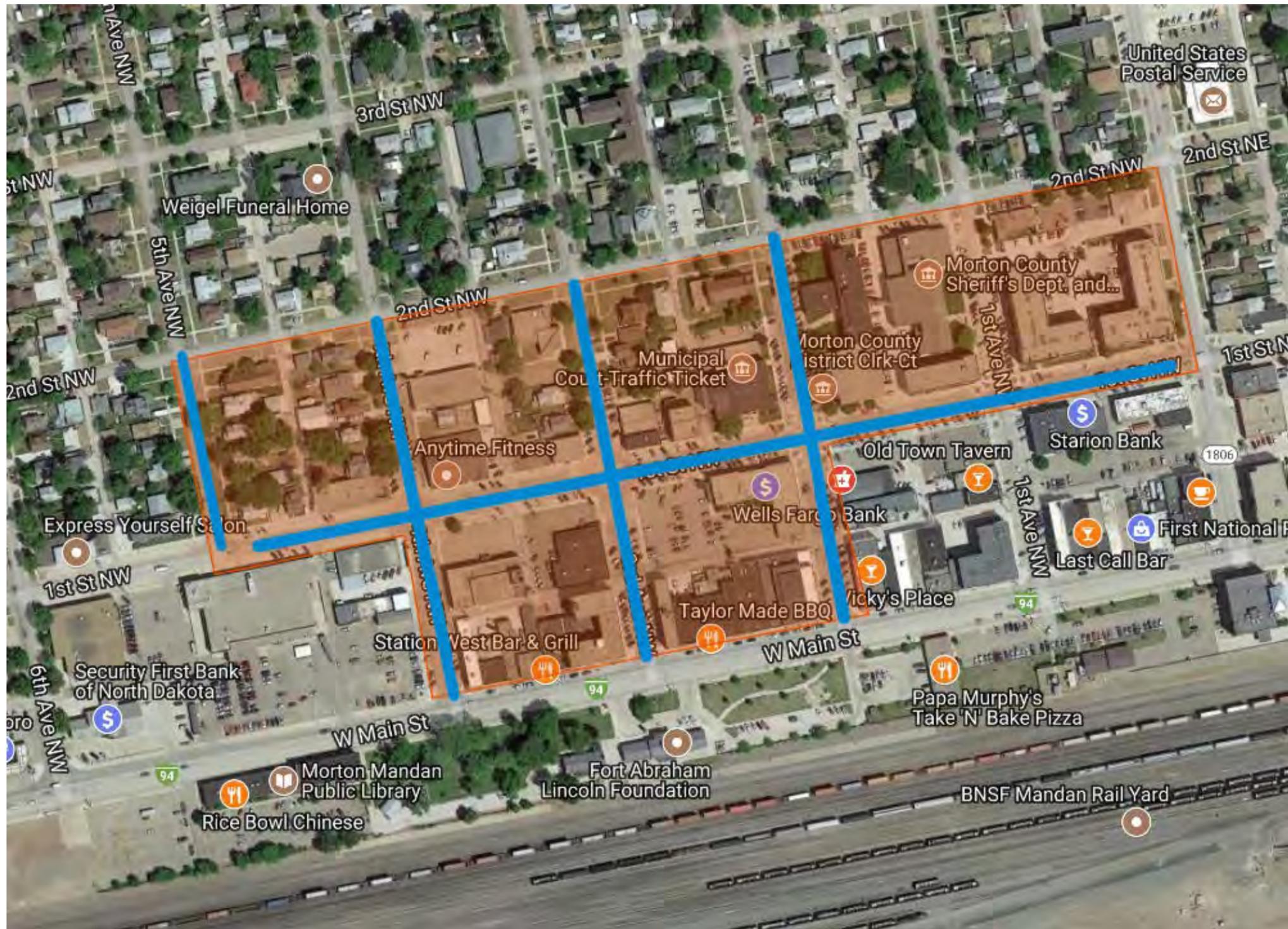
**FISCAL IMPACT:** Minimal fiscal impact at this time. After a consultant is chosen, we would need to bring back an item to recommend entering into a contract with them.

**STAFF IMPACT:** Significant time will need to be spent through the selection process.

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

**RECOMMENDATION:** Approve the Advertisement of the Request for Proposals.

**SUGGESTED MOTION:** Move approve the advertisement of the Request for Proposal (RFP) for the Downtown Street Improvement District, #217.



## REQUEST FOR PROPOSALS FOR ENGINEERING SERVICES

The City of Mandan hereby solicits written proposals from professional civil engineering firms for engineering services required for the purpose of:

Provide design engineering and pre-bid services for the Downtown Street Improvement District, No. 217. Immediate services shall include preparing a project concept report, preliminary designing of project to an approximately 30% design level and assistance in neighborhood outreach and presentations. Should the project move forward after requisite solicitation of protests, the contract may be extended to include final design and preparation of bid and contract documents. The project is to reconstruct downtown collector streets and adjacent pedestrian facilities in the core downtown area. The project is set to receive about \$2.4M in federal funds through the NDDOT's Urban Grant Program. The balance of the project costs is expected to come from a blend of local funds including the sales tax fund, city-wide property taxes, the utility fund and special assessments to benefitting properties.

