



**AGENDA**  
**MANDAN CITY COMMISSION**  
**AUGUST 18, 2020**  
**ED "BOSH" FROEHLICH MEETING ROOM,**  
**MANDAN CITY HALL**  
**5:30 P.M.**  
**[www.cityofmandan.com](http://www.cityofmandan.com)**

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*To adhere to public health recommendations to minimize public gatherings during this COVID-19 situation, the following options are being offered to accommodate public attendance and participation in City Commission meetings. City Hall will be closed to the public.*

*The public may access the LIVE meeting at:*

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*The City of Mandan is encouraging citizens to provide their comments for agenda items via email to [info@cityofmandan.com](mailto:info@cityofmandan.com). Please provide your comments before 3:30 p.m. on the day of the meeting. Include the agenda item number your comment references. Comments will be forwarded to the Commissioners and appropriate departments.*

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- A. **ROLL CALL:**
1. Roll call of all City Commissioners.
  2. Introduction of new K-9 Medve and handler Officer Westgard.
- B. **APPROVAL OF AGENDA:**
- C. **MINUTES:**
1. Consider approval of the minutes from the August 4, 2020 Board of City Commission regular meeting.
- D. **PUBLIC HEARING:**
1. First Consideration of Ordinance 1349 related to a zoning map amendment from RM Residential to Planned Unit Development (PUD).
  2. Consider approval of a variance request to the rear setback for 1314 Heart River Dr. SW.

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E. BIDS:

1. Update on the Raw Water Intake low bids.
2. Consider bids for the Morton Mandan Public Library Downtown Parks project.

F. CONSENT AGENDA:

1. Consider approval of monthly bills
2. Consider approval of the annual liquor licenses for September 1, 2020 to June 30, 2021.
3. Consider payment of bills for Morton Mandan Public Library / Downtown Parks Project.
4. Consider approval of the Special Event Permit for the Mandan Progress Organization's Carpool Cinema on Aug. 22, 2020.
5. Consider approval of Sylvester's Industrial Park 11<sup>th</sup> Addition (Revised).
6. Consider approval of the Cost Participation and Maintenance Agreement for Old Red Trail, Phase II of Trail project.
7. Consider approval of minor plat for Lakewood Harbor 3<sup>rd</sup> Addition First Replat of Block 1.
8. Consider approval of an easement necessary for the completion of the 30" Water Transmission Line project.

G. OLD BUSINESS:

1. Consider contract for recycling.

H. NEW BUSINESS:

1. Consider recommendation from the Visitor's Committee.

I. RESOLUTIONS AND ORDINANCES:

1. Consider second and final consideration of Ordinance No. 1348 An Ordinance to Amend and Re-enact Section 10-2-10 of the Mandan Code of Ordinances Relating to Fireworks
2. First Consideration of Ordinance 1349 related to a zoning map amendment from RM Residential to Planned Unit Development (PUD). (see *Public Hearing No. 1*)

J. OTHER BUSINESS:

K. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:

1. September 1, 2020
2. September 15, 2020
3. October 6, 2020

L. ADJOURN

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The Mandan City Commission met in regular session at 5:30 p.m. on August 4, 2020 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 and Commissioners Braun, Camisa, Rohr and Larson. Department Heads present were City Administrator Neubauer, Assessing Director Markley, Business Development and Communications Director Huber, Finance Director Welch, Public Works Director Bitz, Engineering & Planning Director Froseth, Principal Planner Van Dyke, Fire Chief Nardello, Human Resources Director Cullen, City Attorney Oster, Library Director Hawes and Airport Director Lawler, Absent: Police Chief Ziegler and Building Official Ouradnik.

B. APPROVAL OF AGENDA: Mayor Helbling inquired if there were any additions or corrections to the Agenda. Hearing none, Commissioner Rohr moved to approve the Agenda as presented. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

Mayor Helbling commented on the Mandan Progress Organization Drive-In Theatre event that was held on August 1<sup>st</sup> at the Brave Center stating it was very well organized. The School and Park Districts, the Police and Public Works Departments worked together with the MPO nicely and for the good of the community. He extended a thank you to everyone involved in the organization of the event.

C. MINUTES:

1. *Consider approval of the minutes from the July 21, 2020, Board of City Commission meeting minutes.* Commissioner Camisa moved to approve the minutes as presented. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

D. PUBLIC HEARING:

1. *Consider a five-year extension of the Mandan Renaissance Zone Program and a change of boundaries (see New Business No. 1 & Resolution No. 1).* Business Development and Communications Director Huber presented a request to conduct a public hearing to receive public input and consider a Renaissance Zone Committee (RZC) recommendation for approval of an updated Mandan Renaissance Zone Development plan that includes new project qualification thresholds and the addition of nine blocks to the program boundaries. In summary, Mandan received state approval for its Renaissance Zone in 2005. The program capitalizes on existing infrastructure by encouraging investment in the central city or other areas with existing buildings that need to be revitalized to attract businesses and residents. The program is 15 years in length with an option to extend for five years. Mandan’s deadline to renew is August 31, 2020, and the RZC is seeking a 5-year program extension. A total of 73 projects have been completed, adding nearly \$20 million in documented private investment to the area. Director Huber reviewed the qualifying project thresholds:

- New construction on vacant lot: Currently minimum \$55 sq. ft. Recommendation is minimum of \$100 sq. ft for all property types.
- Rehabilitation for Commercial: At least 50% of building value re-invested improvements with at least 80% of minimum for capital improvements. Currently a \$15,000 project minimum. Recommendation is \$40 sq. ft. in capital improvements.
- Rehabilitation for Residential: At least 20% of building value re-invested in improvements with at least 80% minimum for capital improvements. Currently a \$10,000 project minimum. Recommendation is \$15 sq. ft. in capital improvements.
- Purchase with Improvements for Commercial

<i>Level of Re-investment as a % of the City's assessed building value</i>	<i>Percentage of Property Tax Exemption</i>
Less than 19%	0%
20%-35%	50%
36%-49%	75%
50% & More	100%

- Purchase with Improvements for Residential

<i>Level of Re-investment as a % of the City's assessed building value</i>	<i>Percentage of Property Tax Exemption</i>
Less than 10%	0%
10%-19%	50%
20% & More	100%

- Leasehold Improvements: Commercial at least 50% of space's pro-rata share building value re-invested in improvements with at least 80% of minimum for capital improvements. Recommendation adding at least \$40 sq. ft. in capital improvements.
- Lease Projects: Lease of space in a building rehabbed or constructed as a Renaissance Zone project with no additional investment required.

Director Huber stated that the Renaissance Zone Committee has met regularly and considerable progress has occurred with significant projects by a variety of developers helping to elevate the image of downtown Mandan and work continues. There have been 73 projects to date with two more that will be presented at this meeting for approval. The renewal of Mandan's Renaissance Zone requires updating Mandan's development plan of goals and criteria for eligibility. She explained that Mandan can look at adjusting its 28-block zone by adding or deleting blocks. In accordance with state law and city population, Mandan can grow its zone by up to 9 blocks. There can be up to a three-block, non-contiguous area but can have one contiguous area, not two. Eligible blocks can include commercial and residential properties. Applicants meeting a minimum threshold for investment in building improvements and other criteria can receive up to a 100% five-year property tax exemption and a 100% five-year state income tax exemption. Factors to consider in identifying blocks for the potential Renaissance Zone expansion include property owner interest in future plans for construction projects and the degree to which a block would redevelop without incentives however, vacant lots never before developed are not eligible. The Renaissance Zone program has been an important tool to revitalization of properties along Main Street and in the downtown area since its establishment in 2005. The benefit of owning or buying a property in a Renaissance Zone in any North Dakota approved city is the possibility of

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tax exemptions for qualifying investments in purchase with improvement, rehabilitation or new construction of commercial and residential properties. Qualifying projects may receive up to a 100% 5-year property tax exemption and a 100% 5-year state income tax exemption.

Director Huber outlined the steps leading up to this public hearing and the City Commission decision-making process that include:

- Publicity of plans to renew the Renaissance Zone Program through the Mandan Business Brief. Property owners of adjacent areas and other target areas have been notified
- A news release was issued July 8, 2020
- A presentation to the Bismarck Mandan Chamber EDC Local Issues Committee on 7/14/20
- A public information meeting held July 21, 2020
- Mailings with a questionnaire were sent on June 30, 2020 to property owners in areas of consideration for the addition of nine blocks and on July 9, 2020 to property owners in the existing boundaries
- Public meetings of the Renaissance Zone Committee on the topics of program renewal, updates to qualifications and the expansion of boundaries held May 26, July 7 and July 27, 2020
- Outreach to the Mandan Progress Organization and Mandan Park District with letters of support were received.

The current process in place includes the City Commission public hearing and consideration of resolution for exemptions and to obtain letters of support from Morton County, the School and Park Districts, the Bismarck Mandan Chamber EDC and the MPO. Upon completion of those items, an updated plan will be submitted with maps and supporting documentation to be sent to the ND Dept of Commerce. The goal is to finalize this action by August 19, 2020.

The Mandan Renaissance Zone Committee voted 7-0 to recommend approval of the application to renew the Mandan Renaissance Zone program with an update of the development plan and the addition of nine blocks as indicated. Director Huber recommended approval of the request as presented.

Mayor Helbling reported that one letter was received from a resident who stated they did not want to be located in the zone. The RZC discussed that letter. There is no down side in being located in this zone as it will not cost anyone rather it is a benefit to living in this zone.

Commissioner Camisa inquired, if there are property owners being put into the district - what are they able to use those funds for? Director Huber explained that a new person located in the block, after formal approval is received from ND Dept of Commerce which is anticipated by September 1<sup>st</sup> - they will not receive funding. They would need to apply prior to any improvements if they are seeking to purchase, prior to a lease agreement.

Mayor Helbling announced this is a Public Hearing and invited anyone to come forward to comment or speak for or against the request to approve a five-year extension of the Mandan Renaissance Zone Program and a change of boundaries (See: New Business No. 1 & Resolution No. 1). A second announcement was made to come forward to comment or speak for or against the request. A third and final announcement was made to come forward. Hearing none, this portion of the public hearing was closed. (See New Business No. 1 & Resolution No. 1).

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2. *Consider Community Development Block Grant Application for Cloverdale Foods Company expansion and purchase of equipment (see Resolution No. 3).* Business Development and Communications Director Huber presented a request to conduct a public hearing regarding Community Development Block Grant (CDBG) funds to be used by Cloverdale Foods Company for the purchase of equipment associated with the Cloverdale Foods plant expansion.

The Lewis and Clark Regional Development Council is coordinating an application by the City of Mandan. The funds can be used for economic opportunities and for housing and living environments for very low and low-income residents through rehabilitation and preservation, economic/job development and public facilities improvements.

The project will be conducted between 9/1/2020 and 8/31/2022. The application being considered would request \$510,000 for the purchase of equipment and administration costs. The equipment purchase associated with a plant expansion will facilitate job retention and creation of CDBG funding of \$510,000. The City Commission will be requested to separately consider a contract with the Lewis and Clark Regional Development Council for collection and servicing of this award.

Director Huber recommended approval of the application for Community Development Block Grant (CDBG) funds as proposed for the purchase of equipment by Cloverdale Foods and passage of the corresponding Resolution of Sponsorship and adoption of “Community Development Policies.”

Mayor Helbling announced this is a Public Hearing and invited anyone to come forward to comment or speak for or against the request to approve a Community Development Block Grant Application for Cloverdale Foods Company expansion and purchase of equipment. A second announcement was made to come forward to comment or speak for or against the request. A third and final announcement was made to come forward. Hearing none, this portion of the public hearing was closed. (See Resolution No. 3)

E. BIDS:

1. *Bids for Contingent Heavy Equipment.*

Director of Public Works Bitz presented a request to allow city staff to advertise for private contractor rates for heavy equipment and operators, mainly utilized to assist in hauling snow. The City utilizes private contractors to help with snow hauling in the winter. The plan is to solicit bids for the snow hauling operations; however, it may be beneficial to establish rates for other heavy equipment use should the need arise as it will be helpful to have established rates in place. Contractors will be requested to provide rates that will be valid for a one-year period, however he pointed out that the City has allowed for a winter rate as well as a summer rate as many of the contractors are more readily available during the winter months.

Commissioner Braun moved to approve staff advertising for bids related to contingency heavy equipment rates for the City of Mandan. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

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**F. CONSENT AGENDA**

1. *Consider agreement with Lewis and Clark Development Group for origination and servicing of loan to Cloverdale Foods Company for a Bank of North Dakota PACE interest buy down.*
2. *Consider Abatement Application for Roxanne Praus at 4605 Lewis Road NW.*
3. *Consider for approval the annual liquor license for September 1, 2020 to June 30, 2021. Class B. Club (on and off premises) license to be issued only to clubs and lodges whose profits from the sale of alcoholic beverages are used only for benevolent purposes: (i) Mandan Moose Lodge; (ii) Fraternal Order of Eagles.*
4. *Consider agreement with Lewis and Clark Development Group for collection and servicing of a CDLF loan to Cloverdale Foods Company for the purchase of equipment.*
5. *Information on change orders #1 and #2 for Street Improvement District 210, Project 2017-08 (Mandan Hill Addition).*
6. *Consider Missouri West Water System request to serve a subdivision within the City Extraterritorial Jurisdiction.*
7. *Consider approval of the Special Event Permit for the Mandan Moose Club Family Nights and Block Party.*
8. *Consider approval of the City of Mandan JAG and Lottery Grant application to provide funding for the Metro Area Narcotics Task Force.*
9. *Consider entering into a lease agreement with the State of North Dakota for the use of Mandan's radio tower and shelter.*

Commissioner Braun moved to approve Consent Agenda items 1 through 9 as presented. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

**G. OLD BUSINESS****H. NEW BUSINESS**

1. *Consider Renaissance Zone Committee recommendations: Business Development & Communications Director Huber presented the following requests:*
  - (i) *5-year extension of Mandan's Renaissance Zone Program and updated development plan with expanded boundaries.* Director Huber reiterated that the RZC is seeking to extend the program for another five years with the addition of nine new blocks. Commissioner Rohr moved to approve the 5-year extension of Mandan's Renaissance Zone Program and updated development plan with expanded boundaries.

Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

- (ii) *Application for new construction at 700 West Main Street by Ulrich Properties LLP.* The Renaissance Zone Committee received an application for new construction at 700 West Main Street which is the location of the Barney's Arco-branded fuel station. The business has been in Mandan for well over 50 years, possibly closer to 100 years. Clay Ulrich is planning to have an existing 2,064-square-foot building demolished to construct a building about double the

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size with a 3,200-square-foot main level and 1,200 square feet on a second level for office and storage space.

Director Huber shared some concept drawings of the new building. It will accommodate the convenience store, tire shop and car wash. The existing fuel pumps and canopy will remain as they were recently updated. The general contractor's estimate for the project is \$1,104,500, putting the investment per square foot well above the current minimum requirement of \$55 psf for a Renaissance Zone project, and the new thresholds planned with the Renaissance Zone program renewal. The City Assessor's estimated value of the new building is \$1,028,400. Using the current levy of 265 mills, the annual property tax on the new building is estimated at \$13,626 for a five-year total of \$68,132. The actual property tax exemption will be subject to prevailing market values and property tax rates in the five subject years. Also included would be the five-year state income tax exemption on income derived from rent of the property.

Director Huber noted the Renaissance Zone Committee unanimously recommended approval of the application for new construction as a Renaissance Zone project to include the five-year 100% property tax exemption on the entire value of the new building and the 100% five-year state income tax exemption. The applicant was in attendance for the meeting and available to answer any questions if needed.

Commissioner Rohr commented that properties on the west end of Main Street are receiving updates in the last few years. Commissioner Braun added this particular building is an icon in Mandan.

Commissioner Braun moved to approve the application for new construction at 700 West Main Street as a Renaissance Zone project to include the five-year 100% property tax exemption on the entire value of the new building and the 100% five-year state income tax exemption.

Commissioner Camisa seconded. Roll call vote: Commissioner Rohr: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Commissioner Camisa: Yes; Mayor Helbling: Yes. The motion passed.

*(iii) Application for lease of 700 West Main Street by CR Oil, Inc.*

Director Huber pointed out CR Oil, is the operating company of Barney's with Arco branded fuel, a convenience store, tire shop and car wash. The business currently has three full-time and four part-time employees. Five-year projections are to have eight full-time and seven part-time employees. Additionally, the business will benefit the community through a projected increase in sales and services with construction of this new building. They are applying for an exemption on the state tax on income derived from business activity in this location at 700 West Main Street. Director Huber noted "this location" is due to CR Oil, Inc. also operating Red Trail Petro in Mandan and the need to isolate the income received from the 700 West Main Street location for this exemption.

The Renaissance Zone Committee unanimously recommended approval of the application for lease of 700 W Main Street as a Renaissance Zone Project with the 100% five-year state income tax exemption.

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Commissioner Braun moved to approve Renaissance Zone project approval of lease of 700 West Main Street a building to be constructed as a Renaissance Zone project to include a 100% five-year state income tax exemption for CR Oil, Inc. as the tenant. Commissioner Larson seconded. Roll call vote: Commissioner Larson: Yes; Commissioner Braun: Yes; Commissioner Camisa: Yes; Commissioner Rohr: Yes; Mayor Helbling: Yes. The motion passed.

Mayor Helbling extended a thank you to Mr. Ulrich for his continued support as a resident and business owner in Mandan.

2. *Consider Growth Fund Committee recommendations:*

(i) *Mandan Strong Business Mini-Match Applications.*

Business Development & Communications Director Huber provided a request on behalf of the Mandan Growth Fund Committee (MGF) to consider Mandan Growth Fund (MGF) Committee recommendations regarding applications for the “Mandan Strong” Business Mini Match.

At the City Commission meeting on July 7, 2020, the Commission approved the Mini-Match program to help small, locally-owned businesses challenged by reduced revenues due to COVID-19. Matching funds of up to \$3,000 per business will be available for implementation of strategies related to innovation, adaptability and diversification to become more resilient in the face of crisis. Eligibility requirements and program details are outlined at [www.cityofmandan.com/minimatch](http://www.cityofmandan.com/minimatch). Director Huber reported that five applications were received by the deadline of July 27, 2020. The MGF met July 30, 2020, to review applications and made the following recommendations:

- (1) Copper Dog Café Outdoor seating (fence, tables, seating, lighting, plumbing) \$3,000.
- (2) Dialectic Brewing New POS system (\$1,461), lighted sign (\$5,000+, no estimate) POS only (off sale). Commissioner Larson brought up a possible concern that came up (and was resolved) with this request regarding ADA outdoor seating capabilities.
- (3) Feil Orthodontics Applicant – Declined and withdrew request.
- (4) Harvest Catering & Events Connect e-commerce site to in-house hardware for online sales \$1,233.
- (5) The Paddle Trap outdoor tables & chairs \$3,000.

The Mandan Growth Fund Committee recommended approval of \$8,207 for Mandan Strong Business Mini-Match applications as requested.

Commissioner Larson asked about the POS system for Dialectic Brewing Company. Director Huber explained this system will help better accommodate their off-sales.

Commissioner Larson moved to approve \$8,207 for Mandan Strong Business Mini-Match applications as recommended by the Mandan Growth Fund Committee. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

(ii) *Forgivable loan for winner of 2021 Business Pitch Challenge.*

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Business Development & Communications Director Huber presented a request to consider a recommendation from the Mandan Growth Fund (MGF) Committee for a forgivable loan to be awarded as a prize in the Third Mandan Business Pitch Challenge.

The MGF met on July 30, 2020 and discussed the forgivable loan as part of a prize package to be offered to the winner of Mandan's Third Business Pitch Challenge scheduled in the spring of 2021. The request was put forth by the City of Mandan Business Development Department on behalf of the Mandan Tomorrow Economic Opportunity and Prosperity Committee in cooperation with the Bismarck Mandan Chamber EDC and the CTB/IDEA Center.

The third annual competition is being planned for 2021 to better mesh with the workloads of the host entities and to allow time for the COVID-19 pandemic to subside. Securing prizes now and announcing the contest by the fall of 2020 will allow aspiring entrepreneurs time to better research their concepts and prepare their applications. Past business challenges have helped identify people interested in opening businesses. Additional information can be found at [www.cityofmandan.com/businesspitch](http://www.cityofmandan.com/businesspitch) for the competition overview, judging criteria, application and scoresheet. No substantive changes are proposed for 2021. Director Huber reviewed the contingencies in order to receive the forgivable loan:

- That the contest winner open or grow a business in Mandan or the surrounding 10-mile radius in Morton County by a date certain (to be determined once the contest deadline and finals dates are set), that is substantially in harmony with the plan presented to competition judges.
- That the business must register with the ND Secretary of State's Office with a Mandan based address and it will have a commercial location in Mandan.
- Home-based businesses are eligible to apply for the Business Pitch Challenge but should be implementing a plan to grow beyond the home. Location in a commercial property will be required for consideration of the Growth Fund Committee prize money.

Director Huber explained the process to apply for and compete for this program. If approved, the contest winner will need to enter into a recipient agreement specifying loan forgiveness in equal increments over the course of 5-years as long as the business does not relocate to another community. A Business Incentive Agreement will also be required and an automatic door will need to be installed.

The MGF voted unanimously (6-0 with 3 members absent) to recommend approval of a \$10,000 forgivable loan to be awarded as a 1<sup>st</sup> place prize in the 2021 Mandan Business Pitch Competition with contingencies as outlined in the competition overview and recipient agreement. Director Huber recommended approval of this request as presented.

Commissioner Braun moved to approve offering a \$10,000 forgivable loan to the winner of the 2021 Mandan Business Pitch Challenge subject to the contingencies outlined. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

3. *Consider the Mandan Airport Authority 2021 Budget.*

The Mandan Airport Authority 2021 Budget as recommended by the Airport Board was presented by Airport Board Member Marc Taylor. The Mandan Airport Authority manages the local airport facility. The Airport five-member board is appointed by the City Commission. The Airport is fiscally dependent upon the City because the City Commission levies taxes and must approve any debt issuances. The Airport is reported as a component unit in the City of Mandan audited financial statements. Taylor gave an overview of the airport projects that are currently in process and the past year's events and upcoming activities and projects were reviewed.

The City of Mandan will levy the maximum of 4 mills or approximately \$403,000 as requested by the Airport Board for the 2021 Budget. Currently, the airport is running at 50% behind in comparison to previous years. The City also provides \$5,600 annually to the Airport for their share of State Aid Distribution revenue from the State of North Dakota. Total Operating Income is \$589,440; Net Operating Income is \$301,760; Net capital project inflows/outflows is \$(150,000); Net financing inflows/outflows is \$(113,110); Net budgeted cash flow is \$38,645. He reported that the Airport Board approved the 2021 budget at their recent meeting held on July 13, 2020.

Commissioner Braun moved to approve the Mandan Airport Authority 2021 Budget as recommended by the Airport Board. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

*4. Consider the Morton Mandan Public Library 2021 Budget.*

Library Director Hawes presented the Morton Mandan Public Library 2021 Budget as recommended by the Library Board of Trustees. She provided a power point presentation of activities and events for both adults and children that were held in 2019 and what transpired in early 2020 before COVID-19 created challenges. The needs of the community changed and the library adapted the changes via social media and on-line services. Phase 1 reopening started on May 12, 2020, curbside, pick up items were available. Phase 2 began on May 26<sup>th</sup> with virtual programs utilizing Facebook live. Phase 3 began on July 6<sup>th</sup> along with the Summer Reading Program, when the library opened to the public.

The Morton Mandan Public Library serves all citizens of Morton County and the City of Mandan, and is governed by a Board of Trustees, which are appointed by the County Commission and the City Commission. The Library is fiscally dependent upon the county and the city and the County Commission and the City Commission consider the Library budget, levies taxes and must approve any debt issuances. The library is reported as a component unit in the City of Mandan audited financial statements. The City of Mandan owns the library building. The Library Board of Trustees approved the 2021 Budget on July 27, 2020. Director Hawes presented the Library 2021 Budget to the Morton County Commission on July 28, 2020.

The City of Mandan will levy 5.50 mills or approximately \$554,000 as requested by the Library Board of Trustees for the 2021 Budget. The City also provides \$10,650 annually to the Library for their share of State Aid Distribution revenue from the State of North Dakota.

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According to the 2006 Memorandum of Understanding (MOU) between the Morton County Public Library and Mandan Public Library, the funding formula from each entity for the Library budget is to be "based on population statistics" and "if in the future the population statistics shift, the future board would then determine the most equitable formula." At the time the MOU was approved, the contribution formula was "2/3 city and 1/3 county since the City of Mandan is approximately 2/3 of the population of Morton County."

The most recent population estimates released in 2020 by the U.S Census Bureau (as of July 1, 2019) reports Morton County at 31,364 and the City of Mandan at 22,752. Based on the recent population statistics the City of Mandan population is 72.5% of the population of Morton County. The Library 2021 Budget reflects the following funding contributions from each entity: Morton County at \$213,000 or 26.1%; and the City of Mandan at \$601,791 or 73.9%, which equals a total of \$814,791, or 100%. Director Hawes reviewed the budgeted line items and the Library renovation project status currently in process was presented. She recommended approval of the 2021 Budget as presented.

Commissioner Camisa extended a thank you to Director Hawes and the Library staff for their extra motivational activities during the COVID period.