The general schedule of this project is to preliminarily design in early 2020, then discuss the project with residents and officially propose the assessment district part of it in the late spring/summer of 2020. Following that would be final design and a bid opening in November of 2020 for 2021 construction. The general scope and nature of the construction project to be designed is as follows;

Improvement of city streets in the area that can generally be described as west of Collins Avenue to 6<sup>th</sup> Avenue West and north of Main Street to 2<sup>nd</sup> Street Northwest. It is anticipated that most of these streets will require a full reconstruct, however, less impactful methods of improvement will be considered where feasible. The project is also anticipated to include a significant amount of storm sewer and watermain replacement. Sanitary sewer is not anticipated to be a major part of project scope, but should be assessed to identify any major concerns along with the planning of the project.

Written proposals shall address, as a minimum, the following items of consideration; the firms:

- 1) Past performance
- 2) Ability of professional personnel
- 3) Basic project understanding
- 4) Willingness to meet time and budget requirements
- 5) Location of firm's staff performing the work
- 6) Related experience on similar projects

Board of City Commissioners

Agenda Documentation

Meeting Date: November 5, 2019

Subject: Request for Proposals for the Downtown Street Improvement District, #217

Page 4 of 4

The selection of the firm will be based on the evaluation of the written proposals and interviews by the selection committee. The selection committee may interview all or some of the firms based on the proposals. The selection committee will then forward their recommendations to the Board of City Commissioners for their consideration. Price will be negotiated with the selected firm. If an agreement on scope of work and cost is reached with that firm, an engineering agreement will be executed with them.

Written proposals from qualified consultants will be accepted until 5:00 p.m., Friday, December 6<sup>th</sup>. Proposal pages shall be numbered and limited to six (6) pages in length. Each proposal shall contain a cover letter signed by an authorized officer of the firm. The cover letter will not be counted as one of the six (6) pages. The proposal may include appendices for more robust or additional information such as resumes, references, past projects, etc. that support the firm's capability. The appendices will not be considered as part of the six (6) page proposal and is not limited. The city anticipates reviewing the proposals in mid-December in order to schedule consultant interviews before December 20<sup>th</sup> and to conduct them during the first half of January. It is anticipated that a recommendation for selection will go before the Board of the City Commissioners for their consideration on the January 21<sup>st</sup> City Commission meeting.

During the RFP period, the city will accept questions in written form by emailing Justin Froseth at [jfroseth@cityofmandan.com](mailto:jfroseth@cityofmandan.com) with the subject line including the text "SID 217". All questions will be posted anonymously and answered within the city's RFP section of the city website. Additionally, interested firms may request a half hour meeting with city engineering staff to ask questions about the project. Those questions are subject to posting on the city website as well.

For consideration, submit six (6) hard copies, and one (1) electronic copy of said proposal to:

City of Mandan  
Engineering Office  
205 2<sup>nd</sup> Avenue NW  
Mandan, ND 58554



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5<sup>th</sup>, 2019  
**PREPARATION DATE:** October 15, 2019  
**SUBMITTING DEPARTMENT:** Police  
**DEPARTMENT DIRECTOR:** Chief Jason Ziegler  
**PRESENTER:** Chief Jason Ziegler  
**SUBJECT:** Introduction and First Consideration of Ordinance 1329 an Ordinance to Amend and Re-enact Section 18-1-7, Possession of Marijuana, and Section 18-1-8, Drug Paraphernalia (Marijuana) of the Mandan Code of Ordinances

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**STATEMENT/PURPOSE:** Consider Introduction and First Consideration of Ordinance 1329 to amend and re-enact Section 18-1-7, Possession of Marijuana, and Section 18-1-8, Drug Paraphernalia (Marijuana) of the Mandan Code of Ordinances.

**BACKGROUND/ALTERNATIVES** The 2019 ND Legislative Session enacted a number of changes to laws pertaining to possession of marijuana and the possession of drug paraphernalia relating to marijuana. This ordinance amends the Mandan Code of Ordinances to comply with the changes made by the legislature.

**ATTACHMENTS:** Ordinance 1329

**FISCAL IMPACT:** None

**STAFF IMPACT:** None

**LEGAL REVIEW:** Ordinance 1329 was drafted by the City Attorney

**RECOMMENDATION:** Recommend approval of the Introduction and First Consideration of Ordinance 1329 to amend and re-enact Section 18-1-7, Possession of Marijuana, and Section 18-1-8, Drug Paraphernalia (Marijuana) of the Mandan Code of Ordinances.

**SUGGESTED MOTION:** Move to approve the Introduction and First Consideration of Ordinance 1329 to amend and re-enact Section 18-1-7, Possession of Marijuana, and Section 18-1-8, Drug Paraphernalia (Marijuana) of the Mandan Code of Ordinances.

## ORDINANCE NO. 1329 \_\_\_\_\_

An Ordinance to Amend and Re-enact  
Section 18-1-7, Possession of Marijuana, and  
Section 18-1-8, Drug Paraphernalia (Marijuana).  
of the Mandan Code of Ordinances

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

### **Sec. 18-1-7. Possession of Marijuana.**

(a) Any person in possession of ~~more than~~ one-half ounce of marijuana or more, as that term is defined by N.D.C.C. §19-03.1-01(18), within the City of Mandan, shall be charged with ~~an offense~~ a Class B Misdemeanor.

(b) Any person in possession of ~~not more~~ less than one-half ounce of marijuana, as that term is defined by N.D.C.C. §19-03.1-01(18), within the City of Mandan, shall be charged with an infraction.

(c) Whenever a person pleads or is found guilty of a first offense regarding possession of one ounce or less of marijuana and a judgment of conviction is entered, the court, upon motion, shall seal that conviction from the record if the person is not subsequently convicted within two years of a further violation of this ordinance or like ordinance or statute in any other jurisdiction and has not been convicted of any other criminal offense. Once sealed, the court record may not be opened even by order of the court.