Commissioner Larson moved to approve the Morton Mandan Public Library 2021 Budget as recommended by the Library Board of Trustees. Commissioner Camisa seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

#### I. RESOLUTIONS AND ORDINANCES:

1. *Consider resolution to renew Mandan's Renaissance Zone.* (New Business No. 1(i)) Commissioner Rohr moved to approve the 5-year extension of Mandan's Renaissance Zone Program and the updated development plan with expanded boundaries. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

2. *First consideration of Ordinance No. 1348 An Ordinance to Amend and Re-enact Section 10-2-10 of the Mandan Code of Ordinances Relating to Fireworks.*

City Administrator Neubauer reported that this matter was discussed at a previous City Commission meeting wherein City staff were requested to bring this matter back with a draft revision to Ordinance No. 1348 as it relates to fireworks possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the city limits with the following exceptions, in particular, removing the day of July 2<sup>nd</sup> and changing the time period to use fireworks. In addition, the fine for violating the Ordinance revised to reflect a fine of \$150 per occurrence. The revised Ordinance will include the revisions as outlined and will read as follows:

(1) *Storage and handling of fireworks as allowed in Section 5604.*

(2) *The use of fireworks for fireworks displays as allowed in Section 5608 is an exception to the prohibition of use of fireworks in the city, provided the requirements of Sections 5601.2.3 and 5601.2.4 are met. The possession, use, discharge, or explosion of fireworks, as defined by*

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*§23-15-01, NDCC, not including bottle rockets, is permitted from the hours of 12:00 p.m. (noon) to 11:59 p.m. on July 3<sup>rd</sup> and July 4<sup>th</sup> of each year, and, from the hours of 5:00 p.m. on December 31<sup>st</sup> to 1:00 a.m. on January 1<sup>st</sup> of each year. Any person who violates the provisions of this section shall, upon conviction, be guilty of an ordinance violation, punishable by a fine of one hundred fifty dollars (\$150.00). Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.*

Commissioner Larson moved to approve the First Consideration of Ordinance No. 1348 an Ordinance to Amend and Re-enact Section 10-2-10 of the Mandan Code of Ordinances Relating to Fireworks. Commissioner Camisa seconded the motion. Commissioner Braun voiced his concerns in opposition to this amendment. He commented that for those residents who use fireworks products that they assist in cleanup of the debris that is left behind. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: No; Mayor Helbling: Yes. The motion passed.

3. *Consider resolution of sponsorship and adoption of Community Development Policies for a Community Development Block Grant. (Public Hearing No. 2)* Commissioner Camisa moved to approve the application for Community Development Block Grant (CDBG) funds as proposed for the purchase of equipment by Cloverdale Foods and passage of the corresponding Resolution of Sponsorship and adoption of “Community Development Policies.” Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

4. *Consider second and final consideration of Ordinance 1345 relating to a zoning map amendment from A Agricultural to RM Residential.* City Planner Van Dyke presented the second and final consideration of Ordinance 1345. This request is a rezone from A Agriculture to RM Residential for the purposes of residential construction in the middle school area. The subject property is the proposed Sunset Avenue 1<sup>st</sup> Addition that was discussed at the July 21, 2020 City Commission meeting. He reported that the only change from the first consideration to the second is the removal of the restriction of five (5) to eight (8) dwelling units. Density will be addressed in the development agreement for the subdivision. Planner Van Dyke recommended approval of the final consideration of Ordinance 1345 as presented.

Commissioner Camisa moved to approve the second and final consideration of Ordinance 1345 relating to a zoning map amendment from A Agricultural to RM Residential. Commissioner Braun seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

5. *Consider the introduction and first consideration, and call for a public hearing of Ordinance No. 1346 making the annual appropriations for expenditures or expenses of the City of Mandan, North Dakota, for the fiscal year commencing January 1, 2021, and ending December 31, 2021, and making the annual tax levy for the year 2020.* Finance Director Welch, on behalf of the Budget and Finance Committee presented the first consideration of Ordinance No. 1346, Preliminary 2021 Budget.

Director Welch explained that the City of Mandan is required to prepare the annual budget in accordance with the North Dakota Century Code. In addition, the City's Budget Policies & Procedures and the Board's Annual Budget Working Session provide further guidance to the budget development process. The City's budget is coordinated by the Finance Department under the direction of the Budget and Finance Committee with the assistance from commissioners, department managers, supervisors and staff. The City's preliminary 2021 Budget is submitted to the Board as a recommendation from the Committee.

The City's General Fund is the primary operating fund and accounts for all financial resources not accounted for in another fund. The General Fund has 19 departments with separate operating budgets. The City's Special Revenue Funds account for specific revenue sources that are restricted or committed to expenditure for specified purposes. The City has 15 separate Special Revenue Funds such as the Highway Distribution Fund, Cemetery Fund, 1% City Sales Tax Fund, 0.75% City Sales Tax Fund, Mandan Growth Fund, etc. The City's Debt Service Funds account for the accumulation of resources that are restricted, committed, or assigned to expenditure for principal and interest. The City has two separate Debt Service Funds. The City Visitors' Promotion Capital Construction Fund accounts for the 1% City restaurant and lodging tax for the purchase, equipping, improving, construction, maintenance, repair, and acquisition of buildings or property consistent with visitor attraction and promotion. The City's Enterprise Funds account for operations that are financed primarily through user charges and operated in a manner similar to private business enterprises. The City has three separate Enterprise funds: 1) Water and Sewer Utility Fund. The City's Water and Sewer Utility Fund has 8 departments with separate operating budgets, 2) Solid Waste Utility Fund, and 3) Street Light Utility Fund. The City Shop Fund accounts for the purchase of fuel.

The total revenues from all funds amounts to \$32.3M and total expenses from all Funds amounts to \$33.7M. The \$1.4M difference between total revenues and total expenses is primarily due to the General Fund allocating \$1.3M of available fund balance reserves to offset the General Fund's operating budget, capital lease payments and capital outlay costs.

The total revenues of \$32.3M from all Funds consist of: utility charges = \$11.3M (utility or water bill, landfill, etc.), property taxes = \$5.2M, special assessments = \$5.1M (infrastructure projects), 1% & 0.75% city sales taxes = \$4.4M (1% city sales tax= \$2.5M, 0.75% sales tax = \$1.9M), intergovernmental = \$3.6M (federal, state and local government revenue collections), and other = \$2.7M. The total expenses of \$33.7M from all funds consist of: salaries and benefits = \$12.1M, debt service = \$9.8M, operations and maintenance = \$8.3M, and capital outlay = \$3.5M.

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The total salaries of \$8.4M from all funds consist of: full time employees = \$8M and other overtime and part time employees = \$435K. The City received the results of a Salary Study prepared by Condrey and Associates. Based on the various plans and options included in the Salary Study, the Committee, for budget purposes, selected Plan C (97% of market) and Modified-2 option. The total implementation cost for Plan C Modified-2 option = \$431K (including benefits, excluding Library and Airport). The Committee recommends budgeting the cost of the employee salary adjustments over two years; 2021 Budget = \$215.5K and 2022 Budget = \$215.5K. No cost of living adjustment (COLA) for the 2021 Budget and 2022 Budget due to the total cost of the employee salary adjustments resulting from the Salary Study. The City Commission will need to approve the Salary Study and the Board may also consider other employee salary options for the Committee to bring back to the City Commission for further discussion. The Committee recommends holding the open accounting technician position in the finance department as a vacant full-time position resulting in a cost savings for the 2020 Budget and 2021 Budget. The Committee recommended adding three new full-time employees in the General Fund (engineering department – engineering technician, police department – 2 police officers-patrol). The engineering technician position will be funded by special assessment fees from infrastructure projects and the two police officers (patrol) will be funded by a COPS Hiring Program Grant with a City cost share of 25%. The Committee also recommends adding two new part time employees (General Fund – street department – building and grounds worker, Water and Sewer Utility Fund – utility maintenance department – waterline maintenance laborer). The total benefits of \$3.7M from all Funds consist of: health insurance = \$2.3M, pension = \$667K, Social Security and Medicare = \$644K, and other = \$62K. The North Dakota League of Cities is recommending a 15.55% increase in health insurance (NDPERS) monthly premiums, effective July 2021 for the period July 1, 2021 – June 30, 2023 for a total cost increase (existing employees) of \$250K. The Committee will continue to evaluate and review the City's group health insurance premium cost percentage and vesting schedule. The total salaries and benefits of \$12.1M from all funds consist of: salaries = \$8.4M and benefits = \$3.7M.

The total operations and maintenance of \$8.3M from all funds consist of: professional fees and services = \$3.2M, supplies = \$1.1M, repairs = \$1.0M, utilities = \$930K, and other \$2.0M. The total debt service of \$9.8M from all funds consist of: special assessment bonds = \$5.7M, revenue bonds = \$2.7M, Starion sports complex = \$1.1M, and other \$355K. The total debt service consists of: principal = \$7.7M, interest = \$1.9M, and debt service charges/issuance costs = \$133K. The total capital outlay of \$3.5M from all funds consist of: Water and Sewer Utility Fund = \$2.3M, General Fund = \$865K, and Other Funds = \$390K. The Board of City Commissioners were provided with a list of capital outlay items recommended by the Committee for the 2021 budget. City departments are continuing to develop a long-term equipment replacement plan in order to properly address the City's future capital outlay needs and to establish an Equipment Replacement Fund to budget the expenditures for various departments with anticipated or projected funding sources. The following 2021 infrastructure projects are included in capital outlay: 1) 3<sup>rd</sup> Street Scrub Seal Application (10<sup>th</sup> Avenue SW east to Memorial Highway SE) = \$310K funded through the General Fund, 2) Sanitary Sewer Trunk System (Old Red Trail) = \$800K funded through the Water and Sewer Utility Fund, and 3) I-94 Sanitary Sewer Trunk Extension (Collins Avenue to Sunset Boulevard) = \$900K funded through the Water and Sewer Utility Fund. The following 2021 infrastructure projects are included in the Capital Improvement Program and are recommended by the Committee contingent upon the

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City's ability to provide the funding for the local cost share: 1) ND 1806 Improvements (Main Street – Heart River Bridge), 2) ND 1806 Reconstruction (I-94 – 27th Street NW), 3) 19<sup>th</sup> Street Trail – Phase II, and 4) ND 810 Concrete Median Barrier (Memorial Highway – McKenzie Drive). City departments are continuing to update the long-term Capital Improvement Plan in order to properly address the City's future infrastructure projects and to match those projects with anticipated or projected funding sources.

The total General Fund revenues of \$12.2M consist of: property taxes = \$4.8M, state aid and highway tax distribution = \$2.5M, 1% city sales taxes = \$2.3M, and other = \$2.6M. The General Fund property taxes do not pay for 100% of the cost for public services such as police/fire protection and public works since other revenues contribute to the funding for providing these services. The General Fund property tax increase of \$211K (net of 5% taxpayer discount) will be directed to pay for the cost of the City's 25% cost share of the COPS Hiring Program Grant for two additional police officers (patrol) and for the General Fund health insurance cost increase (existing employees). The North Dakota League of Cities is recommending the following budget projections for State revenue collections for cities: 1) State Aid Distribution (2020 = 20% decrease from June – December, 2021 = 10% decrease) and 2) Highway Tax Distribution (2020 = 20% decrease from June – December, 2021 = 5% decrease). The State Aid Distribution decrease from 2019 actual to 2021 Budget = \$353K to be offset by the City's General Fund balance operating reserve. The Highway Tax Distribution decrease from 2019 actual to 2021 Budget = \$208K to be offset by the City's General Fund balance operating reserve. The 1% City Sales Tax increase from 2019 actual to 2020 Budget (revised) = \$197K and a \$0 increase for the 2021 Budget due to the remaining uncertainty of the economy in the future. While the City's sales tax collections in July (for May sales and purchases) performed well due to the reopening of the local economy and perhaps also to online sales activity. However, for budget planning purposes, Finance Director Welch stated that his department would prefer to see a trend of several months or quarters of positive economic growth before considering moving from the no increase sales tax revenue projection for the 2021 Budget. The total General Fund expenditures of \$13.5M consist of: salaries and benefits = \$9.2M, operations and maintenance = \$3.3M, and capital outlay & debt service = \$990K. The General Fund expenditure increase of \$700K consist of: salaries and benefits = \$639K, operations and maintenance = \$152K decrease, capital lease payments = \$110K, and capital outlay = \$103K. \$1.3M is projected to be available from the revised 2020 unreserved General Fund balance to offset the following costs for the 2021 Budget: 1) operating deficit = \$353K, 2) capital lease payments = \$125K, and 3) capital outlay = \$865K. The total General Fund balance will be reduced to \$2.1M or the 17% minimum reserve for the 2021 Budget. The Government Finance Officers Association recommends, at a minimum, a General Fund Balance Reserve of no less than two months operating revenues or expenditures. The Fund Balance Policy was approved by the Board of City Commissioners in subsequent years. The Policy provides for economic & financial stability and assists in maintaining the City's bond rating.

The total taxable valuation of \$100.8M (projected) for tax year 2020 consist of the following increases: existing property = \$3.2M or 3.4% and new construction & expired property tax exemptions = \$1.3M or 1.3% for a total of \$4.5M or 4.7%. Currently, for tax year 2019 (2020 Budget), the City levies 63.54 mills or 24% of the total mills of all the Mandan taxing entities combined. The total levy of 63.54 mills or \$6.4M for tax year 2020 consist of: General Fund =

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50.04 mills or \$5.0M, Airport = 4.00 mills or \$403K, Library = 5.50 mills or \$554K, and other Funds = 4.00 mills or \$403K. The total City mill levy will not increase for tax year 2020 (2021 Budget). The total property tax increase of \$289K for tax year 2020 (2021 Budget) consist of: new residential property and expired tax exemptions = \$50K, new commercial property and expired tax exemptions = \$33K, and existing property = \$206K. The General Fund will receive \$222K of the property tax increase to pay for the cost of the City's 25% cost share of the COPS Hiring Program Grant for two additional police officers (patrol) and for the General Fund health insurance cost increase (existing employees) and the other mill levy Funds will receive \$67K. The total City property tax increase for a residential property valued at \$275,000 with no valuation increase in the true and full value, excluding special assessments = \$0. The total City property tax increase for a residential property valued at \$275,000 with an average 3.4% valuation increase in the true and full value, excluding special assessments = \$27.

The total increase in the City utility (water) bill for a residential property using 800 cubic feet or 8 units of water = \$3.00 per month or \$36 for the year. The increase in the City's utility bill consist of: water and wastewater base charge = \$1.95 (raw water intake project), solid waste collection and hauling base charge = \$0.05 (solid waste collection and hauling services), and solid waste recycling base charge = \$1.00 (recycling collection, transportation and processing services). The City's current Recycling Collection, Transportation and Processing Services Agreement with Waste Management expires on December 31, 2020. Waste Management proposed a new 5-year Contract. The City Commission tabled the action on the Contract on July 7, 2020. If the Contract is not approved, the City's solid waste collection and hauling base charge will need to increase due to the additional tons hauled and disposed at the City of Bismarck Landfill.

The total annual cost for City services (property taxes and utility bill) for an existing \$275,000 residential property with no valuation increase and using 8 units of water per month, excluding special assessments = \$1,895 or \$36 increase or 1.9%. The total annual cost for City services (property taxes and utility bill) for an existing \$275,000 residential property with an average 3.4% valuation increase and using 8 units of water per month, excluding special assessments = \$1,922 or \$63 increase or 3.4%.

On August 5, 2020, the City will provide a copy of the preliminary 2021 Budget Statement and Notice of the Public Budget hearing date to the Morton County Auditor. By August 31, 2020, the Morton County Treasurer will provide a written notice to the owner of each parcel of taxable property with the total estimated property tax, based on the preliminary 2021 budget statement, and the date, time and location of the public budget hearing. On September 15, 2020, the City will conduct a Public Budget hearing at 6:00 p.m. and pass the second and final consideration of Ordinance No. 1346 adopting the 2021 Budget and approve the Resolutions establishing the rates and charges for services. On September 16, 2020, the City will submit a certified copy of the levy as adopted and a certified copy of the final 2021 Budget to the Morton County Auditor. The preliminary 2021 Budget will be posted on the City's website at [www.cityofmandan.com](http://www.cityofmandan.com).

Finance Director Welch stated that salary and capital outlay spending decisions will need to be evaluated based on the state of the economy. The Finance Department will continue to analyze, measure and gauge the revenue collections month by month because our current economy is

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unprecedented right now and the city is going to have to be very careful and cautious, and be conservative with the city's projections. This concluded Director Welch's budget presentation.

Commissioner Larson asked where the 3.4% valuation increase comes from. Assessing Director Markley stated that percentage came from the valuation increase information noticed back in April.

Mayor Helbling commented that the Budget Committee discussed the Condrey Salary Study versus the cost of living raises. The City of Bismarck determined they are giving the 3% cost of living increase next year so that will put the City of Mandan in a situation again. The City adopted the Condrey study and there will be many employees on the lower end that won't receive any pay increase for the next two years if the City goes with 50% in 2021 and 50% in 2022. That puts the City at a much bigger disadvantage. He recommended that the \$215,000 be held and that the City of Mandan does not do a cost of living increase at this time and leave it in the budget and see how COVID-19 affects the revenues coming in to the City of Mandan. Even if the City waits until later in 2021 to distribute that money, prorated, and give it back to the employees. If things stay as they are today, the City can give that money back as a cost of living increase or they adopt the decisions. He did not think those decisions need to be made at this time.

Commissioner Larson commented that the strongest asset is the city staff and she said she has not seen the Condrey Salary study to know how that breaks out. She recommended planning for one or the other – a cost of living increase or an increase based on the study that was done.

Mayor Helbling stated that he understood the Budget Committee provided a recommendation to implement one or the other at some point. Commissioner Larson stated her preference would be to implement the 2.7% increase included in the budget. Commissioner Camisa recommended adopting the Condrey Salary study now with the understanding that the minimums be adjusted when new employees are hired so the City of Mandan is more attractive. Commissioner Rohr commented that when bringing the lower end up, new employees sometimes start out at a salary that some of the current employees have taken 3 or 4 years to get up to. Director Welch stated that a decision will have to be made with salary adjustments and capital outlay and those decisions will have to be contingent upon the state and local economy and then subsequently, they will have to be monitored on a monthly basis. Depending on trends, the Budget Committee may have to go back and re-visit certain areas. Mayor Helbling stated that more discussions will need to occur in determining when and where the funds will go. He stated that it is important that the city employees know that money is being set aside for their benefit.

Commissioner Larson inquired about the recycling program and when will that topic come back to the City Commission for further discussion? City Administrator Neubauer stated that the increase will be \$1.00 per month for recycling costs if the program continues. He said the matter can be brought for discussion to the next meeting and that a decision will need to be made prior to the final budget. He said that as explained earlier, if the recycling program is removed, there will be an additional cost to the normal garbage pickup and that will not cost as much as the recycling charge but there will have to be an additional cost to the garbage fee.

Commissioner Camisa moved to approve the introduction and first consideration and call for a Public Budget Hearing of Ordinance No. 1346 making the annual appropriations for expenditures or expenses of the City of Mandan, North Dakota, for the fiscal year commencing January 1, 2021, and ending December 31, 2021, and making the annual tax levy for the year 2020. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Camisa: Yes; Commissioner Larson: Yes; Commissioner Braun: Yes; Mayor Helbling: Yes. The motion passed.

Mayor Helbling extended a thank you to Finance Director Welch and the Finance Department staff and all the department heads for their work done on the budget process.

J. OTHER BUSINESS:

K. ADJOURNMENT:

There being no other business to come before the Board, Commissioner Braun motioned to adjourn the meeting at 7:37 pm. Commissioner Camisa 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, Mayor  
Board of City Commissioners



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 11, 2020  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** First Consideration of Ordinance 1349 related to a zoning amendment from RM Residential to Planned Unit Development (PUD)

**STATEMENT/PURPOSE:** Consider approval of the first consideration of Ordinance 1349 related to a zoning map amendment (rezone) from RM Residential to Planned Unit Development (PUD).

**BACKGROUND/ALTERNATIVES:**

Dr. Belanger requests a zone change from A-Agricultural to PUD-Planned unit development (See application in Exhibit 1).

The PUD will apply to the first phase of Rockwood First Addition (previously named Sunset Ave. 1<sup>st</sup>). The first phase of Rockwood First Addition contains eight (8) lots located in the northwest of the subdivision (See Exhibit 1).

The purpose for the PUD designation is to allow for the flexibility of the developer to construct single-family residential on reduced sized lots that have less restrictive setbacks than RM Residential. The developer also desires to have the flexibility to construct single, twin-home, and/or ROW homes as needed and desired by the market. However, the lot width and setbacks are less accommodating for this mix of residential development primarily due to lot frontage requirements (see below).

Setback	RM Residential	R-4 Residential
Front	15'	10' (local)
Side	5' (minimum)	5'
Rear	10'	20'

R-4 Lot Frontage = 20'  
 RM Lot Frontage = 40'

Board of City Commissioners

Agenda Documentation

Meeting Date: August 18, 2020

Subject: First Consideration of Ordinance 1349 related to a zoning amendment from RM Residential to Planned Unit Development (PUD)

Page 2 of 2

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R-4 Minimum Lot Size – 4,000 sq. ft.

RM Minimum Lot Size – 4,000 sq. ft.

Staff is supportive of the zoning map amendment (rezone) to PUD and will place a requirement within the DRAFT development agreement that each subsequent phase will include a zoning amendment to PUD to declare the specific underlying zone on each lot, whether single-family, twin-home, or row home construction.

Staff has included a copy of the DRAFT development agreement in Exhibit 3.

ATTACHMENTS:

Exhibit 1 – Application

Exhibit 2 – Ordinance 1349

Exhibit 3 – DRAFT Development Agreement

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: The staff report and exhibit 1 have been reviewed by Attorney Oster as part of the agenda packet. Exhibits 2 and 3 were forwarded separately for review and comment and any necessary changes will be made in time for the second and final consideration assuming the first consideration is approved.

RECOMMENDATION: Staff recommends approval of the rezone as presented in Exhibit 2.

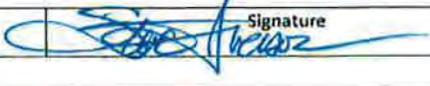
SUGGESTED MOTION: I move to approve Ordinance 1349 related to a zoning amendment from RM Residential to Planned Unit Development (PUD) as presented in Exhibit 2.

# EXHIBIT 1

CITY OF MANDAN	
Development Review Application	
<input type="checkbox"/> Minor Plat (\$300)	<input type="checkbox"/> Zone Change (\$600)
<input type="checkbox"/> Preliminary Plat up to 20 acres (\$400)	<input checked="" type="checkbox"/> Planned Unit Development (\$700)
<input type="checkbox"/> Preliminary Plat more than 20 acres (\$450)	<input type="checkbox"/> Land Use and Transportation Plan Amendment (\$1,000)
<input type="checkbox"/> Final Plat up to 20 lots (\$400)	<input type="checkbox"/> Vacation (\$500)
<input type="checkbox"/> Final Plat 21 to 40 lots (\$550)	<input type="checkbox"/> Variance (\$400)
<input type="checkbox"/> Final Plat more than 40 lots (\$700)	<input type="checkbox"/> Special Use Permit (\$450)
<input type="checkbox"/> Annexation (\$450)	<input type="checkbox"/> Stormwater submittal (\$300)
<input type="checkbox"/> Masterplanned Subdivision (not accepted without preliminary plat) (\$250)	<input type="checkbox"/> Stormwater 2 <sup>nd</sup> & subsequent resubmittal (\$50)
<input type="checkbox"/> Appeals to Administrative Denials (Variance to Non-zoning/Non-subdivision regulations) (\$250)	
Summary of Request (Add separate sheet(s) as necessary)	

Engineer/Surveyor			Property Owner or Applicant		
Name <b>MOORE ENGINEERING INC</b>			Name <b>TR ERIC BELANGER</b>		
Address <b>2911 N 14<sup>TH</sup> ST #301</b>			Address <b>1540 CLIPPER PLACE</b>		
City <b>BISMARCK</b>	State <b>ND</b>	Zip <b>58203</b>	City <b>BISMARCK</b>	State <b>ND</b>	Zip <b>58503</b>
email <b>STEVE. JERSON@MOOREENGINEERING.COM</b>			email		
Phone <b>(701) 551-0004</b>		Fax <b>(701) 751-2954</b>	Phone <b>(701) 934-0730</b>		Fax
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	<input type="checkbox"/> ETA	<input checked="" type="checkbox"/> New	<input type="checkbox"/> Addition	<b>RM</b>	<b>TRD-RA</b>	<b>SUNSET AVENUE 1<sup>ST</sup></b>	
Property Address <b>TBD</b>				Legal Description <b>SUNSET AVENUE 1<sup>ST</sup> ADDN</b>			
Current Use <b>PASTURE/AG</b>							
Proposed Use <b>MEDIUM DENSITY RESIDENTIAL</b>				Section <b>16</b>	Township <b>139</b>	Range <b>81</b>	
Parcel Size <b>4000 ft<sup>2</sup></b>	Building Footprint <b>VARIES</b>	Stories <b>1-2</b>	Building SF	Required Parking <b>2/UNIT</b>	Provided Parking <b>4 @</b>		

Print Name <b>STEVE JERSON for TR BELANGER</b>	Signature 	Date <b>6/28/2020</b>
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Office Use Only			
Date Received:	Initials: <b>nm</b>	Fees Paid: \$ <b>700</b>	Date <b>6/28/2020</b>
Notice in paper		Mailed to neighbors	P&Z meeting
<input type="checkbox"/> Approved	Approved with conditions:		
<input type="checkbox"/> Denied			



925 10<sup>th</sup> Avenue East  
Suite 1  
West Fargo, ND 58078

P: 701.282.4692  
F: 701.282.4530



## Memorandum

To: Mandan City Engineering and Planning Department

From: Steve Iverson, MBA (Moore Engineering, Inc.)

Date: June 26, 2020

Subject: Sunset AveNew First Addition PUD w/R4 written statement

In accordance with Ss. 21-03-01 of Mandan Municipal Code, please examine the following:

The site plan required in 21-03-01.3 is attached as an exhibit to this memorandum.

- 1.) The existing topography of the proposed development is attached as an exhibit to this memorandum.
- 2.) The existing land use of the property is agricultural/pasture land. The proposed use for this phase and PUD is medium density, detached single family housing.
- 3.) All proposed structures and improvements are shown on the site plan exhibit.
- 4.) Construction phasing will work generally northwest to southeast. Public sewer will be brought into the southeast corner of the site and run northwesterly along the ridge of the large hill on the property to maximize the service area of this gravity line. Reference the Terra Vallee sanitary sewer report submitted by Moore Engineering earlier in this process for more details regarding this line.
- 5.) The maximum height of all structures will not exceed the maximum height of 35' permitted in R4 zoning.
- 6.) The density of the proposed R4 development is 6.2 acres gross including ROW and 9 units per acre, net.
- 7.) Internal traffic, parking, and access to public rights of way are all illustrated on the site plan.
- 8.) Buffer areas/setbacks are illustrated on the site plan.
- 9.) The area of the PUD is approximately 1.29 acres including adjacent ROW.
- 10.) The utility servicing plan is shown as an exhibit supplementing this memorandum.
- 11.) The landscape plan is a work in progress as specific requirements are not known at the time of this writing.
- 12.) Surrounding land uses to the east, west, and north are all vacant/agricultural. The property directly south of the subject property is developed as a multi-family residential development. Additional details can be found with the plat application accompanying this PUD, and also the Master Land Use Plan and Transportation Plan originally presented to the Planning Commission on January 27, 2020.

Written Statement

Property owners/developers Dr. Eric Belanger and Wendy McNichols represent EBCMGL 16 LLLP, the legal owner of the parcel being platted as Sunset AveNew First Addition, which contains the development this PUD intends to support and permit.

This project aims to provide affordable, single family housing stock via a detached, small lot, narrow footprint housing style. Surveys of the local housing market indicate a a desire and need for this product in Mandan. To date, there to date has not been an R4 development proposed since R4 zoning was adopted. This project will provide it. The project a whole is contained on three sides by platted public rights of way so incompatibilities are inherently mitigated. The project is consistent with existing and recently adopted master land use plans for the area.

All common areas including the private roadway contained in future phases will be maintained by a recorded and managed home owners association.

Full architectural renderings are not available at the time of this writing, but are in process. The project anticipates the majority of the units being approximately 28'x50' footprints with an attached/tuck under double garage and a variety of floorplans depending on the adjacent topography. Most will be a two story, two to four level plan.



Steve Iverson, MBA  
Senior Project Manager  
On behalf of Dr. Belanger and Ms. McNichols

cc: Dr. Eric Belanger and Wendy McNichols  
Jerod Klabunde, PE

Enclosures as noted

PLAT OF  
**SUNSET AVENUE 1ST ADDITION**  
 TO THE CITY OF MANDAN, A PLAT OF PART OF THE NORTH HALF OF THE  
 SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 81 WEST  
 MORTON COUNTY, NORTH DAKOTA



Scale in Feet  
 0 20 40

BASIS OF BEARINGS  
 NORTH SASSAR STATE PLANE  
 COORDINATE SYSTEM, SOUTH  
 ZONE NAD83(11)  
 INTERNATIONAL FEET

- LEGEND**
- IRON MONUMENT FOUND
  - SET SURVEY POINT WITH YELLOW PLASTIC CAP MARK
  - (481) LOT AREA IN SQ. FT.
  - L ARC LENGTH
  - R RADIUS LENGTH
  - A CENTRAL ANGLE

TYPICAL ACCESSIBILITY EASEMENT DETAIL



**RA DIMENSIONAL STANDARDS**

- 25' FRONT SETBACK
- 5' INTERIOR SIDE SETBACK
- 4,000 sq ft LOT SIZE MINIMUM

**PROPOSED TIERING - RAMP(S)**

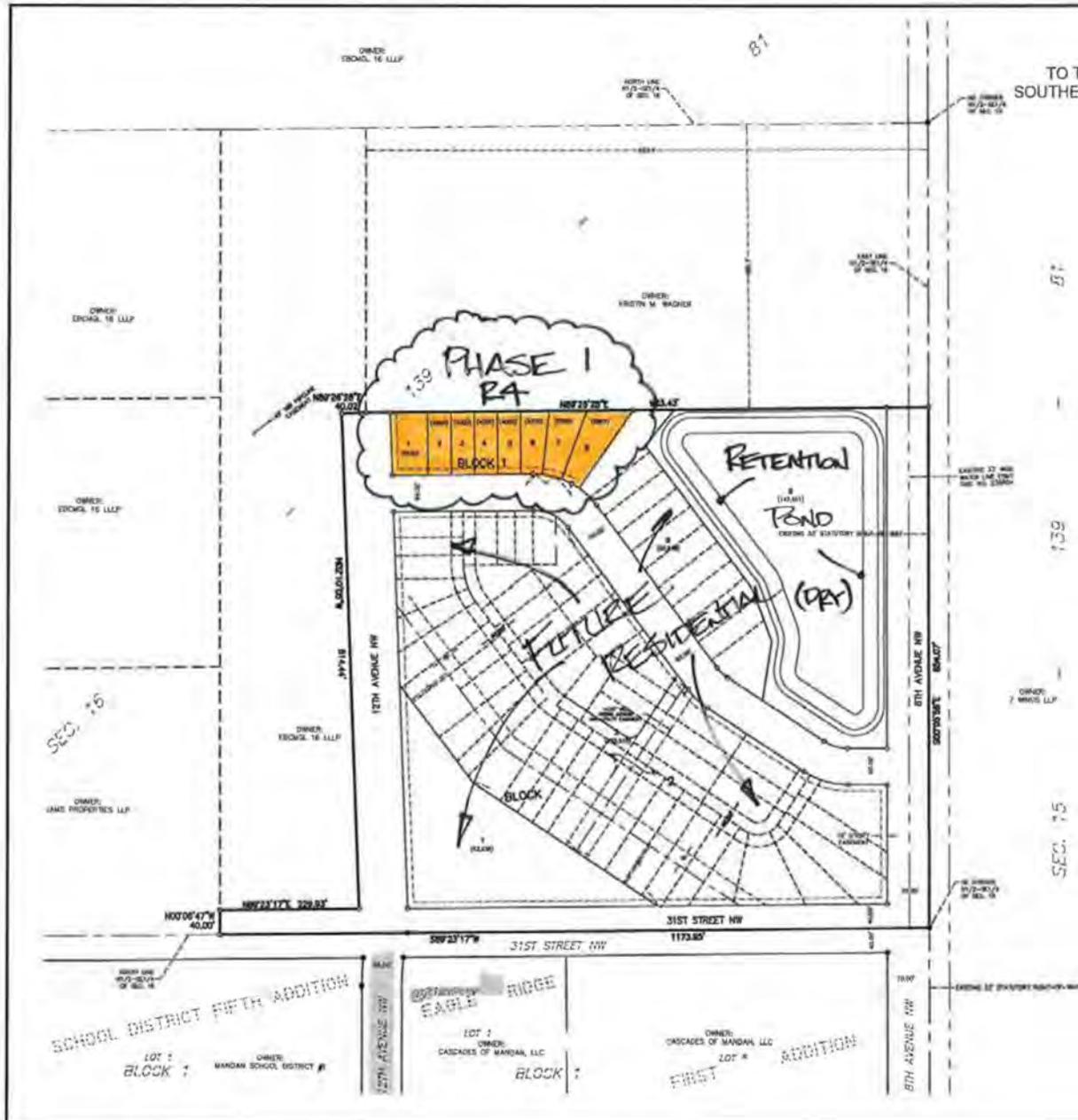
**OWNER/CONTRACTOR**  
 DR. CINC BELANGER  
 825 SOUTHPORT LOOP  
 BISMARCK, ND 58204  
 701-834-7238

**SURVEYOR**  
 JIM ALLEN  
 805 10TH AVENUE E  
 WEST FARGO, ND 58103  
 701-282-4622

**WARRANTY MAP**



**OVERALL SITE PLAN**



PLAT OF  
**SUNSET AVENUE 1ST ADDITION**  
 TO THE CITY OF MANDAN, A PLAT OF PART OF THE NORTH HALF OF THE  
 SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 81 WEST  
 MORTON COUNTY, NORTH DAKOTA



0 50  
 Scale in Feet

BASE OF BEARING  
 NORTH SAKOTA STATE PLANE  
 COORDINATE SYSTEM, SOUTH  
 ZONE 14A NAD83/2011  
 INTERNATIONAL FEET.

**LEGEND**

- IRON WORKNOUT FOUND
- SET 3" PIPES NEAR WITH YELLOW PLASTIC CAP (PST)
- (APR) LOT AREAS IN 30 FT.
- L ARC LENGTH
- R RADIUS LENGTH
- A CENTRAL ANGLE

**TYPICAL ACCESS/UTILITY EASEMENT DETAIL**



**PROPOSED ZONING is RM(250)**

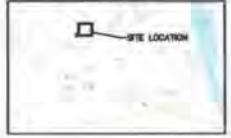
**OWNER DEVELOPS**

DR. DICK BEJANICH  
 632 301/SPORT LOOP  
 BISMARCK, ND 58104  
 701-834-0736

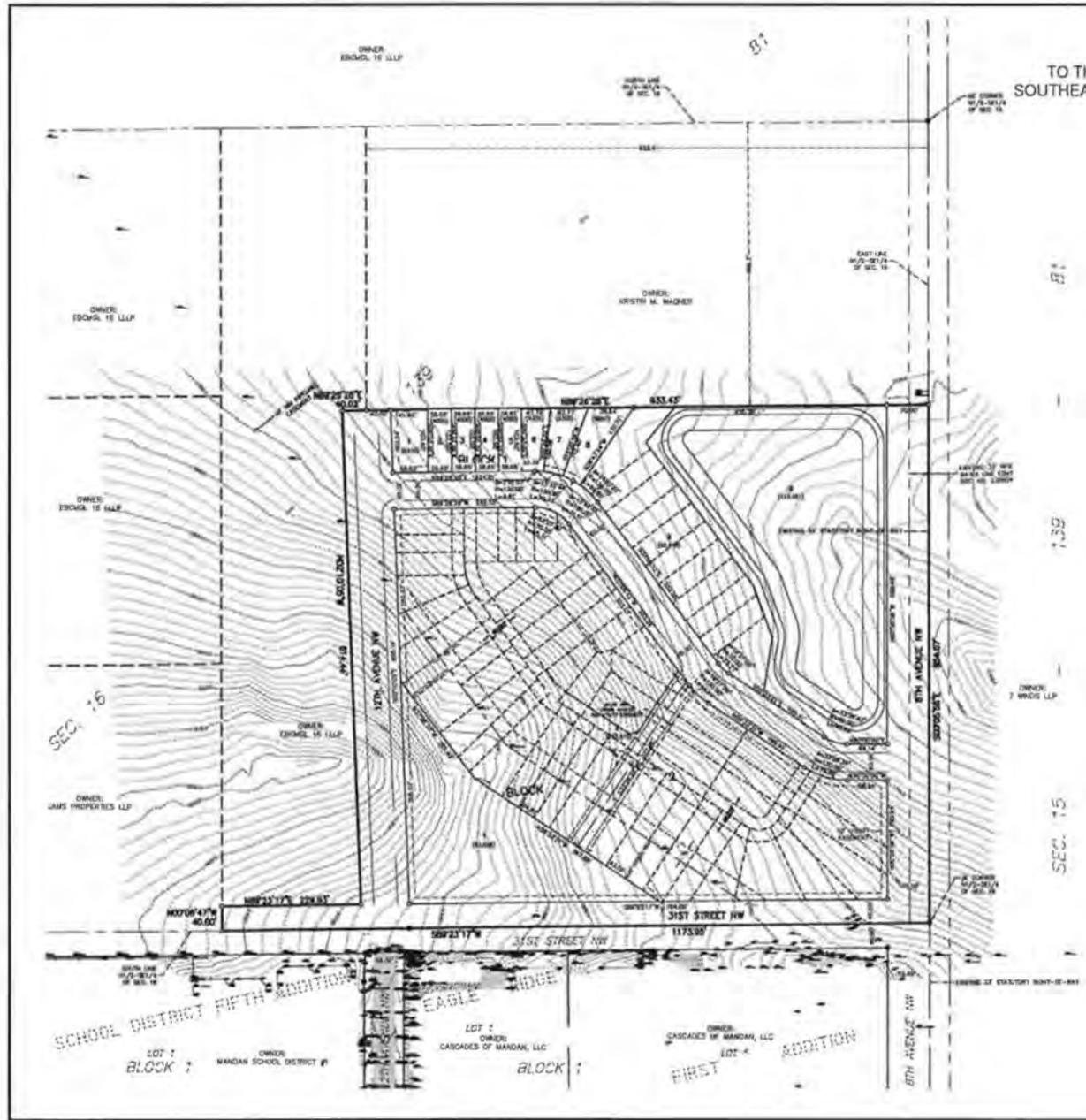
**SUBSISTOR**

44 ALJOP  
 625 10TH AVENUE E  
 WEST FARGO, ND 58107  
 701-862-4000

**VICINITY MAP**



**EXISTING TOPOGRAPHY**



PLAT OF  
**SUNSET AVENUE 1ST ADDITION**  
 TO THE CITY OF MANDAN, A PLAT OF PART OF THE NORTH HALF OF THE  
 SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 81 WEST  
 MORTON COUNTY, NORTH DAKOTA



0 50  
 Scale in Feet

BASE OF BEARING:  
 NORTH SASKA STATE PLANE  
 COORDINATE SYSTEM, SOUTH  
 ZONE NAD83(2011)  
 INTERNATIONAL FEET

- LEGEND**
- IRON MONUMENT PEGS
  - SET 3"Ø PIPES BEARS WITH YELLOW PLASTIC CAP (BSP)
  - (HW) LOT AREAS IN SQ. FT.
  - L ARC LENGTH
  - R RADIUS LENGTH
  - A CENTRAL ANGLE

TYPICAL ACCESS/UTILITY EASEMENT DETAIL



- ▶ DIRECTION OF GRAVITY SEWER FLOW
- 48" PRECAST MANHOLE
- SANITARY SEWER 8" OR 10"
- COLD WATER MAIN 8" OR 10"

PROPOSED ZONING = RM(UD)

**OWNER/DEVELOPER**

DR. ERIC BELANGER  
 822 SOUTHPORT LOOP  
 BISMARCK, ND 58104  
 701-262-1100

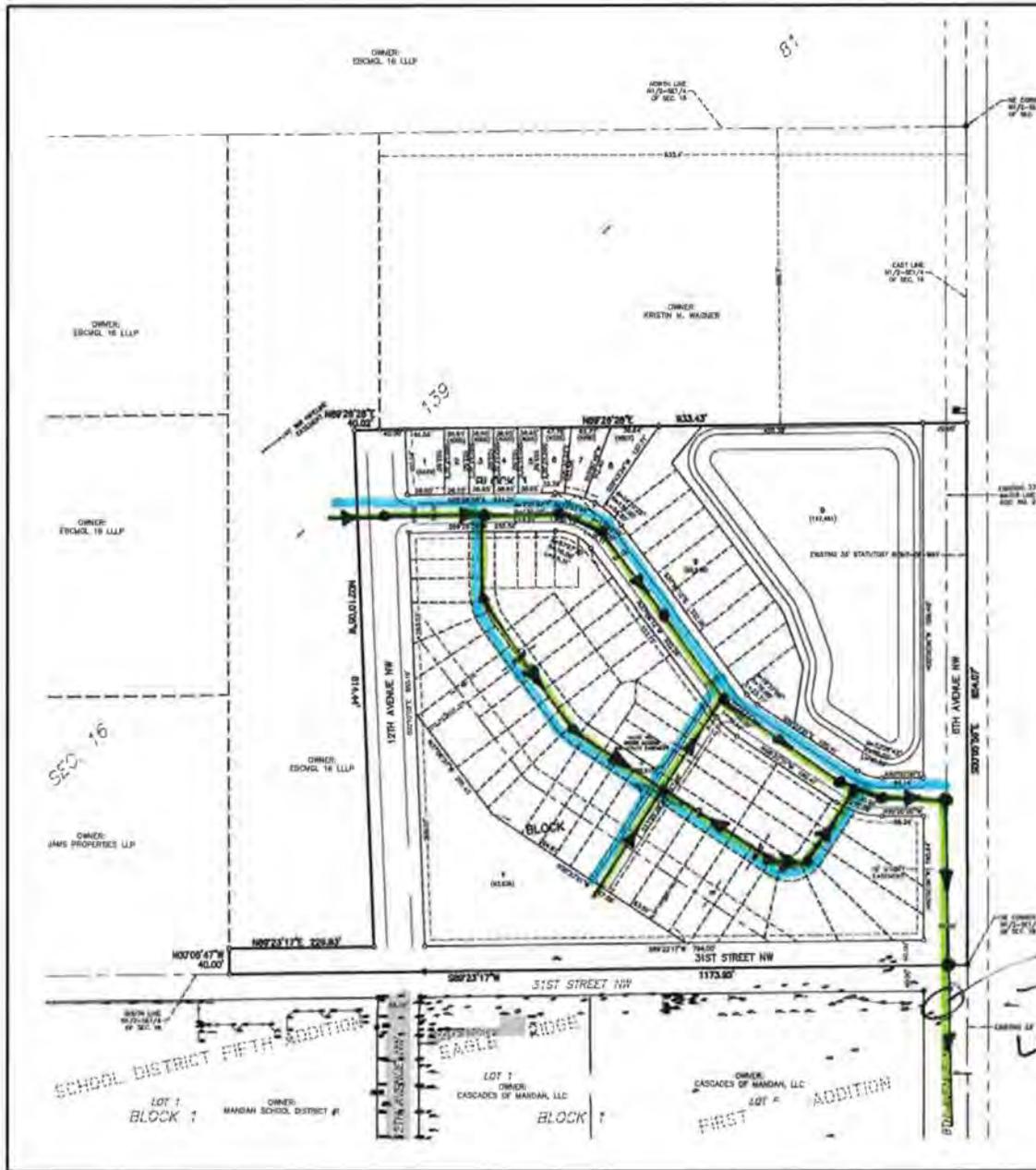
**SUBCONTRACTOR**

JM ALBERT  
 822 SOUTH AVENUE E.  
 BISMARCK, ND 58104  
 701-262-4621

MUNITY MAP



UTILITY  
 SERVICING



28"E  
.02'

150

RA LOT SIZE  
MINIMUM

N89°26'28"E

(6220)

(4000)

(4000)

(4000)

(4000)

(4335)

(5200)

(6807)

25' STREET  
SIDE SB.  
@ COLLECTOR

5' SIDE SB'S (TYP)

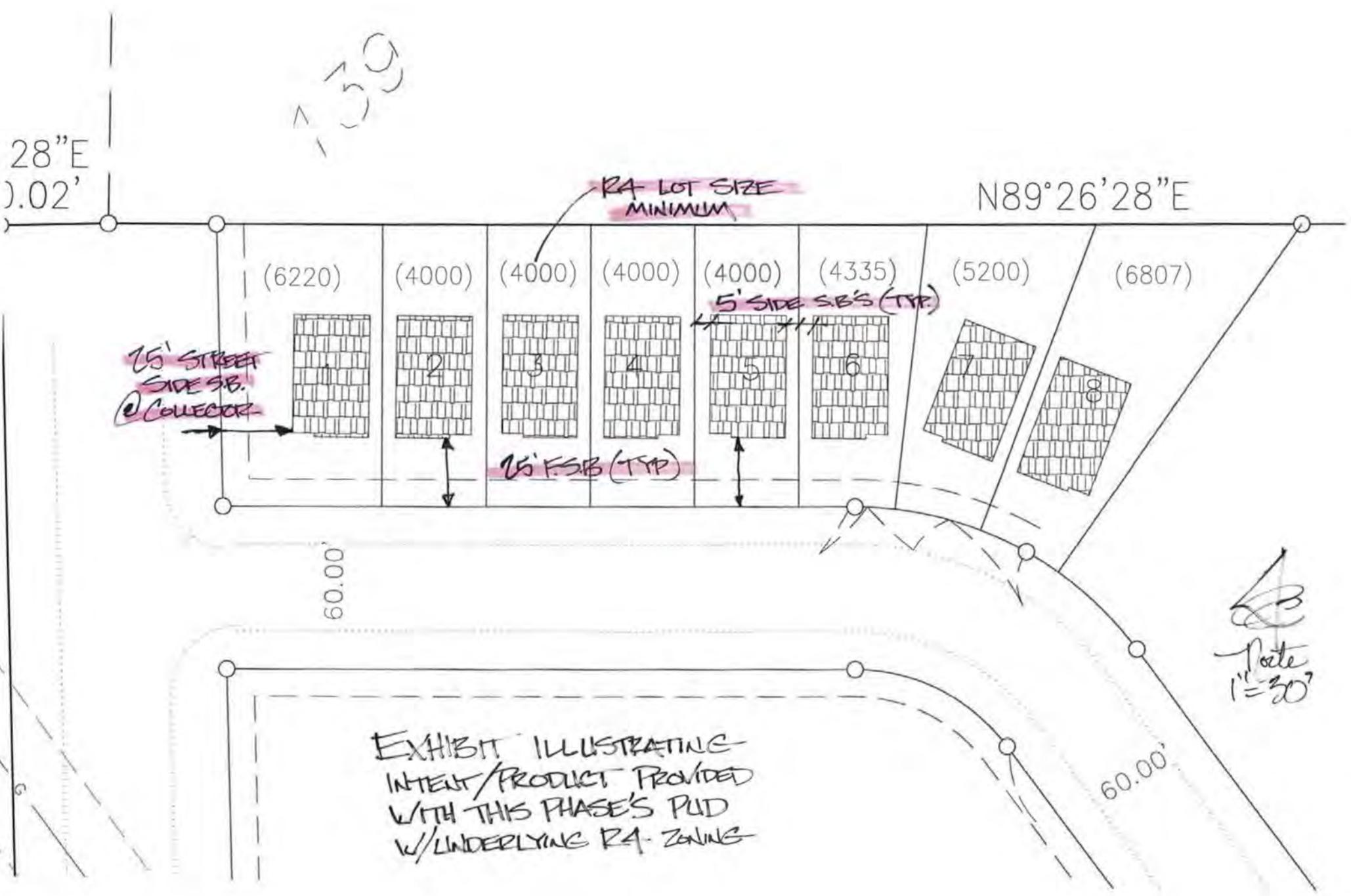
25' F.SB (TYP)

60.00

60.00'

North  
1" = 30'

EXHIBIT ILLUSTRATING  
INTENT/PRODUCT PROVIDED  
WITH THIS PHASE'S PUD  
W/UNDERLYING RA ZONING



# EXHIBIT 2

## ORDINANCE NO. 1349

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

WHEREAS, The Mandan Land Use and Transportation Plan designates the property as Medium Density Residential; and

WHEREAS, The Preliminary Plat and Phasing Plan for Rockwood First Addition (formerly presented as Sunset Ave. 1<sup>st</sup> Add.), the area subject to this zoning amendment, align with the Mandan Land Use and Transportation Plan designation as presented.

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

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

THAT PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 81 WEST OF THE FIFTH PRINCIPAL MERIDIAN, MORTON COUNTY, NORTH DAKOTA, BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTH HALF OF THE SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 05 MINUTES 56 SECONDS WEST ALONG THE EAST LINE OF SAID NORTH HALF OF THE SOUTHEAST QUARTER FOR A DISTANCE OF 854.07 FEET TO THE SOUTHEAST CORNER OF THE NORTHERLY 466.7 FEET OF THE EASTERLY 933.4 FEET OF SAID NORTH HALF OF THE SOUTHEAST QUARTER, AS MEASURED AT A RIGHT ANGLE TO, AND PARALLEL WITH, THE NORTH AND EAST LINES OF SAID NORTH HALF OF THE SOUTHEAST QUARTER; THENCE SOUTH 89 DEGREES 26 MINUTES 28 SECONDS WEST ALONG THE SOUTH LINE OF SAID NORTHERLY 466.7 FEET FOR A DISTANCE OF 490.17 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 34 DEGREES 52 MINUTES 25 SECONDS WEST FOR A DISTANCE OF 156.57 FEET; THENCE NORTHWESTRLY 80.39 FEET ON THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 35 DEGREES 25 SECONDS 57 SECONDS, A RADUIS OF 130.00 FEET AND A CHORD LENGTH OF 79.12 FEET WHICH BEARS NORTH 72 DEGREES 50 MINUTES 34 SECONDS WEST; THENCE SOUTH 89 DEGREES 26 MINUTES 28 SECONDS WEST FOR A DISTANCE OF 234.21 FEET; THENCE NORTH 02 DEGREES 10 MINUTES 05 SECONDS WEST FOR A DISTANCE OF 103.54 FEET TO THE SOUTH LINE OF SAID NORTHERLY 466.7 FEET; THENCE NORTH 89 DEGREES 26 MINUTES 28 SECONDS EAST ALONG SAID SOUTH LINE FOR A DISTANCE OF 403.26 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 0.88 ACRES, MORE OR LESS.