### **Sec. 18-1-8. Drug Paraphernalia (Marijuana).**

(a) A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana, or possess with the intent to use drug paraphernalia to store or contain marijuana in violation of N.D.C.C. chapter 19-03-1. ~~in violation of N.D.C.C. ch. 19.~~ A person violating this subsection shall be charged with an infraction.

(b) A person who is under the age of twenty-one and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana, unless the substance was medical marijuana obtained in accordance with N.D.C.C. chapter 19-24-1, is guilty of an offense a Class B Misdemeanor. The marijuana must have been ingested, inhaled, injected,

or otherwise taken into the body in the City of Mandan or the marijuana must have been detected in the body of the accused in the City of Mandan.

By: \_\_\_\_\_  
Tim Helbling, President  
Board of City Commissioners

Attest:

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

First Consideration: November 5, 2019

Second Consideration and Final Passage: November 19, 2019

Publication: November 29, 2019



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** November 5, 2019  
**PREPARATION DATE:** October 24, 2019  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** Second consideration of Ordinance 1313 related to the annexation and zone change for proposed Evergreen Heights 3<sup>rd</sup> Addition

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**STATEMENT/PURPOSE:** Consider approval of the second consideration of Ordinance 1313 related to the annexation and zone change.

**BACKGROUND/ALTERNATIVES:** Val Renner and Janet Dykshoorn are seeking to plat their property near 19<sup>th</sup> St. SE and S. 1806 for the purposes of commercial development. The property requesting to be platted totals 4.04 acres, with a further five (5) acres being part of a masterplan. The master planned area is not being requested to be annexed, platted, or rezoned at this time.

Mr. Renner would like to erect shop condos for his landscaping business and to house similar contractor businesses on Lot 3, Block 1 of the proposed plat (See Exhibit 2 and 3). Lot 1 is intended for similar use as Lot 3. No residential uses are desired on these lots, although Lot 1 has been noted as an ideal location for residential construction. Ms. Dykshoorn would like to maintain her single-family dwelling on Lot 2, Block 1.

Lots 1 through 3, Block 1 is seeking CA – Neighborhood Commercial zoning. Staff is recommending the same restrictions that applied to these lots at the previous P&Z meeting on April 22, 2019. Staff has received confirmation that these restrictions are amenable to the applicant via e-mail.

The master plan shows single-family residential being constructed along the west of a proposed north-south future road titled “Living Water Drive.” These are Lots 1-8, Block 3 on the masterplan. Future zoning for Lot 1, Block 2 of the masterplan is RM – multi-family.

Board of City Commissioners

Agenda Documentation

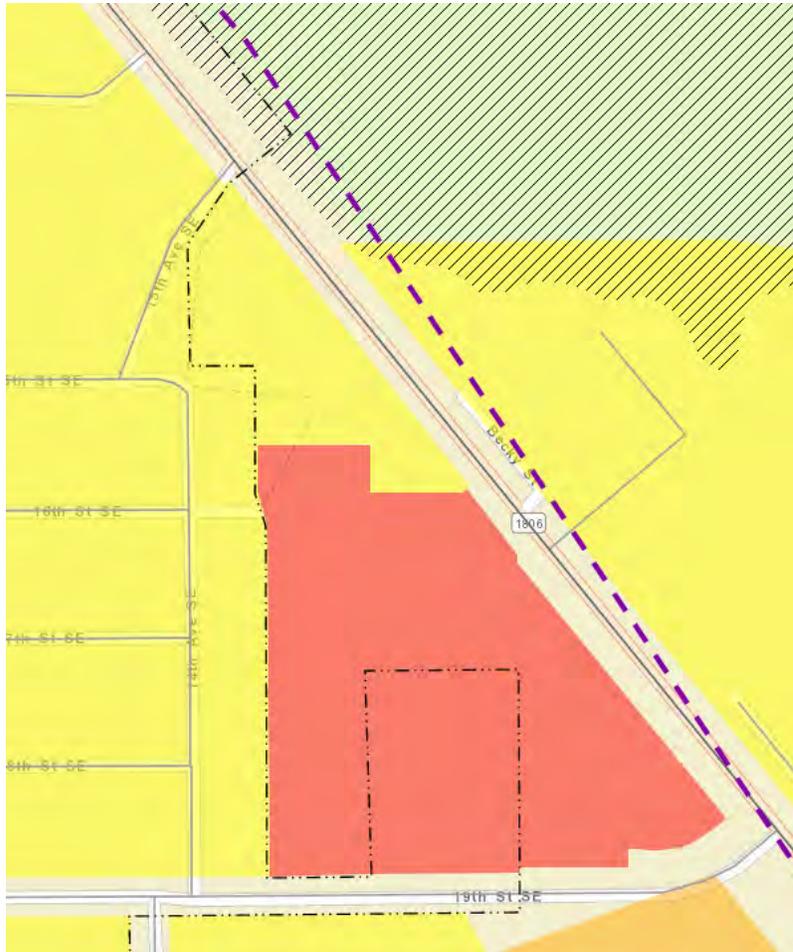
Meeting Date: November 5, 2019

Subject: Second consideration of Ordinance 1313 related to the annexation and zone change for proposed Evergreen Heights 3rd Addition

Page 2 of 3

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The future land use per the Mandan Land Use & Transportation Plan is commercial (red) and low density residential (yellow).