Said tract encompasses proposed Lots 1 through 8, Block 1 Rockwood First Addition to the City of Mandan, Morton County, North Dakota.

Said tract shall be removed from the RM Residential District and be included in the PUD District 2020-01 (Planned Unit Development) **with the following conditions and restrictions:**

- a. Each lot shall conform to the requirements as provided for in the R4 Residential District unless otherwise restricted herein.
- b. Each lot shall be restricted to one (1) single-family residential dwelling as the primary use.
- c. No secondary or conditional uses shall be permitted.

**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:

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Jim Neubauer  
City Administrator

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

July 27, 2020  
August 18, 2020  
September 1, 2020  
\_\_\_\_\_

# EXHIBIT 3

## Development Agreement

### Rockwood First Addition

This Agreement is made and entered into on the [Day] of [Month], 2020, (hereinafter the “effective date”) by and between the City of Mandan (hereinafter referred to as the “City”) and EBCMGL 16, LLLP (hereinafter referred to as the “Developer”). The address for the City of Mandan is 205 2<sup>nd</sup> Avenue NW, Mandan, North Dakota 58554. The address of Developer is [Developer Address]. This agreement is a covenant running with the Property and binding upon any and all future owners of the Property.

WHEREAS, the Developer is the owner of property whose legal description is the Part of the N1/2 of the SE1/4 of Section 16, Township 139N, Range 81W, Morton County, North Dakota, North Dakota (hereinafter referred to as the “Property”); and

WHEREAS, the Developer wishes to develop the approximate thirteen and three-quarter (13.75) acre Property excluding right-of-way dedication into a development named Rockwood First Addition (hereinafter referred to as the “Development”); and

WHEREAS, said Development is currently planned to include eight (8) residential lots and three (3) additional lots to be further redeveloped in the future; and

WHEREAS, the wastewater plan for the Development is dependent on the Terra Vallee Lift Station, which is planned for removal at an indeterminate future date per the wastewater masterplan of the City; and

WHEREAS, the Terra Vallee Lift Station requires immediate improvements due to ongoing and frequent maintenance and additional demand created by the Development will exacerbate necessary maintenance and interfere with the City’s ability to provide service to existing users; and

WHEREAS, the costs to strictly follow the wastewater plan of the City for this Development alone are cost-prohibitive for the Developer; and

WHEREAS, the Developer and the City have identified an amenable alternative to facilitate the implementation of the masterplan and provide wastewater services to the Development; and

WHEREAS, the Development, without this agreement, could create disorder in future development, raising costs of public infrastructure and private development for the surrounding lands; and [JJF1]

WHEREAS, the agreement provides the Developer a means to achieve the desired outcome of the Development of eight (8) residential lots and preserve the remaining land for future phases of development of a residential nature; and

WHEREAS, said agreement utilizes for reference a document (hereinafter referred to as “Phasing Plan”) showing future private road access and additional subdivided lots as a proof of concept for future development to align with the Mandan Future Land Use and Transportation Plan (originally adopted June 2015 and hereinafter referred to as the “Plan”); and

WHEREAS, nothing in this agreement prohibits the Developer from revising the layout of the lots of the Phasing Plan subject to the necessary jurisdictional approvals including Mandan Planning and Zoning Commission and the Mandan Board of City Commissioners; and

WHEREAS, nothing in this agreement prohibits the City from adopting alternative land uses through a new land use plan or amendment to the Plan affecting the Property as prescribed by State law and the Mandan Code of Ordinances and requiring any future development to align with said plan.

NOW THEREFORE, it is agreed between the parties as follows:

1. Density upon build-out of the Development to be a minimum of five (5) units per acre and maximum of eight (8) units per acre. If at any subsequent phase of development these thresholds do not appear to be capable of being met as determined by the City the applicant agrees to amend the application to the satisfaction of the City prior to presentation for consideration of approval.
2. Each phase of the development shall submit an application for a zoning amendment to planned unit development (PUD) and establish the underlying zoning district to be applied for each lot within the respective phase. This requirement will not apply to Lot 1, Block 2 if the Developer does not further subdivide the lot and constructs multi-family residential in conformance with the requirements of the RM Residential District and other requirements as outlined in this agreement.
3. Lot 9, Block 1 and Lots 1 & 2, Block 2 are required to be further subdivided as necessary to meet the density requirement above.
4. The developer shall install cluster mailboxes to serve the development by the United State Postal Services (USPS) and other private carriers. The location of the cluster mailbox(s) shall meet the requirements of the City and USPS and be approved at each phase of development.

5. The Development is restricted to single-family, twin-home, or row-home construction for Lots 1 through 9, Block 1 and Lot 2, Block 2. The Development is restricted to single-family, twin-home, row-home, or multi-family residential construction for Lot 1, Block 2.
6. 8<sup>th</sup> Ave. NW is considered the secondary access for meeting the secondary access requirements for the Development. No more than thirty (30) dwelling units shall be permitted prior to the construction of 8<sup>th</sup> Ave. NW to connect said road to 12<sup>th</sup> Ave. NW via the proposed local public road meandering southeast to northwest.
7. The City recognizes that 8<sup>th</sup> Ave. NW may be initially constructed as a rural local road if approved by the City Engineer, although its function for the purposes of special assessments will be classified as a collector unless an alternative allocation is determined to be more equitable by the Board of City Commissioners. The portion of special assessments that would otherwise have been assessed to Lot 10, Block 1 will be equally distributed to all other lots in the Development unless an alternative allocation is determined to be more equitable by the Board of City Commissioners.
8. Boulevard landscaping along 12<sup>th</sup> Ave. NW shall include a tree of at least one and a quarter (1 ¼) inch caliper within the boulevard for each fifty (50) linear feet of right-of-way beginning at the intersection of 31<sup>st</sup> St. NW and terminating at the northern boundary of the Development. Boulevard landscaping will be installed by the Developer at the same time as 12<sup>th</sup> Ave. NW.
9. A sidewalk shall be constructed by the Developer along the east side of 12<sup>th</sup> Ave. NW for the entirety of the development to provide for pedestrian connectivity to the existing network to the south. A crosswalk across 31<sup>st</sup> St. NW is required and shall meet standards set forth by the City Engineer. Both shall be installed at the same time as 12<sup>th</sup> Ave. NW.
10. Lot 10, Block 1 shall be the undivided interest of all lot owners of the Development and used for the purposes of storm water detention. Maintenance, if required by the City, shall be allocated per the special assessment policy in effect at the time unless an alternative allocation is determined to be more equitable by the Board of City Commissioners.
11. All private roads and utilities shall be the maintenance responsibility of all of the lot owners utilizing the respective private road or utility of the Development. Maintenance, if required by the City, shall be allocated per the special assessment policy in effect at the time unless an alternative allocation is determined to be more equitable by the Board of City Commissioners.
12. Future development on the Property will align with the adopted land use and transportation plan of the City of Mandan at the time of application.

13. Additional costs for wastewater infrastructure, stemming from necessary improvements to the Terra Vallee Lift Station and deviation from the existing waste water masterplan, will be determined by the Board of City Commissioners with a recommendation from the City Engineer.
  
14. All public roads and utilities shall be the maintenance responsibility of the city after final acceptance of the project(s). The water distribution and sanitary sewer components of the public infrastructure need to be installed under a three-way agreement and require following all city standards per the Engineering Department. The above ground public infrastructure including streets, storm sewer, and other above ground improvements such as signs and street lights can be installed under a street improvement district or a three-way agreement by choice of the Developer and require following all city standards per the Engineering Department.

---

Mayor Tim Helbling  
City of Mandan

---

Eric Belanger, **Title**  
EBCMGL 16, LLLP

Attest:

Attest:

---

Jim Neubauer  
City Administrator



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 11, 2020  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** Variance to the Rear Setback from Twenty (20) Feet to Five (5) Feet.

---

**STATEMENT/PURPOSE:** Consider approval of a variance to the rear setback requirement from twenty (20) feet to five (5) feet.

**BACKGROUND/ALTERNATIVES:**

Eric Seefeldt is seeking a variance to the rear setback from twenty (20) feet to five (5) feet for the construction of a dwelling.

The property up until recently maintained a home onsite. It was in disrepair and needed to be demolished. The previous dwelling was located such that it was five (5) feet from the rear setback.

A variance may be granted upon finding per Sec. 105-1-13 (e) (6) that:

- a. 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 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;

The lot was established under previously adopted code and cannot be enlarged to create the desired space necessary to accommodate the home that the property owner's desire without encroaching closer to the access road/easement which serves the dwellings. Even so, a dwelling that meets the setbacks of eight (8) feet in front and twenty (20) feet in the rear would be restricted to a home twenty-two (22) feet in depth due to the limited lot depth of fifty (50) feet.

The previous home did not produce any issues with neighboring property owners to the knowledge of staff at the time of application. Per the applicant in Exhibit 1, the neighboring property owner to the west would have no concerns. Staff did not hear directly from the neighboring property owners and notifications were sent to all property owners within one-hundred-fifty (150) feet per as required.

Moving the home further than the eight (8) feet from the front setback would add an element of safety. The roadway is a rural gravel road in a residential enclave that preceded today's platting requirements and therefore does not have the benefit of paved roads with curb.

Finally, accessing the home from the south does not appear to be possible for a few reasons. First, the road running to the south appears to be contained within the BNSF right-of-way and whether the property owner is able to access his property is indeterminate at this time. Second, it is unclear where the septic system is located. Given the size of the lot, it is very likely in the south part of the property. If so, a southern access would not be possible, as the property owner would be crossing the septic field to park near the home location.

- b. 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; and

Findings are provided in Exhibit 2 summarizing the points indicated on page 1 of this report.

- c. 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.

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.

ATTACHMENTS:

- Exhibit 1 – Application
- Exhibit 2 – Findings

Board of City Commissioners

Agenda Documentation

Meeting Date: August 18, 2020

Subject: Variance to the Rear Setback from Twenty (20) Feet to Five (5) Feet

Page 3 of 3

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FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: The staff report and exhibits have been reviewed by Attorney Oster as part of the agenda packet.

RECOMMENDATION: Staff recommends approval of the variance to the rear setback from twenty (20) feet to five (5) feet based on the findings presented in Exhibit 2.

SUGGESTED MOTION: I move to approve the variance to the rear setback from twenty (20) feet to five (5) feet based on the findings presented in Exhibit 2.

# EXHIBIT 1

CITY OF MANDAN	
Development Review Application	
<input type="checkbox"/> Minor Plat (\$300)	<input type="checkbox"/> Zone Change (\$600)
<input type="checkbox"/> Preliminary Plat up to 20 acres (\$400)	<input type="checkbox"/> Planned Unit Development (\$700)
<input type="checkbox"/> Preliminary Plat more than 20 acres (\$450)	<input type="checkbox"/> Land Use and Transportation Plan Amendment (\$1,000)
<input type="checkbox"/> Final Plat up to 20 lots (\$400)	<input type="checkbox"/> Vacation (\$500)
<input type="checkbox"/> Final Plat 21 to 40 lots (\$550)	<input checked="" type="checkbox"/> Variance (\$400)
<input type="checkbox"/> Final Plat more than 40 lots (\$700)	<input type="checkbox"/> Special Use Permit (\$450)
<input type="checkbox"/> Annexation (\$450)	<input type="checkbox"/> Stormwater submittal (\$300)
<input type="checkbox"/> Masterplanned Subdivision (not accepted without preliminary plat) (\$250)	<input type="checkbox"/> Stormwater 2 <sup>nd</sup> & subsequent resubmittal (\$50)
<input type="checkbox"/> Appeals to Administrative Denials (Variance to Non-zoning/Non-subdivision regulations) (\$250)	
Summary of Request (Add separate sheet(s) as necessary)	
See attached documents	

Engineer/Surveyor			Property Owner or Applicant		
Name			Name Eric Seefeldt (Applicant)		
Address			Address 1614 Heart River Dr SW		
City	State	Zip	City	State	Zip
			Mandan	ND	58554
email			email		
			seefeldtnd@hotmail.com		
Phone		Fax		Phone	
				701-541-1052	
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 type="checkbox"/>	City	<input type="checkbox"/>	ETA	<input checked="" type="checkbox"/>	New	<input type="checkbox"/>	Addition	R 3.2	R 3.2	Sundquist Home	
Property Address						Legal Description					
1614 Heart River Dr SW						S 1/2 of Lot 5 of Lot 1 of Lot 9 of Auditor Lot C of the SW 1/4 of 28-139-81					
Current Use											
Residential Single Family											
Proposed Use											
Residential Single Family						Section	28	Township	139	Range	81
Parcel Size	Building Footprint	Stories	Building SF		Required Parking		Provided Parking				
5,650 sq ft	28' x 60'	1	1680		3		3				

Print Name Eric Seefeldt	Signature <i>Eric Seefeldt</i>	Date 25 June 2020
-----------------------------	-----------------------------------	----------------------

Office Use Only			
Date Received:	Initials: <i>nm</i>	Fees Paid: \$ <i>400</i>	Date <i>6/26/2020</i>
Notice in paper		Mailed to neighbors	
P&Z meeting			
<input type="checkbox"/> Approved	Approved with conditions:		
<input type="checkbox"/> Denied			

24 June 2020

We, Robert and Becky Sundquist (owners of property at 1614 Heart River Dr S in Mandan, ND), grant Eric Seefeldt (son in-law) permission to represent us during the variance request and home construction processes related to our efforts to construct a new home on our property at 1614 Heart River Dr S in Mandan, ND).

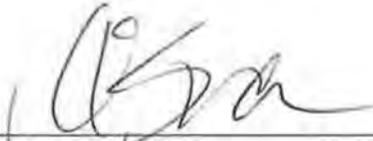
Signature Rebecca Sundquist Date 6-25-2020

Signature Robert Sundquist Date 6-25-2020

STATE OF NORTH DAKOTA  
County of Morton

On this 25<sup>th</sup> day of JUNE, in the year 2020 before me personally appeared Rebecca & Robert Sunquist known to me ( or proved to me an oath of NMN ) to be the person who is described in and who executed the within instrument, and acknowledged to me that that person (or they) executed the same.



  
\_\_\_\_\_  
Notary Signature

NOTARIZED DOCUMENT Permission represent

## **Variance Application Section G: Summary**

The owners (Robert and Becky Sundquist) of property at 1614 Heart River Dr S Mandan, ND are working to re-establish value in the property, for which they have significant financial investment, by constructing a new home to replace the previously existing home that was demolished due to concerns about structural integrity and mold. They would then plan to relocate to that property from their current residence in Forman, ND. Due to the challenges of the lot size and what we feel is a more optimized placement of the new home we are seeking a variance for a rear setback of 5' instead of 20', which is what is now required in R3.2 zoning. A 5' setback matches the foundation location of the previously existing home and the home that is located on the property directly north so does not infringe on the neighboring properties any more than the previous structure would have. The property owners to the west, which would be the rear side of the home where we are asking for the variance, have verbally agreed that they would have no concerns with a 5' setback for the new structure. A 5' setback would allow the home to be placed in a location on the property that would allow for better utilization of the front yard and would also put the home a greater and safer distance from the roadway. Approval of this variance would also allow the placement of the home to comply with setback requirements on all remaining sides. We would greatly appreciate your consideration and approval of this request.

**Variance Application Section A:** The circumstances or conditions applying to the land or buildings for which the variance is sought.

- The property at 1614 Heart River Dr S Mandan, ND was purchased by Robert and Becky Sundquist with intent to relocate to that property from their current home in Forman, ND. The property contained a home and single stall detached garage. Unfortunately during a remodeling evaluation it was determined that the home had foundation and mold issues which made it unsalvageable so the home was recently demolished. At this time Robert and Becky have a significant financial investment in the property but it no longer has a home on it which would allow them to relocate. Their desire is to construct a new home on the property so that they can relocate to the property.

**Variance Application Section B:** How the applicant is deprived of a reasonable use of said land or building:

- The lot dimensions of the property at 1614 Heart River Dr S Mandan, ND are 50' D by 108' -118' wide. With the required setbacks of 20' rear and 8' front (local street) for R3.2 zoned property the maximum home depth would be 22'. In order to construct a home with adequate room sizes at the front and rear of the home a minimum home depth of 28' is desired. See supporting information in Variance Application Section E and Section F.

**Variance Application Section C:** How the grant of a variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and

- Small residential area with only seven property owners and all lots occupied
- Other properties have similar or same layouts to what is being requested
- Verbal approval from adjacent property owner to the west, the side of property for which the variance is being requested.

**Variance Application Section D:** The minimum variance that will accomplish the relief sought.

- The minimum required variance to achieve the desired home width would be a 14' rear setback instead of a 20' setback. Note that this would be undesirable though as it would limit distance between the front of home and street. See Variance Application Section E for more supporting information.

### **Variance Application Section E: Current Zoning**

#### **Sec. 105-3-7. - R3.2 Residential District.**

(a) *General description.* The purpose of this district is to provide an opportunity to construct single-family dwelling units on reduced size lots in the form of a single-family dwelling or twin home.

- No concerns

(b) *Primary uses.* The following uses are permitted:

- (1) Twin home.
- (2) Single-family dwelling.

- No concerns

(c) *Secondary uses.* A group dwelling for six or fewer individuals with developmental disabilities as defined in N.D.C.C. 25-16-14 is a permitted secondary use. This use requires one additional on-site mobility impaired parking space.

- No intent or concerns

(d) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the planning and zoning commission and ratification by the city commission.

- (1) Public recreation group.
- (2) Education group.
- (3) Utility service group.
- (4) Religion group.
  - No intent or concerns

(e) *Setbacks.*

(1) Lots fronting on an arterial or collector street as designated on road network maps produced by the metropolitan planning organization are discouraged. If lots must front on roads with these designations, the front yard setback is increased.

- a. ~~The minimum front yard setback for an arterial roadway is 50 feet.~~
- b. ~~The minimum front yard setback for a collector street is 25 feet.~~
- c. The minimum front yard setback for a local street is eight feet.

- **Concerns:** With lot depth of 50 feet current front setback of 8 feet and rear setback of 20 feet would only allow for a home 22 feet in depth. Property owners would like to construct a home of 28 feet in depth and would like to position home further back on lot to create more space between front of home and street. See requested variance to back yard setback.

d. The required front yard setback for each lot shall be determined during the platting process and shall be documented in a development agreement that is signed and recorded.

(2) For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is five feet. The side yard setback shall apply to both sides for a single-family dwelling and one side for a twin home.

- No concerns, aligns with home that was previously on the property and would work for new home plan that is desired.

(3) The minimum rear yard setback is 20 feet.

- **Concerns: Variance Requested**

- Request is for a variance to allow for a 5 foot rear setback instead of the required 20 foot.

- Why?

- Due to a short lot depth of only 50 feet the current setbacks of 8 feet in the front and 20 feet in the back would only allow for a home with a depth of 22 feet. Property owners would like to construct a home of 28 feet in depth and would like to position home further back on lot to create more space between front of home and street.

- To accommodate adequate size rooms on the front and rear of the home a depth of 28 feet would be required.

- Front yard is much more useable space with access from the local street and is not land locked like the rear yard would be.

- Desire to position the home further back on the property to allow a greater and safer distance between the local street and front of home.

- What supports this request?

- Request aligns with the home that was previously constructed on the property (which had a 5 foot rear setback) and with the adjacent home that is built on the property to the north which also has a 5 foot rear setback.
- With a shorter property depth of 50 feet, the home would be unfavorably biased to the front of the lot with the current setbacks and home size desired.
- Adjacent neighbors to the west have verbally indicated that they would have no concerns with the new home being proposed having a 5 foot rear setback
- Aligns with side yard setback requirements

(4) Any portion of a structure containing a garage door facing a public street, alley or private access easement must be set back at least 25 feet.

- No concerns at this time, current construction plan does not include a new garage

(f) *Lot coverage.* The perimeter of the ground or first floor of each structure shall be used when computing lot coverage. Lot coverage for all structures shall not exceed 50 percent of the square foot area of the lot. For water lots the computation shall be made using the portion of the lot that is above the shore line.

- No concerns – current lot size is 5,650 sq/ft and proposed structures would not occupy more than 50% (2,825 sq/ft)

(g) *Lot area.* The minimum lot area shall be 3,200 square feet.

- No concerns – current lot is 5,650 sq/ft

(h) *Lot frontage.* Each lot shall have a minimum of 20 feet of frontage along a public street or private access easement configured in conformance with fire code emergency access standards.

(i) *Building height limits.* Principal building height shall be limited to three stories. Accessory buildings shall be limited to two stories.

- No concerns

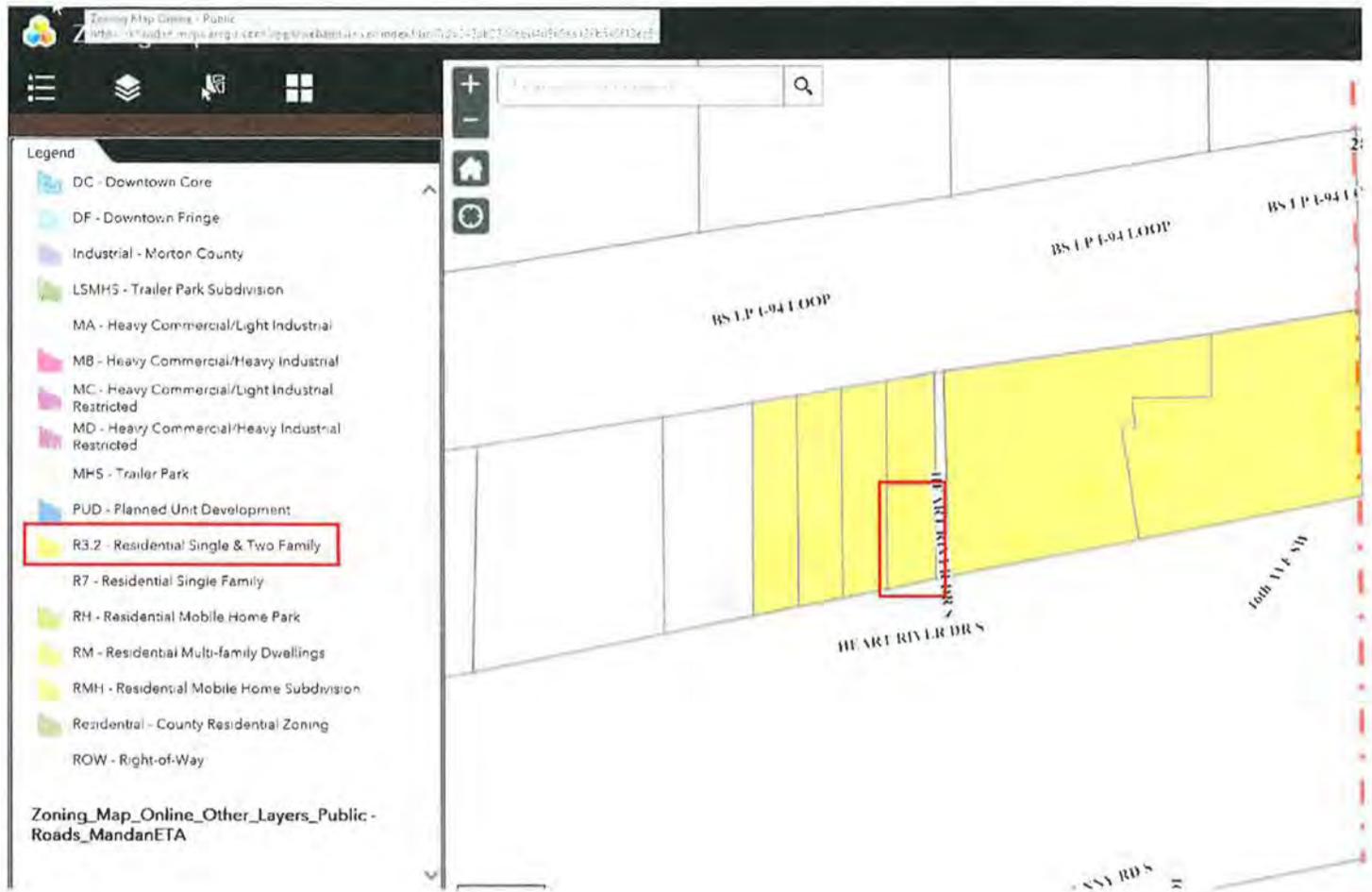
(j) *Parking.* At least two parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 25 feet long.