The development proposed does not align with the comprehensive plan for the city. Despite this, staff is providing recommendation for approval based on the rationale found in Exhibit 4.

The Planning and Zoning Commission voted unanimously to recommend approval at the September 23 meeting.

**NEW SINCE OCTOBER 15 CITY COMMISSION MEETING**

The Board of City Commissioners voted unanimously to approve the first consideration of Ordinance 1313. There have been no changes to the DRAFT ordinance since the first consideration. No additional comments were received.

Board of City Commissioners

Agenda Documentation

Meeting Date: November 5, 2019

Subject: Second consideration of Ordinance 1313 related to the annexation and zone change for proposed Evergreen Heights 3rd Addition

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ATTACHMENTS:

Exhibit 1 – Application

Exhibit 2 – Evergreen 3rd Preliminary Plat

Exhibit 3 – Masterplan

Exhibit 4 – Rationale for Deviating from Land Use and Transportation Plan

Exhibit 5 – Requirements for Final Plat

Exhibit 6 – List of Zoning Restrictions

Exhibit 7 – DRAFT Ordinance 1313

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: This document, including Ordinance 1313, has been reviewed and approved by Attorney Brown.

RECOMMENDATION: Engineering and Planning recommend approval of the annexation and zoning amendment as outlined in Ordinance 1313 as shown in Exhibit 7 for the reasons outlined in Exhibit 4.

SUGGESTED MOTION: I move to approve the second consideration of Ordinance 1313 as shown in Exhibit 7 based on the rationale included in Exhibit 4.

# EXHIBIT 1

CITY OF MANDAN	
Development Review Application	
<input type="checkbox"/> Minor Plat (\$300)	<input checked="" type="checkbox"/> Zone Change (\$600)
<input checked="" type="checkbox"/> Preliminary Plat up to 20 acres (\$350)	<input type="checkbox"/> Planned Unit Development (\$700)
<input type="checkbox"/> Preliminary Plat more than 20 acres (\$400)	<input type="checkbox"/> Zone Change with Minor Plat (\$400)
<input type="checkbox"/> Final Plat up to 20 lots (\$350)	<input type="checkbox"/> Vacation (\$500)
<input type="checkbox"/> Final Plat 21 to 40 lots (\$475)	<input type="checkbox"/> Variance (\$400)
<input type="checkbox"/> Final Plat more than 40 lots (\$700)	<input type="checkbox"/> Special Use Permit (\$450)
<input checked="" type="checkbox"/> Annexation (\$450)	<input type="checkbox"/> Stormwater submittal (\$300)
<input type="checkbox"/> Annexation with Minor Plat (\$200)	<input type="checkbox"/> Stormwater 2 <sup>nd</sup> & subsequent resubmittal (\$50)
<b>Summary of Request</b>	
Applicant requests to plat, annex and change the zoning for the property shown on the enclosed preliminary plat. Request to change from the county ag zoning to CA - Neighborhood Commercial for Lots 1-3, Block 1.	

Engineer/Surveyor			Property Owner or Applicant		
<b>Name</b> Feser Engineering, PC   SES Geomatics			<b>Name</b> Val Renner   Janet Dykshoorn		
<b>Address</b> 1217 N 1st Street   2321 Harding Avenue			<b>Address</b> 4655 Hwy 6   1601 Hwy 1806 S		
City	State	Zip	City	State	Zip
Bismarck	ND	58501	Mandan	ND	58554
email			email		
greg@fesereng.com   ljs2363@midco.net					
Phone		Fax	Phone		Fax
400-2801   220-9843			426-0522		
If the applicant is not the current owner, the current owner must submit a notarized statement authorizing the applicant to proceed with the request.					

Location		Type		Existing Zone	Proposed Zone	Project Name	
<input checked="" type="checkbox"/> City	ETA	<input checked="" type="checkbox"/> New	<input type="checkbox"/> Addition	AG	CA and RM	Evergreen Heights 3rd Addition	
Property Address				Legal Description			
1601 Hwy 1806 S				PART OF LOT B OF AUDITOR'S SUBDIVISION AND ALL OF LOT A AND LOT B			
Current Use				Legal Description			
Rural residential home and agricultural use.				SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST			
Proposed Use				Legal Description			
A site plan will be prepared for construction of shop condos on Lot B, Block 1				CITY OF MANDAN SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST			
Parcel Size		Building Footprint	Stories	Building SF	Required Parking	Provided Parking	
9.81 Acres							