(Ord. No. 1242, § 5, 12-20-2016; Ord. No. 1301, § 2, 3-5-2019)

- No concerns – Enough remaining lot sq/ft to accommodate this

# Variance Application Section F: Visual Aids

## Zoning Map



Proximity to City



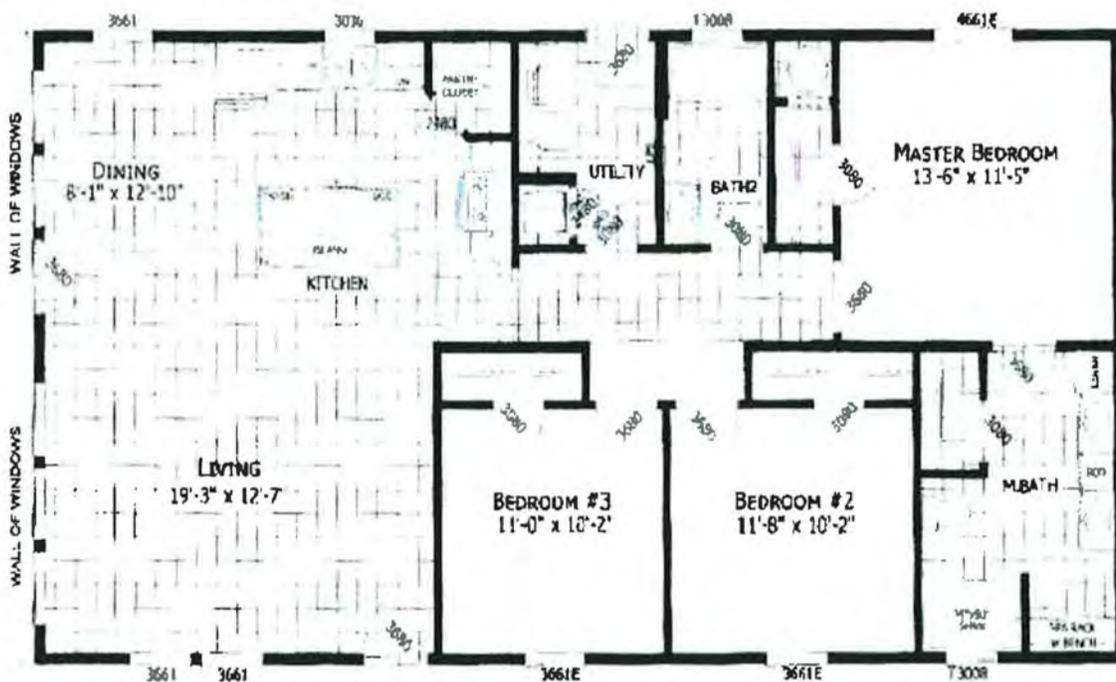
Current Google Maps View (prior to house demolition)



Proposed New Home Approximate Size and Position (illustrated by green box)



Example of Proposed Floorplan



## Exhibit 2 – Findings of Support to Grant Variance

- The property was established under previously adopted code and enlargement of the lot is not possible.
- An eight (8) foot front setback, twenty (20) foot rear setback, and fifty (50) foot lot depth, limits the dimensions of a home that could be located on the property to a twenty-two (22) foot depth or width regardless of orientation.
- A home was previously located five (5) feet from the rear setback and staff is not aware of any previous issues stemming from the location of the dwelling.
- Moving the home further than eight (8) feet from the front property line will add an element of safety. The roadway serving the home is a gravel road serving the residential enclave that preceded platting requirements. The properties created today in the R3.2 Residential District within eight (8) feet of the front property line benefit from a paved road including the protection resulting from installation of a curb.
- Access from the south of the property may not be possible based on the unknown location of the septic system that serves the property and what appears to be BNSF right-of-way.



Bids No. 1

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 14, 2020  
**SUBMITTING DEPARTMENT:** Planning and Engineering  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning and Engineering Director  
Laith Hintz, PE; AE2S Project Manager  
**SUBJECT:** Raw Water Intake Bid Results

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**STATEMENT/PURPOSE:** To update on the State Water Commission level discussion and options with holding bids.

**BACKGROUND/ALTERNATIVES:** At the August 13<sup>th</sup> State Water Commission (SWC) meeting, the commission again decided to table any decisions on additional funds or any funds to go to newly requested projects. Our project is included since we are asking for additional funds to it.

Because of their decision to table, we are going back to our low-bid contractors again to ask them to hold their bids. This time, the SWC will not get back together for two months, planned for October 8<sup>th</sup>. Therefore, we will ask our contractors to hold bids through October 20<sup>th</sup> with the intent to bring a decision to commission at our October 20<sup>th</sup> meeting. As of August 14<sup>th</sup>, discussion has been favorable as far as the willingness by contractors to hold bids for this extended period, but nothing in writing. It is probable that contractors ask for time extensions related to holding bids for this long. It is also possible that contractors may ask for increases in the cost to do the work given this request. If they do ask for cost increases, we will need to consider that with the decision to award or reject.

**The following is from our June 16<sup>th</sup> City Commission meeting:** Given the high bids for the Raw Water Intake project that we received in October, AE2S worked on value engineering tasks to hopefully lower the cost of the project from what was reflected at that time. Those tasks were completed and we then went forward to opening bids for Phase 1A were opened on May 19<sup>th</sup> while the bids for Phases 1B and II were opened on June 3<sup>rd</sup>. The full results are attached below, but in summary, the bids came in well over estimate.

Given that the bids that are over estimate, AE2S and City Staff were prepared to request that the State Water Commission (SWC) continue their commitment to this project at the 60% match given the amount now that bids are received. During the June 9<sup>th</sup> SWC meeting, the commission decided not to act on any new project funding requests or requests to raise the amounts to any particular project state-wide given budgetary concerns of theirs. They instead decided to reconvene on these requests on July 16<sup>th</sup>. Our bid specifications allow us to hold these bids into August, therefore we can wait for the decisions that come out of their July 16<sup>th</sup> meeting before acting and would plan to bring this item back for a decision at our July 21<sup>st</sup> City Commission meeting. Therefore, we are recommending to take advantage of that time in order to get a clearer picture of the funds, especially that would come from the SWC.

ATTACHMENTS:

- 1) AE2S Bid Summary and Recommendation Letter (**from June meeting**)
- 2) Bid Tabs for Each Phase (**from June meeting**)

FISCAL IMPACT: No action requested today. With the bids that came in, the new projected total project estimate is about \$36.6M. That compares to an estimate of \$30.0M in April, after final design, but before we advertised for bids. Perhaps more significantly is that it compares to an estimate of \$20.8M from early 2019, which is the estimate that the SWC's cost share commitment is based on.

STAFF IMPACT: Minimal

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

RECOMMENDATION: No action recommended today. We recommend to allow the August SWC meeting to take place and would come back to the City Commission with a recommendation following that.

SUGGESTED MOTION: No action recommended today.



6/11/2020

To the President and Commissioners  
of the Mandan Board of City Commissioners  
c/o Justin Froseth, PE, Planning and Engineering Director  
205 2<sup>nd</sup> Avenue NW  
Mandan, ND 58554-3125

**Re: Mandan Raw Water Intake  
City Project No. 2014-09  
Award Recommendation Letter**

Honorable Commissioners:

Bids for the referenced Project were opened on Tuesday, May 19, 2020 and Wednesday June 3, 2020. The Contractors submitted the required Bid Bonds, Contractor's Licenses, required SRF documents, acknowledged the Addenda, and signed their Bids except where noted below. The Bids were examined for errors and irregularities, and one was found and noted below. A copy of the Bid tabulation summaries are attached.

Phase IA – Intake Structure

Three Contractors submitted Bids for the Work. An alternate was included with the bid and, if selected, will determine the apparent low bid as follows:

- Contract No. 1 – General Construction
  - Engineering & Construction Innovations, Inc.
  - Bid Amount: \$8,997,775.00
  - Opinion of Cost: \$7,500,000.00
- Contract No. 1 with Alternate No. 1 – General Construction
  - Meyer Contracting
  - Bid Amount with alternate: \$9,231,600.00

Engineering & Construction Innovations, Inc. and Meyer Contracting are specialty Contractors from outside of North Dakota. Meyer Contracting has completed projects with AES. They have both provided additional information qualifying capabilities and experience with similar type projects.

**Advanced Engineering and Environmental Services, Inc.**

1815 Scheffer Street, Suite 301 • Bismarck, ND 58501 • (t) 701-221-0530 • (f) 701-221-0531

President and Commissioners  
of the Mandan Board of City Commissioners  
**Re: Mandan Raw Water Intake**  
6/11/2020  
Page 2 of 3

#### Phase IB – Pump Station, Control Vaults, and WTP Improvements

Seven Contractors submitted Bids for the Work. One bid did not have the required SRF documents and was not opened. The apparent low bids are as follow:

- Contract No. 1 – General Construction
  - Swanberg Construction, Inc.
  - Bid Amount: \$11,143,000.00
  - Opinion of Cost: \$8,970,000.00
- Contract No. 2 – Mechanical Construction
  - Central Mechanical, Inc.
  - Bid Amount: \$628,000.00
  - Opinion of Cost: \$630,000.00
- Contract No. 3 – Electrical, Instrumentation, and Controls Construction
  - Ystaas Electrical Service, LLC
  - Bid Amount: \$2,557,870.74
  - Opinion of Cost: \$2,440,000.00

Swanberg Construction and Central Mechanical are known, reputable Contractors who have completed projects with AE2S and the City of Mandan. Ystaas Electrical Service has primarily served the oil and gas industry but has provided information qualifying capabilities and experience with similar type projects.

#### Phase II – Raw Water Transmission Line Improvements

Five Contractors submitted Bids for the Work. One bid did not have the required SRF documents and was not opened. There was also a mathematical error on one of the bids but did not affect the outcome. The apparent low bid is as follow:

- Contract No. 1 – General Construction
  - Meyer Contracting
  - Bid Amount: \$6,387,170.24
  - Opinion of Cost: \$4,200,000.00

Meyer Contracting is a specially Contractor from outside of North Dakota and has completed projects with AE2S.

The ND State Water Commission (SWC) has approved cost-share funding for this project up to \$20.835M. A revised cost-share has been submitted with current project costs to the SWC but any action has been tabled for consideration at a July 16<sup>th</sup> meeting. **As such, we recommend holding bids for consideration at a future City Commission Meeting.**

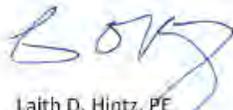


President and Commissioners  
of the Mandan Board of City Commissioners  
**Re: Mandan Raw Water Intake**  
6/11/2020  
Page 3 of 3

Thank you for the continued opportunity to provide professional engineering services to the City of Mandan. Should you have any questions or concerns, please do not hesitate to contact us.

Submitted in Service,

**AE2S**



Laith D. Hintz, PE  
Project Manager

Enclosures Bid Tabulation Summary

- C: North Dakota Department of Environmental Quality (electronic)
- North Dakota State Water Commission (electronic)
- Duane Friesz, City of Mandan (electronic)
- Mary Trost, Marathon Petroleum (electronic)



**Mandan Raw Water Intake Phase IA**  
**City of Mandan, North Dakota**  
**AE2S Project No. P00510-2010-001 052**  
**Bid Opening 4:00 PM CDT, Tuesday, May 19, 2020**

	Acknowledge Addenda 1-2	Bid Bond	Contractor's License or Renewal	MBE/WBE Solicitation Info	SRF Cert. Requiring Declaration	Qualifications Statement	Bid Form	Contract No. 1 Base Bid - General Construction	Alternate No. 1
<b>Contractor</b>									
Engineering & Construction Innovations, Inc.	✓	✓	✓	✓	✓	✓	✓	\$8,997,775.00	\$455,000.00
Meyer Contracting dba Meyer Con Inc.	✓	✓	✓	✓	✓	✓	✓	\$9,038,400.00	\$193,200.00
Michels Corporation	✓	✓	✓	✓	✓	✓	✓	\$12,720,000.00	\$440,000.00
<i>Engineer's Estimate:</i>								\$7,500,000.00	



Advanced Engineering and Environmental Services, Inc.  
 1815 Schafer Street, Suite 301  
 Bismarck, ND 58501  
 Tel: 701-221-0530

  
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 Laith Hintz, PE

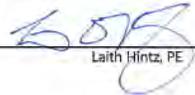
Mandan Raw Water Intake Phase IB  
 City of Mandan, North Dakota  
 AE2S Project No. P00510-2010-001 052

Bid Opening 11:00 AM CDT, Wednesday, June 3, 2020

Contractor	Acknowledge Addenda 1-2	Bid Bond	Contractor's License or Receipt	NBB/DBE Selection Info	SIF Cert Regarding Disbament	Qualifications Statement	Bid Form	Contract No. 1 Base Bid General Construction	Contract No. 2 Base Bid Mechanical Construction	Contract No. 3 Base Bid Electrical, Instrumentation, and Controls Construction	Contract No. 4 Base Bid Combined General; Mechanical; and Electrical, and Instrumentation and Controls Construction
Swanberg Construction, Inc.	✓	✓	✓	✓	✓	✓	✓	\$11,143,000.00	No Bid	No Bid	No Bid
John T Jones Construction Co.	✓	✓	✓	✓	✓	✓	✓	\$12,516,900.00	No Bid	No Bid	\$16,390,700.00
Central Mechanical, Inc.	✓	✓	✓	✓	✓	✓	✓	No Bid	\$628,000.00	No Bid	No Bid
Cofell's Plumbing & Heating, Inc.	✓	✓	✓	✓	✓	✓	✓	No Bid	\$692,000.00	No Bid	No Bid
Ystaas Electrical Service, LLC	✓	✓	✓	✓	✓	✓	✓	No Bid	No Bid	\$2,557,870.74	No Bid
Edling Electric, Inc.	✓	✓	✓	✓	✓	✓	✓	No Bid	No Bid	\$2,834,000.00	No Bid
Skeels Electric								Bid Irregularity - Bid not opened			
Engineer's Estimate								\$8,970,000.00	\$630,000.00	\$2,440,000.00	\$12,040,000.00



Advanced Engineering and Environmental Services, Inc.  
 1815 Schafer Street, Suite 301  
 Bismarck, ND 58501  
 Tel: 701-221-0530

  
 Laith Hintz, PE

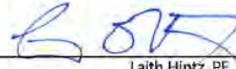
**Mandan Raw Water Intake Phase II**  
**City of Mandan, North Dakota**  
**AE2S Project No. P00510-2010-001 051**  
**Bid Opening 11:00 AM CDT, Wednesday, June 3, 2020**

	Acknowledge Addendum 1	Bid Bond	Contractor's License or Renewal	MBE/WBE Solicitation Info	SIF Cert Regarding Debarment	Qualifications Statement	Bid Form	
<b>Contractor</b>								<b>Contract No. 1</b> <b>General Construction</b>
Meyer Contracting	X	X	X	X	X	X	X	\$6,387,170.24
Carstensen Contracting Inc	X	X	X	X	X	X	X	\$6,810,040.00
SJ Louis Construction Inc	X	X	X	X	X	X	X	\$7,769,000.00
Wagner Construction, Inc.	X	X	X	X	X	X	X	\$10,246,858.36
Rachel Contracting	X	X	X	X				Bid Irregularity - Bid not opened.
Engineer's Estimate								\$4,200,000.00

\*Differs from as-read results due to mathematical error



Advanced Engineering and Environmental Services, Inc.  
 1815 Schafer Street, Suite 301  
 Bismarck, ND 58501  
 Tel: 701-221-0530

  
 \_\_\_\_\_  
 Laith Hintz, PE



## Board of City Commissioners

### Agenda Documentation

<b>MEETING DATE:</b>	August 18, 2020
<b>PREPARATION DATE:</b>	August 13, 2020
<b>SUBMITTING DEPARTMENT:</b>	Administration
<b>DEPARTMENT DIRECTOR:</b>	Jim Neubauer, City Administrator
<b>PRESENTER:</b>	Jim Neubauer, City Administrator
<b>SUBJECT:</b>	MMPL & Downtown Parks Project Consider Award of Bids

**STATEMENT/PURPOSE:** To consider bids for the Morton Mandan Public Library and Downtown Parks project.

**BACKGROUND/ALTERNATIVES:** The donation from Energy Transfer of \$3M kick started an expansion of the Library and improvements to the downtown parks. We received bids for this project on July 14, 2020. The apparent low bidders on the project are General (three bidders): Capital City Construction; Mechanical (five bidders): Advanced Mechanical; Electrical (eight bidders): Denny's Electric.

The Visitors Fund Committee met on August 13 and recommend approval of the use of \$2.2M. The motion was contingent on only funding those items which may be tourism related. The tourism related cost of this project amount to \$2,471,574. Bartlett and West broke down the project as follows:

The total cost of the project including alternates with fees per attached summary is \$5,785,420. Cost of the Park portion of that is \$940,124, and the cost of the meeting rooms, new public restrooms, east entrance lobby, patio and deck and one-half of the costs associated with the parking lot is \$1,531,450.

The Mandan Supplemental Environmental Projects Trust (MSEPT) met on August 12, and voted to contribute \$600,000 towards this project. The MSEPT has provided financial assistance to downtown projects in the general plume area, such as the improvements to the fountain area and bulb outs on 1<sup>st</sup> street, so this project is well within the MSEPT funding authority.

**ATTACHMENTS:** Apparent Low Bidder tabulation, all bid tabulation

FISCAL IMPACT: Funding for this project is as follows:

Total Project Cost	\$ 5,785,420.05
Less:	
Energy Transfer Grant	\$ 3,000,000.00
Mandan Supplemental Environmental Trust	\$ 600,000.00
Mandan Visitor's Fund	\$ 2,200,000.00
Balance	\$ 0

STAFF IMPACT: Time will be needed for project oversight from Library and City staff.

LEGAL REVIEW: n/a

RECOMMENDATION: I recommend the award of bids to the apparent low bidders on the project General: Capital City Construction; Mechanical: Advanced Mechanical; Electrical: Denny's Electric.

SUGGESTED MOTION: I move to award of bids to the apparent low bidders on the project General: Capital City Construction; Mechanical: Advanced Mechanical; Electrical: Denny's Electric.

<b>Bartlett &amp; West</b>			
3456 E Century Ave, Bismarck, ND 58503			
<b>BID TABULATION</b>			
Morton Mandan Public Library/Dykshoorn Public Library			
Mandan, ND			
Bid Date: July 14, 2020, 10 am CST			
<b>GENERAL</b>	Capital City Construction	Bid Package 1-Library Only	Bid Package 1-Park Only
Base Bid	\$3,480,000.00	\$3,050,000.00	\$430,000.00
Alternate G-1 EAST PATIO	\$174,000.00	\$174,000.00	
Alternate C-1 SIDEWALK REPLACEMENT	\$14,000.00	\$14,000.00	
Alternate C-2 PARKING LOT SEALANT	\$525.00	\$525.00	
Alternate L-1 PLANTING RELACEMENT	\$10,600.00		\$10,600.00
Alternate L-2 IRRIGATION SYSTEM	\$9,200.00		\$9,200.00
Alternate L-3 CONCRETE PLANTERS	\$21,900.00		\$21,900.00
Alternate PL-1 PLAYGROUND FEATURE	\$75,000.00		\$75,000.00
Alternate PL-2 SHADE STRUCTURES	\$50,000.00		\$50,000.00
Alternate PL-3 PARK SPEAKER SYSTEM	N/A		N/A
Alternate PL-4 VERTICAL RAIL LIGHTING	N/A		N/A
Alternate PL-5 PARK MOVEABLE SEATING	\$15,000.00		\$15,000.00
Alternate PL-6 PARK FURNISHINGS	\$12,000.00		\$12,000.00
<b>Total General Construction</b>	<b>\$3,862,225.00</b>	<b>\$3,238,525.00</b>	<b>\$623,700.00</b>
<b>MECHANICAL</b>	Advanced Mechanical	Bid Package 1-Library Only	Bid Package 1-Park Only
Base Bid	\$721,350.00	\$697,580.00	\$23,770.00
Alternate M-1 EAST PATIO	\$4,530.00	\$4,530.00	
<b>Total Mechanical Construction</b>	<b>\$725,880.00</b>	<b>\$702,110.00</b>	<b>\$23,770.00</b>
<b>ELECTRICAL</b>	Denny's Electric	Bid Package 1-Library Only	Bid Package 1-Park Only
Base Bid	\$596,340.00	\$494,510.00	\$101,830.00
Alternate E-1 EAST PATIO	\$3,200.00	\$3,200.00	
Alternate PL-3 PARK SPEAKER SYSTEM	\$31,900.00		\$31,900.00
Alternate PL-4 VERTICAL RAIL LIGHTING	\$27,900.00		\$27,900.00
<b>Total Electrical Construction</b>	<b>\$659,340.00</b>	<b>\$497,710.00</b>	<b>\$161,630.00</b>
<b>Total Construction:</b>	<b>\$5,247,445.00</b>	<b>\$4,438,345.00</b>	<b>\$809,100.00</b>
9% Basic Design Services	\$472,270.05	\$399,451.05	\$72,819.00
Phase I Additional Services	\$51,750.00		\$51,750.00
Surveying	\$9,455.00	\$3,000.00	\$6,455.00
Soil Exploration	\$4,500.00	\$4,500.00	
<b>Total Project Cost:</b>	<b>\$5,785,420.05</b>	<b>\$4,845,296.05</b>	<b>\$940,124.00</b>

<b>Bartlett &amp; West</b>							
3456 E Century Ave, Bismarck, ND 58503							
<b>BID TABULATION</b>							
Morton Mandan Public Library/Dyckshoorn Public Library							
Mandan, ND							
Bid Date: July 14, 2020, 10 am CST							
<b>GENERAL</b>	Capita City Construction	Northwest Contracting	Roers				
Base Bid	\$3,480,000.00	\$3,601,000.00	\$3,966,500.00				
Alternate G-1	\$174,000.00	\$198,584.00	\$170,000.00				
Alternate C-1	\$14,000.00	\$25,300.00	\$16,500.00				
Alternate C-2	\$525.00	\$1,623.00	\$18,000.00				
Alternate L-1	\$10,600.00	\$10,870.00	\$18,000.00				
Alternate L-2	\$9,200.00	\$9,471.00	\$12,000.00				
Alternate L-3	\$21,900.00	\$17,800.00	\$60,000.00				
Alternate PL-1	\$75,000.00	\$75,000.00	\$70,000.00				
Alternate PL-2	\$50,000.00	\$67,106.00	\$68,000.00				
Alternate PL-3	N/A	N/A	N/A				
Alternate PL-4	N/A	N/A	N/A				
Alternate PL-5	\$15,000.00	\$15,000.00	\$20,000.00				
Alternate PL-6	\$12,000.00	\$11,600.00	\$20,000.00				
Total	\$3,862,225.00	\$4,033,354.00	\$4,439,000.00				
Bid Package 1	\$3,050,000.00	\$3,124,383.00	\$3,352,865.00				
Bid Package 2	\$430,000.00	\$475,617.00	\$583,635.00				
Total	\$3,480,000.00	\$3,601,000.00	\$3,966,500.00				
<b>MECHANICAL</b>	Advanced Mechanical	Cofe's Plumbing & Heating	HA Thompson & Sons	Central Mechanical	City Air Mechanical		
Base Bid	\$721,380.00	\$754,900.00	\$769,300.00	\$799,800.00	\$884,975.00		
Alternate M-1	\$4,530.00	\$10,000.00	\$8,700.00	\$4,500.00	\$5,841.00		
Total	\$725,880.00	\$764,900.00	\$778,000.00	\$794,300.00	\$891,816.00		
Bid Package 1	\$697,580.00	\$731,700.00	\$742,600.00		\$884,975.00		
Bid Package 2	\$23,770.00	\$23,200.00	\$26,700.00		No Bid		
Total	\$721,380.00	\$754,900.00	\$769,300.00		\$884,975.00		
<b>ELECTRICAL</b>	Denny's Electric	Reiger Borgen Benson Elec	L&H Electrical	Electrical Systems	Felzer Electric	Bergstrom Electric	Skeate Electric
Base Bid	\$596,340.00	\$607,200.00	\$660,930.00	\$648,450.00	\$712,740.00	\$754,230.00	\$824,615.00
Alternate E-1	\$3,200.00	\$7,700.00	\$4,200.00	\$2,150.00	\$5,100.00	\$4,280.00	\$6,185.00
Alternate PL-3	\$31,900.00	\$27,400.00	\$23,080.00	\$30,950.00	\$29,900.00	\$34,995.00	\$17,000.00
Alternate PL-4	\$27,900.00	\$21,900.00	\$18,855.00	\$11,480.00	\$29,300.00	\$17,560.00	\$28,879.00
Alternate C-1	N/A	N/A	N/A	\$64,800.00	N/A	N/A	N/A
Total	\$659,340.00	\$664,200.00	\$707,065.00	\$757,830.00	\$777,040.00	\$811,045.00	\$876,679.00
Bid Package 1	\$494,510.00	\$513,800.00	\$554,655.00		\$578,440.00	\$649,120.00	\$654,635.00
Bid Package 2	\$101,830.00	\$93,400.00	\$106,375.00		\$134,300.00	\$105,110.00	\$169,980.00
Total	\$596,340.00	\$607,200.00	\$660,930.00		\$712,740.00	\$754,230.00	\$824,615.00
<b>Low Bid Grand Total:</b>	<b>\$5,247,445.00</b>						
9% Basic Design Services	\$472,270.05						
Phase I Additional Services	\$51,750.00						
Surveying	\$9,455.00						
Soil Exploration	\$4,500.00						
<b>Total Project Cost:</b>	<b>\$5,785,420.05</b>						



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 13, 2020  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Annual Liquor License Renewals

---

STATEMENT/PURPOSE: All liquor licenses must be approved by the Board of City Commissioners on an annual basis.