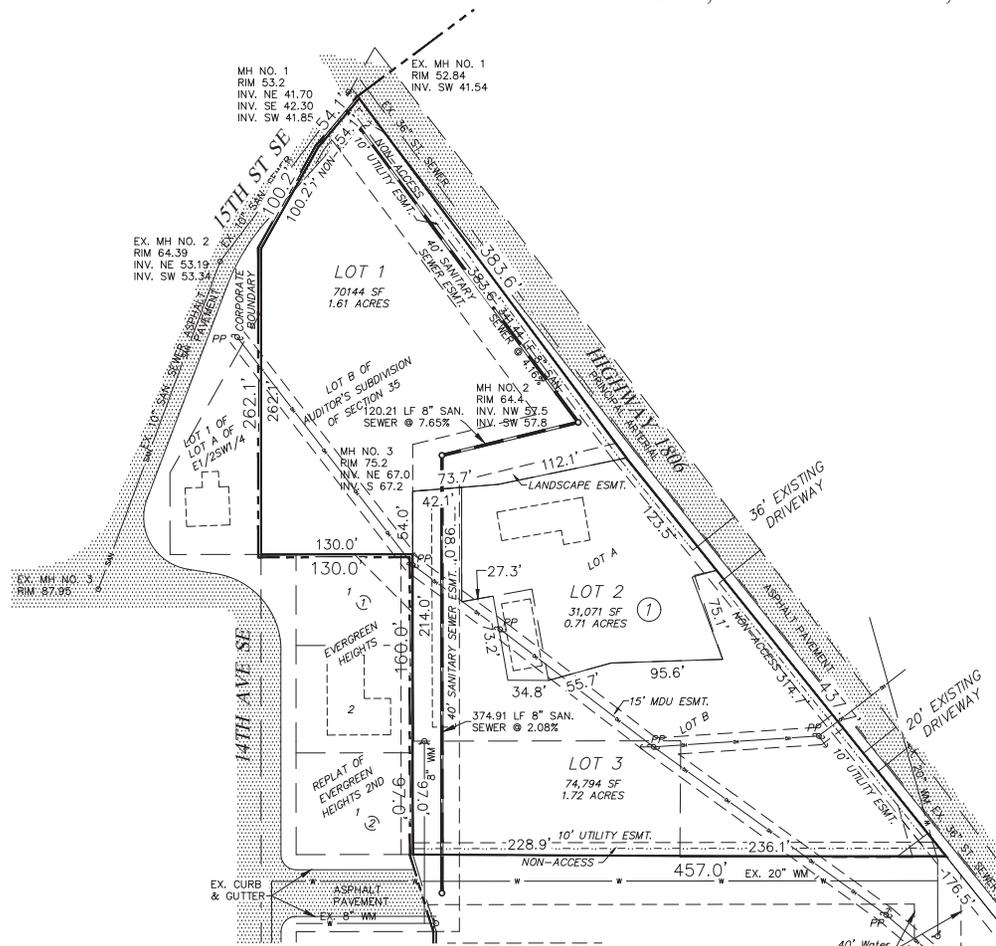
<b>Print Name</b> Janet Dykshoorn Val Renner	<b>Signature</b> <i>Janet Dykshoorn</i> <i>Val Renner</i>	<b>Date</b> 8-23-2019
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Office Use Only			
Date Received:	8/23/2019	Initials:	nm
Notice in paper		Fees Paid:	\$ 1400
	Mailed to neighbors		P&Z meeting
<input type="checkbox"/> Approved	<input type="checkbox"/> Approved with conditions:		
<input type="checkbox"/> Denied			

# EXHIBIT 2

## EVERGREEN HEIGHTS THIRD ADDITION

PART OF LOT B OF AUDITOR'S SUBDIVISION AND  
 ALL OF LOT A AND LOT B OF LOT B AUDITOR'S SUBDIVISION AND  
 PART OF  
 SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST  
 CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA



LOCATION MAP



SCALE - 1"=50'  
 AUGUST 23, 2019

OWNER: JANET DYKSHOORN  
 ADDRESS: 1601 HWY 1806 S  
 MANDAN, ND 58554

OWNER: YAL RENNER  
 ADDRESS: 4655 HWY 6  
 MANDAN, ND 58554

ZONED: AGRICULTURE - MORTON COUNTY  
 ACRES: 4.04 ACRES

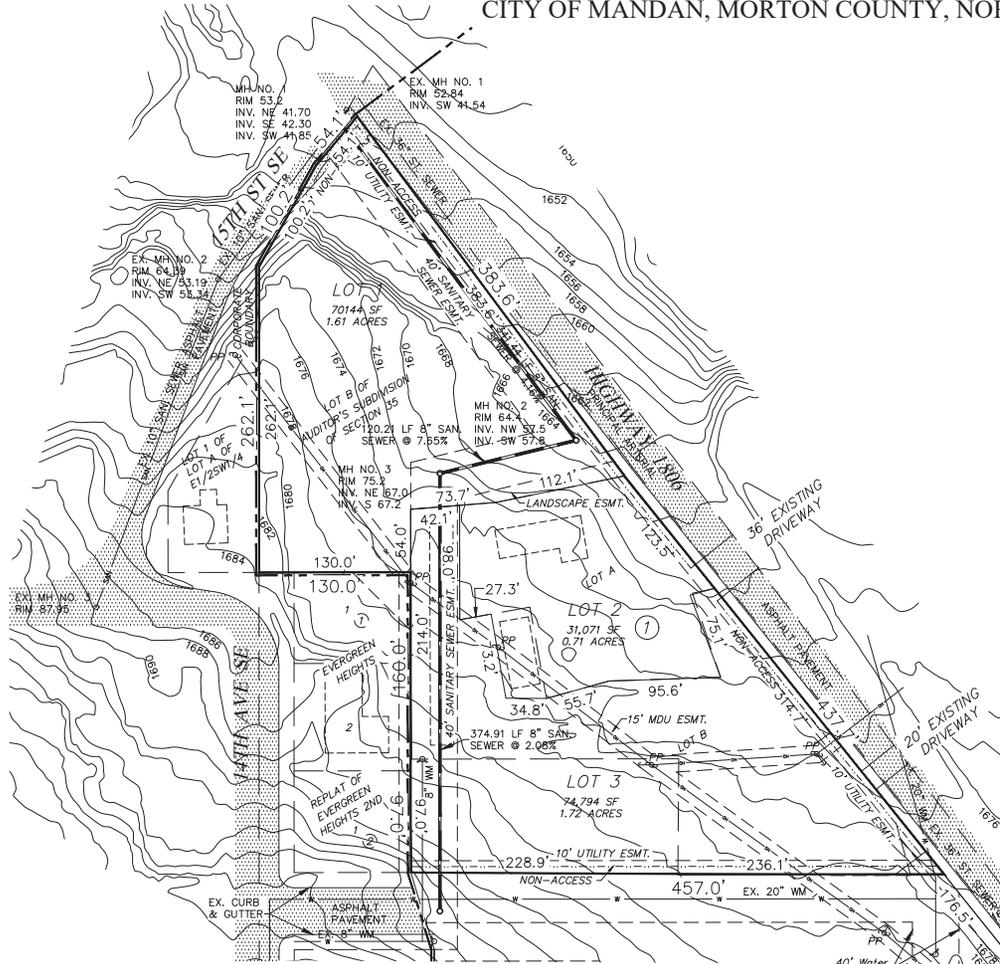
PROPOSED ZONING: CA - NEIGHBORHOOD COMMERCIAL



PRELIMINARY-NOT FOR CONSTRUCTION,  
 RECORDING PURPOSES OR IMPLEMENTATION.

# EVERGREEN HEIGHTS THIRD ADDITION

PART OF LOT B OF AUDITOR'S SUBDIVISION AND  
 ALL OF LOT A AND LOT B OF LOT B AUDITOR'S SUBDIVISION AND  
 PART OF  
 SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST  
 CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA



LOCATION MAP



SCALE - 1"=50'  
 AUGUST 23, 2019

**OWNER:** JANET DYKSHOORN  
**ADDRESS:** 1601 HWY 1806 S  
 MANDAN, ND 58554

**OWNER:** YAL RENNER  
**ADDRESS:** 4655 HWY 6  
 MANDAN, ND 58554

**ZONED:** AGRICULTURE - MORTON COUNTY

**ACRES:** 4.04 ACRES

**PROPOSED ZONING:** CA - NEIGHBORHOOD COMMERCIAL



PRELIMINARY-NOT FOR CONSTRUCTION,  
 RECORDING PURPOSES OR IMPLEMENTATION.

# EXHIBIT 3



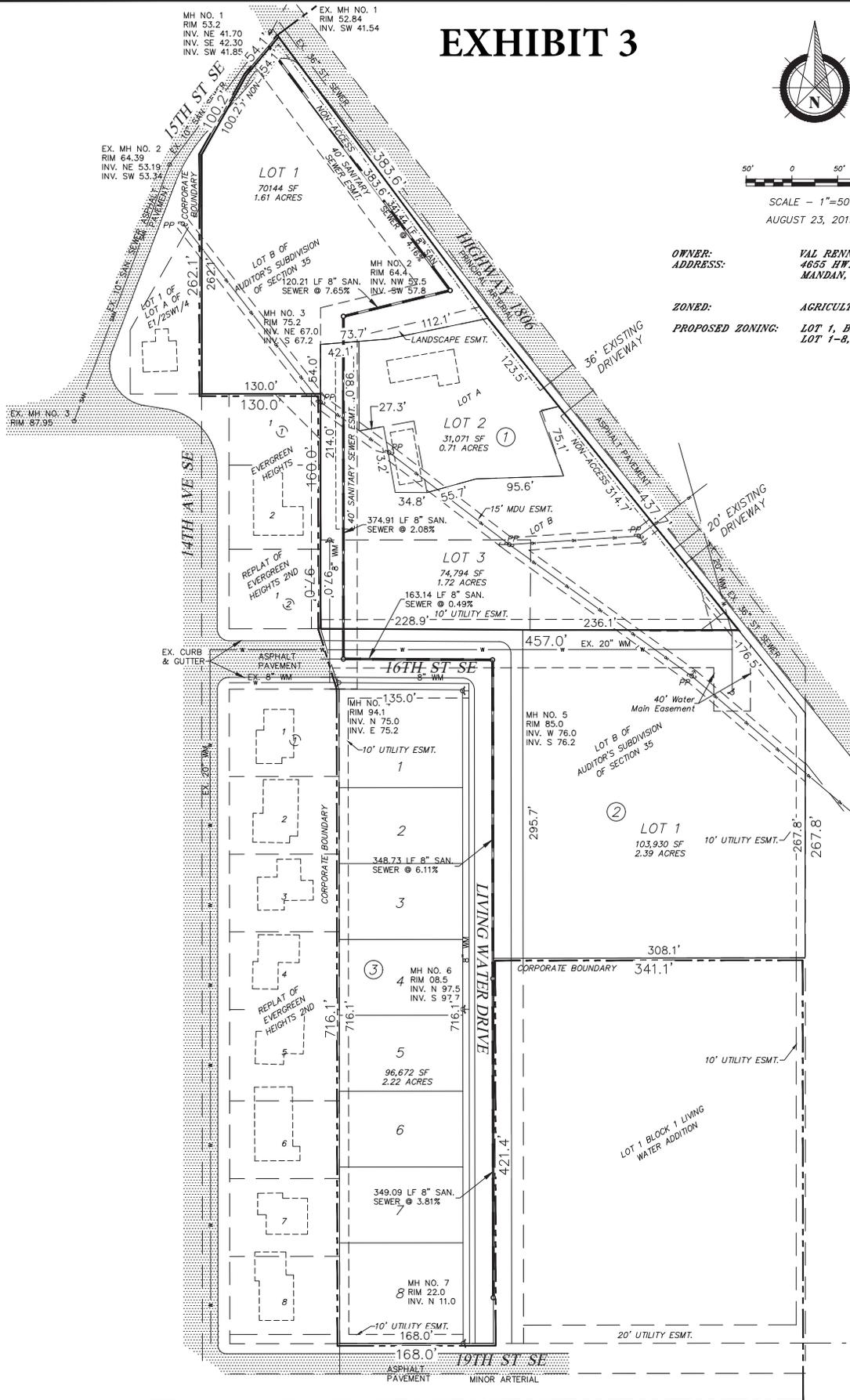
50' 0 50' 100'