BACKGROUND/ALTERNATIVES: Applications and fees have been received by the following applicants.

**CLASS “A” GENERAL RETAIL ON & OFF-SALE BEER & LIQUOR**

1. River Partners Inc.
2. The Strawberry
3. Powerhouse/501 Bar & Grill
4. Silver Dollar
5. The Hide Away
6. Last Call Bar
7. Old Town Tavern
8. The Scapegoat Bar

**CLASS “C” GENERAL ON & OFF-SALE BEER & LIQUOR (MOTELS)**

1. Baymont Inn & Suites
2. Blackstone Ridge LLC

**CLASS “D” RETAIL OFF-SALE BEER & LIQUOR**

1. Bayside LLC

**CLASS “D1” RETAIL OFF-SALE BEER & WINE**

1. Superpumper #41
2. Southside MVP
3. Sunset MVP Store

**CLASS “E” RESTAURANT ON-SALE BEER & LIQUOR**

1. Bennigan’s Mandan

2. River Partners Inc.
3. Old 10 Bar & Grill
4. Thomas & Moriarty's

**CLASS "F" RESTAURANT ON-SALE BEER & WINE ONLY**

1. Pit Masters LLC dba Dickey's Barbecue Pit
2. Taqueria el Guerro
3. A & B Pizza

**CLASS "WB" ON & OFF-SALE WINERY OR BREWERY**

1. Buffalo Commons
2. Dialectic Brewing Company

**CLASS "BWO" RETAIL ON-SALE BEER & WINE ONLY**

1. GD Hooker LLC/Black Lions Bar

**"SPECIAL B" RETAIL ON-SALE BEER & LIQUOR (PUBLIC FACILITIES)**

1. Prairie West Golf Course
2. Mandan Municipal Golf Course

**CABARET LICENSE**

1. Silver Dollar
2. River Partners, Inc.
3. Blackstone Ridge LLC

Property taxes are current for these applicants.

**ATTACHMENTS:**

**FISCAL IMPACT:** The fees for these applicants have been received based upon the new resolution.

**STAFF IMPACT:** N/A

**LEGAL REVIEW:** N/A

**RECOMMENDATION:** I recommend to approve the liquor licenses received/named in this document for the period of September 1, 2020 – June 30, 2021. Contingent upon the establishment meeting all Fire Codes, Health & Safety Code and Building Inspection Codes.

**SUGGESTED MOTION:** I move to approve the liquor licenses received/named in this document for the period of September 1, 2020 – June 30, 2021. Contingent upon the establishment meeting all Fire Codes, Health & Safety Code and Building Inspection Codes.



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** August 7 2020  
**PREPARATION DATE:** August 18, 2020  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Payment of Bills related to MMPL & Downtown Parks Project

---

**STATEMENT/PURPOSE:** To consider approval of the payment of bills related to the Morton Mandan Public Library (MMPL) & Downtown Parks Project.

**BACKGROUND/ALTERNATIVES:** Normal course of business would be for invoices to be submitted to the City of Mandan and in turn, those invoices presented with the schedule of bills to be approved by the City Commission the 2<sup>nd</sup> meeting of the month. Pursuant to the resolution passed by the City Commission and the MMPL Board of Trustees both boards need to approve the bills related to the library expansion and the City Commission approves the bills strictly related to the Downtown Parks project. Subsequent to those approvals, the invoices will be sent to the North Dakota Community Foundation for payment to the vendors.

Bids were received on July 14 and are being reviewed at this time. We expect to bring them before the commission at the Aug. 18 meeting. This billing accounts for \$53,816.04

**ATTACHMENTS:** Bartlett & West Invoice

**FISCAL IMPACT:** Amounts will be paid from the donation from Energy Transfer.

**STAFF IMPACT:** n/a

**LEGAL REVIEW:** n/a

**RECOMMENDATION:** I recommend the City Commission and MMPL Board of Trustees approve payment of the invoice as submitted, conditioned upon the MMPL Board of Trustees.

**SUGGESTED MOTION:** I recommend the City Commission and MMPL Board of Trustees approve payment of the invoices as submitted, conditioned upon the MMPL Board of Trustees

# Bartlett & West

Driving Community and Industry Forward, Together.

**Remittance Address  
 For Payments Only:  
 P.O. Box 663  
 Wichita, KS 67261-0663**

3456 East Century Avenue  
 Bismarck, ND 58503-0737  
 701.258.1110 FAX 701.258.1111  
 F.E.I.N. 48-0770612

Jim Neubauer  
 City of Mandan  
 Mandan, ND 58554

August 7, 2020  
 Project No: 020133.000  
 Invoice No: 00730076774

Project Manager: Joseph Larnivee  
 Client Contract No:  
 PO No:

Project 020133.000 Mandan Morton Public Library

Professional Services from June 27, 2020 to July 24, 2020

Fee Basis

Total Construction Cost = \$5,247,445

\$5,247,445 x 9% = \$472,270.05

Billing Phase	Fee	Percent Complete	Earned	
Schematic Design	94,454.01	100.00	94,454.01	
Design Development	70,840.51	100.00	70,840.51	
Construction Documents	188,908.02	100.00	188,908.02	
Bidding	23,613.50	100.00	23,613.50	
Construction Administration	94,454.01	0.00	0.00	
<b>Total Fee</b>	<b>472,270.05</b>		<b>377,816.04</b>	
		Previous Fee Billing	324,000.00	
		Current Fee Billing	53,816.04	
		<b>Total Basic Services Fee</b>		<b>53,816.04</b>
		<b>Total this Phase</b>		<b>\$53,816.04</b>
Add'l Services Billing Phase	Fee	Complete	Earned	
Additional Services Phase I	51,750.00	100.00	51,750.00	
<b>Total Fee</b>	<b>51,750.00</b>			
		Previous Fee Billing	51,750.00	
		Current Fee Billing	0.00	
		<b>Total Add'l Services Fee</b>		<b>\$0.00</b>
		<b>Total this Invoice</b>		<b>\$53,816.04</b>



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 12, 2020  
**SUBMITTING DEPARTMENT:** Police Department  
**DEPARTMENT DIRECTOR:** Chief Jason Ziegler  
**PRESENTER:** Chief Jason Ziegler  
**SUBJECT:** MPO Carpool Cinema

---

STATEMENT/PURPOSE: Consider approval of the Special Event Permit for the Mandan Progress Organization Carpool Cinema drive in theater event.

BACKGROUND/ALTERNATIVES: The MPO wants to hold a drive in movie event in the parking lot of the Braves Center on August 22, 2020. There would be two showings, 6pm and 9pm. They have permission from the School District and Park District to use the parking lot. They are requesting that 9<sup>th</sup> St NW from 6<sup>th</sup> Ave/Sunset Dr, be closed to traffic and Division St west of Sunset Dr be closed except to traffic exiting the Braves Center parking lot. The application has been reviewed and approved by Engineering, Public Works, Fire and Police departments. Custer Health has also approved the MPO's plans. They held the same event on August 1, 2020. There were no issues reported during that event.

ATTACHMENTS: Special Event Permit Application

FISCAL IMPACT: None

STAFF IMPACT: none they will provide their own barricades

LEGAL REVIEW: N/A

RECOMMENDATION: To approve the Special Events application and road closures for the MPO Carpool Cinema Special Event Permit Application.

SUGGESTED MOTION: Move to approve the Special Events application and road closures for the MPO Carpool Cinema Special Event Permit Application.

Permit Application #: 20-08 Date Complete: \_\_\_\_\_  
(For office use only)

# Special Events Permit Application

## City of Mandan, ND

Mandan Police Department (Special Events) • 205 1<sup>st</sup> Ave. NW • Mandan, ND 58554  
• Phone 701-667-3250 • FAX 701-667-3463

Date of Application: 8/11/2020

**30 days prior** to the event with a **non-refundable administration application fee of \$25 attached**. Late applications are permitted and subject to an **additional \$50 processing fee** for those submitted within 20 days of an event. **Any application not submitted prior to 20 days before the event will not be accepted for consideration.**

**The payment of fees does not guarantee event approval if submitted late. Permits are \$30 per day/Sunday Permit will be \$45, to a maximum of \$150.00 per event not to exceed 14 days (Includes Sundays).**

All applicants will be charged fees as appropriate and are expected to fully reimburse the city for all services related to event production which may include, but are not limited to, Police Services, Fire/EMS, Park and Facility Maintenance, Field Services, Sanitation, Street Engineering and Sife Supervisors. (See Below Fee and Charges)

A storage fee of **\$500** will be assessed for all equipment not removed from any public venue or premises within 24 hours of the end of the event. Any vendor may request an extension for equipment removal and may be granted by the City Administrator. Full payment is due upon receipt of final invoice. Any property that is abandoned over 15 days will become property of the City of Mandan and may be sold to recoup any expenses accrued by the city.

**Comprehensive site plans must accompany this application.**

Street Dance:  Beer Garden:  Both:  Parade or Other Public Event:

### Section 1 – Applicant Information

Name of Event Manager: Dot Frank

Driver's License Number: FRA-81-1760 State ND

Date of Birth: 03/15/1981 Phone Number: 701-527-5767 Email: dot@mandanprogress.org

Address: 3405 46th Ave SE City: Mandan State: ND Zip: 58554

Have you ever been convicted of a crime?  YES  NO

If yes please list charge(s) and year of conviction(s):

N/A

*(List all Jurisdictions where you have been charged with a crime, also list any other names you have used when charged)*

Name of Event Manager: \_\_\_\_\_

Driver's License Number: \_\_\_\_\_ State \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Have you ever been convicted of a crime?  YES  NO

If yes please list charge and year of conviction:

*(List all Jurisdictions where you have been charged with a crime, also list any other names you have used when charged)*

Permit Application #: \_\_\_\_\_ Date Complete: \_\_\_\_\_  
(For office use only)

Business Address: 411 W Main Street City: Mandan State: ND Zip: 58554  
Corporation/Organization: Mandan Progress Organization State of Incorporation: ND  
Tax ID #: 45-0439012 501(c)3 #: \_\_\_\_\_ City Sales Tax ID #: \_\_\_\_\_  
Have you ever coordinated/promoted another event/s?  YES  NO  
If yes, please provide the following:  
Last event/s Location: Carpool Cinema, Brave Center Parking Log Date: 8/1/2020  
Contact Name: Dot Frank Phone: 701-527-5767  
E-mail Contact: dot@mandanprogress.org

## Section 2 – Event Information

Event Name: Carpool Cinema Anticipated Daily Attendance: 140 Cars per Show  
Event Date(s): Saturday, Aug. 22, 2020 Set-up Date: 8/1/2020 Hours: \_\_\_\_\_  
Hours of event each day: 6 p.m. showing and 9 p.m. showing.  
(begin and end times)  
Take Down Date(s): 8/1/2020 Hours: \_\_\_\_\_  
E-Mail address for public information: dot@mandanprogress.org  
WEB address for public information: www.mandanprogress.org  
Location of Event/physical address: Mandan Brave Center 901 Division St. NW, Mandan  
Sponsors of the Event: \_\_\_\_\_  
Brief Description of Event:  
Drive-in movie event with concessions. Nightlife Music will be the production company. One family-friendly movie will be played on a large LED screen with audio through an FM transmitter. There will be two separate show times.

Has this event been held in another location?  YES  NO

If yes, please provide the following:

Last event/s Location: N/A

Date: N/A Contact Name and Phone: N/A

## Section 3 – Event Features

Will there be an admission charge?  Yes  No

If yes, Printed ticket count: 280 total Tickets for presale count: 280 total

Will there be entertainment?  Yes  No

If yes, please attach an itemized complete list of all entertainment.

*(A complete list of entertainment will be required before final approval. Once approved, no changes may be made unless authorized by the City Administrator.)*

Will merchandise and/or food items be sold?  Yes  No

If yes, please attach a complete list of vendors.

*(Each vender must have all valid permits and license to sell their product)*

Permit Application #: \_\_\_\_\_ Date Complete: \_\_\_\_\_  
(For office use only)

**What type of advertising/promotion will be done prior to the event?**

(Attach all promotional material.)

Radio:  Yes  No What Stations? \_\_\_\_\_

TV:  Yes  No What Stations? \_\_\_\_\_

Fliers/Posters:  Yes  No How many? \_\_\_\_\_

Press Releases:  Yes  No How many? \_\_\_\_\_

Newspaper Ads:  Yes  No What publication? \_\_\_\_\_

Is any other promoter/producer assisting you with your event?  Yes  No

Name of Promoter and Promotion Company: *N/A* \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Will the event include any of the following? (Indicate on site plan and/or vendor list)

Tents or Canopies:  Yes  No

Number of Tents: \_\_\_\_\_

(Tents require permits from the Fire Department and inspection fees will be applied.)

Fireworks or Pyrotechnics:  Yes  No

(Fireworks or Pyrotechnics require permits from the Fire Department and inspection fees will be applied.)

Fireworks or Pyrotechnics Production Company's name: \_\_\_\_\_

(A copy of the Production Company's License and Insurance is required with this application, only if fireworks or pyrotechnics are being requested for this event.) \*A separate bond may be required for this event.

**Require permits from the City of Mandan**

Any person for on- or off-sale alcoholic beverage licensee desiring to conduct a public beer garden shall make application for a special permit to do so to the board, 30 days in advance of the proposed event.

Temporary Fencing:  Yes  No

Provide accurate dimensions of fenced area on site plan along with the site plan.

Company Contact Name: \_\_\_\_\_

Contact phone: \_\_\_\_\_

Restroom Accommodations: \_\_\_\_\_

Number of required portable toilets: \_\_\_\_\_

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

**Placement of sanitary toilet facilities must be on site plan.**

Permit Application #: \_\_\_\_\_ Date Complete: \_\_\_\_\_  
(For office use only)

Attach a copy of the letter from the Custer Health that indicates the site plan has been reviewed and the required number of proper sanitation facilities is attendance.

Company Contact name: Spiffy Bliffs \_\_\_\_\_  
Contact phone: 224-0856 \_\_\_\_\_

Electrical Services/Generators  Yes  No

*Generators must be separated from tents by a minimum of 20' and shall be isolated from contact by fencing or other approved means.*

Company Contact name: ACME Rents \_\_\_\_\_  
Contact phone: 701-355-2222 \_\_\_\_\_

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

Carnival/Amusement Rides:  Yes  No

A separate permit from the Fire Department may be required.

Company Contact name: \_\_\_\_\_  
Contact phone: \_\_\_\_\_

Bonded and Insured Amount: \_\_\_\_\_

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

Signs / Banners  Yes  No

Company Contact name: \_\_\_\_\_  
Contact phone: \_\_\_\_\_

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

Inflatables  Yes  No

Company Contact name: \_\_\_\_\_  
Contact phone: \_\_\_\_\_

Bonded and Insured Amount: \_\_\_\_\_

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

### Raffles

Will this event have a raffle?  Yes  No

If yes you must apply for a City Permit \$25 Raffle Permit (Attach copy of State Gaming License if issued)

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

Permit Application #: \_\_\_\_\_ Date Complete: \_\_\_\_\_  
(For office use only)

**Section 4 – Transportation**

Does the event propose using, closing or blocking any of the following:  
*If yes, specify location and duration on site map, if on a DOT Highway or Roadway DOT authorization will be required.*

- City Streets  Yes  No (Number of locations: 2 \_\_\_\_\_ attach list of locations.)
- City Sidewalks  Yes  No (Number of locations \_\_\_\_\_ attached list of locations)
- City Bus Stops  Yes  No (Number of locations \_\_\_\_\_ attached list of locations)
- Public Parking Lots  Yes  No (Number of locations \_\_\_\_\_ attached list of locations)
- Public Bicycle Parking  Yes  No (Number of locations \_\_\_\_\_ attached list of locations)
- Multiuse Paths  Yes  No (Number of locations \_\_\_\_\_ attached list of locations)
- City Alleys  Yes  No (Number of locations \_\_\_\_\_ attached list of locations)
- City Right-of-Ways  Yes  No (Number of locations \_\_\_\_\_ attached list of locations)

Approved By: JUSTIN FRASER Date Approved: 8-12-2020 Initials: JF  
(Section 4 must be approved by Mandan City Engineer, and be approved by the City Commission before the event)

**Section 5 – Use of City Utilities**

Will any City electric hookups be used?  Yes  No  
Electric Location including amperage \_\_\_\_\_

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

Will any City water hookups be used?  Yes  No  
Water Location(s) \_\_\_\_\_

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

Will waste water/gray water be generated?  Yes  No  
If so, how will it be disposed? \_\_\_\_\_

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

Permit Application #: \_\_\_\_\_ Date Complete: \_\_\_\_\_

(For office use only)

**Section 6 – Alcohol**

Will there be alcohol at the event?  Yes  No

Will alcohol be given away?  Yes  No

Will the alcohol be sold?  Yes  No

Will the alcohol be donated?  Yes  No

Who is the alcohol being donated by or purchased through: \_\_\_\_\_

Is alcohol included in the admission price of the event?  Yes  No

Approved By: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Initials: \_\_\_\_\_

**If you answered Yes to any of the above, a City and State Liquor License will be required. Attach copy(s) of all liquor licenses with this application. (If a City Liquor License is needed please contact the City of Mandan's Finance Department to apply at Phone: (701) 667-3213)**

Has the applicant/organization ever had a liquor license or event permit denied, revoked or suspended?  Yes  No

***If yes, please explain:***

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

How will attendees be identified as minors or age 21 and over?

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

Have the alcohol servers received training in sale/service of alcoholic beverages?  Yes  No

If yes, who provided the training: \_\_\_\_\_

Date and time of most recent training: \_\_\_\_\_

Request Mandan Police Server Training:  Yes  No

If yes provide a contact person and contact information: \_\_\_\_\_

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

Permit Application #: 20-08 Date Complete: ②  
(For office use only)

**Signature Page from City Officials and Department Heads**

*per email*  
Sordello / 08-12-20

Fire Department Date

[Signature] / 08-12-20

Police Department Date

\_\_\_\_\_ / \_\_\_\_\_

Finance Department Date

\_\_\_\_\_ / \_\_\_\_\_

Engineering Department Date

[Signature] / 8-12-20

Public Works Date

\_\_\_\_\_ / \_\_\_\_\_

City Administrator Date

\_\_\_\_\_ / \_\_\_\_\_

Park District Designee Date

Date Approved by City Commission: \_\_\_\_\_

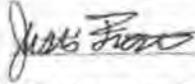
Permit Application #: 20-08 Date Complete:   
(For office use only)

**Signature Page from City Officials and Department Heads**

\_\_\_\_\_/\_\_\_\_\_  
Fire Department Date

\_\_\_\_\_/\_\_\_\_\_  
Police Department Date

\_\_\_\_\_/\_\_\_\_\_  
Finance Department Date

 / 8-12-2020

\_\_\_\_\_/\_\_\_\_\_  
Engineering Department Date

\_\_\_\_\_/\_\_\_\_\_  
Public Works Date

\_\_\_\_\_/\_\_\_\_\_  
City Administrator Date

\_\_\_\_\_/\_\_\_\_\_  
Park District Designee Date

Date Approved by City Commission: \_\_\_\_\_

Permit Application #: \_\_\_\_\_ Date Complete: \_\_\_\_\_  
(For office use only)

**Section 7 – Event Security**

Are you requesting off-duty Mandan Police officers?  Yes  No

Number of personnel requested: \_\_\_\_\_

*After reviewing the event application, the Chief of Police may require the use of the City of Mandan Off-Duty Police Officers for the event.*

*To schedule Off-Duty Police Officers, please call 701-667-3250.*

**Officers must be requested 2 weeks prior to any event and there will be a minimum of 4 work hours per officers per event at \$45 per-hour per officer.**

Are you requesting private security?  Yes  No

Number of security personnel onsite: \_\_\_\_\_

**Include security points and duties on event plans**

*The City of Mandan requires only security companies that are licensed and bonded in the State of North Dakota.*

Security Company and Contact Info: \_\_\_\_\_

**Attach a copy of Company's License**

**Section 8 – Emergency Medical Services**

Are you requesting off-duty Mandan EMT's?  Yes  No

Number of personnel requested: \_\_\_\_\_

*After reviewing the event application the Fire Chief may require the use of the City of Mandan Off-Duty EMT's or paramedics for the event.*

**EMTs or paramedics must be requested 2 weeks prior to any even and there will be the minimum of 4 work hours per employee per event \$35**

**Section 9 – Event Maintenance and Cleanup Plan Required**

What is your trash removal and cleanup plan?

On-site garbage totes and volunteers to walk parking lot after each showing to pick up trash.

\_\_\_\_\_  
\_\_\_\_\_  
(Attach a detailed Cleanup Plan)

Outside refuse company Company's Name: Armstrong Sanitation

Contact Name: Peggy Becker

Phone: 663-8219

*All costs for containers, dumping and the removing all trash are the responsibility of the applicant/promoter. The City of Mandan's property and or the event site must be returned to its original condition and all equipment removed or daily fees will be accessed.*



Street Closed Until  
Movie is Over

Mandan  
Skate Park

Mandan Public Schools  
Temporarily closed

Heather Fried State  
Farm Insurance Agent

Brooke Wiedrich  
Photography

Street Closed Until  
Movie is Over

Attendant to Let  
Un-ticketed Cars Out

Attendant to  
Check Tickets

Pepsi All Seasons Arena

Mandan High School

William  
Bauknecht  
Park

Susie O's CE &  
The Dakota Store

Google



Serving: Grant • Mercer • Morton • Oliver • Sioux Counties  
[www.custerhealth.com](http://www.custerhealth.com)

## Custer Health

*For a healthier way of life.*  
403 Burlington St SE  
Mandan, North Dakota 58554  
701-667-3370 • Fax: 701-667-3371  
1-888-667-3370

August 12, 2020

Dot Frank  
Mandan Progress Organization  
Mandan, ND 58554

To Whom It May Concern:

Custer Health is providing recommendations regarding portable sewage handling for the outdoor movie event hosted by the Mandan Progress Organization on August 22, 2020. The event will be held at the Mandan Brave Center in Mandan. Show times will be at 6pm and 9pm. Event coordinators have estimated an expected turnout of 500 people over both show times.

I recommend installing at least 3 regular portable toilets, 1 handicap accessible toilet and 1 hand washing unit.

If there are any questions, please contact me at 701-667-3370.

Sincerely,

Cory Drevecky  
Environmental Health Practitioner



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 11, 2020  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** Minor Plat for Sylvester's Industrial Park 11<sup>th</sup> Addition - REVISED

---

**STATEMENT/PURPOSE:** Consider approval of minor plat for Sylvester's Industrial Park 11th Addition.

**BACKGROUND/ALTERNATIVES:**

**Plat revisions since presentation to the Board of City Commissioners on July 21, 2020:**

The original presentation of the minor plat excluded a property owned by Sunrise Delivery (Lot 4). The revised plat in Exhibit 1 includes this property and the others originally presented to the Board of City Commissioners for consideration of approval on July 21, 2020. Staff recommends approval of the minor plat including this revision as presented in Exhibit 1.

**Original staff report provided to the Board of City Commissioners on July 21, 2020**

The property owners part of this application are seeking to create cleaner legal descriptions and exchange a small amount of property between one another. The minor plat consists of a consolidation of two properties and a division of another. Three parcels currently exist as part of the application and three parcels will result. There is no change in the total number of parcels, if approved.

Sylvester's Industrial Park has a history of divisions here and there prior to currently established platting requirements. This plat, if approved, will remove a number of previously created issues from previous plats.

Staff is recommending approval of the minor plat as presented in Exhibit 1. Exhibit 2 provides an aerial with the proposed revised boundaries overlaid for clarity of what structures are involved in the replat.

ATTACHMENTS:

Exhibit 1 – Minor Plat for Sylvester's Industrial Park 11th Addition - Revised  
Exhibit 2 – Proposed Property Boundaries with Aerial – Original presented on July 21, 2020

FISCAL IMPACT: N/a

STAFF IMPACT: N/a

LEGAL REVIEW: The plat and staff report have been provided to Attorney Oster as part of the agenda packet.

RECOMMENDATION: Staff recommends approval of the minor plat for Sylvester's Industrial Park 11th Addition as presented in Exhibit 1.

SUGGESTED MOTION: I move to approve the minor plat for Sylvester's Industrial Park 11th Addition as presented in Exhibit 1.