SCALE - 1"=50'  
AUGUST 23, 2019

**OWNER:** VAL RENNER  
**ADDRESS:** 4655 HWY 6  
MANDAN, ND 58554

**ZONED:** AGRICULTURE - MORTON COUNTY

**PROPOSED ZONING:** LOT 1, BLOCK 2 - RM  
LOT 1-B, BLOCK 3 - R7



DESIGNED BY: GJF  
REVIEWED BY: GJF  
PROJ. NO.:  
DATE: 8-23-19

NOT FOR CONSTRUCTION  
PRELIMINARY

## EVERGREEN HEIGHTS MASTERPLAN

VAL RENNER AND JANET DYKSHOORN  
MANDAN, NORTH DAKOTA



1217 N 1ST STREET, BISMARCK, ND 58501  
PHONE 701-400-2801 EMAIL greg@fesereng.com

DATE	REVISION

# Exhibit 4

## Rationale for Deviating from Land Use and Transportation Plan:

- 1) As the facility is operated and maintained by NDDOT and as they have provided approval of the layout as presented, there appears to be no substantive reason for the connection of 16<sup>th</sup> St. SE from 14<sup>th</sup> Ave. SE to 1806 S. at this time. The future land use map shows commercial in a large portion of this area. Without a direct access to 1806 S, commercial uses on Lot 1, Block 2 of the masterplan would require commercial traffic to travel through single-family residential.
  
- 2) Single-family residential on Block 3 of the proposed master plan is an accommodation of adjacent property owners and amenable to the applicant. As, both neighbors and the current property owner desire to see the property developed in this manner where the proposed "Living Water Drive" becomes the buffer to non-single-family uses, this zoning designation is more harmonious.
  
- 3) Commercial on Lots 2 & 3 of the proposed preliminary plat would utilize one of two existing approaches onto 1806 S and vacate the other. This is desirable, as it moves the arterial further toward optimization (efficiency/safety). Lot 1, Block 1 will utilize access onto 15<sup>th</sup> St. SE.
  
- 4) The corridor along this area is a combination of multi-family and commercial. This proposal would align with the character of the similarly positioned properties in this area.

# EXHIBIT 5

## Requirements of Final Plat (Purpose)

- No access onto 1806 S other than by way of existing driveway approach presently serving proposed Lot 2, Block 1 of Evergreen Heights 3<sup>rd</sup> Add. (Safety)
- Approach solely serving proposed Lot 3, Block 1 of Evergreen Heights 3<sup>rd</sup> Add. shall be vacated to meet the current North Dakota Department of Transportation standards for minimum distance between approaches. (Safety)
- Montana-Dakota Utilities (MDU) requests an easement along properties abutting 1806 S of ten (10) feet to adequately provide services to the proposed lots. (Utilities)

# EXHIBIT 6

## Recommended Zoning Restrictions by Lot/Block for Proposed Evergreen Heights 3<sup>rd</sup> Add.

### **Lot 1, Block 1**

- a. Single-family dwelling.
- b. Two-family dwelling.
- c. Multifamily dwelling.

#### **Office-bank Group Uses**

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted

Professional services;

### **Lot 2, Block 1**

- a. Single-family dwelling.
- b. Two-family dwelling.
- c. Multifamily dwelling.

#### **Office Use Group Uses**

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted

Professional services;

### **Lot 3, Block 1**

**Office-bank Group Uses**

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted

Professional services;

# EXHIBIT 7

## ORDINANCE NO. 1313

### **AN ORDINANCE TO AMEND AND REENACT SECTION 105-2-2 OF THE MANDAN CODE OF ORDINANCES RELATING TO DISTRICT BOUNDARIES AND ZONING MAP AND ANNEXING CERTAIN ADJOINING LANDS TO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, AND EXTENDING THE CORPORATE BOUNDARIES THEREOF.**

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

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

ALL THAT PART OF LOT B OF AUDITOR'S SUBDIVISION AND ALL OF LOT A AND LOT B OF LOT B AUDITOR'S SUBDIVISION OF THE SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST, MORTON COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOW:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1 BLOCK 2 REPLAT OF EVERGREEN HEIGHTS 2ND ADDITION; THENCE NORTH 00 DEGREES 06 MINUTES 31 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 256.67 FEET TO THE NORTHEAST CORNER OF LOT 1 BLOCK 1 EVERGREEN HEIGHTS ADDITION; THENCE NORTH 89 DEGREES 53 MINUTES 40 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 129.87 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF LOT A OF E1/2SW1/4 SECTION 35, T.139N., R.81W.; THENCE NORTH 00 DEGREES 01 MINUTE 22 SECONDS WEST, ALONG EAST LINE OF SAID LOT 1 OF LOT A OF E1/2SW1/4, A DISTANCE OF 258.17 FEET TO THE SOUTH RIGHT-OF-WAY OF 15TH STREET SE; THENCE NORTHEASTERLY AND TO THE RIGHT, ALONG SAID RIGHT-OF-WAY, ON A 204.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 58 DEGREES 38 MINUTES 59 SECONDS EAST, AN ARC LENGTH OF 33.78 FEET; THENCE NORTH 40 DEGREES 50 MINUTES 14 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 90.42 FEET TO THE WEST RIGHT-OF-WAY OF HIGHWAY 1806; THENCE SOUTH 38 DEGREES 47 MINUTES 51 SECONDS EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 329.06 FEET; THENCE NORTH 51 DEGREES 25 MINUTES 12 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 5.16 FEET; THENCE SOUTH 38 DEGREES 42 MINUTES 43 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 285.14 FEET; THENCE SOUTH 51 DEGREES 17 MINUTES 17 SECONDS WEST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 15.00 FEET; THENCE SOUTH 38 DEGREES 48 MINUTES 45 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 163.24 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 25 SECONDS WEST, A DISTANCE OF 427.70 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 3.70 ACRES, MORE OR LESS.

**AND**

BEGINNING AT THE NORTHERN MOST POINT OF THE PROPOSED EVERGREEN 3RD ADDITION BEING CENTERLINE STATION 60+20.94, 50 FEET RIGHT OF NORTH DAKOTA STATE HIGHWAY 1806, THENCE NORTH 51 DEGREES 12 MINUTES 9 SECONDS EAST, NORTHEASTERLY TO THE RIGHT OF WAY OF SAID HIGHWAY 1806, THENCE SOUTHEASTERLY 150 LEFT ALONG THE NORTHEASTERLY RIGHT OF WAY 79.06 FEET TO STATION 61+00.00, WHERE THE RIGHT OF WAY CHANGES TO 100.00 FEET LEFT OF CENTERLINE, THENCE ALONG SAID RIGHT OF WAY LINE TO THE EAST WEST 1/4 1/4 LINE SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST, THENCE ALONG SAID 1/4 1/4 LINE AND SAID RIGHT OF WAY LINE TO WHERE THE RIGHT OF WAY CHANGES TO 50 FEET LEFT OF CENTERLINE, THENCE ALONG SAID RIGHT OF WAY AND THE SOUTHWESTERLY LINE OF BECKY STREET 163.24 FEET TO CENTERLINE STATION 67+98.24, THENCE PERPENDICULAR AND SOUTHWESTERLY TO THE PREVIOUS LINE A DISTANCE OF 110 FEET TO THE MOST SOUTHEASTERLY CORNER OF THE PROPOSED EVERGREEN HEIGHTS THIRD ADDITION, THENCE NORTHWESTERLY ALONG THE SOUTH WESTERLY RIGHT OF WAY LINE OF HIGHWAY 1806 AS DESCRIBED IN THE PROPOSED EVERGREEN HEIGHTS THIRD ADDITION BOUNDARY DESCRIPTION AND EXHIBIT TO THE POINT OF BEGINNING.

THE INTENT OF THE ABOVE DESCRIPTION IS INCLUDE THE 1806 RIGHT OF WAY ADJOINING THE EVERGREEN HEIGHTS THIRD ADDITION, IN THE ANNEXATION TO THE CITY OF MANDAN.

**SECTION 2. CORPORATE BOUNDARY EXTENDED.** Upon the taking effect of this Ordinance, the corporate limits and boundary lines of the City of Mandan shall thereafter include said lands.

**SECTION 3. ZONING AMENDMENT.** Section 105-2-2 of the Mandan Code of Ordinances is amended to read as follows:

The following properties, being All That Part Of Lot B Of Auditor's Subdivision And All Of Lot A And Lot B Of Lot B Auditor's Subdivision Of The Southwest 1/4 Section 35, Township 139 North, Range 81 West, Morton County, North Dakota (part of that previously described in Section 1) and comprising the proposed plat of Evergreen Heights Third Addition, shall be excluded from the A Agricultural District and included in the district as outlined below:

1. Lots 1 & 2, Block 1 shall be included in the CA – Commercial District **WITH RESTRICTIONS**. The allowable uses are limited to the following:

**Residential uses:**

- Single-family dwelling;
- Two-family dwelling;
- Multifamily dwelling;

**Office-bank group uses:**

- Insurance or real estate;
- Professional Services; and
- Private company - Shop condos for contractor-related activities to include:
  - Landscaping, electrician, plumbing, HVAC, drywall taping; and
  - Carpenters, where no milling, cutting, or other wood machining is conducted

2. Lot 3, Block 1 shall be included in the CA – Commercial District **WITH RESTRICTIONS**. The allowable uses are limited to the following:

**Office-bank group uses:**

- Insurance or real estate;
- Professional Services; and
- Private company - Shop condos for contractor-related activities to include:
  - Landscaping, electrician, plumbing, HVAC, drywall taping; and
  - Carpenters, where no milling, cutting, or other wood machining is conducted

**SECTION 4. RE-ENACTMENT.** Section 105-2-2 of the Mandan Code of Ordinances is hereby re-enacted as amended. The city principal planner is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

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Tim Helbling, President  
Board of City Commissioners

Attest:

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Jim Neubauer  
City Administrator

Planning and Zoning Commission:  
First Consideration:  
Second Consideration and Final Passage:  
Recording Date:

September 23, 2019

October 15, 2019

November 5, 2019

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