# EXHIBIT 1

## SYLVESTER'S INDUSTRIAL PARK 11TH ADDITION

TO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA

ALL OF THE REPLAT OF LOT 7, BLOCK 1, SYLVESTER'S INDUSTRIAL PARK 2ND ADDITION, ALL OF AUDITOR'S LOT "A" OF LOTS 6 & 7, BLOCK 1, SYLVESTER'S INDUSTRIAL PARK 2ND ADDITION, AND PART OF LOT 6, BLOCK 1, SYLVESTER'S INDUSTRIAL PARK 2ND ADDITION OF THE SW1/4, SECTION 31, T139N-R80W OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA

### SURVEYOR'S CERTIFICATE

I, ANDREA L. MARQUARDT, NORTH DAKOTA REGISTERED LAND SURVEYOR NO. 4623, HEREBY CERTIFY THAT I HAVE CAUSED TO BE SURVEYED BY MY FORCES UNDER MY SUPERVISION THE PROPERTY DESCRIBED HEREON AND I HAVE PREPARED THE ACCOMPANYING PLAT. FURTHER, THAT DISTANCES INDICATED HEREON ARE IN FEET AND HUNDRETHS THEREOF, AND BEARINGS ARE INDICATED IN QUADRANTS AND DEGREES, MINUTES, AND SECONDS THEREOF. FURTHER, THAT SAID PLAT DOES TRULY SHOW THE SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

ANDREA L. MARQUARDT, RLS 4623

### OWNER'S CERTIFICATE OF DEDICATION

WE, THE UNDERSIGNED, BEING THE SOLE OWNERS OF THE LAND PLATTED HEREON, DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF SAID PLAT, AND DO DEDICATE ALL THE STREETS, ALLEYS, PARKS, AND PUBLIC GROUNDS AS SHOWN HEREON, INCLUDING ALL SEWERS, CULVERTS, BRIDGES, WATERLINES, SIDEWALKS AND OTHER IMPROVEMENTS OR UNDER SUCH STREETS, ALLEYS OR OTHER PUBLIC GROUNDS, WHETHER SUCH IMPROVEMENTS ARE SHOWN HEREON OR NOT, TO PUBLIC USE FOREVER. WE ALSO DEDICATE EASEMENTS TO RUN WITH THE LANDS FOR WATER, SEWER, GAS, ELECTRICITY, TELEPHONE OR OTHER PUBLIC UTILITY LINES OR SERVICES UNDER, ON OR OVER THESE CERTAIN STRIPS OF LAND DESIGNATED AS "UTILITY EASEMENTS".

WE ALSO DEDICATE EASEMENTS LABELED AS "ACCESS EASEMENTS" TO RUN WITH THE LAND FOR USE BY ALL LAND OWNING PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR EMERGENCY SERVICES AND ANY CLEARANCE OF THE EASEMENT IS THE RESPONSIBILITY OF THE LAND OWNING PARTIES AND THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF PROPERTY IN THE SUBDIVISION.

WE FURTHER GRANT ANY OTHER EASEMENTS OR SERVICUTES AS SHOWN AND THOSE THAT ARE RECORDED BUT NOT SHOWN.

LOT 1 - ALL PURPOSE STORAGE SOLUTIONS, LLP

GEORGE HENRY HILTS III, PARTNER      JEAN RENEE HILTS, PARTNER  
PATRICK JOSEPH WARD, PARTNER      GREGORY GARY SICKLER, PARTNER

JULI LINN SICKLER, PARTNER

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2020.  
\_\_\_\_\_  
NOTARY PUBLIC  
COUNTY, \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_

LOTS 2 & 3

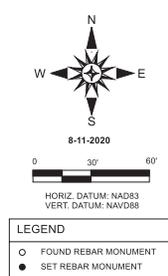
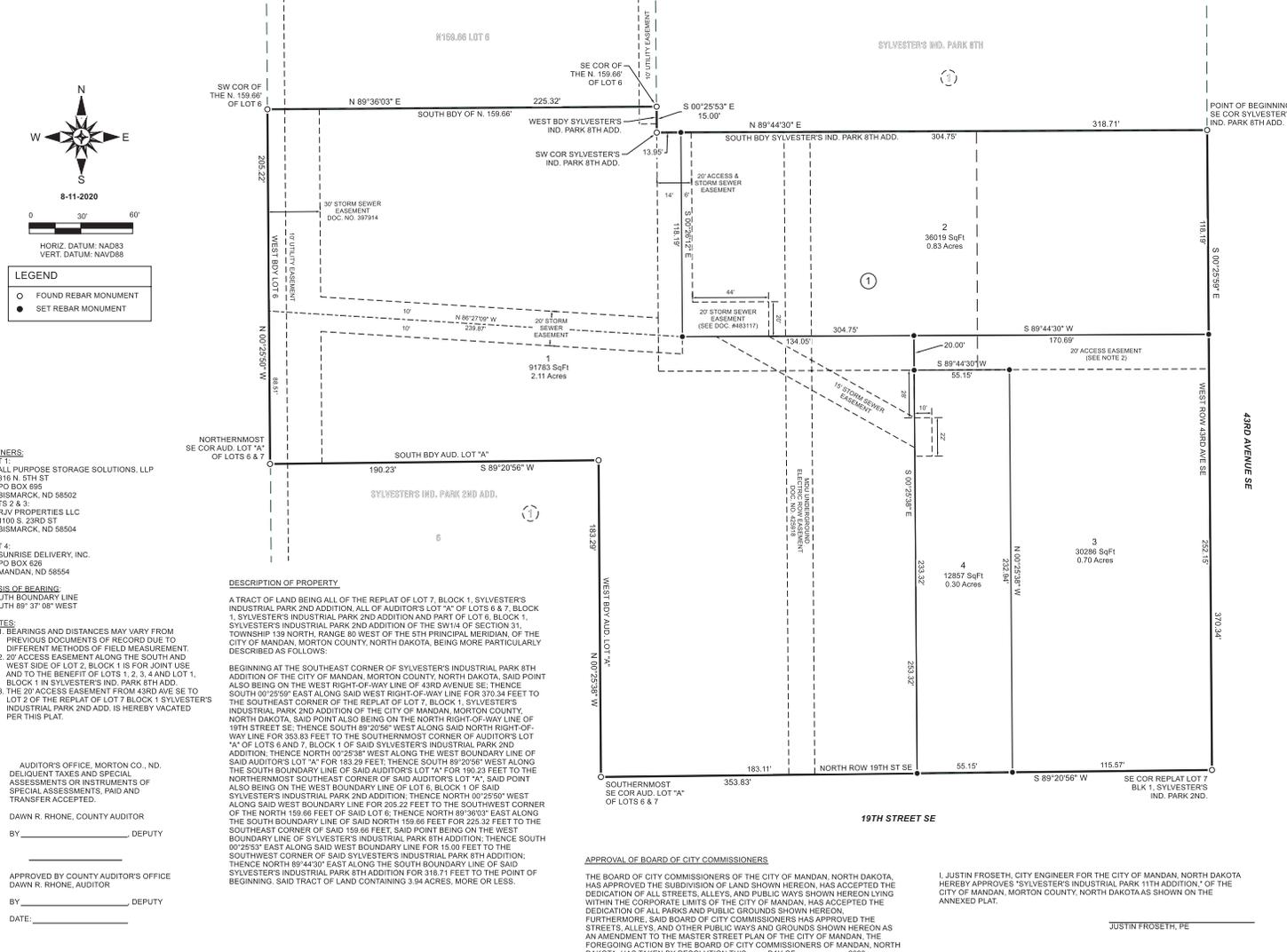
RON WOLLER  
RJV PROPERTIES LLC

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2020.  
\_\_\_\_\_  
NOTARY PUBLIC  
COUNTY, \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_

LOT 4

KRIS ALLARD  
SUNRISE DELIVERY, INC.

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2020.  
\_\_\_\_\_  
NOTARY PUBLIC  
COUNTY, \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_



**OWNERS:**  
LOT 1:  
ALL PURPOSE STORAGE SOLUTIONS, LLP  
316 N. 5TH ST  
PO BOX 686  
BISMARCK, ND 58502  
LOT 2 & 3:  
RJV PROPERTIES LLC  
1100 S. 23RD ST  
BISMARCK, ND 58504  
LOT 4:  
SUNRISE DELIVERY, INC.  
PO BOX 626  
MANDAN, ND 58554

**BASIS OF BEARING:**  
SOUTH BOUNDARY LINE  
SOUTH 89° 37' 08" WEST

**NOTES:**  
1. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.  
2. 20' ACCESS EASEMENT ALONG THE SOUTH AND WEST SIDE OF LOT 2, BLOCK 1 IS FOR JOINT USE, AND TO THE BENEFIT OF LOTS 1, 2, 3, 4 AND LOT 1, BLOCK 1 IN SYLVESTER'S IND. PARK 8TH ADD.  
3. THE 20' ACCESS EASEMENT FROM 43RD AVE SE TO LOT 2 OF THE REPLAT OF LOT 7, BLOCK 1, SYLVESTER'S INDUSTRIAL PARK 2ND ADD. IS HEREBY VACATED PER THIS PLAT.

AUDITOR'S OFFICE, MORTON CO., ND.  
DELINQUENT TAXES AND SPECIAL ASSESSMENTS OR INSTRUMENTS OF SPECIAL ASSESSMENTS, PAID AND TRANSFER ACCEPTED.

DAWN R. RHONE, COUNTY AUDITOR  
BY \_\_\_\_\_ DEPUTY

APPROVED BY COUNTY AUDITOR'S OFFICE  
DAWN R. RHONE, AUDITOR  
BY \_\_\_\_\_ DEPUTY  
DATE: \_\_\_\_\_

**DESCRIPTION OF PROPERTY**  
A TRACT OF LAND BEING ALL OF THE REPLAT OF LOT 7, BLOCK 1, SYLVESTER'S INDUSTRIAL PARK 2ND ADDITION, ALL OF AUDITOR'S LOT "A" OF LOTS 6 & 7, BLOCK 1, SYLVESTER'S INDUSTRIAL PARK 2ND ADDITION AND PART OF LOT 6, BLOCK 1, SYLVESTER'S INDUSTRIAL PARK 2ND ADDITION OF THE SW1/4 OF SECTION 31, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SYLVESTER'S INDUSTRIAL PARK 8TH ADDITION OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF 43RD AVENUE SE; THENCE SOUTH 00°25'53" EAST ALONG SAID WEST RIGHT-OF-WAY LINE FOR 370.34 FEET TO THE SOUTHEAST CORNER OF THE REPLAT OF LOT 7, BLOCK 1, SYLVESTER'S INDUSTRIAL PARK 2ND ADDITION OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF 19TH STREET SE; THENCE SOUTH 89°20'56" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 363.83 FEET TO THE SOUTHERNMOST CORNER OF AUDITOR'S LOT "A" OF LOTS 6 AND 7, BLOCK 1 OF SAID SYLVESTER'S INDUSTRIAL PARK 2ND ADDITION; THENCE NORTH 00°25'38" WEST ALONG THE WEST BOUNDARY LINE OF SAID AUDITOR'S LOT "A" FOR 183.29 FEET; THENCE SOUTH 89°20'56" WEST ALONG THE SOUTH BOUNDARY LINE OF SAID AUDITOR'S LOT "A" FOR 190.23 FEET TO THE NORTHERNMOST SOUTHEAST CORNER OF SAID AUDITOR'S LOT "A"; SAID POINT ALSO BEING ON THE WEST BOUNDARY LINE OF LOT 6, BLOCK 1 OF SAID SYLVESTER'S INDUSTRIAL PARK 2ND ADDITION; THENCE NORTH 00°25'50" WEST ALONG SAID WEST BOUNDARY LINE FOR 205.22 FEET TO THE SOUTHWEST CORNER OF THE NORTH 159.66 FEET OF SAID LOT 6; THENCE NORTH 00°30'33" EAST ALONG THE SOUTH BOUNDARY LINE OF SAID NORTH 159.66 FEET FOR 225.32 FEET TO THE SOUTHEAST CORNER OF SAID SYLVESTER'S INDUSTRIAL PARK 8TH ADDITION; THENCE SOUTH 00°25'33" EAST ALONG SAID WEST BOUNDARY LINE FOR 15.00 FEET TO THE SOUTHWEST CORNER OF SAID SYLVESTER'S INDUSTRIAL PARK 8TH ADDITION; THENCE NORTH 89°44'30" EAST ALONG THE SOUTH BOUNDARY LINE OF SAID SYLVESTER'S INDUSTRIAL PARK 8TH ADDITION FOR 318.71 FEET TO THE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINING 3.94 ACRES, MORE OR LESS.

**APPROVAL OF BOARD OF CITY COMMISSIONERS**  
THE BOARD OF CITY COMMISSIONERS OF THE CITY OF MANDAN, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND SHOWN HEREON, HAS ACCEPTED THE DEDICATION OF ALL STREETS, ALLEYS, AND PUBLIC WAYS SHOWN HEREON LYING WITHIN THE CORPORATE LIMITS OF THE CITY OF MANDAN, HAS ACCEPTED THE DEDICATION OF ALL PARKS AND PUBLIC GROUNDS SHOWN HEREON, FURTHERMORE, SAID BOARD OF CITY COMMISSIONERS HAS APPROVED THE STREETS, ALLEYS, AND OTHER PUBLIC WAYS AND GROUNDS SHOWN HEREON AS AN AMENDMENT TO THE MASTER STREET PLAN OF THE CITY OF MANDAN, THE FOREGOING ACTION BY THE BOARD OF CITY COMMISSIONERS OF MANDAN, NORTH DAKOTA, HAS TAKEN BY RESOLUTION THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2020.

JIM NEUBAUER - CITY ADMINISTRATOR  
TIM HELBLING - PRESIDENT OF THE BOARD OF CITY COMMISSIONERS

I, JUSTIN FROSTHE, CITY ENGINEER FOR THE CITY OF MANDAN, NORTH DAKOTA, HEREBY APPROVES SYLVESTER'S INDUSTRIAL PARK 11TH ADDITION OF THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.  
JUSTIN FROSTHE, PE

**TOMAN ENGINEERING COMPANY**  
501 1st Street NW, Mandan, ND 58554  
Phone: 701-663-6483 • Fax: 701-663-0923

# EXHIBIT 2





## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 13, 2020  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning and Engineering Director  
**SUBJECT:** Consider Approval of Cost Participation and Maintenance Agreement for Old Red Trail, Phase II of Trail Project

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**STATEMENT/PURPOSE:** To consider approval of the Cost Participation and Maintenance (CPM) agreement for a Transportation Alternatives grant that was received and would benefit the Mandan Park District. The TA grant would go towards resurfacing the multi-use trail between Sunset Drive and Collins Avenue.

**BACKGROUND/ALTERNATIVES:** The Park District submitted an application for this grant some months back. As with any Park District grant application that goes to the NDDOT, the City must be a sponsoring agency. We accepted these funds on behalf of the park district last month. With any action with the DOT, the City must take action on behalf of the Park District as the sponsoring agency. Even though the City is looked at by the DOT for formal actions, the Park District is committed to all of the project management and all of the local cost share associated with this project. The Park District recognizes the project management and local cost share as their responsibility.

**ATTACHMENTS:**

1. Cost Participation and Maintenance Agreement.
2. Park District's email indication of local cost share and project management responsibilities.

**FISCAL IMPACT:** The Park District will pay for all local share costs for this project. They will do so by special assessing the costs for the work back to the Park District.

**STAFF IMPACT:** None. The Park District will manage this project.

Board of City Commissioners

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

RECOMMENDATION: We recommend approval of CPM agreement.

SUGGESTED MOTION: Move to approve the Cost Participation and Maintenance agreement for the Old Red Trail, Phase II of Trail Project.

NDDOT Contract No. 38200851

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

**Federal Award Information – to be provided by NDDOT**

CFDA No: 20.205	CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Admin
NDDOT Program Mgr: Wenger, Pamela J.	Telephone: (701)328-4787

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

For NDDOT use only.

FHWA Authorization date:

Project No. TAU-1-988(047)

LPA: City of Mandan

Location: MANDAN OLD RED TRAIL Phase 2

Type of Improvement: Shared Use Path

Length: Approximately 0.80 Miles

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the Local Public Agency (LPA) of Mandan, North Dakota, hereinafter referred to as the LPA, who agree that:

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

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

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

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost up to a maximum of \$168,237. The balance of the project is the obligation of the LPA.

Additional Funding Clause  
N/A

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



Federal funds may not be obligated by the 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. 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.



2. Prohibit the installation of traffic signals and pedestrian beacons on or in connection with the project, including those installed at the sole cost and expense of the LPA or by others, without NDDOT approval.
3. Maintain all traffic control devices on the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.
4. 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.
5. Provide maintenance to the completed project at its own cost and expense.
6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

#### PART IV

##### General:

1. 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.



Board of City Commissioners

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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.



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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; 9-19



Project TAU-1-988(047)

**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; 9-19



**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. The Governments shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the Contractor. 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.



Board of City Commissioners

Agenda Documentation

Meeting Date: August 18, 2020

Subject: Consider Approval of Cost Participation and Maintenance Agreement for Old Red Trail, Phase II of Trail Project

Page 13 of 13

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**From:** Cole Higlin <CHiglin@mandanparks.com>

**Sent:** Monday, July 13, 2020 7:55 PM

**To:** Justin J. Froseth <jfroseth@cityofmandan.com>

**Cc:** Teri Welch <twelch@mandanparks.com>

**Subject:** Re: Transportation Alternative (TA) FY 22 Funding Award

Board approved the grant funding. Let me know if you need anything else. We plan Special assessing the 20% plus engineering fees back to the park district. KLJ will do the engineering.



Consent No. 7

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 13, 2020  
**SUBMITTING DEPARTMENT:** Engineering and Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** John Van Dyke, AICP, CFM  
**SUBJECT:** Minor Plat for Lakewood Harbor 3<sup>rd</sup> Addition First Replat of Block 1

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**STATEMENT/PURPOSE:** Consider approval of minor plat for Lakewood Harbor 3rd Addition First Replat of Block 1.

**BACKGROUND/ALTERNATIVES:**

The property owners would like to adjust the shared property boundary. The adjusted property boundary meets the setback requirements for the two existing dwellings and merely transfers a portion of the side and backyard of one property to another. No lots are created or removed by this minor plat.

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

**ATTACHMENTS:**

Exhibit 1 – Minor Plat for Lakewood Harbor 3rd Addition First Replat of Block 1

**FISCAL IMPACT:** N/a

**STAFF IMPACT:** N/a

**LEGAL REVIEW:** The plat and staff report have been provided to Attorney Oster as part of the agenda packet.

**RECOMMENDATION:** Staff recommends approval of the minor plat for Lakewood Harbor 3rd Addition First Replat of Block 1 as presented in Exhibit 1.

Board of City Commissioners

Agenda Documentation

Meeting Date: August 18, 2020

Subject: Minor Plat for Lakewood Harbor 3<sup>rd</sup> Addition First Replat of Block 1

Page 2 of 2

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SUGGESTED MOTION: I move to approve the minor plat for Lakewood Harbor 3<sup>rd</sup> Addition First Replat of Block 1 as presented in Exhibit 1.

# EXHIBIT 1

## LAKWOOD HARBOR 3RD ADDITION FIRST REPLAT OF BLOCK 1

BEING A REPLAT OF LOTS 1 AND 2 BLOCK 1 LAKEWOOD HARBOR 3RD ADDITION  
PART OF THE NW 1/4 OF SECTION 7, TOWNSHIP 138 NORTH, RANGE 80 WEST

TO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA

### DESCRIPTION

BEING A REPLAT OF LOTS 1 AND 2 BLOCK 1 LAKEWOOD HARBOR 3RD ADDITION, PART OF THE NW 1/4 OF SECTION 7, TOWNSHIP 138 NORTH, RANGE 80 WEST TO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 51 MINUTES 25 SECONDS WEST, ALONG THE BOUNDARY LINE OF SAID LOT 1 AND THE BOUNDARY LINE OF SAID LOT 2, A DISTANCE OF 81.54 FEET; THENCE NORTHWESTERLY AND TO THE LEFT, ON A 500.00 FOOT RADIUS CURVE, CONTINUING ALONG SAID BOUNDARY LINE, AN ARC LENGTH OF 211.39 FEET; THENCE SOUTH 63 DEGREES 25 MINUTES 06 SECONDS WEST, ALONG THE BOUNDARY LINE OF SAID LOT 2, A DISTANCE OF 132.98 FEET; THENCE SOUTH 21 DEGREES 58 MINUTES 12 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 160.16 FEET; THENCE SOUTH 84 DEGREES 25 MINUTES 11 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY LINE AND THE BOUNDARY LINE OF SAID LOT 1, A DISTANCE OF 138.42 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 24 SECONDS EAST, CONTINUING ALONG THE BOUNDARY LINE OF SAID LOT 1, A DISTANCE OF 102.01 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 0.98 ACRES, MORE OR LESS.

### SURVEYOR'S CERTIFICATE

I, TIM LANGERUD, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF A SURVEY PERFORMED UNDER MY DIRECTION AND COMPLETED ON LINE STL 2016, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

SWENSON, HAGEN & CO. P.C.  
909 BASIN AVENUE  
BISMARCK, NORTH DAKOTA

TIM LANGERUD  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 5770

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BEFORE ME PERSONALLY APPEARED TIM LANGERUD, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

DAVID PATIENCE, NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES AUGUST 24, 2016

### APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF MANDAN, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF MANDAN, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT. THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF MANDAN, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_ DAY OF \_\_\_\_\_, 2020.

\_\_\_\_\_-MAYOR ATTEST: JIM NEUBAUER  
CITY ADMINISTRATOR

### APPROVAL OF \_\_\_\_\_

I, \_\_\_\_\_, HEREBY APPROVE "LAKEWOOD HARBOR 3RD ADDITION FIRST REPLAT OF BLOCK 1", MANDAN, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

### OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT JEREMY KUKOSKI, JENNIFER KUKOSKI AND JODY MOSBRUCKER, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS LAKEWOOD HARBOR 3RD ADDITION FIRST REPLAT OF BLOCK 1, MANDAN, NORTH DAKOTA. THEY ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES INCLUDING SANITARY SEWER AND WATER MAINS ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

JEREMY KUKOSKI  
CO-OWNER LOT 2 BLOCK 1  
2600 BAY SHORE BEND SE  
MANDAN, ND 58554

JENNIFER KUKOSKI  
CO-OWNER LOT 2 BLOCK 1  
2600 BAY SHORE BEND SE  
MANDAN, ND 58554

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BEFORE ME PERSONALLY APPEARED JEREMY KUKOSKI AND JENNIFER KUKOSKI KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

\_\_\_\_\_-NOTARY PUBLIC  
\_\_\_\_\_-COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_, 20\_\_\_\_

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

JODY MOSBRUCKER  
OWNER LOT 1 BLOCK 1

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BEFORE ME PERSONALLY APPEARED JODY MOSBRUCKER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

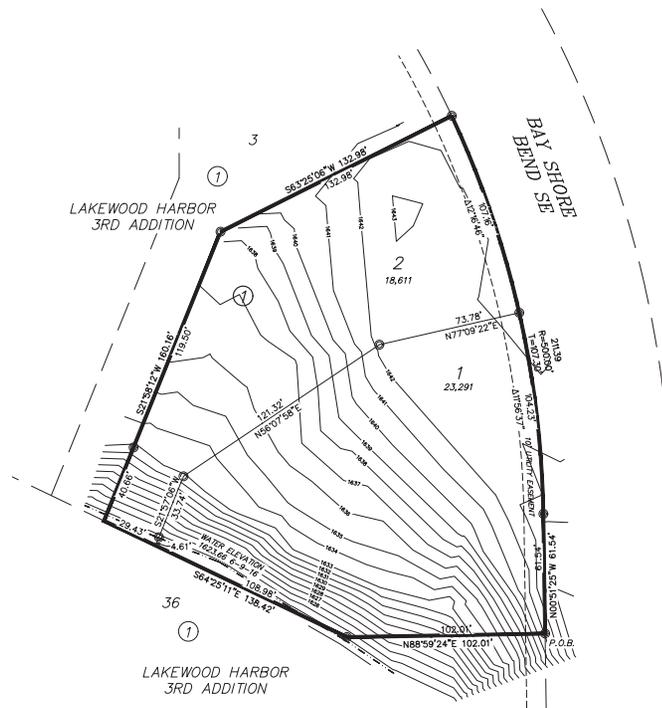
\_\_\_\_\_-NOTARY PUBLIC  
\_\_\_\_\_-COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_, 20\_\_\_\_



MONUMENTS IN PLACE

### NOTES

\_\_\_\_\_-BASIS OF BEARING:  
NORTH DAKOTA STATE PLANE, SOUTH ZONE  
BEARINGS AND DISTANCES MAY VARY FROM  
PREVIOUS PLATS DUE TO DIFFERENT METHODS  
OF MEASUREMENTS.



Swenson, Hagen & Company P.C.  
59 Main Avenue  
Bismarck, North Dakota 58504  
sh@swensonhagen.com  
Phone (701) 221-2400  
Fax (701) 221-2400  
Land Planning  
Civil Engineering  
Landscape & Site Design  
Construction Management



ADDED 8-18, Consent No. 8

## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 18, 2020  
**SUBMITTING DEPARTMENT:** Engineering & Planning  
**DEPARTMENT DIRECTOR:** Justin Froseth, PE  
**PRESENTER:** Justin Froseth, Planning and Engineering Director  
**SUBJECT:** 30" Transmission Line Easement

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**STATEMENT/PURPOSE:** To consider approval a new permanent easement location as well as the temporary easement for construction of the 30" Water Transmission Line project.

**BACKGROUND/ALTERNATIVES:** AE2S and the City of Mandan have been working with the landowner on terms that satisfy the landowner in order for him to approve this easement. With those terms satisfied, the landowner signed on Friday and we are therefore taking to commission for approval in order to properly install the remainder of the pipeline. Other necessary easements have previously been secured.

One of the terms agreed to was a Change Order that will lower the pipeline in certain locations within the easement in order to best accommodate grades of future development. That change order along with the change order necessary to extend the completion deadline for this project will be forthcoming at the next commission meeting.

**ATTACHMENTS:** 1. Easement document available upon request.

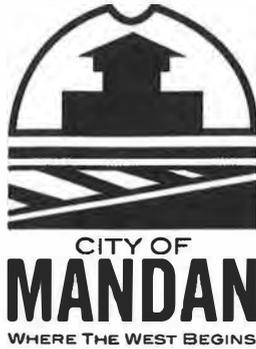
**FISCAL IMPACT:** In order for these easements to be accepted by the landowner, the City has sought a change order for the moving of the pipe within the right of way. That change order will be forthcoming, the cost of it is \$22,525.

**STAFF IMPACT:** Acquiring this easement is the result of many discussions between City staff, AE2S staff and landowner in order to make sure terms are agreeable on both sides.

**LEGAL REVIEW:** The City's Attorney's office was involved in securing this easement.

RECOMMENDATION: We recommend execution of this easement contingent on the future approval of the change order to lower the pipe at certain locations within.

SUGGESTED MOTION: Move to approve the easement to allow the construction of the 30" pipe within the easement, contingent on the future approval of the change order to lower the pipe at certain locations within.



## Board of City Commissioners

### Agenda Documentation

**MEETING DATE:** ~~July 7, 2020~~ August 18, 2020  
**PREPARATION DATE:** July 2, 2020  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Recycling Contract Waste Management (WM)

---

STATEMENT/PURPOSE: To consider renewing the recycling contract with Waste Management

BACKGROUND/ALTERNATIVES: The original recycling contract was with Dakota Sanitation was for five years with an opportunity for an extension. WM subsequently purchased Dakota Sanitation and became our contractor for the pick up and disposal of recyclable materials. The contract is similar to the previous contract with the exception in pricing and the addition of a fuel surcharge should the price of diesel rises above \$4/gallon, see section V(e).

**Term:** 5 years beginning Jan. 1, 2021 thru Dec. 31, 2025, with possible 3 year extension  
**Services:** Single sort, once every two week pick up  
**Fee:** 2021 - \$5.95/month, increase by 7% per year (by the end of year 5, rate would be comparable to rate charged to City of Bismarck) The first year increase is \$1.00 more than the 2020 rate.

If the recycling contract were to be terminated, there would be an addition cost for residential pick up. If we average 100 tons of recycle per month = 1,200 tons per year. To dispose at Bismarck Landfill would add approx. = \$55,320 plus (\$46.10/ton x 1,200 tons) a per load charge of \$7,000 (1,200 tons / 6 tons per truck = 200 truck trips @ \$35/trip). There may be additional costs as residents may want collection sites for recycling which also has a cost, and common recycle sites general are not that effective as they become a dumping ground and also the loads are at higher risk for contamination. Should the contract be terminated, there may be requests for additional totes as residents currently have one for recycle and one for other trash.

We have received two comments regarding recycling:

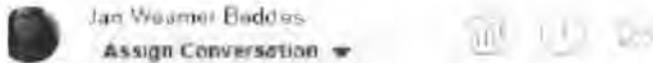
**From:** Kayla Spangelo <kmspangelo@gmail.com>  
**Sent:** Monday, August 10, 2020 2:54 PM  
**To:** Jim Neubauer <jneubauer@cityofmandan.com>  
**Subject:** Mandan Recycling Program

Hello,

I am writing into express my concern over the recycling program for Mandan. As a new resident to Mandan, the recycling program was one item that my husband and I were happy to see present and operating in our new town. The conversation about whether or not to continue recycling for all residents in Mandan speaks volumes on the direction of the city. The very insignificant charge of six to seven dollars a month (pending renewal, etc) is nothing in comparison to the large amount of trash that is generated and disposed of in landfills, in our household alone we generate more recyclable products than we do trash. I believe that an opt-in system will lead to a significant decrease in participation recycling activities which will subsequently lead to large quantities of reusable items being dumped into a landfill. It is 2020, sustainable use and recycling needs to be a part of our society.

Kayla Spangelo

We received a message from Jan Beddes on Facebook over the weekend regarding recycling. Passing along for your information.



I was reading about the recycling cans. I am one of those who do not use the service but get charged for it. I also pay for 2 garbage cans because my house is able to have the basement rented out without egress windows. I am struggling just to get by. I am living on Social security disability. My income is fixed. I can't even afford to get my front step and other work done. Please keep people like me in mind when you consider raising taxes etc. Thank you.  
Jan Beddes 707 6th ave NW

Thank you.

---

ATTACHMENTS: proposed contract with WM

FISCAL IMPACT: To extend the contract would cost an addition \$1/month first year and increase by 7% each year thereafter. If the contract were terminated, there would be an additional cost for disposal.

STAFF IMPACT: n/a

LEGAL REVIEW: Attorney Brown has been involved in the drafting of this contract.

RECOMMENDATION: Options to consider would be:

- 1) Extend the terms of the contract with WM for an additional 5 years
- 2) Rebid the service
- 3) Not renew or in essence terminate the contract

SUGGESTED MOTION:

**CONTRACT FOR COLLECTION, TRANSPORTATION AND PROCESSING  
OF RESIDENTIAL SINGLE-SORT RECYCLING FOR THE CITY OF MANDAN, NORTH DAKOTA**

This Contract for Collection, Transportation and Processing of Residential Single-Sort Recycling for the City of Mandan, North Dakota (the "Agreement") is entered into on \_\_\_\_\_, 2020 (the "Effective Date"), by and between the City of Mandan, a municipal corporation created under the laws of the State of North Dakota ("City"), and Waste Management of North Dakota, Inc. ("WM"), a Delaware corporation.

**Recitals**

- A. The City desires to provide its citizens with environmentally sound single-sort recycling collection and processing;
- B. WM and its affiliates have extensive experience in providing single-sort recycling collection and processing; and
- C. The City has determined that it would be in the best interests of its citizens to contract with WM for the collection of its residential single-sort recycling materials according to the terms and conditions contained herein.
- D. This Agreement is a renewal of an Agreement dated September 15, 2015 between the City and Dakota Sanitation, Inc. WM has succeeded to the rights of Dakota Sanitation, Inc. in said Agreement.

**Agreements**

**I. DEFINITIONS**

- a. Acceptable Recyclables or Acceptable Recyclable Materials – are defined in Exhibit A. Title to Recyclable Materials shall transfer to WM upon collection in WM vehicles.
- b. Residential Unit – shall mean a dwelling within the corporate limits of the City and shall include individual apartment and condominium units within Apartment Buildings.
- c. Apartment Building– shall mean a dwelling within the corporate limits of the City with more than four (4) individual dwellings.
- d. Active means a residential unit that is currently being billed by the City for recycling services.

**II. TERM**

The Term of this Agreement shall be for five (5) years commencing on January 1, 2021 and expiring December 31, 2025 and may be renewed for an additional three (3) year term upon written mutual agreement of both parties.

**III. SERVICES**

- a. WM shall furnish, at its sole cost and expense, the labor, equipment, licenses, permits, and other requirements necessary to provide Acceptable Recycling Services to all Residential Units. As part of the Service, WM shall:
  - i. Cart Supply. Each Residential Unit will be provided one (1) 96-gallon cart for Acceptable Recyclables. No additional carts will be available for Residential Units. Each participating Apartment Building will be provided with a mutually agreed number of 96-gallon cart(s) for Acceptable Recyclables. The carts and equipment WM may furnish to Residential Units and the City shall remain WM's property.
  - ii. Acceptable Recycling Materials Collection Frequency, Days and Times. Acceptable Recyclable Materials shall be collected every-other-week (EOW) from each Residential Unit. Collections shall occur during ordinary hours but in no instance earlier than 6:00 A.M. All carts must be

placed at the curb for collection no later than 6:00 A.M. on the scheduled day of collection with all recyclable material contained within the cart. Recyclable materials within the cart must not be placed into plastic bags.

- iii. Exclusions from the Service. Notwithstanding anything to the contrary herein, the Service shall not include solid waste, yard waste collection, bulk or white goods collection, construction or demolition waste collection, or commercial businesses.
- iv. Transportation and Processing. WM shall transport Acceptable Recyclable Materials to a licensed and permitted Materials Recovery facility (MRF), which processes single-sort recyclable materials.
- v. Holiday Schedule. The following shall be designated holidays on which the Service shall not be provided: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. If a designated holiday falls on or before a regularly scheduled Service day, the Service will be performed on the next day.
- vi. Cart Replacement. WM shall replace at no charge to the City or Residential Units, or Apartment Buildings, any cart that becomes damaged or destroyed during the provision of the Service, or that becomes unusable because of ordinary wear and tear. However, if a cart is lost, stolen, damaged, or destroyed through no fault of WM, the Residential Unit or Apartment Building shall be responsible to compensate WM for the replacement of such cart. Each Residential Unit or Apartment Building shall be billed separately for such replacement cost of sixty dollars (\$60.00) per cart.

b. Recycling Education. WM shall provide recycling education material to the City to be used on the City's website or social media feed. The WM Public Sector Representative, schedule permitting, will perform recycling talks to City Community Clubs if requested.

c. Compliance with Laws. The Service shall be performed in accordance with all applicable statutes, laws, rules, regulations and ordinances.

d. Personnel and Equipment. The Service shall be performed by properly trained and licensed personnel in adequate numbers and with adequate vehicles and equipment to complete the Service in a safe and timely manner.

e. Complaints and Missed Pick-Ups. All complaints as to WM's provision of the Service, including alleged missed pick-ups, shall be given prompt and courteous attention. WM shall attempt to resolve all complaints promptly, and shall cure all missed pick-ups that are not the result of *force majeure* events.

f. Anti-Discrimination. In performing the Service, WM shall not discriminate against any person on the basis of race, religion, sex, national origin, political affiliation, or physical and mental disability.

g. Exclusive. The City grants the exclusive right to perform the Services set forth in this Agreement. The City agrees to not allow anyone other than WM to engage in the collection of residential single-sort recycling collection, at the curb, within the City.

h. City Buildings. WM agrees to collect single sorted recyclable materials from each of the City Buildings for recycling at no additional charge. "The City sites may include but are not limited to : City Hall building, Public Works building, Library, All fire stations, Mandan Police Department, Airport, Water Treatment Plant, Waste Water Treatment Plant, Grounds Maintenance and Landfill offices".

#### IV. COLLECTION POINTS AND ADJUSTMENTS

The Cart count at the commencement of this Agreement hereunder is [8,107] Residential Units and Apartment Building carts. Each month, prior to billing, the City shall provide WM a list of active Residential Units with Carts.

V. FEES AND PAYMENTS

a. Service Fee per Residential Unit and Apartment Buildings. The fees to be paid by the City for each Residential Unit to WM hereunder are based on the collection of one (1) Acceptable Recyclable Materials Cart per Residential Unit, placed at the curbside, at the frequency identified in this Agreement and the collection of the agreed number of Carts located at Apartment Buildings. Apartment Buildings may have more than one cart per location placed at the curbside, at the frequency identified in this Agreement provided they are accessible for collection with an automated collection truck. Residential Units cannot share carts unless located within an Apartment Building. The fee per each Cart shall be five dollars and ninety-five cents (\$5.95) per month ("Monthly Fee"). The monthly fee paid to WM by the City shall be calculated based upon the current Residential Unit count (not located in an Apartment Building) plus the number of carts located at Apartment Buildings at the time each invoice is generated, times the Monthly Fee [e.g., Number of Residential Units not located within an Apartment Building plus the number of carts at Apartment Building times the Monthly Fee = Monthly Invoice Amount], and regardless of whether the Unit(s) utilizes the services.

b. Annual Rate Adjustment. After the first year of the Term, the monthly fees per Residential Unit and Apartment Building carts shall be increased on January 1, and each succeeding January 1 of this Agreement, by seven (7%) percent.

c. Invoices and Payment. Invoices shall be submitted by WM to the City for Services on a monthly basis. The City shall have forty-five (45) days from the invoice date to remit payment in full. Payment by City shall be made by check or wire transfer or ACH debit. The maximum interest permitted by law shall be applied to balances due and unpaid after more than forty-five (45) days beyond the due date. WM reserves the right to suspend service to any Residential Unit or Apartment Building that fails to make monthly payments to the City for Services.

d. Changes in Law. Notwithstanding anything to the contrary in this Agreement, WM shall be entitled to pass through to, and collect from, the City any additional collection, transportation or processing costs, tipping fees, taxes, or surcharges incurred by WM as a result of any mandated changes in local, state or federal laws or regulations governing the generation, collection, transportation and processing of recyclables.

e. Fuel Table. All service fees are subject to a monthly fuel surcharge when diesel fuel reaches a price of \$4.00 per gallon (see table below).

Diesel Fuel Price per Gallon	Fuel Surcharge
<\$4.00	0 Percent
\$4.00 to \$4.24	2 Percent
\$4.25 to \$4.49	3 Percent
\$4.50 to \$4.74	4 Percent
For each additional \$0.25 the fuel surcharge will increase by 1 Percent	

The published index for determining monthly diesel fuel prices will be the Department of Energy's (DOE) "Weekly Retail On-Highway Diesel Prices" for the Midwest region. The price published for the first Monday of the month will be used as that month's diesel fuel price. The prices can be viewed at the DOE's website: <http://www.eia.gov/petroleum/gasdiesel/>.

VI. DEFAULT AND TERMINATION

Except as otherwise provided in the *Force Majeure* provision of this Agreement, the failure of either Party to perform a material obligation under this Agreement shall be considered a breach of this Agreement, and the breaching Party shall be in default. In the event of default, the non-defaulting Party shall give written notice of the default, and the defaulting Party shall have: (i) ten (10) days from the receipt of the notice to cure any failure to pay money under this Agreement, or (ii) thirty (30) days from the receipt of the notice to cure any other default under this Agreement. If the defaulting Party fails to cure the breach within the allotted time, the non-defaulting Party may, at its option, immediately terminate the Agreement. In the event of a default, the defaulting Party agrees to pay all damages caused by said default, to include, without limitation reasonable attorneys' fees and costs associated with enforcement of this Agreement. Under no circumstances shall the Parties be liable for any consequential, indirect, punitive or special damages for any alleged default under this Agreement.

#### VII. FORCE MAJEURE

WM's performance of the Service may be suspended and its obligations hereunder excused during the pendency of a cause or causes beyond its reasonable control, such as by way of example and not limitation: acts of war, public enemy, civil disturbance, riot or disorder; epidemic or pandemic; acts of God such as landslide, lightning, earthquake, fire, storm, the impending approach of a storm, or flood; explosion; restraining orders, interference by civil or military authorities, strike, statute, ordinance, government order or ruling; or other similar causes. In the event of an occurrence of a *force majeure* event, WM shall notify the City immediately, in writing, describing the particulars of the circumstances preventing performance of the Service and its expected duration. Notice shall be provided after the effect of such occurrence has ceased.

#### VIII. INDEMNIFICATION

a. The City agrees to indemnify, defend, and hold WM harmless from and against all claims and actions, suits, debts, damages, liabilities and costs whatsoever, including but not limited to attorneys' fees and costs of defense, based upon or arising out of the City's breach of this Agreement, and based upon or arising out of any injuries (including death) to persons, or damage to property, to the extent caused in whole or in part by the negligent acts or omissions of the City, its Residents, or any of its directors, officers, employees, agents, or subcontractors, in the performance of this Agreement.

b. WM agrees to indemnify, defend, and hold the City harmless from and against all claims and actions, suits, debts, damages, liabilities and costs whatsoever, including but not limited to attorneys' fees and costs of defense, based upon or arising out of the breach of this Agreement, and based upon or arising out of any injuries (including death) to persons, or damage to property, to the extent caused in whole or in part by the negligent acts or omissions of WM, or any of its directors, officers, employees, agents, or subcontractors, in the performance of this Agreement.

c. Notwithstanding any provisions to the contrary, WM shall not be responsible for any damage to pavement or curbing that is the result of ordinary wear and tear during the performance of the Service.

d. The indemnification obligations of this section shall survive the termination or expiration of this Agreement for any reason.

#### IX. MISCELLANEOUS PROVISIONS

a. Independent Contractor. WM shall perform the Service as an independent contractor. WM, its officers, employees, agents, contractors or subcontractors, are not and shall not be considered employees, agents or servants of the City for any purpose whatsoever under this Agreement or otherwise. WM at all times shall have exclusive control of the performance of the Service. Nothing in this Agreement shall be construed to give the City any right or duty to supervise or control WM, its

officers, employees, agents, contractors, or subcontractors, nor to determine the manner in which WM shall perform its obligations under the Agreement.

b. Amendments. No amendment to this Agreement shall be made except upon the written consent of both Parties.

c. Insurance. WM shall maintain, at its own cost and expense, adequate insurance policies from licensed carriers covering the Services, including, but not limited to, Commercial General Liability and Commercial Automobile Liability policies.

d. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties hereto with respect to the subject matter and supersedes any prior and contemporaneous agreements and understandings, express or implied.

e. Waiver. A waiver by either Party of any breach of any provision hereof shall not be taken or held to be a waiver of any subsequent breach, whether similar or dissimilar, or as a waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance.

f. Severance. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid, or unenforceable, the balance of this Agreement shall remain in effect and binding on the Parties.

g. Choice of Law. This Agreement shall be governed by North Dakota law, without regard to choice of law rules.

h. Assignment. Neither Party may assign its rights and obligations under this Agreement without the prior written consent of the other Party, except that WM may assign its rights and obligations under this Agreement to any WM affiliate without the City's consent. An assignment shall not relieve the assignee of any obligations under this Agreement.

i. Notice. All notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by certified mail, return receipt requested, or by overnight courier, with copies to counsel for the respective Parties.

IN WITNESS THEREOF, the parties have executed this Agreement as of the Effective Date indicated above.

**Waste Management of North Dakota, Inc.**

**City of Mandan, North Dakota**

Signature: \_\_\_\_\_  
Printed Name: Chuck Rynda  
Title: Vice President – Asst. Secretary

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit A**  
**Single-Sort Recycling**

The list of items below represents the current materials currently being accepted by WM as Recyclables. This list may expand or contract due to market conditions.

Acceptable Recyclables ("Recyclables")	Unacceptable Materials
Aluminum food and beverage containers (cans)	Microwave trays
Glass food and beverage containers – brown, clear, or green	Mirrors Window or auto glass
Ferrous (Iron) cans PET plastic containers with the symbol #1 – with screw tops only, with caps left on container	Light Bulbs
HDPE natural plastic containers with the symbol #2 – (milk and water bottles)	Ceramics, Porcelain
HDPE pigmented plastic containers with the symbol #2, without caps (detergent, shampoo bottles, etc.)	Scrap metal
Plastics with symbols #3, #4, #5, #6, #7-narrow and screw top containers—with caps left on	Plastics unnumbered
Newsprint and inserts, envelopes	Plastic bags, plastic films, plastic wrap, miscellaneous scrap plastic
Old corrugated cardboard (flattened)	Coat hangers, garden hose
Magazines and Mail	Glass cookware/bakeware
Catalogs and Telephone books	Household items such as cooking pots, toasters, etc.
Cereal boxes	Foam Cups and Containers
Printer paper and copier paper	Electronics, Batteries, household hazardous waste
All other office paper without wax liners, envelopes	Sharps (needles)
Dairy and juice cartons	*Other items not deemed acceptable

- i. Additional Specifications
  - a. All glass containers must be empty and free of metal caps and rings and contain less than 5% food debris.
  - b. All tin cans, bi-metal cans, and aluminum cans must be empty and contain less than 5% food debris.
  - c. All aerosol cans must be empty with less than 5% content
  - d. All plastic containers must be empty, caps left on; less than 5% food debris.
  - e. All Fiber must be dry and free of food debris and other contaminating material.
  - f. Tissues, paper towels or other paper that has been in contact with food is not acceptable.
  
- ii. Recyclables may contain up to 5% Unacceptable Materials, provided however, Recyclables may not:

- a. Materially impair the strength or the durability of the WM's structures or equipment;
  - b. Create flammable or explosive conditions in WM's facilities;
  - c. Contain dry cell batteries or lead acid batteries;
  - d. Contain chemical or other properties which are deleterious or capable of causing material damage to any part of WM's property, its personnel or the public; or,
  - e. Contain Excluded Waste as defined in the Agreement.
- III. If loads of the mixed recyclables materials do not meet WM's specifications for acceptable recyclables or are otherwise not properly segregated from the waste, WM shall have the right to reject the load in whole or in part, or to handle the contaminated load and impose additional reasonable charges on the City, Commercial Unit or Residential Unit.
- IV. Upon written notice to the City, WM may discontinue acceptance of any category of recyclable materials as a result of market conditions related to such materials



# Board of City Commissioners

## Agenda Documentation

**MEETING DATE:** August 18, 2020  
**PREPARATION DATE:** August 14, 2020  
**SUBMITTING DEPARTMENT:** Administration  
**DEPARTMENT DIRECTOR:** Jim Neubauer, City Administrator  
**PRESENTER:** Jim Neubauer, City Administrator  
**SUBJECT:** Consider Funding Recommendation from Mandan Visitors Committee

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STATEMENT/PURPOSE: Consider funding recommendation from the Mandan Visitors Committee.

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

The Visitors Committee met on August 13, 2020 to discuss funding assistance for the Morton Mandan Public Library (MMPL) Downtown parks project. The Visitors Committee viewed a presentation of the project overview and elements that would be included. Members of the committee expressed interest in funding a portion of the project related to tourism. The request was for \$2.2M of assistance.

The recommendation from the Visitors Committee is to provide funding of \$2.2M provided the dollars spent from the Visitors Committee go towards the tourism related facilities. The motion received unanimous approval.

I asked Bartlett and West for a breakdown and that is below:

Jim,

The total cost of the project including alternates with fees per attached summary is \$5,785,420. Cost of the Park portion of that is \$940,124, and the cost of the meeting rooms, new public restrooms, east entrance lobby, patio and deck and one-half of the costs associated with the parking lot is \$1,531,450.

Please contact me with any further questions.

Board of City Commissioners

Agenda Documentation

Meeting Date: August 18, 2020

Subject: Consider Visitors Committee Funding Recommendation for the MMPL & Downtown Parks Project

Page 2 of 2

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The total of the park only and the tourism related items of the MMPL project total \$2,471,574. I did provide that information to the Visitors Committee members on Friday morning, August 14, 2020.

ATTACHMENTS: n/a

FISCAL IMPACT: The Visitors Fund had a balance of \$2.2M at the beginning of 2020, an expected revenue of \$495k in 2020. Revenues are tracking 11% above that projection. The projected unreserved amount at the end of 2020 is \$2.6M. Therefore, the funds are available to honor the recommendation of \$2.2M for this project, as there are no pending requests from this funding source.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: The Visitors Committee recommends on a unanimous vote (3-0, two members were unable to attend, but one expressed his support for the project) a contribution to the MMPL Downtown Parks project of \$2.2M provided the funds are used for the tourism related aspects of the project.

SUGGESTED MOTION: I move to approve the Visitors Committee recommendation for a contribution to the MMPL Downtown Parks project of \$2.2M provided the funds are used for the tourism related aspects of the project.

## ORDINANCE NO. 1348

An Ordinance to Amend and Re-enact  
Section 10-2-10 of the Mandan Code of Ordinances  
Relating to Fireworks

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

### Sec. 10-2-10. – Amendments to International Fire Code.

#### *Chapter 56 Explosives and Fireworks*

*Section 5601*, is amended as follows:

*Section 5601.1.3 Fireworks*, is amended as follows:

*Section 5601.1.3 Fireworks*. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the city limits.

*Exceptions:*

1. Storage and handling of fireworks as allowed in Section 5604.
2. The use of fireworks for fireworks displays as allowed in Section 5608 is an exception to the prohibition of use of fireworks in the city, provided the requirements of sections 5601.2.3 and 5601.2.4 are met. The possession, use, discharge, or explosion of fireworks, as defined by § 23-15-01, N.D.C.C., not including bottle rockets, is permitted ~~between the hours of 12:00 p.m. and 12:00 a.m. on July 2 and 3,~~ from the hours of 12:00 p.m. to 11:59 p.m. on July 3 and 4 ~~to 2:00 a.m. on July 5~~ of each year, and from the hours of 5:00 p.m. on December 31 to 1:00 a.m. on January 1 of each year.

*Penalty:*

1. Any person who violates the provisions of this section shall, upon conviction, be guilty of an ordinance violation, punishable by a fine of one hundred fifty dollars (\$150.00).
2. Any person cited for a violation of this section shall be deemed to be charged with a noncriminal offense and may utilize the same procedures for appearance, payment of statutory fee, posting and forfeiture of bond, waiver of hearing, or hearing as is provided for noncriminal traffic offenses pursuant to the provisions of Chapter 24 of the Mandan Municipal Code. Any person failing to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is guilty of a Class B misdemeanor.

Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

*Section 5601.2.4 Financial responsibility*, deleted in its entirety and replaced with:

*Section 5601.2.4 Financial responsibility.* The permittee shall furnish a bond or insurance in an amount deemed adequate by the board of city commissioners, but not less than two hundred and fifty thousand dollars (\$250,000.00) per individual or one million dollars (\$1,000,000.00) per occurrence, conditioned for the payment of all potential damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any act of the permittee, its agents, employees or subcontractors.

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

Attest:

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

First Consideration: August 4, 2020

Second Consideration and Final Passage: August 18, 2020

Publication: \_\_\_\_\_